

# NEC UNIVERGE BLUE® CUSTOMER OWNERSHIP PARTNER AGREEMENT

**CAREFULLY READ THESE TERMS AND CONDITIONS, AS THEY FORM A LEGALLY BINDING AGREEMENT BETWEEN YOU AND NEC CANADA, INC. ONLY AN AUTHORIZED REPRESENTATIVE OF YOUR COMPANY MAY EXECUTE THIS AGREEMENT. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, CLOSE YOUR BROWSER AND DO NOT PROCEED WITH USING THE SERVICES.**

By clicking “I Agree and Continue,” You (i) agree to be bound by all of the terms and conditions of this Master Service Agreement with NEC Canada, Inc. (“NEC”); (ii) represent that you are a registered as a telecommunications provider with the Canadian Radio-Television and Telecommunications Commission; (iii) represent and warrant that you have entered into agreements with Your End Users that contain, at a minimum, the terms or their analogs found in Appendix I (including without limitation the important disclosures, notices and disclaimers contained in Attachment 1 thereto related to 911 (including enhanced 911 (E911)) calling and service); and (iv) agree to be bound by the following:

- NEC’s Privacy Policy (the “Privacy Policy”);
- NEC’s Service Level Agreements for all of NEC’s Services that may be sold hereunder (each, a “Service Level Agreement” or “SLA”);
- NEC’s Acceptable Use Policy (the “AUP”); and
- NEC’s Schedules (as defined below).

All of the above referenced documents are collectively referred to as the “Agreement.”

Each of the foregoing is expressly incorporated herein by reference and may be amended or updated from time to time by NEC. Current copies of the Privacy Policy, SLA, AUP, and product-specific Schedules are located at <https://www.univerge.blue/legal>.

If You do not agree to any of the terms of this Agreement, then You (i) must click “I Decline” or close Your browser and (ii) do not have NEC’s permission use the Services.

*If you are an individual entering into this Agreement on behalf of an Entity (as defined below), you represent and warrant that you have the authority to bind such Entity to this Agreement. If you do not have such authority, neither you nor such Entity may accept this Agreement or use the Services.*

You are not required to purchase voice services from NEC nor from any of its affiliates. If You elect to purchase voice services under this Agreement, please be advised of the following: (i) voice services will be provided through NEC Canada, Inc. (“NEC”); (ii) Your

acceptance of, and agreement to, the terms of this Master Service Agreement also constitutes your acceptance and acknowledgement of, and agreement to, (A) the obligation to provide Your End Users with the important disclosures, notices and disclaimers contained in Attachment 1 to Appendix I related to 911 (including enhanced 911 (E911)) calling and service and (B) the terms of the Schedule(s) and related documents provided or made available to You; and (iii) the terms and conditions of this Master Service Agreement will apply to the services you receive from NEC as well as the terms and conditions in NEC’s Schedules and related documents. If You instead choose to purchase voice services through an unrelated third party, this Master Service Agreement will not govern the provision of any services provided by such third party, and such third-party-provided voice services are used at Your sole risk and pursuant to the terms and conditions you enter into with such third party.

**Definitions.** For the purposes of this Master Service Agreement, the following definitions apply:

“Access Information” means information that alone or together with other information, can provide access to any portion of Your Account, including but not limited to Your Account number, login names, passwords, credit card or other financial information, security questions and their respective answers, and any other similar information. For the avoidance of doubt, Your Access Information will include any similar information for each of Your Administrative Users.

“Account” means the account created with NEC in connection with this Agreement that relates to Your purchase of, subscription to, resale of and/or use of Services and/or Voice Services by You and Your Administrative Users.

“Administrative User” means any of Your employees, consultants or independent contractors to whom You grant administrative permission to access the Services in accordance with NEC’s entitlements and procedures and this Agreement (where “administrative permission” includes, but is not limited to, the right to create, modify and delete End User accounts, as well as the right to access and modify Your billing information and other functionality available through the NEC administrative control panel).

“Applicable Law” means any applicable foreign, federal, state, provincial or other laws, rules,

regulations or interpretations of relevant Governmental Authorities or self-regulatory bodies.

“Beta Offerings” means any portion of the Services and/or Voice Services offered on a “beta” basis, as designated by NEC, including but not limited to products, plans, services and platforms.

“Data” means all data submitted by Your Administrative Users to NEC in connection with the Services and/or Voice Services, including all content, material, IP and similar addresses, recordings, messages, software, Account information and Account-related settings.

“End User” means any person or Entity purchasing Services and/or Voice Services from You, as well as their respective end users.

“End User MSA” means the Master Service Agreement (or equivalent agreement) entered into between You and Your End User customer for Services and/or Voice Services that they purchase from You, which agreement shall include, at a minimum, the terms found in Appendix 1 hereto (or their analogs) and any other agreements and documents presented by NEC that are required to provide the Services, each as amended by NEC from time to time.

“Entity” means a company, corporation, partnership, association, trust, unincorporated organization, government or political subdivision or any other legal entity.

“Governmental Authority” means a government, regulatory organization, self-regulatory organization, court of competent jurisdiction or similar body.

“Interconnected VoIP Services,” referred to as “VoIP” services herein, means services satisfying the definition provided for in 47 C.F.R. Section 9.3 as may be amended from time to time.

“NEC” means NEC Canada, Inc., with offices at Suite 110, 7260 – 12 Street S.E., Calgary, Alberta T2H 2S5..

“NEC Parties” means NEC’s affiliates (including parents and subsidiaries), vendors, licensors and partners, and its and their officers, employees, agents and representatives.

“PHI” means (a) for use of the Services in the United States, Protected Health Information (as such term is defined in the Health Insurance Portability and Accountability Act of 1996 and the rules and regulations promulgated thereunder, as each may be amended from time to time) and (b) for use of the Services in Canada, personal health information (as such term is defined in the applicable federal, state and provincial privacy legislation relating to personal health information and the rules and regulations

promulgated thereunder, as each may be amended from time to time) that is individually identifiable health information.

“Schedule(s)” means documents (including the Service-specific product schedules located at <https://www.univerge.blue/legal/> and the order documentation generated through NEC’s administrative control panel) that specifically describe the Services and/or Voice Services used by You or Your End Users under this Agreement, including product descriptions, the currency to be used for billing and payment, pricing, and other terms. Each Schedule shall be deemed a part of and incorporated into the Agreement.

“Services” means NEC’s hosting and/or other services, software and products, as such services, software and products are offered by NEC from time-to-time in its discretion and subscribed to, purchased by, or used by You or Your End Users as set forth on a Schedule.

“Third-Party Service” means any service or product offered by a party that is not NEC.

“Voice Services” means the real-time, two-way voice services, as well as fax services and other calling and call management telephonic services, offered by NEC and its affiliates from time to time in its discretion and subscribed to, purchased by, or used by You or Your End Users.

“You” or “Your” means the individual or entity on whose behalf this Agreement is accepted.

## 1. RESELLER APPOINTMENT.

1.1. Appointment. Subject to and in accordance with the terms of this Agreement, NEC hereby appoints You, and You hereby accept appointment, as NEC’s limited, non-exclusive partner under NEC’s Customer Ownership Partner program (“Partner”) to promote and resell Services to End Users under the terms provided herein. For the avoidance of doubt, your End Users may not further resell Services under this Agreement. You acknowledge and agree that the actions of any of Your Administrative Users with respect to the terms of this Agreement and the Services will be deemed to be actions by You and that any breach by any of Your Administrative Users of the terms of this Agreement will be deemed to be a breach by You. You represent and warrant to NEC that You are in good and substantial financial condition and are able to pay all bills when due. You shall, from time to time, furnish any financial statements or additional information as may be reasonably requested by NEC to enable NEC to determine Your financial condition. At all times You shall comply with the terms, conditions and policies established by the credit department of NEC, including

but not limited to, those set forth in the NEC credit application, applicable guaranties and security agreements. If credit is extended, NEC shall have the right to establish credit limits for You and to change such credit limits or any other financial requirements, from time to time, at NEC's sole discretion.

1.2. Obligations. You agree to comply with the terms and conditions of this Agreement and with all applicable NEC procedures and policies that further define the resale and use of the Services. You shall identify and register End Users in accordance with the terms hereof and NEC's applicable policies. You shall ensure that (i) prior to accessing the Services, each End User agrees to, and is legally bound by with You, a written contract that contains, at a minimum, the terms or their analogs found in Appendix 1 hereto and any other agreements and documents presented by NEC that are required to provide the Services, each as amended by NEC from time to time; (ii) Services will only be provided to such End Users; (iii) Your End Users comply with (and that You will enforce) the terms of the written contract entered into between You and End Users (including without limitation enforcing, at Your expense, the license and use restrictions, confidentiality terms and intellectual property provisions of Your written contracts with Your End Users); and (iv) You will have Your legal counsel review, revise and otherwise advise You regarding the End User contract You enter into with End User. **You acknowledge that the End User agreement provided in Appendix 1 is only a sample and You are not relying on NEC for legal advice with respect to your End User contract.** You are permitted to obligate End Users to agree to additional terms and conditions, provided that such additional terms and conditions do not conflict with the terms of the End User MSA or this Agreement. You hereby represent and warrant that (i) You are a bona fide Partner and have not entered into this Agreement solely or primarily for the purposes of receiving the Services for Your own use; (ii) You have sufficient personnel and resources to promote, support and resell the Services; (iii) You shall perform Your duties and obligations hereunder in a diligent and businesslike manner and refrain from any activity or action that may damage NEC's reputation or the reputation of the Services; (iv) You shall use Your best efforts to promote the Services; and (v) You shall not store, maintain, or use on or through the Service any PHI, unless a formal Business Associate Agreement (in a form acceptable to NEC in its sole discretion), if required by applicable law, has been executed between NEC and You.

1.3. Partner's Additional Responsibilities with Respect to Voice Services Only. Your duties with

respect to Voice Services only hereunder are as follows: (i) You shall endeavor to promote the Voice Services; (ii) You shall advise NEC from time to time as to problems encountered with the Voice Services and as to any resolutions arrived at for those problems; (iii) You shall collaborate in connection with promotional activities of the Voice Services; (iv) You may not make any representations or warranties concerning the Voice Services to End Users unless so authorized in writing in advance by NEC; and (v) You represent and warrant that (A) You will obtain written, affirmative acknowledgements (which may, for example, be in the form of executed documentation or electronic acknowledgements), with disclosures that comply with federal and relevant state or provincial law, from all End Users that subscribe to VoIP service offerings that they understand the limitations of access to emergency services associated with VoIP services; and (B) You will keep a record of such affirmative acknowledgements as required by federal and relevant state or provincial law. By accepting this Agreement and selling Voice Services hereunder, (a) You agree and acknowledge that You understand that an improperly configured SIP trunk or improperly configured customer telephony equipment such as a PBX or a contact center solution can lead to the generation of significant usage charges; (b) You agree and acknowledge that You understand that NEC requires that all PBXs be placed behind a firewall to prevent vulnerability to hacking and toll fraud; (c) You agree and acknowledge that You understand that You are responsible for ensuring accurate configuration of both the customer premise equipment and the SIP trunk to prevent fraudulent calls as well as calls to expensive rate centers, and that all charges incurred by such configurations (including fraudulent charges resulting from such configurations) are Your sole responsibility; (d) You acknowledge that you have access to Your customer's PBX control panel and are knowledgeable about the proper configuration parameters required to prevent abnormal calling patterns from the PBX; and (e) You acknowledge that you have been trained on the proper configuration of NEC SIP trunks and will properly configure SIP trunks (and, when necessary, will seek NEC's help to assist you with such configurations). To minimize the potential for fraudulent and excessive charges, NEC reserves the right to approve which Partners are given access to SIP trunking, and may terminate Your SIP trunking services if we notice abnormal calling behavior by You or Your End Users. You understand and agree that NEC will be identified as the provider of Voice Services on all End User invoices for Voice Services.

1.4. Additional Responsibilities of NEC with Respect to Voice Services Only. NEC shall have the following responsibilities with respect to the Voice

Services only: (i) provide the Voice Services to the End Users through NEC; (ii) provide You with sales and technical information regarding the Voice Services as reasonably necessary to promote the Voice Services, including support directly to Your employees and representatives; and (iii) inform You of any changes in the Services, prices, terms of payment and/or listing options to the Voice Services, which NEC may make in its sole discretion at any time. Any changes to the Services, or prices, terms of payment and/or listing options made by NEC and posted on <https://partner.univerge.blue/legal/> shall be incorporated into this Agreement.

1.5. Your Support Responsibilities. For sales of Services by You to End Users, You will be responsible for handling first-level support service for Your End Users. For sales of Services by You to End Users using the NEC name, if NEC receives multiple customer complaints regarding Your lack of responsiveness to, or inability to adequately resolve, End User support requests, NEC shall have the right, in its sole discretion, to (a) provide You with notice of such complaints and a five (5) business day period to cure such complaints; and (b) if You fail to satisfactorily resolve such complaints in such five (5) business day period, assume responsibility for any of Your customer accounts and convert them into NEC direct accounts. You may be eligible to receive a monthly recurring commission (less any monies due for prior service) under our agent program ("Agent") with respect to any of Your End User accounts that are converted into NEC direct customer accounts in accordance with this Section 1.5. pursuant to the then-current NEC Agent rates posted at <https://partner.univerge.blue/legal/> provided that (i) to be eligible to receive any such commissions, You must (A) agree to NEC's standard form of Agency Partner Agreement and (B) provide cooperation, as requested by NEC, with respect to the conversion and transition of the customer accounts to NEC (including without limitation providing NEC-approved communication to the impacted customers and providing NEC with all information reasonably necessary to facilitate the conversion and transition of the customer accounts); and (ii) notwithstanding the foregoing, You shall not be entitled to any special incentives, bounties, or one-time payments payable under NEC's Agency program. Notwithstanding the conversion of You to an Agent pursuant to this Section 1.5, You shall nonetheless remain liable for all unpaid and outstanding amounts owed by You to NEC for all transactions taking place under this Agreement prior to such conversion.

## 2. **SCOPE; ACCESS; SECURITY**

2.1. Account Information and Ownership. You acknowledge that Your failure to timely update Your Account information, including authorized Administrative Users, can result in unauthorized personnel having access to Your Account and potentially doing harm to You. Accordingly, You agree to maintain accurate Account information by providing updates to NEC promptly, but no later than three (3) business days, when any of Your Account information requires change, including any relevant Account contact information for Your employees, subcontractors or Account administrators. Failure by You, for any reason, to respond within three (3) business days to any inquiries made by NEC to determine the validity of information provided by You will constitute a material breach of this Agreement. You acknowledge and agree, and expressly consent, that in the event of any dispute regarding access to or legal ownership of any NEC account or any portion thereof, including Your Account, NEC will resolve such dispute in its sole discretion. In addition, in the event of such a dispute, NEC may immediately suspend, alter or terminate any relevant account, including Your Account, or any portion thereof. You will reimburse NEC for any legal and other fees incurred with respect to any dispute regarding control or ownership of Your Account or Your Data or the same of another NEC customer. You acknowledge and agree that (i) the legal owner of all Data on the Account is You (the counterparty to this Agreement), and not any individual Administrative User, including any Account contact registered with NEC, regardless of any administrative designation (e.g., Administrator, Billing Contact, Owner, etc.); (ii) You will provide NEC with any documentation it reasonably requests to establish ownership and rights to Your Account and any related Data; and (iii) any Administrative User identified by You as an administrator with respect to Your Account has the authority to bind You to any amendments, modifications or acknowledgements related to the Services and/or Voice Services.

2.2. Account Security and Activity. You acknowledge and agree that You are solely responsible for (i) maintaining the confidentiality and security of Your Access Information, and (ii) all activities that occur in connection with Your Account, whether initiated by You, by others on Your behalf or by any other means. You will notify NEC immediately of any unauthorized use of Your Account, Access Information or any other actual or potential breach of security. You acknowledge and agree that NEC will not be liable for any loss that You may incur as a result of any party using Your Access Information, either with or without Your knowledge and/or authorization. You further agree that You may be

held liable for losses incurred by NEC, any NEC Party or another party due to any party using Your Access Information. NEC strongly recommends that You keep Your Access Information in a secure location, take precautions to prevent others from accessing it and change it when necessary to maintain its confidentiality and security. **NEC specifically disclaims all liability for any activity in Your Account, whether authorized by You or not.**

2.3. Expenses. You are solely responsible for any and all marketing, advertising and other costs and expenses of Your office, employees and activities that You undertake in connection herewith.

2.4. Restrictions on Use. You agree that the intellectual and other property made available by NEC to Partner in connection with the parties' performance of this Agreement (the "NEC Property") contains trade secrets and other valuable confidential and/or proprietary information belonging to NEC and/or its licensors. You shall not (i) rent, lease, encumber, pledge, lend, copy, make available or distribute the NEC Property, except as expressly permitted by this Agreement; (ii) disclose the NEC Property to any third party (except for marketing materials that are intended to be distributed), (iii) alter, or permit the alteration of any NEC Property (except for marketing materials that are intended to be distributed); (iv) copy, or permit the copying or distribution of any NEC Property; (v) knowingly take any action that jeopardizes NEC's proprietary rights in any NEC Property; (vi) acquire or seek to acquire any ownership interest in or to any NEC Property; (vii) reverse engineer, decompile, disassemble, or otherwise attempt to derive source code from any NEC Property; or (viii) remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on the NEC Property or that appear during use of any NEC Property. Except as expressly provided herein, nothing in this Agreement shall be interpreted as granting to You or any other person or Entity, any right, title, or interest in or to any NEC Property. For purposes of URLs, keywords, ad words, or any other efforts used for search engine optimization or other marketing purposes, if You use NEC trade names or product names, (including white-labeled product names (e.g., "Connect")), then You must use such NEC trade names and/or product names in combination with Your own trade or company name (e.g., [www.\[partner-name\]Connect.com](http://www.[partner-name]Connect.com)) to avoid confusion in the marketplace between Your offerings and either NEC's offerings or the offerings of other NEC resellers. You shall avoid deceptive, misleading, or confusing practices that might be detrimental, directly or

indirectly, to NEC (including without limitation (a) marketing activities that include only NEC's white-labeled product names (by themselves or only with other generic industry terms), without any reference to your company's name, and/or (b) using one or more of NEC's white-labeled product names as your company name). NEC has the right to review, monitor and audit Your use of NEC's intellectual and other property to ensure Your compliance with these requirements.

2.5. Third Party Beneficiary. You acknowledge and agree that (i) NEC shall be deemed to be a third party beneficiary of the End User MSA and (ii) You shall use Your reasonable efforts at Your own expense to assist NEC in enforcing the terms of the End User MSA.

2.6. Non-Conforming or Interfering Use of Services and/or Voice Services; Privacy Policy. If NEC determines that the use of Services and/or Voice Services by You or Your End Users (i) fails to conform with the terms and conditions of this Agreement (including any NEC policy), or (ii) interferes with NEC's ability to provide the Services and/or Voice Services to You, Your End Users or NEC's other partners, Customer Ownership Partners and/or customers, then NEC may immediately suspend the Services and/or Voice Services to the non-conforming or interfering party (whether Partner or Partner's End User) until such non-conformity or interference is cured. You acknowledge and agree that the terms of NEC's Privacy Policy shall apply to the Data of You and Your Administrative Users and the Data (as defined in the End User MSA) of your End Users.

2.7. Failure of a Line Test. With respect to Voice Services, if a specific customer location fails a "line test" as part of the installation process, and the customer is unable or unwilling to upgrade the data circuit, router, switch or faulty component responsible for the failure, NEC reserves the right to cancel the order for such site.

### 3. TERM AND TERMINATION.

3.1. Customer Ownership Partner Contract Term. This Agreement shall be effective from Your acceptance of this Agreement (or a previous version of NEC's service agreement) and shall continue until the earlier to occur of (a) Your termination of Your Account in accordance with the instructions set forth in NEC's administrative control panel or (b) a termination of this

Agreement by either You or NEC in accordance with the terms of this agreement ("Agreement Term").

3.2. End User Schedule Term. When You purchase Services and/or Voice Services from NEC for resale to an End User, a Schedule will be created specific to such purchase, setting forth the contract term and other terms and conditions with respect to such purchase. The term of each Schedule ("Schedule Term") shall be an initial term with a duration to be agreed to by You and the End User (e.g., one month, one year, multi-year, or some other mutually agreed-upon period) (a "Schedule Initial Term"), followed by renewal periods with a duration to be agreed to by You and the End User (a "Schedule Renewal Term"). Termination of this Agreement shall not relieve either party from fulfilling its obligations prior to such termination.

(a) Monthly Plan – End User Schedule Term. For an End User "Monthly Plan" with NEC, the Schedule Initial Term is the period from the creation date of the chargeable item or items under the applicable Schedule, through the remainder of that calendar month. A Schedule Renewal Term for an End User Monthly Plan is defined as one (1) calendar month beginning at the end of the Schedule Initial Term and each subsequent calendar month thereafter.

(b) Extended Schedule Plan – End User Schedule Term. For an End User Extended Schedule Plan (where an "Extended Schedule Plan" is defined as any End User plan with a Schedule Initial Term of six (6) months or longer), the Schedule Initial Term of the Schedule is the period from the creation date of the chargeable item or items under the applicable Schedule through the remainder of that calendar month and continuing through the next six (6) calendar months (for example, an Annual Plan that begins April 14 will continue until October 31 of that year), or such longer Schedule Initial Term as the parties have agreed in writing. A Schedule Renewal Term for an Extended Schedule Plan is defined as the six (6) month period (or, if You and Your End User have agreed to a Schedule Initial Term greater than six (6) months, the Schedule Renewal Period is equal to the duration of that Schedule Initial Term) beginning at the end of the Schedule Initial Term and each subsequent period of equal duration thereafter, unless the parties agree otherwise.

(c) Automatic Renewal. Each Schedule will renew automatically at the end of the then-current Schedule Term for a Schedule Renewal

Term unless terminated in accordance with this Agreement by either You or NEC.

### 3.3. End User Schedule Termination by You.

(a) Monthly Plan. For a Monthly Plan. You may terminate any Schedule for any reason by following the termination procedure located within the "Account" section of the administrative control panel prior to the beginning of any Schedule Renewal Term. If You terminate a Monthly Plan prior to the end of the then-current Schedule Initial Term or Schedule Renewal Term (as applicable, the "Term"), NEC will not be required to refund to You any fees already paid, unless otherwise set forth in the applicable Schedule and You shall pay all unpaid amounts for Services provided through the date of termination and any third party cancellation/termination charges related to the installation and/or termination of Services and the non-recurring charges for any cancelled Services.

(b) Extended Schedule Plan. For an Extended Schedule Plan, You may terminate any Schedule for any reason by following the termination procedure located within the Account section of the administrative control panel at any time for NEC to terminate the applicable Services and/or Voice Services. If such a termination is effective prior to the end of the then-current Term, You will incur a fee that is equal to the sum of (a) all unpaid amounts for Services provided through the date of termination; (b) any third party cancellation/termination charges related to the installation and/or termination of Services, (c) the non-recurring charges for any cancelled Services, if such charges have not already been paid and (d) the percentage of the monthly recurring charges for the terminated Services calculated from the effective date of termination as (1) 100% of the remaining monthly recurring charges that would have been incurred for the Services for months 1-12 of the Services Term, plus (2) 50% of the remaining monthly recurring charges that would have been incurred for the Services for months 13 through the end of the Services Term. The early termination fee is not a penalty. It is an estimate of liquidated damages suffered by NEC as a result of Your early termination of the Services.

(c) Refunds/Fees for Termination by You. Fees for non-recurring Services and/or Voice Services and set up fees will not be refunded. Any fees previously waived or discounts applied may be reinstated if You terminate the account during the Schedule Term or if You breach this Agreement, including any Schedule.

3.4. Termination by NEC.

(a) 30-Day Termination. NEC may terminate this Agreement or any Schedule for any reason by providing thirty (30) calendar days' notice. If NEC terminates this Agreement pursuant to this Section 3.4(a), then all Schedules will terminate at the end of the thirty (30) day notice period. If NEC terminates any Schedule pursuant to this Section 3.4(a), then (i) for a Schedule with a Monthly Plan, if the effective termination date occurs prior to the end of the then-current Schedule Term, NEC will refund (or refrain from charging You) the pro rata monthly fees for the month in which Services and/or Voice Services terminate and (ii) for a Schedule with an Annual or Multi-year Plan, NEC will refund (or refrain from charging You) the monthly fees for the month in which Services and/or Voice Services terminate. For Schedules with either a Monthly Plan or an Extended Schedule Plan, if NEC terminates this Agreement or any Schedule pursuant to this Section 3.4(a), NEC will not charge You monthly fees for any month following the month in which NEC terminates this Agreement, including any Schedule.

(b) Immediate Termination. NEC may terminate this Agreement, including any Schedule (or suspend Your Account), immediately and without prior notice for any of the following reasons:

(i) Any material breach of this Agreement, including any Schedule, by You, as determined by NEC in its sole discretion, including, but not limited to, failure to make any payment when due, violation of the AUP or any other NEC policy or procedure applicable to the Services and/or Voice Services as notified to You from time to time, which remains uncured beyond thirty (30) days' notice by NEC; or

(ii) If Your use of the Services and/or Voice Services results in, or is the subject of, actual or potential legal action or threatened legal action, against NEC or any of its affiliates, vendors, partners, representatives or customers, without consideration for whether such actual or potential legal action or threatened legal action is eventually determined to be with or without merit.

(c) Termination or Suspension of Users. In lieu of terminating or suspending Your entire Account, NEC may suspend Your Account or terminate or suspend individual users.

3.5. No Refunds; Further Payment Due. If NEC terminates this Agreement or any Schedule

pursuant to Section 3.4(b), (i) NEC will not refund to You any paid fees and (ii) You will be liable for any payment that would have been due had You terminated pursuant to Section 3.3.

3.6. Following Termination. Termination will not cancel or waive any fees owed to NEC or incurred prior to or upon termination. You agree that NEC may charge such unpaid balance to Your Account on file or otherwise bill You for such unpaid balance. Upon termination, You must promptly uninstall all software provided by NEC in connection with this Agreement. All of Your Data will be irrevocably deleted promptly (as soon as fourteen (14) calendar days) following the termination of this Agreement or the applicable Schedule, including but not limited to, databases, contacts, calendars, e-mail, website content and any other Data hosted by NEC. It will be solely Your responsibility to secure all necessary Data from Your Account prior to termination. NEC will not be responsible for any loss of Your Data, or any damages arising from the deletion of Your Data following termination of the Services and/or Voice Services.

**4. FEES, PAYMENT AND EXPENSES.**

4.1. Fees. You agree to pay the fees ("Service Fees") set out in NEC's administrative control panel for the Services (e.g. the Partner Portal) as such page is amended by NEC from time to time in its sole discretion without prior notice. Notwithstanding anything to the contrary set forth in any Extended Schedule Plan or Schedule, if a NEC vendor increases the price that it charges to NEC for the underlying licenses or services that NEC delivers to You (for resale to End Users), then NEC shall be entitled to increase the price charged to You for such Service during the term of such Extended Schedule Plan by an amount that is proportional to the amount of such increase imposed upon NEC by such vendor. Additional fees may apply, such as migration and customization fees, professional services fees, out-of-pocket expenses and any other fees that Your End Users are responsible for, including excess use fees. All payments made to NEC shall be in Canadian dollars (or any other currency as may be permitted in the applicable Schedule(s)).

4.2. End User Billing and Collection. You shall be solely responsible for billing Your End Users and collecting their payments.

4.3. NEC Billing. NEC shall use commercially reasonable efforts to bill You no later

than the fifth (5th) day of each month for the previous month's usage of the Services and/or Voice Services.

4.4. Unpaid Accounts. For business applications, no Service Fee shall be due to NEC in connection with any unpaid End User account which is (i) disabled no later than the fifteenth (15th) calendar day of the month following the month in which such account was created and (ii) terminated within fifteen (15) days after it was disabled. No Service Fee shall be due to NEC in connection with any Partner internal test accounts provided such accounts are marked as non-chargeable test accounts prior the end of the month in which such accounts were created and such accounts to not exceed thirty (30) days in duration.

4.5. Electronic Billing. Except as provided in Section 4.7 below, all payments hereunder shall be made by credit card. You hereby authorize NEC to electronically charge Your credit card for payment for the Services and/or Voice Services. You hereby authorize NEC to (i) make such charges as necessary for payment of current and outstanding bills and invoices, and recurring fees; (ii) make additional attempts to charge should the initial attempt fail; and (iii) in the event that You provide NEC with different credit card information to correct any failure, act upon Your instructions, whether by phone, in writing, or by other means, that NEC reasonably believes to be genuine.

4.6. Invoice Billing. Acceptance into NEC's invoice program shall be at NEC's sole discretion. Upon approval by NEC, you may be allowed to pay on an invoice basis, and NEC will issue You an invoice within the first five (5) days of each calendar month for the prior month's charges. Each monthly invoice shall include an invoice processing fee of twenty-five dollars (\$25.00). Payment by check or wire must be received by the final calendar day of the month in which the invoice is sent. All such payments shall be made in Canadian dollars (or any other currency as may be permitted in the applicable Schedule(s)). Payments may not be made by any other means without the prior written consent of NEC. Should any check from you not be honored by the relevant financial institution, a returned check fee in the amount of the lesser of fifty dollars (\$50.00) or the maximum amount allowed by law, will be assessed.

4.7. Late Payment. In the event that NEC does not receive payment by the final calendar day of the month for which the payment is due, NEC shall have the right to assess a late payment fee, equal to

the greater of the amount of (a) interest calculated at the lesser of eighteen percent (18%) per year or the maximum rate permitted by law, or (b) twenty-five dollars (\$25.00). In the event of late payment(s) on Your account, NEC, at its sole discretion and without waiving other rights it may have, may suspend, interrupt, or terminate the Services and/or Voice Services to You and Your End Users.

4.8. Fees for Additional Services and/or Voice Services. You agree to pay NEC's current rates and expenses, including the cost of NEC's vendors, for any requests related to information retrieval, subpoenas, consulting and Agent services or similar work.

4.9. Service Continuation. In the event that (a) You fail to pay any outstanding amounts within sixty (60) days of any uncontested amount due or (b) Your End User accounts experience excessive churn, NEC shall have the right to assume responsibility for any customer accounts for which payments are due. In this event, these accounts would be branded, billed and supported directly by NEC. You may be eligible to receive a monthly recurring Agent commission (less any monies due for prior service) with respect to any of Your customer accounts that are converted into NEC direct customer accounts in accordance with this Section 4.9, pursuant to the then-current NEC Agent rates posted at <https://partner.univerge.blue/legal/>; provided that (i) to be eligible to receive any such commissions, You must (A) agree to NEC's standard form of Agency Partner Agreement and (B) provide cooperation, as requested by NEC, with respect to the conversion and transition of the customer accounts to NEC (including without limitation providing NEC-approved communication to the impacted customers and providing NEC with all information reasonably necessary to facilitate the conversion and transition of the customer accounts); and (ii) notwithstanding the foregoing, You shall not be entitled to any special incentives, bounties, or one-time payments payable under NEC's Agency program. Notwithstanding the conversion of You to an Agent pursuant to this Section 4.9, You shall nonetheless remain liable for all unpaid and outstanding amounts owed by You to NEC for all transactions taking place under this Agreement prior to such conversion.

4.10. Bill Disputes. You will notify NEC of any dispute relating to charges billed to Your Account by submitting a Billing Dispute Notification to NEC Customer Service at [CloudOrder@NECCanada.com](mailto:CloudOrder@NECCanada.com) to NEC within sixty



(60) days of the date the disputed charges appeared on Your Account. The existence of a dispute will not relieve You from paying any and all amounts billed hereunder. You waive all rights to dispute any charges not disputed by written notice as required above.

4.11. Electronic Billing and Documentation. All billing and other documentation regarding the Services may be provided electronically (“Electronic Documentation”). You acknowledge and agree that You are able to view all Electronic Documentation and consent to receiving Electronic Documentation and decline to receive hard copies of any such materials. You agree to receive all such communications in the English language.

## 5. MODIFICATION OF TERMS.

NEC may update, amend, modify or supplement the terms and conditions of this Agreement (including without limitation any Schedules, any SLAs, the AUP and the Privacy Policy) from time to time upon notice to You. You can review the most current version of this Master Service Agreement at <https://partner.univerge.blue/legal/> and the Schedules, the SLAs, the AUP, and the Privacy Policy at any time at <https://www.univerge.blue/legal>. Your continued use of Your Account or the Services after NEC posts a new version of the Agreement will be conclusively deemed to be acceptance by You of any such new version.

## 6. LIMITED WARRANTY; LIMITATION OF DAMAGES.

6.1. NEC provides Services and/or Voice Services “as is,” except as otherwise specifically set forth in the SLA. You expressly agree that the resale and/or use of Services and/or Voice Services is at Your sole risk. To the fullest extent permitted by applicable law, NEC and its subsidiaries, affiliates, officers, employees, agents, partners, vendors and licensors expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement. You hereby agree that the terms of this Agreement shall not be altered due to custom or usage or due to the parties’ course of dealing or course of performance under this Agreement.

6.2. NEC and its subsidiaries, affiliates, officers, employees, agents, partners, vendors and licensors shall not be liable for any direct, indirect, incidental, special, punitive or consequential damages, including but not limited to damages for lost profits, business interruption, loss of programs or information,

and the like, in connection with any claim arising under or in connection with this Agreement or the Services and/or Voice Services provided hereunder, regardless of whether NEC has been advised of such damages or their possibility. Some jurisdictions do not permit exclusion or limitation of liability for all types of damages (including the province of Quebec), so the preceding exclusions may not apply to all parties; in such jurisdictions, and only such jurisdictions, the liability is limited to the fullest extent permitted by law. NEC will not be liable for any harm that may be caused by access by You or Your End Users to application programming interfaces or the execution or transmission of malicious code or similar occurrences, including without limitation, disabling devices, drop dead devices, time bombs, trap doors, trojan horses, worms, viruses and similar mechanisms.

6.3. You agree that the total liability of NEC and the NEC Parties and Your sole remedy for any claims (i) regarding the Services and/or Voice Services for which a remedy is set forth in the SLA is limited to the credits set forth in the applicable SLA; and (ii) regarding the Services and/or Voice Services, other than those specifically described in clause (i) of this Section 6.3, is limited to the lesser of (a) One Thousand Dollars (\$1,000) and (b) the prior one (1) month of Service Fees paid under this Agreement by You to NEC. You further agree that You will limit the liability of NEC in Your agreements with End Users to conform with this Section 6.3.

6.4. In the case of translated or otherwise customized versions of the Services and/or Voice Services that have been enabled by You, NEC may, in its sole direction and without notice, update, revise or amend the Services and/or Voice Services, in which case, the Services and/or Voice Services provided to your End Users may contain text that does not reflect the corrected or updated text of the Services and/or Voice Services provided to NEC’s direct end users. You shall be responsible for notifying Your End Users of any such changes or discrepancies. NEC is not responsible for updating or supporting any translated text. For purposes of clarification, NEC owns and retains all rights (including without limitation copyright and other intellectual property rights) in any such translated materials.

## 7. INDEMNITY.

7.1. You shall defend, indemnify, save, and hold NEC and the NEC Parties harmless from any and all demands, liabilities, losses, costs, and claims,

including reasonable attorneys' fees, asserted against them that may arise or result from (i) Your breach of this Agreement and/or of any license related to the Services and/or Voice Services, (ii) Your failure to comply with Section 1.3 of this Agreement, (iii) Your negligence or willful misconduct or any of Your services or products and any act or omission taken by You in connection with Your purchase and/or resale of Services and/or Voice Services hereunder, and (iv) any action or claim brought by End Users or third parties, including but not limited to, Governmental Authorities, related to the Services and/or Voice Services, including but not limited to, any action taken by NEC with respect to Sections 1.3 and 10.13 of this Agreement.

7.2. NEC will, at its own expense, defend or at its option settle, any claim brought against You by a third party on the issue of infringement of any copyright, patent, or trademark of that third party, in each case by the "NEC Technology," as defined below in this Section 7.2; provided that You provide NEC with (i) prompt written notice of such claim; (ii) control over the defense and settlement of such claim; and (iii) proper and full information and assistance to settle and/or defend any such claim. In the event of any claim for which NEC may be obligated to defend or settle in accordance with this Section 7.2, NEC may at its sole option and expense, either: (a) procure the right to use the NEC Technology as provided herein, (b) replace the NEC Technology with other non-infringing products with equivalent functionality; (c) suitably modify the NEC Technology so that it does not infringe, or (d) terminate this Agreement. NEC assumes no liability for infringement claims arising from: (1) any combination of the NEC Technology with products or technology not provided by NEC, if the infringement would not have occurred if the NEC Technology had not been so combined; (2) any modification of the NEC Technology, in whole or in part, by anyone other than NEC, if the infringement would not have occurred but for such modification; (3) use by You of any NEC Technology after NEC notifies You that continued use may subject You to such claim of infringement; (4) any proprietary or intellectual property rights not expressly identified in this Section 7.2; or (5) any non-United States proprietary or intellectual property rights. "NEC Technology" means the software owned by NEC (or NEC Parties or their affiliates) which is delivered to You in connection with Your use of the Services. This Section 7.2 sets forth the entire liability and obligations of NEC, and Your exclusive remedy, with respect to any actual or alleged infringement of any intellectual property or proprietary right by the Services. The terms of this Section 7.2 are subject to the limitations of Section 6.

## 8. CONFIDENTIALITY AND PRIVACY POLICY; DATA AND FEEDBACK.

8.1. Confidential Information. "Confidential Information" is all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information will include Your Data. NEC's Confidential Information will include the Services and/or Voice Services (and any portion thereof), the terms and conditions of this Agreement and all related forms and support records (written or electronic), as well as NEC's business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by NEC. Confidential Information will not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party. You acknowledge that NEC, and its licensors, retain all intellectual property rights and title, in and to, all of their Confidential Information and/or other proprietary information. This shall include, but not be limited to: products, services, and the ideas, concepts, techniques, inventions, processes, software or works of authorship developed, embodied in, or practiced in connection with the Services and/or Voice Services provided by NEC hereunder.

8.2. Protection of Confidential Information. Except as otherwise permitted by this Agreement or in writing by the Disclosing Party, the Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement.

8.3. Use and Disclosure by NEC. Notwithstanding the foregoing, NEC may use or disclose Your Data or the Data of Your End Users (as defined in the End User MSA) (a) as expressly permitted in writing by You, and (b) as expressly provided in this Agreement, including (i) in accordance with the Privacy Policy (as if such Data were "Information" as defined under the Privacy Policy), and (ii) to access such Data to provide the Services and/or Voice Services or prevent

or address service or technical problems, or at Your request in connection with customer support matters.

**8.4. Authorization of Use and Disclosure.**

The Receiving Party may disclose Confidential Information to the extent required to comply with binding orders of governmental entities that have jurisdiction over it; provided however that, to the extent legally permitted by law to do so, the Receiving Party gives the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or other appropriate remedy and discloses only such Confidential Information as is required by the governmental entity. You expressly authorize, acknowledge and agree that Your Data and the Data (as defined in the End User MSA) of Your End Users is subject to the Privacy Policy and that NEC may act in accordance with the Privacy Policy in connection with providing the Services and/or Voice Services or when otherwise necessary.

**8.5. Filtering.** NEC may employ various filtering methods to reduce unwanted content, such as SPAM e-mail or calls, from reaching Your Company Account. You acknowledge and agree that such methods may prevent legitimate content or communications from reaching Your Account and that Company will not be liable therefor.

**8.6. Feedback.** Any feedback, suggestions, testimonials, endorsements, information or materials conveyed to Company by You or Your Users in connection with the Services shall be collectively deemed "Feedback." You agree to grant and hereby grant to Company a perpetual, transferable, irrevocable, royalty-free, worldwide license (with the right to grant and authorize sublicenses) to make, have made, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform, and otherwise exploit such Feedback without restriction.

**9. TAXES.**

**9.1. General.**

(a) Responsibility. Each party will be responsible for taxes based on its own capital and net income, revenue-based taxes, telecommunication taxes and/or regulatory fees, employment taxes pertaining to its own employees, and for taxes on any property it owns..

(b) Withholding and Other Taxes. You may withhold taxes from payments to NEC only with

NEC's prior and specific written consent. In the event of any such withholding, (i) You will make payment to NEC of the amount owing on the invoice, less a deduction for such tax withheld, which amount will be remitted to the relevant tax authority; (ii) Payments of the net sum to NEC and the withholding tax to the relevant tax authority constitute, for purposes of this Agreement, full settlement of the amount owing under the invoice; and (iii) You will provide NEC with a valid receipt for such tax withheld from the relevant tax authority within sixty (60) days of payment of the applicable invoice. You are responsible for the payment of all other taxes imposed by any governmental authority in connection with Your resale of the Services and/or Voice Services under this Agreement.

(c) Tax Information. Where applicable, You will provide NEC a valid resale or exemption certificate or listing of all valid tax registration identification numbers to minimize indirect taxes (including value added, sales, use, excise, duties, gross receipts, goods and services, and other transaction taxes, fees and surcharges). You acknowledge and agree that, if You deliver a resale or exemption certificate to NEC, (i) You shall assume the full responsibility and obligation of collecting and remitting sales tax with respect to applicable transactions and (ii) You will be responsible for the payment of any unpaid or underpaid sales tax with respect to such transactions.

(d) You agree to reasonably assist NEC by providing necessary data or documentation: (i) in the event NEC is audited by tax authorities or a claim for refund is filed against NEC or NEC Parties and NEC requires certain affirmations or confirmations from You to respond to taxing authority and/or End Users; and (ii) necessary to complete any of NEC's own tax returns including transaction tax returns (sales and telecommunication tax returns) and income tax returns.

**9.2. Regulatory Recovery Fee.** A regulatory recovery fee is charged monthly to offset costs incurred by NEC in maintaining compliance with federal, state, provincial and municipal regulatory bodies, government inquiries and related legal expenses. This fee is not a tax or charge required or assessed by any government. The regulatory recovery fee will apply to each user under an End User account.

**10. MISCELLANEOUS.**

**10.1. No Solicitation.** During the term of this Agreement and for one (1) year after its termination, You

shall not solicit or attempt to solicit, directly or indirectly, for employment or other services, any persons or entities employed or engaged by NEC during such period without NEC's prior written approval.

10.2. Governing Law; Jurisdiction; Forum; Attorneys' Fees. This Agreement will be governed by and construed in accordance with the laws of the Province of Ontario without regard to its conflicts of laws or its principles. Any claim or suit arising out of or relating to this Agreement will be brought exclusively in any court of competent jurisdiction located in Ontario. In any action to enforce this Agreement, including, without limitation, any action by NEC for the recovery of fees due hereunder, You will pay NEC's reasonable attorneys' fees and costs in connection with such action if NEC prevails in such action. You agree to waive the right to trial by jury with respect to any proceeding related to or arising out of this Agreement.

10.3. Written Communications and Notice. You accept that communication from NEC may be electronic. NEC may contact You by e-mail or provide You with information by posting notices on NEC's website or to Your Account. You agree to receive all such communications in the English language. You agree to this electronic means of communication and You acknowledge that all contracts, notices, information and other communications that NEC provides to You electronically are acceptable and effective as notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder will be in writing and will be deemed to have been given (i) immediately upon personal delivery, (ii) the second (2<sup>nd</sup>) business day after mailing, (iii) the second (2<sup>nd</sup>) business day after sending by confirmed facsimile, or (iv) the first (1<sup>st</sup>) business day after sending by email or, if from NEC to You, online posting. Notices to You shall be written in English and may be addressed by NEC to any e-mail address, postal address or facsimile number registered with NEC, or through means of online posting through the Services and/or Voice Services. Notices to NEC that are not expressly authorized by administrative control panel under this Agreement shall be written in English and mailed to NEC Canada, Inc., Suite 110, 7260 – 12 Street S.E., Calgary, Alberta T2H 2S5, Attention: Contracts, or such other address as designated on NEC's website from time to time.

10.4. Beta Offerings. The SLAs do not apply to any Beta Offerings. Notwithstanding anything else set forth in this Agreement, NEC does not make any representations or warranties regarding any Beta Offering or the integrity of any data stored in connection

with any Beta Offering. You are strongly discouraged from using any Beta Offering in connection with sensitive data. NEC may, in its sole discretion, change or terminate any Beta Offering without notice and does not represent or warrant the result of any such action. NEC may, in NEC's sole discretion, convert any Beta Offering to a paid service upon notice to You. To avoid incurring increased charges following such a conversion, You must terminate (i) the individual converted service (if possible) by contacting NEC as directed in the conversion notice, or (ii) if You subscribe to no other services under Your Account, the entire Account, pursuant to Section 3 of this MSA.

10.5. Authority, Age and Capacity. The individual accepting this Agreement on behalf of You represents and warrants that he/she has the authority to bind You to this Agreement. You hereby represent and warrant that You and any person to whom You grant access to Your Account have reached the older of (i) the age of eighteen (18) and (ii) the age of majority in Your jurisdiction, and that You are not subject to a limitation on Your ability to enter into this Agreement.

10.6. Severability. If any one or more of the provisions contained herein will, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any of the other provisions of this Agreement, and this Agreement will be construed as if such provision(s) had never been contained herein, provided that such provision(s) will be curtailed, limited, or eliminated only to the extent necessary to remove the invalidity, illegality, or unenforceability.

10.7. Waiver. No waiver by NEC of any breach by You of any of the provisions of this Agreement will be deemed a waiver of any preceding or succeeding breach of this Agreement. No such waiver will be effective unless it is in writing signed by the parties hereto, and then only to the extent expressly set forth in such writing.

10.8. Assignment. No benefit or duty of You under this Agreement will, without the consent of NEC, be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so will be void. NEC may assign this Agreement without Your consent and without notice.

10.9. Fair Interpretation, Headings. This Agreement reflects terms that are mutually agreeable to the parties. This Agreement will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party based on draftsmanship of the Agreement or otherwise. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

10.10. Force Majeure. Except for monetary obligations, neither party shall be liable to the other for failure or delay in the performance of a required obligation hereunder if such inability or delay is caused by reason of Force Majeure Event. "Force Majeure Event" is any cause beyond a party's reasonable control or anticipation, including, without limitation, acts of war, acts of god, terrorism, pandemic, earthquake, hurricanes, flood, fire or other casualty, embargo, riot, sabotage, labor shortage or dispute, governmental act, insurrections, epidemics, pandemics, quarantines, inability to procure materials or transportation facilities, failure of power, restrictive governmental laws or regulations, condemnation, acts of third parties, failure of the Internet or other reason that is beyond a party's reasonable control or anticipation.

10.11. Survival. The preamble, "Definitions" and Sections 2, 3, 4, 5, 6, 8, 9 and 10 of this Master Service Agreement will survive termination.

10.12. Entire Agreement; Third Party Beneficiaries. This Agreement, including any Schedules, constitutes the entire agreement for provision of the Services and/or Voice Services to You and supersedes all other prior agreements and understandings, both written and oral, between You and NEC with respect to the Services and/or Voice Services. You understand and agree that (i) the NEC Parties are third party beneficiaries of this Agreement, and (ii) in the event of any breach of this Agreement or any Schedule, such NEC Parties shall have all rights and remedies available to them as if they were parties to this Agreement, including claiming the benefit of Section 8.

10.13. Independent Parties. Nothing contained in this Agreement shall be deemed to create, or be construed as creating, a joint venture or partnership between the parties. Neither party is, by virtue of this Agreement or otherwise, authorized as an agent or legal representative of the other party. Neither party is granted any right or authority to assume or to create any obligation or responsibility, express or implied, on behalf or in the name of the other party, or to bind such other party in any manner.

10.14. Publicity and Advertising. Except as required by law, You shall not make any written public statement, such as advertisements, marketing materials, or press releases, referring to the existence or terms of the Agreement, or the relationship memorialized by the Agreement, without the prior written approval of NEC.

10.15. Regulatory Changes. If a U.S. federal regulatory body (e.g., the Federal Communications Commission ("FCC")), a U.S. state regulatory body (e.g., public utility commission), a Canadian federal regulator body (e.g., the Canadian Radio-television and Telecommunications Commission (CRTC)), or a foreign regulatory body, or a court of competent jurisdiction, issues a rule, regulation, law or order which has the effect of materially increasing the cost to provide Services and/or Voice Services hereunder or canceling, changing, or superseding any material term or provision of this Agreement (collectively "Regulatory Requirement") then this Agreement shall be deemed modified in such a way as the parties mutually agree is consistent with the form, intent and purpose of this Agreement and is necessary to comply with such Regulatory Requirement. Should the parties not be able to agree on modifications necessary to comply with a Regulatory Requirement within thirty (30) days after the Regulatory Requirement is effective, then, upon written notice, either party may, to the extent practicable, terminate that portion of the Agreement impacted by the Regulatory Requirement.

10.16. Compliance with Law; Anti-Bribery Provisions. You acknowledge and understand that You must, and agree that You will, comply fully with the laws of all applicable jurisdictions, including without limitation the U.S. Foreign Corrupt Practices Act, as amended ("FCPA") and/or Canada's Corruption of Foreign Public Officials Act ("CFPOA") in connection with the performance of Your duties hereunder. In carrying out Your responsibilities under this Agreement, You and Your owners, officers, directors, employees and agents have not and will not pay, offer, or promise to pay, or authorize the payment, directly or indirectly, of any money, gift or anything of value to any "Government Official" (as defined for purposes of the FCPA) or "Public Official" (as defined for purposes of the CFPOA) for the purpose of influencing any act or decision of such official or of the government to obtain or retain business, or direct business to any person (any such payment, a "Prohibited Payment"); provided that a Prohibited Payment does not include the payment of reasonable and *bona fide* expenditures, such as travel and lodging

expenses, which are directly related to the promotion, demonstration or explanation of products or services, or the execution or performance of a contract with a foreign government or agency thereof. You are not and will not become owned wholly or in part by the government, any agency or instrumentality thereof, or any Government Official or Public Official during the term of this Agreement without the prior written approval of NEC. NEC shall have the right to audit You in order to satisfy that no breach of this Section 10.16 has occurred, and You shall cooperate fully in any audit conducted by or on behalf of NEC. In the event that NEC determines, in

its sole discretion, that You have breached any of the representations, warranties or covenants in this Section 10.16, NEC shall have the right to terminate this Agreement immediately upon written notice to You.

10.17. Language. The parties confirm that they have requested that this Agreement and all related documents be drafted in English. *Les parties aux présentes ont exigé que la présente entente et tous les documents connexes soient rédigés en anglais.*

**APPENDIX 1: SAMPLE AGREEMENT. NOT TO BE RELIED UPON OR USED WITHOUT SEEKING LEGAL ASSISTANCE. NEC MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THIS AGREEMENT AND THIS DOCUMENT IS A SAMPLE THAT NEEDS TO BE REVIEWED AND/OR REVISED BY YOUR LEGAL COUNSEL.**

**CAREFULLY READ THESE TERMS AND CONDITIONS, AS THEY FORM A LEGALLY BINDING AGREEMENT BETWEEN YOU AND [CUSTOMER OWNERSHIP PARTNER]. ONLY AN AUTHORIZED REPRESENTATIVE OF YOUR COMPANY MAY EXECUTE THIS AGREEMENT. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, YOU DO NOT HAVE PERMISSION TO USE COMPANY SERVICES AND DO NOT HAVE ANY OTHER OF THE RIGHTS SET FORTH BELOW.**

This Master Service Agreement (this "MSA") is entered into between [Customer Owner Partner] ("[COP]") and customer ("You"). You are not required to purchase voice services from [COP] nor from any of its affiliates. If You elect to purchase voice services under this MSA, please be advised of the following: (i) voice services will be provided through NEC Canada, Inc. ("NEC"); (ii) **Your acceptance of, and agreement to, the terms of this MSA also constitutes your acceptance and acknowledgement of, and agreement to, (A) the important disclosures, notices and disclaimers contained in Attachment 1 to this MSA related to 911 (including enhanced 911 (E911)) calling and service and (B) the terms of the Schedule(s) and related documents provided or made available to You;** and (iii) the terms and conditions of this MSA will apply to the services you receive from NEC as well as the terms and conditions in NEC's Schedules and related documents. If You instead choose to purchase voice services through an unrelated third party, this MSA will not govern the provision of any services provided by such third party, and such third-party-provided voice services are used at Your sole risk and pursuant to the terms and conditions you enter into with such third party. In the event that You have purchased these services with the assistance or upon the recommendation of an [COP] registered Agent, You hereby grant that Agent the right to manage Your Account, including creation, management and deletion of users and services. You acknowledge and agree that You are responsible for all charges, fees, surcharges, and taxes resulting from any changes made to Your Account by the registered Agent. If you do not want Your registered Agent to have the right to manage Your Account, You must select the option denying such a right in your control panel.

**Any of the following actions constitutes Your agreement, without limitation or qualification, to be bound by, and to comply with, the terms of this Agreement: (i) registering for Service on [COP]'s web page or portal and selecting "I Accept" as part of the registration process, (ii) ordering Service from [COP]'s personnel and providing them with Your credit card number or other billing information, or (iii) use of the Services or Your Account by You or Your Users.**

You agree to be bound by all of the terms and conditions of (i) this MSA and (ii) the following:

- [COP]'s Privacy Policy (the "Privacy Policy");
- [COP]'s Service Level Agreements for all of [COP]'s Services that may be sold hereunder (each, a "Service Level Agreement" or "SLA");
- [COP]'s Acceptable Use Policy ("AUP"); and
- [COP]'s Schedules (as defined below).

This MSA and all of the above referenced documents are collectively referred to as the "Agreement." Each of the foregoing is expressly incorporated herein by reference and may be amended or updated from time to time by [COP]. Current copies of the MSA, Privacy Policy, SLA, AUP, and Schedules are located at [www.\[COP\].url](http://www.[COP].url).

**DEFINITIONS.** For the purposes of this MSA, the following definitions apply:

"Access Information" means information that alone or together with other information, can provide access to any portion of Your Account, including but not limited to, Your Account number, login names, passwords, credit card or other financial information, security questions and their respective answers, and any other similar information. For the avoidance of doubt, Your Access Information will include any similar information for each of Your Users.

“Account” means the account created with [COP] in connection with this Agreement that relates to Your purchase of and subscription to Services and the use of Services by You and Your Users.

“Administrative User” means any of Your employees, consultants, independent contractors or customers to whom You grant administrative permission to access the Services in accordance with [COP]’s entitlements and procedures and this Agreement (where “administrative permission” includes, but is not limited to, the right to create, modify and delete User accounts, as well as the right to access and modify Your billing information and other functionality available through the [COP] administrative control panel).

“Applicable Law” means any applicable foreign, federal, state, provincial or other laws, rules, regulations or interpretations of relevant Governmental Authorities or self-regulatory bodies.

“Beta Offerings” means any portion of the Services offered on a “beta” basis, as designated by [COP], including but not limited to, products, plans, services, and platforms.

“Data” means all data submitted by Your Users to [COP] in connection with the Services, including all content, material, IP and similar addresses, recordings, messages, software, Account Information and Account-related settings.

“Governmental Authority” means a government, regulatory organization, self-regulatory organization, court of competent jurisdiction or similar body.

“[COP]” means [COP], a corporation with offices at [COP Address] (“[COP]”).

“[COP] Parties” means [COP]’s affiliates (including parents and subsidiaries), vendors, licensors and partners, and its officers, employees, agents and representatives (including without limitation NEC Canada, Inc., and their affiliates).

“PHI” means (a) for customers in the United States, Protected Health Information (as such term is defined in the Health Insurance Portability and Accountability Act of 1996 and the rules and regulations promulgated thereunder, as each may be amended from time to time) and (b) for customers in Canada, personal health information (as such term is defined in the applicable federal, state and provincial privacy legislation relating to personal health information and the rules and regulations promulgated thereunder, as each may be amended from time to time) that is individually identifiable health information.

“Schedule(s)” means documents (including the Service-specific product schedules located at: [www.\[COP\].url](http://www.[COP].url) and the order documentation generated through [COP]’s administrative control panel) that specifically describe the Services used by You under this Agreement, including product descriptions, the currency to be used for billing and payment, pricing, and other terms. Each Schedule shall be deemed a part of and incorporated into this Agreement.

“Services” means [COP]’s unified communications, hosting and other services, software and products, as such services, software and products that are offered by [COP] from time-to-time in its discretion and subscribed to, purchased by, or used by You as set forth in a Schedule.

“Third-Party Service” means any service or product offered by a party that is not [COP].

“User” means any of Your employees, consultants, independent contractors or other individuals to whom You grant permission to access the Services in accordance with [COP]’s entitlements procedures and this Agreement (including Administrative Users and end Users).

“You” and “Your” means the individual or entity on whose behalf this Agreement is accepted.

## **1. SCOPE; ACCESS; SECURITY.**



1.1. Access to Services. Subject to and in accordance with the terms of this Agreement, including any Schedules, [COP] grants You a non-exclusive, non-sublicensable, nontransferable, non-assignable, revocable license for the term of this Agreement to access and use the Services. Services may only be used by Your Users for internal business purposes only. You agree to comply with the terms and conditions of this Agreement, including any Schedules, and with all applicable [COP] procedures and policies that further define use of the Services. You acknowledge and agree that the actions of any of Your Users with respect to the Services will be deemed to be actions by You and that any breach by any of Your Users of the terms of this Agreement, including any Schedule, will be deemed to be a breach by You.

1.2. Account Information and Ownership. You acknowledge that Your failure to timely update Your Account information, including authorized Administrative Users, can result in unauthorized personnel having access to Your Account and potentially doing harm to You. Accordingly, You agree to maintain accurate Account information by providing updates to [COP] promptly, but no later than three (3) business days, when any of Your Account information requires change, including any relevant Account contact information. Failure by You, for any reason, to respond within three (3) business days to any inquiries made by [COP] to determine the validity of information provided by You will constitute a material breach of this Agreement. You acknowledge and agree, and expressly consent, that in the event of any dispute regarding access to or legal ownership of any [COP] account or any portion thereof, including Your Account, [COP] will resolve such dispute in its sole discretion. In addition, in the event of such a dispute, [COP] may immediately suspend, alter or terminate any relevant account, including Your Account, or any portion thereof. You will reimburse [COP] for any legal fees and other fees incurred with respect to any dispute regarding control or ownership of Your Account or Your Data or the same of another [COP] customer. You acknowledge and agree that (i) the legal owner of all Data on the Account is You (the counterparty to this Agreement) and not any individual User, including any Account contact registered with [COP], regardless of any administrative designation (e.g., Administrator, Billing Contact, Owner, etc.); (ii) You will provide [COP] with any documentation it reasonably requests to establish ownership and rights to Your Account and any related Data; and (iii) any User identified as an Administrative User with respect to Your Account has the authority to bind You to any amendments, modifications or acknowledgements regarding this Agreement or otherwise relating to the Services.

1.3. Account Security and Activity. You acknowledge and agree that You are solely responsible for (i) maintaining the confidentiality and security of Your Access Information, and (ii) all activities that occur in connection with Your Account, whether initiated by You, by others on Your behalf or by any other means. You will notify [COP] immediately of any unauthorized use of Your Account, Access Information or any other actual or potential breach of security. You acknowledge and agree that [COP] will not be liable for any loss that You may incur as a result of any party using Your Access Information, either with or without Your knowledge and/or authorization. You further agree that You may be held liable for losses incurred by [COP], any [COP] Party, or another party due to any party using Your Access Information. [COP] strongly recommends that You keep Your Access Information in a secure location, take precautions to prevent others from accessing it and change it when necessary to maintain its confidentiality and security. **[COP] specifically disclaims all liability for any activity in Your Account, whether authorized by You or not.**

1.4. Failure of a Line Test. With respect to voice services, if a specific site fails a "VoIP line test" as part of the installation process, and You are unable or unwilling to upgrade the data circuit, router, switch, or faulty component responsible for the failure, [COP] reserves the right to cancel the order for such site.

## 2. TERM AND TERMINATION.

2.1. Term. This Agreement shall be effective from Your acceptance of this Agreement (or a previous version of [COP]'s service agreement) and shall continue until the expiration or termination of all Schedules ("Agreement Term"). When You purchase Services from [COP], a Schedule will be created specific to such purchase, setting forth the contract term and other terms and conditions with respect to such purchase. The term of each Schedule ("Schedule Term") shall be an initial term with a duration to be agreed to by You and [COP] (e.g., one month, one year or some other mutually agreed-upon period) (a "Schedule Initial Term"), followed by renewal periods

with a duration to be agreed to by You and [COP] (a “Schedule Renewal Term”). Termination of this Agreement shall not relieve either party from fulfilling its obligations prior to such termination.

(a) Monthly Plan Schedule Term. For a Monthly Plan with [COP], the Schedule Initial Term is the period from the date of Your acceptance of the Schedule through the remainder of that calendar month. The Schedule Renewal Term for a Monthly Plan is defined as one (1) calendar month beginning at the end of the Schedule Initial Term and each subsequent calendar month thereafter.

(b) Annual or Multi-Annual Plan Schedule Term. For an Annual or Multi-Annual Plan with [COP], the Schedule Initial Term is the period from the date of Your acceptance of the Schedule through the remainder of that calendar month and continuing through the remainder of the Schedule Term, unless the parties have agreed in writing to a longer term. A Schedule Renewal Term for an Annual or Multi-Annual Plan is defined as the twelve-month period beginning at the end of the Schedule Initial Term and each subsequent twelve-month period thereafter.

(c) Automatic Renewal. Each Schedule will renew automatically at the end of the then-current Schedule Term for a Schedule Renewal Term unless terminated in accordance with this Agreement by either You or [COP].

## 2.2. Termination by You.

(a) Monthly Plan. For a Monthly Plan, You may terminate any Schedule for any reason by following the termination procedure located within the Account section of the administrative control panel prior to the beginning of any Schedule Renewal Term. If You terminate a Monthly Plan prior to the end of the then-current Schedule Term, [COP] will not be required to refund to You any fees already paid, unless otherwise set forth in the applicable Schedule and You shall pay all unpaid amounts for Services provided through the date of termination and any third party cancellation/termination charges related to the installation and/or termination of Services and the non-recurring charges for any cancelled Services.

(b) Annual or Multi-Annual Plan. For an Annual or Multi-Annual Plan, You may terminate any Schedule for any reason by following the termination procedure located within the Account section of the administrative control panel at any time. If such a termination is effective prior to the end of the then-current Schedule Term, You will incur a fee that is equal to the termination fees described in the applicable order documentation or Schedule or, in the absence of any termination fees described in such documents, a fee that is equal to the sum of (a) all unpaid amounts for Services provided through the date of termination; (b) any third party cancellation/termination charges related to the installation and/or termination of Services, (c) the non-recurring charges for any cancelled Services, if such charges have not already been paid and (d) the percentage of the monthly recurring charges for the terminated Services calculated from the effective date of termination as (1) 100% of the remaining monthly recurring charges that would have been incurred for the Services for months 1-12 of the Services Term, plus (2) 50% of the remaining monthly recurring charges that would have been incurred for the Services for months 13 through the end of the Services Term. The early termination fee is not a penalty. It is an estimate of liquidated damages suffered by [COP] as a result of Your early termination of the Services...

(c) Refunds/Fees for Termination by You. Fees for non-recurring Services and set up fees will not be refunded. Any fees previously waived, discounts, or rebates applied may be reinstated if You terminate the account during the Schedule Term or if You breach this Agreement, including any Schedule.

## 2.3. Termination by [COP].

(a) 30-Day Termination. [COP] may terminate this Agreement or any Schedule for any reason by providing thirty (30) calendar days’ notice. If [COP] terminates this Agreement pursuant to this Section 2.3(a), then all Schedules will terminate at the end of the thirty (30) day notice period. If [COP] terminates any Schedule pursuant to this Section 2.3(a), then (i) for a Schedule with a Monthly Plan, if the effective termination date occurs prior to the end of the then-current Schedule Term, [COP] will refund (or refrain from charging You) the

pro rata monthly fees for the month in which Services terminate and (ii) for a Schedule with an Annual Plan, [COP] will refund (or refrain from charging You) the monthly fees for the month in which Services terminate. For Schedules with either a Monthly Plan or an Annual Plan, if [COP] terminates this Agreement, including any Schedule, pursuant to this Section 2.3(a), [COP] will not charge You monthly fees for any month following the month in which [COP] terminates this Agreement, including any Schedule.

(b) Immediate Termination. [COP] may terminate this Agreement, including any Schedule, (or suspend Your Account) immediately and without prior notice for any of the following reasons:

(i) Any material breach of this Agreement, including any Schedule, by You, as determined by [COP] in its sole discretion, including, but not limited to, failure to make any payment when due, violation of the AUP or any other [COP] policy or procedure applicable to the Services as notified to You from time to time, which remains uncured beyond thirty (30) days' notice by [COP]; or

(ii) If Your use of the Services results in, or is the subject of, actual or potential legal action or threatened legal action, against [COP] or any of its affiliates, vendors, partners, representatives or customers, without consideration for whether such actual or potential legal action or threatened legal action is eventually determined to be with or without merit.

(c) Termination or Suspension of Users. In lieu of terminating or suspending Your entire Account, [COP] may suspend Your Account or terminate or suspend individual Users.

(d) No Refunds; Further Payment Due. If [COP] terminates this Agreement, including any Schedule, pursuant to Section 2.3(b), (i) [COP] will not refund to You any paid fees and (ii) You will be liable for any payment that would have been due had You terminated pursuant to Section 2.2.

2.4. Following Termination. Termination will not cancel or waive any fees owed to [COP] or incurred prior to or upon termination. You agree that [COP] may charge such unpaid balance to Your Account on file or otherwise bill You for such unpaid balance. Upon termination, You must promptly uninstall all software provided by [COP] in connection with the Services. All of Your Data will be irrevocably deleted promptly (as soon as fourteen (14) calendar days) following the termination of this Agreement or the applicable Schedule, including but not limited to, databases, contacts, calendars, e-mail, website content, and any Data hosted by [COP]. It will be solely Your responsibility to secure all necessary Data from Your Account prior to termination. [COP] will not be responsible or otherwise liable for any loss of Your Data or any damages arising from the deletion of Your Data following termination of the Services.

### 3. FEES, BILLING, TAXES, CHARGES.

3.1. Fees. The fees initially charged upon ordering any Service will be effective for the applicable Schedule Initial Term and each Schedule Renewal Term, provided, that [COP] will have the right to increase these fees at any time upon thirty (30) calendar days' notice to You. Notwithstanding anything to the contrary set forth in any Annual Plan or Schedule, if a [COP] vendor increases the price that it charges to [COP] for the underlying licenses or services that [COP] delivers to You, then [COP] shall be entitled to increase the price charged to You for such Service during the term of such Annual Plan by an amount that is proportional to the amount of such increase imposed upon [COP] by such vendor. If you do not agree with any such fee increase, You will have the right to terminate the applicable Schedule immediately upon notice received within thirty (30) calendar days of date of notice of the fee increase. All payments made to [COP] shall be in Canadian dollars (or any other currency as may be permitted in the applicable Schedule(s)).

3.2. Billing and Payment Arrangements. [COP] will bill You monthly for all established and recurring fees, and any applicable one-time fees in that month, including but not limited to interest, check paying program fees and returned check fees. Pro rata billing may occur throughout the course of a billing cycle for feature add-ons that You enable on your Account during any given month.

3.3. Payment by Automated Means.

(a) You may view and print an invoice for Your Account using the administrative control panel made available to You. On or about the first (1st) day of each month, [COP] will apply the current monthly charges to Your automated payment method, the relevant information of which You entered on the billing information page in the administrative control panel. Payment by automated means includes any form of automated payment accepted by [COP] from time to time, including credit card, debit card, direct debit or other means.

(b) You must provide [COP] with valid automated payment information as a condition to receive or use the Services. You are responsible for and agree to update [COP] with any changes to Your billing and/or automated payment information (e.g., new or updated credit card, credit card expiration date or other payment account information). **By providing [COP] with the automated payment information, You authorize [COP] to charge Your automated payment account for any amounts arising from or relating to the Services without further authorization from You.** It is Your responsibility to keep Your automated payment information up-to-date. If charges to Your automated payment account fail, [COP] will email a warning to Your Account billing contacts.

(c) If [COP] is unable to successfully process Your payment by automated means by the seventh (7th) calendar day of the month for which the payment is due, Your payment will be considered late and not paid in full. [COP] may suspend or terminate Your Account in accordance with Section 2.3(b)(i) for failure to timely pay in full. Late payments are subject to a late-payment charge of the greater of (i) interest calculated at the lesser of (x) eighteen percent (18%) per year and (y) the maximum amount permitted by law and (ii) twenty-five dollars (\$25). Such interest will accrue daily from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You will pay the interest immediately on demand. You will pay all collection costs incurred by [COP] (including, without limitation, reasonable attorneys' fees).

3.4. Payment by Check.

(a) If You apply for and are accepted into [COP]'s check paying program, [COP] will issue You an invoice within the first five (5) calendar days of each calendar month. Each invoice will include an invoice processing fee of twenty-five dollars (\$25). Payment by check must be received by the fifteenth (15th) calendar day of each month. Acceptance into and continued participation in [COP]'s check paying program will be at [COP]'s sole discretion.

(b) Should Your check not be honored, a check fee of the lesser of (i) fifty dollars (\$50) and (ii) the maximum amount permitted by law, will be charged to Your Account. In addition, [COP] may require You to pay by cashier's check or money order.

(c) If [COP] does not receive payment by the fifteenth (15th) calendar day of the month for which the payment is due, Your payment will be considered late and not paid in full. [COP] may suspend or terminate Your Account in accordance with Section 2.3(b)(i) for failure to timely pay in full. Late payments are subject to a late-payment charge of the greater of (i) interest calculated at the lesser of (x) eighteen percent (18%) per year and (y) the maximum amount permitted by law and (ii) twenty-five dollars (\$25). Such interest will accrue daily from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You will pay the interest immediately on demand. You will pay all collection costs incurred by [COP] (including, without limitation, reasonable attorneys' fees).

3.5. Fees for Excess Use. You agree to monitor and maintain Your Accounts within all [COP]-specified limits and in a manner that does not disrupt the activities of [COP] and other [COP] customers and users. If Your usage exceeds the limits for Your Account or may disrupt the activities of other [COP] customers, You agree that [COP] may immediately, in its sole discretion, (i) charge You for such excess usage via Your automated payment account, or by invoice if You have been accepted into [COP]'s check paying program, (ii) upgrade You to a plan or increase the limits on Your Account to address this excess usage, and/or (iii) suspend Your Account or terminate Your Account upon notice To You. Usage and associated charges for excess usage will be

determined based solely upon [COP]'s collected usage information. Unused monthly allotments will not accrue or carry over from one month to any other month. Upon any upgrade or increase on the limits of Your Account, You will be responsible for the new costs and fees.

3.6. Taxes. In addition to [COP]'s charges, You will be responsible for all applicable federal, state, provincial, municipal, local or other governmental sales, use, excise, personal property, public utility or other taxes, fees or charges, including fees collected by federal and state regulatory agencies, now in force or enacted in the future, that arise from or as a result of Your subscription, use, and/or payment for the Services. Such amounts are in addition to payment for the Services and will be billed to You as set forth in this Agreement. If You are exempt from payment of such taxes, You must provide [COP] with an original certificate that satisfies applicable legal requirements attesting to Your tax-exempt status. Tax exemption will only apply from and after the date [COP] receives such certificate.

3.7. Fees for Additional Services. You agree to pay [COP]'s then-current rates and expenses, including the cost of [COP]'s vendors, for any requests related to information retrieval, subpoenas, consulting and advisory services, or similar work.

3.8. Bill Disputes. You will notify [COP] of any dispute relating to charges billed to Your Account by submitting a Billing Dispute Notification Form (available through [COP]'s customer service) to [COP] within sixty (60) days of the date the disputed charges appeared on Your Account. The existence of a dispute will not relieve You from paying any and all amounts billed hereunder. You waive all rights to dispute any charges not disputed by written notice as required above.

3.9. Electronic Billing and Documentation. All billing and other documentation regarding the Services may be provided electronically ("Electronic Documentation"). You acknowledge and agree that You are able to view all Electronic Documentation and consent to receiving Electronic Documentation and decline to receive hard copies of any such materials. You agree to receive all such communications in the English language.

3.10. Modification made by Sales Partner. You acknowledge and agree that any charges, fees, surcharges, and taxes resulting from any changes made to Your Account by the registered Sales Partner are Your sole and exclusive responsibility unless you select the option in your control panel indicating that You do not want Your registered Sales Partner to have the authority to manage Your Account.

3.11. Regulatory Recovery Fee. A Regulatory Recovery Fee is charged monthly to offset costs incurred by [COP] in maintaining compliance with federal, state, provincial and municipal regulatory bodies, government inquiries and related legal expenses. This fee is not a tax or charge required or assessed by any government. The monthly Regulatory Recovery Fee will apply for each User and applied Account.

#### **4. USE OF THE SERVICES.**

4.1. Internal Use. You will use the Services for Your own internal business, non-residential and non-personal use. You acknowledge and agree that You will not allow any third party, including Your vendors and service providers, to access or use the Services unless such third party is allowed access for the purpose of providing authorized customer support services or in connection with Your appropriate use of the Services for Your own business purposes.

4.2. Restricted Activities. You will not (i) use any Service for any purpose outside the Service's intended scope, features, and function set, (ii) use any Service for third-party training, (iii) use any Service as an application service provider or service bureau, unless You have entered into a separate written agreement with [COP] to provide such services, (iv) use any Service for timesharing or rental, (v) use any Service to design software or other materials or services with similar or competitive functionality for any purpose, including distribution to third parties, (vi) except with respect to Your Data, duplicate any portion of the Services or display, distribute, publish, or otherwise disclose any Service; (vii) use any of the Services to interface with any other service or application that is outside the scope of intended use; (viii) decompile, disassemble, or otherwise

reverse engineer any portion of the Services; (ix) make any modification or interface to any Service that is not specifically authorized by [COP] without prior written consent of [COP]; (x) resell or sublicense any portion of the Services, and any purported resale or sublicense will be void; and (xi) store, maintain, or use on or through the Service any PHI, unless a formal Business Associate Agreement (in a form acceptable to [COP] in its sole discretion), if required by applicable law, has been executed between [COP] and You. You may not access the Services for purposes of monitoring their performance, availability, or functionality, or for any other benchmarking or competitive purposes, without [COP]'s prior written consent. You may not, without [COP]'s prior written consent, access the Services if You are a direct competitor of [COP].

4.3. Applicable Law. You acknowledge and agree that access and use of the Services may be restricted or limited as a result of Applicable Laws and that You will not use, or allow the use of the Services in contravention of, and will comply with, any Applicable Law. You represent that (i) You and Your Users are not named on any Government Authority list of persons or entities prohibited from receiving exports, and (ii) You will not permit Users to access or use Services in violation of any export embargo, prohibition or restriction. You acknowledge and agree that that it is Your sole responsibility to use the Services in a lawful manner.

## 5. YOUR DATA; FEEDBACK.

5.1. Submission of Your Data. Any Data You provide to [COP] in connection with the Services must comply with the AUP. Attempting to place or transmit, or requesting placement or transmission, of Data that does not comply with the AUP will be a material breach of this Agreement. [COP] may, in its sole discretion, reject or remove Data that You have used or attempted to use with respect to the Services. Any Data used with respect to the Services by or through You will be free of any and all malicious code, including without limitation, disabling devices, drop dead devices, time bombs, trap doors, trojan horses, worms, computer viruses and mechanisms that may disable or negatively impact the Services or [COP]'s servers. You hereby represent and warrant to [COP] that You have the right to use any patented, copyrighted, trademarked, proprietary or other material in connection with Data that You use, post, or otherwise transfer or transmit with respect to the Services.

5.2. Public Disclosure of Data. You are solely responsible for ensuring that You do not accidentally make any private Data publicly available. Any Data made public may be publicly accessible through the internet and may be crawled and indexed by search engines or other third parties. By making any Data publicly available on any of the Services, You affirm that You have the consent, authorization or permission, as the case may be, from every person who may claim any rights in such Data to make such Data available in such manner.

5.3. Data Takedown. By making any Data publicly available in the manner aforementioned, You expressly agree that [COP] will have the right to block access to or remove such Data made available by You, if [COP] receives complaints, inquiries or notices concerning any illegality or infringement of rights in such Data. You expressly consent to determination of questions of illegality or infringement of rights in such Data by the agent designated by [COP] for this purpose.

5.4. Filtering. [COP] may employ various filtering methods to reduce unwanted content, such as SPAM e-mail or calls, from reaching Your [COP] Account. You acknowledge and agree that such methods may prevent legitimate content or communications from reaching Your Account and that [COP] will not be liable therefor.

5.5. Control. [COP] is not obligated to exercise control over the content of information, including Your Data, passing through [COP]'s network except any controls expressly provided in this Agreement.

5.6. Feedback. Any feedback, recommendations, enhancement requests, suggestions, testimonials, endorsements, information or materials conveyed to [COP] by You or Your Users in connection with the Services shall be collectively deemed "Feedback." You agree to grant and hereby grant to [COP] a perpetual, transferable, irrevocable, royalty-free, worldwide license (with the right to grant and authorize sublicenses) to make, have made, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform, and otherwise exploit such Feedback without restriction.

## 6. CONFIDENTIALITY AND PRIVACY.

6.1. Confidential Information. “Confidential Information” is all confidential information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information will include Your Data. [COP]’s Confidential Information will include the Services (and any portion thereof), the terms and conditions of this Agreement and any Schedules, and all related Service order forms, as well as [COP]’s business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by [COP]. Confidential Information will not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party. The Receiving Party may disclose Confidential Information to the extent required to comply with binding orders of governmental entities that have jurisdiction over it; provided however that, to the extent legally permitted by law to do so, the Receiving Party gives the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or other appropriate remedy, discloses only such Confidential Information as is required by the governmental entity, and uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information disclosed. You acknowledge that [COP], and its licensors, retain all intellectual property rights and title, in and to, all of their Confidential Information and/or other proprietary information. This shall include, but not be limited to: products, services, and the ideas, concepts, techniques, inventions, processes, software or works of authorship developed, embodied in, or practiced in connection with the Services provided by [COP] hereunder.

6.2. Protection of Confidential Information. Except as otherwise permitted by this Agreement or in writing by the Disclosing Party, (i) the Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party will limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who are bound by confidentiality obligations at least as protective of Disclosing Party and its Confidential Information as the provisions of this Agreement.

6.3. Use and Disclosure by [COP]. Notwithstanding the foregoing, [COP] may use or disclose Your Data (i) as expressly permitted in writing by You, and (ii) as expressly provided in this Agreement, including (a) in accordance with the Privacy Policy (as if such Data were “Information” as defined under the Privacy Policy), and (b) to access Your Data to provide the Services or prevent or address service or technical problems, or at Your request in connection with customer support matters. You expressly consent to the foregoing use and disclosure.

## 7. BETA OFFERINGS.

The SLAs do not apply to any Beta Offerings. Notwithstanding anything else set forth in this Agreement, [COP] does not make any representations or warranties regarding any Beta Offering or the integrity of any data stored in connection with any Beta Offering. You are strongly discouraged from using any Beta Offering in connection with sensitive data. [COP] may, in its sole discretion, change or terminate any Beta Offering without notice and does not represent or warrant the result of any such action. [COP] may, in [COP]’s sole discretion, convert any Beta Offering to a paid service upon notice to You. To avoid incurring increased charges following such a conversion, You must terminate (i) the individual converted service (if possible) by contacting [COP] as directed in the conversion notice, or (ii) if You subscribe to no other services under Your Account, the entire Account, pursuant to Section 2 of this MSA.

## 8. LIMITED WARRANTY; LIMITATION ON LIABILITY; THIRD-PARTY SERVICES.

8.1. Limited Warranty. [COP] provides the Services and any related products on an “as is” basis, except as otherwise specifically set forth in the applicable SLA. You expressly agree that use of the Services is at Your sole risk. To the fullest extent permitted by applicable law, [COP] and the [COP] Parties expressly disclaim all warranties of any kind, whether express, implied, statutory, or otherwise, oral or written, including, but not limited to, the implied warranties of merchantability, fitness for a particular purpose and non-infringement. You hereby agree that the terms of this Agreement, including any Schedule, will not be altered due to custom or usage or due to the parties’ course of dealing or course of performance under this Agreement, including any Schedule.

8.2. Limitation on Liability. [COP] and [COP] Parties will not be liable for any direct, indirect, incidental, special, punitive or consequential damages (including but not limited to damages for lost profits, business interruption, loss of programs or information, and the like) in connection with any claim arising under or in connection with this Agreement or the Services provided hereunder, regardless of whether [COP] or any [COP] Party has been advised of such damages or their possibility. Some jurisdictions do not permit exclusion or limitation of liability for all types of damages (including the province of Quebec), so the preceding exclusions may not apply to all parties; in such jurisdictions, and only such jurisdictions, the liability is limited to the fullest extent permitted by law. [COP] will not be liable for any harm that may be caused by Your access to application programming interfaces or the execution or transmission of malicious code or similar occurrences, including without limitation, disabling devices, drop dead devices, time bombs, trap doors, trojan horses, worms, viruses and similar mechanisms. You agree that the total liability of [COP] and any [COP] Party and Your sole remedy for any claims (i) regarding the Services for which a remedy is set forth in the applicable SLA is limited to the credits set forth in such SLA; and (ii) regarding the Services, other than those specifically described in clause (i) of this Section 8.2, is limited to the lesser of (a) One Thousand Dollars (\$1,000) and (b) the prior one (1) month of Service fees paid under this Agreement by You to [COP].

8.3. Other Liability. None of the [COP] Parties is responsible to You for any warranty provided by [COP].

8.4. Third-Party Services. [COP] may link to or offer Third-Party Services on [COP]’s website or otherwise through the Services. Any purchase, enabling, or engagement of Third-Party Services, including but not limited to implementation, customization, consulting services, and any exchange of Data between You and any Third-Party Service, is solely between You and the applicable Third-Party Service provider and is subject to the terms and conditions of such Third-Party Provider. [COP] does not warrant, endorse or support Third-Party Services and is not responsible or liable for such Services or any losses or issues that arise as a result of Your use of such services. If You purchase, enable or engage any Third-Party Service for use in connection with the Services, You acknowledge that [COP] may allow providers of those Third-Party Services to access Your Data used in connection with the Services as required for the interoperation of such Third-Party Services with the Services. You represent and warrant that Your use of any Third-Party Service signifies Your independent consent to the access and use of Your Data by the Third-Party Service provider, and that such consent, use, and access is outside of [COP]’s control. [COP] will not be responsible or liable for any disclosure, modification or deletion of Data resulting from any such access by Third-Party Service providers. For purposes of clarification, Services provided by NEC or NEC Parties or their affiliates under this Agreement shall not be deemed to be Third-Party Services for purposes of this Section 8.4.

**9. OWNERSHIP AND CONTROL.**

9.1. No Transfer. Except for rights expressly granted in this Agreement, including any Schedules, [COP] does not transfer any intellectual or other property or proprietary right to You. All right, title, and interest in any Service provided to You, including without limitation any copyright, trade secret and vested or potential trademark and patent rights, is solely the property of [COP] and its vendors and licensors. As between You and [COP], all materials distributed by [COP] in connection with the Services will at all times remain the property of [COP], and upon the request of [COP] or upon termination of this Agreement or any Schedule, You will promptly return any and all such materials.



9.2. **Control.** [COP] will have sole and complete control over, and reserves the right at any time to make changes to, the configuration, appearance, content and functionality of the Services. In addition, [COP] reserves the right, at any time, without prior notice, to the exercise of its sole discretion to suspend or terminate any Service for the protection of the security and integrity of the Services or other business, technical or financial considerations as determined by [COP].

**10. INTELLECTUAL PROPERTY PROTECTION.**

[COP] will, at its own expense, defend or at its option settle, any claim brought against You by a third party on the issue of infringement of any copyright, patent, or trademark of that third party, in each case by the “[COP] Technology,” as defined below in this Section 10; provided that You provide [COP] with (a) prompt written notice of such claim; (b) control over the defense and settlement of such claim; and (c) proper and full information and assistance to settle and/or defend any such claim. In the event of any claim for which [COP] may be obligated to defend or settle in accordance with this Section 10, [COP] may at its sole option and expense, either: (i) procure the right to use the [COP] Technology as provided herein; (ii) replace the [COP] Technology with other non-infringing products with equivalent functionality; (iii) suitably modify the [COP] Technology so that it does not infringe; or (iv) terminate this Agreement. [COP] assumes no liability for infringement claims arising from: (1) any combination of the [COP] Technology with products or technology not provided by [COP], if the infringement would not have occurred if the [COP] Technology had not been so combined; (2) any modification of the [COP] Technology, in whole or in part, by anyone other than [COP], if the infringement would not have occurred but for such modification; (3) use by You of any [COP] Technology after [COP] notifies You that continued use may subject You to such claim of infringement, provided that [COP] provides You with a replacement release of the [COP] Technology; (4) any proprietary or intellectual property rights not expressly identified in this Section 10; or (5) any non-United States proprietary or intellectual property rights. “[COP] Technology” means the software of [COP] (NEC or NEC Parties or their affiliates) which is delivered to You in connection with Your use of the Services. This Section 10 sets forth the entire liability and obligations of [COP], and Your exclusive remedy, with respect to any actual or alleged infringement of any intellectual property or proprietary right by the Services. The terms of this Section 10 are subject to the limitations of Section 8.

**11. HARDWARE, EQUIPMENT, AND SOFTWARE.**

Unless purchased from [COP] or one of its affiliates pursuant to a separate written agreement, You are responsible for and must provide all hardware, software, services and other components necessary to access and use the Services. [COP] makes no representations, warranties, or assurances that third party hardware, software, services and other components will be compatible with any Service. [COP] reserves the right to change or upgrade any equipment or software that it uses to provide the Services without notice to You. [COP] will install security patches, updates, upgrades and service packs (“Updates”) as it determines in its sole discretion, and reserves the right, but not the obligation, to roll back any Updates. Updates may change system behavior and functionality and as such may negatively affect the Services used by You. [COP] cannot foresee nor be responsible or liable for service disruption or changes in functionality or performance due to Updates. [COP] is not responsible or liable for issues that may arise from incompatibilities between Your Data and use of the Services and any Update or hardware or software change or configuration, regardless of whether discretionary or requested.

**12. INDEMNIFICATION.**

You agree to defend, indemnify, save, and hold [COP] and the [COP] Parties harmless from any and all demands, liabilities, losses, costs, and claims, including reasonable attorneys’ fees, asserted against them that may arise or result from Your use of the Services, Your breach of this Agreement (or any Schedule), or Your negligence or willful misconduct.

**13. MODIFICATION OF TERMS.**

[COP] may update, amend, modify or supplement the terms and conditions of this Agreement, including any Schedules, any SLAs, the AUP and the Privacy Policy, from time to time by giving You notice. Such changes will take effect immediately. Any such modification may be made without the consent of any third party beneficiaries of this Agreement. You can review the most current version of this MSA, the Schedules, the SLAs, the AUP, and the Privacy Policy at any time at: ([COP URL]). Your continued use of Your Account or the Services after [COP] posts a new version of the Agreement will be conclusively deemed to be acceptance by You of any such new version.

#### **14. MISCELLANEOUS.**

14.1. Governing Law; Jurisdiction; Forum; Attorneys' Fees. This Agreement will be governed by and construed in accordance with the laws of the Province of [COP choice of governing law] without regard to its conflicts of laws or its principles. Any claim or suit arising out of or relating to this Agreement will be brought exclusively in any court of competent jurisdiction located in the Province of [COP's jurisdiction of choice]. In any action to enforce this Agreement, including, without limitation, any action by [COP] for the recovery of fees due hereunder, You agree to pay [COP]'s reasonable attorneys' fees and costs in connection with such action if [COP] prevails in such action. You agree to waive the right to trial by jury with respect to any proceeding related to or arising out of this Agreement.

14.2. Written Communications and Notice. You accept that communication from [COP] may be electronic. [COP] may contact You by e-mail or provide You with information by posting notices on [COP]'s website or to Your Account. You agree to receive all such communications in the English language. You agree to this electronic means of communication and You acknowledge that all contracts, notices, information and other communications that [COP] provides to You electronically are acceptable and effective as notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder will be in writing and will be deemed to have been given (i) immediately upon personal delivery, (ii) the second (2nd) business day after mailing, (iii) the second (2nd) business day after sending by confirmed facsimile, or (iv) the first (1st) business day after sending by email or, if from [COP] to You, online posting. Notices to You shall be written in English and may be addressed by [COP] to any e-mail address, postal address or facsimile number registered with [COP], or through means of online posting through the Services. Notices to [COP] that are not expressly authorized by administrative control panel under this Agreement shall be written in English and mailed to [[COP] entity] , [Notice address], Attn:[Notice recipient], or such other address as designated on [COP]'s website from time to time.

14.3. Authority, Age and Capacity. The individual accepting this Agreement on behalf of You represents and warrants that he/she has the authority to bind You to this Agreement. You hereby represent and warrant that each User has reached the older of (i) the age of eighteen (18) and (ii) the age of majority in the User's jurisdiction, and that You are not subject to a limitation on Your ability to enter into this Agreement.

14.4. Severability. If any one or more of the provisions contained herein will, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any of the other provisions of this Agreement, and this Agreement will be construed as if such provision(s) had never been contained herein, provided that such provision(s) will be curtailed, limited, or eliminated only to the extent necessary to remove the invalidity, illegality, or unenforceability.

14.5. Waiver. No waiver by either party of any breach by the other party of any of the provisions of this Agreement will be deemed a waiver of any preceding or succeeding breach of this Agreement. No such waiver will be effective unless it is in writing signed by the parties hereto, and then only to the extent expressly set forth in such writing.

14.6. Remedies. The rights and remedies of the parties hereunder shall not be mutually exclusive, i.e., the exercise of one (1) or more of the provisions hereof shall not preclude the exercise of any other provision hereof. The parties acknowledge, confirm and agree that damages may be inadequate for a breach or a threatened

breach of this Agreement and, in the event of a breach or threatened breach by You or Your Users of any provision hereof, the respective rights and obligations hereunder shall be enforceable by specific performance, injunction or other equitable remedy. Nothing contained in this Agreement shall limit or affect any rights at law or statute or otherwise for a breach or threatened breach of any provision hereof, it being the intent of this provision to clarify that the respective rights and obligations of the parties shall be enforceable in equity as well as at law or otherwise.

14.7. No Assignment. No benefit or duty of You under this Agreement will, without the consent of [COP], be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so will be void. [COP] may assign this Agreement without Your consent and without notice.

14.8. Fair Interpretation, Headings. This Agreement reflects terms that are mutually agreeable to the parties. This Agreement will be interpreted fairly in accordance with its terms and without any strict construction in favor of or against either party based on draftsmanship of the Agreement or otherwise. The headings and captions used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement.

14.9. Force Majeure. Except for monetary obligations, neither party shall be liable to the other for failure or delay in the performance of a required obligation hereunder if such inability or delay is caused by reason of Force Majeure Event. "Force Majeure Event" is any cause beyond a party's reasonable control or anticipation, including, without limitation, acts of war, acts of god, terrorism, earthquake, hurricanes, flood, fire or other casualty, embargo, riot, sabotage, labor shortage or dispute, governmental act, insurrections, epidemics, quarantines, inability to procure materials or transportation facilities, failure of power, restrictive governmental laws or regulations, condemnation, acts of third parties, failure of the Internet or other reason that is beyond a party's reasonable control or anticipation.

14.10. Survival. The preamble, "Definitions" and Sections 2, 3, 4, 5, 6, 8, 9, 10, 12, 13 and 14 of this MSA will survive termination.

14.11. Independent Parties. Notwithstanding anything to the contrary herein, it is acknowledged, confirmed, and agreed that You shall be, and shall be deemed to be, an independent entity for all intents and purposes, including, without limitation, federal taxation. You shall pay all expenses in connection with performing Your obligations hereunder and shall not incur any indebtedness on behalf of [COP] in connection with such expenses. Neither party shall have or hold itself out as having any right, authority nor agency to act on behalf of the other party in any capacity or in any manner, except as be specifically authorized in this Agreement.

14.12. Entire Agreement; Third Party Beneficiaries. This Agreement, including any Schedules, constitutes the entire agreement for provision of the Services to You and supersedes all other prior agreements and understandings, both written and oral, between You and [COP] with respect to the Services. You understand and agree that (i) the [COP] Parties are third party beneficiaries of this Agreement, and (ii) in the event of any breach of this Agreement, including any Schedule, such [COP] Parties shall have all rights and remedies available to them as if they were parties to this Agreement, including claiming the benefit of Section 8 of this MSA.

14.13. Language. The parties confirm that they have requested that this Agreement and all related documents be drafted in English. *Les parties aux présentes ont exigé que la présente entente et tous les documents connexes soient rédigés en anglais.*

**Attachment 1**

**Enhanced 911 Service - Disclosures, Notices and Disclaimers**

**IMPORTANT: EMERGENCY 911 CALLING INFORMATION (U.S. and Canada)**

This document provides very important information about emergency 911 calling using the Internet phone service of NEC Canada, Inc. (“NEC”), which services are sold by [COP] (“[COP]”) as part of [COP] UNIVERGE BLUE® CONNECT. This document also describes the steps that you, as a customer of this service (“You”), should take **to ensure Your safety and the safety of Your employees and visitors.**

Capitalized terms used in this document but not otherwise defined have their respective meanings set forth in the Master Service Agreement between You and [COP]. **Note that this document is incorporated into the terms of Your Master Service Agreement and creates a legally binding obligation on You.**

Dear Customer:

Emergency 911 Services (including Enhanced 911 or “E911”) provided by NEC differ from the emergency calling services provided by a traditional telephone company. **These differences may have an adverse impact upon the ability or timeliness of 911 responders to respond to or assist You or others in the event of an emergency.** In addition, due to limitations on technology, the location reported by NEC to the public safety dispatcher for Your telephones may not include a user’s specific location within a business premise. For this reason, it is important that You carefully follow the instructions below.

As part of the initial process of subscribing to our voice services, You provide us with the street address, city, and province (“Default Service Location”) where the applicable phone number (and the associated NEC voice service) will typically be used by the applicable user. In addition, as further described below, You or Your users (depending on the application) may at any time register a different service location (i.e., different from the Default Service Location), specifically to be used by NEC when transmitting an emergency service call for each of Your registered devices and installed softphone application to indicate where the applicable device or application (and the associated NEC voice service) are being used by the applicable user (“Registered E911 Location”). **IMPORTANT: Please note that the Registered E911 Location for *mobile and desktop applications* may be changed only by the applicable end user; however, the Registered E911 Location for all other devices (such as desk phones) may only be maintained by an account administrator.** Except as provided below for Canada, our customers have access to either basic 911 or E911 service depending on their Registered E911 Location (or, if none, their Default Service Location):

- If You are a customer located in an area where the applicable emergency center offers **E911 service**, then, when You dial 911, Your NEC telephone number and applicable registered address are sent by NEC to the emergency center, where public safety dispatchers have access to this information in order to send help and call You back if necessary.
- However, if You are a customer located in an area where the applicable emergency center only offers **basic 911 service**, then, when You dial 911, the emergency center is not equipped to automatically receive Your telephone number and address, and public safety dispatchers answering the call may not be able to access Your NEC telephone number and/or registered address. Therefore, in this situation, You must be prepared to supply this information on the call. Until You supply the public safety dispatchers with Your phone number and address, the dispatcher may not be able to send help, and they may not be able to call You back if the call is

disconnected or dropped.

If You are calling from a Canadian phone number, when You dial 911, You will only have access to basic 911 service. Your call will first be routed to an emergency services operator. You will need to verbally provide Your location to the operator. After the operator verbally determines Your location, the operator will transfer the call to the appropriate Public Safety Answering Point (PSAP). Therefore, in this situation, You must be prepared to supply Your telephone number and/or registered address on the call. Until You supply this information to the operator, the operator may not be able to send help and may not be able to call You back if the call is disconnected or dropped.

For the purposes of 911, and to ensure the safety of You, Your employees, and Your visitors,

- You must register with NEC the Default Service Location (the physical location where the applicable phone number (and the associated NEC voice service) will typically be used by the applicable user) at the time of initial subscription to the voice service. **It is Your responsibility to confirm the accuracy of Your Default Service Location upon initial registration, and upon any further changes, additions, or transfers of phone numbers or phone devices.** You can do this by using Your online account portal; and
- You or Your users (depending on the application) must register with NEC the Registered 911 Location (the physical location, for each device or softphone application, where our service is then being used), whenever that location changes from time to time. It is Your users' responsibility to confirm the accuracy of the Registered 911 Location associated with each device and softphone application, including, with respect to mobile and desktop applications, updating such address within the voice service application whenever the physical location to which service is provided to the applicable mobile or desktop application changes from time to time.

We will register both the Registered 911 Location (for each device or softphone application) and the Default Service Location (for each user or phone number). It is Your and Your users' responsibility, when a user uses the NEC voice services in a different location than the Default Service Location or the Registered 911 Location, to promptly update the applicable address(es) that are registered with NEC. It is also Your responsibility to require each user to provide NEC with their specific location within Your premises in the event of an emergency. If You (or Your users, as applicable) do not update, the Registered 911 Location (or, if no Registered 911 Location is provided, the Default Service Location), Your 911 calls may be directed to an emergency center near Your old address (instead of the new location), which may result in 911 responders being delayed in responding, or unable to respond, to the reported emergency. You may register only one Registered 911 location at a time for each device or softphone application, and You may register only one Default Service Location for each phone line or user. **To be clear, You or Your users (depending on the application) must re-register the Registered 911 Location with NEC each time the user changes the physical location to which voice services are provided to the applicable device or softphone application.** Please note that this is standard and customary practice for any Internet-based voice service, and it is designed to keep You, Your employees, and Your visitors safe in case of an emergency.

With [COP] UNIVERGE BLUE® CONNECT, You have the ability to connect Your voice service to multiple devices and endpoints. Please note the following important service limitations with regard to the use of such devices or endpoints:

- Note that You or Your users must register the correct Registered 911 Location address for each separate device or softphone application within the NEC application (e.g., home phone, office phone, mobile device application etc.).

- Emergency 911 calls are supported from the [COP] UNIVERGE BLUE® CONNECT mobile application as follows:
  - Except as provided below for Canada, emergency 911 calls placed through the [COP] UNIVERGE BLUE CONNECT mobile application will be processed (e.g., routed to a local Public Safety Answering Point (PSAP)) using the Registered 911 Location address registered with NEC's Services for the mobile application (or, if no Registered 911 Location has been provided to NEC, the Default Service Location registered with NEC for the applicable phone number or user). Therefore, if the caller is not physically located at that Registered 911 Location (or Default Service Location, as applicable), the call may be routed to a PSAP that is not local to the caller's then-current location, and the caller will need to verbally provide his/her location to the emergency responder. As a result, there is a risk of delay in the processing of emergency 911 calls placed through the mobile application (due to calls being incorrectly routed and additional handling and transfer time), as well as a risk that the emergency service providers may not be able to identify the caller's location (and thus not be able to provide the emergency services needed by the caller) if the caller is unable to verbally communicate his/her location; and any of these events may result in the caller not receiving the emergency services they require in a timely manner, or at all. It is solely the responsibility of You and Your end users (and not the responsibility of NEC) to ensure that the correct and current Registered 911 Location and Default Service Location for the [COP] UNIVERGE BLUE CONNECT mobile application are maintained at all times within NEC's systems.
  - In Canada, all emergency 911 calls placed through [COP] UNIVERGE BLUE CONNECT, including the [COP] UNIVERGE BLUE CONNECT mobile application, will first be routed to an emergency service operator, which will transfer the call to the appropriate PSAP after verifying the caller's location. As a result, there is a risk of delay in the processing of emergency 911 calls due to additional handling and transfer time. In addition if the caller is unable to communicate his/her location to the operator, the operator may not be able to route the call to the appropriate PSAP. Thus the caller may not receive emergency services he/she requires in a timely manner, or at all.
- NEC recommends that any emergency 911 calls placed on a mobile device be made using the mobile phone's native dialer, instead of through the [COP] UNIVERGE BLUE® CONNECT mobile application, as the mobile carrier infrastructure is better able to obtain and provide accurate location information to enable the call to be routed to the most appropriate PSAP.

911 service over Internet-based voice service has several limitations. Such limitations, including those discussed above, may prevent You from making emergency calls and include but are not limited to any of the following:

- Loss of electrical power
- Loss of Internet connection for any reason
- Termination of Your account by your broadband ISP or by NEC
- Defective or misconfigured customer premises equipment or software
- Network congestion
- Delays in updating the applicable Registered 911 Location or Default Your Service Location on file

with NEC

- Non-voice equipment, such as security systems and medical monitoring equipment
- Relocating the equipment outside of the United States, Canada or Puerto Rico, which is prohibited by the Master Service Agreement and applicable product schedules
- Simultaneous use of one line with multiple pieces of equipment
- The failure of the emergency response center to answer Your calls
- Failures of third parties responsible for routing 911 calls

You should advise all of Your employees, invitees, guests, visitors, and every other person who visits Your facility and/or who may make calls using the service of the limitations described above.

In some cases, emergency calls may not be routed to the designated emergency center in Your area. Rather, an emergency call may be routed to an alternative emergency center that may not have access to any or all of Your Registered 911 Location or Default Service Location information. Consequently, a user should be prepared to provide sufficient information with respect to their physical location to a public safety dispatcher. This method may delay the dispatch of emergency personnel to the user's location. If the emergency call is disconnected for any reason prior to the time the user has provided a location and callback number, emergency personnel will have no way to contact the user or determine the user's identity or location, and the user should immediately redial 911.

**It is important that You place the stickers shipped with the phones purchased from [COP], or the label (supplied with this letter) for phones You supplied yourself, next to all devices which use the NEC service, including all session initiation protocol ("SIP") telephones, analog telephone adapters and telephones attached to an analog telephone adapter having the capability of connecting to our service, as well as all computers having softphone software installed. The sticker or label should be conspicuously located near or on each device so that a caller can easily see it. Failure to situate a sticker or label near or on each device may result in a caller not knowing that he/she may not be able to reach 911 in the event of an emergency.**

You acknowledge and agree that if You are not comfortable with the limitations of NEC's 911 service, that You should always have an alternative means of accessing emergency service. To ensure that You and Your Users have access to emergency services, You acknowledge and accept that it is Your sole responsibility to purchase, from a third-party separately from NEC, traditional wireless or landline telephone service as a backup means of completing emergency calls. If the Service is used in a home office environment, it is not intended to be used for personal, residential, nonbusiness or nonprofessional commercial use. A home office user must provide alternative arrangements for residential emergency calls.

To check Your 911 activation status, log in to Your account or dial support from Your NEC phone.

**LABEL EACH PHONE LINE AND DEVICE.**

**WARNING**

This is VoIP Service. E911 Service may be limited or unavailable

Voice and 911 service will function differently, or not at all, during electrical power or broadband provider outage; during failures of the device or data network connection (including congestion of the data network); if this device is moved without updating its registered location; or if the service is used outside of the Continental USA, Alaska, Hawaii, Canada or Puerto Rico.

Attention: When dialing 911 in Canada, be prepared to provide your address/location. For more details, refer to your company's service agreement.