

## **FREE-TO-GUEST EQUIPMENT MAINTENANCE AND SUPPORT PROVISIONS (TIME AND MATERIALS- EQUIPMENT REUSE)**

These Free-to-Guest Equipment Maintenance and Support Provisions (Time and Materials- Equipment Reuse) (the “**SONIFI Equipment Maintenance Terms**”) are incorporated into and made a part of the Free-to-Guest Programming Agreement (Equipment Reuse) made by and between the Parties. Capitalized terms used but not defined in these SONIFI Equipment Maintenance Terms shall be given the meaning ascribed to them in the body of the Agreement, the Service Terms, the Licensed Software Terms, the SOW, and the Free-to-Guest Programming Appendix, and if not defined therein, words shall be given the meaning accorded them in applicable laws and regulations, and if not defined therein, words shall be given their common and ordinary meaning.

SONIFI’s sole and exclusive obligations to warrant, service, support, repair and maintain the Covered Existing FTG Equipment, Covered Replacement FTG Equipment, and Licensed Software are set forth in these SONIFI Equipment Maintenance Terms.

**1. No Warranty for Existing FTG Equipment. SONIFI IS NOT WARRANTING THE EXISTING FTG EQUIPMENT, THE DOCUMENTATION FOR EXISTING FTG EQUIPMENT OR THE LICENSED SOFTWARE (INCLUDING ALL UPDATES) INSTALLED ON OR EMBEDDED IN THE EXISTING FTG EQUIPMENT. SONIFI HEREBY DISCLAIMS ALL EXPRESS, IMPLIED AND STATUTORY WARRANTIES WITH RESPECT TO THE EXISTING FTG EQUIPMENT, ALL DOCUMENTATION FOR THE EXISTING FTG EQUIPMENT AND THE LICENSED SOFTWARE (INCLUDING ALL UPDATES) INSTALLED ON OR EMBEDDED IN THE EXISTING FTG EQUIPMENT, INCLUDING WITHOUT LIMITATION, ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DATA SECURITY, DATA ACCURACY, AND NON-INFRINGEMENT. SONIFI DOES NOT REPRESENT, WARRANT OR GUARANTEE THAT (I) OPERATION OF EXISTING FTG EQUIPMENT OR THE LICENSED SOFTWARE (INCLUDING ALL UPDATES) INSTALLED ON OR EMBEDDED IN EXISTING FTG EQUIPMENT SHALL BE ERROR FREE OR UNINTERRUPTED, OR (II) FUNCTIONS CONTAINED IN EXISTING FTG EQUIPMENT OR THE LICENSED SOFTWARE (INCLUDING ALL UPDATES) INSTALLED ON OR EMBEDDED IN THE EXISTING FTG EQUIPMENT SHALL MEET COMPANY’S OR ITS GUESTS’ AND INVITEES’ NEEDS, REQUIREMENTS OR EXPECTATIONS. NOTHING IN THIS SECTION 1 INVALIDATES OR LIMITS ANY REMAINING WARRANTY FURNISHED BY THE MANUFACTURER(S), AUTHOR(S) OR DEVELOPER(S) OF EXISTING FTG EQUIPMENT, DOCUMENTATION AND ASSOCIATED LICENSED SOFTWARE AND UPDATES. COMPANY SHALL LOOK SOLELY TO THE MANUFACTURER(S),**

**DEVELOPERS, LICENSORS AND AUTHORS OF ALL APPLICABLE EXISTING FTG EQUIPMENT, DOCUMENTATION AND ASSOCIATED LICENSED SOFTWARE AND UPDATES FOR ANY WARRANTY CLAIMS AND REMEDIES CONCERNING EXISTING FTG EQUIPMENT, DOCUMENTATION AND ASSOCIATED LICENSED SOFTWARE AND UPDATES.**

### **2. Limited Warranty for Covered Replacement FTG Equipment and Licensed Software.**

**2.1. Covered Replacement Headend Equipment.** Subject to Company’s timely payment of all fees, charges and other amounts specified in the Products & Fee Schedule of the Agreement, SONIFI warrants: (a) that all Headend Equipment (i) that is Covered Replacement FTG Equipment, (ii) that is purchased from SONIFI or a SONIFI-approved third party, and (iii) that is installed at the Premises by SONIFI personnel shall be free from defects in materials and workmanship for a period of ninety (90) calendar days beginning on the date of installation; and (b) that any Licensed Software installed on, embedded into, incorporated within, or used in connection with such Headend Equipment will substantially conform to any published Documentation for a period of ninety (90) days immediately following activation. The limited warranty period specified in this Subsection 2.1 applicable to the Headend Equipment that is Covered Replacement FTG Equipment and Licensed Software is referred to herein as the “**Replacement Headend Equipment Limited Warranty Period**”.

**2.2. Covered Replacement In-Room Equipment.** Subject to Company’s timely payment of all fees, charges and other amounts specified in the Products & Fee Schedule of the Agreement, SONIFI warrants: (a) that all In-Room Equipment (i) that is Covered Replacement FTG Equipment (ii) that is purchased from SONIFI or a SONIFI-approved third party, and (iii) this is installed at the Premises by SONIFI personnel shall be free from defects in materials and workmanship for a period of ninety (90) days beginning on the date of installation; and (b) that and Licensed Software installed on, embedded into, incorporated within such In-Room Equipment will substantially conform to any published Documentation for a period of ninety (90) days immediately following activation, subject to Subsection 4.3. The limited warranty period specified in this Subsection 2.2 applicable to the In-Room Equipment that is covered Replacement FTG Equipment and Licensed Software is referred to herein as the “**Replacement In-Room Equipment Limited Warranty Period**”.

**2.3. Limited Warranty Period Defined.** The Replacement Headend Equipment Warranty Period and the Replacement In-Room Equipment Limited Warranty Period are collectively referred to in these SONIFI Equipment Maintenance Terms as the “**Limited Warranty Period**”.

**3. Service, Support and Maintenance After the Applicable Limited Warranty Period.** Except as otherwise expressly stated in this Section 3, SONIFI’s maintenance, support, service, repair and limited warranty obligations set forth in these SONIFI Equipment Maintenance Terms end immediately after the applicable Limited Warranty Period (defined in Subsection 2.3) expires. After the expiration of the applicable Limited Warranty Period, and subject to Company’s timely and complete payment of all applicable fees, charges and taxes owed to SONIFI under the Agreement, SONIFI will continue (a) to remotely monitor the Licensed Software, the Headend Equipment and the In-Room Equipment, as specified in Subsection 5.2 of these SONIFI Equipment Maintenance Terms, (b) to make telephone support, e-mail support, and any other method of support SONIFI may establish and generally make commercially available from time to time in its sole discretion, available to Company, using reasonably available means, as specified in Subsection 5.3 of these SONIFI Equipment Maintenance Terms, (c) to remotely install Updates commercially available to SONIFI from the applicable In-Room Equipment manufacturer, supplier or licensor on In-Room Equipment,



subject to Company's payment of applicable fees, charges and costs, (d) to remotely install Updates commercially available to SONIFI from the applicable Headend Equipment manufacturer, supplier or licensor on Headend Equipment, and (e) to investigate problems with the Headend Equipment, the In-Room Equipment and Licensed Software, as applicable, upon receiving notification through remote monitoring or from the Company via telephone calls, e-mails or other authorized communications to the TAC. When possible, the diagnosis and/or repair of a problem will be completed by TAC without SONIFI service personnel being dispatched to the Premises. Additionally, SONIFI, if technically feasible and commercially reasonable to do so, will provide the Company's designated employee or representative with the information necessary to diagnose and resolve the problem. If SONIFI determines, in its sole discretion, that an on-site visit is necessary to effect a repair, correction, replacement or Update, SONIFI, in its sole discretion, may dispatch service personnel to begin the resolution of the problem as soon as possible taking into consideration the availability of service personnel, other contractual commitments and/or the existence of a Force Majeure Event. Company shall provide SONIFI's service personnel with full access to the Headend Equipment, the In-Room Equipment and Licensed Software, upon request. For all on-site visits/on-site service calls and Updates performed after the expiration of the applicable Limited Warranty Period, and for all on-site visits/on-site service calls and Updates performed for Existing FTG Equipment, Company shall be charged for labor at SONIFI's rate(s) set forth on the most recent SONIFI Rate Card available upon request to the TAC or as made available at [www.sonifi.com](http://www.sonifi.com), plus (i) the cost of parts, components and other materials, (ii) the trip charge specified on the Rate Card, (iii) travel expenses, lodging expenses, parking fees and tolls and (iv) applicable taxes, shipping, handling and freight.

#### **4. SONIFI Limited Warranty Remedies.**

**4.1 Notification of Possible Nonconformity.** Upon receiving notification of a problem with the Headend Equipment, In-Room Equipment or Licensed Software, either through remote monitoring, a telephone call or e-mail from Company or another reporting method SONIFI makes available to Company, SONIFI will begin diagnosis of the cause of the problem as soon as reasonably possible, taking into consideration the availability of service personnel and the existence of a Force Majeure Event. When possible, the diagnosis and/or repair will be completed by the TAC without SONIFI service personnel being dispatched to the Premises. Additionally, SONIFI, if technically feasible and commercially reasonable to do so, will provide the Company's designated employee or representative with the information necessary to resolve the problem.

**4.2 Existing Headend Equipment and Associated Licensed Software.** If SONIFI, in its sole discretion, diagnoses a problem to be attributable to (a) a defect in materials or workmanship in Existing FTG Equipment or (b) a defect in the Licensed Software or Updates installed on or embedded in Existing FTG Equipment, and the TAC determines SONIFI personnel should be dispatched to the Premises to address the reported problem, SONIFI will dispatch service personnel to begin resolving the problem as soon as reasonably possible taking into consideration available resources and other contractual commitments and/or the existence of a Force Majeure Event. Company shall provide SONIFI's service personnel with full access to all Existing FTG Equipment and associated Licensed Software and Updates. For all on-site service calls to the Premises concerning Existing FTG Equipment and associated Licensed Software and Updates, for all repairs to and replacements of Existing FTG Equipment, and for all on-site Updates to Licensed Software installed on or embedded Existing FTG Equipment, Company shall be charged for labor at SONIFI's rate(s) set forth on the most current SONIFI Rate Card, available from the TAC or as made available at [www.sonifi.com](http://www.sonifi.com), plus (i) the cost of parts, components and other materials, (ii) the trip charge specified on the most current Rate Card, (iii) travel expenses, lodging expenses, parking fees and tolls and (iv) applicable taxes, shipping, handling and freight. If SONIFI replaces Existing FTG Equipment with entirely new hardware or entirely refurbished hardware, all such hardware shall be deemed Replacement

FTG Equipment for purposes of these SONIFI Equipment Replacement Terms and the Agreement. For clarity, the Parties agree individual parts or individual internal components included in Existing FTG Equipment that SONIFI may repair or replace pursuant to the Agreement and these SONIFI Equipment Replacement Terms are not Replacement FTG Equipment.

**4.3 Covered Replacement FTG Equipment and Associated Licensed Software.** If SONIFI, in its sole discretion, determines a problem is attributable to a defect in materials or workmanship in Covered Replacement FTG Equipment during the Limited Warranty Period applicable to that Replacement FTG Equipment or a defect in the Licensed Software and Updates, if any, installed on or embedded in the Covered Replacement FTG Equipment that prevents it from substantially conforming to any Documentation published by the applicable manufacturer(s) or developer(s) during the applicable Limited Warranty Period, and an on-site visit is required, SONIFI will dispatch service personnel to begin resolving the problem as soon as reasonably possible, taking into consideration available resources and other contractual commitments and/or the existence of a Force Majeure Event. Company shall provide SONIFI's service personnel with full access to all Covered Replacement FTG Equipment and all associated Licensed Software and Updates, as requested by SONIFI based on SONIFI's assessment of the reported or discovered problem. After inspecting the Covered Replacement FTG Equipment and associated Licensed Software and Updates, if any, SONIFI shall confirm whether or not the reported problem is the result of a defect in materials or workmanship in the Covered Replacement FTG Equipment and/or a defect in the Licensed Software and Updates, if any, installed on or embedded in the Covered Replacement FTG Equipment that prevents them from substantially conforming to any Documentation published by the applicable manufacturer(s) or developer(s). If SONIFI determines the reported problem is attributable to a defect in materials or workmanship in the Covered Replacement FTG Equipment and/or a defect in the Licensed Software and Updates, if any, installed on or embedded in the affected Covered Replacement FTG Equipment that prevents them from substantially conforming to any Documentation published by the applicable manufacturer(s) or developer(s), and the problem was reported to TAC or discovered by SONIFI within the applicable Limited Warranty Period, SONIFI, in its sole discretion, shall repair or replace the defective part or Covered Replacement FTG Equipment with an identical or comparable part or piece of equipment that may be new or refurbished, at no additional cost to Company, or, in the case of the Licensed Software, correct or mitigate the defect through an Update, if an appropriate Update is available from the applicable manufacturer or developer, so that the Licensed Software substantially conforms with any Documentation published by the applicable manufacturer(s) or developer(s), at no additional charge to Company. If, during the applicable Limited Warranty Period, SONIFI determines, after performing an on-site inspection of Covered Replacement FTG Equipment and/or associated Licensed Software and Updates, if any, that a reported problem is not due to a defect in materials or workmanship in Covered Replacement FTG Equipment, or a defect in associated Licensed Software and Updates, if any, that prevents them from substantially conforming to any Documentation published by the applicable manufacturer(s) or developer(s), Company shall be charged for labor at SONIFI's rate(s) set forth in the most current SONIFI Rate Card, available upon request to TAC or as made available at [www.sonifi.com](http://www.sonifi.com), plus (a) the cost of parts, components and other materials, (b) the trip charge specified on the most current Rate Card, (c) travel expenses, lodging expenses, parking fees and tolls and (d) applicable taxes, shipping, handling and freight. For any problem with specific Replacement FTG Equipment and/or the Licensed Software and Updates, if any, installed on or embedded in specific Replacement FTG Equipment that is reported to TAC or discovered by SONIFI after the expiration of the applicable Limited Warranty Period for which SONIFI dispatches service personnel to the Premises, and for any problem with specific Replacement FTG Equipment that is not Covered Replacement FTG Equipment for which SONIFI dispatches service personnel to the Premises at any time, Company shall be charged for labor at SONIFI's then current rate(s) set forth in the most current SONIFI Rate Card available upon request from

the TAC or as made available at [www.sonifi.com](http://www.sonifi.com), plus (i) the cost of parts, components and other materials, (ii) the trip charge specified on the most current Rate Card, (iii) travel expenses, lodging expenses, parking fees and tolls and (iv) applicable taxes, shipping, handling and freight. SONIFI's obligations under this Subsection 4.3 with respect Replacement FTG Equipment Licensed Software are limited to installing any commercially available Updates from the applicable manufacturer(s) and developer(s). Notwithstanding anything to the contrary in these SONIFI Equipment Maintenance Terms, SONIFI is not responsible or liable for any Replacement FTG Equipment problems (A) for which Updates are unavailable from the applicable Replacement FTG Equipment manufacturer, supplier, or licensor or (B) for which available Updates are ineffective.

**4.4 On-Site Work Not Specifically Covered by a SONIFI Limited Warranty.** For any problem with Headend Equipment and/or Licensed Software installed on, stored on or embedded in the Headend Equipment that is reported to TAC or discovered by SONIFI after the expiration of the applicable Limited Warranty Period for which SONIFI dispatches service personnel to the Premises, for any problem with In-Room Equipment and/or the Licensed Software installed on, stored on or embedded in the In-Room Equipment that is reported to TAC or discovered by SONIFI after the expiration of the applicable Limited Warranty Period for which SONIFI dispatches service personnel to the Premises, for any problem with Headend Equipment that is not Covered Replacement FTG Equipment for which SONIFI dispatches service personnel to the Premises, for any problem with In-Room Equipment that is not Covered Replacement FTG Equipment for which SONIFI dispatches service personnel to the Premises, for any problem with hardware, parts or software that is not expressly warranted by SONIFI under these SONIFI Equipment Maintenance Terms for which SONIFI dispatches service personnel to the Premises, for any on-site service call requested by Company after the expiration of the applicable Limited Warranty Period for which SONIFI dispatches service personnel to the Premises, for all MATV Work performed by SONIFI personnel or contractors (unless included in the Agreement), and for all work performed by SONIFI or its contractors on any other equipment, software and facilities not explicitly covered by a warranty or other SONIFI obligation expressly set forth in these SONIFI Equipment Maintenance Terms, Company shall be charged for labor at SONIFI's rate(s) set forth on the most current SONIFI Rate Card available upon request to SONIFI at [salesclientserv@sonifi.com](mailto:salesclientserv@sonifi.com) or as made available at [www.sonifi.com](http://www.sonifi.com), plus (i) the cost of parts, components and other materials (if not covered under these SONIFI Equipment Maintenance Terms), (ii) the trip charge specified on the Rate Card, (iii) travel expenses, lodging expenses, parking fees and tolls and (iv) applicable taxes, shipping, handling and freight. In no event shall SONIFI be obligated to dispatch service personnel to the Premises for a problem that is not the result of a failure of or a defect in Headend Equipment, In-Room Equipment or Licensed Software, regardless of whether such problem is discovered or reported during or after the applicable Limited Warranty Period.

**4.5 Accelerated Service.** If Company requests an earlier response time than that required per the service response times set forth in Subsection 4.2 or 4.3 these SONIFI Equipment Maintenance Terms, and SONIFI, in its sole discretion, dispatches service personnel to perform service, maintenance or repairs on an accelerated basis, Company shall be charged for labor at SONIFI's rate(s) set forth on the most current SONIFI Rate Card available upon request to SONIFI at [salesclientserv@sonifi.com](mailto:salesclientserv@sonifi.com) or as made available at [www.sonifi.com](http://www.sonifi.com), plus (i) the cost of parts, components and other materials (if not covered under these SONIFI Equipment Maintenance Terms), (ii) the trip charge specified on the Rate Card, (iii) travel expenses, lodging expenses, parking fees and tolls and (iv) applicable taxes, shipping, handling and freight, regardless of whether the applicable Limited Warranty Period is still in effect.

## **5. General Maintenance and Support Terms.**

**5.1 Replacement Hardware, Parts and Materials.** SONIFI, in its sole discretion, may use new or refurbished parts, materials or equipment

to source and provide Headend Equipment replacements and In-Room Equipment replacements, and to perform repairs and maintenance of Headend Equipment and In-Room Equipment.

**5.2 Remote Monitoring.** SONIFI shall use reasonably available means to remotely monitor the Headend Equipment, the In-Room Equipment, and the Licensed Software for technical and performance issues during the Term, provided Company complies with its payment obligations to SONIFI and its obligation to furnish at no cost to SONIFI an adequate Internet connection as specified in the Agreement (including the SOW).

**5.3 Telephone and E-Mail Support.** During the Term, SONIFI shall use reasonably available means to furnish 24x7x365 technical support to Company via telephone, e-mail and any other reporting methods SONIFI may establish from time to time, in its sole discretion, regarding Headend Equipment, In-Room Equipment and Licensed Software, subject (a) to Company's timely and complete payment of all fees, charges and costs owed to SONIFI, (b) to the limitations and exclusions in these SONIFI Equipment Maintenance Terms and (c) to Force Majeure Events that interrupt telephone service, e-mail service or other communications services used for technical support. SONIFI shall provide a toll-free telephone number, e-mail address and any other applicable contact information to Company for Headend Equipment, In-Room Equipment and Licensed Software technical support, which number, address or information shall enable Company to contact the TAC. If a technical or performance-related problem with the Headend Equipment, In-Room Equipment and/or Licensed Software is identified by Company, Company shall contact the TAC via the toll-free telephone number, e-mail address or any other reporting mechanism made available to Company for this purpose within twelve (12) hours of discovering the problem. Notwithstanding anything to the contrary in these SONIFI Equipment Maintenance Terms, the Licensed Software Terms, the Free-to-Guest Programming Appendix, the SOW, the Service Terms, or the body of the Agreement, for all e-mails or telephone calls to the TAC at any time that are outside the scope of or not covered by SONIFI's limited warranties and express maintenance, service and support obligations herein or elsewhere in the Agreement, SONIFI, in its sole discretion, may provide telephone or e-mail support to Company on a time and materials basis for the fees and charges set forth on the most current SONIFI Rate Card, available upon request to the TAC or as made available at [www.sonifi.com](http://www.sonifi.com). All TAC support is furnished in English only, and Company is solely responsible for any necessary translation costs and shall reimburse SONIFI for all such costs.

**5.4 Licensed Software Updates.** To the extent applicable and technically feasible, SONIFI shall provide available Headend Equipment Updates and available In-Room Equipment Updates to Company at approximately the same time SONIFI makes such Updates generally and commercially available to its other licensees, subject to any equipment compatibility requirements, the commercial availability of Updates from applicable hardware manufacturers and suppliers or their licensors, and Company's compliance with its contractual commitments to SONIFI.

### **5.5 Fees for Updates, Support and Remote Monitoring.**

**5.5.1** All telephonic technical support and e-mail technical support from the TAC, and remote monitoring of Existing FTG Equipment, Replacement Equipment that is not Covered Replacement Equipment, and associated Licensed Software and Updates shall be furnished to Company for the fees set forth in the most recent SONIFI Rate Card available upon request from the TAC or as made available at [www.sonifi.com](http://www.sonifi.com). Telephone support and e-mail support are provided in English only. Company shall be responsible for timely paying any and all language translation fees incurred and charged by SONIFI, plus all applicable taxes.

**5.5.2** All telephonic technical support and e-mail technical support from the TAC for Covered Replacement FTG Equipment and Licensed Software, remote monitoring of Covered Replacement FTG Equipment and Licensed Software and Covered Replacement FTG Equipment Updates shall be furnished to Company at no additional charge during the applicable Limited Warranty Period. After the Limited Warranty Period applicable to specific Replacement FTG Equipment expires, all telephonic technical support and e-mail technical support from



the TAC, and remote monitoring of affected Replacement FTG Equipment, and associated Licensed Software, and all Replacement FTG Equipment Updates shall be furnished to Company for the fees set forth in the most recent SONIFI Rate Card available upon request from the TAC or as made available at [www.sonifi.com](http://www.sonifi.com). All telephone support and e-mail support are provided in English only. Company shall be responsible for timely paying any and all language translation fees incurred and charged by SONIFI, plus all applicable taxes.

5.5.3 Except with respect to Updates installed on Covered Replacement FTG Equipment to mitigate or eliminate a qualifying defect in Licensed Software during the applicable Limited Warranty Period, all Updates will be installed, configured and verified for the fees set forth in SONIFI's most recent Rate Card available upon request from the TAC or as made available at [www.sonifi.com](http://www.sonifi.com), plus all applicable taxes.

5.6 **Force Majeure Event.** During a Force Majeure Event, SONIFI is not liable to Company for any failure to comply or delay in complying with one or more terms, conditions, obligations, warranties and/or covenants set forth in these SONIFI Equipment Maintenance Terms. SONIFI shall promptly notify Company if a Force Majeure Event occurs. SONIFI'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.

#### 5.7 **Limitations and Exclusions.**

5.7.1 Notwithstanding anything to the contrary in these SONIFI Equipment Maintenance Terms, SONIFI has no obligation to perform any work, warranty service, Update, support, repair, replacement or maintenance associated with Headend Equipment, In-Room Equipment, Documentation and Licensed Software, at any time, to the extent that SONIFI determines that a problem or failure is caused by: (a) the acts or omissions of Company or its owners, partners, members, directors, officers, employees, agents, contractors, affiliates, guests or invitees, regardless of whether such acts or omissions are intentional, reckless, or negligent; (b) vandalism, theft or willful or negligent acts or omissions of Company, or any of its owners, partners, members, directors, officers, employees, agents, contractors, affiliates, guests or invitees; (c) Company's failure to perform its obligations under the Agreement, including but not limited to following the site specifications in the SOW; (d) Premises renovations; (e) acts or omissions of third parties (other than SONIFI contractors or sub-contractors performing work under the Agreement on SONIFI's behalf); (f) changes in Company vendors or other Company agents, including without limitation any and all changes to Company's Internet service and/or Internet circuit provider(s); (g) equipment, components, parts or software, such as televisions or Internet routers, purchased or licensed from or installed by any person or entity other than SONIFI, SONIFI contractors, or SONIFI sub-contractors; (h) misuse; (i) accidental damage, including but not limited to, contact with liquid, extreme heat, or foreign material; (j) limitations of technology; (k) modification, adjustment or alteration of any part of the Headend Equipment, the In-Room Equipment, the Documentation or the Licensed Software without SONIFI's authorization; (l) unauthorized opening of or tampering with the Headend Equipment or the In-Room Equipment (including, by way of example and not limitation, any attempt to defeat a technical limitation or anti-piracy mechanism); (m) cosmetic damage to the Headend Equipment or the In-Room Equipment; (n) unreasonable or unapproved use or any use or installation inconsistent with Documentation and instruction; (o) use of parts or peripherals not recommended or approved by SONIFI; (p) damage caused by servicing not authorized by SONIFI; (q) damage caused by computer or Internet viruses, bugs, worms, Trojan horses, malware, cancelbots or other malicious code not introduced directly by SONIFI employees, contractors or sub-contractors; provided, however, SONIFI is not responsible or liable for software and Updates authored, published, licensed, provided or made available by Headend Equipment and In-Room Equipment manufacturers and their suppliers and licensors; (r) cable cuts caused by third parties (other than SONIFI employees, contractors or sub-contractors), the Company and/or its owners, partners, members, directors, officers, employees, agents, contractors, affiliates, guests or invitees; (s) single-room issues or problems with Headend Equipment, In-Room Equipment or Licensed

Software; (t) changes in Company equipment at the Premises, such as televisions or the property management system; (u) any damage, problem or defect caused by Company's movement or replacement of televisions or terminal devices; (v) firmware updates for Internet routers, wireless access points, televisions, and remote controls; (w) any damage, problem, defect, Headend Equipment or In-Room Equipment modification, Headend Equipment or In-Room Equipment upgrade or hardware addition necessitated or caused by Company's remodeling, reduction or addition of guest rooms; (x) FTG Programming channel line-up management and changes, and questions or complaints regarding FTG Programming rates; (y) repair and programming of remote-control devices, including without limitation, battery replacement; (z) changes to Company's or the Premises' name; (aa) failure of Company owners, partners, members, directors, officers, employees, agents, contractors and/or subcontractors to communicate with and follow the instructions of the TAC and SONIFI service personnel; (bb) public area televisions and related video programming and content; (cc) verifying high-speed Internet access data transmission availability and data speed, and all labor and parts for high-speed Internet access hardware; (dd) any damage, problem, defect or modification to Headend Equipment or In-Room Equipment, or any Headend Equipment or In-Room Equipment upgrade or hardware addition, in any case, caused by Internet circuit conversions at the Premises; or (ee) a Force Majeure Event.

5.7.2 If Company requests and SONIFI elects, in its sole discretion, to provide maintenance and/or support services required due to any of the aforementioned instances set forth in Paragraph 5.7.1, Company shall promptly reimburse SONIFI for all labor and travel expenses at SONIFI's rate(s) set forth in the most recent SONIFI Rate Card available from the TAC or as made available at [www.sonifi.com](http://www.sonifi.com), plus all equipment, part and component costs, all travel, lodging and parking costs and tolls, and all applicable taxes, fees, freight, handling and shipping costs.

5.7 **Charges for Maintenance and Support.** Except as otherwise expressly specified in these SONIFI Equipment Maintenance Terms or elsewhere in the Agreement, for all work, repairs, service, hardware replacements, Updates and maintenance performed by SONIFI personnel or SONIFI contractors on Headend Equipment, the In-Room Equipment and/or the Licensed Software, including without limitation Existing FTG Equipment and Replacement FTG Equipment, Company shall be charged for labor at SONIFI's rate(s) set forth on the most recent SONIFI Rate Card available from the TAC or as made available at [www.sonifi.com](http://www.sonifi.com), plus (i) the cost of equipment, components, parts and other materials (including freight, handling and shipping costs), (ii) the trip charge specified on the Rate Card, (iii) tolls, travel and lodging expenses and parking fees and (iv) applicable taxes. The Parties agree that SONIFI may unilaterally update its Rate Card(s) at any time during the Term. Copies of SONIFI Rate Cards may be obtained from the TAC.

5.8 **Non-Payment of Fees.** SONIFI is not obligated to perform or to endeavor to perform any Update, Headend Equipment repair, In-Room Equipment repair, Headend Equipment replacement or In-Room Equipment replacement, to provide TAC support by telephone, e-mail or other means, or to correct or mitigate any failure, defect or error in Headend Equipment, In-Room Equipment or Licensed Software that occurs during a month in which Company has a past due undisputed amount owed to SONIFI that is more than sixty (60) days past due, regardless of whether or not the applicable Limited Warranty Period is still in effect.

5.9 **Scope of Service and Support.** SONIFI's obligations under these SONIFI Equipment Maintenance Terms do not apply to Internet circuits, wireless access points, remote controls, satellite dishes and other signal reception devices, satellite dish mounting hardware, Internet routers, the MATV System, the Premises Network Infrastructure and the CNS located in the Premises, and problems or issues solely related to Internet circuits, wireless access points, remote controls, televisions, satellite dishes and other signal reception devices, satellite dish mounting hardware, Internet routers, the MATV System, the Premises Network Infrastructure or the CNS.

#### **6. Service, Support and Maintenance Limitations. EXCEPT AS EXPLICITLY STATED IN THESE SONIFI EQUIPMENT**



MAINTENANCE TERMS OR ELSEWHERE IN THE AGREEMENT, SONIFI DOES NOT MAKE AND SPECIFICALLY DISCLAIMS ALL REPRESENTATIONS, COVENANTS, GUARANTEES AND WARRANTIES OF ANY KIND, STATUTORY, EXPRESS OR IMPLIED, WITH RESPECT TO THE HEADEND EQUIPMENT, IN-ROOM EQUIPMENT, LICENSED SOFTWARE, DOCUMENTATION AND ASSOCIATED FTG PROGRAMMING AND SERVICES, INCLUDING WITHOUT LIMITATION ANY EXPRESS OR IMPLIED REPRESENTATION, COVENANT, GUARANTEE OR WARRANTY: (A) OF CONDITION, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT; (B) ARISING BY USAGE OR TRADE PRACTICES, COURSE OF DEALING OR COURSE OF PERFORMANCE; (C) THAT THE HEADEND EQUIPMENT, THE IN-ROOM EQUIPMENT, THE LICENSED SOFTWARE, THE DOCUMENTATION, THE FTG PROGRAMMING AND ASSOCIATED SERVICES WILL BE ERROR FREE, UNINTERRUPTED, SECURE FROM THIRD PARTY ATTACK OR FREE OF VIRUSES, BUGS, WORMS, TROJAN HORSES, MALWARE, CANCELBOTS OR OTHER MALICIOUS CODE; (D) THAT FUNCTIONS AND FEATURES CONTAINED IN THE HEADEND EQUIPMENT, THE IN-ROOM EQUIPMENT, THE DOCUMENTATION, THE LICENSED SOFTWARE OR THE FTG PROGRAMMING AND ASSOCIATED SERVICES WILL MEET COMPANY'S OR ITS GUESTS', EMPLOYEES' AND INVITEES' NEEDS, REQUIREMENTS OR EXPECTATIONS; AND (E) THAT THE HEADEND EQUIPMENT, THE IN-ROOM EQUIPMENT, THE LICENSED SOFTWARE, THE DOCUMENTATION, THE FTG PROGRAMMING AND ASSOCIATED SERVICES ARE FREE FROM DEFECTS, FIT TO BE SOLD, WILL PERFORM IN A PARTICULAR MANNER OR SPEED OR TO A PARTICULAR STANDARD OR ANY QUALITY OF SERVICE. IMPORTANT: DO NOT OPEN OR TAMPER WITH ANY OF THE HEADEND EQUIPMENT OR IN-ROOM EQUIPMENT. OPENING OR TAMPERING WITH A COMPONENT OF THE HEADEND EQUIPMENT OR IN-ROOM EQUIPMENT MAY CAUSE DAMAGE THAT IS NOT COVERED BY THESE SONIFI EQUIPMENT MAINTENANCE TERMS OR MAY CAUSE THE HEADEND EQUIPMENT OR IN-ROOM EQUIPMENT TO STOP FUNCTIONING. UNLESS OTHERWISE EXPRESSLY STATED IN THESE SONIFI EQUIPMENT MAINTENANCE TERMS, THE LICENSED SOFTWARE TERMS, OR THE AGREEMENT, SONIFI IS NOT RESPONSIBLE FOR ANY DEFECTS, BUGS, ERRORS, DEFICIENCIES OR VULNERABILITIES IN THIRD-PARTY CODE OR IN LICENSED SOFTWARE INSTALLED ON, EMBEDDED INTO, INCORPORATED WITHIN OR USED IN CONNECTION WITH HEADEND EQUIPMENT AND IN-ROOM EQUIPMENT, AND SONIFI DOES NOT PROVIDE AND HEREBY DISCLAIMS ANY EXPRESS, IMPLIED OR STATUTORY WARRANTY WITH RESPECT TO SUCH THIRD-PARTY CODE AND LICENSED SOFTWARE, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. The specific limited warranties set forth in these SONIFI Equipment Maintenance Terms do not apply to damage or failure of Headend Equipment or In-Room Equipment, or inability to perform resulting from Company's failure (i) to comply with the Agreement (including the SOW and the Service Terms) or (ii) to follow Documentation or oral or written instructions from SONIFI personnel or the applicable hardware manufacturer, hardware supplier, software developer or software publisher pertaining to the Headend Equipment, the In-Room Equipment, Licensed Software and/or Updates. Unless otherwise expressly stated in the Agreement, these SONIFI Equipment Maintenance Terms set forth Company's sole and exclusive remedies in the event of a breach of warranty herein during the applicable Limited Warranty Period.

## 7. Definitions.

7.1 **"Covered Replacement Headend Equipment"** means Headend Equipment meeting the definition of Replacement FTG Equipment that is covered by a limited warranty in Subsection 2.1 of these SONIFI Equipment Maintenance Terms during the applicable Limited Warranty Period.

7.2 **"Covered Replacement In-Room Equipment"** means In-Room Equipment meeting the definition of Replacement FTG Equipment that is covered by a limited warranty in Subsection 2.2 of these SONIFI Equipment Maintenance Terms during the applicable Limited Warranty Period.

7.3 **"Existing FTG Equipment"** has the meaning set forth in Subsection 1.2 of the Service Terms.

7.4 **"Headend Equipment"** has the meaning set forth in the SOW. Headend Equipment can be Existing FTG Equipment, in whole or in part, and/or Replacement FTG Equipment, in whole or in part. Headend Equipment does not include satellite dishes and other signal reception hardware, and mounting hardware associated with satellite dishes or other signal reception hardware.

7.5 **"In-Room Equipment"** means, collectively, all set-top devices, set-back devices, security enclosures and anti-theft cabling (i) that are purchased from SONIFI or a third party for use in authorized areas of the Premises and (ii) that are installed in one or more guest rooms or other authorized areas at the Premises by SONIFI personnel, SONIFI contractors or another third party. In-Room Equipment can be Existing FTG Equipment, in whole or in part, and/or Replacement FTG Equipment, in whole or in part. In-Room Equipment does not include televisions, television mounting hardware, remote-control devices, wireless access points, routers and any and all software and firmware installed on, stored on or embedded in wireless access points, routers, televisions and remote-control devices.

7.6 **"Licensed Software"** has the meaning set forth in the Licensed Software Terms.

7.7 **"Replacement FTG Equipment"** has the meaning set forth in Section 2 of the Free-to-Guest Programming Appendix.

7.8 **"TAC"** means SONIFI's Technical Assistance Center.

7.9 **"Third-Party Code"** has the meaning set forth in Subsection 7.1 of the Licensed Software Terms.