



ANX[®] Trading Partner Contract

Returned Signed Agreement To: ANXeBusiness Customer Care Center, 2000 Town Center, Suite 2050, Southfield, MI 40875-1135 USA; Fax No. (509) 461-4637

This ANX[®] Trading Partner Contract (the "Agreement") is entered into, effective as of the "Contract Date" set forth below, by and between ANXeBusiness Corp., a Delaware corporation ("ANXeBusiness") and the party named below as "Customer". [ANX[®] and the ANXeBusiness logo are trademarks of an affiliate of ANXeBusiness Corp.]

Each party warrants that their respective representative who signs below, is duly authorized by all necessary and appropriate action to execute this Agreement.

Customer:

ANXeBusiness:

ANXeBusiness Corp.

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

CONTRACT DATE: _____

ANX CONTRACT NUMBER: _____

CUSTOMER'S GENERAL INFORMATION:

Full Company Legal Name: _____

State/Province of Incorporation: _____

Address: _____

Address: _____

City, State/Province, Zip/Postal Code, Country: _____

Phone No.: _____

Fax No.: _____

Preferred ANX Directory Listing of Company Name: _____

CUSTOMER'S PRIMARY* CONTACT:

Contact Name/Title: _____

Address: _____

Address: _____

City, State/Province, Zip/Postal Code, Country: _____

Phone No.: _____

Fax No.: _____

Email: _____

* Customer agrees that if the Primary Contact designated by Customer changes, Customer shall provide ANXeBusiness with written notice within thirty (30) days of such change.

CUSTOMER'S BILLING CONTACT:

Contact Name/Title: _____

Address: _____

Address: _____

City, State/Province, Zip/Postal Code, Country: _____

Phone No.: _____

Fax No.: _____

Email: _____

Check this box with an "X" if you are an ANX Trading Partner Parent Company and you wish to have a separate ANX Interface for one or more subsidiaries. Please complete the following information for each subsidiary. Attach a separate sheet for more than one subsidiary.

SUBSIDIARY'S PRIMARY* CONTACT:

Full Company Legal Name: _____
State/Province of Incorporation: _____
Address: _____
Address: _____
City, State/Province, Zip/Postal Code, Country: _____
Phone No.: _____
Fax No.: _____
Preferred ANX Directory Listing of Company Name: _____

* Customer agrees that if the Primary Contact designated by Customer changes, Customer shall provide ANXeBusiness with written notice within thirty (30) days of such change.

SUBSIDIARY'S BILLING CONTACT:

Contact Name/Title: _____
Address: _____
Address: _____
City, State/Province, Zip/Postal Code, Country: _____
Phone No.: _____
Fax No.: _____
Email: _____

TERMS AND CONDITIONS

1. **DEFINITIONS.** All terms not otherwise defined herein shall have the meaning defined in the ANX Document. The terms and conditions of the ANX Document are incorporated herein by reference.

1.1 "Affiliate" means any entity that directly, or indirectly through one or more intermediaries, controls or is controlled by, or is under common control with, the entity specified.

1.2 "ANX Document" means the ANX Network specification documentation, referred to as "ANX Release 1 Document Publication" or "Tel 2", and any corrections, updates and new releases to such document as may be published by ANXeBusiness.

1.3 "ANX Interface" means a physical or logical connection between Customer and an ANX CSP under the ANX Document.

1.4 "ANX Network" means that certain managed, global, multiprovider, private network managed by ANXeBusiness.

1.5 "ANX Subscription Criteria" means ANX Subscription Assessment Requirements together with the ANX Subscription Ongoing Requirements, as described in the ANX Document.

1.6 "ANX Services" collectively means the ANX Registration Services and the ANX Subscription Services, as respectively described in Sections 2.2 and 2.3 below.

1.7 "ANX Website" means the ANX website identified by the URL "www.anx.com".

1.8 "Billing Date" means the Billing Date reflected on the initial ANXeBusiness invoice applicable to a given ANX Interface.

1.9 "Billing Year" means each twelve (12) month period during the term of this Agreement which begins with a given Billing Date or an anniversary thereof.

1.10 "Contract Date" is the date defined on the first page hereof.

1.11 "Customer Network" means any equipment, system, hardware, software, firmware, or combination or component of the Internet Protocol network, which is submitted by Customer to ANXeBusiness for ANX Subscription Assessment.

2. **ANX SERVICES SUMMARY.**

2.1 ANX Registration Services. ANXeBusiness shall perform certain services to qualify Customer for ANX Registration as provided for in the ANX Document.

2.2 ANX Subscription Services. ANXeBusiness shall perform certain services to assess Customer's compliance with ANX Subscription Criteria and to qualify Customer for ANX Subscription, as provided for in the ANX Document.

2.3 ANX Subscription Reassessment. To maintain an ANX Subscription for the ANX Network, Customer shall, if the ANX Subscription Criteria has changed, submit for a new ANX Subscription Assessment with respect to the changed ANX Subscription Criteria. ANXeBusiness reserves the right, at any time and upon notice, which notice may be through a posting on the ANX Website, to correct errors and omissions and make updates to the ANX Document, and change the ANX Subscription Criteria or requirements in the ANX Document, as the ANX Network requirements and industry standards change or evolve, and as required, in the discretion of ANXeBusiness, for purposes of public and network safety; provided, however, that "release level changes" (which means the issuance of a new release of the ANX Document that substantially supersedes the prior release) shall be limited to no more frequently than once per calendar year.

2.4 Related Entities. ANX Registration shall enable Customer and all of its Affiliates to proceed with the ANX Subscription process. Customer acknowledges that Customer and each of its Affiliates who wish to become ANX Subscribed must separately undergo the ANX Registration and ANX Subscription process.

2.5 Schedule of Services. ANXeBusiness shall exercise reasonable efforts to meet the schedule of services, as set forth in the ANX Document, but shall not be responsible for delays attributable to Customer or any third party.

3. **FEES AND PAYMENTS.**

3.1 Fees and Expenses. Customer shall pay ANXeBusiness: (i) the non-proratable, non-refundable fees set forth in the most recent edition of the ANX Fee Schedule; (ii) and additional fees and charges quoted by ANXeBusiness for other products and/or services ordered by Customer.

3.2 Billing. The fees for the ANX Services shall be invoiced after the Contract Date, prior to ANXeBusiness completing the ANX Services. All fees and charges

for other product and services ordered by Customer shall be billed to Customer as agreed upon by the parties. Customer shall pay all invoiced amounts within thirty (30) days of receipt of an ANXeBusiness invoice.

3.3 **Payments.** All invoices shall be paid to ANXeBusiness Corp. and remitted by mail or wire transfer pursuant to the instructions set forth on the invoice.

3.4 **Taxes.** Customer shall pay when due or promptly reimburse ANXeBusiness for all sales, use and excise or similar taxes or levies related to this Agreement, exclusive, however, of taxes based on ANXeBusiness' income.

3.5 **Adjustment to Fees.** ANXeBusiness reserves the right to adjust future fees for the ANX Services upon thirty (30) days prior notice to Customer; provided that ANXeBusiness shall only increase such fees once per Billing Year.

4. **INTELLECTUAL PROPERTY.** ANXeBusiness retains all right, title and interest in the ANX Services, the ANX Network, the ANX Document and other related intellectual property related thereto, contained therein and newly created in the future; provided, however, ANXeBusiness shall not thereby acquire any right, title or interest in Customer's proprietary information which may be transmitted through the ANX Network.

5. **ANXBUSINESS' ROLE.** No conclusion or information contained in any document prepared by ANXeBusiness or other statement made by any ANXeBusiness employee or consultant, in connection with the ANX Services provided under this Agreement, is intended to be, nor will it be construed to be, any advice or suggestion to Customer to modify or change, or to continue or discontinue in the development, use, or marketing of any product or service or any other equipment or system of Customer. Such actions are solely and wholly Customer's responsibility and risk.

6. **CUSTOMER DUTIES.**

6.1 **Cooperation.** During the course of the work, Customer shall (i) provide ANXeBusiness with documentation and information as may be required to perform the ANX Registration and Subscription Services, and (ii) be responsible for providing trained staff to assist as necessary and to answer questions that may arise while the ANX Registration and Subscription Services are being provided.

6.2 **ANX Change Notification.** Customer shall provide ANXeBusiness with a revised ANX Subscription Form within ten (10) business days of any change to its ANX CSP connection agreement including, without limitation, any change to its connection bandwidth.

6.3 **Connection to the ANX Network.** Customer agrees that it shall not connect to the ANX Network except pursuant to terms of the ANX Document and this Agreement or a renewal or replacement of this Agreement. Customer further agrees that it will not connect to the ANX Network other than through an ANX CSP who is listed as "ANX Certified" on the ANX Directory. Notwithstanding the foregoing, in the event that Customer's ANX CSP ceases to be "ANX Certified" and becomes listed as "ANX Certification Revoked", Customer is nevertheless authorized to receive ANX connection services from such "ANX Certification Revoked" ANX CSP during such ANX CSP's required ninety (90) day wind-down period.

6.4 **Transmission.** Customer further agrees that within five (5) business days following receipt of notice from ANXeBusiness that a given ANX Trading Partner's status is no longer listed as "ANX Subscribed", Customer shall cease transmission to such ANX Trading Partner over the ANX Network. Customer acknowledges that (i) no ANX CSP will permit Customer to exchange ANX Traffic until Customer is listed as "ANX Subscribed" in the ANX Directory, and that (ii) within five (5) business days following receipt by Customer's ANX CSP of notice from ANXeBusiness that Customer's status is no longer listed as "ANX Subscribed", Customer's ANX CSP shall cease transmission of Customer's data over the ANX Network.

7. **WARRANTY AND REMEDIES; NO WARRANTY.**

7.1 **Warranty and Remedies.** ANXeBusiness warrants that the ANX Services shall be performed in a professionally diligent manner and that all test results and analyses performed hereunder for Customer shall be accurate for the particular sample analyzed. THE FOREGOING IS A LIMITED WARRANTY AND ANXBUSINESS MAKES AND CUSTOMER RECEIVES NO OTHER WARRANTY, EXPRESS OR IMPLIED. ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY EXCLUDED. ANXeBusiness' sole obligation and Customer's sole remedy under the foregoing limited warranty is the repeat of the inaccurate portion of the ANX Services at no charge to Customer.

7.2 **No Warranty.** Customer acknowledges and agrees that the connection to the ANX Network is provided by ANX CSPs, that Customer must enter into a separate agreement with an ANX CSP of its choice for ANX Network connection

and related services, and ANXeBusiness does not provide any warranty with respect to such ANX Network connection and related services, even if ANXeBusiness facilitates the execution of such agreement between Customer and the ANX CSP. All responsibility for such connection and services shall lie with Customer and Customer's chosen ANX CSP, equipment, and software vendors and suppliers. Further, ANXeBusiness does not assume any liability to Customer with respect to the quality or sufficiency of any business results to be achieved by the use of the ANX Services or the ANX Network.

8. **LIMITATION OF LIABILITY.**

8.1 **Limited Liability.** ANXeBusiness shall have no liability to Customer, exceeding that specified in Section 8.2 below, in contract, tort, strict liability or otherwise with respect to any loss or damage to Customer, the ANX Network or Customer Network, or any written or oral statement, information, comment or conclusion made in good faith by or on behalf of ANXeBusiness in connection with the ANX Services. In no event shall either party be liable to the other for any indirect, incidental, special or consequential damages including, but not limited to, lost business, lost profits and other economic damages, whether foreseeable or not, even if advised of the possibility of such damages.

8.2 **Liability Not to Exceed Amounts Paid.** Except for the additional limitation on liability relating to any ANX Network or Customer Network interruption set forth in Section 8.3 below, ANXeBusiness' total liability, if any, to Customer or to any third party for claimed loss or damage under this Agreement or in any way relating to or arising from Customer's use of the ANX Network shall not exceed the amount actually paid by Customer to ANXeBusiness under this Agreement during the twelve (12) months preceding such claimed loss or damage.

8.3 **Network Unavailability.** ANXeBusiness' liability, if any, resulting from any act or omission by ANXeBusiness causing any interruption or degradation of the ANX Network and/or Customer Network shall not exceed an amount equal to the pro-rated annual ANX Subscription Fee Customer has paid for the actual period of time Customer's access to the ANX Network or Customer Network was interrupted or degraded to a degree which prevented accurate transmission of data by Customer.

9. **TERM AND TERMINATION.**

9.1 **Contract Term.** The term of this Agreement shall: (i) begin on the Contract Date; (ii) continue for each ANX Interface for twelve (12) months after its respective Billing Date; and (iii) renew automatically for each ANX Interface on the anniversary of its Billing Date for additional twelve (12) month terms unless notice of non-renewal of that ANX Interface is received at least thirty (30) days prior to its next Billing Date anniversary.

9.2 **Termination for Cause.** In the event Customer (i) fails to meet the ANX Subscription Ongoing Requirements Criteria as set forth in the ANX Document, (ii) fails to pay when due any fee required by the terms of this Agreement, or is otherwise in material breach of this Agreement, and such failure continues for a period of thirty (30) days following the receipt of written notice from ANXeBusiness, or (iii) becomes bankrupt or insolvent, or ceases the active conduct of its business, then, without prejudice to any other rights which ANXeBusiness may have, ANXeBusiness may terminate this Agreement, revoke the Customer's "ANX Subscribed" status on the ANX Directory, and instruct the ANX Certificate Authority Service Provider to revoke all of Customer's ANX Certificates. Customer shall then cease transmitting over the ANX Network. Upon the effective date of termination under this Subsection, Customer's ANX CSP shall cease transmitting Customer's data over the ANX Network.

9.3 **Termination for Convenience.** Customer may terminate this Agreement for any reason upon thirty (30) days' written notice to ANXeBusiness, whereupon: (i) Customer shall cease transmitting over the ANX Network; (ii) Customer shall pay in full all outstanding ANXeBusiness invoiced amounts; and (iii) Customer shall not receive any refund of fees paid hereunder.

10. **GENERAL.**

10.1 **Publicity.** Unless otherwise provided for in this Agreement, nothing contained herein will be construed as conferring upon either party, expressly or by implication, any right or license to use in advertising, publicity, promotion, marketing, or other similar activity, any name, trade name, trademark, or other designation including any abbreviation, contraction, or simulation of the other except as set forth in this Agreement; provided, however, Customer agrees that upon Customer becoming an ANX Participant, ANXeBusiness may publish Customer's name in the ANX Directory as an ANX Subscribed Trading Partner.

10.2 **Notices.** All notices, requests, demands or other communications by the parties, other than routine operation communications under this Agreement, required or permitted to be given by one party to the other shall be given in writing by personal delivery or sent (postage prepaid with return receipt or delivery

confirmation requested) by registered mail, certified mail, or express mail delivery, and shall be delivered addressed to such other party at the address specified below or at such other address as either party may notify the other from time to time in accordance with the Section. Such notices, requests, demands or other communications shall be deemed to have been received: (i) if personally delivered, upon delivery; or (ii) if sent by registered, certified mail or express mail delivery, upon delivery thereof as evidenced by such return receipt or delivery confirmation.

ANXeBusiness Contact Information:

ANXeBusiness Customer Care Center
2000 Town Center
Suite 2050
Southfield, MI 48075-1135

Customer Contact Information: To Customer's Primary Contact set forth on the first page of this Agreement.

10.3 Assignment.

10.3.1 Customer shall not assign this Agreement without the prior written consent of ANXeBusiness; provided, however, upon at least thirty (30) days prior written notice to ANXeBusiness, Customer may assign all, but not less than all of its rights and obligations under this Agreement to any Affiliate, or to an entity that through, merger, consolidation or asset purchase, has acquired substantially all of the business and assets of Customer. This Agreement shall be binding upon and enure to the benefit of each Party's respective successors and permitted assigns.

10.3.2 ANXeBusiness may assign this Agreement to any successor. From and after the effective date of such assignment ANXeBusiness shall have no further liability, primary, secondary, direct, indirect or otherwise to Customer and Customer shall look to the assignee for all obligations of ANXeBusiness hereunder.

10.4 No Forwarding of Traffic from External Networks. Customer acknowledges and agrees that Customer's rights hereunder and its receipt of ANX Services are personal to Customer, assignable only to the extent provided in Section 10.2 above, and that Customer shall not provide any other entity access to the ANX Network by any means or methods such as, but not limited to, forwarding traffic from external networks (via store and forward, direct pass through, time-delay, mailboxing, or any other manner), or acting as a service bureau for other entities.

10.5 Excusable Delay. Neither party will be liable for any failure of or delay in performance of its obligations under this Agreement (other than failure to pay money when due) to the extent such failure or delay is due to circumstances beyond its reasonable control, including, without limitation, acts of God, acts of a public enemy, fires, floods, wars, civil disturbances, sabotage, accidents, insurrections, blockades, embargoes, storms, explosions, labor disputes, acts of any governmental body, failure or delay of third parties (including subcontractors) or governmental bodies from whom a party is obtaining or must obtain approvals, franchises, or permits, or inability to obtain labor, materials, equipment, or transportation, power shortage or blackouts, equipment failure or breakdown, or failure of communications infrastructures (including but not limited to telephone and telecommunications lines and networks, servers, firewalls, proxies, routers, switches, and bridges), (the foregoing collectively referred to herein as "Excusable Delay"). Each party will use its best efforts to minimize the duration and consequences of any failure of or delay in performance resulting from an Excusable Delay event.

10.6 Announcements. Customer acknowledges that ANXeBusiness may publish Customer's name in the ANX Directory and in announcements that identify Customer as an ANX Trading Partner.

10.7 Relationship of the Parties. The relationship of the Parties created by this Agreement is that of independent contractor and not that of employer/employee, principal/agent, partnership, joint venture or representative of the other. Neither Party shall represent to third parties that it is the representative of the other in any manner or capacity whatsoever.

10.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan without giving effect to choice of law provisions.

10.9 Limitation on Actions. No action arising out of this Agreement, regardless of form, may be brought by either party more than one (1) year (or two (2) years for non-payment by Customer) after the cause of action has accrued.

10.10 Waiver. The failure of either party at any time to enforce any of the provisions of this Agreement or any right under this Agreement, or to exercise any option provided, will in no way be construed to be a waiver of such provisions, rights, or options, or in any way to affect the validity of this Agreement, and shall not

preclude or prejudice the exercising of the same or any other right under this Agreement.

10.11 Severability. If any provision or portion of a provision of this Agreement is held invalid or unenforceable, the remainder of the Agreement shall not be affected, and the remaining terms will continue in effect and be binding on the parties, provided that such holding of invalidity or unenforceability does not materially affect the essence of this Agreement.

10.12 Survival. The terms and conditions of this Agreement regarding, payment, warranties, liability and all others that by their sense and context are intended to survive the execution, delivery, performance, termination or expiration of this Agreement, survive and continue in effect.

10.13 Construction of Certain Terms and Phrases; Section Headings. Unless the context of this Agreement otherwise requires: (i) words of any gender include each other gender; (ii) words using the singular or plural number also include the plural or singular number, respectively; (iii) the terms "hereof," "herein," "hereby" and derivative or similar words refer to this entire Agreement. Section headings are for convenience only and will not be construed as a part of this Agreement.

10.14 Execution in Counterparts, Facsimiles. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument. This Agreement shall become binding when any one or more counterparts hereof, individually or taken together, bear the signatures of both parties hereto. For the purposes hereof, a facsimile copy of this Agreement, including the signature pages hereto, shall be deemed an original.

10.15 Entire Agreement. This Agreement, including all exhibits, schedules or appendices attached hereto and the relevant portions of the ANX Document, constitute the complete and exclusive statement of the terms hereof, and supersede all prior oral and written statements of any kind made by the parties or their representatives with respect to the subject matter hereof. It is expressly agreed that if Customer issues a purchase order or other document for ANX Managed Services and/or in connection with this Agreement, such instrument will be deemed to be for Customer's internal use only and any provisions contained therein shall not amend or be used in interpreting this Agreement. This Agreement may only be changed or supplemented by a written amendment signed by authorized representatives of the parties.