

## STAYCAST® PLATFORM STANDARD TERMS AND CONDITIONS

These standard terms, conditions, warranties, representations and covenants (collectively, the “**Service Terms**”) apply only to the STAYCAST Platform purchased, and licensed from SONIFI Solutions, Inc. (“**SONIFI**”) pursuant to a binding STAYCAST® Agreement by and between Company and SONIFI, including without limitation all terms and conditions, exhibits, schedules, addenda and appendices attached thereto or incorporated therein (collectively, the “**Agreement**”). These Service Terms are incorporated into Company’s Agreement with SONIFI and form an integral part of the Agreement. In the event of a conflict between these Service Terms and the body of the Agreement, the Service Terms shall prevail in all instances, but only to the extent of such conflict. Capitalized terms used but not defined herein shall have the meanings set forth in the body of the Agreement (or in attachments, exhibits, appendices, schedules, addenda, amendments, or documents incorporated therein), and if not defined therein, words shall be given the meaning accorded to them in applicable laws and regulations, and if not defined therein, words shall be given their common and ordinary meaning.

### Section 1. General Service Terms.

1.1 **Payment of Fees.** Company shall pay SONIFI the one-time fees and recurring fees identified on the Products & Fee Schedule set forth in the Agreement as follows: (i) all one-time fees and charges, plus all applicable taxes, surcharges and fees thereon, shall be paid to SONIFI within thirty (30) days of the date of invoice; (ii) recurring monthly fees, plus all applicable taxes, surcharges and fees thereon, shall be paid on a monthly basis (in advance) on the first day of each calendar month, pro-rated for the first month, if applicable, commencing on the Commencement Date; and (iii) all other fees and charges not otherwise specified above shall be due and payable within thirty (30) days from the date of invoice. Notwithstanding the foregoing, Company’s payment of each installment of the Purchase Price (defined below) for the VMC and In-Room Equipment set forth in a financing agreement by and between Company and a third-party financing company approved by SONIFI (an “**Approved Third-Party Financing Company**”), and upon terms approved by SONIFI in its sole discretion, is due in accordance with the terms of such agreement. All payments are subject to applicable taxes, shipping, handling, and freight costs. Late payments shall accrue interest until paid at the lower of 1.5% per month or the highest lawful rate. Recurring charges and fees may include discounts, credits, incentives, rebates and/or other adjustments which may expire. SONIFI reserves the right to adjust recurring fees, including without limitation STAYCAST Technology Fees: (a) on an annual basis, with at least thirty (30) days’ prior notification (provided, however, that during the Initial STAYCAST Term the amount of such annual adjustments as a percentage of all then-current recurring fees shall not exceed the greater of (i) five percent (5%) or (ii) the percentage increase in the United States Consumer Price Index for All Urban Consumers published by the United States Bureau of Labor Statistics for the prior twelve months), and (b) as otherwise required or permitted by this Agreement, or by applicable laws, regulations, tariffs, government orders or directives. Notwithstanding the limitations in the preceding sentence or elsewhere in the Agreement, SONIFI can pass through any applicable changes in third-party fees, prices, or charges. For purposes of the Agreement, “**Purchase Price**” means the total price Company pays to SONIFI or, if applicable, an Approved Third-Party Financing Company, for the VMC, the In-Room Equipment and the initial installation, configuration, set-up and activation of the SORA Platform at the Premises, plus all applicable and related fees, costs, surcharges, taxes and interest, as specifically described in the Products & Fee Schedule set forth in the Agreement and in any Approved Third-Party Financing Company agreement.

1.2 **STAYCAST Platform Purchase and Ownership.** Company shall purchase from SONIFI or, if applicable, an Approved Third-Party Financing Company for the Purchase Price set forth in the Products & Fee Schedule in the Agreement: (a) the In-Room Equipment, the VMC and/or cloud-based resources (in each case, excluding Licensed Software) that enables casting of OTT Services on televisions in authorized areas of the Premises using the Premises Wi-Fi network; and (b) the installation, configuration, customization and set-up services necessary to install and activate the VMC, the In-Room Equipment and the Licensed Software, as described (i) in the STAYCAST Statement of Work (“**SOW**”) available at [www.sonifi.com/legal](http://www.sonifi.com/legal) and incorporated in this Agreement by reference, and (ii) in any additional exhibits, amendments, schedules, appendices or addenda attached to and incorporated in the Agreement. For purposes of clarity, the STAYCAST Platform does not include televisions, television mounting hardware or any Internet router, Internet access points, Ethernet adapters (unless installed with a SONIFI-approved casting device) and related software, cabling and enclosures. SONIFI reserves the right to deliver certain STAYCAST Platform functionality and/or Licensed Software to the Premises from cloud-based resources instead of the VMC and/or In-Room Equipment. Any such remote resources, together with the VMC, the In-Room Equipment and the Licensed Software, collectively comprise the “**STAYCAST Platform**”. Company shall perform all of its obligations under the Agreement, including but not limited to completing all necessary paperwork, in a timely manner. Company is solely responsible for any delay it, its employees or its contractors cause to the installation, configuration, customization and set-up of the STAYCAST Platform at the Premises, and Company shall pay all reasonable costs and fees incurred or charged by SONIFI as a result of any such delay, including without limitation all applicable fees and charges set forth on SONIFI’s then-current Rate Card, available upon request to SONIFI or as made available at [www.sonifi.com](http://www.sonifi.com). Notwithstanding anything to the contrary in the Agreement, including these Service Terms, SONIFI shall not be liable to Company, the Premises or their respective owners, shareholders, members, partners, officers, employees, contractors, or agents for any inability to perform caused by Company, the Premises or their respective officers, employees, contractors, vendors, or agents.

1.2.1 In the event Company elects to utilize an Approved Third-Party Financing Company, Company understands the Approved Third-Party Financing Company will purchase the VMC and In-Room Equipment directly from SONIFI, and Company will then purchase the VMC and In-Room Equipment from the Approved Third-Party Financing Company. Company agrees that SONIFI will invoice the Approved Third-Party Financing Company for the financed amount specified in the applicable financing agreement between Company and the Approved Third-Party Financing Company, unless specifically notified otherwise by Company or the Approved Third-Party Financing Company. Notwithstanding the foregoing, Company agrees that invoicing the Approved Third-Party Financing Company for the VMC and the In-Room Equipment in no way binds or obligates SONIFI to any Company obligations or Company liabilities to the Approved Third-Party Financing Company. Additionally, in the event the Approved Third-Party Financing Company does not timely and fully pay SONIFI for the VMC and the In-Room Equipment, Company agrees it is responsible for payment and SONIFI will invoice Company for the VMC and the In-Room Equipment and Company shall remit all amounts due to SONIFI within thirty (30) days of receipt of an invoice from SONIFI.

1.2.2 If before the Effective Date there is pre-existing equipment owned by SONIFI installed or otherwise located at the Premises, then upon the Effective Date, all right, title and interest in and to such pre-existing equipment is hereby assigned and transferred to Company; provided, however, that (a) such assignment and transfer shall not include any software and/or technology owned or licensed by SONIFI or third parties installed on, embedded into, incorporated within or used in connection with the pre-existing equipment, and (b) use of any and all such software and technology is subject to the terms of the Agreement, including these Service Terms, and all applicable software licenses.

1.3 Site Evaluation and Modification. In order to complete installation, configuration, set-up, and activation of the on-VMC and In-Room Equipment, the Premises must conform to SONIFI site requirements and Company must cooperate in the necessary site evaluation, installation planning and site preparation, as such requirements are set forth and described in the SOW available at [www.sonifi.com/legal](http://www.sonifi.com/legal). The applicable SOW is incorporated in the Agreement by reference. Company acknowledges that SONIFI relies upon Company-provided information, as described or requested in all exhibits, appendices, schedules, amendments, forms and addenda attached to or incorporated in the Agreement, as well as SONIFI'S technical evaluation of the Premises and Company Infrastructure (defined in Subsection 1.7) "to accurately determine the composition of the VMC and In-Room Equipment and to scope and price installation and site upgrade work necessary for interconnection and interoperability between the STAYCAST Platform and Company Infrastructure.

1.3.1 Any modifications, upgrades or repairs to Company Infrastructure (collectively, "**Infrastructure Work**") necessary for the proper operation of the STAYCAST Platform or for the interconnection and interoperability of STAYCAST Platform and Company Infrastructure shall be completed by Company (or its designated contractor(s)) or by SONIFI, upon SONIFI'S receipt of Company'S written approval, for the fees set forth in the Products & Fee Schedule in the Agreement or for the fees and charges set forth in a separate customer order signed by SONIFI and Company. All Infrastructure Work performed by SONIFI will be described in and limited to the corresponding statement(s) of work set forth in the Agreement (including the SOW) or in a separate customer order signed by both Parties. Company must provide SONIFI with at least thirty (30) days' advance written notice of any Infrastructure Work to be performed by Company or its contractor(s). All Infrastructure Work undertaken by Company, or its contractor(s) must comply with SONIFI'S technical specifications and design requirements as described in the SOW and in SONIFI documentation that will be provided to Company, upon request, on a confidential basis. Except as otherwise specifically provided herein, approved Infrastructure Work undertaken by SONIFI will be at additional cost to the Company. Any necessary or desired modifications, changes, updates, repairs, or upgrades to or replacement of televisions (including without limitation television mounting and firmware updates) is the sole responsibility of Company. Company acknowledges and agrees that SONIFI is not responsible or liable for any damages, losses, costs, or expenses Company incurs as a result of Infrastructure Work performed by Company or its contractor(s). If Company elects not to perform recommended or identified Infrastructure Work, Company acknowledges and agrees that SONIFI is not responsible or liable for any loss of or diminishment of (a) STAYCAST Platform features and functions or (b) OTT Services available to authorized Premises guests, invitees and employees.

1.3.2 SONIFI may prepare certain drawings, plans or other documents during the course of conducting a site evaluation, installing and configuring the STAYCAST Platform or performing Infrastructure Work (collectively, "**Instruments of Service**"). To the extent that such Instruments of Service are prepared, SONIFI grants Company a limited, revocable, non-exclusive, non-sublicensable, non-transferable, royalty-free license to use such Instruments of Service solely for the purpose of documenting information about the Premises relevant to the STAYCAST Platform. Instruments of Service are not intended for use by Company for any other purpose and SONIFI explicitly disclaims sufficiency, fitness or suitability for any other purpose and assumes no obligation to maintain or update any Instruments of Service. **SONIFI DOES NOT GUARANTEE OR WARRANTY THE ACCURACY OR COMPLETENESS OF ANY INSTRUMENTS OF SERVICE.**

1.4 Company Network, Integration and Connectivity. Guest access or invitee access to and use of the STAYCAST Platform are contingent upon Company'S provision of adequate space in the Premises for the placement of the VMC and In-Room Equipment in accordance with the SOW. Such space shall be provided at no charge to SONIFI. Company is responsible for purchasing, licensing, installing, updating, upgrading, and maintaining the computer hardware, software and wiring needed (a) to furnish adequate Internet bandwidth and availability for STAYCAST Platform functionality and (b) to operate any system utilized by Company to bill guests for the STAYCAST Platform. Company is solely responsible for purchasing, installing and maintaining sufficient Internet connectivity to accommodate the STAYCAST Platform on all televisions in designated rooms and to enable SONIFI to provide maintenance and support as described elsewhere in the Agreement, and if Company adds services or applications that require additional bandwidth or wireless access points, Company will acquire such additional bandwidth and/or wireless access points at its own expense as advised by SONIFI. Company shall not add any In-Room Equipment, including SONIFI-approved casting devices (other than replacements, which are the responsibility of Company), at the Premises except with SONIFI'S prior written permission.

1.5 Premises Access and Licenses. Company shall secure and maintain such licenses, permits and approvals required by governmental and regulatory authorities having jurisdiction over the installation, set-up, activation, operation, and removal of the VMC and In-Room Equipment. Company shall consult with SONIFI before undertaking any project, on its own behalf or by granting of rights to a third-party, that may interfere with the operation or functionality of the STAYCAST Platform or limit SONIFI'S access to the VMC or the In-Room Equipment.

1.6 Installation. SONIFI will install and configure the STAYCAST Platform on and in the Premises as soon as practicable following the Effective Date, completion of any required site evaluation and Infrastructure Work, and receipt of any down payment described in the Products & Fee Schedule set forth in the Agreement. Installation planning and preparation will be in accordance with the SOW at a mutually agreed upon start date and schedule. During the STAYCAST Platform installation period, Company either (a) shall provide (i) complimentary guest rooms and parking at the Premises to SONIFI for installation personnel and (ii) secure storage area(s) in the Premises for In-Room Equipment and tools, or (b) reimburse SONIFI, upon request and in addition to all other amounts payable to SONIFI under the Agreement, the actual cost of guest rooms, parking and storage area(s) at another lodging facility of comparable quality to the Premises within sixteen (16) kilometers of the Premises. If SONIFI is replacing an existing vendor at the Premises, Company shall provide written notice to such vendor and SONIFI will coordinate and cooperate with Company and said vendor to minimize any disruptions to Company'S operations and its guests. Unless otherwise expressly stated in these Service Terms or in an addendum or amendment to the Agreement, SONIFI'S standard installation process and pricing, as delineated in the Products & Fee Schedule and the SOW, include up to two (2) attempts to install and configure In-Room Equipment in Premises guest rooms. If after two (2) attempts SONIFI installation personnel have been unable to install and configure all In-Room Equipment in a Premises guest room due to circumstances beyond SONIFI'S control (e.g., guest rooms are occupied or Premises employees are unwilling or unable to provide SONIFI personnel or SONIFI contractors with necessary access to a guest room)(each such guest room a "**Delayed Installation Room**"), then SONIFI reserves the right to charge Company for all subsequent installation work and on-site visits to the Premises for each and every Delayed Installation Room at SONIFI'S then-current Rate Card rates, which are available from SONIFI upon request or as made available at [www.sonifi.com](http://www.sonifi.com), plus all applicable taxes. Company is solely responsible for paying all fees and charges imposed by third parties, such as Company'S Internet service provider, associated with the installation of the VMC and In-Room Equipment. At the conclusion of STAYCAST Platform installation, configuration, and activation in accordance with the SOW, Company shall affirm that installation has been completed by signing SONIFI'S standard "**Billing Commencement & Installation Completion Form**".

1.7 Changes to Premises Infrastructure. Any modifications, additions or upgrades to the VMC or In-Room Equipment that are required due to a change in Company's wireless access points, wireline Internet infrastructure, Internet access provider, or Internet circuits, including without limitation all routers, nodes, firewalls, cabling and wiring (collectively, "**Company Infrastructure**"), shall be made by SONIFI for the fees and charges set forth on SONIFI's then current Rate Card, available upon request to SONIFI or as made available at [www.sonifi.com](http://www.sonifi.com), plus all costs for parts and components, all travel, lodging, parking and meal expenses and fees, and all applicable taxes, surcharges, shipping, handling and freight. Company is solely responsible for maintaining internal and external Internet connectivity, bandwidth and throughput at the Premises that is sufficient to enable the proper functioning of the STAYCAST Platform, and if Company adds products or services (whether delivered by SONIFI or a third-party) that require additional Internet connectivity, bandwidth or throughput, Company will acquire such additional Internet connectivity, bandwidth or throughput at its own expense as advised by SONIFI.

1.8 Software.

1.8.1 Licensed Software. SONIFI does not sell and non-exclusively licenses to Company the limited right to use the "**Licensed Software**" in accordance with the STAYCAST® Non-Exclusive Software License Terms which are available upon request to SONIFI or at [www.sonifi.com/legal](http://www.sonifi.com/legal) (the "**Licensed Software Terms**"). Licensed Software can reside on the VMC and In-Room Equipment, or it can be served from cloud-based remote resources, at SONIFI's sole discretion. The Licensed Software Terms are incorporated in the Agreement, including these Service Terms, by reference. Company acknowledges and agrees that it is only obtaining a limited license right to the Licensed Software and that no ownership rights are being conveyed to Company, expressly or implicitly, under the Agreement. In addition to the Licensed Software Terms, Company's use of all third party-owned or third party-licensed operating, application, digital rights management, encryption and/or other software and technology installed on, embedded into, incorporated within or used in connection with the VMC, In-Room Equipment and OTT Services is subject to the terms of the non-exclusive third-party license agreement(s) for such software and/or technology, which agreement(s) are available directly from the third party, upon request, or accessible on the third party's website. Upon expiration or termination of the Agreement for any reason, or expiration or termination of any licenses granted hereunder, Company's limited license to use the Licensed Software under the Agreement terminates immediately, unless otherwise expressly permitted by a license agreement.

1.8.2 Licensed Software Updates. Company agrees to permit SONIFI and its licensors to update, upgrade, bug fix, error correct and patch Licensed Software on a regular basis or as otherwise needed. Company's VMC must run a version of SONIFI's Licensed Software (a) that is not more than one generation behind SONIFI's then-current commercially available version of Licensed Software, or (b) that is not more than one year old, whichever version is most recent. Any failure by Company to comply with this Paragraph 1.8.2 may result in the diminishment or loss STAYCAST Platform functionality, or in termination of the Agreement. SONIFI shall not be liable or responsible for any diminishment or loss of STAYCAST Platform functionality or OTT Services attributable Company's breach of this Paragraph 1.8.2.

1.9 Indemnification.

1.9.1 General Indemnification. Excluding Infringement Claims, which are defined and addressed in Paragraph 1.9.2, and subject to Subsection 1.12, each Party (the "**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party and its subsidiaries and affiliates and each such entity's officers, owners, directors, shareholders, members, managers, partners, employees, contractors (excluding if Company is the Indemnifying Party, SONIFI and its contractors, or if SONIFI is the Indemnifying Party, Company and its contractors), agents, representatives, permitted successors and permitted assigns (collectively, as to each Party, the "**Indemnified Parties**" and, individually, an "**Indemnified Party**"), from and against: (a) any and all suits, proceedings, investigations and causes of action brought or asserted against an Indemnified Party by a third-party other than an Indemnified Party, including for purposes of this Subsection 1.9, a governmental authority (individually, a "**Claim**" and, collectively, "**Claims**"), to the extent arising out of, relating to or caused by (i) any breach of this Agreement by the Indemnifying Party (including a breach of any representation and warranty) and/or (ii) the Indemnifying Party's willful, reckless or grossly negligent act or omission under this Agreement, or such willful, reckless or grossly negligent acts or omissions by the Indemnifying Party's officers, employees, contractors (excluding if Company is the Indemnifying Party, SONIFI and its contractors, or if SONIFI is the Indemnifying Party, Company and its contractors) or agents; and (b) any and all Indemnifiable Losses (defined below), if permitted under Paragraph 1.9.4 and Paragraph 1.9.5.

1.9.2 Indemnification for Intellectual Property Infringement. Subject to Subsection 1.12, SONIFI agrees to indemnify, defend, and hold harmless Company and its Indemnified Parties from and against (a) all Claims brought or asserted against a Company or an Indemnified Party by a third-party that is not an Indemnified Party and (b) all Indemnifiable Losses suffered or incurred by Company or an Indemnified Party as the result of such third-party Claim, to the extent arising out of, relating to or caused by infringement or misappropriation of a third-party's Intellectual Property Rights in or to any of the following: (i) the Documentation or (ii) the Licensed Software installed on or embedded in the VMC (excluding Third-Party Code), when used by Company as expressly permitted by this Agreement (each an "**Infringement Claim**"). If in the Indemnifying Party's opinion any of the Documentation or Licensed Software installed on or embedded in the VMC (excluding Third-Party Code) is likely to become the subject of an Infringement Claim, then without limitation to any of the Indemnifying Party's obligations under this Paragraph 1.9.2, or to any other remedy available to the Indemnified Parties under the Agreement or at law or equity, the Indemnified Parties shall permit the Indemnifying Party, at the Indemnifying Party's sole option and expense: (A) to procure for the Indemnified Parties the right to continue to use the affected Documentation or Licensed Software, as applicable, on terms no less favorable to the Indemnified Parties than those set forth in this Agreement; or (B) to replace or modify the affected Documentation or Licensed Software to become non-infringing with no material loss of function to Company and the Indemnified Parties, and also reimburse Company and the Indemnified Parties for all costs and expenses they actually incurred in connection with such conversion to the replacement or modification. The foregoing indemnity and indemnity obligations do not apply to In-Room Equipment; provided, however, that with respect to any third-party Claim alleging that Company's or its guests', employees' or invitees' use of In-Room Equipment in a manner authorized by the Agreement, including these Service Terms, infringes such third party's Intellectual Property Rights, SONIFI shall pass through to Company all of SONIFI's warranty and indemnity rights from the provider or manufacturer of the In-Room Equipment. The rights granted to the Company and its Indemnified Parties under this Paragraph 1.9.2 are Company's and its Indemnified Parties' sole and exclusive remedies and SONIFI's sole obligation with respect to any Infringement Claims. The Indemnifiable Losses paid to the Indemnified Parties or a third-party by the Indemnifying Party or its insurer(s) under this Paragraph 1.9.2, if any, shall be reduced by any amount that Indemnified Parties receive from a joint infringer or joint defendant (other than the Indemnifying Party).

1.9.3 Exclusions. Company acknowledges and agrees that the indemnification obligations under Paragraph 1.9.1 and Paragraph 1.9.2 of these Service Terms do not require SONIFI to indemnify, defend or hold harmless Company or any Indemnified Parties for any act or omission of any SONIFI shareholder, director, officer, employee, contractor or agent that occurs when such person's presence or stay at the Premises is not related to, connected with, or arising out of, the performance of any duties under the Agreement, including these Service Terms. In addition, SONIFI will be excused from its obligations under Paragraph 1.9.2 with regard to an Infringement Claim or portion thereof to the extent such

Infringement Claim or portion thereof arises out of or in connection with (a) Company's or an Indemnified Party's breach of any licenses granted to it to the Documentation or Licensed Software that is the subject of the Infringement Claim, (b) any modification or misuse of the affected Documentation or the Licensed Software not expressly authorized by SONIFI or expressly permitted under the Agreement, including these Service Terms, or (c) any combination of the affected Documentation or Licensed Software with other content, products, documentation, services or software not expressly authorized by SONIFI or expressly permitted under the Agreement, including these Service Terms.

1.9.4 **Indemnification Procedures.** The Indemnified Party or Indemnified Parties shall notify the Indemnifying Party of a Claim (including an Infringement Claim) or Indemnifiable Loss for which it is seeking indemnification in writing as soon as practicable, together with such further information as is necessary for the Indemnifying Party to evaluate the Claim (including an Infringement Claim) or Indemnifiable Loss to the extent that the Indemnified Party or Indemnified Parties are in possession or have knowledge of such information; *provided* that any delay in giving such notice shall not preclude the Indemnified Party or Indemnified Parties from seeking indemnification for an indemnified Claim (including an Infringement Claim) or an Indemnifiable Loss if: (a) such delay has not materially prejudiced the Indemnifying Party's ability to defend the Claim (including an Infringement Claim); and (b) such delay does not materially affect the amount of any Indemnifiable Losses awarded by a court or paid in settlement of the Claim (including an Infringement Claim). The Indemnifying Party shall control the defense of any Claim (including an Infringement Claim) qualifying for indemnification with counsel of its own choosing and shall regularly consult with the Indemnified Parties and their counsel (and the affected person or entity and its counsel) regarding such defense. However, the Indemnified Parties may participate in such defense through counsel of their own choosing at the Indemnified Parties' expense. The Indemnified Parties shall cooperate with the Indemnifying Party in the defense of any Claim (including an Infringement Claim) qualifying for indemnification, and shall furnish such records, information and testimony and attend such conferences, discovery proceedings, hearings, trials and appeals as may be reasonably requested in connection therewith, all at the Indemnifying Party's expense. Upon the Indemnifying Party's assumption of the defense of an indemnified Claim (including an Infringement Claim) with counsel of its choosing, the Indemnifying Party will not be liable for the Litigation Expenses of the Indemnified Parties; *provided, however*, the Indemnifying Party shall pay any Litigation Expenses actually incurred and paid by an Indemnified Party prior to the Indemnifying Party's assumption of the defense of an indemnified Claim (including an Infringement Claim). In no event shall the Indemnifying Party consent to entry of judgment or enter into any settlement agreement without the Indemnified Parties' prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. The Parties acknowledge that if either Party agrees to pay a third party any fees or amounts pursuant to a contract and such contract is not the result of a settlement made pursuant to this Paragraph 1.9.4, then the Indemnifying Party is not obligated to indemnify the Indemnified Party or Indemnified Parties, as applicable, for such fees or amounts.

1.9.5 **Definitions.** In the Agreement, including these Service Terms, the following definitions apply:

1.9.5.1 **"Loss" or "Losses"** means any amount awarded in, or paid in settlement of, any Claim or Infringement Claim, including interest, but excluding Litigation Expenses (defined below);

1.9.5.2 **"Litigation Expense" or "Litigation Expenses"** means any reasonable out-of-pocket expense actually incurred in defending a Claim or Infringement Claim or in any related investigation or negotiation, including without limitation attorneys' fees, court costs, expert witness fees and other professionals' fees;

1.9.5.3 **"Indemnifiable Loss" or "Indemnifiable Losses"** means the aggregate of Losses and Litigation Expenses.

1.9.6 **Survival.** This Subsection 1.9 survives termination or expiration of the Agreement; and

1.9.5.4 **"Intellectual Property Right" or "Intellectual Property Rights"** means individually and collectively all common law, statutory and other intellectual property rights throughout the world, including without limitation, patents, design rights, copyrights, moral rights, database rights, trademarks, trade secrets and rights in know-how.

1.10 **Termination, Transfer of Premises Ownership and Assumption of Agreement.**

1.10.1 **Transfer/Assumption.** If Company intends to transfer ownership of the Premises, to assign or novate the Agreement, or to delegate or any of its obligations under the Agreement, Company shall provide SONIFI with at least thirty (30) days' written notice in advance of the date such transaction(s) will be completed. If the transferee, assignee, novatee, or delegatee (a) assumes all of Company's obligations under the Agreement pursuant to an assumption agreement acceptable to SONIFI and (b) meets SONIFI's customary credit standards, Company shall have no further obligations hereunder after the effective date of such transfer, assignment, novation, or delegation. Company acknowledges and agrees that the assumption of the Agreement by any transferee, assignee, novatee or delegatee does not assign, transfer, or otherwise affect any rights or obligations of Company under its agreements with an Approved Third-Party Financing Company or any other third party.

1.10.2 **Effect of Termination.** SONIFI is not responsible or in any way liable for any deinstallation, relocation, removal, disposal or use of the VMC or In-Room Equipment after the expiration or termination of the Agreement and Company, in accordance with Subsection 1.9, hereby indemnifies, defends and holds harmless SONIFI and its Indemnified Parties from and against any and all Indemnifiable Losses arising out of or in connection with any Claim or any Infringement Claim relating to or arising from Company's or its employees', contractors' or agents' deinstallation, relocation, removal, disposal or use of the VMC or In-Room Equipment after the expiration or termination of the Agreement. This Paragraph 1.10.2 survives termination or expiration of the Agreement.

1.10.3 **Termination for Cause.** If any contract default is not remedied within thirty (30) days (or ten (10) days in the case of non-payment) following receipt of notice thereof, the non-defaulting Party may terminate the Agreement upon notice to the defaulting Party. The non-defaulting Party shall be entitled to recover from the defaulting Party its reasonable attorneys' fees and costs, including collection agency fees and court costs. If Company is the defaulting Party, and SONIFI elects to terminate the Agreement during the Initial STAYCAST Term, SONIFI is entitled to an early termination fee equal to seventy percent (70%) of the average of the previous twelve (12) months' STAYCAST Technology Fees multiplied by the number of months remaining in the Initial STAYCAST Term at the time of termination. The Parties agree that (a) contractual damages incurred by SONIFI are not readily identifiable and that the formula and calculation of early termination fees described in these Service Terms are reasonable considering the totality of the Agreement, and (b) payment of early termination fees shall be considered liquidated damages. Notwithstanding any payment of early termination fees to SONIFI, Company is solely responsible for the complete repayment of any and all subsidies and incentives remaining upon the termination of the Agreement to the extent and in the amount specified in the Agreement, or in any agreement between the Company and a third party.

1.11 **Limited Warranties.** With respect to hardware, components, parts, and products provided or sold by SONIFI or an Approved Third-Party Financing Company pursuant to the Agreement and installed by SONIFI personnel which are not expressly covered by a specific SONIFI limited warranty set forth in the Agreement, including these Service Terms and the STAYCAST Limited Warranty, SONIFI warrants to Company that such hardware, components, parts, and products will be free from defects in materials and workmanship for a period of ninety (90) calendar days after installation. With respect to installation and professional services performed by SONIFI personnel pursuant to the Agreement which are not expressly covered by a specific SONIFI limited warranty set forth in the Agreement, including these Service Terms and the STAYCAST

Limited Warranty, SONIFI warrants that such installation labor and/or professional services will be free from defects in workmanship for a period of ninety (90) calendar days from the date of performance. **THIRD-PARTY SOFTWARE, THIRD-PARTY CODE OR THIRD-PARTY FIRMWARE SOLD, LICENSED OR FURNISHED BY SONIFI IS PROVIDED “AS IS” EXCEPT FOR ANY WARRANTY DIRECTLY PROVIDED TO COMPANY BY A THIRD-PARTY SOFTWARE AUTHOR, DEVELOPER OR PUBLISHER. IN NO EVENT SHALL SONIFI HAVE ANY EXPRESS, STATUTORY, OR IMPLIED WARRANTY OBLIGATIONS OF ANY KIND FOR OR RELATED TO THIRD-PARTY SOFTWARE, THIRD-PARTY CODE, THIRD-PARTY FIRMWARE OR THIRD-PARTY INTELLECTUAL PROPERTY (EXCEPT, AS OTHERWISE EXPRESSLY SPECIFIED IN THE AGREEMENT), AND COMPANY SHALL LOOK SOLELY TO A THIRD-PARTY SOFTWARE AUTHOR, DEVELOPER OR PUBLISHER FOR ANY WARRANTY COVERAGE, REMEDY, CAUSE OF ACTION OR CLAIM APPLICABLE WITH RESPECT THERETO, UNLESS OTHERWISE EXPRESSLY STATED IN THE AGREEMENT.** SONIFI does not warrant that the Licensed Software, the STAYCAST Platform, or any part or component thereof, will meet Company’s requirements or that the STAYCAST Platform and Licensed Software will operate in an error-free or uninterrupted manner. The limited warranties set forth herein do not apply to: (a) damage, loss or diminishment of features or functions, or inability to perform as a result of accident, misuse, abuse or neglect; (b) damage, loss or diminishment of features or functions, or inability to perform resulting from Company’s failure to comply with its responsibilities set forth in the STAYCAST Limited Warranty, the SOW, or later-provided instructions; (c) modifications to the VMC or In-Room Equipment or Licensed Software if not performed or authorized in writing by SONIFI; and (d) any other damage or failures to perform resulting from causes other than STAYCAST Platform defects. **EXCEPT FOR THE EXPRESS LIMITED WARRANTIES CONTAINED IN THIS SUBSECTION 1.11 OR ELSEWHERE IN THE AGREEMENT, INCLUDING THESE SERVICE TERMS AND THE STAYCAST LIMITED WARRANTY, SONIFI DISCLAIMS ALL WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY IMPLIED OR STATUTORY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, WITH REGARD TO THE PROVISION OF OR FAILURE TO PROVIDE STAYCAST PLATFORM FEATURES AND FUNCTIONS, LICENSED SOFTWARE, DOCUMENTATION, THE VMC AND IN-ROOM EQUIPMENT SET FORTH IN THE AGREEMENT.** Company’s sole and exclusive remedy in the event of a non-conformity in the express limited warranties contained in this Subsection 1.11 is that SONIFI, in its sole discretion, will repair or replace the hardware, components, parts and products covered by the express warranty with new or refurbished hardware, components, parts and products and/or re-perform any required professional or installation service(s) to make them substantially conform with such limited warranty or, in the alternative, substitute a comparable part or component for the defective part or component to which the nonconformity is attributable.

1.12 Limitation of Liability. **EXCEPT WITH RESPECT TO COMPANY’S PAYMENT OF EARLY TERMINATION FEES, A PARTY’S BREACH OF SUBSECTION 1.17 (CONFIDENTIALITY), INFRINGEMENT BY A PARTY OF THE OTHER PARTY’S INTELLECTUAL PROPERTY RIGHTS, A PARTY’S INDEMNIFICATION OBLIGATIONS, OR A PARTY’S WILLFUL MISCONDUCT OR FRAUD, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAWS: (A) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, EXEMPLARY OR PUNITIVE DAMAGES OR LOSSES, INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST REVENUES, LOST DATA, LOSS OF GOODWILL, AND LOSS OF ANTICIPATED SAVINGS, WHETHER FORESEEABLE OR NOT AND REGARDLESS OF THE FORM, LEGAL THEORY OR BASIS OF RECOVERY OF ANY SUCH DAMAGES OR LOSSES; AND (B) EACH PARTY’S ENTIRE LIABILITY TO THE OTHER PARTY FOR ANY CLAIM, DEMAND, SUIT, INVESTIGATION, PROCEEDING OR CAUSE OF ACTION RELATED TO OR ARISING OUT OF THIS AGREEMENT SHALL NOT EXCEED THE STAYCAST TECHNOLOGY FEES ACTUALLY PAID TO SONIFI BY COMPANY DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT OR CIRCUMSTANCE GIVING RISE TO A CLAIM, DEMAND, SUIT, INVESTIGATION, PROCEEDING OR CAUSE OF ACTION (THE “LIABILITY CAP”). FOR ALL CLAIMS, SUITS, PROCEEDINGS, INVESTIGATIONS, CAUSES OF ACTION, DAMAGES, LOSSES, AND INDEMNIFICATION OBLIGATIONS EXCLUDED FROM THE LIABILITY CAP IN THIS SUBSECTION 1.12, EACH PARTY’S ENTIRE AGGREGATE LIABILITY TO THE OTHER PARTY AND ITS INDEMNIFIED PARTIES, AFFILIATES AND SUBSIDIARIES SHALL NOT EXCEED USD \$100,000.00.** This Subsection 1.12 survives termination or expiration of the Agreement, including these Service Terms.

1.13 Notices. All notices shall be given in writing at the addresses or using other contact information set forth on the signature page of the Agreement and shall be deemed given (a) when deposited in the mail with postage prepaid, certified or registered mail, with return receipt requested, (b) when delivered to a reputable overnight delivery or courier service, or (c) by e-mail, provided that a hard copy is sent as described in clause (a) or (b) within 24-hours of the e-mail transmission. SONIFI may send and Company consents to receive communications or data regarding the Licensed Software, the VMC and the In-Room Equipment that are the subject matter of the Agreement, including but not limited to (i) notices about Company’s use of the VMC, the In-Room Equipment, or Licensed Software, (ii) Updates or upgrades, and (iii) promotional information and materials regarding SONIFI’s products and services, in each case, via e-mail.

1.14 Complete Agreement. The Agreement, including these Service Terms and all addenda, appendices, schedules, forms, exhibits and other documents attached to or incorporated in the Agreement, is the complete understanding of the Parties and no other statements, representations, discussions, or communications, whether oral or written, with respect to the subject matter contained in the Agreement shall be binding upon the Parties. A Party’s failure to prosecute its rights or remedies with respect to a default or breach under the Agreement shall not constitute a waiver of the right to enforce its rights and remedies with respect to any other or later breach. The Agreement and all rights, remedies, covenants, and obligations thereunder cannot be modified, waived, or amended except in a written instrument signed by both Parties. All rights and remedies specified in the Agreement or otherwise available to a Party are cumulative, unless otherwise expressly stated in the Agreement, including these Service Terms, and may be exercised individually or collectively in any order and at any time without limiting any other right or remedy which a Party may have under the Agreement or at law or in equity. No handwritten or other changes, additions, or deletions made by a Party on any pages of the Agreement are valid or binding without the express written consent of the other Party. If any part of the Agreement is found to be invalid or unenforceable, such invalidity or unenforceability shall not affect the remainder of the Agreement. The Parties will negotiate in good faith to replace an invalid or unenforceable provision to accomplish the original intent and economic agreement of the Parties.

1.15 Independent Contractor. Nothing contained in the Agreement shall be deemed to create a joint venture or partnership between the Parties and neither Party is authorized to act towards third parties in any manner that would indicate such a relationship. In performing their respective duties under the Agreement, each Party is operating as an independent contractor.

1.16 Private Provision of Services; No Third-Party Beneficiaries. The VMC, the In-Room Equipment, the Licensed Software and all STAYCAST Platform features and functions are privately offered and will be privately furnished on a non-common carrier basis. Neither Company nor SONIFI regards any warranties, representations, covenants, offers or undertakings made by the other as being in the nature of offers of common carriage. In addition, nothing contained in the Agreement, including these Service Terms, shall be deemed, or construed by the Parties or any third-party to create any rights, obligations, or interests in third parties.

1.17 Confidential Information.

1.17.1 Definition. “**Confidential Information**” means all of a Party’s tangible and intangible information that does not meet the exceptions set forth at the end of this Paragraph 1.17.1, including without limitation, (a) Company’s or SONIFI’s trade secrets, business plans, business opportunities, customers, pricing, marketing plans, financial information, analyses, compilations, research, development, know-how, technology, designs, ideas, concepts, inventions, discoveries, methods, combinations, techniques, solutions, systems, specifications, software, code, communications protocols, algorithms, prototypes, devices or other intellectual property, or third-party confidential information disclosed through dealings or discussions between the Parties, including derivations, revisions and improvements thereto, (b) information Company or SONIFI identifies from time to time as confidential, (c) information that should be treated as confidential under the circumstances surrounding its disclosure, and (d) the contents of this Agreement and any exhibits, addenda, amendments, schedules, appendices, forms, attachments or related agreements, which will be both Parties’ Confidential Information. The Party disclosing Confidential Information is hereinafter referred to as the “**Disclosing Party**” and the Party receiving Confidential Information is hereinafter referred to as the “**Receiving Party**”. Confidential Information does not include information which (i) is already in Receiving Party’s possession (other than information provided by or on behalf of Disclosing Party), *provided* that such information is not subject to another confidentiality agreement with or other obligation of secrecy to Disclosing Party or another person or entity, or (ii) is independently developed or acquired by the Receiving Party without the use of or reference to the Disclosing Party’s Confidential Information, or (iii) is or becomes generally available to the public other than as a result of an unauthorized disclosure by Receiving Party or its representatives, or (iv) becomes available to Receiving Party on a non-confidential basis from a source other than Disclosing Party or its representatives, *provided* that such source is not bound, to Receiving Party’s knowledge, by a confidentiality agreement with or other obligation of secrecy to Disclosing Party or another person or entity.

1.17.2 Use and Maintenance of Confidential Information. Except as otherwise specifically authorized by any other provision of the Agreement, SONIFI and Company each shall hold the other Party’s Confidential Information in strict confidence and shall protect the other Party’s Confidential Information from unauthorized disclosure and unauthorized use with at least the same level of care as it protects its own information of a like nature, but no less than reasonable care. Unless otherwise expressly permitted in the Agreement, the Receiving Party may disclose the Disclosing Party’s Confidential Information only to the Receiving Party’s officers, employees, advisors, contractors, subcontractors, agents and permitted assigns and permitted successors who have a need to know the Disclosing Party’s Confidential Information in the course of fulfilling the Receiving Party’s obligations under the Agreement and/or to the extent required for the Receiving Party to enforce its rights against the Disclosing Party, including filing a lawsuit or instituting arbitration or mediation. SONIFI and Company shall each cause their respective officers, employees, advisors, contractors, subcontractors, agents, successors, assigns, and affiliates to comply with the requirements of this Subsection 1.17. The Receiving Party is responsible for any breach of the requirements of this Subsection 1.17 by the Receiving Party’s officers, employees, advisors, contractors, subcontractors, agents, successors, assigns, and affiliates. SONIFI and Company may use the other Party’s Confidential Information only to the extent required to fulfill their respective obligations under the Agreement, to enforce their respective rights under this Agreement and/or, to receive the full benefit of the licenses granted by the other Party herein and must not divulge or communicate any of the other Party’s Confidential Information to any person or entity except as expressly permitted by this Subsection 1.17 or another provision of the Agreement. Unless otherwise expressly stated, no provision in the Agreement grants the Receiving Party any express or implied licenses or any express or implied proprietary rights in Confidential Information belonging to the Disclosing Party and each Party retains all right, title, and interest in and to its Confidential Information, unless otherwise expressly stated in the Agreement. The Receiving Party shall not engage, directly or indirectly, in the disassembly, reverse engineering, decompilation, modification or translation of the Disclosing Party’s Confidential Information, nor create any derivative works based on the Disclosing Party’s Confidential Information, unless expressly permitted by the Agreement or by applicable law. Nothing in the Agreement shall in any manner prohibit or restrain either Party from the development of products or services, having products or services developed for it, and entering into joint ventures, alliances, or licensing arrangements with third parties that, without violation of the confidentiality obligations of the Agreement, compete with the products, services, technologies or systems of the other Party. Unless otherwise expressly stated in the Agreement, no representation or warranty as to the accuracy or completeness of Confidential Information is made or implied by the Disclosing Party, and the Disclosing Party shall have no liability relating to or resulting from the Receiving Party’s use of the Disclosing Party’s Confidential Information.

1.17.3 Notification. SONIFI or Company, as applicable, shall immediately (or within such other timeframe prescribed in the Agreement or in applicable laws and regulations) notify the other if it discovers any unauthorized use or unauthorized disclosure of the other Party’s Confidential Information. The discovering Party must then cooperate with the other Party to regain possession of the Confidential Information and prevent its further unauthorized use or dissemination.

1.17.4 Injunctive Relief. If SONIFI or Company breaches the obligations established in this Subsection 1.17, then the breaching Party consents to the other Party seeking the remedies of specific performance and temporary, preliminary, or final injunctive relief, without proof of the non-breaching Party’s actual damages and without posting a bond or other security, because remedies at law would be inadequate. Notwithstanding the foregoing, such remedies shall not be deemed to be the exclusive remedies for a breach of this Subsection 1.17 but shall be in addition to all other remedies available at law or in equity.

1.17.5 Return of Confidential Information. SONIFI and Company agree to promptly return to its owner or destroy, at the Disclosing Party’s option, all of the Disclosing Party’s Confidential Information and related records containing Disclosing Party’s Confidential Information and all copies of the Disclosing Party’s Confidential Information on the earlier of expiration or termination of this Agreement; provided that the Receiving Party may retain copies of materials containing the Disclosing Party’s Confidential Information to the extent required by applicable laws or applicable regulations or a Party’s own recordkeeping and records retention policies and procedures so long as the Receiving Party continues to protect the Disclosing Party’s Confidential Information in accordance with this Subsection 1.17.

1.17.6 Disclosure. Notwithstanding anything to the contrary contained in the Agreement, the Receiving Party may disclose the Disclosing Party’s Confidential Information (i) if required by applicable laws, applicable regulations, applicable government or judicial orders or applicable government or judicial directives, including if a court of competent jurisdiction issues a subpoena or court order ordering such disclosure, in which event the Receiving Party shall notify the Disclosing Party as promptly as practicable (if permitted by applicable laws, applicable regulations, or judicial or governmental rules, orders or directives) in order to allow the Disclosing Party an opportunity to seek confidential

treatment and the Receiving Party shall disclose the Disclosing Party's Confidential Information only to the extent necessary to comply with such subpoena or court order, or (ii) in order to enforce its rights under the Agreement, including a litigation proceeding, but such disclosure must be subject to appropriate protections to prevent public disclosure of Disclosing Party's Confidential Information, if available.

1.17.7 Survival of Parties' Confidentiality Obligations. The obligations set forth in this Subsection 1.17 concerning Confidential Information survive the expiration or termination of the Agreement.

1.18 Force Majeure. Neither Party shall have any liability (except for payment obligations specified in the Agreement) for the failure to perform or a delay in performing any of its obligations under the Agreement, including these Service Terms, if such failure or delay is the result of any legal restriction, labor dispute (excluding disputes involving the employees of the Party seeking the benefit of this Subsection 1.18), boycott, flood, fire, extreme weather or other natural calamity, Act of God, act of terrorism, public emergency, disease epidemic or disease pandemic (in either case, as determined by the United States Centers for Disease Control and Prevention, or its successor, or the World Health Organization, or its successor), insurrection, riot, war, civil disturbance, national emergency, commercial unavailability of hardware, parts or components, the inability to secure raw materials, shipping or freight carriers or transportation facilities, supply chain disruptions, unavoidable mechanical failure not caused by the Party seeking the benefit of this Subsection 1.18, interruption in the supply of electrical power not caused by the Party seeking the benefit of this Subsection 1.18, telecommunications or Internet outage not caused by the Party seeking the benefit of this Subsection 1.18, or any cause beyond the control of the Party relying on this Subsection 1.18 (each a "**Force Majeure Event**"). A Party whose performance is delayed or prevented because of a Force Majeure Event shall promptly notify the other Party. The affected Party's performance or deadline for compliance will be extended on a day-to-day basis for the period of time equal to that of the underlying Force Majeure Event.

1.19 Assignment or Transfer. SONIFI may transfer or novate the Agreement or assign its rights under the Agreement to any parent, subsidiary, or affiliate, to any entity with or into which SONIFI merges or consolidates or to which SONIFI sells all or substantially all its assets.

1.20 Parties' Authority to Sign Agreement. Each Party represents and warrants to the other that it has the full right, power, and authority to enter into the Agreement and to perform all its obligations thereunder and hereunder. Each person signing the Agreement represents and warrants that he or she is fully authorized on behalf of the respective Party to sign the Agreement. With respect to Company, if the Agreement is signed by or on behalf of any entity other than the owner of the Premises (e.g., a management company), such entity represents and warrants that it is the duly authorized agent for such owner and has the requisite capacity as agent to bind such owner.

1.21 Controlling Language. The Parties hereby confirm their express agreement that the Agreement and all documents directly or indirectly related thereto be drawn up in English. LES PARTIES RECONNAISSENT LEUR VOLANTE EXPRESSE QUE LA PRESENTE CONVENTION AINSI QUE TOUS LES DOCUMENTS QUI S'Y RATTACHENT DIRECTEMENT OU INDIRECTEMENT SOIENT REDIGES EN LANGUE ANGLAISE. The official text of the Agreement (and any notice submitted pursuant to the Agreement) is in English and in the event of any dispute concerning the construction or meaning of the Agreement, including these Service Terms, reference shall be made only to the Agreement as written in English and not to any translation.

1.22 Governing Law and Jurisdiction. The Agreement and all matters relating to the Agreement shall be governed by and construed in accordance with the internal substantive laws of the State of California, without regard to its conflict of law principles. The Parties specifically exclude from application to this Agreement the Uniform Computer Information Transactions Act ("**UCITA**") or any version thereof. To the extent UCITA is applicable, the Parties opt out of the applicability of UCITA (and each and every provision thereof) pursuant to the opt-out provisions of UCITA. Each Party hereby irrevocably agrees that any legal action or proceeding arising out of or relating to the Agreement shall be instituted solely in the state or federal courts physically located in the State of California. The Parties (i) consent to the exclusive jurisdiction of such courts, (ii) waive any objection relating to the basis for personal or *in rem* jurisdiction or to venue which either Party may now or hereafter have in any such legal action or proceeding, and (iii) agree not to claim any immunity from suit, from the jurisdiction of any such court or from execution of a judgment from such courts.

## **Section 2. Configured STAYCAST Platform.**

2.1 Limited License. Subject to the Licensed Software Terms, SONIFI grants Company a limited, non-exclusive, non-sublicensable, revocable license (a) to make the Licensed Software available to Premises guests, invitees and other authorized persons in Premises guest rooms and (b) to utilize the Licensed Software in strict conformance with the Agreement, including these Service Terms, for the sole purpose of enabling Premises guests, invitees and other authorized persons to cast OTT Services on compatible televisions located in guest rooms. . . . Company shall not remove, amend, obscure, or modify any notice of SONIFI's and/or any other entity's Intellectual Property Rights or other proprietary rights appearing on or through the Licensed Software and the OTT Services.

2.2 Changes to STAYCAST Platform. SONIFI, in its sole discretion, reserves the right to discontinue or modify specific STAYCAST Platform features, functions, Documentation and Licensed Software at any time for legal or other bona fide purposes, including but not limited to commercial unavailability or infeasibility.