

TOSHIBA VIPEDGE SERVICES TERMS AND CONDITIONS

This TOSHIBA VIPEDGE SERVICES TERMS AND CONDITIONS (“Agreement”) is entered into by and between the Telecommunication Systems Division of Toshiba America Information Systems, Inc., a California corporation with its principal place of business at 9740 Irvine Blvd, Irvine, CA 92618 (“Provider”), and Customer. The “Customer” is the entity or person identified at the time the Services are ordered through the Provider’s online ordering and payment portal (the “Portal”).

The parties agree as follows:

1. SERVICES

- 1.1. Services. In consideration of the Service Charges, Provider will provide to Customer the Services ordered through the portal at the physical location designated in the order (the “Services”).
- 1.2. Use of Service by Customer. Customer may only use the Services for its internal business purposes and the Services may not be resold by Customer to any third-party.
- 1.3. Grant of License. Any software provided as part of the Services (“Software”) is licensed and not sold to the Customer. The Software is subject to and licensed under the terms specified in Exhibit A to this Agreement.

2. TERM

- 2.1. The Agreement. The “Term” of this Agreement commences on the date the order for the Services is submitted and accepted through the Portal (the “Effective Date”) and continues, unless terminated earlier under Section 10 below or as otherwise provided in this Agreement, until all of the Services provided under this Agreement have been permanently discontinued.
- 2.2. The Services Term. The initial term of the Services ordered through Portal shall be two (2) years (the “Initial Service Term”). The Initial Service Term begins when the Services are ready for Customer’s use (the “Service Date”). After the Initial Service Term, the Service term shall automatically renew on a monthly basis until terminated by either party upon thirty (30) days prior written notice. If additional Services locations are ordered by Customer, and if those Services locations require separate Services, then those Services will have their own Initial Service Term.

3. CHARGES, TAXES, OTHER FEES AND PAYMENT

- 3.1. Service Charges. The term “Service Charges” means the rates and charges payable by Customer for the Services provided by the Provider, including any monthly recurring charges or non-recurring charges. Service Charges do not

include any charges and/or expenses associated with any third-party services (including, without limitation, monthly charges, usage charges, installation charges, non-recurring charges, cross-connection charges, and/or applicable termination/cancellation charges), all of which shall be the sole responsibility of the Customer.

- 3.2. Taxes and Other Fees. Customer is responsible for payment or reimbursement to Provider of any fees, taxes or surcharges that are imposed or authorized by regulatory and governmental entities, including but not limited to, any and all applicable federal, state, local or foreign use, excise, sales, gross receipts or privilege taxes, charges or surcharges (however designated), regulatory fees, value-added and other taxes, levies, surcharges, duties, fees, pay-phone service provider compensation or other related surcharges, chargeable to or against Provider or Customer because of the Services provided to Customer, as well as Provider administrative fees. Customer shall indemnify, defend and hold harmless Provider against any damages, losses, claims or judgments arising out of any exemption claimed by Customer or Customer's failure to pay taxes or regulatory fees, including, without limitation, any liens, attachments, fines or penalties.
- 3.3. Payment; No Refund. All Service Charges shall be due monthly in advance commencing on the monthly billing date to be designated by the Provider. If the Services are terminated prior to the end of a month (or other applicable billing period) in which Customer has prepaid for the Services, Customer shall not be entitled to any refund and Provider may, in its discretion, apply unused prepayment amounts to the cancellation charges. Taxes and other fees, as well as certain charges related to international calling, may either be invoiced to Customer in advance or in arrears. Service Charges, taxes and other fees will be paid by Customer to the Provider via debit from the Customer's pre-paid bank account balance. If there is an insufficient account balance for debit or any invoice is not paid when due, Provider may: (i) apply a late charge equal to one and one-half percent (1½%) (or the maximum legal rate, if less) of the unpaid balance per month; (ii) require a deposit or other form of security; and/or (iii) take any action in connection with any other right or remedy Provider may have under this Agreement, at law or in equity.
- 3.4. Voice Service Volume and International Calling. Provider may re-classify the Customer as a "Call Center User" if the Customer exceeds 1,200 minutes per channel per month. International calls are billed on a per-minute of use basis and the rates differ depending upon the country called. If Customer wishes to utilize the Services to make international calls, Customer must prepay to Provider amounts it wishes to reserve for international calling. Once the international reserve is exhausted, Customer will have to refresh the reserve in order to continue to utilize the Services for international calling. International calling rates are provided on the Portal and can change daily.

- 3.5. Fee Changes. The Service Charges shall be fixed during the Initial Service Term for the applicable Services, except that Provider may modify the Services Charges upon thirty (30) days prior notice to Customer if a change in Provider's costs necessitate a change in the Services Charges; and a Customer's use of the Service after the date of change of Services Charges shall serve as acceptance of the revised charges. In addition, notwithstanding anything to the contrary, Provider may pass-through to Customer at any time third-party fees, taxes, regulatory and other fees and charges. Notwithstanding anything to the contrary, Provider may change fees for the Service Charges upon posting of the modified fees and rates on the Portal.

4. BILLING DISPUTES

If Customer in good faith disputes any portion of any Provider invoice, such invoice will be accessible through the Portal, Customer shall submit to Provider, written documentation identifying and substantiating the disputed amount. If Customer does not report a dispute within sixty (60) days following the date on the applicable invoice, Customer shall have waived its right to dispute that invoice. Provider and Customer agree to use their respective commercially reasonable efforts to resolve any dispute within thirty (30) days after Provider receives written notice of the dispute from Customer. Any disputed amounts resolved in favor of Customer shall be credited to Customer's account on the next invoice following resolution of the dispute. Any disputed amounts determined payable to Provider shall be due within ten (10) days of the resolution of the dispute. Any dispute arising out of or relating to this Agreement that has not been resolved by the good-faith efforts of the parties shall be settled by binding arbitration conducted expeditiously in accordance with this Agreement.

5. CONFIDENTIALITY

5.1. Definition. As used in this Agreement, the term "Confidential Information" means any information of a party disclosed by one party ("Disclosing Party") to another (the "Receiving Party") pursuant to this Agreement or otherwise which is in written or other tangible form (including on magnetic media) or by oral, visual or other means, and which reasonably should be understood by the Receiving Party because of legends or other markings, the circumstances of disclosure or the nature of the information itself, to be proprietary and confidential, including without limitation the terms of this Agreement itself.

5.2. Protection and Use. The Receiving Party agrees: (i) to protect Confidential Information from disclosure to others, using the same degree of care used to protect its own confidential or proprietary information of like importance, but in any case using no less than a reasonable degree of care; (ii) not to disclose except as specifically permitted hereunder any of the Confidential Information or any information derived therefrom to any third person except to its affiliates, employees, agents, contractors and financing parties under a confidentiality obligation to the Receiving Party; and (iii) not to make any use whatsoever at any time of such Confidential Information except as expressly authorized pursuant to

the terms of this Agreement and except as necessary to fulfill its obligations under this Agreement. Subject to restrictions on disseminating Confidential Information to third parties contained in this Agreement, any affiliate, employee, agent, contractor or financing party given access to Confidential Information must have a legitimate “need to know” and shall be similarly bound to the Receiving Party (including without limitation pursuant to a pre-existing written agreement). The Receiving Party shall be responsible to the Disclosing Party with respect to any breach of the provisions of this Section caused by any such third parties provided access to Confidential Information by the Receiving Party.

- 5.3. Exclusions. Without granting any right or license, the parties agree that the foregoing shall not apply with respect to information the Receiving Party can document (i) is in or (through no improper action or inaction by the Receiving Party or any Affiliate, agent or employee of the Receiving Party) enters the public domain, (ii) was in its possession or known by it prior to receipt from the Disclosing Party, (iii) was rightfully disclosed to it by another person without restriction, or (iv) was developed independently by it without use of the Confidential Information. The parties recognize that service providers (employees, consultants and the like) may serve multiple parties hereto simultaneously and hereby agree that disclosure to or from such service providers shall not affect the obligations of confidentiality to the party whose information is disclosed.
- 5.4. Return or Destruction. At the request of the Disclosing Party and immediately on termination of this Agreement, the Receiving Party shall return or, at the Disclosing Party’s direction, destroy or erase and certify the destruction or erasure of all Confidential Information and all documents containing any Confidential Information and all copies and extracts of the portions of such Confidential Information (regardless of the media on which the Confidential Information is stored).
- 5.5. Disclosure Required by Law. Either party may disclose the other’s Confidential Information as required by law, regulation or applicable stock exchange rules; *provided, however,* that such party shall provide the other party with as much advance written notice as reasonably possible under the circumstances of such disclosure and the opportunity to contest such disclosure. Notwithstanding anything to the contrary, this Section 5 does not apply in the context of security agency or law enforcement requests for information.
- 5.6. Equitable Relief. Each party acknowledges and agrees that due to the unique nature of the Confidential Information, there may be no adequate remedy at law for breach of the confidentiality obligations herein. Therefore, on any such breach or any threat of such breach, the Disclosing Party may be entitled to appropriate equitable relief in addition to whatever remedies it might have at law and/or under this Agreement.

6. EMERGENCY CALLING - ENHANCED 911

- 6.1. The Provider is subject to an FCC requirement to provide notification of any E911 limitations that may be associated with the Services. The Services do not support E911 dialing or other emergency functions in the same way that traditional telephone services do. Provider advises the Customer to ensure that it and all potential users of the Services have available an alternative means to place E911 calls, such as a mobile telephone or a traditional wireline phone. Customer is advised that the E911 service provided by Provider: (1) may not function with the loss of electrical power, including the loss of power to telephone equipment or other equipment necessary to route E911 calls to the appropriate emergency call center; (2) will not function if the broadband or high-speed Internet connection is not operational or if there is congestion on the broadband network; (3) will not function at a remote location and will likely transmit incorrect physical location information for the caller if internal users are allowed to use their IP-based phones remotely; (4) will not function if the telephone equipment or other equipment necessary to place calls is not correctly configured; (5) may not transmit the correct physical address for the E911 call due to incorrect information provided by Customer, use of a non-native telephone number or delays in loading or updating automatic number identification and location information into the E911 databases; (6) may not be capable of being received and/or processed by an emergency call center due to the center's technical limitations; and (7) may be affected by other factors or force majeure events, such as the quality of the broadband connection and network congestion. Additionally, a service outage due to suspension of your account as a result of billing issues will prevent ALL Service, including any 911 emergency response services.
- 6.2. The Services are not set up to function with outdialing systems including home security systems, medical monitoring equipment, TTY equipment, and entertainment or satellite television systems. E911 service is not offered by Provider on virtual numbers, toll-free numbers or similar service accessories or add-on plans. Customer agrees to notify any potential user of the Services known to Customer of the limitations and potential unavailability of E911 dialing using the Services contained herein.
- 6.3. Provider will also provide labels on the applicable equipment that will alert users to the limitations discussed above. Customer will place the labels on or near each piece of equipment by which calls may be placed using the Services. The physical location that Customer provided at the initiation of the Services and the Services are first used, shall be the registered location that will be provided to the emergency call center when you place a 911 call and any enhanced information sent to the emergency call center when an E911 call is placed will be based on the then current registered location. Customer agrees to update the registered location whenever the physical location of service changes by contacting the dealer which sold it the services or the Provider. Customer acknowledges that there may be some delay before the new registered location and automatic number and location

information it provides to Provider or its agents have been updated and can be passed to the local emergency service operator.

- 6.4. Notwithstanding anything to the contrary in the agreement, Customer will indemnify and hold Provider and its officers, directors, employees, affiliates and agents harmless from and against any claim, loss, or expense (including without limitation reasonable attorney's fees) arising directly from any death or injury to persons, or damage to tangible property, to the extent such claim, loss or expense arises from the failure of Customer to comply with this section or from any failure or outage of the Service that is caused , in whole or in part, by Customer's act(s) or omission(s).
- 6.5. The foregoing terms regarding E911 service limitations and potential unavailability and other terms associated with E911 service are hereby acknowledged and understood.

7. MAINTENANCE

In the event Provider determines that it is necessary to interrupt the Services or that there is a potential for the Services to be interrupted for the performance of system maintenance, Provider will use reasonable efforts to notify Customer prior to the performance of such maintenance and will schedule such maintenance during non-peak hours. In no event shall interruption for system maintenance constitute a failure of performance by Provider.

8. DISCLAIMER OF WARRANTIES

PROVIDER MAKES NO WARRANTY TO CUSTOMER OR ANY OTHER PERSON OR ENTITY, WHETHER EXPRESS, IMPLIED OR STATUTORY, AS TO THE DESCRIPTION, QUALITY, INFRINGEMENT, MERCHANTABILITY, COMPLETENESS OR FITNESS FOR ANY PURPOSE, OF THE SERVICES OR SOFTWARE PROVIDED HEREUNDER OR DESCRIBED HEREIN, OR AS TO ANY OTHER MATTER, ALL OF WHICH WARRANTIES BY PROVIDER ARE HEREBY EXCLUDED AND DISCLAIMED. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR THE SELECTION, USE AND SUITABILITY OF THE SERVICES AND PROVIDER SHALL HAVE NO LIABILITY THEREFORE. PROVIDER DOES NOT WARRANT THAT THE SERVICES OR SOFTWARE WILL BE UNINTERRUPTED OR ERROR-FREE OR THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR PREVENT UNAUTHORIZED ACCESS BY THIRD-PARTIES.

9. LIMITATION OF LIABILITY

- 9.1. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT TO THE CONTRARY, AND IRRESPECTIVE OF ANY FAULT, NEGLIGENCE OR GROSS NEGLIGENCE OF ANY KIND, IN NO EVENT SHALL EITHER PARTY OR ANY OF ITS DIRECTORS, OFFICERS, EMPLOYEES OR AGENTS BE LIABLE FOR ANY CONSEQUENTIAL,

INCIDENTAL, INDIRECT, RELIANCE OR SPECIAL (INCLUDING PUNITIVE) DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES, LOSS OF PROFIT, OR LOSS OF BUSINESS OPPORTUNITY ON ACCOUNT OF ITS FAILURE TO PERFORM PURSUANT TO THE TERMS AND CONDITIONS OF THIS AGREEMENT.

- 9.2. EXCEPT FOR AMOUNTS OWED TO PROVIDER UNDER THIS AGREEMENT, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY FOR ALL EVENTS OCCURRING UNDER THIS AGREEMENT WHETHER IN TORT, CONTRACT, STRICT LIABILITY OR OTHERWISE, SHALL BE DIRECT DAMAGES PROVEN, NOT TO EXCEED A TOTAL OF FEES AND CHARGES (NET OF TAXES) RECEIVED BY PROVIDER UNDER THIS AGREEMENT IN THE SIX (6) MONTHS PRIOR TO THE DATE IN WHICH THE FIRST CLAIM AROSE.
- 9.3. Customer acknowledges that the limitations set forth in this Section 9 are integral to the amount of fees levied in connection with this Agreement, and that, were Provider to assume any further liability other than as set forth herein, such fees would of necessity be set substantially higher.

10. TERMINATION

- 10.1. Termination by Customer for Cause. If Provider fails to perform a material obligation under this Agreement and does not remedy such failure within thirty (30) days following written notice from Customer ("Provider Default"), Customer may terminate this Agreement and/or any Service without any further liability except for the payment of all accrued but unpaid charges. If Provider is unable to provide Service(s) for ninety (90) consecutive days due to a Force Majeure Event as defined in Section 11 (Force Majeure), Customer may terminate the affected Service(s) without liability.
- 10.2. Cancellation of Service by Customer. Customer may cancel or disconnect a Service; *provided, however,* Customer must provide Provider with not less than thirty (30) days prior written notice that it desires to cancel the Service and setting forth in such notice the effective date of cancellation (the "Cancellation Date"). If Customer cancels a Service at any time during the Initial Service Term, the Customer shall pay, as liquidated damages and not as a penalty, early cancellation charges as follows:
- Termination In First Year Of The Initial Service Term. Customer shall pay an amount equal to 50% of Service Charges that would have been charged for the remaining months of the first service year, plus an amount equal to 50% of Service Charges that would have been charged for the 12 months of the second service year.

- Termination In Second Year Of The Initial Service Term. Customer shall pay an amount equal to 50% of Service Charges that would have been charged for the remaining months of the second service year.

The Customer shall also be responsible for any applicable taxes and regulatory fees associated with the cancellation charges. Further, the early cancellation charges payable hereunder are in addition to all other amounts due for the Service provided prior to the Cancellation Date of the Service.

- 10.3. Termination by Provider. Provider may terminate this Agreement or any Service with no further liability if: (i) Customer fails to make payment as required under this Agreement and such failure remains uncorrected for ten (10) days following written notice from Provider; or (ii) Customer fails to perform any other material obligation under this Agreement and does not remedy such failure within thirty (30) days following written notice from Provider (hereinafter collectively referred to as “Customer Default”). In the event of a Customer Default, Provider shall have the right to: (i) suspend Service(s) to Customer; (ii) cease accepting or processing orders for Service(s); and/or (iii) terminate this Agreement or any Service. If this Agreement is terminated due to a Customer Default, Customer shall pay, as liquidated damages and not as a penalty, early cancellation charges as specified in Section 10.2. Moreover, Customer agrees to pay Provider’s reasonable expenses (including attorney and collection agency fees) incurred in enforcing Provider’s rights in the event of a Customer Default.
- 10.4. Bankruptcy. In the event of bankruptcy or insolvency of either party, or if either party shall make any assignment for the benefit of creditors or take advantage of any act or law for relief of debtors, the other party to this Agreement shall have the right to terminate this Agreement without further obligation or liability on its part.
- 10.5. No Refund. Under no circumstances shall Customer be entitled to refunds for prepaid amounts.

11. FORCE MAJEURE

Neither party shall be liable for any default or delay in the performance of its obligations hereunder (except for failure to pay amounts due) if and to the extent that such default or delay arises out of causes beyond its reasonable control, including without limitation acts of God, acts of war, acts of terrorism, earthquakes, fires, cable cuts, power outage, catastrophic network element failures, floods, terrorism, riots, civil disorders, rebellions, strikes, lockouts and labor disputes (individually, each such event a “Force Majeure Event”).

12. REGULATORY REQUIREMENT

If a regulatory body, or a court of competent jurisdiction, issues a rule, regulation, law or order that has the effect of materially increasing the cost to provide 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.

13. COMPLIANCE

- 13.1. With Laws. Customer shall comply with all laws, statutes, ordinances, codes, regulations and other pronouncements having the effect of law of any government authority with respect to its use of the Services.
- 13.2. Acceptable Use Policy. In its use of the Services, Customer shall at all times comply with Provider’s Acceptable Use Policy (“AUP”), which is incorporated into this Agreement by reference. In the event of violation of the AUP by Customer, the Provider in its sole discretion may suspend the Services. The AUP, which may be found at Provider’s website at http://www.telecom.toshiba.com/Telephone_Systems_Support/VIPedge-Terms/acceptable-use.pdf, may be amended from time to time by Provider upon posting to the website.
- 13.3. Privacy Policy. The collection, use, sharing, retention and disposal of Customer information in relation to the provision of the Services by the Provider is subject to certain Federal Communications Commission regulations, other legal requirements and Provider’s Privacy Policy, which is incorporated into this Agreement by reference. The Privacy Policy, which may be found at Provider’s website at http://www.telecom.toshiba.com/Telephone_Systems_Support/privacy.cfm, may be amended from time to time by Provider upon posting to the website.
- 13.4. Fraudulent Calls. The Customer is responsible for fraudulent calls made from its premises or through the Services provided to Customer. In the event Customer discovers fraudulent calls are being made (or reasonably believes fraudulent calls are being made), Customer shall immediately notify Provider. In the event Provider discovers fraudulent calls are being made (or reasonably believes fraudulent calls are being made), Provider may take action to prevent such fraudulent calls from taking place. Upon the discovery of fraudulent calling, the parties will work cooperatively to prevent the fraudulent calling.
- 13.5. Indemnity. Customer shall indemnify, defend and hold harmless Provider against any damages, losses, claims or judgments arising out of any violation of Section 13.

14. MISCELLANEOUS

- 14.1. Relationship of Parties. The parties are independent contractors. This Agreement shall not be construed as constituting either party as partner of the other or to create a fiduciary or any other form of legal association that would impose liability on one party for the act or failure to act of the other or as providing either party with the express or implied right, power or authority to create any duty or obligation of the other party.
- 14.2. Assignment. No assignment of this Agreement or any rights or obligations hereunder, by operation of law or otherwise, shall be made by Customer without the prior written consent of the Provider, such consent not to be unreasonably withheld.
- 14.3. Amendments. Except as provided in Sections 3.4, 3.5, 12, 13.1, 13.2, and 14.8 no amendment, modification or discharge of this Agreement, and no waiver hereunder, shall be valid or binding unless set forth in writing and duly executed by the parties to this Agreement.
- 14.4. No Third Party Beneficiaries. This Agreement is solely for the benefit of the parties hereto and no provision of this Agreement shall be deemed to confer on other third parties any remedy, claim, liability, reimbursement, cause of action or other right.
- 14.5. Notices. All notices, demands, requests, or other communications which may be, or are required to be, given or served, or sent by any party to any other party pursuant to this Agreement shall be in writing and will be deemed to have been duly delivered or given when: (i) delivered by hand (with written confirmation of receipt) before 5:00 p.m. EST on a business day (or otherwise on the next succeeding business day); (ii) sent by facsimile before 5:00 p.m. EST on a business day (or otherwise on the next succeeding business day) and a written confirmation of the transmission is received by the sender; (iii) sent by electronic mail before 5:00 p.m. EST on a business day (or otherwise on the next succeeding business day); or (iv) the next business day after being deposited for delivery with a nationally recognized overnight delivery service.
- 14.6. Order of Precedence. Unless expressly provided otherwise in a Service order, in the event of conflict among the documents comprising this Agreement, the order of priority shall be: (i) any publicly filed tariff governing the Service (or a successor document in the event of detariffing); (ii) this Agreement; (iii) any Portal ordering form; and (iv) attachments (including online policies).
- 14.7. Service Subject to Availability. The furnishing of Service is subject to the availability thereof on a continuing basis, and is limited to the capacity of Provider to provide Service as well as the capacity which Provider may obtain from other carriers to furnish Service from time to time as required at the sole

discretion of Provider. Nothing in this Agreement shall be construed to obligate Customer to submit, or Provider to accept, Service orders.

- 14.8. Application of Tariffs. Provider may elect or be required to file with the appropriate regulatory agency tariffs respecting the delivery of certain Services. In the event that such tariffs are filed with respect to any of the Services ordered by Customer, then the terms set forth in the applicable tariff (or any successor document in the event of detariffing) shall govern Provider's delivery of, and Customer's consumption or use of, such Services and such tariffs shall be incorporated by reference herein and any order of precedence shall be determined in accordance with this Section 14.8.
- 14.9. Waivers. The failure of a party hereto at any time or times to require performance of any provision hereof shall in no manner affect its right at a later time to enforce the same. No waiver by a party of any condition or of any breach of any term, covenant, representation or warranty contained in this Agreement shall be effective unless in writing, and no waiver in any one or more instances shall be deemed to be a further or continuing waiver of any such condition or breach in other instances or a waiver of any other condition or breach of any other term, covenant, representation or warranty.
- 14.10. Severability. If any provision of this Agreement shall be held invalid, illegal or unenforceable, the validity, legality or enforceability of the other provisions hereof shall not be affected thereby, and there shall be deemed substituted for the provision at issue a valid, legal and enforceable provision as similar as possible to the provision at issue.
- 14.11. Applicable Law. Except as otherwise provided herein with respect to the mandatory, individual arbitration of disputes (which arbitration agreement is governed by federal law), this Agreement and all matters arising out of or relating to this Agreement shall be governed by the laws of the State of California, without giving effect to the conflict or choice of law provisions thereof that would give rise to the application of the domestic substantive law of any other jurisdiction.
- 14.12. Mandatory, Individual Arbitration of Disputes. THE CUSTOMER MUST READ THIS SECTION CAREFULLY. THIS SECTION PROVIDES FOR THE RESOLUTION OF DISPUTES THROUGH FINAL AND BINDING BILATERAL ARBITRATION BEFORE A NEUTRAL ARBITRATOR INSTEAD OF A JUDGE OR JURY. Except with respect to claims for amounts owed under the Agreement or to enforce the confidentiality provisions of this Agreement, to Provider, which may be brought before any court of competent jurisdiction, any and all disputes or claims between Provider and Customer, arising out of or relating to the Services (whether based in contract, tort, statute, fraud, misrepresentation or any other legal theory) shall be resolved by bilateral arbitration before a single arbitrator administered by the American Arbitration Association ("AAA") in accordance with its Commercial Arbitration Rules. The

Federal Arbitration Act (“FAA”), 9 U.S.C. § 1, *et seq.*, not state law, applies to this mandatory arbitration agreement and governs all questions of whether a Claim is subject to arbitration. The arbitrator’s decision and award is final and binding, with some exceptions under the FAA, and judgment on the award may be entered in any court having competent jurisdiction. The parties agree that no arbitrator has the authority to: (i) award relief in excess of what this Agreement provides; or (ii) award punitive or exemplary damages. However, just as a court would, the arbitrator can award damages and relief, including any attorneys’ fees if authorized by law. ALL CLAIMS SHALL BE ARBITRATED INDIVIDUALLY AND CUSTOMER WILL NOT BRING, OR JOIN OR PARTICIPATE IN A CLASS OR REPRESENTATIVE ACTION OR SEEK TO CONSOLIDATE OR BRING PREVIOUSLY CONSOLIDATED CLAIMS IN ARBITRATION. CUSTOMER ACKNOWLEDGES THAT THIS ARBITRATION PROVISION CONSTITUTES A WAIVER OF ANY RIGHT TO A JURY TRIAL.

- 14.13. Attorney Fees. Provider and Customer are each responsible for their respective costs relating to counsel, experts, and witnesses, as well as any other costs relating to the arbitration. This agreement to arbitrate does not prevent Provider or Customer from bringing appropriate claims in small claims court or before a state regulatory agency or commission.
- 14.14. Law Enforcement. Provider intends to fully comply with the Communications Assistance for Law Enforcement Act and other similar laws or regulations. By use of the Services, Customer agrees, on behalf of itself and the users of the Services, that, if and as required by law enforcement entities, Provider may monitor or facilitate monitoring, and otherwise disclose the nature and content of communications transmitted through the Services without any further notice or liability.
- 14.15. Privacy. The Services may utilize the public internet and third party networks to transmit voice and other communications. Notwithstanding anything to the contrary, the Provider is not responsible to Customer for maintaining the privacy and security of communications or information conveyed or transmitted utilizing the Services.
- 14.16. Entire Understanding. This Agreement, together with any appendices, addenda, order forms, attachments, schedules, policies and exhibits attached hereto, all of which are incorporated by reference, sets forth the entire understanding of the parties hereto with respect to the transactions contemplated hereby. Any and all previous agreements and understandings between or among the parties regarding the subject matter hereof, whether written or oral, are superseded by this Agreement.
- 14.17. Binding Effect. Subject to any provisions hereof restricting assignment, this Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

14.18. Headings. Section and subsection headings contained in this Agreement are inserted for convenience of reference only, shall not be deemed to be a part of this Agreement for any purpose, and shall not in any way define or affect the meaning, construction or scope of any of the provisions hereof.

Exhibit A

End User License Agreement (“EULA”)

USE OF ANY PROPRIETARY TOSHIBA AND THIRD PARTY SOFTWARE OR ANY RELATED DOCUMENTATION PRE-INSTALLED ON, OR SHIPPED WITH, A TAIS TELECOMMUNICATION SYSTEMS PRODUCT OR OTHERWISE MADE AVAILABLE TO YOU BY TAIS IN WHATEVER FORM OR MEDIA (COLLECTIVELY, “SOFTWARE”), WILL CONSTITUTE YOUR ACCEPTANCE OF THESE TERMS. IF SEPARATE TERMS ARE PROVIDED BY THE SOFTWARE SUPPLIER, THE TERMS OF THIS EULA THAT ARE NOT INCONSISTENT WITH THOSE SEPARATE TERMS WILL CONTINUE TO BE APPLICABLE. IF YOU DO NOT AGREE WITH THE TERMS OF THIS EULA, DO NOT INSTALL, COPY, OR USE THE SOFTWARE AND PROMPTLY RETURN IT TO THE TAIS AUTHORIZED CHANNEL FROM WHICH YOU OBTAINED IT IN ACCORDANCE WITH APPLICABLE RETURN POLICIES. EXCEPT AS OTHERWISE AUTHORIZED IN WRITING BY TAIS, THIS SOFTWARE IS LICENSED FOR DISTRIBUTION THROUGH AN AUTHORIZED CHANNEL ONLY TO AN END-USER PURSUANT TO THIS EULA. “AUTHORIZED CHANNEL” MEANS TAIS OR A DEALER AUTHORIZED BY TAIS TO PROVIDE TAIS HARDWARE AND/OR SOFTWARE TO END USERS. TAIS IS WILLING TO LICENSE THIS SOFTWARE TO YOU ONLY UPON THE CONDITION THAT YOU OBTAINED THE SOFTWARE FROM AN AUTHORIZED CHANNEL AND ACCEPT ALL TERMS OF THIS EULA.

1. License Grant. The Software is not sold; it is licensed upon payment of applicable charges. TAIS grants to you a non-transferable and non-exclusive right to use with a TAIS telecommunication systems product the copy of the Software provided under this EULA that you have obtained from an Authorized Channel. With respect to third party Software, TAIS is only passing along license rights which may be granted by the owner or licensor of the Software and TAIS does not separately license these rights to you. Each copy of the Software is owned by TAIS and/or its suppliers. You agree you will not copy the Software except as necessary to use it on one TAIS system at a time at one location. Modifying, translating, renting, copying, distributing, printing, sublicensing, transferring, or assigning all or part of the Software, or any rights granted hereunder, to any other persons and removing any proprietary notices, labels or marks from the Software is strictly prohibited except as permitted by applicable law; you agree violation of such restrictions will cause irreparable harm to TAIS and provide grounds for injunctive relief, without notice, against you or any other person in possession of the Software. You and any other person whose possession of the Software violates this

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