

Any and all use of Ringtel Services is subject to and conditioned upon compliance with the following Acceptable Use Policy (“AUP”). If you have an Agreement with Ringtel, this AUP is incorporated into and made a part of your Agreement with Ringtel.

This Acceptable Use Policy applies to all Ringtel Services. Please carefully review the following to determine if the Services you have purchased are subject to additional, service-specific prohibitions.

- A. The Services (including any device, system, network, or account used in connection with the Services, or the Ringtel Network) may not be used to:
- Illegal activity. Violate any applicable law or regulation applicable to the use of the Services.
  - Resale Prohibited. Engage in resale activities. Customer may not sell, resell, sublicense, assign, license, or sublicense the Service or any component thereof or use or offer the same on a service-bureau or time-sharing basis.
  - NO HIGH RISK USE. Engage in high-risk use of the Services. The Services may not be available in the event of a loss of power or internet connectivity, or network congestion. The Services are not designed, intended, or recommended for use in any situation where, in the normal course of use, service disruption could result in personal injury or death (“high-risk use”). High-risk use is prohibited except to the extent you have fail-safe alternatives in place at all times.
  - Infringing activity. Infringe, misappropriate, or otherwise violate Ringtel’s or anyone’s rights (including intellectual property, privacy, personality, publicity, or otherwise; or display or use Ringtel’s marks without consent or in violation of Ringtel policies.
  - Minors. Exploit or harm minors (e.g., expose them to inappropriate content; ask for personally identifiable information without parental consent).
  - Malicious activity. Transmit any material that contains viruses, time or logic bombs, Trojan horses, worms, malware, spyware, or any other programs that may be harmful or dangerous.
  - Objectionable activity. Act in an indecent, offensive, threatening, harassing, defamatory, libelous, fraudulent, malicious, disruptive, tortious, or other objectionable manner.
  - Misrepresenting origin and/or identity. Mislead recipients as to Customer’s identity. Create a false caller ID (e.g., ID spoofing), forge addresses or headers, or fraudulently undertake other technical measures to misrepresent the origin or identity of the sender.
  - Harvest information; spam; bulk messages. Without consent: harvest or collect information about third parties or End Users, or send bulk communications.
  - Excessive or unauthorized use. Use any device, system, network, account, plan, or the Services in an unauthorized manner or in excess of reasonable business use (e.g. interfere, inhibit, compromise, or otherwise harm the Services or the Ringtel Network (regardless of intent or knowledge).

- Circumvent compliance or security. Take advantage of, bypass, exploit, defeat, disable, or otherwise circumvent limitations of the Services, security mechanisms, or compliance with this AUP or any law.
- Interception. Intercept, capture, sniff, monitor, modify, emulate, decrypt, or redirect any communication or data for any purpose.

B. In addition to the prohibitions described in (A) above, Ringtel Office Services, (including any device, system, network, or account used in connection with the Services, or the Ringtel Network) may not be used to:

- Auto-dialing; trunking; traffic pumping. Perform auto-dialing or “predictive dialing”; trunk or forward your Ringtel phone or fax number to other numbers that handle multiple simultaneous calls or to a private branch exchange (PBX) or a key system; traffic pumping or access stimulation of calls through the Services or the Ringtel Network.

The list above is not exhaustive or exclusive. For purposes of this AUP, “End User” means an individual user of the Services, and may be a natural person, and may include but is not limited to a Customer’s employees, consultants, clients, external users, invitees, contractors and agents. Except as otherwise provided, terms defined in the Agreement have the same meanings when used in this AUP.

Ringtel may act immediately and without notice to suspend or terminate the Services if, in Ringtel’s sole discretion, Customer’s or its End Users’ use of the Services violates the terms of this Acceptable Use Policy.

Customer may cancel any services purchased under this Agreement with written notice to Ringtel within thirty (30) days of the date in which the purchase becomes effective. Except as otherwise provided in the Agreement between the Parties, in the event of a timely cancelation, Customer shall not owe any fees or charges for the services being canceled in respect of any period subsequent to the date of such written notice (except those arising from continued Usage), and shall be entitled to a pro-rata refund of any prepaid and unused fees for the services subject to the cancelation. All purchases are final after 30 days.

### **Terms and Conditions**

Please read these Terms of Use (this “Agreement”) fully and carefully before using the Site and Services (as described in Section 1 below). This Agreement sets forth the legally-binding terms and conditions for your use of the Site and Services. BY REGISTERING FOR AND/OR USING THE SERVICES IN ANY MANNER, YOU AGREE THAT YOU HAVE READ, UNDERSTAND AND ACCEPT THIS AGREEMENT AND ALL OTHER OPERATING RULES, POLICIES AND PROCEDURES REFERENCED HEREIN, EACH OF WHICH IS INCORPORATED HEREIN BY THIS REFERENCE AND EACH OF WHICH MAY BE UPDATED FROM TIME TO TIME AS SET FORTH BELOW, TO THE EXCLUSION OF ALL OTHER TERMS. You may not use the Services if you do not unconditionally accept this Agreement. If you are accepting on behalf of an organization, you represent and warrant that you have the authority to do so; however, if your organization has entered into a separate contract with Ringtel covering its use of the Services, then that contract shall govern instead.

EXCEPT FOR CERTAIN TYPES OF DISPUTES DEFINED IN THE ARBITRATION SECTION BELOW, YOU AGREE THAT DISPUTES BETWEEN YOU AND RINGTEL SHALL BE RESOLVED BY BINDING, INDIVIDUAL ARBITRATION AND YOU WAIVE YOUR RIGHT TO PARTICIPATE IN A CLASS ACTION LAWSUIT OR CLASS-WIDE ARBITRATION.

In this Agreement, "Customer" shall refer to you, unless you are accepting on behalf of a company in which case "Customer" shall mean that organization; and "Ringtel" shall refer to Telematic a Delaware corporation with a principal place of business at 254 47th St, Brooklyn, NY 11220, USA. Ringtel and Customer are each referred to in this Agreement as a "Party" and collectively as the "Parties." In consideration of the terms and covenants set forth herein, and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows.

### **1. Ringtel's Services.**

Ringtel offers a variety of communication-enabling services ("Services") described at <https://www.Ringtel.com/communications-apis> (the "Site"), which include its APIs, SDKs, software, code snippets, documentation, technical support, the Site itself, and the features, functionality, and connectivity provided through Ringtel's proprietary platform. This Agreement governs the Parties' respective obligations regarding all Services provided to or used by Customer.

A. Additional Terms and Policies. This Agreement incorporates the following additional policies:

- a) Privacy Policy, <https://www.Ringtel.com/legal/privacy-policy> ("Privacy Policy")
  - a. Ringtel, Inc. (collectively "Ringtel", "us", "we", "our") are committed to protecting your privacy while providing you with a positive experience on our website and in using our products and services.

This Privacy Notice ("Notice") explains our privacy practices and provides information on how and why we collect, use and share personal data from our customers, website visitors, and end users of our products and services (collectively "you", "your") through our interaction with you through our products and services and associated sub-domains ("Website"), our desktop, IP desk phone, and mobile applications ("Apps") or use our unified cloud communications and collaboration platform ("Services"). The Notice also describes choices that may be available to you regarding use, access, deletion and correction of your personal information.

Ringtel's Privacy Notice only applies to Ringtel Websites and Services that link to or reference this Notice. Additional information on our personal information practices may be provided in supplemental term and conditions, supplemental privacy statements, or notices provided prior to or at the time of data collection. If you have received a meeting invitation for your child from a teacher or school, or for information regarding how Ringtel handles personal data as part of the school offering, please visit this link.

Please read this Privacy Notice carefully. By using and/or accessing our Websites, Apps and Services, you acknowledge that you have read and understood this Privacy Notice. This Notice is not, however, a contract and does not create any legal rights or obligations.

- b) Acceptable Use Policy, <https://www.Ringtel.com/legal/communications-apis/acceptable-use> (“AUP”) Any and all use of Ringtel Services is subject to and conditioned upon compliance with the following Acceptable Use Policy (“AUP”). If you have an Agreement with Ringtel, this AUP is incorporated into and made a part of your Agreement with Ringtel.

This Acceptable Use Policy applies to all Ringtel Services. Please carefully review the following to determine if the Services you have purchased are subject to additional, service-specific prohibitions. The Services (including any device, system, network, or account used in connection with the Services, or the Ringtel Network) may not be used to:

- Illegal activity. Violate any applicable law or regulation applicable to the use of the Services. Resale Prohibited. Engage in resale activities. Customer may not sell, resell, sublicense, assign, license, or sublicense the Service or any component thereof or use or offer the same on a service-bureau or time-sharing basis.
- NO HIGH RISK USE. Engage in high-risk use of the Services. The Services may not be available in the event of a loss of power or internet connectivity, or network congestion. The Services are not designed, intended, or recommended for use in any situation where, in the normal course of use, service disruption could result in personal injury or death (“high-risk use”). High-risk use is prohibited except to the extent you have fail-safe alternatives in place at all times.
- Infringing activity. Infringe, misappropriate, or otherwise violate Ringtel’s or anyone’s rights (including intellectual property, privacy, personality, publicity, or otherwise; or display or use Ringtel’s marks without consent or in violation of Ringtel policies.
- Minors. Exploit or harm minors (e.g., expose them to inappropriate content; ask for personally identifiable information without parental consent).
- Malicious activity. Transmit any material that contains viruses, time or logic bombs, Trojan horses, worms, malware, spyware, or any other programs that may be harmful or dangerous. Objectionable activity. Act in an indecent, offensive, threatening, harassing, defamatory, libelous, fraudulent, malicious, disruptive, tortious, or other objectionable manner. Misrepresenting origin and/or identity. Mislead recipients as to Customer’s identity. Create a false caller ID (e.g., ID spoofing), forge addresses or headers, or fraudulently undertake other technical measures to misrepresent the origin or identity of the sender. Harvest information; spam; bulk messages. Without consent: harvest or collect information about third parties or End Users, or send bulk communications.

Excessive or unauthorized use. Use any device, system, network, account, plan, or the Services in an unauthorized manner or in excess of reasonable business use (e.g. interfere,

inhibit, compromise, or otherwise harm the Services or the Ringtel Network (regardless of intent or knowledge)).

- Circumvent compliance or security. Take advantage of, bypass, exploit, defeat, disable, or otherwise circumvent limitations of the Services, security mechanisms, or compliance with this AUP or any law.
  - Interception. Intercept, capture, sniff, monitor, modify, emulate, decrypt, or redirect any communication or data for any purpose.
  - In addition to the prohibitions described in (A) above, Ringtel MVP Services, (including any device, system, network, or account used in connection with the Services, or the Ringtel Network) may not be used to:
    - Auto-dialing; trunking; traffic pumping. Perform auto-dialing or “predictive dialing”; trunk or forward your Ringtel phone or fax number to other numbers that handle multiple simultaneous calls or to a private branch exchange (PBX) or a key system; traffic pumping or access stimulation of calls through the Services or the Ringtel Network.
    - The list above is not exhaustive or exclusive. For purposes of this AUP, “End User” means an individual user of the Services, and may be a natural person, and may include but is not limited to a Customer’s employees, consultants, clients, external users, invitees, contractors and agents. Except as otherwise provided, terms defined in the Agreement have the same meanings when used in this AUP.
    - Ringtel may act immediately and without notice to suspend or terminate the Services if, in Ringtel’s sole discretion, Customer’s or its End Users’ use of the Services violates the terms of this Acceptable Use Policy.
    - Customer may cancel any services purchased under this Agreement with written notice to Ringtel within thirty (30) days of the date in which the purchase becomes effective. Except as otherwise provided in the Agreement between the Parties, in the event of a timely cancellation, Customer shall not owe any fees or charges for the services being canceled in respect of any period subsequent to the date of such written notice (except those arising from continued Usage), and shall be entitled to a pro-rata refund of any prepaid and unused fees for the services subject to the cancellation. All purchases are final after 30 days.
- c) Where used in these Terms and Conditions of Sale of Hardware:
- “Authorized Representative” means any person who holds the job title and office of General Manager, Finance Director or Vice-President.
  - “Customer” means you or any of your subsidiaries purchasing Product from Ringtel.
  - “Conditions” means these Terms and Conditions of Sale.
  - “Contract” means any agreement for the purchase and sale of Products between Ringtel and Customer which result from a Purchase Order submitted to and accepted by Ringtel under these Conditions.
  - “Contract Date” means the date upon which a Purchase Order is accepted by Ringtel.
  - “Force Majeure” means, without limitation, any acts of God, government, war, terrorism, riot, fire, floods, earthquakes, explosions, strikes, lockouts, cessation of labor, trade disputes, breakdowns, accidents of any kind or any other causes which, in all cases, are beyond the reasonable control of Ringtel (including delay or shortages by its Suppliers).

- “Products” means the hardware, software, or any combination thereof, and related documentation, identified in the Website, <https://www.Ringtel.com/office/voip-phone.html> which are made available for purchase and/or license by Customer pursuant to a Contract. Products shall be new or like-new, unless Customer requests refurbished Product. Ringtel will fulfil Purchase Orders for refurbished Product to the extent Ringtel has refurbished Product available.
- “Purchase Order” means Customer’s submission of a written or electronic order for Products through the Website or other documentation indicating name, quantity and pricing of Products to be purchased.
- “Ringtel” means Ringtel, Inc. and its subsidiaries.
- “Supplier” means the supplier, licensor, publisher, manufacturer or other third-party provider of Products.
- “Website” means the portal hosted by Ringtel through which Products are made available for purchase.
- As used in these Conditions, (i) any reference to a statute shall be construed as a reference to that statute as amended, re-enacted or otherwise modified from time to time, (ii) the term “including” will always be deemed to mean “including, without limitation”, (iii) a definition is equally applicable to the singular and plural forms of the feminine, masculine and neuter forms of the term defined, and (iv) any headings in these Conditions are for convenience only and shall not affect the interpretation of any terms.
- 2. General Ordering Terms.
- Customer may purchase Products under these Conditions by issuing a Purchase Order to Ringtel. Only a Purchase Order submitted by Customer shall constitute an offer to contract subject to these Conditions. All Purchase Orders are subject to acceptance by Ringtel.
- No additional or alternative terms or conditions or any alteration to these Conditions proposed by the Customer contained or referred to in a Purchase Order or other form submitted to Ringtel shall be deemed to apply unless they are expressly accepted in writing by an Authorized Representative of Ringtel with respect to that Purchase Order.
- Customer’s subsidiaries shall be defined as any entity which the Customer controls or owns more than 50% of its shares. Customer guarantees full and prompt payment to Ringtel of any sums as they fall due for any Purchase Orders placed hereunder by Customer’s subsidiaries.
- 3. Cancelling & Rescheduling Purchase Orders.
- Except as set forth below, no Purchase Order which has been accepted by Ringtel may be cancelled or rescheduled by Customer except with written agreement by Ringtel.
- 4. Limited Product Return Right.
- Product may be returned by Customer for any reason within thirty (30) days of delivery of the Product (“Return Period”), and Ringtel will accept the return and provide a refund to Customer of the price paid by Customer for the Product, or a lesser amount depending on the condition of the returned Product, as set forth below. The refund shall also include taxes and any fees, duties and similar charges that were paid by Customer to Ringtel and refundable. The refund will not include the shipping fees associated with the purchase of the Product. The amount of the refund will be dependent on the condition of the returned Product, such condition determined solely by Ringtel. If the Product is, in Ringtel’s sole discretion, in such a condition that it cannot be resold, no refund will be provided. Customer shall contact Ringtel

to arrange for any such return. All returns under this Section 4 are subject to a processing fee (which includes shipping charges to return the Product) (a "Return Processing Fee") of thirty Canadian dollars (CDN\$30.00), fifteen British pounds (£15.00), eighteen Euros (€18.00), or twenty-five US dollars (US\$25.00) or its equivalent for any other currency, that shall be charged to Customer by Ringtel. The Return Processing Fee will be assessed on each returned Product and will be collected at the time of processing Customer's return request.

- 5. Prices.
- The price of Products on the Contract Date shall be the quoted price. All prices and charges are exclusive of the cost of shipping, delivery and insurance, if any, as well as applicable value added tax (VAT), sales, use, consumption, privilege, gross sales tax (GST), and other taxes (other than taxes based upon Ringtel's net income), duties or customs fees for which the Customer shall be additionally liable for paying. In addition, prices exclude any copyright levies, waste and environment fees and similar charges that Ringtel by law or statute may charge or collect upon in accordance with such laws or statutes.
- Customer will be responsible for any sales, uses, excise, value added, services, consumption, and other taxes and duties payable by Customer on any Products purchased by Customer where the tax is imposed on Customer's acquisition or use of such Products and the amount of tax is measured by Customer's costs in acquiring such goods or services. Customer shall make all payments of any such taxes to Ringtel without reduction for any withholding taxes, which shall be Customer's sole responsibility. All taxes shall be paid by Customer to Ringtel unless Customer provides Ringtel with a valid certificate of exemption acceptable to the appropriate taxing authority.
- 6. Invoicing and Payment.
- Customer shall pay the purchase price, without any deduction or set-off, within thirty (30) days from the date of the invoice which shall be issued to Customer on the date that Products are shipped. Invoices shall be issued by Ringtel to Customer upon delivery of the Products in accordance with Section 7.
- Customer shall make payment to Ringtel in the currency indicated on the invoice.
- All express deliveries may be subject to additional shipping charges regardless of invoice value.
- If: (i) Customer fails to make any payment under any Contract when due; (ii) Customer is a body corporate and any resolution or petition to wind up Customer's business (other than for the purpose of amalgamation or reconstruction) is passed or presented; or (iii) Customer is an individual or a partnership, and any grounds arise for the application for a bankruptcy order made under applicable bankruptcy and/or insolvency laws (an "Act of Bankruptcy"), then, without prejudice to any other right or remedy available to Ringtel, the full price of all Products delivered to Customer under any Contract, but not paid, shall become immediately due (notwithstanding any previously agreed credit terms) and Ringtel may take any or all of the following courses of action:
  - by notice, suspend or terminate any Contract or any part thereof, without liability, stop any Products in transit and, at its discretion, subject to Section 8, enter Customer's premises to recover Products for which payment has not been made in full;
  - charge Customer interest, both pre- and post-judgment, on any unpaid amount past due, at the rate of 2.5% per month, or the maximum rate allowed by law, until full payment is made.

For clarity, a part of a month shall be treated as a full month for the purpose of calculating interest.

- set-off any amounts due against any credit note, balance or other liability issued by Ringtel to Customer.
- appropriate any payment made by Customer for such Products as Ringtel may deem fit (notwithstanding any purported appropriation by Customer); and/or
- alter Customer's payment terms, which may include withdrawing or altering any credit limit previously granted, requiring prepayment, and demanding adequate assurance of due performance by Customer through the provision of a bank guarantee.
- 7. Delivery, Risk of Loss, and Title
- Customer agrees that all deliveries of Products (including deliveries after repair or replacement) will be made as follows:
- Delivery. Unless Ringtel provides Customer with express written confirmation of a different delivery term, all deliveries of Products will be made FCA (INCOTERMS 2010) at the delivery point specified by Ringtel. Notwithstanding the agreed delivery term, Ringtel may charge Customer for shipping and handling charges, which may be reflected as a separate line item on Ringtel's invoice.
- Title and Risk of Loss. Title and Risk of Loss to all Products will pass to Customer when the Products are transferred to a carrier at Ringtel's designated shipping location. Title to Software provided under this Agreement will remain solely with Ringtel and its licensors. Notwithstanding the foregoing, should Customer fail to pay Ringtel for Products within thirty (30) days of shipment, Title may, in Ringtel's sole discretion revert back to Ringtel upon written notice to Customer.
- Any dates quoted for delivery of the Products are approximate only and Ringtel shall not be liable for any delay in delivery of the Products however caused. Any Products may be delivered by Ringtel in advance of the quoted delivery date upon giving reasonable notice to Customer.
- If the destination of the Products is not in the same country as Ringtel's designated shipping location, Ringtel may arrange on behalf of the Customer, for its shipping vendor to deliver the Products in the destination country. The foregoing is understood that: i) the shipment of the Products to the destination country is permitted by Ringtel, its Supplier, OEMs, and applicable regulations; ii) the delivery term will remain FCA (Incoterm 2010) Ringtel's designated shipping point; iii) Customer remains responsible for all charges as described in Section 5(a); iv) Ringtel shipping agent accepts to manage the exportation and importation of the Products for the Customer; and, v) Customer will remain responsible for import and export regulations and compliance with applicable laws, including without limitation Section 15 Compliance with Laws of these terms.
- Claims for non-delivery of Products must be made in writing to Ringtel within five (5) working days from: (i) the date of invoice; or (ii) receipt of partial delivered of the Products, if any. Customer agrees to notify Ringtel promptly in the event Customer receives the invoice prior to receipt of the Products.
- Customer agrees to accept partial delivery of Products ordered unless otherwise mutually agreed by the parties in writing. Where the parties agree in writing that a shipment must be sent complete, Customer agrees to accept allocations of Product in the event of shortage by



Supplier. Where the Products are delivered in installments, each delivery shall constitute a separate Contract. Failure by Ringtel to deliver any one or more of the installments in accordance with these Conditions or any claim by Customer in respect of any one or more instalments shall not entitle Customer to treat a Contract as repudiated or to cancel any other instalment.

- If Customer fails to take delivery of the Products within 48 hours after the scheduled date of shipment, or fails to give Ringtel adequate delivery instructions in its Purchase Order, then, without prejudice to any other right or remedy available, Ringtel may: (i) store the Products until actual delivery and charge Customer for the reasonable costs thereof, including insurance costs; (ii) terminate the Contract forthwith and sell the Products; or (iii) ship the Products by a freight forwarder to Customer's business location business location indicated in the correspondent purchase order with Customer remaining responsible for all reasonable freight and insurance costs. Title and Risk of Loss will pass when the Products are transferred to the freight forwarder at Ringtel's, or its Supplier's, designated shipping location.
- Customer shall bear any and all costs (including original and return carriage costs) associated with any unjustified refusal of delivery of Products ordered pursuant to a Contract.
- Customer's right to possess any Products, for which payment has not made shall immediately cease: (i) after the appointment of a receiver to its property; (ii) after it has been placed in liquidation or administration; (iii) when and if Customer makes an arrangement for the benefit of creditors generally, suffers or permits the appointment of an administrator, administrative receiver or receiver for its business or assets, or avails itself or becomes subject to any proceeding under any applicable bankruptcy laws; (iv) if Customer is unable to pay its debts within the meaning of applicable bankruptcy and insolvency laws; (v) if Customer, not being a company, has become bankrupt; or (vi) if Customer otherwise ceases to trade or threatens to cease to trade.
- 8. Publications & Specifications.
- Any and all specifications, descriptions, photographs, measurements, capacities or illustrations contained in any catalogues, price lists, brochures, leaflets, proposals, advertising matter, publications of Ringtel or a Supplier are intended to be illustrative and approximate only and shall not form part of a Contract or constitute a representation, warranty or condition regarding any Products unless specifically agreed by written agreement between the Customer and Ringtel. No employee or agent of Ringtel (or any entity acting on Ringtel's behalf) has any authority to make any representation regarding the Products. Customer acknowledges that it has not been induced to accept these Conditions by any representations or statement, oral or written, not expressly contained herein.
- 9. Warranty.
- Customer understands that Ringtel is not the Supplier of the Products. Accordingly, all Products are sold subject to the express warranty terms, if any, specified by the original Supplier of the Products. Any software supplied to Customer pursuant to a Contract is supplied subject to the provisions of the Supplier's licensing terms. Ringtel will pass through to Customer all warranties that Ringtel is expressly authorized by the original Supplier to pass through to Customer.
- Ringtel represents and warrants that title to all Products shall be free from all security interests, liens, and encumbrances at the time of delivery to Customer. The foregoing shall

not be construed, and Ringtel does not provide, any warranty against infringement of a third-party intellectual property right. Any warranties, conditions or other terms implied by common law or statute or otherwise in connection with these Conditions (except to title, in the case of Products) are hereby expressly excluded to the fullest extent permitted by law, save for fraudulent misrepresentation.

- 10. Warranty Assistance.
- For all Returned Products (whether pursuant to a Warranty Claim or otherwise) Ringtel will, on the Customer's behalf, initiate an RMA request with Supplier. Following an RMA request, Ringtel shall issue an RMA number and issue a shipping label to Customer via electronic exchange (an "RMA").
- Customer shall immediately notify Ringtel if any Products supplied to Customer prove to be defective in quality or condition within the Supplier's warranty period (the "Claim"). Upon receipt of notification of such Claim, Ringtel shall notify Customer whether, as a matter of Supplier policy, the Claim must be handled directly with the Supplier or indirectly through Ringtel. In the event the Claim must be handled directly between Customer and Supplier, Ringtel shall provide contact information to enable Customer to contact Supplier. In the event the Claim will be handled by Ringtel, then Ringtel shall provide Customer with a return material authorization ("RMA") for Customer to return the Products to Ringtel, and Customer shall return such Products to Ringtel in accordance with these Conditions and Ringtel's then current RMA policy (which shall be made available to Customer upon request).
- No Products may be returned to Ringtel without a valid RMA number displayed on the Products packaging. Any Products returned without a valid RMA number displayed on the Products packaging will be refused or returned. Ringtel shall not be obligated to ship replacement Products to Customer until Ringtel is in receipt of the original Products being returned. Notwithstanding the foregoing, upon receipt of notification of any warranty claim within the first ninety (90) days after receipt of the Product by Customer, Ringtel shall process such warranty claim per Supplier procedures and ensure the shipment of a replacement Product to Customer. Replacement Product may be new or used. After the first ninety (90) days from receipt of the Product by Customer, and unless otherwise directed by Ringtel, the Customer must contact the Supplier directly for any warranty repair or replacement services.
- During the first ninety (90) days after Customer's receipt of the Product, Ringtel is responsible for all shipping fees associated with a warranty claim (including, without limitation, both return of the defective Product and shipment of the replacement Product). Customer shall be responsible for any such shipping costs for warranty claims made after such initial ninety (90) day period.
- Customer agrees that Ringtel's sole liability to Customer regarding any Product defect claims is limited to the administration of such claims with the Supplier, and as set forth herein. After the first ninety (90) days from Customer's receipt of Product, Ringtel's liability to Customer regarding any Product defect claims is limited to and is expressly contingent upon Ringtel's ability to obtain a refund, credit or replacement Products from the Supplier. Ringtel has no obligation to accept a return of Products where the Customer fails to comply with Supplier's policy on Product returns.
- Ringtel shall not be liable or responsible for administering any defect or other claim which arises from normal wear and tear, misuse, negligence, accident, abuse, use not in accordance

with Supplier's Product documentation, modification or alteration not authorized by Supplier, or use in conjunction with a third-party product. Ringtel reserves the right to determine whether any Products are defective.

- 11. Warranty Returns.
- Any Products returned pursuant to an RMA issued by Ringtel must be shipped to Ringtel within seven (7) working days of the date of such RMA. Following an RMA request, Ringtel shall issue an RMA number and issue a shipping label to Customer via electronic exchange.
- Customer irrevocably authorizes Ringtel to carry out any necessary tasks related to the repair or replacement of Products on behalf of Customer under these Conditions.
- Unless Ringtel collects Products using its own carrier, Customer agrees that Ringtel shall not be liable for any loss or damage to Products returned to Ringtel.
- 12. Limitation of Liability.
- RINGTEL'S LIABILITY FOR ANY DIRECT LOSS OR DAMAGE ARISING OUT THESE CONDITIONS AND ANY CONTRACT FOR THE SALE AND PURCHASE OF PRODUCTS HEREUNDER SHALL BE LIMITED TO, AND SHALL UNDER NO CIRCUMSTANCES EXCEED THE PRICE PAID BY CUSTOMER FOR THE PRODUCTS GIVING RISE TO THE CLAIM (EXCLUDING APPLICABLE TAXES). RINGTEL SHALL HAVE NO LIABILITY UNDER THESE CONDITIONS OR ANY CONTRACT IF RINGTEL HAS NOT RECEIVED PAYMENT OF THE TOTAL INVOICE PRICE OF THE PRODUCTS GIVING RISE TO THE CLAIM.
- EXCEPT AS EXPRESSLY PROVIDED IN THESE CONDITIONS, RINGTEL AND ITS SUPPLIERS SHALL NOT BE LIABLE TO CUSTOMER FOR ANY FINANCIAL, CONSEQUENTIAL OR OTHER LOSS OR DAMAGE CAUSED TO CUSTOMER BY REASON OF ANY REPRESENTATION, WARRANTY (EITHER EXPRESS OR IMPLIED), CONDITION OR OTHER TERM, OR ANY DUTY AT COMMON LAW; OR FOR ANY SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF PROFITS, REVENUE, RECORDS OR DATA, COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS, DAMAGE TO REPUTATION OR GOODWILL, OR ANY MATTER BEYOND ITS REASONABLE CONTROL) OR FOR ANY OTHER CLAIMS FOR COMPENSATION HOWEVER CAUSED (WHETHER CAUSED BY THE NEGLIGENCE OF RINGTEL, ITS EMPLOYEES, AGENTS, SUPPLIERS OR OTHERWISE) WHICH ARISE OUT OF OR IN CONNECTION WITH THESE CONDITIONS OR A CONTRACT HEREUNDER, EVEN IF RINGTEL OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS, LIABILITY OR DAMAGES.
- Nothing contained herein shall be construed as excluding or limiting Ringtel's liability for death or personal injury caused by Ringtel's negligence, or willful misconduct.
- 13. Intellectual Property Rights.
- Customer acknowledges that the Products are the intellectual property of the Suppliers and, to the extent any logos, copyrights, trademarks, or similar intellectual property of Ringtel or its partners are affixed to Products, Ringtel or its partners, as applicable. Nothing contained herein shall be deemed to grant any right or title to such intellectual property to Customer. Customer further agrees not to translate, reverse compile or disassemble any software. Customer will not remove, alter or destroy any form of copyright notice, proprietary markings, serial numbers, or confidential legends placed upon or contained within any Products.
- Customer understands and agrees that Ringtel will not and has no duty to indemnify, defend or hold Customer or a third party harmless from or against any claims, losses, liabilities, damages, costs and expenses, judgments or settlement amounts arising out of or in

connection with the actual or alleged infringement of a third party's intellectual property rights, except and only to the extent that a Supplier has expressly agreed to offer such indemnification and defense to Customer on a pass through basis. In addition, Ringtel will pass through to Customer all indemnities made available by Supplier that Supplier has expressly authorized Ringtel to pass through to Customer.

- Nothing contained herein shall be construed as authorizing or granting to Customer any right or license to use any logo, trademark or trade name of Ringtel, or any Supplier, any license of which shall be subject to separate agreement including any then current policies of Ringtel, or its Suppliers, as appropriate.
- 14. Force Majeure.
- Neither party shall be liable to the other party or be deemed in breach of these Conditions or any Contract by reason of delay or failure to perform if such delay or failure to perform was caused by Force Majeure.
- In the event of a Force Majeure event: (i) the party claiming Force Majeure shall, as soon as commercially practicable, notify the other party of such Force Majeure event provided the notifying party shall incur no liability for its failure to give such notice; (ii) the notifying party's duty to perform shall be suspended for the duration of the Force Majeure event; and (iii) the time of performance for the party impacted by the Force Majeure event shall be extended by a period equal to the duration of said Force Majeure event.
- In the event a Force Majeure event should continue for more than ninety (90) days, either party may, by written notice to the other, cancel a Contract insofar as Products remain undelivered under said Contract. Upon such cancellation, Ringtel shall have no obligation to deliver, and Customer will have no obligation to accept delivery of or pay for the undelivered Products, but the Contract shall remain in full force and effect regarding all Products delivered prior to the date of cancellation.
- 15. Compliance with Laws; Export.
- Customer acknowledges that the Products and any technical data related thereto is licensed or sold subject to and controlled by the export laws of: (i) the United States ("US") including its Export Administration Regulations; (ii) the European Union ("EU") and countries within the European Free Trade Area ("EFTA"); and (iii) any other government with jurisdiction (collectively the "Export Control Laws") and Customer hereby agrees not to export, re-export or otherwise distribute Products, or direct products thereof, in violation of any Export Control Laws. Customer acknowledges that the US government and/or the member states of the EU and EFTA, or another country's government, may require licensing or other authorization prior to export.
- Customer warrants that it will not export or re-export any Products with knowledge that they will be used in the design, development, production, or use of chemical, biological, nuclear, or ballistic weapons, or in a facility engaged in such activities, unless Customer has obtained prior written approval from the appropriate department of the US Government or any other government with jurisdiction. Customer further warrants that it will not export or re-export, directly or indirectly, any Products to embargoed countries or sell Products to prohibited companies or individuals, as defined by applicable Export Control Laws.
- It is Customer's sole and exclusive responsibility to obtain any and all appropriate approvals from the applicable government entities, which may include the US government, the United

- Kingdom, and/or member states of the EU and EFTA or any other government with jurisdiction, prior to exporting such Products, or any technical data related thereto, from the country where the Products were delivered by Ringtel pursuant to Section 7 Customer will also be responsible to comply with the importation regulations applicable in the country of destination of the Products. Ringtel shall not be responsible for any costs, importation duties, liabilities or damages resulting from Customer's failure to obtain any such required authorization. Customer understands that the Export Control Laws and importation laws may change from time to time. It is Customer's sole and exclusive responsibility to obtain guidance of counsel or other appropriate channels to ensure its compliance with these laws.
- Customer and Ringtel warrant they will not take any action or permit or authorize any action which will render the other party liable for a violation of any applicable anti-corruption and anti-bribery laws and: (a) will not violate or cause the other party to violate such laws in connection with the sale and distribution of the Products; and (b) will notify the other party in writing if any of its owners, partners, principals, directors or officers are or become officials, officers or representatives of any government or political party or candidate for political office.
  - Customer shall comply with all applicable laws pertaining to hazardous substances, and electric or electronic waste, which may include, but is not limited to, EU Directives 2002/95/EC (Restriction on Hazardous Substances) and 2002/96/EC dated January 27, 2003 (Waste Electrical and Electronic Equipment) ("WEEE") generally and as instated within each country into which Products are imported, exported or otherwise distributed by Customer, such obligation which shall include registering as a "producer" under applicable WEEE legislation.
  - Customer shall indemnify, defend and hold Ringtel harmless from any violation or alleged violation by Customer of the terms of this Clause. Upon Ringtel's request, Customer agrees to confirm, in writing, its compliance with applicable Export Control Laws and applicable importation regulations.
  - 16. Additional Terms of Sale
  - Notwithstanding anything to the contrary herein, Ringtel and its Suppliers reserve the right to make any changes in the specifications of the Products, without notice to Customer, which are required in order to conform to any statutory or other legal requirements, or which do not materially affect the performance of the relevant Products.
  - Any Products which are subject to guidelines, restrictions or provisions imposed by a Supplier are sold, supplied and delivered to Customer subject to any such guidelines, restrictions or provisions, which will be provided to Customer upon request.
  - 17. Choice of Law & Venue.
  - These Conditions, and any Purchase Order placed under them shall be governed by the laws and be subject to the exclusive jurisdiction of the courts set forth below.
  - For Purchase Orders submitted to Ringtel UK Limited: These Conditions and any dispute, claim or controversy arising out of, or relating to these Conditions, including formation, interpretation, breach or termination of these Conditions, a Purchase Order or a Contract, will be governed by and intended to be construed under the laws of England and Wales. Any related action, lawsuit, or proceeding shall be brought in and adjudicated by the by the courts of England and Wales.

- For Purchase Orders submitted to Ringtel Inc, or any other Ringtel's subsidiary or affiliate: These Conditions and any dispute, claim or controversy arising out of, or relating to these Conditions, including formation, interpretation, breach or termination of these Conditions, a Purchase Order, or a Contract, will be governed by New York State laws, excluding Conflict of law principles. The parties agree that Supreme Court of the State of New York, New York County, or the United States District Court for the Southern District of New York, shall have sole and exclusive jurisdiction and venue over any matter arising out of these Conditions and any orders placed under them, and each party hereby submits itself and its property to the venue and jurisdiction of such courts.
- The UN Convention on Contracts for the International Sale of Goods does not apply.
- Each party waives any right it may have to claim that the chosen jurisdiction under these Conditions is not a convenient forum and expressly waives any right to a jury trial regarding disputes related to these Conditions.
- 18. Miscellaneous.
- Assignment. Customer may not transfer or assign these Conditions to a third party by operation of law or otherwise without the prior written consent of Ringtel. Ringtel may assign any Purchase Order or these Conditions, in whole or in part without the consent of the Customer. Ringtel shall endeavor to provide prompt notice of any assignment to the Customer. Any assignment in violation of this Section shall be void.
- Waiver. Failure by either party to enforce any provision of these Conditions or a Contract shall not be deemed a waiver of the right to thereafter enforce that or any other provision of these Conditions or a Contract.
- Severability. In the event that any provision of these Conditions is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions of these Conditions will remain in full force and effect.
- Notices. All notices shall be in writing and shall be sufficiently given if delivered by email to Customer's registered address in its Ringtel Admin Portal, personally or by a reputable overnight carrier with proof of delivery or mailed by registered mail to Customer at the address provided by Customer in Customer's Ringtel Admin Portal, and to Ringtel, Inc. at 20 Davis Drive, Belmont, CA 94002, Attention: Legal Department or to such other address or addressee as either party may, from time to time, specify by notice in accordance with this Clause. Notices shall be deemed given upon receipt by the addressee.
- The Customer has requested these terms be drawn up in English. Le client a exigé que les présentes Conditions Générales soient rédigées en anglais.
- 19. Entire Agreement.
- These Conditions constitute the entire agreement between the parties as to the subject matter hereof and supersedes and cancels any and all of Customer's terms and conditions, or other written or oral agreements previously existing between the parties and/or their affiliates with respect to such subject matter. Customer acknowledges that it is not entering these Conditions on the basis of any representations not expressly contained herein. Every Contract for the sale and purchase of Products as defined herein between Ringtel and the Customer or any of its subsidiaries shall be subject to these Conditions, unless Customer and Ringtel have signed a separate agreement regarding the subject matter herein, in which case the separate agreement will govern. Customer shall be deemed to have accepted these

Conditions by the earlier of: (i) indicating acceptance to these Conditions through the Website, (ii) submitting a Purchase Order through the Website; or (iii) accepting Products from Ringtel.

- B. Changes. Changes in the industry, carrier and other partner requirements, applicable law and regulations may require Ringtel to make changes to the Services from time to time. It is Customer's responsibility to ensure that its usage is compatible with the then-current Services. Ringtel endeavors to maintain backward compatibility, but where it cannot, it will make commercially reasonable efforts to provide at least 60 days' notice prior to implementing changes that do not maintain backward compatibility. Ringtel may in its reasonable discretion suspend or discontinue any of the Services or component thereof at any time by posting a notice on the Site or by sending Customer notice through the Services, or by another appropriate means of electronic communication.
- C. Telephone Numbers. Customer acknowledges and agrees that its use of the Services or any of the telephone numbers that Ringtel may provide in connection with use of the Services do not grant Customer any ownership or other rights in the telephone number other than the limited, revocable use rights expressly set forth in this Agreement. Customer does not have the right to use those telephone numbers indefinitely. Customer acknowledges and agrees that telephone numbers which Ringtel provisions may be reclaimed by Ringtel or the applicable supplier from time to time during the Term and may be re-assigned to other customers after the Term. Ringtel reserves the right to reclaim any phone number from Customer's Account if Customer does not send sufficient traffic over that phone number such that the phone number is unutilized or underutilized, as defined by any local, federal, and/or national regulatory agency and/or governmental organization with oversight over the relevant phone number and numbering plan. If Ringtel seeks to reclaim a phone number from Customer's Account, excluding suspended, terminated, and trial accounts, Ringtel will provide at least two weeks' advance notice via email where possible within commercial reason, except where Ringtel is prevented from doing so by the applicable regulatory agency or governmental organization. Ringtel also reserves the right to reclaim phone numbers from accounts suspended for failure to pay and/or suspended for suspected fraud. Customer may not transfer or assign the telephone numbers Ringtel provides to Customer unless otherwise mutually agreed by the Parties in writing.

## **2. Customer Account.**

To access and use certain Services, Customer must create an account ("Account") on the Site. Customer shall provide accurate, complete, and current Account information and, as applicable, timely update the same. Customer is solely responsible for the activity that occurs on its Account (which includes its sub-accounts), including via the Customer Application (as defined below), and for keeping its Account password secure. Ringtel will not be liable for losses caused by any unauthorized use of the Account. Customer represents and warrants that it is duly authorized to do business and use the Services in all jurisdictions in which Customer operates. Customer must notify Ringtel promptly of any change in Customer's eligibility to use the Services (including any changes to or revocation of any licenses from state authorities), breach of security or any known unauthorized use of Customer's Account. Upon termination

of this Agreement, Customer may delete its Account by emailing support@nexmo.com. Notwithstanding deletion of Customer's Account, Ringtel may retain Customer data as reasonably necessary for compliance with applicable law.

### **3. Fees and Payment.**

- A. **Paid Services.** Customer agrees to pay for its use of the Services as set forth on the pricing page on the Site, as may be updated from time to time, except and only to the extent Customer has entered a separate written agreement or addendum with Ringtel for special pricing on certain Services and/or country-specific pricing, or Ringtel has otherwise conveyed special pricing in writing to Customer. Ringtel reserves the right to change pricing from time to time. Customer's continued use of the Services after a price change becomes effective constitutes Customer's agreement to pay the changed amount.
- B. **Prepayment.** Except as set forth in the next sub-section, Customer shall pay in advance for the Services in the currency specified by Ringtel, without the right of set-off, deductions, or counterclaim. Some of the Services may accept recurring period charges as agreed to by Customer on the Site. By choosing such auto-reload payment plan, Customer acknowledges that such Services have a recurring payment feature and Customer accepts responsibility for all recurring charges prior to cancellation. RINGTEL MAY SUBMIT PERIODIC CHARGES (E.G., MONTHLY) WITHOUT FURTHER AUTHORIZATION FROM CUSTOMER, UNTIL CUSTOMER PROVIDES PRIOR NOTICE (RECEIPT OF WHICH IS CONFIRMED BY RINGTEL) THAT CUSTOMER HAS TERMINATED THIS AUTHORIZATION OR WISHES TO CHANGE ITS PAYMENT METHOD. SUCH NOTICE WILL NOT AFFECT CHARGES SUBMITTED BEFORE RINGTEL REASONABLY COULD ACT. CUSTOMER MUST PROVIDE CURRENT, COMPLETE AND ACCURATE INFORMATION FOR ITS BILLING ACCOUNT. IF CUSTOMER HAS REQUESTED AUTO-RELOAD PAYMENTS, CUSTOMER MUST PROMPTLY UPDATE ALL INFORMATION TO KEEP ITS BILLING ACCOUNT CURRENT, COMPLETE AND ACCURATE (SUCH AS A CHANGE IN BILLING ADDRESS, CREDIT CARD NUMBER, OR CREDIT CARD EXPIRATION DATE), AND CUSTOMER MUST PROMPTLY NOTIFY RINGTEL OR ITS PAYMENT PROCESSOR IF CUSTOMER'S PAYMENT METHOD IS CANCELED (E.G., FOR LOSS OR THEFT) OR IF CUSTOMER BECOMES AWARE OF A POTENTIAL BREACH OF SECURITY, SUCH AS THE UNAUTHORIZED DISCLOSURE OR USE OF CUSTOMER'S USER NAME OR PASSWORD. CHANGES TO SUCH INFORMATION CAN BE MADE IN THE ACCOUNT DASHBOARD. IF CUSTOMER FAILS TO PROVIDE ANY OF THE FOREGOING INFORMATION, CUSTOMER AGREES THAT RINGTEL MAY CONTINUE CHARGING CUSTOMER FOR ANY USE OF PAID SERVICES UNDER THE BILLING ACCOUNT UNLESS CUSTOMER HAS CANCELLED AUTO-RELOAD OR TERMINATED ITS PAID SERVICES AS SET FORTH ABOVE. Customer may change its payment method or terminate any auto-reload authorization via the Account dashboard.
- C. **Post-payment.** Where authorized by Ringtel in writing, Ringtel will invoice Customer for the Services monthly in arrears, and payment shall be due 5 days following the date of invoice, without deduction. Invoices may be sent to the e-mail address specified in Customer's Account and shall be deemed received on the date sent. Customer shall pay interest on past due amounts at a rate of 1.5% per month or the maximum rate permitted by law, whichever



is less, and shall be responsible for all costs of collection. If Customer disputes any invoiced charges exceeding EUR 1,000 in a detailed writing provided to Ringtel, and such disputes are reasonable and made in good faith (as reasonably determined by Ringtel), then (i) the Parties shall discuss and attempt to resolve the dispute in good faith in a timely manner, and (ii) Customer may withhold the disputed portion of the invoice exceeding EUR 1,000 if Customer has paid the undisputed portion of the invoice in accordance with the Agreement, until the dispute is resolved. Customer's credit shall be limited to the amount indicated by Ringtel from time-to-time in connection with Customer's Account.

- D. Taxes. Unless otherwise provided on the pricing page on the Site, all charges and fees for the Services are exclusive of any country, province, federal, state or local taxes, including without limitation, use, sales, value-added, privilege, or other taxes, levies, imports, duties, fees, surcharges, governmental assessments and withholdings ("Taxes"). Customer will be solely liable for and will pay upon demand all Taxes associated with Customer's access to and use of the Services and shall not deduct any such amounts, or any other withholdings, set offs or deductions, from amounts Customer owes Ringtel, but will not be responsible for taxes based on Ringtel's net income. Customer may present Ringtel with an exemption certificate eliminating Customer's and Ringtel's liability to pay certain Taxes. Once Ringtel has received and approved the exemption certificate, Customer shall be exempt from those Taxes on a going-forward basis. If, a taxing jurisdiction determines that Customer is not exempt from Taxes and assesses those taxes, Customer shall pay those Taxes to Ringtel, plus any applicable interest or penalties. SUCH NOTICE WILL NOT AFFECT CHARGES SUBMITTED BEFORE RINGTEL REASONABLY COULD ACT.

- E. Billing Disputes.

Billing disputes must be initiated within 30 days of the date the Service was provided, by contacting Ringtel at Support@ringtel.com. Upon expiration of such 30-day period, Customer will not be entitled to dispute any fees paid or payable to Ringtel. The Parties will work together in good faith to resolve billing disputes. A pending billing dispute shall not exempt Customer from timely paying any undisputed amounts owed. Any disputes that cannot be resolved in accordance with the foregoing shall be handled in accordance with Section 13 below. Other than in accordance with the foregoing, fees paid are non-refundable.

#### **4. License**

Subject to Customer's compliance with this Agreement, Ringtel hereby grants Customer a limited, revocable, personal, non-exclusive, non-transferable, non-sublicensable license until this Agreement or Customer's Account is terminated (the "Term") to (i) use the documentation and APIs Ringtel makes available to Customer to create an original application that interfaces with the Services ("Customer Application"), and (ii) make the Services available to Customer's end users ("End Users") through the Customer Application. The foregoing license shall extend to Customer Affiliates, provided that such Customer Affiliates are acting via Customer's Account and provided further that Customer remains jointly

and severally liable for all acts and omissions of its Affiliates. An "Affiliate," with respect to a Party, means any entity that controls, is controlled by, or is under common control with that Party.

## **5. Restrictions.**

Customer shall not, and shall ensure that its End Users and Affiliates do not, and shall not authorize, assist or enable any other third party to:

- A. Transfer, resell, lease, license, or otherwise make available the Services to third parties, except for Customer's use of the Services to provide its Customer Application to third parties as set forth in Section 4;
- B. Use the Services in any manner that violates the AUP;
- C. Decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of any part of the Services, except to the limited extent applicable laws specifically prohibit such reverse-engineering restrictions;
- D. Alter, modify, translate, or otherwise create derivative works of any part of the Services, except as may be authorized by specific licensing terms accompanying certain software or software development kits; or
- E. Use the Services in connection with any call types that would result in Ringtel incurring originating access charges, local exchange carrier "DIP" fees or other call types that may be subject to any reverse billing process, application or charge.

## **6. Intellectual Property.**

- A. Customer's Application and Application Content. As between Customer and Ringtel, Customer owns and reserves all right, title and interest in Customer Applications, and any content originally transmitted by Customer or its End Users via the Customer Applications ("Application Content"). Customer authorizes Ringtel to use the Application Content to provide the Services and perform in accordance with this Agreement.
- B. Suggestions. Customer's suggested improvements to and feedback regarding the Services are not Confidential Information (as defined below), and Customer grants to Ringtel an unrestricted, irrevocable, fully paid-up, and non-exclusive right to use such suggestions and feedback for any purpose.
- C. Ringtel Services and Ringtel Content. Ringtel owns and reserves all right, title and interest in and to the Services and all improvements, modifications and derivative works thereof. Other than the Customer Application and Application Content, all content made available through

the Site or the Services (collectively, "Ringtel Content") are as between Customer and Ringtel owned by Ringtel.

- D. **Publicity.** Except as explicitly granted herein, neither Party is granted a license or other right (express, implied or otherwise) to use any trademarks, copyrights, service marks, logos, trade names, patents, trade secrets or other form of intellectual property of the other Party or its Affiliates without the express prior written authorization of the other Party. Customer will not issue any press release or other public statement relating to this Agreement, except as may be required by law or agreed by Ringtel in a writing signed by an authorized representative of Ringtel's Corporate Communications department. Ringtel may identify Customer using its name, trademarks and/or logos in its marketing collateral, presentations and websites.
- E. **Notices and Restrictions.** The Services may contain Ringtel Content specifically provided by Ringtel, Ringtel's partners, Ringtel's customers, or other third parties that is subject to and protected by copyrights, trademarks, service marks, patents, trade secrets or other proprietary rights and laws under United States and other laws and international conventions. Customer shall abide by and maintain all copyright notices, information, and restrictions contained in any Ringtel Content accessed through the Services.

## **7. Confidentiality.**

- A. **Confidential Information.** "Confidential Information" means any non-public information or data, regardless of whether it is in tangible form, disclosed by either Party that is marked or otherwise designated as confidential or proprietary or that should otherwise be reasonably understood to be confidential given the nature of the information and the circumstances surrounding disclosure. "Confidential Information" does not include any information which: (i) is publicly available through no fault of receiving Party, (ii) was properly known to receiving Party, without restriction, prior to disclosure by the disclosing Party, (iii) was properly disclosed to receiving Party, without restriction, by another person without violation of disclosing Party's rights, or (iv) is independently developed by the receiving Party without use of or reference to the disclosing Party's Confidential Information. Each Party agrees that it will use the Confidential Information of the other Party solely in accordance with the provisions of this Agreement (and for Ringtel to provide the Services) and it will not disclose such information to any third party without the other Party's prior written consent, except as otherwise permitted hereunder or for Ringtel to provide the Services or make other disclosures identified in the Privacy Policy. Each Party agrees to exercise due care in protecting the other Party's Confidential Information from unauthorized use and disclosure. Each Party may also disclose the Confidential Information of the other Party, in whole or in part to its employees, representatives, actual or potential investors and subcontractors who have a need to know and are bound to keep such information confidential consistent with the terms of this Section. In addition, Ringtel may disclose this Agreement under a comparable non-disclosure agreement in response to a third-party due diligence request supporting a financing or non-ordinary course of business corporate transaction. Either Party may disclose

the Confidential Information of the other as required by law, legal process or court order; provided that, subject to applicable law, it promptly notifies the other Party of such required disclosure in order to allow the other Party to seek a protective order or other appropriate remedy.

## **8. Indemnification.**

- A. Customer Indemnification. Customer agrees to defend, indemnify and hold harmless Ringtel, its Affiliates, suppliers, and partners, and each of their respective employees, contractors, directors, officers and representatives, from and against any damages, liabilities, claims, demands, obligations, losses, fines, penalties, and expenses (including reasonable attorney's fees) (collectively, "Losses") incurred in connection with claims made or brought by a third party arising from or relating to: (i) unauthorized or prohibited use of the Services, including violations of the AUP or applicable law, by Customer, its Affiliates or its or their End Users, employees, agents or subcontractors; (ii) Application Content, (iii) claims by End Users to the extent they purport to extend Ringtel's liability or obligations beyond the limitations and disclaimers set forth in this Agreement, or (iv) gross negligence or willful misconduct of Customer, its Affiliates or its or their employees, agents or subcontractors.
  
- B. Procedure. Ringtel shall notify Customer promptly after Ringtel learns of the existence of an indemnifiable claim hereunder; provided, however, that failure to give such notice shall only affect the rights of Ringtel to the extent that Customer is prejudiced. Ringtel shall not admit any liability whatsoever. Customer shall be entitled to take sole control of the defense and investigation of the indemnifiable claim at its own expense, by providing prompt written notice to Ringtel, subject to Ringtel's approval of Customer's counsel, such approval not to be unreasonably withheld or delayed. Ringtel shall cooperate in all reasonable respects with Customer and its attorneys in the defense of the claim (including by making available books, records, and personnel), and may reasonably participate at its own expense, through its attorneys or otherwise, provided that such participation does not interfere with Customer's defense. All settlements of indemnifiable claims under this Section shall: (i) be entered into only with Ringtel's consent if such settlement requires any admission of guilt or imposes any restriction on Ringtel; and (ii) include an appropriate confidentiality agreement prohibiting disclosure of the terms of such settlement.

## **9. Warranties and Disclaimers.**

- A. Representations. Ringtel represents and warrants to Customer that it (i) has the corporate power and authority to enter into this Agreement and perform its obligations hereunder, and (ii) is authorized to do business and provide the Services.

- B. Assumption of Risk. Ringtel has no special relationship with or fiduciary duty to Customer. Customer acknowledges and agrees that Ringtel has no control over and has no duty to take any action regarding and shall have no liability for acts, faults or omissions of any third party telecommunications systems, networks or operators (including, without limitation, suspension or termination of Ringtel's connections, or faults in or failures of their apparatus or network), in the jurisdictions in which it operates.
- C. DISCLAIMER. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH ABOVE IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND RINGTEL CONTENT ARE PROVIDED "AS IS", "AS AVAILABLE" AND WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY, QUALITY (E.G., AS TO LATENCY AND THROUGHPUT), AND FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES IMPLIED BY ANY COURSE OF PERFORMANCE OR USAGE OF TRADE, ALL OF WHICH ARE EXPRESSLY DISCLAIMED. RINGTEL, AND RINGTEL'S SUPPLIERS, PARTNERS AND LICENSORS, AND EACH OF RINGTEL'S AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS, DO NOT WARRANT (AND HEREBY EXPRESSLY DISCLAIM ALL WARRANTIES) THAT: (I) THE SERVICES (OR ANY MOBILE OPERATORS) WILL BE SECURE OR AVAILABLE AT ANY PARTICULAR TIME OR LOCATION, (II) ANY DEFECTS OR ERRORS WILL BE CORRECTED, (III) ANY CONTENT OR SOFTWARE AVAILABLE ON OR THROUGH THE SERVICES IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, (IV) THE CONTENT ON THE SITES OR SERVICES (OR ANY THIRD PARTY SITES OR SERVICES LINKED THERETO) IS ACCURATE, ERROR-FREE, APPROPRIATE, COMPLIANT, OR COMPLETE, OR (V) THE RESULTS OF USING THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS. CUSTOMER'S USE OF THE SERVICES IS SOLELY AT CUSTOMER'S OWN RISK. RINGTEL DOES NOT WARRANT, ENDORSE, GUARANTEE, OR ASSUME RESPONSIBILITY FOR ANY CONTENT OF, COMMUNICATION BY, OR PRODUCT OR SERVICE ADVERTISED OR OFFERED BY, A THIRD PARTY THROUGH THE SERVICES, AND RINGTEL WILL NOT BE A PARTY TO OR IN ANY WAY BE RESPONSIBLE FOR MONITORING ANY TRANSACTION BETWEEN CUSTOMER AND THIRD PARTIES.
- D. Reservation of Rights. Ringtel reserves the right, but is not obligated, to monitor and audit Customer's use of the Services for any reason or no reason, without notice, to ensure Customer's compliance with this Agreement. Ringtel reserves the right, but is not obligated, to reject, refuse to transmit or post, block, or remove any posting (including Application Content), or to restrict, suspend or terminate Customer's access to all or any part of the Services at any time if Customer has violated the AUP or this Agreement or to prevent harm to Ringtel's business or reputation. Ringtel also reserves the right to access, read, preserve, and disclose any information that Ringtel reasonably believes is necessary to (i) satisfy any applicable law, regulation, legal process or governmental or agency request, (ii) enforce this Agreement, including investigation of potential violations hereof, (iii) detect, prevent, or otherwise address fraud, security or technical issues, (iv) respond to user support requests, or (v) protect the rights, property or safety of Ringtel, its customers, its customers' end users, and/or the public. Customer agrees to provide Ringtel with any information Ringtel reasonably requests to investigate and resolve problems relating to Customer's Account.

- E. No Emergency Services. Ringtel's Services are not intended for and may not be used (i) in connection with 911, E911, or other emergency, public safety or similar services ("Emergency Services"), or (ii) as a replacement for any primary phone services (e.g., landline or mobile phones) used to contact Emergency Services. Customer acknowledges that Ringtel and Ringtel's suppliers have no responsibility to connect any 911 calls to any Public Safety Answering Point.
  
- F. Beta Services. Certain Services may be designated or offered as a "beta" version ("Beta Version") of a Service, which may or may not be released as a full commercial service in the future. Customer is not required to use any Beta Version and does so at its sole risk. Except as otherwise indicated under separate terms and conditions that may apply to such Beta Version, Ringtel shall not charge for such Beta Version, but reserves the right to charge for subsequent versions of the Beta Version, including any potential commercial releases. Customer acknowledges and agrees that the Beta Version may contain, in Ringtel's sole discretion, more or fewer features or different licensing terms than a subsequent commercial release version of the Beta Version. Ringtel reserves the right not to release later commercial release versions of the Beta Version. Without limiting any disclaimer of warranty or other limitation stated in this Agreement (or any separate terms and conditions that would otherwise be applicable to such Beta Versions), Customer agrees that Beta Versions are not considered by Ringtel to be suitable for commercial use, and that may contain errors affecting their proper operation. CUSTOMER ACKNOWLEDGES AND AGREES THAT USE OF ANY BETA VERSION MAY EXHIBIT SPORADIC DISRUPTIONS THAT HAVE THE POTENTIAL TO DISRUPT CUSTOMER'S USE OF ANY SERVICES. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, RINGTEL SPECIFICALLY DISCLAIMS ALL DAMAGES RESULTING FROM CUSTOMER'S USE OF ANY BETA VERSION. The fact and existence of any Beta Version shall be deemed to be Ringtel Confidential Information under this Agreement. The Support Policy shall not apply to Beta Versions.
  
- G. Deletion of Customer Data. Except as agreed by Ringtel and Customer in writing, Ringtel may periodically delete Customer's data including any Application Content. Further, data storage is not guaranteed by Ringtel and Ringtel shall not have any liability whatsoever for any damage, liabilities, losses, or any other consequences that Customer may incur relating to the loss or deletion of Customer's data.

## **10. Suspensions and Terminations.**

- A. Termination for Convenience. Customer may terminate its use of the Services any time for any reason and may close its Account by following the instructions on the Site or by contacting Ringtel at support@ringtel.com. Ringtel may terminate this Agreement by providing 60 days' advance notice to Customer.

- B. Suspension of Services; Termination for Cause. Ringtel may suspend Customer's right to use the Services or terminate this Agreement in its entirety (and, accordingly, Customer's right to use the Service), for cause: (A) if Customer is in breach of this Agreement and has failed to cure such breach within 30 days after written notice thereof, or (B) immediately (i) if Customer has violated or Ringtel has reason to believe Customer has violated or has encouraged others to violate any provision of the AUP, (ii) upon Customer's liquidation, commencement of dissolution proceedings, disposal of Customer's assets, failure to continue Customer's business in the ordinary course, assignment for the benefit of creditors, or if Customer becomes the subject of a voluntary or involuntary bankruptcy or similar proceeding, or (iii) if Customer is in default of any payment obligation with respect to any of the Services or if any payment mechanism Customer has provided to Ringtel is invalid or charges are refused for such payment mechanism.
- C. Effect of Suspension. Upon Ringtel's suspension of Customer's use of or access to any Services, in whole or in part, for any reason: (i) fees will continue to accrue for any Services that are still in use by Customer, notwithstanding the suspension, (ii) Customer remains liable for all fees, charges and any other obligations Customer has (or Customer's Account has) incurred through the date of suspension with respect to the Services, and (iii) all of Customer's rights with respect to the Services will be terminated during the period of the suspension.
- D. Effect of Termination and Survival. Upon termination of this Agreement, for any reason: (i) Customer remains liable for all fees, charges and any other obligations accrued and owed by Customer through the effective date of such termination, (ii) except as expressly set forth herein, all of Customer's rights and licenses under this Agreement will immediately terminate and Customer shall cease using the Services, and (iii) any balance on Customer's Account remaining after termination of this Agreement will be repaid to Customer within twenty (20) business days following termination. All amounts accrued or owed to Ringtel in connection with this Agreement and Sections 3, 5, 6, 7, 8; 9(b)-(e); 10; 11; 12; 13 and 14 shall survive any termination of this Agreement. Following any suspension or termination of this Agreement or Customer's Account other than for breach, Customer may request any post-termination assistance that Ringtel may elect to make generally available with respect to the Services such as data retrieval arrangements, subject to and conditioned upon Customer's advance payment of fees and acceptance of all terms and conditions that Ringtel specifies in writing with respect thereto.

#### **11. Limitation of Liability.**

NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL RINGTEL OR RINGTEL'S PARTNERS, SUPPLIERS, LICENSORS, OR CONTENT PROVIDERS, OR ANY OF ITS OR THEIR RESPECTIVE DIRECTORS, OFFICERS, EMPLOYEES, OR AGENTS, BE LIABLE UNDER ANY CONTRACT, TORT, WARRANTY, STRICT LIABILITY, NEGLIGENCE OR ANY OTHER LEGAL OR EQUITABLE THEORY WITH RESPECT TO THE SERVICES OR OTHER SUBJECT MATTER OF THIS AGREEMENT FOR: (I) ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE, COMPENSATORY OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, LOST PROFITS, GOODWILL, REVENUE, INCOME

OR BUSINESS, DATA LOSS, INTERRUPTION OF BUSINESS, COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY, RIGHTS OR SERVICES (HOWEVER ARISING AND EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES); (II) ANY LIABILITY THAT EXCEEDS THE GREATER OF 50,000 EUR OR THE AMOUNT OF FEES ACTUALLY PAID TO RINGTEL IN THE 6MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM; OR (III) USE OF OR INABILITY TO USE THE SERVICES IN CONNECTION WITH EMERGENCY SERVICES.

## **12. Governing Law and Venue.**

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without reference to its principles of conflicts of law rules. The United Nations Convention on Contracts for the International Sale of Goods shall not be applicable hereto. Without limiting the preceding language, Customer agrees to submit, for purposes of this Agreement, to the jurisdiction and venue of the state and federal courts located in the State of New York. CUSTOMER AGREES THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SITE OR SERVICES OR RINGTEL MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

## **13. Arbitration and Dispute Resolution.**

- A. Management Resolution. In the event either Party has a dispute or claim against the other Party (except with respect to billing disputes), the disputing Party shall provide written notice to the other Party. The Parties agree to escalate disputes to their respective management, who will use commercially reasonable efforts to resolve the dispute by consulting with each other in good faith to reach an equitable resolution satisfactory to both Parties within 30 calendar days of the receipt of notice. Neither Party shall pursue or commence proceedings regarding the dispute in any court, administrative arbitral or other adjudicative body prior to engaging in such consultations and negotiations.
- B. Binding Arbitration. If negotiations fail to resolve the dispute within 30 calendar days, and/or small claims court is not a valid option due to the size or nature of the claim, all disputed claims (except for claims relating to intellectual property rights, indemnity, or confidentiality obligations, fraudulent or unauthorized use, theft, or piracy of service, or matters relating to injunctions or other equitable relief) must be resolved by binding arbitration before a single arbitrator, in the English language. This agreement to arbitrate is intended to be given the broadest possible meaning under applicable law. The initiation of an arbitration dispute shall not otherwise prevent Ringtel or Customer from terminating Services in accordance with the Agreement.
- C. Location and Procedure. A Party who intends to seek arbitration must first send to the other Party a written notice of dispute, which must describe the nature and basis of the dispute and set forth the specific relief sought. The location of arbitration will be in New York, New York, in accordance with the JAMS Streamlined Arbitration Rules and Procedures, and this dispute resolution provision will be governed by the Federal Arbitration Act and not by any state or



national law concerning arbitration. The amount of any settlement offer made by Customer or Ringtel shall not be disclosed to the arbitrator until after the arbitrator determines the amount, if any, to which Customer or Ringtel is entitled. Judgment on the award rendered by the arbitrator may be entered in any court having competent jurisdiction. Any provision of applicable law notwithstanding, the arbitrator will not have authority to award damages, remedies or awards that conflict with this Agreement. The prevailing Party in any action or proceeding to enforce this Agreement shall be entitled to recover its reasonable attorneys' fees and costs.

- D. Jury Trial and Class Action Waiver. Each Party waives its right to a trial by jury for claims subject to arbitration hereunder. The arbitrator may award relief only in favor of the individual Party seeking relief and only to the extent necessary to provide relief warranted by that Party's individual claim. The arbitrator may not award special, indirect, punitive, incidental or consequential damages. CUSTOMER MAY BRING CLAIMS AGAINST RINGTEL ONLY IN CUSTOMER'S INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING AND CUSTOMER EXPRESSLY WAIVES ITS RIGHT TO BRING A CLASS ACTION SUIT. The arbitrator may not consolidate more than one person's or entity's claims, and may not otherwise preside over any form of a representative or class proceeding.
- E. Equitable Relief. Notwithstanding the foregoing, each Party shall be entitled to enforce its intellectual property rights and seek equitable relief in any court of competent jurisdiction at any time.

#### **14. Miscellaneous.**

- A. Entire Agreement; Headings. This Agreement constitutes the entire agreement between Customer and Ringtel with respect to the Site and Services and supersedes all prior or contemporaneous communications and proposals (whether oral, written or electronic) between Customer and Ringtel with respect thereto. The section and paragraph headings in this Agreement are for convenience of reference only and shall not affect their interpretation. No oral or written information or advice given by Ringtel or its employees and other representatives will create any obligations or warranty on behalf of Ringtel unless otherwise agreed in a writing signed by an authorized Ringtel representative. Any purchase orders, confirmations, payment documentation, or other terms provided by Customer, even if signed by the Parties after the date hereof, shall have no force or effect. In the event that the Parties have executed versions of this Agreement drafted in more than one language, the English language version shall govern and prevail.
- B. Modifications/Waivers. Except as expressly provided elsewhere in this Agreement, this Agreement may not be changed or modified, nor may any provisions hereof be waived, nor may any consent or confirmation be considered to have been given, except by an agreement in writing signed by the Party against whom enforcement of the change or modification is

asserted, and any such modification, change, waiver, consent or confirmation on Ringtel's behalf may only be given by an authorized signatory of Ringtel. The failure of either Party to exercise in any respect any right provided for herein shall not be deemed a waiver of any further rights hereunder.

- C. Severability. If any provision of this Agreement, or any part of such provision, is found to be unenforceable or invalid, that provision will be (to the minimum extent necessary) replaced by a valid and enforceable provision the effect of which comes as close as possible to the intended economic effect of the unenforceable or invalid provision, so that this Agreement will otherwise remain in full force and effect and enforceable.
- D. Force Majeure. Neither Party is liable for any failure of performance (other than for delay or performance in the payment of money due and payable hereunder) to the extent such failure is due to any cause or causes beyond such Party's reasonable control, including acts of God, fire, explosion, vandalism, cable cut, adverse weather conditions, governmental action, acts of terrorism, strikes and similar labor difficulties, war, sabotage, outages of third party connections, utilities, or telecommunications networks, including, without limitation, carrier-related problems or issues, internet-access issues, denial of service attacks, shortage or unavailability of supplies, and other mechanical, electronic or communications failures or degradation. Either Party's invocation of this clause will not relieve Customer of its obligation to pay for any Services actually provided or permit Customer to terminate any Services except as expressly provided herein.
- E. Notices. Customer hereby authorizes Ringtel to send notices to Customer relating to this Agreement (e.g., Service updates, notices of breach and/or suspension) via email to the email address Customer provides to Ringtel in Customer's Account, in addition to the other means and methods set forth in this Agreement. It is Customer's responsibility to keep Customer's email address current, and Customer will be deemed to have received any email sent to the last known email address Ringtel has on record for Customer. Notices that Ringtel sends to Customer via email will be deemed effective upon Ringtel's sending of the email. Notices provided to Ringtel under this Agreement shall be sent to the attention of Customer's account manager, with a copy sent to the following address with respect to any legal matters, at:

**Telematic Solutions Inc. d/b/a/ Ringtel**  
**254 47th St**  
**Brooklyn, NY 11220**  
**Attn: Legal Department**

Unless otherwise specified in this Agreement, all notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or email; or the day after it is sent, if sent via next day delivery by recognized overnight delivery service.

- F. Relationship of the Parties. The relationship of the Parties shall not be that of partners, agents or joint venturers for one another, and nothing contained in the Agreement shall be deemed to constitute a partnership or agency agreement between the Parties for any purpose. Ringtel and Customer shall be independent Parties and shall discharge their contractual obligations at their own risk subject to the terms of this Agreement.
- G. Assignment. This Agreement inures to and is binding upon the Parties' successors and permitted assignees. Customer shall not assign this Agreement without Ringtel's prior written consent.
- H. Export Controls. By using the Services, Customer represents and warrants that (i) its use of the Services will not violate any embargoes, sanctions, trade restrictions or similar restrictions issued by any applicable governmental entity, and (ii) Customer, its Affiliates, and its End Users have not been designated by any applicable government or any government agency as a prohibited or restricted party under any trade restrictions, export laws or the like. Customer also will not use the Site or Services for any purpose prohibited by applicable law, including the development, design, manufacture or production of missiles, or nuclear, chemical or biological weapons. Customer may not use, export, re-export, import, or transfer any technology or data related to the Services except as authorized by both this Agreement and all applicable laws, rules and regulations.
- I. Government Terms. If Customer (or its End Users) is an agency, department or other entity of any government, then any use, modification, duplication, reproduction, release, performance, display, transfer or disclosure of the Services and accompanying documentation shall be governed solely by this Agreement. Any other use shall be prohibited, and no other rights are granted.