dish media

TERMS OF SERVICE

Effective Date: September 24, 2024

WELCOME!

Thank you for choosing our advertising products and services (collectively, "**Ad Services**"). Ad Services are provided by DISH Network L.L.C., a Colorado limited liability company ("**DISH**" and "our"). Your submission of an application or other request for, or confirmation, use or receipt of, Ad Services constitutes acceptance of these terms and conditions ("**Terms of Service**") by you and your employees, agents (*e.g.* any Agent identified on your customer application) and other representatives acting on your behalf (collectively, referred to as "you," "your" or "**Advertiser**"), even if you do not sign these Terms of Service below. You and DISH are each a "**Party**" and are collectively the "**Parties**." Please visit us at www.media.dish.com to explore DISH's various Ad Services.

1. DEFINITIONS

1.1 "**Ad Content**" has the meaning ascribed to such term in Section 3(c).

1.2 "**Ad Services**" has the meaning ascribed to such term in the preamble.

1.3 "**Ad Serving Technology**" has the meaning ascribed to such term in Section 4(c)vi.

1.4 "**Advertiser**" has the meaning ascribed to such term in the preamble.

1.5 "**Advertiser Data**" has the meaning ascribed to such term in Section 4(a).

1.6 "**Agent**" has the meaning ascribed to such term in Section 5(e).

1.7 "**Business Continuity Plan**" means a document that details the series of all actions and processes that will be undertaken by Vendor to mitigate negative business impacts and/or monetary losses to DISH, should an "adverse event" occur. An "adverse event" is defined as an occurrence that will result in the complete or partial loss of Vendor services that support DISH for a continuous period of time that is greater than 24 hours. An event may be a Foreseen Event or an Unforeseen Event, as such terms are defined below.

> **1.7.1** A "**Foreseen Event**" is an event for which Vendor has had at least 24 hours prior knowledge that it will happen or is expected to happen based on the presence of certain conditions (e.g., planned system shutdowns, system conversions, hurricanes, etc.).

> **1.7.2** An "**Unforeseen Event**" is an event that is unanticipated or not expected beforehand (e.g., earthquakes, etc.).

1.8 "**Campaign Measurement**" has the meaning ascribed to such term in Section 4(c).

1.9 "**CCPA Data**" has the meaning ascribed to such term in Section 4(e).

1.10 "**Claims**" has the meaning ascribed to such term in Section 7.

1.11 "**Client**" has the meaning ascribed to such term in Section 5(e).

1.12 "**Confidential Information**" has the meaning ascribed to such term in Section 4(d).

1.13 "**Confirmation**" has the meaning ascribed to such term in Section 3(b).

1.14 "**Credit**" has the meaning ascribed to such term in Section 4(c)v.

1.15 "**Data Interactions**"

> **1.15.1** "**Accesses**" means Vendor is able to view DISH Data within DISH systems.

> **1.15.2** "**Collects**" means Vendor obtains DISH Data on behalf of DISH while providing services to DISH.

> **1.15.3** "**Receives**" means Vendor will obtain DISH Data from DISH through scheduled or unscheduled transfers.

> **1.15.4** "**Processes**" means Vendor enhances or modifies DISH Data through their systems or algorithms.

1.15.5 "**Stores**" means Vendor retains DISH Data on their systems or an outsourced location (e.g., cloud storage, or physical file storage).

1.15.6 "**Transmits**" means Vendor sends DISH Data to another entity or back to DISH.

1.16 "**Data Partner**" has the meaning ascribed to such term in Section 4(a).

1.17 "**DISH Data**" has the meaning ascribed to such term in Section 4(b).

1.18 "**DISH Group**" has the meaning ascribed to such term in Section 7.

1.19 "**DISH Personal Information**" means any Personal Information provided by DISH, collected by Vendor on behalf of DISH, or otherwise made available to Vendor pursuant to an Agreement, including but not limited to any personal data, information, or combination of data points, that permits identification, contact, profiling, or tracking of any individual, household, or individual or household device, including any information (e.g., an identifier or code) that facilitates physical or online contact with, or reveals the identity or contact information of, a person, or is used to create a profile of a person or in connection with targeted advertising or analytics of an individual or household.

1.20 "**DISH Reporting**" has the meaning ascribed to such term in Section 4(c)iii.

1.21 "**Fourth Party**" means any entity (other than DISH) that contracts with Vendor to assist in providing services to DISH.

1.22 "**Inquiry**" has the meaning ascribed to such term in Section 2.3 of Exhibit 1.

1.23 "**Measurement Partner**" has the meaning ascribed to such term in Section 4(b).

1.24 "**Measurement Technology**" has the meaning ascribed to such term in Section 4(c)i.

1.25 "**Order**" has the meaning ascribed to such term in Section 2(a).

1.26 "**Other Agreement**" has the meaning ascribed to such term in Section 9(j).

1.27 "**Personal Information**" shall be interpreted consistent with the Privacy Laws, and includes at a minimum "personal information" and "personal data" as defined in the State Privacy Laws.

1.28 "**Privacy Laws**" means applicable statutes, regulations or other laws pertaining to privacy and information security, including, where applicable, the State Privacy Laws.

1.29 "**Privacy Requirements**" means all of the terms and conditions contained in these Exhibits, as applicable.

1.30 "**Security Incident**" means a declared or known event in which an individual or an application illegitimately enters a private, confidential or unauthorized logical information system perimeter on any computer or network system that is within Vendor's care, custody, and control.

1.31 "**Security Requirements**" means all of the terms and conditions contained in these Security Requirements.

1.32 "**Services**" means the services provided by Vendor to Dish specified in the Agreement.

1.33 "**State Privacy Laws**" mean applicable US state privacy laws, which may include but shall not be limited to, the California Consumer Privacy Act, Cal. Civ. Code 1798.100 et seq., as amended, including by the California Privacy Rights Act (the "CCPA"), the Virginia Consumer Data Protection Act, Code of Virginia title 59.1, Chapter 52 (the "CDPA"), the Colorado Privacy Act, Colorado Rev. Stat. 6-1-1301 et seq. (the "CPA"), or any regulations or guidance issued pursuant thereto.

1.34 "**Terms of Service**" has the meaning ascribed to such term in the preamble.

1.35 "**Vendor**" means service provider or processor as defined by State Privacy Laws, and includes any entity (other than DISH) that accesses, collects, receives, processes, stores, or transmits DISH Data on behalf of DISH or while providing services to DISH.

1.36 The terms "business," "business purposes," "consumer," "controller," "processing," "processor," "sale," "sensitive data," "sensitive personal information," "service provider," "sharing," and "verifiable consumer request" shall have the meanings given to those terms in the State Privacy Laws.

2.   TERMS OF SERVICE AND CHANGES.

These Terms of Service govern any and all Ad Services requested and/or received by or otherwise provided, directly or indirectly, to you. If you do not agree to these Terms of Service, then do not apply for, request, purchase or otherwise use Ad Services. DISH may modify these Terms of Service from time to time and at any time without providing written notice to you and recommends that you visit http://www.media.dish.com prior to each request for or use of Ad Services following your submission of a customer application. Any and all modifications will be effective immediately upon posting; provided, however, that if you are currently receiving or using Ad Services, then unless otherwise stated therein, such changes will be effective thirty (30) calendar days following the date on which such changes are posted. Copies of prior terms of service applicable to you may be requested from your account executive at DISH.

3.   ORDERS.

(a)   Getting Approved to Purchase Ad Services. Each order or request for (*e.g.*, via an insertion order) or confirmation or acceptance of (*e.g.*, via an order letter) Ad Services (each, regardless of the method of agreement or confirmation, hereinafter referred to as an "**Order**") may be subject to your submission of DISH's standard customer application. In the alternative, you may elect to pre-pay for any or all Ad Services rather than complete DISH's standard credit review process. DISH's standard customer application will be made available to you by your account representative, as necessary, or upon request. DISH may determine, in its sole discretion, that pre-payment for Ad Services is required.

(b)   Order/Confirmation Letters; Insertion Orders. For clarity, the term "Order" includes, without limitation, both insertion orders and letter orders, including, without limitation, letter confirmations designed to finalize and confirm the specifications of Ad Services contained in a proposal submitted by DISH. These Terms of Service govern any and all Orders submitted, confirmed or otherwise accepted or requested by you. Each Order, together with these Terms of Service (including all Exhibits), constitutes an agreement by and between you and DISH to purchase Ad Services, and is hereinafter referred to, collectively, as an "Agreement". To be binding upon DISH, each Order must be accepted by DISH as evidenced by a written confirmation (*e.g.*, a written letter order provided to you or written confirmation or acceptance of an insertion order provided to DISH) or DISH's provision of Ad Services (each, a "**Confirmation**"). DISH reserves the right to accept, modify and/or reject any Order for any reason whatsoever. Any failure to provide a Confirmation will be deemed a rejection of such Order by DISH. In no event will DISH be liable for any delay, or failure to fulfill, any Order (or any portion thereof), regardless of the cause of such delay or failure, and regardless of whether you received a Confirmation.

(c)   Technical Specifications Requirements; Changes to Orders. In order for DISH to provide Ad Services, you must ensure that any and all content, programming content and/or other video, audio, visual, interactive and data contained therein, and any documentation related thereto (*e.g.*, sweepstakes rules, disclaimers, ratings, descriptions, permitted triggers), whether created by or approved by you or on your behalf (collectively, "**Ad Content**") provided by you or on your behalf meets the specifications and other technical and delivery requirements established by DISH applicable to such Ad Content. Details on DISH's "Commercial Specifications & Requirements" are set forth in DISH's media kit which will be made available to you by your account executive, as necessary, or upon request. You may request changes to Orders for which you have received a Confirmation; provided that DISH will have no obligation to make or honor any request for changes following a Confirmation, and any and all changes are subject to further written confirmation by DISH, which may be given, withheld or denied in DISH's sole and absolute discretion.

4.   DATA SHARING AND USE.

(a)   Advertiser Data. You hereby acknowledge and agree that certain Ad Services may require you to share with DISH, or enable DISH to access, data that you own or license from a third party ("**Advertiser Data**"). You, or a third party acting at your direction (a "**Data Partner**"), may provide Advertiser Data either (i) directly to DISH; or (ii) indirectly, including through a clean room or other secure digital environment as mutually agreed by the Parties. In connection with any Advertiser Data that you may share or make available to DISH pursuant to these Terms of Service, you hereby represent, warrant and covenant to DISH that you: (i) are fully authorized under applicable laws and any applicable agreements to use and disclose the Advertiser Data to DISH for the purposes of this Agreement; (ii) all required notices were provided and all necessary consents were obtained for Advertiser Data; and (iii) you complied and will comply with all valid opt-out, deletion, and other individual rights requests under Privacy Laws before providing or making available the Advertiser Data.

(b)   DISH Data. For purposes of these Terms of Service, "**DISH Data**" means any data that DISH makes available to you or a Measurement Partner to enable Campaign Measurement. You acknowledge and agree that you may receive DISH Data either (i)

directly from DISH; (ii) indirectly, including through a clean room or other secure digital environment, or (iii) through a third party designated by you and agreed to by DISH (a "**Measurement Partner**"), as mutually agreed by the parties. The Parties may elect to treat a Measurement Partner as a processor or service provider that shall be bound by terms that provide substantially the same protections for DISH Data as set forth in Exhibit 2, which is attached hereto and hereby incorporated herein by this reference. As between DISH and you, DISH owns and shall retain ownership of all rights in the DISH Data and its Confidential Information, and no rights or licenses thereto are granted to you except as expressly set forth in this Agreement.

(c)   **Campaign Measurement**. You may (yourself or through a Measurement Partner) perform certain campaign measurement activities that will enable you to assess the performance of your advertising campaigns served on a DISH platform ("**Campaign Measurement**") through the use of DISH Data.

    i.   **Measurement Technologies**. Subject to DISH's prior written consent and your or your Measurement Partner's agreement to comply with any additional limitations or requirements specified by DISH, including entering into a separate agreement with DISH, you may use a beacon, pixel, tag, URI, code and/or other similar technology for the sole purpose of Campaign Measurement (each, a "**Measurement Technology**"). Campaign Measurement is at your sole cost, risk, and expense. Your use of any technology, material or other service that is not an approved Measurement Technology is prohibited. You or your Measurement Partner must execute any Campaign Measurement related agreements required by DISH, and you must provide the asset that is configured with the Measurement Technology at least three (3) days prior to scheduled launch of the relevant campaign. Failure to comply with the immediately preceding sentence will result in a delayed launch or a launch without the Measurement Technology, as determined by DISH in its sole and absolute discretion.

    ii.   You represent, warrant, and covenant that you have and shall maintain valid and binding agreements with any Measurement Partner that you engage to support Campaign Measurement, and that such agreements (i) shall not prevent you from performing any of your obligations herein and (ii) require the Measurement Partner to follow substantially the same restrictions concerning DISH Data as set forth in Exhibit 1.

    iii.   With respect to DISH's authorization of your Measurement Technology, you acknowledge and agree that:

        a. Such authorization is subject to your or your Measurement Partner's agreement to comply with the terms of Exhibit 1 or Exhibit 2, as applicable;

        b. DISH reserves the right to revoke such authorization at any time for any or no reason; and

        c. In the event of any discrepancy between the impression counts as reported by DISH's standard reporting methodology (the "**DISH Reporting**") and that reported by the Measurement Technology, the DISH Reporting shall be binding on the parties.

    iv.   **Prohibited Tracking Technologies.** Except as permitted under paragraph (i) of this Section 4(c), you may not embed any information, data, images, sounds, features, calls to action, messages, prompts, tags, cookies, pixels, beacons, triggers and/or other technologies, including, without limitation, anything that may degrade and/or otherwise interfere with any product or service provided by DISH and/or its affiliates (e.g., a primary signal used to deliver programming content and/or any other hardware, software or firmware or other technology used by DISH or its affiliates or service providers).

    v.   **Measurement Discrepancies**. Notwithstanding subclause 4(c)(ii)(c) above, if (and only if): (a) the Measurement Technology is certified as compliant with the IAB/AAAA Ad Impression Measurement Guidelines, https://www.iab.com/guidelines/ad-impression-measurement-guidelines-us-global/ (as may be revised at the effective date of an Insertion Order); (b) such Measurement Technology has been delivered to DISH three (3) business days prior to the launch of the applicable campaign and is fully functional throughout the entirety of the applicable campaign; and (c) there is a measurement discrepancy in excess of ten percent (10%) between the DISH Reporting and the Measurement Technology's reporting for such applicable campaign, then the parties shall promptly engage in good-faith discussions to resolve the source of the discrepancy. In the event that following such discussions, the parties mutually agree that it is reasonably certain the Measurement Technology's reporting for such campaign is true and correct, then DISH shall provide you with a credit equal to the discrepancy between the amount actually received by DISH for such campaign and the amount that should have been received for such campaign utilizing the Measurement Technologies reporting (the "**Credit**"). You acknowledge and agree that any

Credit may only be used to purchase additional Ad Services from DISH (whether as a distinct makegood flight or as part of your future Ad Services purchase(s) with DISH).

vi. Ad Serving Technologies. Subject to DISH's prior approval, you may use a beacon, pixel, tag, cookie, URI, code and/or other similar technology for the sole purpose of advertising serving (each, an "**Ad Serving Technology**").

vii. Use of DISH Data. Without prejudice to your other obligations under these Terms of Service, you may use DISH Data solely to the extent that the use is in compliance with applicable laws and these Terms of Service. You shall not, and shall not enable, assist, authorize, or permit any other entity to: (i) use any DISH Data to retarget any user or household, build profiles of users or households (whether based on DISH Data alone or in combination with other data), re-identify any users or build or contribute to a device, user or household graph; (ii) use any DISH Data for any marketing or sales efforts; or (iii) retain DISH Data any longer than reasonably necessary to create aggregated Campaign Measurement results for your use, and you shall delete such DISH Data promptly thereafter, but in any event, promptly upon termination of these Terms of Service; or (iii) use DISH Data in a manner not permitted by Exhibit 1.

(d) Confidential Information. You may not disclose (orally, in writing, by press release or by public disclosure of any kind or otherwise) to any third party (other than your respective directors, officers, members, managers, employees, auditors, financial advisors, lenders, attorneys and agents, in each case in their capacity as such and on a need-to-know basis, and in the case of third-parties, subject to a binding and enforceable confidentiality agreement between you and the relevant third party), any Confidential Information, except to the extent necessary to comply with applicable law(s). For clarity, unless agreed to by DISH in advance in writing, you may not issue any press release or other public announcement concerning your purchase of Ad Services or the terms of this Agreement. For purposes of these Terms of Service, "**Confidential Information**" means the existence of any Agreement, material or non-public terms of any Agreement (including, without limitation, rates other than published rates), and any and all other non-public information disclosed by DISH, or contained in any Order, in connection with any Agreement, proposed or requested Ad Services or delivery of Ad Services, including, without limitation, technical information, technical or marketing tests, product plans, data and/or information used and the source thereof, reports provided, including, without limitation, post-campaign reports provided directly or indirectly, information received in connection with the Measurement Technology (i.e., any and all information related to viewing or viewers), DISH Data, and DISH Personal Information.

(e) CCPA Data. To the extent that any Advertiser Data contains Personal Information that is subject to the California Consumer Privacy Act of 2018, as may be amended from time to time, and its implementing regulations ("**CCPA Data**"), DISH represents, warrants, and covenants that it will: (i) process CCPA Data only to provide the Ad Services and as permitted by the relevant Agreement; (ii) comply with the CCPA in its processing of the CCPA Data; (iii) provide you with all reasonably requested assistance to enable you to fulfill your obligations under the CCPA; (iv) promptly notify you if DISH determines that it can no longer meet its obligations under the CCPA; (v) not "sell" or "share" (as those terms are defined under the CCPA) CCPA Data, unless expressly authorized under an Agreement; and (vi) implement and maintain reasonable technical and organizational security measures, procedures, to protect the CCPA Data from unauthorized access, destruction, use, modification, or disclosure.

(f) Prohibited Data. Neither party will disclose, transfer, or otherwise make available any "sensitive data," "sensitive personal information," or the equivalent as defined under Privacy Laws; any Personal Information about an individual who is known to be under the age of 18; or any data that would require notification of an individual or a regulatory authority in the event of unauthorized access to or acquisition of such data.

5. RATES, BILLING AND PAYMENTS.

(a) Rate(s). The rates for Ad Services will be set forth in the applicable Order or agreement.

(b) Payment(s). You are fully responsible for payment for any and all Ad Services provided by DISH in accordance with any Agreement. You shall make payment in full to DISH for any and all Ad Services within 30 days following the date on which you receive an invoice from DISH. You acknowledge and agree that DISH Reporting shall be used for calculating the amounts owed to DISH. You agree to pay all portions of DISH's invoice that are not specifically disputed in good faith and in writing with DISH's Finance Department prior to the due date set forth in the applicable invoice, and your failure to timely report any dispute constitutes a waiver of all claims with respect to such dispute. All amounts due under the applicable Agreement shall be paid in full without any off-set, deduction or other withholding other than as required by law.

(c)   **Late Payments and Payment Defaults**. If DISH does not receive any payment in full due under any Agreement by the close of business on the day when it is due, then any amounts not received shall bear interest at the rate of one and one-half percent (1.5%) per calendar month (or a lower amount if required by law), or prorated portion thereof, starting on the date such amounts were due. Acceptance of such late fee by DISH shall not constitute a waiver of any other rights that DISH may have at law, in equity, under contract (including, without limitation, each Agreement) or otherwise, with respect to your failure to make timely payment or your breach of these Terms of Service. If you are an Agent that has not delivered payment to DISH within 15 days from the date on which such amount was due, then DISH may contact Client directly for payment following delivery of notice to Agent of its intention to contact Client about the delinquent payment. DISH may offset, against any payments due to you under any Agreement, any amounts owed by you or any of your affiliates to DISH or any of its affiliates under the applicable or any other agreement. You hereby agree to pay any and all reasonable legal fee(s) and collection costs incurred by DISH in connection with any attempt to collect any past due amounts.

(d)   **No Responsibility for Taxes**. DISH may not have or be deemed to have any responsibility or assume any liability for the determination, calculations, collection and remittance to proper taxing authorities of any sales, use or other taxes related to or arising out of any Ad Services, all of which shall be the sole responsibility of you, if any.

(e)   **Election for Conditional Payment Liability**. For purposes of any Agreement, "**Agent**" is the person or entity, whether automated, integrated or manually done, that requests, purchases, submits an order for, and/or resells, Ad Services (*e.g.*, an agency or reseller); and "**Client**" is the person or entity on whose behalf such Agent requests, purchases and/or submits orders for, or to whom such Agent resells, such Ad Services. Any Agent submitting a customer application or otherwise acting on behalf of a Client must also provide DISH with the most recently dated copy of any agency of record letters executed by Client. Agent hereby represents, warrants and covenants to DISH that, as applicable: (i) Client has retained Agent as its agent for the purpose of requesting, purchasing and/or submitting Orders for Ad Services from DISH on behalf of Client, the disclosed principal of Agent; (ii) Client expressly authorized Agent to purchase Ad Services from DISH and/or its affiliates on behalf of Client (or purchased Ad Services from Agent), which authorization to purchase Ad Services, included, for clarity, and without limitation, delegating the appropriate authority to Agent to accept and agree to these Terms of Service and any Order on behalf of Client; and (iii) Agent has, and will maintain, the undisputed express authority (including, without limitation, any and all necessary pre-approvals) to act as Client's agent for the purpose of requesting, purchasing and/or submitting orders for Ad Services from DISH on behalf of Client, until such time that Agent and/or Client gives notice to DISH in writing of any modification to, or termination of, such authority in accordance with Section 10(c) below. Agent hereby represents, warrants and covenants: (1) Orders for Ad Services made by Agent on behalf of Client (A) expressly identify that Agent is requesting, purchasing and/or submitting the applicable Order on behalf of Client (e.g., naming Client as the client or advertiser in the Order), and (ii) are, and will continue to be, final and binding on such Client; and (2) Client is, and shall continue to be, fully responsible and liable to DISH for any and all requests, purchases and/or submissions of orders for Ad Services made by Agent on Client's behalf. For clarity, and without limitation, Agent acknowledges and agrees that it is solely liable to DISH for any Ad Services requested, purchased and/or ordered *on its own behalf* and/or without the necessary authority, if any; and any such transactions will be governed by these Terms of Service. For clarity, if at all times Agent has complied with, and continues to comply with, the obligations set forth in these Terms of Service, then to the extent that Agent has the necessary authority to bind Client for the request, purchase and/or submission of an order for Ad Services: (y) unless and until Agent receives payment(s) from Client for Ad Services, Client shall be solely liable to DISH for any and all payments due to DISH for Ad Services made by Agent on such Client's behalf; and (z) immediately upon Agent's receipt of payment(s) from Client for Ad Services, Agent shall be liable to DISH for payments due to DISH for Ad Services made by Agent on such Client's behalf. Payment by Client to Agent of any amount due to DISH, may not, and will not, constitute payment to DISH of any amount owed to DISH and will not relieve Client of its obligations to pay DISH for such amounts until such time that DISH receives payment in full for such amounts. Unless the customer application contains a signature for both of Agent and Client, Agent and Client will be jointly and severally liable for the payments owed to DISH for any and all Orders for such Client.

6.   **MATERIALS AND OTHER CONTENT USED IN CONNECTION WITH AD SERVICES.**

(a)   **Grant of Rights**. You hereby grant DISH and its affiliates the non-exclusive, royalty free, worldwide right and license (including, without limitation, the license to all copyright, trademark and other intellectual property rights appurtenant to the programming content that makes up or relates to the Ad Content) to: (i) distribute, subdistribute, resell and/or otherwise sublicense the Ad Content via any and all means or methods for reception, viewing, exhibition and display by Subscribers using any form of device used for the reception and/or display of visual images, audio and/or data; and (ii) record, store, copy, digitize, compress, encode, decode, transcode, receive, encrypt, decrypt, up-convert, down-convert, and otherwise process (including, without limitation, for adaptive bit-

rate streaming) the Ad Content; (iii) use the Ad Content to advertise, promote, publicize, market and sell DISH's and its affiliates' products and/or services, including, without limitation, Ad Services and DISH's programming services; and (iv) process the Advertiser Data as necessary for DISH to provide the Ad Services.

(b) <u>Content Limitations</u>. You shall ensure that no Ad Content provided, indirectly or directly, to DISH contains: (i) any Ad Content that is rated (or if not rated, that would have been rated) more restrictively than the rating of the programming during which the Ad Content is scheduled to be distributed, or that otherwise violates the advertising restrictions required by the third-party provider of such programming *(note: if you do not have a copy of the applicable third-party restrictions, then it is your responsibility to obtain such restrictions from your DISH account executive)*; (ii) any fraudulent, deceptive and/or unfair descriptions of any products and/or services; (iii) any statement or other reference related to decisions and/or processes used (including, without limitation, any information used) in connection with Ad Services; (iv) any promotion or marketing of "900," or "976" telephone services, or other similar services that bill a caller for placing or confirming the call (other than for the telephone company's cost of the call); (v) any programming containing solicitations for funds or contributions; (vi) any Ad Content for any purpose other than the narrow purpose agreed to or required in connection with any Ad Services, if any (e.g., political purposes and/or market research); (vii) any reference to the reason the viewer or subscriber is receiving, or was requested or chosen to receive, any Ad Content; (viii) any advertisement or other message for any programming provider (including, without limitation, any programming provider affiliated or associated with you) other than DISH or its affiliates or for any other entity that competes, directly or indirectly, with DISH or any of its affiliates in providing programming services and/or television or movie services (provided that any Client expressly identified in an Order accepted by DISH shall be deemed an exception to this clause (viii) to the extent it applies); (ix) any content that in any way disparages DISH or any affiliate of DISH; or (x) any content that violates any law(s), including, without limitation, advertising and/or other laws relating to children (e.g. the Children's Television Requirements and the Children's Online Privacy Protection Act), requiring closed captioning and/or video narration information and technical specifications pertaining to compliance with commercial loudness restrictions.

(c) <u>Compliance with Laws; Advertising Restrictions</u>. In addition to and not in limitation of anything in any Agreement, if any programming or other content is regulated by any law, regardless of whether such law now or in the future is applicable to you, DISH or any of its affiliates, or a third party, then you shall (i) comply with such law(s); (ii) ensure that the any and all Ad Content, and the requested placement thereof, complies with such law(s); and (iii) provide DISH with all documents reasonably necessary for DISH to timely demonstrate such compliance.

(d) <u>Public Filings</u>. You shall promptly provide to DISH any and all information and/or other records necessary for DISH to maintain any of its public filings as such are required by applicable Law, and you shall ensure such information and/or records are complete and accurate and delivered to DISH within twenty (20) days following any such request by DISH.

7.   INDEMNIFICATION. You hereby agree to indemnify, defend and hold harmless each of DISH and its affiliates, each of its and their present and future contractors, subcontractors, authorized distributors, authorized subdistributors, authorized retailers, directors, members, managers, officers, owners, employees, agents, shareholders and representatives, and each of their respective assigns, heirs, successors and legal representatives (the "**DISH Group**") from, against and with respect to any and all costs, losses, liabilities, damages, lawsuits, judgments, claims, actions, penalties, fines and expenses (including, without limitation, interest, penalties, reasonable court costs and attorneys' fees and all monies paid in the investigation, defense or settlement of any or all of the foregoing) (collectively, "**Claims**") to the extent incurred in connection with or arising out of: (i) the breach or default (or alleged breach or default) by you of any provision contained in the applicable Agreement, including, without limitation, these Terms of Service; (ii) any purchase, contracts, debt and/or obligation made by you; (iii) the content of the Ad Content (including, without limitation, claims and/or other statements made therein or allegations that any claims and/or statements therein are fraudulent or misleading), including, without limitation, any assertions that the transmission of any content is obscene, libelous, slanderous, indecent or defamatory, or violates or infringes any copyright, trademark, right of privacy, literary or dramatic right, music performance right, or any other right of any person or entity; (iv) the sale or marketing of any product or service by, through or on the Ad Content, including, without limitation, assertions related to product liability, patent, trademark, copyright infringement, right of privacy or publicity, express or implied warranties, warranties relating to compliance with laws, and personal injuries (physical, economic or otherwise) to any person who may use, consume or be affected by the products and services sold or marketed by, through or on the Ad Content; (v) your and/or the Ad Content's failure to comply with any law(s) or any other failure on your part that causes DISH to violate any law(s) or court or administrative decree(s); (vi) your failure to have acquired at the pertinent time when all or part of the Ad Service is made available to DISH, good title to, and/or each and every property right and/or other right necessary for you to satisfy the obligations imposed on you pursuant to any Agreement; and (vii) as applicable, your advertising, marketing and/or sale of Ad Services. In the event of any claim for indemnification by the DISH Group under this <u>Section 7</u>, the DISH Group shall be entitled to representation by counsel of its own choosing, at your sole cost and expense. In addition to the foregoing, the DISH Group shall have the right to the

exclusive conduct of all negotiations, litigation and other proceedings arising from any such claim.

8.   REPRESENTATIONS AND DISCLAIMERS.

(a)   Advertiser Representations. You represent, warrant, and covenant to DISH that:

     a. you presently have and will continue to have, at all times that you request or receive Ad Services, all rights necessary (including, without limitation, with regard to the Ad Content) to grant DISH the rights contracted for by DISH under the applicable Agreement, in each case free and clear of all liens, restrictions, charges, claims and encumbrances;

     b. all Ad Content is, and will be at all times that you request or receive Ad Services, of a high quality that at least meets the standards of quality, with respect to audio and visual quality and quality of content, that are standard in the video programming industry;

     c. you have obtained and will maintain at all times that you request or receive Ad Services all licenses, permits, rights, exemptions, authorizations and consents necessary to fully perform the applicable Agreement;

     d. nothing contained in or related to the Ad Content, nor DISH's exercise of the rights granted to DISH hereunder will, at any time that you request or receive Ad Services, violate, infringe or conflict with any rights of any person or entity, including, without limitation, any copyright, literary, musical, dramatic, artistic, trademark, contract, privacy or publicity right, or the rights to be free from unfair competition or defamation, or any other property or personal right, or result in any liability, monetary or otherwise, to DISH or any affiliate of DISH;

     e. the Ad Content does not, and the Ad Content will not, at all times that you request or receive Ad Services, contain any material that is libelous, slanderous, defamatory, obscene, or indecent, and the Ad Content does not and will not, at all times that you request or receive Ad Services, contain any elements constituting a lottery or a game of chance as such lotteries or games are defined under any applicable law;

     f. you have licensed, obtained and paid for, and will at all times that you request or receive Ad Services continue to license, obtain and pay for, all copyright, royalty or other performance rights and licenses (including, without limitation, "through-to-the-viewer" music performance rights and any other rights necessary from ASCAP, BMI, SESAC and any other applicable performing rights organizations or other applicable entities) for the programming contained in any Ad Content;

     g. you will not, without DISH's prior written consent, use any DISH Marks or make any statements with respect to DISH or any of its affiliates in connection with any Ad Content, Ad Services or in any media or at any other time or place so as to state or imply that DISH is in any way responsible for the production of, or content of, any of the Ad Content, Ad Services and/or any information used in connection therewith, or that DISH endorses, or is responsible for, any products, services, or other benefits promoted or advertised in connection with any Ad Content or that you are employed by, the agent of, or in any way under the control or direction of DISH;

     h. you will not knowingly or willfully engage in any activity or business transaction that or may be damaging to DISH's image or goodwill, and it will not take, authorize, or permit to be taken, any action that would or could in any way impair any of the rights for which DISH contracted under any Agreement;

     i. you and the Ad Content are, and will remain at all times that you request or receive Ad Services, in full compliance with all laws, including, without limitation, all laws enforced, administered, promulgated or pronounced in the United States and in the country or countries in which any Ad Content originated;

     j. no third party has or has claimed, any right that would be inconsistent with the rights granted to DISH in the applicable Agreement;

     k. you are under no contractual or other legal obligation that will in any way interfere with its full, prompt and complete performance under the applicable Agreement; and

     l. except as authorized by DISH in writing, you will not collect, use, disclose and/or destroy, directly or indirectly, via any means or methods whatsoever, any information related to DISH, its affiliates and/or its or their viewers and subscribers in connection with any Ad Services or Ad Content without first obtaining the prior written consent of DISH.

(b)   DISCLAIMERS. You acknowledge that (i) neither DISH, nor its affiliates nor its third party providers, control(s) your Ad Content or the transfers of information and/or Ad Content over communications facilities (including the Internet); and (ii) Ad Services may be subject to limitations, interruptions, delays, cancellations, and other problems inherent in the use of the communications facilities (including, without limitation, severe weather, search engines and social media channels). You agree that DISH, its affiliates, and its third party providers are not responsible for any interruptions, delays, cancellations, delivery failures, data or Ad Content damage and/or loss(es), content corruption, packet loss, or other losses

or damages resulting from these problems.

TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT FOR ANY EXPRESS WARRANTIES IN THESE TERMS OF SERVICE, DISH PROVIDES ANY AND ALL AD SERVICES ON AN "AS-IS" BASIS WITH NO REPRESENTATIONS OR WARRANTIES OF ANY KIND WHATSOEVER. NEITHER DISH NOR ANY OF ITS AFFILIATES ARE RESPONSIBLE OR LIABLE WHATSOEVER FOR ANY BUSINESS DECISIONS MADE OR INFERENCES DRAWN BY ANY PARTY IN CONNECTION WITH YOUR RELIANCE ON ANY AD SERVICES. DISH AND/OR ITS AFFILIATES MAKE NO, AND TO THE FULLEST EXTENT POSSIBLE HEREBY DISCLAIMS ANY AND ALL, REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, IN CONNECTION WITH AD SERVICES, INCLUDING, WITHOUT LIMITATION, REPRESENTATIONS, OR WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, SATISFACTION, GUARANTEES FOR IMPRESSIONS, REACH, SUCCESS, COMPLETENESS OR ACCURACY OR THAT THE AD SERVICES WILL BE ERROR-FREE, WITH RESPECT TO ITS DISTRIBUTION AND/OR TRANSMISSION OF ANY AD CONTENT, THE LOSS OR DAMAGE OF ANY AD CONTENT, THE FULFILLMENT (OR FAILURE TO FULFILL) ANY AD SERVICES FOR WHICH IT HAS OBTAINED A CONFIRMATION, THE AVAILABILITY OF ANY AD SERVICES REQUESTED BY YOU AND THE NUMBER OF IMPRESSIONS AVAILABLE OR REPORTED BY DISH, ITS AFFILIATES OR ITS THIRD PARTY PROVIDERS.

9.   LIMITATION OF LIABILITY.

IN NO EVENT WILL DISH OR ITS AFFILIATES BE LIABLE FOR ANY INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR OTHER INDIRECT DAMAGES, WHETHER FORESEEABLE OR NOT, OCCASIONED BY ANY FAILURE TO PERFORM OR THE BREACH OR DEFAULT OF ANY OBLIGATION UNDER ANY AGREEMENT FOR ANY REASON WHATSOEVER, WHETHER BASED ON NEGLIGENCE OR OTHERWISE (INCLUDING, WITHOUT LIMITATION, ANY PAYMENT FOR LOST BUSINESS, FUTURE PROFITS, LOSS OF GOODWILL, LOSS OR DAMAGE TO AD CONTENT, REIMBURSEMENT FOR EXPENDITURES OR INVESTMENTS MADE OR COMMITMENTS ENTERED INTO, CREATION OF CLIENTELE, ADVERTISING COSTS, DATA LOSS, TERMINATION OF EMPLOYEES OR EMPLOYEES SALARIES, OVERHEAD OR FACILITIES INCURRED OR ACQUIRED BASED UPON THE BUSINESS DERIVED OR ANTICIPATED UNDER ANY AGREEMENT). IN NO EVENT MAY THE AGGREGATE LIABILITY OF DISH AND ITS AFFILIATES IN CONNECTION WITH ANY AGREEMENT EXCEED THE FEES ACTUALLY PAID BY YOU TO DISH FOR AD SERVICES REQUESTED AND RECEIVED PURSUANT TO SUCH AGREEMENT. IN NO EVENT MAY ANY PROJECTIONS OR FORECASTS BY DISH BE BINDING AS COMMITMENTS OR PROMISES BY DISH.

10.   MISCELLANEOUS.

(a)   Assignment. Each Agreement will inure to the benefit of and be binding upon each of the parties thereto and each of their respective assigns, heirs, successors and legal representatives, and DISH may assign or otherwise transfer any of its rights or obligations under any Agreement or these Terms of Service, in any manner, direct or indirect, contingent or otherwise, in whole or in part, voluntarily or by operation of law without any consent from you whatsoever. Notwithstanding anything to the contrary contained in the immediately foregoing sentence, you may not assign or otherwise transfer any of your rights or obligations under any Agreement or these Terms of Service, in any manner, direct or indirect, contingent or otherwise, in whole or in part, voluntarily or by operation of law without the prior express written consent of DISH. In the event of any valid assignment of any Agreement or these Terms of Service in accordance with this Section 10(a), the assigning party will be relieved of all obligations arising after the assignment, and the non-assigning party shall look solely to the assignee for enforcement of such obligations. Any attempted assignment in violation of this Section 10(a) will be null and void, *ab initio*.

(b)   Agent of Record. Nothing in these Terms of Service is intended to limit or restrict Client's rights or ability to change the Agent on record with DISH; provided, however, that you must immediately send notice to DISH of any such change and may be required to submit a new customer application in connection with any such change(s).

(c)   Notice. All notices given in connection with this Agreement, whether permissible or required hereunder or by law, must be given in writing and sent by facsimile transmission, by first-class certified mail, postage prepaid, or by nationally-recognized courier service, charges prepaid, to the party(ies) to be notified, addressed to such party at the address(es) set forth below, or sent by facsimile to the fax number(s) set forth set forth below, or such other address(es) or fax number(s) as such party may have substituted by notice (given in accordance with this Section 10(c)) to the other party(ies). The sending of notice with confirmation of receipt of the complete transmission (in the case of facsimile transmission) or receipt of such notice (in the case of delivery by first-class certified mail or by nationally-recognized courier service) will constitute the giving thereof.

If to be given to you:

Notice may be given to you at the address listed in the applicable customer application, listed in any recent communication(s) with DISH and/or at the address on record with the applicable secretary of state. Any notice given to an Agent will constitute the giving of notice to the Client, unless such Client's address and facsimile for notice are provided to DISH in accordance with this Section 10(c).

If to be given to DISH:

DISH Network L.L.C.
Attn: Vice President, Media Sales

If by nationally-recognized courier service:
9601 South Meridian Blvd.
Englewood, Colorado 80112

If by first-class certified mail:
P.O. Box 6655
Englewood, Colorado 80155

If by facsimile:
Fax #: (917) 305-4455

cc: Office of the General Counsel, DISH Network L.L.C.
Attn: General Counsel & Corporate Counsel – Media Sales

If by nationally-recognized courier service or first-class certified mail:
Same address as noted above for delivery to DISH via nationally-recognized courier service

If by facsimile:
Fax #: (303) 723-1699

(d) <u>**Governing Law**</u>. Each Agreement, the validity of each Agreement, and any of its provisions, and any of the rights and duties of the parties thereunder, the termination of such Agreement, the rights and obligations of the parties following termination, and any other claims under or relating to such Agreement, whether arising in contract, tort, under statute or otherwise, shall be governed by and construed in accordance with the laws of the State of Colorado applicable to contracts to be made and performed entirely within the State of Colorado by residents of the State of Colorado, without giving any effect to any of its conflict of law or any other provisions that would require the application of the laws of any other jurisdiction, and any and all disputes relating to the foregoing shall be litigated solely and exclusively in the United States District Court for the District of Colorado; provided, however, that in the event that the United States District Court for the District of Colorado does not have subject matter jurisdiction over any matter for which it is specified herein as the proper venue, then such matter shall be litigated solely and exclusively before the appropriate state court of competent jurisdiction located in Denver, Colorado. The parties and their present and future affiliates consent to the *in personam* jurisdiction of such courts for such purposes. The parties waive, fully and completely, any objection to venue in such courts, including, without limitation, any right to dismiss and/or transfer any action pursuant to Title 28 U.S.C. Section 1404 or 1406 (or any successor statute).

(e) <u>**Relationship**</u>. The relationship of DISH and you is that of independent contractors. Nothing in any Agreement may be construed or implied to create a relationship between DISH and you of agency, partners, affiliates, joint employers, or joint venturers. You do not have the power or authority to act for DISH in any manner or to create obligations or debts that would be binding on DISH. DISH may be deemed responsible for any obligation of you, any act or omission of you, or any employee, agent or representative of you. You will not, and you will not hold yourself out as, the agent of DISH or as a joint venturer with DISH under any Agreement. No viewer or subscriber may be deemed to have any privity of contract or direct contractual or other relationship with you by virtue of any Agreement; no supplier of advertising included in the any Ad Content may be deemed to have any privity of contract or direct contractual or other relationship with you by virtue of any such Agreement; and no supplier of Ad Content (including, for clarity and without limitation, any other material(s) (*e.g.*, information, functionality, features, technical materials) included in the Ad Content by you) will be deemed to have any privity of contract or direct contractual or other relationship with DISH, its viewers or its subscriber by virtue of any Agreement or Ad Services provided thereunder.

(f) <u>Records</u>. For a period of one (1) year after the completion or termination of any Order, Agent shall keep and maintain at its principal place of business complete and accurate books and records of its performance under these Terms of Service and any payments, charges or other amounts of any nature whatsoever paid or to be paid to either DISH or Client in connection with such Agreement (collectively, the "Records"). Prior to and for a period of one (1) year after the completion or termination of any Order, DISH may conduct an inspection of such Records. Following DISH's written request, Agent shall deliver a copy of Records to DISH at the address set forth in <u>Section 10(c)</u> above for its inspection.

(g) <u>Severability</u>. The invalidity under applicable law of any provision of any Agreement will not affect the validity of any other provision of such Agreement. In the event that any provision of any Agreement is determined to be invalid, unenforceable or illegal: (i) the provision will be reformed to the minimum extent necessary to cause the position to be valid, enforceable and legal while preserving the intent of the parties as expressed in, and the benefits to the parties provided by, the applicable Agreement; or (ii) if the provision cannot be so reformed, the provision will be severed from the applicable Agreement and the remainder of the applicable Agreement will remain effective and will be construed in accordance with its terms as if the invalid, unenforceable or illegal provision were not contained in the applicable Agreement.

(h) <u>Headings; References</u>. The titles and headings of the sections in these Terms of Service are for convenience only and may not in any way affect the interpretation of the applicable Agreement. Any reference in any Agreement to the singular form of a word will include the plural form of the word, if applicable, and any reference to the plural will include the singular, if applicable. In addition, the term "days" when used in any Agreement, unless specified as a 'business day' means a calendar day. For the purposes of each Agreement a 'business day' means a weekday (other than a Saturday or a Sunday) excluding any national (United States) holiday.

(i) <u>Waivers; Cumulative Remedies</u>. The failure of either Party to insist upon strict performance of any provision of any Agreement will not be construed as a waiver of any subsequent breach of the same or similar nature. Except as otherwise set forth in these Terms of Service, any waiver of any provision of any Agreement must be in writing and signed by the Party against whom the waiver is sought to be enforced. All rights, remedies and defenses expressly reserved to either party under these Terms of Service will be cumulative and without limitation of any other rights, remedies and defenses that either Party may have at law, in equity, under contract (including, without limitation, any Agreement) or otherwise, all of which are hereby expressly reserved.

(j) <u>Entire Agreement</u>. Each Agreement sets forth the Parties' entire agreement with respect to the Ad Services specified therein. Following acceptance by you of these Terms of Service (*i.e.*, following any request for Ad Services), all prior agreements and understandings between you and DISH for the same or substantially similar Ad Services will be null and void, and any existing agreements or understandings related to Ad Services will be governed by these Terms of Service; provided, however, that if you or your affiliates provide products and/or services to DISH pursuant to any other agreement (*e.g.*, without limitation, if you are an agency of DISH, or you are a network providing programming service(s) to DISH pursuant to an affiliation agreement) (each, an "**Other Agreement**"), then such Other Agreement will remain in full force and effect on its terms, independent of these Terms of Service and any Order, and to the extent that any conflict or inconstancy arises between any Agreement and the Other Agreement, DISH may elect, in its sole discretion, to apply either the provisions of Terms of Service and the Order, or the provisions of the Other Agreement in connection therewith. Acceptance of these Terms of Service renders void any statements attempting to modify the provisions addressed in these Terms of Service, including, without limitation, provisions concerning liability made in connection with requests, orders, purchases, contracts, agreements and/or other correspondence, whether written or oral, and is irrevocable without the prior written consent of DISH's Vice President of Media Sales. DISH and you hereby agree that in the event of any conflict or inconsistency between any term or condition set forth in these Terms of Service, an Order and/or any other writing, then the terms and conditions set forth in these Terms of Service govern and control. Each of the parties specifically acknowledges that there are no unwritten side agreements or oral agreements between the parties that alter, amend, modify or supplement these Terms of Service unless expressly set forth in therein referencing this <u>Section 10(j)</u>.

(k) <u>Compliance with Laws; Legal Obligations</u>. DISH's performance hereunder is subject to the terms and conditions of licenses held by it and by applicable federal, state, and local laws and regulations. If any of the terms or provisions of these Terms of Service or any Order is contrary to the provisions of DISH's license or of any applicable laws or governing rules or regulations such terms and provisions shall be considered as automatically amended to conform thereto. Notwithstanding anything to the contrary contained in the applicable Agreement, you acknowledge and agree that DISH may from time to time and at any time preempt any or all Ad Content for any reason or no reason whatsoever, at DISH's sole and absolute discretion; provided that if DISH cannot make good on any Ad Services preempted (or fails to deliver the minimum number of "guaranteed" impressions requested), then DISH shall provide you

with alternative Ad Services that are at least similar to those set forth in the applicable Order, or at its election DISH may provide you with a pro-rata credit for any preempted airtime that was pre-paid by you. You agree to permit DISH to provide alternative Ad Services on any Ad Services set forth in an Order.

(l)   **Survival**. Any provision of these Terms of Service that logically would be expected to survive the completion, expiration or earlier termination of any Agreement will survive such completion, expiration or earlier termination, including, without limitation, any and all representations and warranties and any and all provisions set forth in <u>Sections 3</u>, <u>5</u>, <u>7</u>, <u>8</u>, <u>9</u>, and this <u>Section 10</u>.

Acknowledged and agreed:

By: _____

Company and Title: _____

Date: _____

EXHIBIT 1
DATA SALE TERMS

1.0. *Defined Terms.* The definitions in the Terms of service are incorporated into this Exhibit 1.

2.0. *General Third Party Privacy Requirements.*

2.1. Agreement Compliance. Your compliance with these Privacy Requirements will not in and of itself excuse you from any of its obligations, including but not limited to, indemnification and confidentiality, set forth in the Agreement.

2.2. Compliance with Applicable Laws. You represent, warrant and covenant that your collection, access, use, storage, disposal, disclosure, and protection of DISH Data does and will at all times comply with all applicable laws, including, but not limited to, Privacy Laws, cyber, and data protection laws and regulations, and the International Traffic in Arms Regulations (ITAR) and Export Administration Regulations (EAR). You will require that any Measurement Partner, as well as any processors and sub-processors, that you use to process DISH Data are obligated to comply with the foregoing requirements.

2.3. Notification of Regulatory Inquiry. In the event that you receive any regulatory inquiry or correspondence regarding DISH Personal Information in which you or DISH is named (an "**Inquiry**"), you shall, to the extent not prohibited by applicable law or any regulatory authority: (a) notify DISH of such Inquiry in writing within three (3) calendar days of receiving such Inquiry; (b) provide DISH with all copies of documents and correspondence relating to the Inquiry without undue delay after receipt or delivery of such documents or correspondence; (c) provide DISH with a written certification at the conclusion of the Inquiry that the action required by Privacy Laws has been taken in response to such Inquiry; and (d) not disclose any DISH Personal Information to the applicable authority without DISH's prior written consent.

3.0. *Terms of DISH Personal Information.* The Parties acknowledge and agree that:

3.1. Limited Purposes. DISH provides DISH Personal Information to you and/or your Measurement Partner solely to help you allow you, on the basis of aggregated DISH Personal Information, to measure the performance of your Ad Campaign and plan future campaigns.

3.2. Privacy Protection. You will comply, and will require any Measurement Partner or third party acting on your behalf to comply, with all applicable sections of the State Privacy Laws and will provide the same level of privacy protection for DISH Personal Information as required of DISH by the State Privacy Laws. You grant DISH the right to take reasonable and appropriate steps to ensure that your use of the DISH Personal Information is consistent with DISH'S obligations under the State Privacy Laws.

3.3. Cooperation. You will provide DISH with all reasonably-requested assistance to enable DISH to fulfill its own obligations under the State Privacy Laws, including deletion of DISH Personal Information as required by the State Privacy Laws and when requested by a consumer in accordance with such State Privacy Laws;

3.4. Remediation. You will notify DISH if you determine that you can no longer meet your obligations under the State Privacy Laws. DISH has the right to take reasonable and appropriate steps to stop and remediate unauthorized use of DISH Personal Information, including, for example, requiring you to provide documentation that verifies that you no longer retain or use the Personal Information of consumers who have had their requests to opt-out of sale or sharing forwarded to it by DISH.

3.5. Sale and Sharing. You will not sell or share DISH Personal Information unless you does so in compliance with the State Privacy Laws.

4.0. *Miscellaneous.* If any provision of these Privacy Requirements shall be found to be void by a court of law, such provision shall be deemed to be severable from the other provisions of these Privacy Requirements, and the remainder of these Privacy Requirements shall be given effect, as if the Parties had not included the severed provision. All representations, warranties, and indemnities shall survive the termination and/or expiration of these Privacy Requirements and shall remain in full force and effect. All of a Party's rights and privileges shall survive termination and shall be enforceable by that Party. Except as expressly set forth herein, the terms of the Agreement shall remain unmodified and in full force and effect. In the event of a conflict between the terms of the Agreement and the terms of these Privacy Requirements, the more restrictive provisions shall control. Headers are for convenience and do not affect the interpretation of the terms of these Privacy Requirements.

EXHIBIT 2
DATA PROCESSING AND SECURITY

1.0 **Defined Terms.** The definitions in the Terms of Service are incorporated into this Exhibit 2.

SECURITY REQUIREMENTS

2.0 **General Third Party Information Security Requirements.**

2.1 Agreement Compliance. Vendor's compliance with these Security Requirements will not in it of itself excuse Vendor from any of its obligations, including without limitation, indemnification and confidentiality, set forth in the Agreement.

2.2 Compliance with Applicable Laws. Vendor represents, warrants and covenants that its collection, access, use, storage, disposal and disclosure of DISH Data does and will at all times comply with all applicable laws, including, without limitation, federal, state and local privacy and data protection laws and regulations for all jurisdictions in which Vendor is conducting commerce with DISH Data.

2.3 Single Sign On. Vendor systems shall utilize SAML 2.0, OAuth2, or OpenID Connect for the purposes of providing DISH employees Single Sign On access to such systems.

2.4 Vendor Network Protection. DISH Data must at all times be protected from unauthorized use, access, disclosure, alteration or destruction.

  2.4.1 Secure and Private Data Networks. Data networks that have Data Interactions, as defined in Section 1.3, must be secured and private.

  2.4.2 Reputation Based Filtering. Vendor shall use a reputation-based service to determine if a source IP address is a known anonymous proxy, and prevent such anonymous proxies from accessing Vendor systems that have Data Interactions.

  2.4.3 Non-US IP Address Blocking. If the Vendor systems are exposed to the internet (with the exception of Vendor's private IP Address ranges), Vendor shall prevent (i.e., block) any and all host addresses that are physically located outside of the U.S. or any U.S. territory from accessing any Vendor systems having Data Interactions.

    2.4.3.1 Upon request by DISH, Vendor will blacklist non-U.S. IP Addresses known by Vendor to be associated with suspicious activity so that such IP addresses cannot access any Vendor system that has Data Interactions.

    2.4.3.2 Upon request by DISH, Vendor will whitelist IP Addresses, or Vendor will provide DISH the capability to whitelist IP Addresses.

2.5 Audits. Vendor shall provide DISH with reasonable and sufficient access to all relevant Vendor personnel, records and facilities. No audit shall unreasonably interfere with Vendor's performance of services to DISH or Vendor's other customers.

  2.5.1 Information Technology and Security Control Audits by External Firm. At least once per year, Vendor shall conduct an audit of the information technology and security controls for all systems used in complying with its obligations under any agreement, including without limitation, a network-level vulnerability assessment based on industry security best practices performed by a nationally recognized third-party audit firm.

  2.5.2 Information Security Audits. Upon prior written notice of not less than fifteen (15) business days, not more than twice in any twelve (12) month period DISH shall have the right, to conduct a security audit at any Vendor location having Data Interactions. The focus of the audits shall be Vendor's policies, procedures, relevant written records and documentation, security compliance requirements, inspections of equipment, logged data and facilities servicing DISH and compliance with these Security Requirements. The audits will also include interviews with Vendor personnel who are responsible for data and information security.

  2.5.3 Audit Results Reporting. Upon request, Vendor shall provide to DISH any relevant formal summaries, attestations, or executive summaries of any security audit reports.

  2.5.4 Issue Remediation: Addressing Risks, Gaps, or Other Issues. If DISH requests a remediation plan to address identified risks, then Vendor shall provide, within an agreed upon timeframe following such request, a written remediation plan to DISH that details corrective actions, responsible individual(s), and associated time frames for completion of the remediation plan.

    2.5.4.1 Vendor shall provide periodic progress reports during this remediation process.

2.5.4.2   DISH may, at DISH's convenience and in its sole discretion, verify results after the remediation plan has been executed.

2.5.4.3   In the event that DISH learns of, or identifies, a risk or vulnerability related to any Vendor system that transmits, stores or handles DISH Data, then Vendor shall cooperate with DISH to immediately address the risk. Possible remediation actions include, but are not limited to, taking down the affected service or application, remediating through development, making configuration changes and adding additional security controls.

2.6   DISH System Disruptions. Vendor shall make all commercially reasonable efforts to detect and prevent any disruptions of the DISH customer experience, the operation of DISH viewing platforms, or the undue usage of DISH resources and those of DISH's customers, resulting from the unauthorized or malicious use of the Vendor's platform or technology.

2.7   Intrusion Detection/Prevention Systems. Vendor shall employ an industry-standard Intrusion Detection System ("IDS") and/or an Intrusion Prevention System ("IPS").

2.7.1   Monitoring. The IDS/IPS devices must monitor all ingress and egress traffic in any environment where any Vendor system, that has Data Interactions, resides.

2.7.2   Alerts. The IDS/IPS devices must be configured to alert Vendor personnel of any and all suspected compromises of DISH Data.

2.8   Event Logging. Vendor shall ensure the following events are logged for any Vendor system that has Data Interactions:

2.8.1   Audit Log Initialization. Initialization of all audit logs.

2.8.2   Authentication and Authorization Access Attempts. All authentication and authorization access attempts, including but not limited to, login and logout (including attempts outside of standard methods).

2.8.3   System-Level Object Events. Events involving DISH Data related system-level objects including, but not limited to, customer accounts, service accounts, databases, servers, configuration records, settings, VLANs, WLANs, false log entries, logging sensitivity level, maximum size, storage that will create, delete, modify or retrieve/lookup.

2.8.4   Administrative or Privileged Level Actions. Any action performed using any administrative or privileged permission levels.

2.8.5   Audit Log Access and Viewing. Access and/or viewing of audit logs.

2.8.6   Payment Information Access and Viewing. Access and/or viewing of payment information.

2.8.7   Antivirus Activity. Antivirus activity, including without limitation, periodic scanning, virus detection and quarantine.

2.8.8   Time Synchronization Changes. Time synchronization changes.

2.8.9   Event Details. Vendor shall ensure that the following information is captured and included for each event logged:

2.8.9.1   Login, user, process and/or transaction identifier ("ID").

2.8.9.2   Success or failure indication, including without limitation login-success and login-failure.

2.8.9.3   Event date and time.

2.8.9.4   All source client IP addresses associated with the event (IP address of the end user's computer). This includes X-Forwarded-For (or XFF) addresses and all other possible source IP addresses.

2.8.9.5   Application identifier and/or name that is writing the record and/or event.

2.8.9.6   Host IP address (i.e. IP address of the system that is writing the record).

2.8.9.7   Event type (i.e. create, delete, lookup, modify, etc.).

2.8.9.8   Event details such as free-form text information relevant to the event including, but not limited to, receiver online ID, receiver number, account identifier, event details and phone number.

2.8.9.9   The search criteria must be logged when writing a record associated with a lookup request.

2.8.10   Data Protection. DISH Data must not be written to any logs in plain text. Masking is acceptable to protect any DISH Data.

2.8.11   Log and Repository Format. Vendor shall ensure that event logs and log repositories are able to be systematically reviewed using structured query language programs. Vendor shall secure all audit logs using an industry-standard security method so they cannot be altered.

2.8.12   DISH Data Log Availability. No less than once a day, Vendor shall copy or forward to a centralized log server all event logs for systems handling DISH Data. The centralized log server must be located in a secure production network environment.

2.8.13   Source and Event Time Synchronization. Vendor shall ensure that all log sources and log events are time synchronized at all times.

2.8.14   Event Log Monitoring. Vendor shall review, either manually or through automated tools such as log harvesting, parsing or other security incident and event management (or SIEM) tools, all event logs related to DISH Data.

    2.8.14.1   On a daily basis, Vendor shall monitor all event logs related to DISH Data and associated with authentication, authorization, and accounting, or AAA, services for suspicious or unwanted traffic.

    2.8.14.2   Vendor shall ensure all suspicious activity and other suspect log entries related to DISH Data triggers an alert, such as email or another type of notification, which is sent to appropriate personnel.

2.8.15   Security Event Log Retention. Vendor shall retain all security-related logs for a minimum of six (6) months from the date of entry unless the logs contain entries related to payment card data, whereupon the logs must be retained for twelve (12) months (as specified by the PCI DSS Standard).

2.8.16   Purging Requirements. Vendor shall instruct users with ability to "purge" log data not to use this ability. Vendor shall detect and log all log purging events.

2.8.17   Network Protection: Original Source Tracing and Logging. Vendor shall ensure that all connections to Vendor systems can be traced to the original source for troubleshooting or forensic purposes.

    2.8.17.1   If individual IP addresses are obscured such as when Network Address Translation (or NAT) or Port Address Translation (or PAT) techniques are used, then all translated address assignments must be logged.

2.9   Cloud Security. Vendor shall comply with DISH's Third Party Cloud Policies, as amended periodically by DISH, and will provide executed acknowledgement forms for each individual performing Services under the Agreement.

2.10   Wireless Network Security. Vendor shall comply with DISH's Third Party Wireless Network Security Policies, as amended periodically by DISH, and will provide executed acknowledgement forms for each individual performing Services under the Agreement.

2.11   Business Continuity. On an annual basis, Vendor shall supply DISH with a detailed Business Continuity Plan related to the Services provided to DISH. DISH and Vendor agree to review the Business Continuity Plan at least once per year throughout the Term of this Agreement.

2.11.1   Vendor Contact Information. Within thirty (30) days of the Effective Date, and upon any organizational changes during the Term, Vendor will send to DISH, the contact information of the person(s) in charge of Vendor's Business Continuity Plans should there be an adverse event. The contact information must contain, at a minimum, the name, physical address, email address, business phone number, mobile phone number, and fax number of the contact and their assigned alternate.

2.11.2   Event Reporting. In the case of an adverse event and within twenty four (24) hours of such event, Vendor shall provide DISH with a description of the problem, the projected length of time Services will be interrupted, and a detailed contingency plan to continue Services.

2.11.3   Annual Plan Testing. Vendor shall conduct an annual test of the Business Continuity Plan related to the Services provided to DISH and provide test results or reporting to DISH within 30 days of test completion.

2.12   Training. Vendor will, within 30 calendar days of the written request of DISH and annually thereafter, ensure that all Vendor Personnel providing Services to DISH complete any required training. Training topics to include, but not limited to:

- DISH Data Handling
- CCPA/PII Handling

2.12.1   Vendor will, upon request of DISH but no more than annually, provide copies of related training materials for DISH review.

2.12.2   Vendor will, upon request of DISH, have an officer certify that the applicable Vendor personnel have completed the training.

2.13   Security Incident Handling. Vendor shall immediately investigate any Security Incident, take immediate steps to stop and control any damage, resolve the issue and prevent its recurrence.

2.13.1   Notification and Escalation. Vendor shall, unless prohibited by applicable law, notify DISH of any Security Incident as soon as possible, but not more than twenty four (24) hours following such incident. This includes any inadvertent exchange of DISH Data outside the intended exchange (e.g., payment card information, etc.). Vendor shall continue to provide written updates every twenty four (24) hours after submission of the initial report until the incident has been resolved to DISH's satisfaction. Notification must include a written report detailing:

2.13.1.1   the nature of the incident,

2.13.1.2   timelines of critical events,

2.13.1.3   scope of suspected data loss,

2.13.1.4   immediate steps taken to stop the damage,

2.13.1.5   ongoing resolution activities, and

2.13.1.6   expected timeline to reach full remediation.

2.13.2   Breach Investigations. Vendor shall cooperate with DISH during investigations of any known or suspected security breach of a DISH system or data network. Vendor shall allow DISH to employ an outside audit firm to conduct such an audit should it be deemed necessary by DISH in DISH's sole and absolute discretion.

2.13.3   Abnormal Access Research. Vendor shall follow up on all exceptions, suspected exceptions, suspicious activity, compromises and breaches in any way involving or related to DISH Data.

2.13.4   Customer Notification. Vendor shall notify end user customers that have been determined to be impacted as required by all applicable laws, including state privacy laws. In no event shall this provision require Vendor to assume any of the notification obligations that the law requires exclusively of DISH.

2.13.5   Login Credentials Incident Notification. Vendor acknowledges DISH's right to request additional information at any time, in DISH's sole discretion. If Vendor suspects that login credentials have been stolen or compromised in any manner, Vendor shall notify DISH immediately.

2.14   Credential Sharing Prevention. Vendor shall not engage in the "sharing" of login credentials (e.g., generic logins) between multiple systems or multiple personnel on any Vendor system having Data Interactions.

2.15   Quarterly Access Reviews. Vendor shall review all login IDs related to Vendor systems that have Data Interactions, on a quarterly basis, to ensure that any inactive or unauthorized accounts are disabled or removed.

3.0   Data Access Requirements.

3.1   Automated Access Prevention. Vendor shall not use any automated means to access, query or otherwise collect DISH Data from DISH systems without prior explicit written authorization from DISH.

3.2   DISH Application or System Logouts. Vendor shall ensure that any person or system that logs into any DISH application or system also explicitly logs out of such DISH application or system immediately at the end of such use. Vendor acknowledges that DISH systems will not automatically end inactive sessions through use of time-outs or a similar mechanism.

4.0   Data Processing Requirements.

4.1   Vendor Hosted Solution Location. All DISH Data processed through any Vendor or Fourth Party system must remain within the U.S. and/or any U.S. territory.

4.2   SOC 2 Type II for Data Centers. If Vendor is processing DISH Data, or using any third party to process DISH Data, then the data center and each Data Center Operator shall (a) maintain a SOC 2, Type II, report that is no more than one (1) year old, and (b) upon request, provide DISH with a true and complete copy of the most recent SOC 2, Type II report, for each Data Center Operator.

5.0   Data Storage Requirements.

5.1   Data Storage Location. All DISH Data stored on any Vendor or fourth party system must remain within the U.S. and/or any U.S. territory.

5.2   Data Center Security Standards. Vendor shall implement or, if using a third party Data Center Operator, ensure the Data Center Operator has implemented, administrative, physical and technical safeguards to protect DISH Data that are consistent with the most recently published versions of industry-recognized security standards that have been approved by DISH.

>   5.2.1   SOC 2 Type II for Data Centers. Vendor shall (a) maintain a SOC 2, Type II, report that is no more than one (1) year old, and (b) upon request, provide DISH with a true and complete copy of the most recent SOC 2, Type II report, for each Data Center Operator.

5.3   DISH Data Separation. DISH Data must at all times be logically separated from all non-DISH Data by means of using access control or other security related tools to ensure only authorized people are able to access DISH Data stored on Vendor systems.

5.4   Data "At Rest" Encryption. All non-public DISH Data must be encrypted at all times, using a method approved by DISH in its sole and absolute discretion prior to use, including, but not limited to, while it is stored ("at rest"), regardless of the means, methods or mediums of storage.

5.5   Data Retention. Unless otherwise set forth in the Agreement, all DISH Data that is not being used to service an active account must be purged on a regular basis at least once every six (6) months to proactively delete such data, and no DISH Data related to a former DISH customer or subscriber may be stored for any period longer than two (2) years.

5.6   Data Return or Destruction Upon Termination or Request. Except to the extent otherwise specifically set forth in the Agreement, upon termination of the Agreement and upon DISH request, Vendor shall destroy, at DISH's option in DISH's sole and absolute discretion, all documents, electronic media, software and other items containing or relating to DISH Data unless legally required to retain such information.

>   5.6.1   Data Return Upon Termination or Request. If DISH requests the Information to be returned, then delivery must take place by secure methods as determined by DISH, in its sole and absolute discretion, and must be completed no less than thirty (30) days after termination of the Agreement.

>   5.6.2   Data Destruction Upon Termination or Request. Within thirty (30) days following any request made by DISH, Vendor shall destroy the information in a manner that makes it completely unrecoverable, as approved by DISH in advance.

>   5.6.3   Fourth Party Data Destruction. Within thirty (30) days following any request made by DISH, Vendor shall require any fourth party in possession of DISH Data to destroy the information in a manner that makes it completely unrecoverable, as approved by DISH in advance.

>   5.6.4   Data Destruction Certification. Within sixty (60) days following any request made by DISH, an officer of Vendor will certify in writing to the DISH Information Security Department stating that all data destruction has taken place in accordance with these Security Requirements.

6.0   Data Transmission Requirements.

6.1   Data "In Transit" Encryption. All DISH Data must be encrypted at all times, using a method approved by DISH in its sole and absolute discretion prior to use, including, but not limited to, while it is transmitted ("in transit"), regardless of the means, methods or mediums of transmission.

6.2   CPNI Data Transmission. DISH CPNI Data shall not be shared with fourth parties without prior written approval from DISH.

PRIVACY REQUIREMENTS

7.0   Terms of Data Processing

7.1   Relationship of the Parties and Processing of DISH Personal Information – When this Exhibit applies, the Parties acknowledge and agree that DISH is the sole Party that determines the purposes and means for processing DISH Personal Information as the "business" or "controller"; and Vendor processes DISH Personal Information on behalf of DISH as the "service provider" or "processor." Vendor will process DISH Personal Information solely as instructed in the Agreement and these Privacy Requirements. The details of the processing are provided in Exhibit 2.1 attached hereto, including the nature and purpose of processing, the type of DISH Personal Information subject to processing, the duration of processing, the rights and obligations of the Parties, and processing documentation and audit obligations.

7.2   Compliance with Obligations – Vendor represents and warrants that Vendor, its employees, agents, subcontractors, and sub-processors (a) understand and shall comply with the State Privacy Laws and these Privacy Requirements while providing the Services, (b) will provide the level of privacy protection required by the State Privacy Laws, and (c) shall provide DISH with all reasonably-requested assistance to enable DISH to fulfill its own obligations under the State Privacy Laws.

7.3   Data Restrictions – Vendor will not: (a) sell or share DISH Personal Information, (b) retain, use, or disclose DISH Personal Information for any purpose other than the business purposes specified in the Agreement, such as providing the Services to DISH, (c) retain, use, or disclose DISH Personal Information outside the direct business relationship with DISH, or (d) combine the DISH Personal Information with other Personal Information unless expressly permitted under Privacy Laws for Vendor functions (such as for fraud prevention purposes, or where required by law). Vendor receives no monetary or other valuable consideration in exchange for the DISH Personal Information.

7.4   Subcontractors; Sub-processors – Vendor shall notify DISH of any intended changes concerning the addition or replacement of subcontractors or sub-processors. Further, Vendor shall ensure that Vendor's subcontractors or sub-processors who collect, process, store, or transmit DISH Personal Information on DISH's behalf agree in writing to the same restrictions and requirements that apply to Vendor in these Privacy Requirements and the Agreement with respect to DISH Personal Information, as well as to comply with Privacy Laws.

7.5   Right to Object – DISH may object in writing to Vendor's appointment of a new subcontractor or sub-processor on reasonable grounds relating to data protection by notifying Vendor in writing within 30 calendar days of receipt of notice in accordance with Section 7.4. In the event DISH objects, the Parties shall discuss DISH's concerns in good faith with a view to achieving a commercially reasonable resolution. If no such resolution can be reached, Vendor will, in its sole discretion, either not appoint the subcontractor or sub-processor or permit DISH to terminate the Agreement, in such case refunding DISH for any prepaid unused fees.

7.6   Changes to State Privacy Laws – The Parties agree to cooperate in good faith with DISH to enter into additional terms to address any modifications, amendments, or updates to Privacy Laws.

8.0   *Consumer Requests*

8.1   Cooperation – Vendor will implement and maintain sufficient processes and procedures to satisfy DISH's requests to access, correct, delete, and port DISH Personal Information held by Vendor in a manner that is consistent with State Privacy Laws.

8.2   Referral of Direct Requests – Vendor agrees to refer consumer requests submitted directly to Vendor for DISH Personal Information to DISH.

9.0   *Inquiries*

9.1   Notification of Regulatory Inquiry – In the event that Vendor receives any regulatory inquiry or correspondence regarding DISH Personal Information in which Vendor or DISH is named (an "Inquiry"), Vendor shall, to the extent not prohibited by applicable law or any regulatory authority: (a) notify DISH of such Inquiry in writing within three (3) calendar days of receiving such Inquiry; (b) provide DISH with all copies of documents and correspondence relating to the Inquiry without undue delay after receipt or delivery of such documents or correspondence; (c) provide DISH with a written certification at the conclusion of the Inquiry that the action required by the Privacy Laws has been taken in response to such Inquiry; and (d) not disclose any DISH Data to the applicable authority without DISH's prior written consent.

9.2   Response to Inquiry – Vendor shall take all other measures necessary to respond to or otherwise address the Inquiry adequately and in a timely manner.

10.0   *Miscellaneous*

10.1   If any provision of these Privacy Requirements shall be found to be void by a court of law, such provision shall be deemed to be severable from the other provisions of these Privacy Requirements, and the remainder of these Privacy Requirements shall be given effect, as if the Parties had not included the severed provision. All representations, warranties, and indemnities shall survive the termination and/or expiration of these Privacy Requirements and shall remain in full force and effect. All of a Party's rights and privileges shall survive termination and shall be enforceable by that Party. Except as expressly set forth herein, the terms of the Agreement shall remain unmodified and in full force and effect. In the event of a conflict between the terms of the Agreement and the terms of these Privacy Requirements, the terms of these Privacy Requirements shall control. Headers are for convenience and do not affect the interpretation of the terms of these Privacy Requirements.

EXHIBIT 2.1
DATA PROCESSING DETAILS

Duration of the processing	The duration of the Processing of DISH Personal Information by the Vendor under the Agreement is for the duration of the term of the Agreement and the longer of such additional period as: (i) is specified in any provisions of the Agreement regarding data retention; and (ii) is required for compliance with law.
Nature of the processing	Such processing as is necessary to enable the Vendor to comply with its obligations and exercise its rights under the Agreement, including collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure, or destruction processing activities.
Purpose of the processing	The performance of the Vendor's limited and specified obligations and exercise of its rights under the Agreement and these Privacy Requirements, including providing advertising measurement services to DISH and/or its customer.
Termination of processing	When the Agreement expires, Vendor will discontinue processing and destroy DISH Personal Information without undue delay unless otherwise instructed by DISH.
Covered Personal Information types	DISH Personal Information includes: online identifiers (e.g., device identifiers and cookie identifiers); ad display and interaction events
Obligations and rights of the Parties	As set out in the Agreement and Exhibits.
Compliance guarantee; audit rights	Upon DISH's reasonable request, Vendor shall make available to DISH all information in Vendor's possession necessary to demonstrate Vendor's compliance with this section. Vendor agrees to notify DISH without undue delay if Vendor determines that it can no longer meet its obligations under Privacy Laws. Upon receiving notice from Vendor in accordance with this section, DISH may direct Vendor to take steps as reasonable and appropriate to remediate unauthorized use of DISH Personal Information or terminate the Agreement upon thirty (30) days' notice. DISH shall have the right to monitor Vendor's compliance with these Privacy Requirements through measures that may include manual reviews, automated scans, regular assessments, audits, or technical or operational testing. Vendor shall cooperate fully with any audit initiated by DISH, provided that such audit will not unreasonably interfere with the normal conduct of Vendor's business.
Impact assessments	If applicable, Vendor shall, upon the reasonable request of DISH, provide DISH with such assistance and information as is reasonably necessary to enable DISH to carry out privacy impact assessments under Privacy Laws.