

XAND CLEC, LLC
NY P.S.C. Tariff No. 1 - Telephone
Initial Effective Date: October 31, 2012

Leaf No. 34
Revision: 0
Superseding Revision:

3. RULES AND REGULATION (CONT'D)

3.3 Liability of the Company. (Cont'd)

3.3.9. Indemnification. The Company shall be indemnified, defended and held harmless by the Customer against any and all loss, claims, demands, suits or other action, or any liability whatsoever, arising from the use of the Services furnished pursuant to this Tariff involving:

- (A) Claims for libel, slander, infringement of patent or copyright, or unauthorized use of any trademark, trade name or service mark arising out of the material, data, information, or other content transmitted by the Company; violations of any other literary, intellectual, artistic, dramatic, or musical right; violations of the right to privacy; or violations of any other rights whatsoever relating to or arising from message content or the transmission thereof.
- (B) Claims arising out of abuse of or fraudulent use of the Services by the Customer or its End Users.
- (C) All other claims arising out of any act or omission of the Customer in connection with the Services provided by the Company.

Company shall not be liable for, and Customer shall indemnify and hold Company harmless from, all losses, claims, demands, suits or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by Customer or any other Person, for any personal injury to, or death of, any Person, and for any loss, damage, defacement or destruction of the equipment or premises of Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location, or use of equipment or wiring provided by Company, when such installation, operation, failure to operate, maintenance, condition, use or location is not the direct result of Company's gross negligence or willful misconduct.

3.3.10. Independent Contractor. Company's relationship with any underlying carrier that may provide facilities to Company for resale to Customer is that of an independent contractor and Company and any such underlying carrier shall not be deemed to be partners or joint venturers by virtue of this relationship. No agents or employees of other carriers shall be deemed to be agents or employees of Company.

Issued By: President, 11 Skyline Drive, Hawthorne, NY 10532