



Terms of Service

Last Updated: April 14, 2026

These TERMS OF SERVICE (this “**Agreement**”) constitute a binding agreement between DTN, LLC or its affiliates (collectively “**DTN**”) listed on the applicable Order and you. This Agreement incorporates the terms of the DTN Standard Order Form, DTN invoice, and DTN service order (each, an “Order”).

By entering into an Order, by clicking “I Accept” or “I Agree” on any electronic version of this Agreement or by otherwise accessing or using any of DTN's Services or Equipment, you agree to be bound by the terms and conditions set forth in this Agreement. If you enter into this Agreement on behalf of any company, organization or other entity, you represent and warrant that you have the authority to bind such entity to the terms and conditions of this Agreement and the terms “you,” “your,” or “Customer” shall refer to such entity.

Your use of the Services and Equipment, as well as your use of any DTN website, data or content, is governed by these Terms of Service.

The following services shall be subject to the additional terms set out in the relevant Addendum:

Service	Addendum
Ag Marketing Solutions	https://www.dtn.com/dtn-addendum-ag-marketing-solutions/
Ag Weather Station	https://www.dtn.com/dtn-addendum-ag-wxstation-1-12-18/
AI Features	https://www.dtn.com/dtn-addendum-ai-features/
API*	https://www.dtn.com/dtn-addendum-API/
Davis Weather Integration	https://www.dtn.com/dtn-addendum-davis-wx-integration-addendum-1-12-18/
Energy Digital Commerce	https://www.dtn.com/dtn-addendum-energy-digital-commerce/
Energy Services	https://www.dtn.com/dtn-addendum-energy-services/
Exchange Services	https://www.dtn.com/dtn-addendum-exchange-services/
Interactive Map Widget Service	https://www.dtn.com/dtn-addendum-interactive-map-widget-service/
Professional Services	https://www.dtn.com/dtn-addendum-professional-services/
Sustainability Marketplace (Pilot)	https://www.dtn.com/dtn-addendum-sustainability-marketplace/
Wildfire	https://www.dtn.com/dtn-addendum-wildfire/

*This Addendum shall apply whenever direct access is granted to a DTN API for delivery of data.

1. DEFINITIONS

- 1.1 “**Aggregated Data**” has the meaning set forth in Section 7.2.
- 1.2 “**Confidential Information**” has the meaning set forth in Section 6.2.
- 1.3 “**Contract Start Date**” has the meaning set forth in Section 8.1.
- 1.4 “**Customer Data**” means any data, information, content, records, and files that: (i) are provided to DTN by or on behalf of Customer or Users in connection with the Services; or (ii) are collected by DTN directly from Customer or Users through their use of the Services. Customer Data shall be owned exclusively by Customer, subject to any licenses granted to DTN under this Agreement.

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- 1.5 **"Derived Data"** means any data, information, content, records, and files that is transmitted, created, collected, processed or otherwise made available by DTN to Customer via the Services (as well as any outputs, results, analyses related to such information or data), and which: (i) is identifiable to Customer, its Users or business; (ii) constitutes improvements, enhancements, modifications, or derivative works that DTN creates based on Customer Data; and (iii) is not Aggregated Data. The rights to Derived Data shall be as set forth in Section 7.2.
- 1.6 **"Disclosing Party"** has the meaning set forth in Section 6.1.
- 1.7 **"Documentation"** means any online guides or policies provided or made available to Customer in connection with the Services or Equipment, including the documentation located at www.dtn.com, as the same may be updated by DTN, in its sole discretion, from time to time.
- 1.8 **"Equipment"** means any certain hardware, equipment or other product(s) which is either leased or sold by DTN to Customer as expressly specified in the Order.
- 1.9 **"Exchange Services"** means Services which contain or allow Customer to access price and/or trade-related data in respect of any financial instrument reported by a trading venue such as a stock or commodities exchange.
- 1.10 **"Feedback"** has the meaning set forth in Section 2.8.
- 1.11 **"Fees"** has the meaning set forth in Section 4.1.
- 1.12 **"Force Majeure Event"** has the meaning set forth in Section 11.3.
- 1.13 **"Licensed Data"** means any data, information, content, records, and files that is transmitted, created, collected, processed or otherwise made available by DTN to Customer via the Services (as well as any outputs, results, analyses related to such information or data), and which: (i) was owned by or licensed to DTN prior to Customer's use of the Services; (ii) was acquired or developed by DTN independently of Customer Data; or (iii) is Aggregated Data, or was otherwise aggregated, anonymized, or derived from Customer Data, but does not identify Customer or contain Customer's Confidential Information. All Licensed Data shall be owned exclusively by DTN, and Customer acknowledges that this Agreement does not transfer any ownership rights in Licensed Data to Customer.
- 1.14 **"Party"** or **"Parties"** means, individually, DTN or Customer, as the context requires, and, collectively, DTN and Customer.
- 1.15 **"Privacy Policy"** has the meaning set forth in Section 7.1.
- 1.16 **"Products"** has the meaning set forth in Section 2.10.
- 1.17 **"Receiving Party"** has the meaning set forth in Section 6.1.
- 1.18 **"Sanctions"**, **"Sanctions Authority"**, and **"Sanctions List"** have the meanings set forth in Section 11.5.
- 1.19 **"Sensitive Information"** has the meaning set forth in Section 7.3.
- 1.20 **"Services"** means the specific DTN proprietary information services, which may be provided by DTN either through (i) DTN's hosted service solution(s), program(s), software, and/or mobile or web-based application(s); and/or (ii) via the Internet, or other electronic or satellite delivery means, as may be specified on an Order.
- 1.21 **"Term"** means, with respect to the Services, the subscription term indicated on the Order as well as any renewal terms; and, with respect to the Equipment, the rental period indicated on the Order, as well as any renewal terms.
- 1.22 **"Third Party Agreement"** has the meaning set forth in Section 2.6.
- 1.23 **"Third Party Component"** has the meaning set forth in Section 2.5.
- 1.24 **"Third Party Content"** has the meaning set forth in Section 2.6.
- 1.25 **"Third Party Equipment"** has the meaning set forth in Section 3.4.
- 1.26 **"Trial Service"** has the meaning set forth in Section 2.7.
- 1.27 **"User"** means any individual authorized by Customer to use the Services or Equipment including any User that has been issued a login name and password to access the Services.

2. USE OF THE SERVICES

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- 2.1 **Services Provision.** Subject to the terms and conditions of this Agreement, and Customer's payment of the applicable Fees, DTN hereby agrees to make the Services purchased under the applicable Order available to Customer solely for Customer's use for its internal business purposes and subject to any restrictions on use specified in writing by DTN, including any additional restrictions specified in this Agreement, the Documentation and any Order. Each Order will specify the applicable license term, pricing and licensing metric for Customer's use of the Services. DTN rejects any terms, conditions or provisions contained in any purchase order, document or other communication issued to DTN in connection with an Order that omit or are additional to or inconsistent with the terms of this Agreement or the applicable Order. Customer's purchase of a subscription to use the Services under this Agreement is not contingent upon the delivery of any future functionality or features, or dependent on any comments made by DTN regarding future functionality or features.
- 2.2 **Restrictions on Use.** Customer shall not take any of the following actions with respect to the Services, Licensed Data, or Documentation: (i) reverse engineer, copy, modify, create any derivative work of, decompile, disassemble, re-engineer or otherwise create, attempt to create, or permit, allow or assist others to create, the source code or the structural framework thereof; (ii) cause or permit any use, display, loan, publication, transfer of possession or other dissemination thereof, in whole or in part, to or by any third party without DTN's prior written consent; (iii) cause or permit any change to be made thereto without DTN's prior written consent; (iv) bypass or breach any security device or protection used for or contained therein; (v) rent, loan, sell, resell, sublicense or use the same for service bureau or time-sharing purposes; (vi) copy, frame or mirror any part thereof; (vii) use the same for purposes of benchmarking, conducting competitive analysis thereof or otherwise publicly disseminating any information regarding the performance of the same; (viii) use to facilitate the development of any competing products or services; or (ix) engage in any fraudulent, unlawful or illegal activity, impersonate any individual or entity, violate any laws or violate the rights of any third party.
- 2.3 **Customer Responsibilities.** Customer shall (i) keep leased Equipment and Documentation free and clear of all claims, liens and encumbrances; (ii) remain responsible for any use of the Services by its Users and be responsible for all Users' compliance with the terms of this Agreement, the Documentation and the applicable Order; (iii) be responsible for obtaining and recording consent from Users for DTN to process Customer Data as described in this Agreement (iv) have sole responsibility for the accuracy, quality, legality or appropriateness of any Customer Data that it transmits, creates, collects, stores, processes or otherwise makes available to DTN (including that such Customer Data shall not be defamatory, libelous, pornographic or obscene, contain any virus or malicious code, or violate the rights of any third party); (v) ensure that any user IDs, passwords, and other access credentials for the Services are kept strictly confidential and not shared with any unauthorized person; (vi) promptly notify DTN of any breach of security or unauthorized use of its account; and (vii) be responsible for obtaining and maintaining any equipment, devices, software, hardware or other ancillary services necessary to connect to, access or otherwise use the Services.
- 2.4 **Reservation of Rights.** Customer acknowledges that: (i) DTN, or its licensors, owns and retains all right, title and interest in and to the Services, Documentation and all other technical information, including all releases, updates, upgrades and new versions of the same, and all copies thereof, including all associated patents, copyrights, service marks, trademarks, trade names, trade secrets and other intellectual property rights; (ii) no rights are granted to Customer hereunder other than expressly set forth herein; and (iii) notwithstanding anything to the contrary contained in this Agreement, this transaction is a subscription license and not a sale, purchase, lease or transfer of the Services or the Documentation.
- 2.5 **Third-Party Components.** The Services may include or incorporate certain components which are licensed or made available under separate terms by the third-party licensor of such components and/or under the terms of an open-source software license (each, a "Third-Party Component"). Any use of a Third-Party Component by Customer shall be governed by, and subject to, the terms and conditions of the separate terms applicable to such Third-Party Component.

- 2.6 **Third-Party Content.** Customer acknowledges that certain information, content or links to websites that are accessible or available through the Services may be subject to intellectual property rights of third parties (the "Third-Party Content"). Customer understands and acknowledges that DTN does not endorse and is not responsible or liable for the accuracy, availability or content of such Third-Party Content and Customer is solely responsible and liable for its use of any Third-Party Content. Customer agrees and acknowledges that DTN is dependent on its Third Party Content and that this Agreement and the provision of the Services is always subject to any arrangements (involving intellectual property and/or any other rights or otherwise), restrictions or prohibitions imposed by any third party of any of the Third Party Content, whether such arrangements, restrictions or prohibitions are imposed directly on DTN in respect of its provision of the relevant Third Party Content to the Customer or on the Customer itself (under a third party agreement or otherwise) and whether requested or imposed prior to, on or at any time after the date of this Agreement. Customer agrees that the Services are provided by DTN on the basis that, if any provider of any of the Third-Party Content requests that the Customer enters into or abides by any licensing and/or other arrangement (including, without limitation, licenses of intellectual property and/or other rights or arrangements allowing access to or use of any of the Third Party Content) (a "Third Party Agreement"), the Customer will enter into and abide by the terms of the relevant Third Party Agreement and will continue to pay any applicable license or other fee(s) which may be payable in connection therewith. In the event that Customer does not wish to do so, DTN may terminate the Agreement in whole or in part with immediate effect by written notice to Customer.
- 2.7 **Trial/Evaluation.** DTN may make available to Customer certain Services on an evaluation, trial or beta test basis (the "Trial Service"). Customer's use of a Trial Service will be for the term specified in the applicable Order. Customer is under no obligation to use Trial Services. Trial Services are: (i) for evaluation purposes only and not for production use, and (ii) are not supported by any service level agreements. DTN may discontinue a Trial Service at any time in its sole discretion. DTN provides the Trial Service to Customer "as is" and without any warranty or indemnity of any kind and DTN will have no liability for any claim arising from Customer's or Users' use of Trial Services.
- 2.8 **Feedback.** To the extent Customer or any of its Users offers DTN any feedback, comments or suggestions regarding the Services or the Equipment, including any comments, posts or other content that Customer or any of its Users submit to any bulletin board, message board, community forum, blog or similar medium that may be made available by DTN as part of the Services (the "Feedback"), Customer irrevocably assigns to DTN all right, title and interest in and to the Feedback. DTN may freely use or exploit Feedback for any lawful purpose, provided that any external use of Feedback shall not identify Customer or any User or use any personally identifiable information. For avoidance of doubt, Feedback does not include any Customer Confidential Information.
- 2.9 **Compliance.** As part of its provision of the Services, DTN is expressly authorized to monitor the use and performance of the Services to ensure compliance with the terms and conditions of this Agreement.
- 2.10 **Updates and Replacements.** DTN may, from time to time and in its sole discretion, modify, update, replace, decommission, remove, or discontinue software, Services, Equipment, including features or functionality contained therein, or any combination thereof (collectively "Products") in its ordinary course of business. DTN shall have no obligation to replace or substitute Products or features that DTN has decommissioned, removed, or discontinued; provided that, in the event DTN discontinues a material portion or feature of the Products, DTN and Customer shall cooperate in good faith to reach a mutually agreeable adjustment to the applicable fees for such Products, to the extent performance is materially reduced. DTN shall use commercially reasonable efforts to provide Customer at least six (6) months' written notice prior to any change that is expected to have a material negative impact to the Products.
3. **EQUIPMENT**
- 3.1 **Delivery.** Delivery of the Equipment will be made F.O.B. DTN's shipping facility with shipping charges to be paid by Customer. Unless specifically agreed in writing, all shipments of Equipment shall be to the same address set forth on an Order. Title and risk of loss or damage in the Equipment passes from DTN to Customer upon the tender of shipment to the applicable carrier at DTN's shipping facility. Customer shall pay all shipping charges, insurance, duties and taxes required. DTN may allocate production and deliveries of the Equipment in its sole and reasonable discretion. Shipping dates are approximate only. DTN shall not be liable for any damage, loss, or expense incurred by Customer if DTN fails to meet a specified shipping date. Notwithstanding anything herein to the contrary, Customer does not by virtue of this Section 3 (or any Order) acquire any right, title or interest in or to any pre-installed or embedded software in the Equipment, other than the right to use such pre-installed or embedded software solely in the normal operation of the Equipment and in accordance with any license terms for such software.
- 3.2 **Security Interest.** To secure its obligations to make any and all payments required under this Agreement, the Customer hereby grants to DTN a security interest, which may be a purchase money security interest, in the

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- 3.3 **Installation.** All Equipment must be installed by DTN or by subcontractors certified by DTN. Installation of the Equipment shall be deemed to be complete when DTN's duly certified installer informs Customer's personnel at the site that the subject Equipment has been properly installed. Customer will ensure that the site in which the Equipment will be installed satisfies DTN's specifications. Customer shall, at its expense, obtain all licenses, permits, permission or consents required by any landlord or any other party applicable to the installation of such Equipment (including, without limitation, any running cable and installation of any satellite receiver equipment). SITE PREPARATION MUST BE COMPLETED PRIOR TO DTN'S INSTALLATION OF THE EQUIPMENT OR THE EQUIPMENT WARRANTIES SPECIFIED IN THIS AGREEMENT SHALL BE VOID. In the event that Customer fails to satisfactorily prepare the site before the agreed installation date and fails to notify DTN of such failure at least fourteen (14) days prior to that installation date, Customer agrees to reimburse DTN for any expenses or charges incurred by DTN as a result of such failure.
- 3.4 **Third-Party Equipment.** If any of the Equipment is identified in an Order as a product manufactured or developed by a party other than DTN (the "Third-Party Equipment") then such Equipment is being sold or licensed to Customer subject to such third party's warranties. Customer acknowledges that DTN merely acquired the Third-Party Equipment for Customer, and that the proprietary and intellectual property rights to the Third-Party Equipment are owned by parties other than DTN. Customer also acknowledges that, except for the payment to DTN for the Third-Party Equipment, all of Customer's rights and obligations with respect thereto flow from and to such third parties. DTN shall provide Customer with copies of all documentation and warranties applicable to Customer's use of Third-Party Equipment that are provided to DTN.
- 3.5 **Lease Terms.** In the event that DTN leases rather than sells the Equipment to Customer, the terms of this Section 3.5. shall apply.
- 3.5.1 DTN, as lessor, leases the Equipment to Customer for the term set forth in the applicable Order. With respect to additional items of Equipment hereafter included by an additional exhibit to an existing Order, the term applicable to each such additional exhibit shall be stated therein and, if not stated therein, shall be for the balance of the term of the existing Order for the Equipment. Title to each item of Equipment shall remain with DTN during the Term of the appropriate period of rental. In addition to the rights of DTN stated herein, DTN shall have all the rights and remedies available to a secured party and lessor under this Agreement, the Uniform Commercial Code, or other applicable law.
- 3.5.2 All Equipment shall at all times be and remain personal property regardless of how the same may be affixed to any realty or other property. DTN shall be permitted to display notice of its ownership of the Equipment by affixing to each item of Equipment an identifying indicia of ownership, at DTN's discretion. The Equipment shall be kept only at the location(s) specified in applicable Order at all times during the continuance of the lease. DTN may, upon reasonable written notice to Customer, inspect the Equipment on Customer's premises or wherever located.
- 3.5.3 Customer shall, at its sole expense, have the responsibility of returning to DTN any damaged Equipment to the DTN address set forth below in Section 3.5.4. Customer shall be responsible for the cost of any replacement Equipment as well as any shipping and installation charges for such replacement Equipment. Notwithstanding the damage to an item of Equipment, the monthly rental fee for such item of Equipment shall continue to be paid by Customer.
- 3.5.4 In addition to DTN's other rights and remedies under this Agreement, in the event the leased Equipment is lost, stolen, or not fully returned to DTN, (1) Customer must pay the remaining unpaid rental payments for the Equipment; and (2) DTN reserves the right to also charge a one-time amount of (i) eight hundred United States Dollars (\$800.00 USD), or (ii) the then-current market value, whichever amount is greater as determined by DTN in its sole and reasonable discretion. Upon termination or expiration of the rental period applicable to the leased Equipment, and in addition to Customer's other rights set forth in this Agreement, Customer will promptly return such leased Equipment in proper packaging, ordinary wear and tear excepted, to the following address (which may be updated by DTN by providing written notice to Customer):

DTN, LLC
ATTN: Equipment Return
10651 Chandler Road, Suite 109
La Vista, NE 68128

4. FEES AND PAYMENT

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- 4.1 **Payment Terms.** Customer agrees to pay DTN: (i) for access to the Services, the fees set forth in the applicable Order, which may include one-time fees or subscription fees paid over a set schedule; (ii) with respect to Equipment, the fees specified in the applicable Order; and, if relevant, (iii) any fees related to use of the Services, as described in an Addendum (collectively, the **"Fees"**). Unless otherwise agreed upon by the Parties on the Order, DTN shall bill Customer in advance in accordance with the applicable Order which may specify a one-time, monthly, quarterly, annual or other billing method. Unless otherwise agreed upon by the Parties in an Order, Customer must pay all invoices submitted to Customer by DTN within thirty (30) days from the date of the invoice, with no requirement for a printed/hard copy invoice, purchase order, purchase order number or other specific invoicing procedure (unless required by applicable law). Unless otherwise agreed upon by the Parties in an Order, all invoices will be in the English language.
- 4.2 **Late Payment and Taxes.** Without prejudice to any other rights and remedies which DTN may have and the Customer's continuing obligation to pay the fees, if payment of the fees is not received by DTN on the due date, (i) DTN may withhold its provision of the Services and any Equipment yet to be delivered, and (ii) any payment that is past due may, at DTN's election, bear interest on the unpaid amount at the rate of one and one-half percent (1.5%) per month or the highest rate allowed by law (whichever is lower), prorated on a daily basis during the period in which it remains unpaid, provided that DTN shall first provide notice of such unpaid amounts which remain uncured by Customer for a period of at least thirty (30) days following such notice. Customer shall be responsible for the payment of all sales, excise or other taxes, duties or assessments imposed on the transactions contemplated by this Agreement, excluding taxes based on DTN's net income. All fees and payments will be in United States Dollars (USD), unless otherwise stated within the applicable Order.
- 4.3 **Set-Off and Withholding.** All amounts payable under this Agreement shall be paid in full without set-off, deduction or other withholding of any amount which may be due to Customer and any charges for incoming and outgoing international money transfers are for the account of Customer. Should Customer be required by any law or regulation to make any deduction or withholding on account of tax or otherwise or should international money transfer charges become payable on any sum payable under this Agreement, the sum payable shall be increased by the amount of such tax or charges to ensure that DTN receives a sum equal to the amount to be paid under this Agreement.
- 4.4 **Disputes.** In the event part of an invoice is in dispute, Customer agrees to pay the undisputed portion of the invoice and provide written notice to DTN of any disputed portion within thirty (30) days from the date of invoice detailing the reasons for such dispute; otherwise Customer will be deemed to agree to such charges and DTN will not be subject to making adjustments to charges or invoices.
- 4.5 **Fee Adjustments.** After the initial Term of any Order, DTN reserves the right to modify or increase any Fees due for the Services or Equipment at any time and to be effective at the start of the next billing period.

5. **WARRANTIES AND DISCLAIMERS**

- 5.1 **Customer Obligations.** Customer represents and warrants to DTN the following:
- 5.1.1 Customer has the legal right and authority to enter into this Agreement and to receive the Services;
- 5.1.2 Customer will provide DTN with timely access to information, materials, systems, and personnel reasonably necessary for DTN to provide or perform the Services;
- 5.1.3 Customer will use the Services in compliance with all applicable laws, regulations, and the terms of this Agreement and the applicable Order;
- 5.1.4 Any materials, data, or content provided by Customer to DTN for use in connection with the Services will not infringe upon or violate any intellectual property rights, privacy or other rights of any third party;
- 5.1.5 Customer will implement and maintain reasonable and appropriate security measures to protect its systems and data, including but not limited to maintaining current anti-virus software and security patches;
- 5.1.6 Customer will use commercially reasonable efforts to ensure that no viruses, malware, or other harmful code will be introduced to DTN's systems in connection with Customer's use of the Services; and
- 5.1.7 Customer will promptly notify DTN of any unauthorized use of the Services or any other breach of security known to Customer.
- 5.2 **DTN Warranties.** DTN represents and warrants to Customer the following:
- 5.2.1 DTN has the legal right and authority to enter into this Agreement and to perform the Services;

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- 5.2.4 DTN will comply with all applicable federal, state, and local laws, regulations, and ordinances in the performance of the Services, including (without limitation) all applicable data privacy laws and regulations;
- 5.2.5 DTN will use commercially reasonable efforts to ensure that no viruses, malware, or other harmful code will be introduced into Customer's systems in connection with the Services; and
- 5.2.6 DTN will maintain reasonable and appropriate security measures to protect Customer's Confidential Information and data, in accordance with industry standards, and will promptly notify Customer of any known or suspected security incident or breach impacting Customer's Confidential Information.
- 5.3 **General Disclaimer.** THE SERVICES, DATA AND EQUIPMENT ARE PROVIDED BY DTN "AS IS." EXCEPT TO THE EXTENT WHERE SUCH DISCLAIMER IS PROHIBITED BY APPLICABLE LAW, DTN DISCLAIMS ALL WARRANTIES EXCEPT THOSE EXPRESSLY SET OUT IN THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTY OF MERCHANTABILITY, ACCURACY, COMPLETENESS, FITNESS FOR A PARTICULAR PURPOSE, OR INTELLECTUAL PROPERTY INFRINGEMENT. EXCEPT TO THE EXTENT WHERE SUCH IS PROHIBITED BY APPLICABLE LAW, DTN DOES NOT REPRESENT OR WARRANT THAT (I) THE SERVICES OR EQUIPMENT WILL OPERATE ERROR-FREE, (II) CUSTOMER'S USE OF THE EQUIPMENT OR SERVICES WILL BE UNINTERRUPTED, OR (III) ALL DEFECTS WILL BE IDENTIFIED OR RESOLVED. SUCH WARRANTIES SHALL NOT BE ENLARGED, DIMINISHED OR OTHERWISE AFFECTED BY THE RENDERING OF ANY ADVICE OR SERVICE BY DTN IN CONNECTION WITH THE EQUIPMENT OR SERVICES OR BY ANY IMPLIED WARRANTY ARISING OUT OF ANY COURSE OF DEALING, BY STATUTE, OR BY PERFORMANCE, CUSTOM OR USAGE OF TRADE, EXCEPT TO THE EXTENT WHERE SUCH IS PROHIBITED BY APPLICABLE LAW. ALL THIRD-PARTY COMPONENTS, THIRD-PARTY CONTENT, THIRD-PARTY EQUIPMENT AND ANY INFORMATION CONTAINED OR OBTAINED BY CUSTOMER VIA ANY THIRD-PARTY WEBSITE OR OTHER THIRD-PARTY INFORMATION THAT CUSTOMER OR ANY USER MAY ACCESS THROUGH THE SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY OR INDEMNITY FROM DTN AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING THE SAME IS STRICTLY BETWEEN CUSTOMER AND THE OWNER, LICENSOR OR DISTRIBUTOR OF SUCH THIRD-PARTY COMPONENTS, THIRD-PARTY CONTENT, THIRD-PARTY EQUIPMENT, THIRD-PARTY WEBSITE OR OTHER THIRD-PARTY INFORMATION, EXCEPT TO THE EXTENT WHERE SUCH IS PROHIBITED BY APPLICABLE LAW.
- 5.4 **Disclaimer of Use in High-Risk Activities.** THE SERVICES, DATA AND EQUIPMENT ARE NOT FAULT-TOLERANT AND ARE NOT INTENDED FOR USE IN ANY SITUATION OR ENVIRONMENT REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING BUT NOT LIMITED TO THE OPERATION OF NUCLEAR FACILITIES; AIRCRAFT NAVIGATION, COMMUNICATION, OR CONTROL SYSTEMS; LIFE SUPPORT MACHINES; WEAPONS SYSTEMS; OR ANY OTHER USES IN WHICH FAILURE OF THE SERVICES, DATA OR EQUIPMENT COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL, ENVIRONMENTAL OR PROPERTY DAMAGE, AND DTN EXPRESSLY DISCLAIMS ANY LIABILITY AND ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS RELATED TO THE FOREGOING.
- 5.5 **Inherent Uncertainty of Weather Forecasting.** CUSTOMER ACKNOWLEDGES THE INHERENT UNCERTAINTY IN WEATHER FORECASTING AND ACCEPTS THAT DTN MAKES NO GUARANTEE OR WARRANTY AS TO THE ACCURACY OR TIMING OF ANY WEATHER FORECAST AND/OR HINDCAST (OR ANY DATA BASED ON OR DEPENDENT UPON SUCH WEATHER FORECASTS AND/OR HINDCASTS) PROVIDED BY DTN. ANY LIABILITY ON THE PART OF DTN ARISING FROM ANY ACTUAL OR ALLEGED INACCURACY OR DELAY IN ANY WEATHER FORECAST AND/OR HINDCAST PROVIDED BY DTN (INCLUDING, WITHOUT LIMITATION, ANY LIABILITY WITH RESPECT TO CUSTOMER'S ACTIONS IN RELATION TO WEATHER SITUATIONS) IS HEREBY EXCLUDED (WHETHER SUCH LIABILITY ARISES DUE TO BREACH OF CONTRACT, TORT, UNDER ANY INDEMNITY IN THIS AGREEMENT OR FOR ANY OTHER REASON) SAVE IN THE EVENT THAT SUCH INACCURACY ARISES FROM DTN'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.
- 5.6 **Assessment of Suitability.** CUSTOMER ACKNOWLEDGES THAT IT HAS OR WILL MAKE ITS OWN ASSESSMENT AS TO THE SUITABILITY OF THE SERVICES FOR ANY USE IT MAKES OF IT (AND IT IS QUALIFIED TO MAKE SUCH ASSESSMENT OR HAVE RECEIVED SUITABLE INDEPENDENT ADVICE) AND NOTHING IN THE SERVICES CONSTITUTES A RECOMMENDATION OR ADVICE TO TAKE, OR REFRAIN FROM TAKING, ANY SPECIFIC COURSE OF ACTION.

6. CONFIDENTIAL INFORMATION

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- 6.1 **Confidentiality Obligations.** Both Parties acknowledge that either Party may receive (the "Receiving Party") Confidential Information from the other Party (the "Disclosing Party") during the Term of this Agreement, and all Confidential Information is deemed to have been received in confidence. Receiving Party may use the Disclosing Party's Confidential Information only to perform its obligations or exercise its rights under this Agreement, and may disclose Disclosing Party's Confidential Information only to Receiving Party's employees, agents or contractors that need to know the information pursuant to this Agreement and who are required (by written agreement, written and enforceable internal policy, or legally enforceable code of professional responsibility) to maintain the confidentiality of the Confidential Information as required by this Agreement. In addition, DTN as a Receiving Party is allowed to share the Confidential Information within the group of affiliates of DTN. Receiving Party must protect the Confidential Information at least as well as it does its own valuable and sensitive information of a similar nature and, in any event, with no less than a reasonable degree of care. Following termination or expiration of this Agreement, and/or if requested by Disclosing Party, Receiving Party must return or destroy all Confidential Information and, upon request, certify in writing as to having returned or destroyed all Confidential Information. Notwithstanding the foregoing, the Receiving Party may retain one (1) copy of the Disclosing Party's Confidential Information in the records and files of its legal department solely as required for legal and compliance purposes. In addition, the Receiving Party shall not be required to destroy or delete any Confidential Information retained within electronic back-up files that have been created by the automatic or routine archiving and back-up procedures of the Receiving Party, to the extent created, retained, and deleted or destroyed in a manner consistent with its or their Standard archiving and back-up procedures; provided, however, that the Receiving Party shall remain subject to the obligations of confidentiality and non-use set forth in this Agreement with respect to any Confidential Information contained therein for so long as such back-up files are retained.
- 6.2 **Definition. "Confidential Information"** means all confidential or proprietary information communicated by Disclosing Party to the Receiving Party, whether orally, electronically or in writing, that is designated as confidential or that should reasonably be understood to be confidential under the circumstances, whether it was or was not identified as confidential at the time of disclosure. DTN's Confidential Information includes, but is not limited to, the Services, Documentation, Licensed Data, Aggregated Data, Feedback and any training materials and any pre-installed or embedded software in any Equipment, as well as the terms, conditions and existence of this Agreement and any Order.
- 6.3 **Exceptions.** The obligations of either Party under this Section 6 do not apply to information that Receiving Party can demonstrate (i) was in its possession at the time of disclosure without confidentiality restrictions; (ii) at the time of disclosure by Disclosing Party is generally available to the public or after disclosure becomes generally available to the public through no breach of agreement or other wrongful act by Receiving Party; (iii) was received from a third party without restriction on disclosure and without breach of agreement or other wrongful act by Receiving Party; or (iv) is independently developed by Receiving Party without use or reference to the Confidential Information of the other Party or (v) is approved for release in writing by the Disclosing Party.
- 6.4 **Disclosure by Law.** In the event Receiving Party is required by law or legal process to disclose any of Disclosing Party's Confidential Information, Receiving Party must (i) give Disclosing Party, to the extent legally permitted, reasonable advance notice prior to disclosure so Disclosing Party may contest the disclosure or seek a protective order, and (ii) reasonably limit the disclosure to the minimum amount that is legally required to be disclosed.

7. **PRIVACY; DATA OWNERSHIP**

- 7.1 **Personally Identifiable Information.** As part of your relationship with DTN, you or your Users may provide and DTN may collect and process certain personally identifiable information. Various laws and legislation apply to personal information, such as but not limited to the General Data Protection Regulation (herein after "GDPR"). DTN has set out how this data is processed in the DTN Privacy Policy currently located at [dtn.com/privacy-policy](https://www.dtn.com/privacy-policy) (the "Privacy Policy"). Customer represents and warrants that the processing of such data, and all data as described in this Agreement, by Customer and by DTN is allowed under the applicable laws and legislation and that a valid legal basis for processing applies.

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- 7.2 **Data.** Except for personally identifiable information, DTN exclusively owns all right, title and interest in and to all Licensed Data and Customer irrevocably assigns to DTN all right, title and interest in and to such Licensed Data. DTN may freely use or exploit such Licensed Data for any lawful purposes, in its sole discretion. DTN shall retain ownership of Derived Data, provided that: (i) Customer shall have a non-exclusive, perpetual license and right to use the Derived Data solely for Customer's own internal business purposes; and (ii) DTN shall not use Derived Data for any purpose other than to perform or improve the Services. Customer shall not utilize the Derived Data in any manner, or for any purpose, that would directly or indirectly compete with DTN or the Services, or publish or otherwise distribute any Derived Data to any third party without the express written consent of DTN. DTN shall have the right to aggregate Customer Data with the data or information of any other sources (collectively, the "Aggregated Data"). To the extent such Aggregated Data includes any Customer Data, Customer hereby grants to DTN a perpetual, worldwide, irrevocable license to use, reproduce, store, modify, develop, create derivative works of, publish, display, license, market, commercialize, sell and transmit such Customer Data, in DTN's reasonable discretion; provided, that DTN shall in all cases refrain from any external use of Aggregated Data in a manner that reveals or allows to be inferred the identity of Customer, any User, or any specific person.
- 7.3 **No Sensitive Information.** Customer shall not transmit or send to DTN or use the Services or Equipment to collect, process or store any Sensitive Information. The term "Sensitive Information" may include, but is not limited to, any of the following: (i) any "Protected Health Information" (as defined under the Health Insurance Portability and Accountability Act of 1996, as amended, and including its implementing regulations, as amended; (ii) any social security number, passport number, military number, driver's license number, individual taxpayer identification number or other government-issued identification number; (iii) any payment card data, financial account numbers or "non-public personal information," as defined by the Gramm-Leach-Bliley Act (Pub. L. 106-102) and any of its implementing regulations or guidelines; (iv) any information which could be construed as "special categories of personal data" under any applicable EU Data Protection Laws (including the GDPR or any applicable national law or legislation implementing the GDPR); or (v) any other similar sensitive or restricted information under any other applicable laws or regulations.

8. TERM AND TERMINATION

- 8.1 **Term.** This Agreement commences on the effective date and continues until terminated in accordance with the terms set forth herein. Unless otherwise specified on the applicable Order, the Term of each Order shall commence on the effective date specified therein ("**Contract Start Date**") and continue for a period of one (1) year and, thereafter, shall renew automatically for successive one (1) year period(s) unless a Party provides the other Party with a notice of non-renewal at least ninety (90) days prior to the expiration of the then-current Term.
- 8.2 **Termination for Cause.** If a Party materially breaches any provision of this Agreement or Order and fails to remedy the breach within thirty (30) days of receipt of written notice from the non-breaching Party, the non-breaching Party may terminate this Agreement and/or any Order adversely affected by the breach. Termination under this Section 8.2. does not limit either Party from pursuing any other remedies available to the Party, including, but not limited to, injunctive relief. Any breach of Sections 11.5. (Sanctions) and 11.6. (Federal Governmental End Use Conditions) shall be a material breach of this Agreement. In addition to any other rights and remedies under this Agreement, DTN may, in its sole discretion, suspend Customer's access to the Services if DTN determines that (i) Customer's use of the Services or any Customer-provided Data is, or may be or become, illegal or objectionable and/or compromises the integrity and/or security of the Services; or (ii) a threat to the safety or security of the Services is imminent. DTN will promptly restore such access to the Services upon a satisfactory resolution of the event which gave rise to the suspension, if such event is capable of resolution.
- 8.3 **Additional Termination Rights.** Either Party may terminate this Agreement upon written notice to the other Party in the event (i) the other Party files a petition for bankruptcy or is adjudicated a bankrupt; (ii) a petition in bankruptcy is filed against the other Party and the petition is not dismissed within thirty (30) calendar days; (iii) the other Party becomes insolvent or makes an assignment for the benefit of its creditors or an arrangement for its creditors pursuant to any bankruptcy or other similar law; (iv) the other Party discontinues its business; or (v) a receiver is appointed for the other Party or its business. In addition to the foregoing, DTN may immediately terminate this Agreement upon written notice to Customer in the event of Customer's breach of Section 2, 3, 6 or 7.
- 8.4 **Survival.** In the event of any termination or expiration of this Agreement for any reason, all provisions of this Agreement whose meaning requires them to survive will survive the expiration or termination of this Agreement.

- 8.5 **Effects of Termination.** Upon termination, each Party shall (i) immediately destroy or return to the other Party all of such other Party's Confidential Information then in such Party's possession, in accordance with Section 6.1.; and (ii) promptly certify to the other Party that it has done so. Termination of this Agreement shall operate to terminate all then-outstanding Orders. The termination of this Agreement or Order shall not relieve Customer of its liability to pay any amounts due to DTN hereunder. Upon the termination of this Agreement or any Order, all rights and licenses granted thereunder shall likewise terminate. In case of Customer's failure to pay the rental fees when due for any Equipment, or in the event of DTN's termination of this Agreement or an Order in accordance with Section 8.2. or 8.3., DTN may take possession of the Equipment, with or without process of law (and for this purpose, may enter upon any premises of Customer without liability for suit, action, or other proceeding by Customer and remove the same), and thereupon all of Customer's rights in the Equipment shall cease and terminate. Any repossession or resale of any item of Equipment shall not bar an action for a deficiency by DTN against Customer, and the bringing of an action or the entry of judgment against Customer shall not bar DTN's right to repossess any or all items of Equipment.

9. INDEMNIFICATION

- 9.1 **Customer.** Customer shall defend, indemnify and hold DTN (including its directors, officers, employees, licensors, suppliers, agents, successors and assigns) harmless from and against all actions, claims, damages, costs, expenses or liabilities (including reasonable attorneys' fees) arising out of (i) a breach by Customer of any of Customer's representations, warranties, covenants or obligations under this Agreement; or (ii) any violation of applicable law by Customer.
- 9.2 **DTN.** DTN shall defend, indemnify and hold Customer (including its directors, officers, employees, licensors, suppliers, agents, successors and assigns) harmless from and against any claim, suit or proceeding brought against Customer by an unaffiliated third-party alleging that the Services, as provided by DTN to Customer, infringe a valid copyright, patent, trademark or trade secret, provided that DTN will have no obligations or other liability under this Section 9.2. to the extent the claim, suit or proceeding arose from: (i) Customer's or any User's negligence or unauthorized use of the Services; (ii) any modification to the Services not performed by DTN; or (iii) any combination of the Services with any materials, products or services not provided by DTN. If such a claim is or is likely to be made, DTN may, in its reasonable discretion: (i) obtain for Customer the right to continue to use the Services consistent with this Agreement and the applicable Order; (ii) modify the Services so they are non-infringing and in compliance with this Agreement and the applicable Order; or, if (i) or (ii) are not commercially feasible, (iii) terminate this Agreement or the applicable Order and refund to Customer any prepaid Fees for the affected Services, prorated to the number of months remaining in the then-current Term. THE FOREGOING STATES THE ENTIRE OBLIGATION OF DTN, ITS LICENSORS, SOURCES AND ITS SUPPLIERS, AND THE SOLE AND EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY CLAIM OF INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS.
- 9.3 **Indemnification Procedure.** The Party claiming indemnification shall: (i) notify the indemnifying Party of any claim in respect of which the indemnity may apply; (ii) relinquish control of the defense of the claim to the indemnifying Party; and (iii) provide the indemnifying Party with all assistance reasonably requested in defense of the claim. The indemnifying Party shall be entitled to settle any claim without the written consent of the indemnified Party so long as such settlement only involves the payment of money by the indemnifying Party and in no way affects any rights of the indemnified Party.

10. LIMITATION OF LIABILITY

- 10.1 **Disclaimer of Damages.** SUBJECT TO SECTION 10.3, NEITHER PARTY SHALL BE LIABLE, UNDER ANY CIRCUMSTANCES FOR SPECIAL, PUNITIVE, INDIRECT, EXEMPLARY, CONSEQUENTIAL OR INCIDENTAL DAMAGES, OR FOR ANY LOST DATA OR LOST PROFITS, COST OF CAPITAL, COST OF COVER, OR SERVICE INTERRUPTIONS, FROM THE USE OF OR INABILITY TO USE THE EQUIPMENT OR THE SERVICES, REGARDLESS OF WHETHER THE DAMAGES WERE FORESEEABLE OR WHETHER A PARTY HAD BEEN ADVISED OF THE POSSIBILITY OF DAMAGES. THESE EXCLUSIONS SHALL APPLY EVEN IN THE EVENT OF A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.
- 10.2 **Monetary Cap.** SUBJECT TO SECTION 10.3, NEITHER PARTY'S AGGREGATE LIABILITY TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY CLAIMS, LOSSES, INJURIES, SUITS, DEMANDS, JUDGMENTS, LIABILITIES, COSTS, EXPENSES OR DAMAGES FOR ANY CAUSE WHATSOEVER (INCLUDING, BUT NOT LIMITED TO, THOSE ARISING OUT OF OR RELATED TO THIS AGREEMENT), REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, MUST NOT EXCEED THE TOTAL FEES PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE ORDER GIVING RISE TO SUCH ACTION DURING THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. FOR AVOIDANCE OF DOUBT, THE FOREGOING LIMITATION SHALL NOT OPERATE TO LIMIT OR REDUCE CUSTOMER'S OBLIGATION TO PAY FEES IN ACCORDANCE WITH SECTION 4 ABOVE.

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- 10.4
- Allocation of Risk.** THE LIMITATIONS OF LIABILITY REFLECT THE ALLOCATION OF RISK BETWEEN THE PARTIES. THE LIMITATIONS SPECIFIED IN THIS SECTION 10 SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.
11.
- GENERAL**
- 11.1
- Choice of Law and Venue; Prevailing Party.** This Agreement is and shall be construed and enforced solely in accordance with the laws of the United States of America and of the State of Delaware, U.S.A. without regard to its conflict of laws provisions, and the Parties agree that in any dispute exclusive jurisdiction and venue must be in the state and federal courts in the State of Delaware, U.S.A. The Parties mutually acknowledge and agree that they will not raise, and hereby waive, any defenses based upon venue, inconvenience of forum or lack of personal jurisdiction in any action or suit brought in accordance with this provision. The Parties acknowledge and agree that neither the Uniform Computer Information Transactions Act nor the United Nations Convention for the International Sale of Goods shall apply to this Agreement. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover its reasonable costs and attorneys' fees.
- 11.2
- Jury Trial Waiver.** TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE PARTIES KNOWINGLY AND WILLINGLY WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY FOR ANY CLAIM, CONTROVERSY OR CAUSE OF ACTION BASED UPON OR RELATED TO THIS AGREEMENT, ANY ORDER OR WITH RESPECT TO ANY OF THE TRANSACTIONS CONTEMPLATED HEREBY.
- 11.3
- Force Majeure.** Except for the obligations to pay monies when due, if either Party is delayed or prevented from performing under this Agreement as a result of any cause beyond its reasonable control, including natural disaster, pandemic, fire, flood, riots, acts of war, terrorism or insurrection, unusually severe weather, Acts of God, labor disputes and governmental regulations, denial of service attack or the failure or outage of any internet, network or telecommunication infrastructure (a "Force Majeure Event"), the delay shall be excused during the continuance of, and to the extent of, such cause, and the period of performance shall be extended to the extent necessary to allow performance after the Force Majeure Event has been removed.
- 11.4
- Compliance With Law.** Each party agrees to comply with all laws applicable to its performance under this Agreement and its general business operations including, but not limited to, all applicable anti-bribery and anti-corruption laws, including the U.S. Foreign Corrupt Practices Act and the UK Bribery Act.
- 11.5
- Sanctions.** The Services and Equipment may be subject to Sanctions. Customer shall not export, re-export or release, directly or indirectly, or otherwise use the Services and Equipment in or to any country or jurisdiction to which the export, re-export or release of the same (i) is prohibited by Sanctions applicable to either DTN or Customer); and (ii) without first obtaining any licenses and permits which may be required under applicable Sanctions. Customer represents and warrants that it is not owned or controlled by any person or entity on any Sanctions List. (a) "Sanctions" means any laws or regulations relating to economic or financial sanctions, export controls, trade embargoes or restrictive measures from time to time imposed, administered or enforced by a Sanctions Authority; (b) "Sanctions Authority" means any governmental authority with jurisdiction over DTN or Customer or any part of their respective business or operations, and in each case their respective governmental, judicial or regulatory institutions, agencies, departments and authorities; and (c) "Sanctions List" means any of the lists issued or maintained by a Sanctions Authority designating or identifying individuals or entities that are subject to Sanctions, in each case as amended, supplemented or substituted from time to time.
- 11.6
- Federal Governmental End Use Conditions.** This section only applies where and to the extent that the laws and legislation referred to in this section are applicable. DTN provides the Services and Documentation, and any related software and technology, for ultimate federal government end use solely in accordance with the following conditions: any government technical data and software rights related to the Services or Documentation includes only those rights customarily provided to the general public, as further specified in this Agreement. The foregoing license is provided in accordance with specific sections of the Federal Acquisition Regulation (FAR) including FAR 12.211 and FAR 12.212 and, as applicable to any transaction with the Department of Defense, the Defense Federal Acquisition Regulation Supplement (DFARS) including DFAR 252.227-7015 and DFAR 227.7202-3. To the extent any governmental agency needs rights not otherwise granted under this Agreement, it must negotiate with DTN to allow for a determination as to whether there are terms and conditions which are acceptable for granting such requested rights and, if so, any such additional terms and conditions must be set forth in a mutually agreeable written addendum to this Agreement.
- 11.7
- Independent Contractors; No Third-Party Beneficiaries.** The relationship between the Parties is that of independent contractors. Nothing in this Agreement shall be construed as creating any agency or other form of joint venture, partnership, joint venture, or other relationship between the Parties or between the Parties and any third party.

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- 11.8 **Injunctive Relief.** Unless otherwise specified in this Agreement, all rights, remedies and powers of a Party are irrevocable and cumulative, and not alternative or exclusive, and are in addition to all other rights, remedies and powers given under this Agreement or any laws now existing or subsequently enacted. Customer acknowledges and agrees that if it breaches any of the licensing or confidentiality obligations under this Agreement, DTN may suffer immediate and irreparable harm for which monetary damages alone are not a sufficient remedy, and that, in addition to any other remedies DTN may have, DTN is entitled to seek injunctive relief, specific performance or any other form of relief in a court of competent jurisdiction, including, but not limited to, equitable relief, to remedy the breach or threatened breach by Customer and to enforce this Agreement.
- 11.9 **Publicity and Use of Trademarks.** Neither Party shall issue or release any statement or other marketing materials relating to this Agreement or, unless expressly permitted under this Agreement, otherwise use the other Party's trademarks or logos without the prior written consent of the other Party; provided, however, that DTN may include Customer's name, logo and/or trademarks in its lists of current and/or former customers and in promotional and marketing materials.
- 11.10 **Assignment; Subcontractors.** Customer may not assign this Agreement without the express written permission of DTN. Any purported assignment by Customer in violation of the preceding sentence shall be void and of no effect. DTN may assign this Agreement upon written notice to Customer. Subject to the foregoing, this Agreement will inure to the benefit of, and will be binding upon, the Parties hereto and their respective successors and permitted assigns. DTN may subcontract any of its obligations under this Agreement to any third party; provided, however, that DTN will be responsible for the performance of any such subcontractor and their compliance with DTN's obligations as required under this Agreement.
- 11.11 **Integrated Agreement.** This Agreement and all executed Order(s) constitute the complete integrated agreement between the Parties concerning the subject matter contained in this Agreement. All prior and contemporaneous agreements, understandings, negotiations or representations, whether oral or in writing, relating to the subject matter of this Agreement are superseded and canceled in their entirety.
- 11.12 **Waiver.** No waiver of any provision of this Agreement may be deemed or constitute a waiver of any other provision of this Agreement, nor may any waiver constitute a continuing waiver unless otherwise expressly provided in writing. The failure of either Party to enforce at any time any of the provisions of this Agreement, or the failure to require at any time performance by either Party of any of the provisions of this Agreement, may in no way be construed to be a present or future waiver of provisions or in any way affect the ability of a Party to enforce each and every provision after such event.
- 11.13 **Severability.** If any provision of this Agreement is invalid, void or unenforceable, whether adjudged by a court or otherwise, the Parties agree that the remaining provisions of this Agreement will not be affected by such determination, that the provision in question must be replaced by the lawful provision that most nearly embodies the original intention of the Parties and that this Agreement will in any event otherwise remain valid and enforceable.
- 11.14 **Notices.** All legal notices required or permitted hereunder must be in writing and shall be deemed to have been duly given (i) when received, if personally delivered; or (ii) upon written verification or receipt, if sent by overnight courier or mailed by certified or registered mail, return receipt requested. Notices shall be sent to the other Party at the address set forth on the applicable Order, or to the address as either Party furnishes to the other Party in writing pursuant to this Section. Notwithstanding the foregoing, DTN may send certain administrative, billing or operational notices regarding the Services or Equipment to Customer or an individual User via e-mail or by posting of a notification within the Service.
- 11.15 **Interpretation.** If an ambiguity or question of intent arises, this Agreement will be construed as if drafted jointly by the Parties, and no presumption or burden of proof will arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.
- 11.16 **Order of Precedence.** This Agreement comprises: (a) these Terms of Service; (b) the Order; (c) any applicable Addendum and (d) any agreed Exhibits, Appendices or Schedules to the Order. In the event of any conflict between the terms of this Agreement, they shall prevail in accordance with the order set out in the preceding sentence. Sections in this Agreement may be expressly modified in an applicable Order; the modification must specifically state that it amends and modifies the specific Sections in this Agreement.

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