KDDI America
Private Cloud Service Master Agreement

Contents

1. Preamble

This KDDI America Private Cloud Service ("KPCS") Master Agreement (hereinafter referred to as the "Agreement") is entered into by and between the Party(s) identified below (the "Customer") and KDDI America, Inc. (the "KDDI"). KPCS is a cloud platform related service, provided by KDDI America, Inc., subject to the terms and conditions set forth herein, including all attachments referenced herein. This document contains the applicable terms and conditions and describes the service specifications of the KPCS (hereinafter referred to as the "Service(s)"), which KDDI America, Inc. ("CSP, KAM and/or KDDI") provides. A company purchasing the Services and/or its authorized service user(s) are hereinafter collectively referred to as the "Customers".) who have an address in the United States shall be a service recipient. This Agreement may be modified, amended and revised from time to time by KDDI, in its sole discretion, and without any approval from Customer.

KDDI shall provide the Service(s), subject to the terms and conditions stated herein, and the Customer shall accept and pay for all the Services subscribed to by the Customer in any and all "Applications for Service", hereinafter submitted by Customer to KDDI. The Services shall be provided subject and pursuant to the terms and conditions of this Agreement, as modified, amended and revised from time to time (hereinafter collectively referred to as the "Agreement"), and those terms and conditions of any applicable Application for Service.

2. Definitions

Terms	Explanation
Resource	The computing and network resources which are used by Customers on this cloud systems. Specifically, it refers to the CPU, memory, disk, IP address, etc. allocated to the virtual machine.
AS	Autonomous System. One network operated with a common policy.
EBGP	External Border Gateway Protocol. Routing protocol used for advertisement and receipt of routing information
VPN GW	A gateway on the cloud system side to build an IPsec tunnel with a Customer's device outside the cloud system and provide encrypted secure communication.
Subscription	A business model in which you can receive a specific service by paying a fixed fee. It is the right to use the Microsoft Azure service.
CSP	Cloud Service Provider.
IaaS	Infrastructure as a Service, a type of cloud service model. Resources are provided by cloud providers, and Customers are freely able to build systems and applications on it.

Application for Service	"Application for Service" means a KDDI ordering document for specific services provided hereunder, which sets forth Customer's specific requirements for such Services, and which is executed by Customer and accepted in writing by KDDI.

3. Services

3.1 Service Outline
This service is an IaaS type of cloud platform service which is provided via Microsoft Azure Hub Stack installed and managed on KDDI data center. KDDI provides secure services using Hyper-V virtualization technology developed by Microsoft.
Customers can use the IaaS service that enables cost-effective and flexible design according to the Customer's usage.
This service permits to be leased the IT service and support desk service and other option services to Customers who has the contract of this service
  * Refer to "3.7 Service details" for the service content

3.2 Service provisioning unit
The service is provided based on the Customer Microsoft Azure subscription ID. The subscription of Microsoft Azure is provided with Pay-as-you-go model through KAM's cloud market place. In this service the CSP is KAM. The service must be purchased via/from KDDI America, Inc.

3.3 Prerequisites
Customers shall agree to all of the terms and conditions noted in this Agreement and any applicable Application for Service for this service provided by Customer to KDDI. Also Customers shall purchase and have Microsoft Azure subscription from KDDI through Ingram Micro Inc.
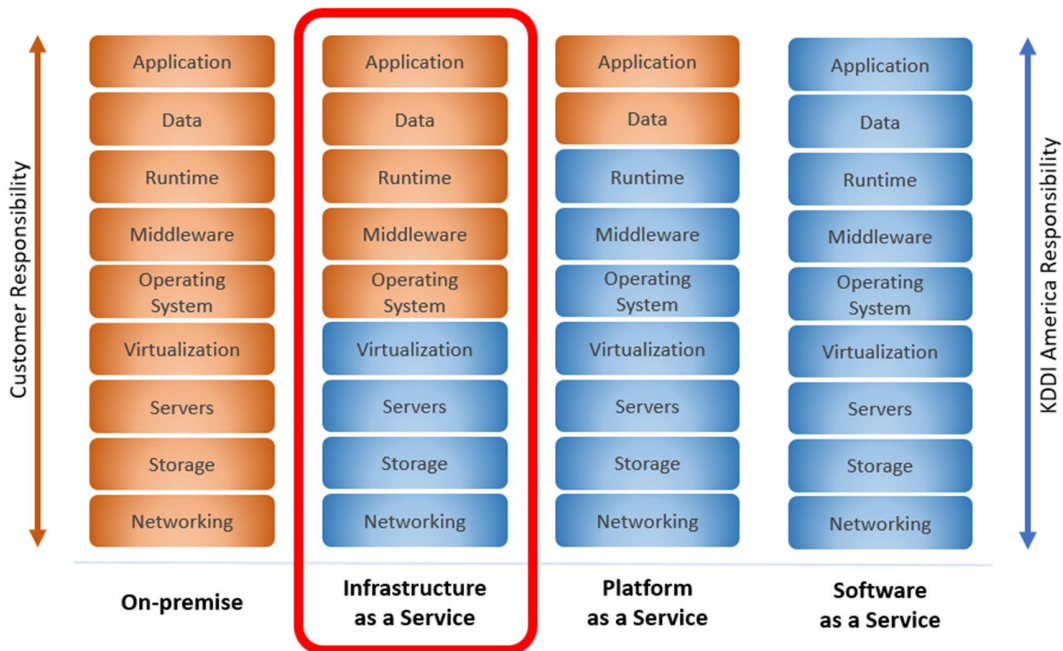
3.4 Scope of service

3.4.1 Network
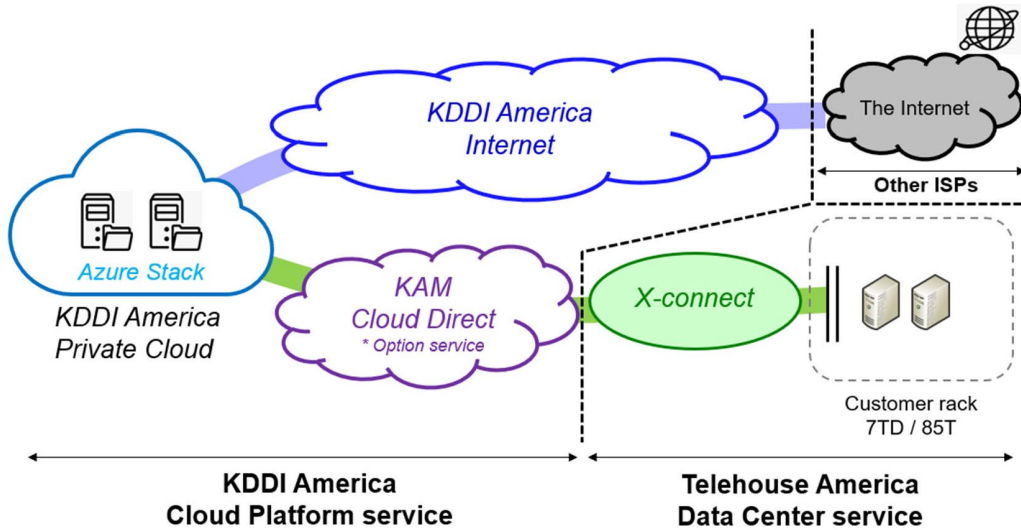
※Below services are provided by Telehouse America
 ・Co-location
 ・Cross connection in data center (Inside Staten DC / between Staten DC and Chelsea DC)

3.4.2 Cloud platform system
As shown below, KDDI provides and is responsible for Networking, Storage, Servers and Virtualization through it's IaaS service.

3.5 Service details

3.5.1 IaaS (Infrastructure as a Service)

Computing resource
Customers allocate the computing resources on the KDDI cloud platform system. In a virtualized system, Customers can assign CPU and memory and deploy a virtual server. The combination of CPU and memory is based on Microsoft VM sizes supported in Azure Stack Hub (see link below). However, this is not always the case due to release timing gaps.
https://docs.microsoft.com/en-us/azure-stack/user/azure-stack-vm-sizes

Disk resource
Customers can create virtual disks on the KDDI cloud platform system allowing them to save and retrieve data by setting and assigning a virtualized disk as needed.

Template
Template is a copy of a virtual machine that Customers can customize and create a ready-to-use virtual machine.
Customers can use the templates provided by KDDI which are available on the Customer portal (If it is needed to check the list before using the service, please contact your sales representative). The template contains the operating system. Customers are free to change the operating system settings or add or remove features at Customer's own risk.

VPN GW
Customers can use the VPN GW function on the KDDI cloud platform system which allows Customers to set up an IPsec / GRE tunnel with the customer's premises and build a virtual circuit. VPN GW is also a part of the Azure Stack feature.
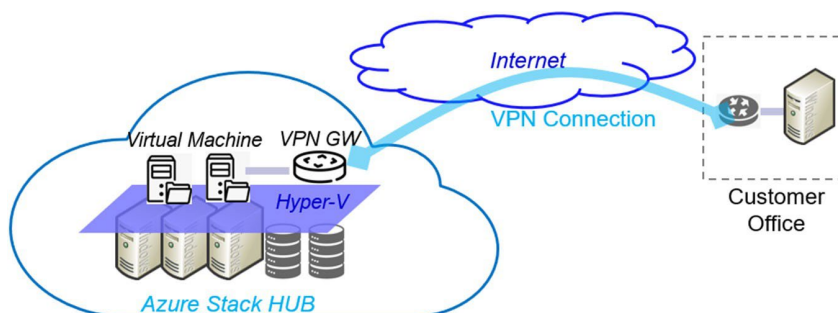
Routing table
Customers can set and use routing tables so that they can flexibly build networks between virtual machines on the cloud platform and other Customer sites.

Zone
East zone（Staten Island, New York）is available.

Backup / Restore

Customers can take a snapshot of the virtual disks in the Customer portal. Customers can also restore from the snapshot.

Restrictions in IaaS

(a) At the time of initial application, the available resource limitation (Quota) is set. If the usage of the resources increases and reaches the limit, please contact the sales representative. KDDI will adjust the setting of the upper limit.

(b) Global IPs that can be assigned to virtual machines are only IP addresses managed by KDDI.

(c) There are many templates available, such as Windows and Linux, but there are some restrictions. Basically, it is only the ones released by Microsoft.

(d) Customers can change the resources setting of a running virtual machine. It is recommended to stop the virtual machine once before making any changes.

(e) Customers can select the disk type when creating the VM, but SSD will be assigned regardless of which you select.

(f) GPU option is not available.

(g) Only the "East" Availability zone is available.

(h) Below are the bandwidth limitations for VPN GW. If more performance is needed, please build and use the GW machine of the vendor-provided appliance.

	Tunnel throughput	VPN gateway maximum IPsec tunnels
Basic SKU	100 Mbps	20
Standard SKU	100 Mbps	20
High Performance SKU	200 Mbps	10

(i) Only Static routes or EBGP can be used for VPN GW route control. Only "Dynamic IP" can be selected as the IP address of VPN GW. Customers can use the assigned IP address.

(j) Guarantees of Customers data (availability, accuracy, confidentiality, etc.) of created virtual machines are outside the scope of service. It is recommended to consider backing up the data if necessary.

(k) There are restrictions on the number of NICs and IOPS that can be allocated depending on the type of virtual machine. For details, refer to the following Microsoft site. https://docs.microsoft.com/en-us/azure-stack/user/azure-stack-vm-sizes

(l) Snapshots are stored in the same zone as the virtual machine. Also, the snapshot itself cannot be guaranteed (availability, accuracy, confidentiality, etc.). It is recommended to set the quiescent point when taking a snapshot.

(m) The IP address in this service conforms to CIDR notation, and class A, B, and C private addresses can be used.

3.5.2 Internet Connection

Customers virtual machines can connect to the internet via the network provided by KDDI as standard. The internet line is not dedicated to individual Customers, but is a shared line. Bandwidth guarantee, etc for each Customer is outside the scope of this service.

3.5.3 Customer Portal

Customers can use the Azure Stack Customer portal provided by KDDI as standard. Customers can deploy, change, and delete resources from the Customer portal. The operations that can be performed on the Customer portal are as follows.
In addition, the Customer's portal login authentication information is linked with the Microsoft Azure service which is the public cloud service, and is authenticated by Azure AD. Customers are required to use the Microsoft account which is provided by KDDI. If you do not have the account, you need to order KDDI and configure it.

Customer portal operation list
- Login authentication with Azure AD
- Deploying a resource group
- Deploy, change, delete virtual machines
- Virtual machine operations (start, stop, restart)
- IP address setting, change, deletion
- Deploy, change, delete security groups
- Deploy and delete VPN connections. status check.
- Deploy, change, delete a routing table
- Deploy, modify, delete load balancer
- Check the activity log

3.5.4 Operation Service

Failure notification
If KDDI detects a failure on the Azure Stack platform that affects the use of Customer resources, Customers can receive a failure notification from KDDI. Failure notifications will be sent by email, so Customers will need to provide KDDI with the email address in advance. In addition, the failure of the virtual machine created by the Customer and the failure of public Microsoft Azure service are outside the scope of this service. If a request for monitoring / failure notification of the virtual machine itself, KDDI will provide it by separately applying for a monitoring service.

Support desk

Customers can make inquiries and request trouble-shooting regarding malfunctions in this service. KDDI will investigate and respond within the scope of this service.
Please refer to 8. Support / Inquiries for the actual contact information.

Inquiries regarding the following are not covered by this service.

1. Inquiries about Microsoft Azure service（Public cloud service）
2. Inquiries about the design, solution, support of Customers resources
3. Inquiries not related to this service

3.5.5 Option Service

KAM Cloud Direct

As an optional service, KDDI provides a direct connection service between the collocation space in the NY area provided by Telehouse America and the cloud platform (this option service is ＂KAM Cloud Direct＂). It enables communication between the on-premise equipment and the virtualized resources on the cloud platform without going through the Internet, so Customers can use a more secure and low-latency connection. The route table allows Customers to design the network as they wish. Route control by EBGP and Static route are available.
The Interface specifications follow the service specification of cross-connect provided by Telehouse America, and the cross-connect fee will be charged separately by Telehouse America.
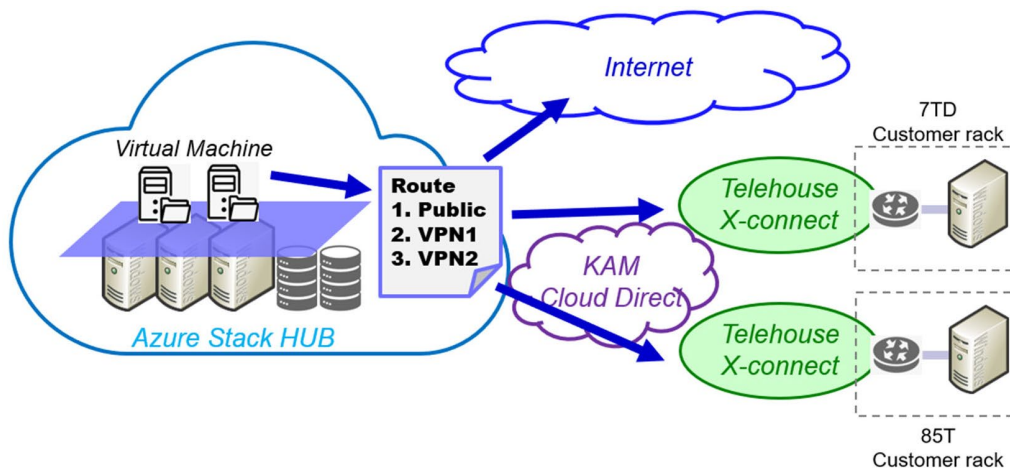
Restrictions in KAM Cloud Direct

When using KAM Cloud Direct, some IP addresses and AS numbers cannot be used because there is a reserved area inside the system.

Item	Region	Value
Un-available IP address	East	100.64.0.0/23 100.64.126.0/23
Un-available AS number	East	65011 - 65015

3.6 Prohibited Activities

(1) Selling the Services and/or documents provided via this Service to a third party;
(2) Disclosing, presenting, or providing the provided Services, documents, and/or knowledge to any third party.

3.7 Other precautions

(a) From 9:00pm to 5:00am (Central Time), commencing on the second Sunday of every month until the morning of the next day (Monday), KDDI will conduct its scheduled maintenance. Before KDDI performs the scheduled maintenance work, KDDI will provide the Customer two (2) weeks of prior notice. However, when KDDI detects events that may cause serious impacts on its system and/or the need for an emergency maintenance, as determined in its sole discretion, that need to be performed as soon as possible to avoid further problems, KDDI may perform the aforementioned maintenance work outside of the aforementioned time frames.

(b) The KDDI KPCS Service is based on the Microsoft Azure Stack HUB software, so if Microsoft has implemented any terms and conditions, rules, policies, and/or restrictions, Customer hereby agrees to abide by all of said terms and conditions, rules, policies, and/or restrictions, and KDDI will apply same to Customer accordingly.
Accordingly the following Microsoft terms and conditions (and their successor url links) shall apply to Customer and the Services:

English: https://docs.microsoft.com/en-us/azure-stack/user/
Japanese: https://docs.microsoft.com/ja-jp/azure-stack/user/

(c) Support for any and all upper layers, including the OS is outside the scope of this Agreement and the Service.

4. Application

Customer hereby acknowledges and agrees that if any technical problems and/or any other problems arise, including any fatal problems, with the KDDI cloud platform system (KPCS Services), including the fact that the Customer's data cannot be restored by KDDI, then in such situations the Customer (not KDDI) shall be responsible for any and all necessary repairs, including but not limited to the restoration of any of its data. Furthermore, Customer hereby acknowledges and agrees that under no circumstances shall KDDI be liable to Customer for any damages and/or compensation for any and all damages sustained by Customer under the aforementioned situatio4. Application &Term

For applications and inquiries before starting a contract, please contact the sales representative. KDDI will create a Customer's account within 10 business days after application.

5. Termination

(a) Termination of the Service is possible by filing a declaration at least thirty (30) days before the desired termination date. The portal account of this service (cloud platform) will be suspended within five (5) business days of the termination date; therefore, please delete your resources by the termination date. If the Customer resources exist even after the termination date, KDDI will delete them, and KDDI shall not be liable to Customer for any damages and/or other losses related to same.

(b) Notification Of Suspension By KDDI. In the event the KDDI elects to suspend rather than terminate Services for any of the reasons specified in this Agreement, then KDDI shall notify Customer in writing, in advance, of the reason(s) for such suspension, the remedies required to restore Service, and the maximum time allowed to remedy the default which is the cause of the suspension.

(c) Except for optional services, this Service is a pay-as-you-go model, so no charges will be incurred if Customer resources do not exist even before termination.
KDDI cannot answer any inquiries and/or requests regarding Customer resources after termination of this Service.

6. Fee

This is a pay-as-you-go model, and charges will be dependent on the quantity and used capacities of customer resources and used hours. The cycle of calculating the monthly charge is from 0:00:00 on the 21st to 23:59:59 CST (No daylight saving time) on the 20th of each month.

Breakdown
6.1 Subscription fee
License fee paid to Microsoft. The charge will be based on the usage of Customer resources.

6.2 System fee

Cloud platform service system usage fees. The charge will be based on the usage of Customer resources.

7. SLA

SLA (Service Level Agreement) is defined within the scope of this service

    Availability : 99.99%

    Refund : 10% of the amount for the month

Calculation method:

Either (1) or (2) will be applied

(1) Time from failure detection to recovery detection at the KDDI monitoring system installed

(2) Time from the time when the Customer inquires about the failure confirmed by KDDI to the time when KDDI confirms the recovery after the inquiry from the Customer.

Scop of SLA:

    The failure in the below system within the section 4.6 Scope of Service

- Cloud platform system
- KAM Cloud Direct system

Refund claim:

    Refunds will be processed based on the claims submitted by the Customer. Please make a claim within twenty (20) days after the failure occurs. Notwithstanding anything contained herein to the contrary, refunds will not be processed and/or applied for claims submitted after that twenty (20) day period.

SLA Exceptions

SLA credits/claims will not be accepted under the following circumstances:

(1) Service interruptions due to the maintenance work, with advance notice;

(2) Service interruptions when the service fails on the primary system and is transferred over to the secondary system, due to the high utilization of the primary system.

(3) Problems caused by software installed by the Customer on the virtual server;

(4) Service interruptions due to a problem other than the service equipment (e.g. connection failure due to public Internet failure, force majeure event, etc..);

(5) The performance degradation of cloud resources and network;

(6) Specific communication failures (e.g. specific IP address, specific port, etc);

(7) Any outage of Customer's portal; and

(8) Force majeure events, any outage due to the acts or omissions of underlying third party suppliers, acts of war, acts of God, earthquake, floods, embargo, riot, sabotage, labor shortage or dispute, governmental act, and/or failure of the Internet.

8. Support / Inquiry

8.1 Service hours
This service is available during the following hours.

Service	Available hours
Cloud resources Customer portal Internet connection KAM Cloud Direct	24x7

8.2 Contact
The point of contact for this service is below;

Contact method	Contact point	Available hours	language
Email	itoc@kddia.com	24x7	English
Phone	+1 (844) 821-9439	24x7	English

9. Miscellaneous Terms & Conditions

9.1 CHANGES TO SERVICE
(a) If the Customer requires any change to its applied information pertaining to the KPCS, the Customer may submit to KDDI a written notice detailing the change requested together with all relevant information (the "Change Request"). A Change Request may include any configuration or setting related to the Service, which the Customer is unable to perform itself through the Self Portal. (b) KDDI shall consider any Change Request received from the Customer and may request any additional information reasonably required by KDDI to evaluate such Change Request. Where KDDI can accommodate the Change Request to the Services, KDDI will provide the Customer with a written response ("Change Response"), which may include any increase of, and/or additional charges associated with the implementation and subsequent performance of the requested change. Subject to any mutually agreed changes, the Change Response may be executed by duly authorized representatives of both Parties and shall be amended to this Agreement.

9.2 OBLIGATIONS OF CUSTOMER & INDEMINIFICATION
During the term of this Agreement, Customer shall have the following obligations, in addition to those set forth elsewhere in this Agreement: (a) Customer is and will remain solely responsible for complying with all laws, rules and regulations regarding the management and administration of Customer content. Customer acknowledges and agrees that KDDI's responsibilities and liability do not extend to the internal management or administration of Customer's content. (b)

Customer agrees to and will comply with: (i) the applicable Application for Service; and (ii) this Agreement; and (iii) KDDI's Acceptable Use Policy, as listed in the hereto attached Exhibits. (i) In case there are violations of the Acceptable Use Policy, KDDI may by written notice (specifying the matter to be rectified) require the Customer to remedy the same within seven (7) days of the date of such notice. (ii) In the event that KDDI considers any condition of the Customer zone to be unsafe for KDDI's other customers or their agents or sub-contractors, it may suspend provision of the Customer Services until its instructions have been fully complied with by the Customer. (iii) In the event that the Customer has not complied with any notice given by KDDI, KDDI may itself, without prejudice to its other rights and remedies, take the requisite actions to rectify the conditions of the Customer zone, including, but not limited to, removal or disposal of any unsafe matters at the Customer's expense (c) Customer is solely responsible for the development, content, operation, maintenance, and use of its content. For example, but not limited to, Customer is solely responsible for: (i) the technical operation of all Customer Content; (ii) compliance of Customer content with the Acceptable Use Policy, the other Policies, and the law; (iii) any claims relating to Customer content; and (iv) properly handling and processing notices sent to Customer (or any of Customer related party) by any person claiming that Customer content violate such person's rights. In the event that of any breach of the aforementioned obligations by Customer, then Customer agree to forever indemnify and hold KDDI harmless from and against any and all claims, demands, suits, actions, losses, damages, assessments or payments which may be asserted by any third-party against KDDI as it arises out of or relates to the Services and/or the aforementioned obligations. Customer shall indemnify, defend and hold harmless KDDI, its directors, officers and employees from any claims, liability, judgments, damages or costs, including reasonable attorneys' fees, asserted or awarded against or incurred by KDDI its directors, officers or employees as a result of any negligent act or omission of Customer and/or its personnel.

9.3 CHARGES

The total charges payable by Customer and frequency of those payments, to the KDDI for the Services shall be set forth in each respective Application for Service. The rates set forth in the Application for Service do not include the following: charges for KDDI services other than those set forth in the Application for Service; taxes, tax related or tax-like surcharges; and other related charges. Customer agrees to pay all these additional charges, to the extent applicable, in addition to the charges set forth in the applicable Application for Service. The additional charges, if any, for any necessary terminal equipment at each termination point of the Services will be set forth in the Applications for Service. Upon receipt of the monthly invoice, the Customer shall pay the amount billed, by the date specified on the invoice (the "Due Date"). Please note that late payment charges are in effect, as per applicable Agreements. If any check is returned to the KDDI unpaid, the Customer shall be considered immediately in default and subject to a returned check charge of $25.00. Accounts which remain unpaid for thirty (30) days, after date of invoice, may have their Services interrupted. Such interruption does not relieve the Customer from the obligation to pay the monthly recurring charges and/or any other charges then due and owing. In addition, accounts in default are subject to a late payment charge of $50 and an interest rate of 1.5% per month on the outstanding balance. If the applicable law does not allow an interest rate of 1.5% of month, the maximum lawfully allowable rate will be charged.

Furthermore, if the Customer defaults, the Customer hereby agrees to pay for all of KDDI's reasonable expenses, incurred by the KDDI in enforcing its rights under this Agreement, including reasonable attorney's fees. The Customer may be required by the KDDI to provide its credit card number upon submitting its Application for Service, and the Customer hereby unconditionally authorizes the KDDI to charge said credit card whenever the Customer is in default and/or delinquent hereunder, regardless of the payment method selected by the Customer. KDDI may suspend Customer's access to the Services, if Customer's account has been delinquent for thirty (30) days, unless an active dispute related to Customer's delinquency is pending. If this suspension continues for longer than seven (7) days, notwithstanding anything contained herein to the contrary, then KDDI may terminate this Agreement and/or the Services for breach. Each party will be responsible for taxes based on its own capital, net income, employment taxes of its own employees, and for taxes on any property it owns. In the event that taxes must be withheld from payments to KDDI, Customer will increase the payment to KDDI so that the amount received by KDDI is the same as it would have been if no taxes were withheld. Customer is responsible for the payment of all other taxes imposed by any governmental authority in connection with the sale of the Services under this Agreement.

9.4 DELIVERY AND INSTALLAION DATES

The initial due date(s) and the target delivery date for the installation of the Services, as may be set forth in the Application for Service, shall be mutually agreed upon by the parties, and are subject to the availability of the necessary infrastructure, resources, and equipment. KDDI shall timely notify the Customer of any event(s) that may cause a delay in the target delivery date.

9.5 LIMITATION OF LIABILITY

In no event will either party be liable to the other for any special, incidental, punitive or consequential damages (including, without limitation, lost profits, loss of use, loss of data or loss of goodwill), arising out of or in connection with this Agreement or the performance or operation of the Services, whether such liability arises from any claim based upon breach of contract, breach of warranty, tort (including negligence), product liability or otherwise, and whether or not such party has been advised of the possibility of such damages. In no event shall KDDI's liability for any damages hereunder exceed the amounts paid by Customer to the KDDI during the twelve (12) month period preceding the causation of the damages. KDDI shall not be responsible for any failure to perform hereunder or for lost data which is caused by Acts of God or any other circumstances, including but not limited to communication failure, labor strikes, internet grid failure, power failures, failure of any other third party component upon which the proper functioning of the' system is dependent, acts of terrorism, computer viruses or acts of computer hackers.

9.6 INFRINGEMENTS, WARRANTIES & REGULATORY

To the fullest extent permitted by law, KDDI, its licensors and suppliers make no warranty, express or implied, including without limitation with respect to the Services, and expressly disclaims the warranties or conditions of non-infringement, satisfactory quality, merchantability and fitness for any particular purpose. Customer hereby waives any rights that it might otherwise have in connection with this section. KDDI will not be obligated under this agreement

to take any action or fail to take any action that it believes, in good faith, would cause it to be in violation of any laws of the territory or any other applicable jurisdiction, including, without limitation, the United States of America. Additionally, the KDDI will not be responsible for any damage the Customer suffers, including but not limited to loss of data resulting from service interruptions caused by KDDI's own negligence or the customer's errors or omissions.

9.7 INTELLECTUAL PROPERTY RIGHTS

Except as expressly stated otherwise in this Agreement, neither party will acquire any rights, title or interest, in any of the intellectual property rights belonging to the other party, or the other party's licensors. All ownership rights, title, and intellectual property rights in and to the content accessed through any Services are the property of the applicable content owner and may be protected by copyright or other applicable laws.

9.8 REQUIRED DISCLOSURES

Each party may disclose the other party's confidential information when required by law but only after it, if legally permissible: (a) uses commercially reasonable efforts to notify the other party; and (b) gives the other party the chance to challenge the disclosure.

9.9 GOVERNING LAW

This Agreement shall at all times be governed by the laws of the State of New York, and any Public Service Commission regulation, if applicable, and such changes or modifications as they may, from time to time, direct in the exercise of their jurisdictions.

9.10 FORCE MAJEURE

Neither party to this Agreement shall be liable for delays caused by an event of natural disaster, casualty, acts of God, riots, governmental acts or such other event of similar nature that is beyond the delaying party's control; provided however that such party shall not have contributed in any way to such event.

9.11 ORDER OF PRECEDENCE

In the event of a conflict as to the terms and conditions, between this Agreement and/or any Application for Services; then the Application for Service, and then this Agreement shall govern, in that respective order.

9.12 ENFORCEABILITY

If any provision of this Agreement is held to be unenforceable, the parties shall substitute for the affected provision a provision which approximates the intent and economic effect of the affected provision.

9.13 HEADINGS

The headings in this Agreement are for purposes of reference only and shall not in any way limit or affect the meaning or interpretation of any of the terms hereof.

9.14 ACCORD & SATISFACTION

Whenever a debt hereunder shall be un-liquidated and/or under a legitimate good faith dispute or disagreement as to its amount, the parties agree that they may not discharge the debt by tendering a check marked "payment in full" or any other similar marking, even though the check is negotiated by either party.

9.15 ASSIGNMENT AND SUCCESSION

This Agreement shall be binding upon and inure to the benefit of the heirs, successors, and/or assigns of the parties. Customer may not assign its rights or obligations hereunder without the prior written consent of the KDDI.

9.16 DISPUTE RESOLUTION

Any dispute relating to and/or originating from this Agreements and/or any applicable Application for Service shall be submitted to binding arbitration by a single arbitrator at the office of the American Arbitration Association ("AAA"), located in New York City, New York. The arbitration shall be held in accordance with the AAA's Commercial Arbitration Rules, as may be applicable to the dispute. The cost of the arbitration, including the fees and expenses of the arbitrator(s), shall be shared equally by the parties unless the arbitration award provides otherwise.

9.17 WAIVER

No forbearance by either party to enforce any provision under the Agreements or any right existing under the Agreements shall constitute a waiver of such provisions or rights or be deemed to amend or modify the Agreements.

9.18 CONFIDENTIALITY

KDDI shall hold in the strictest confidence all information that Customer or its affiliates may furnish to the KDDI and/or the KDDI may observe while on Customer's premises rendering Services to Customer, which information may include, but is not limited to, technical, business and Customer information, plans, products, processes, AND equipment ("Confidential Information"), taking all reasonable measures to ensure confidentiality. The KDDI shall limit disclosure of Confidential Information to only those individuals as the parties consider necessary and only after such individuals have undertaken to comply with the confidentiality obligations provided for in this Agreement. The KDDI hereby agrees to destroy all materials containing any Confidential Information disclosed by Customer to The KDDI, in connection with the Services provided hereunder, and which are within the KDDI's possession and/or control, upon the KDDI's determination that provision of the Services has been completed, or upon expiration or termination of the Service term; provided, however, that the aforementioned destruction of Confidential Information shall not apply to any Confidential Information which (i) should be kept in the KDDI's possession pursuant to any applicable laws and/or regulations, (ii) are necessary for the KDDI's performance or implementation of certain delineated duties in compliance with applicable laws and/or regulations, or (iii) the parties have agreed that it should remain in the possession of the KDDI, during a certain period as mutually determined by the parties hereto. The KDDI's obligation to maintain confidentiality shall not apply to any Confidential Information

which: (i) at the time of disclosure is in the public domain; (ii) after disclosure, becomes part of the public domain, by publication or otherwise, through no fault of the KDDI; (iii) at the time of disclosure is already in the KDDI's possession, and such prior possession can be demonstrated in writing by the KDDI; (iv) is subsequently made available to the KDDI by an independent third party; provided, however, the third party has a lawful right to make such disclosure and that such Confidential Information was not obtained by said third party, directly or indirectly, from Customer; or (v) is required by law or judicial decree to be disclosed, though if so obligated, the KDDI shall immediately inform Customer of such requirement and shall make known to said government body or court the proprietary nature of the Confidential Information and make any applicable claim of confidentiality with respect thereto. In the event the KDDI disputes the confidential status of certain information provided by Customer, the burden of proving that such information should not be considered confidential shall be on the KDDI. No right or license whatsoever in Confidential information is granted by

9.19 SEVERABILITY
If any portion of this Agreement is held to be void or unenforceable, such part shall be treated as severable, and the remainder of the Agreement shall be given full force and effect.

9.20 ENTIRE AGREEMENT
This Agreement and the Application for Service shall constitute the entire and exclusive statement of the rights, obligations, and understandings of the parties hereto with respect to Services and any other subject matter herein discussed. The terms of this Agreement and the Application for Service may only be amended in a writing signed by an authorized representative of the parties heret