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## Japan Online Product and Service Supply Agreement

This Japan Online Product and Service Supply Agreement governs the purchase of goods or services by the Buyer from the Supplier. The Japan Online Product and Service Supply Agreement is hereby incorporated by reference in the relevant PO. Issuance of the PO by Buyer is expressly conditioned upon Supplier's unconditional assent to the Japan Online Product and Service Supply Agreement. Supplier's acceptance and processing of the PO indicates that Supplier accepts and agrees to be bound by the Japan Online Product and Service Supply Agreement. If Supplier does not accept the Japan Online Product and Service Supply Agreement, Supplier must not accept and process the PO. Any additional or different terms from the Japan Online Product and Service Supply Agreement which are not specifically agreed to in writing and signed by a duly authorized representative of Buyer are hereby objected to. The PO does not represent Buyer's acceptance of any other terms counter offered by Supplier.

### WHEREAS:

- (1) The Supplier and Buyer wish to establish a contract for the supply and receipt of certain products and/or services for delivery to anywhere in the Territory from time to time, and have agreed to do so on the terms and conditions set out below.
- (2) Buyer may desire to acquire the products and/or services of Supplier from time to time for its own use and/or on-sale and/or rental to the Customers of Buyer.

### IT IS AGREED:

#### 1. General.

- 1.1 **Order of Precedence.** In the event of any conflict or inconsistency between any provision contained in this Agreement and any other provision contained in any SOW (where applicable) and/ or PO, the following descending order of precedence shall apply:
  - 1.1.1 PO;
  - 1.1.2 SOW (where applicable);
  - 1.1.3 this Japan Online Product and Service Supply Agreement (excluding the Supplier Code of Conduct); and
  - 1.1.4 the Supplier Code of Conduct at <http://www.verizon.com/ethics>.Any pre-printed terms and conditions sent by Supplier to Buyer whether as part of, annexed to, or enclosed with, Supplier's quote, an acknowledgement of a PO, or other correspondence relating to a PO, shall be deemed void even if Buyer does not object explicitly.
- 1.2 **Buyer Discretion.** Buyer shall have the sole discretion to establish the pricing as well as the terms and conditions set forth in any Customer Contract, and shall make all decisions relating to its marketing, promotion, and distribution of the Deliverables.

#### 2. Supplier Responsibilities.

- 2.1 Deliverables. Supplier agrees to provide the Deliverables as described individual POs, SOWs or as otherwise agreed between the Parties pursuant to the terms of this Agreement.
- 2.2 Buyer/Customer Premises.
  - 2.2.1 **Security Regulations.** Supplier agrees that it and all Supplier Personnel will at all times comply with all security regulations in effect at Buyer's or any Customer's premises.
  - 2.2.2 **Waste.** If Supplier enters Buyer's or Customer's premises for the performance of the Deliverable, it shall ensure that upon completion of the Deliverable (or that portion of the Deliverables that are being performed on Buyer's or Customer's premises) the premises are cleared of any waste and left in the state in which they were prior to Supplier's attendance on the premises.
  - 2.2.3 **Clearing Charges.** If Supplier fails to comply with the sub-clause entitled "Waste", without prejudice to any other rights or remedies available, Buyer shall be entitled to engage a third party to

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clear the premises, and offset the charges for any such services against any outstanding invoices payable to Supplier.

3. **Global Trade Compliance.**

- 3.1 **Import and Export.** Both Parties acknowledge that the Deliverables may be subject to import and export controls laws and regulations of the United States and other foreign governments, and that export, re-export, import or transfer of the Products may require a license, license exception or other authorization from relevant government agencies. Each Party shall comply with all applicable import and export laws and regulations in performing their respective obligations hereunder. Neither Party shall engage in any export, re-export, import or other activity under this Agreement without first having satisfied all applicable U.S. and foreign government licensing or other requirement for such activity.
- 3.2 **Information.** Supplier shall upon request of Buyer furnish any information and documentation that is required to determine the applicable classifications as described below, or provide information and documentation that is required to support a license application to export or import the Deliverables. Such information and documentation shall include without limitation, technical specifications for the Deliverables, Export Control Classification Number (ECCN), European Community Control Regime Numbers (ECCR), Commodity Classification Automated Tracking System numbers (CCATS), applicable License Exceptions for Deliverables, applicable License Exceptions to export Deliverables, Harmonized Tariff Schedules (HTS), and information as to whether the Deliverables under the US or international munitions list.
- 3.3 **Information Format and Copies.** Supplier shall provide ECCN information, HTS information, and other data reasonably requested by Buyer for each of the Deliverables at the part-number and/or serial-number level in bulk format, via spread sheet flat file, or other data exchange format (“Bulk Export Data File”) as mutually agreed-upon by the Parties. Supplier shall provide Buyer with additional copies of the Bulk Export Data File periodically as updates are made to the information therein.
- 3.4 **Export and Import Compliance.** Supplier shall provide all relevant export and import information and records generated under this Agreement and cooperate with law enforcement and regulatory authorities on any claims or investigations relating to export and import compliance.

4. **Shipping, Delivery and Title Transfer.**

- 4.1 **Local Delivery.** If Supplier’s Distribution Centre, Buyer’s country of domicile and the designated “ship-to” address are located in the same jurisdiction, Products shall be delivered by surface freight to the local address specified in the PO and the risk of loss of or damages to the Products and the costs of such delivery shall be borne by Supplier.
- 4.2 **Cross Border Shipping.** Where a Product is being ordered for delivery to an international destination (i.e., “ship-to” location that is not in the same jurisdiction as Supplier’s Distribution Centre), the Product shall be delivered DDP (Incoterms 2010), unless otherwise specified by Buyer and/or Customer in a PO.
- 4.3 **Title Transfer.**
- 4.3.1 **Title Transfer for Local Delivery.** If Products are delivered locally as described in the subclause entitled “Local Delivery”, title to the Products shall transfer to Buyer upon delivery to the “ship-to” address.
- 4.3.2 **Title Transfer for Cross Border Shipping.**
- 4.3.2.1 If Supplier’s Distribution Centre and Buyer’s country of domicile are located in the same jurisdiction but the “ship-to” address for the Product is located in an international destination, title to the Products shall transfer to Buyer when the Products are delivered by Supplier to the port of exportation prior to export to such international destination.
- 4.3.2.2 If Supplier’s Distribution Centre and Buyer’s country of domicile are located in two different jurisdictions, and the “ship-to” address is located in the same jurisdiction as Buyer’s country of domicile, title to Products shall transfer to Buyer upon delivery to the “ship-to” address.
- 4.3.2.3 If Supplier’s Distribution Centre, Buyer’s country of domicile and the “ship-to” address are all located in different jurisdictions, title shall transfer to Buyer when: (i) the Products enter international waters or airspace or cross international borders; or (ii) such other location mutually agreed to in writing between Supplier and Buyer.

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- 4.4 **Risk of Loss.** Risk of loss shall pass upon delivery of the Deliverable to designated site as specified in the PO.
- 4.5 **Packaging.** Products shall be packaged for shipment, at no additional charge, consistent with all Applicable Laws and in commercially suitable containers that provide protection against damage during the shipment, handling and storage of the Product.
- 4.6 **Delivery Date.** Supplier must ensure that all in-stock Products are delivered to the local destination specified in the PO by the delivery date specified in the PO, ("Delivery Date"). If Supplier fails to meet the Delivery Date, Buyer may require an expedited delivery, with any additional costs to be borne solely by Supplier, or Buyer may cancel all or part of the Deliverables without penalty or liability or any further obligation to Supplier with respect to such Deliverables.
- 4.7 **No Partial Shipment.** No partial shipment of Deliverables, nor invoicing of a partial shipment of Deliverables, is permitted without the prior consent of Buyer which consent may be withheld in the sole discretion of Buyer.
- 4.8 **Shipping Expenses.** Notwithstanding anything stated herein, all shipping, handling, freight, risk of loss, and other shipping expenses as well as any special packing expense, howsoever incurred, shall be borne by Supplier in the event a Product is rejected and returned because it is defective or damaged or there is a discrepancy between the PO and the Products delivered to Buyer or Customer.
- 4.9 **Homologation.** Supplier shall ensure that all Deliverables identified in the PO will, at the time of delivery hereunder, comply with all Applicable Laws for use in the country to which the Deliverables are to be delivered, including without limitation that all Deliverables shall have been Homologated, as required. If Supplier determines that the Deliverables have not been Homologated, then Supplier will immediately notify Buyer in writing, prior to Supplier's fulfillment of the PO. Upon receipt of notice from Supplier, Buyer may cancel the PO without any further liability to Supplier.
- 4.10 **Customer Contracts.** Supplier acknowledges that Deliverables may be ordered by Buyer in support of or to satisfy Buyer's or its Affiliate's obligations under Customer Contracts. In all cases of Customer Contracts, Supplier agrees to comply with any required terms set forth in such Customer Contracts which are notified to the Supplier. To the extent that any terms of the relevant government procurement regulations or Customer Contracts are applicable to any PO, Supplier agrees that such terms shall be deemed incorporated by reference and are made a part of such PO.
5. **Subcontracting.**
- 5.1 **Subcontracting.** If Supplier is a distributor, reseller, or channel partner of the Deliverable, or is subcontracting its obligations under this Agreement to provide the Deliverables, it shall prior to accepting a Purchase Order, notify Buyer and seek its consent to engage the services of suppliers and/or sub-contractors to provide the Deliverables set out on the PO.
- 5.2 **Supplier Liability.** Notwithstanding Supplier's right to use sub-contractors for the purpose of providing the Deliverables pursuant to this Agreement, Supplier acknowledges that it shall be solely liable for the whole scope of the execution of the Deliverables.
- 5.3 **Security Requirements.** Supplier acknowledges that Deliverables may be ordered by Buyer which will be used in conjunction with Buyer's or Customer's network infrastructure. In such circumstances, Buyer may provide Supplier with Buyer's or Customer's security requirements and/or its corporate policy in relation to any such Deliverable. To the extent that any terms of the corporate policy and/or the security requirements are applicable to any PO, Supplier agrees that such terms shall be deemed incorporated by reference and are made a part of such PO.
- 5.4 **OEM Deliverables.** Where Supplier is an OEM, a supplier of OEM Deliverables, or a value-added provider that provides services in relation to OEM Deliverables, Supplier shall agree to the additional terms in the relevant sections of Annex 3 hereof.
6. **Payment.**
- 6.1 **Charges.** For the full, satisfactory and timely delivery and performance of Deliverables described in any PO, and in accordance with the requirements of this Agreement, Buyer shall pay to Supplier the charges set forth in such PO which charges will be based upon the Pricelist unless otherwise agreed in the PO.
- 6.2 **Invoicing.** Unless otherwise agreed in the PO, Supplier shall invoice Buyer in accordance with Clause 1 of Annex 1.

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- 6.3 **Original Invoices.** Supplier shall submit original invoices in the form set out in Clause 2 of Annex 1 to Buyer's "Accounts Payable" department as noted in each PO.
- 6.4 **Undisputed Invoices.** Undisputed invoices shall be paid within 30 days of receipt thereof or as otherwise required under applicable law. If Buyer fails to pay any such invoices by the due date (being 30 days from the receipt of the invoice), Supplier shall on or following 20 days from the due date of the invoice, send a letter to the relevant Accounts Payable department specified on the PO stating that the invoice remains outstanding.
- 6.5 **Travel and Living Expenses.** If expressly stated in an applicable PO, pre-approved travel and living expenses of Supplier Personnel will be reimbursed accordingly by Buyer and unless expressly stated, shall be subject to the limitations of, Buyer's then current travel and expenses policy, which can be provided to Supplier on request.
- 6.6 **Taxes.** Buyer will pay all applicable sales, value added, goods and services, or other similar consumption taxes ("Taxes"), except any taxes or tax-like charges determined by or related to Supplier's income, net worth, franchise, property or employees (which shall be borne solely by Supplier), provided such Taxes are due by law from a purchaser of the Deliverables hereunder and properly invoiced and separately stated in accordance with applicable law at the time the Deliverables are invoiced. If an exemption procedure is available, and Buyer complies with such procedure, then Supplier will not invoice or collect such Tax. Supplier will bear any and all financial responsibility for Tax, interest and penalties resulting from its failure to comply with applicable law. Supplier shall be responsible for any sales, use, excise, value added, service, consumption, property, franchise, income, or other taxes and duties based upon or measured by Supplier's cost in acquiring goods or services furnished or used by Supplier in providing the Products or performing Services hereunder. Supplier shall cooperate with all reasonable requests of Verizon in connection with any audit, contest or refund claim with respect to taxes.
- If any payment to be made in respect of any invoice is subject to any withholding tax, notwithstanding any provision of this Agreement to the contrary, Buyer shall make payment to Supplier of the amount owing on the invoice, less a deduction for the withholding tax, and shall account to the relevant tax authority for the withheld tax. Payments of the net sum to Supplier and the withholding tax to the relevant tax authority shall constitute, for purposes of this Agreement, full settlement of the amount owing under the invoice.
- 6.7 **Records.** Supplier shall maintain such records as will adequately substantiate charges and hours worked and shall produce such records for Buyer's inspection at Supplier's business office where such records are kept, upon Buyer's request, for a period of seven years following the furnishing of the respective Services.
- 6.8 **Set Off.** Without prejudice to any other right or remedy, Buyer reserves the right to set off any amount owing at any time from Supplier to Buyer against any sums payable by Buyer to Supplier under this Agreement.
7. **Term.** Unless terminated in accordance with the provisions of this Agreement, this Agreement shall commence as of the Effective Date and shall remain in full force and effect, until complete fulfillment of the relevant PO issued pursuant to this Agreement. The specific term for any Services to be provided hereunder shall be described in the applicable PO or SOW.
8. **Confidentiality and Data Protection.**
- 8.1 **Confidential Information.** Both Parties agree that the existence, terms and conditions of this Agreement, and all activities performed hereunder shall be treated as Confidential Information.
- 8.2 **Use.** Each Recipient shall: (i) not disclose the Confidential Information or any part thereof to any person or entity, without the prior approval in writing of the Discloser; (ii) exercise the highest degree of care to protect and guard against the unauthorized disclosure or use of the Confidential Information; (iii) restrict disclosure of Confidential Information to only those employees (including, but not limited to, if the Recipient is a body corporate, its directors and officers and/or employees of any Affiliates), agents, advisors, consultants or other service providers who require them solely on a need to know basis and for no other purpose; (iv) ensure that the persons referred to in the preceding subparagraph (iii) are bound by confidentiality agreements containing terms substantially similar to those in this undertaking; (v) promptly notify the Discloser upon discovery of any unauthorized use or disclosure of the Confidential Information and take reasonable steps to regain possession of the Confidential Information and prevent further unauthorized actions or other breach of this Agreement; and (vi) on demand by Discloser, return all Confidential Information in its possession power or control to the Discloser along with all copies and portions thereof, or certify in writing that all such Confidential Information has been destroyed.

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- 8.3 **Exclusions.** The restrictions of this clause shall not apply to information that:
- 8.3.1 is or becomes publicly known through no fault of Recipient;
  - 8.3.2 was in Recipient's possession free of any obligation of confidence at the time of Discloser's communication thereof to Recipient;
  - 8.3.3 is developed by Recipient independently of and without use of any of Discloser's Confidential Information or other information that Discloser disclosed in confidence to any third party; or
  - 8.3.4 is rightfully obtained by Recipient from third parties authorized to make such disclosure without restriction.
- 8.4 **Required Disclosures.** Each Recipient may make such disclosure of Confidential Information as shall be required (and only to the extent required) to comply with the order of a Court of competent jurisdiction or with a mandatory requirement of a governing regulatory body. Each Recipient shall, forthwith upon becoming aware of any requirement for such disclosure, notify the Discloser in writing.
- 8.5 **Intellectual Property, Representations and Warranties.** All Confidential Information disclosed under this Agreement shall be and remain the property of Discloser. No licence, express or implied, in the Confidential Information is granted other than to use the Confidential Information in the manner and to the extent authorized in this Agreement. The Discloser makes no warranty or representation as regards to the accuracy, completeness or sufficiency of any kind with respect to the Confidential Information or any part thereof.
- 8.6 **Remedies.** The Parties agree that monetary damages would not be a sufficient remedy for breach of the terms of this Agreement and that they shall be entitled, without prejudice to any other rights or remedies that may be available, to seek injunctive relief or specific performance as a remedy for any such breach against the breaching party. It is agreed that any affected party may seek to take action against a breaching party without the agreement or the involvement of the other party.
- 8.7 **Buyer Data.** Buyer acknowledges that Supplier will, by virtue of the provision of Products and/or Services to Buyer, come into possession of Buyer Data.
- 8.8 **Protection Measures.** Supplier shall implement appropriate technical and organisational measures to protect Buyer Data against accidental or unlawful use or destruction, accidental loss, alteration, unauthorised disclosure or access and against other unlawful forms of processing.
- 8.9 **Compliance with Requirements.** Buyer and Supplier will in accordance with their respective roles under this Agreement comply with all data protection, privacy or law enforcement requirements applicable to the provision of the Products and/or Services and in the jurisdiction where Buyer Data is collected.
- 8.10 **Return of Buyer Data.** Upon Buyer written request or upon termination of this Agreement, Supplier shall:
- (a) immediately cease processing Buyer Data received under this Agreement;
  - (b) return Buyer Data and all copies, notes or extracts thereof to Buyer (excluding that information that is necessary to comply with tax or legal requirements) promptly following receipt of request; and
  - (c) confirm in writing that it has complied with the obligations set forth in this clause.
- 8.11 **Personal Data.** Supplier shall perform in accordance with Verizon's International Data Processing (IDP) Exhibit which is available at the following link: <http://www.verizon.com/suppliers> (or successor website), as the same may be updated from time to time (the "IDP Requirements"), incorporated herein by reference. All references to 'Verizon Sourcing LLC' under the above link are hereby replaced with Buyer entity. Schedule 2 (Description of Processing/Transfer) of the IDP Requirements is set forth at Exhibit B (IDP Requirements Schedule 2) hereto and is incorporated into the IDP Requirements. During the Term of this Agreement, upon Verizon's request, the Parties shall expeditiously and in good faith negotiate appropriate modifications to Schedule 2 to address any changes in relevant Laws. Additionally, the Parties will negotiate SOW-specific Schedule 2 terms to accommodate SOWs that may modify the nature or scope of Services or the information accessible by Supplier. Any Schedule 2 that is specific to a SOW shall be attached and apply to that SOW only.
9. **Work Products.** If Supplier is providing Buyer with a Work Product, the terms and conditions set out in Annex 2 of this Agreement are incorporated herein.
10. **Independent Contractor.**
- 10.1 **Relationship.** Nothing contained in this Agreement shall be deemed or construed as creating a joint venture or partnership between Supplier and Buyer or as providing for the sharing of profits or losses arising from the efforts of either Party. Neither Party is by virtue of this Agreement authorized as an agent, employee or legal



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- representative of the other. Except as specifically set forth herein, neither Party shall have power to control the activities and operations of the other. Neither Party shall have any power or authority to bind or commit the other.
- 10.2 **Supplier Personnel.** Supplier is responsible for all employee-related benefits, labour and social obligations, applicable to Supplier Personnel performing the Deliverables under this Agreement.
11. **Warranty.**
- 11.1 **Mutual Warranty.** The Parties each warrant that they have the power and authority to enter into and perform the obligations of this Agreement, and the execution and performance of this Agreement by the Parties does not and shall not violate any agreements, rights or obligations between such Party and any third party.
- 11.2 **Supplier Warranty.** Supplier represents and warrants that:
- 11.2.1 it is and shall remain in compliance with all Applicable Laws;
- 11.2.2 Products conform to Specifications, are new, not damaged, packaged properly, free of defects and do not contain any Malicious Code;
- 11.2.3 nothing is included in any Product that will stop, limit or interfere with the operation of the Product and/or Service at some specific time or upon a specific instruction or event, provided that this shall not prohibit the incorporation of an automatic time limitation into any Software for which a specific limited term/subscription license for a specified time period (e.g., one-year license) was purchased as clearly defined in the EULA and further provided that such shall not be set to interfere with the operation of the Product prior to the end of such time period. Supplier further represents and warrants that, with respect to any disabling code that may be part of the Software delivered to Buyer or Customer, Supplier shall not invoke such disabling code at any time, including upon expiration or termination of this Agreement for any reason, without Buyer's prior written consent; and
- 11.2.4 for all Products and Services provided by Supplier to Buyer or Customers, Supplier has the right, title (to hardware only) and authority to distribute the Products and Services and all authority necessary to grant to Buyer the rights to permit Buyer's resale of the Products and Services to Customer.
- 11.3 **Deliverable Warranty.** Subject to paragraph II Clause 4 of Annex 3 (if applicable), Supplier further warrants that the Deliverables provided hereunder shall be performed in a professional and workmanlike manner in accordance with all applicable professional standards, shall be free of defects in materials and design, and shall comply with any applicable Specifications, SOW or other requirements set forth in this Agreement. Notwithstanding the sub-clause entitled "Risk of Loss" or paragraph III. Clause 3 of Annex 3, as applicable, Supplier, at no additional cost to Buyer, shall within 15 days after notice from Buyer, correct and re-deliver/re-perform to Buyer any Deliverables not in compliance with this warranty.
- 11.4 **Environmental Regulations.** If Buyer is purchasing the Products for the purpose of its use or its Customer's use in EMEA, Supplier warrants that:
- 11.4.1 both Supplier and all of the Products supplied or to be supplied under each PO are compliant with the Environmental Regulations; and
- 11.4.2 in relation to the Environmental Regulations, Supplier: (i) is properly registered with such local authorities and compliance schemes; (ii) shall provide all relevant information and assistance to Buyer and its Customers to enable them to comply with any obligations under the Environmental regulations; (iii) shall provide for the collection, treatment and sound environmental disposal of such Products; and (iv) shall provide any markings that the Environmental Regulations and compliance schemes may require to be placed on the Products,
- for no additional charge to Buyer.
- 11.5 **Intellectual Property Warranty.** Supplier represents and warrants that the Deliverables, or use of the Deliverables (including by Supplier in the course of performing the Services), will not infringe the Intellectual Property of any third party anywhere in the world.
- 11.6 **Permissions and Authorizations.** Supplier represents and warrants that it has all the necessary rights, permissions and authorizations to sell Deliverables to Buyer for the purpose of resale or transfer to Buyer's customers for their use.

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12. **Exclusion of Certain Damages.** NEITHER THE SUPPLIER NOR ANY BUYER INDEMNITEE SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND WHATSOEVER, WHETHER OR NOT REASONABLY FORSEEABLE AT THE TIME WHEN THIS AGREEMENT WAS ENTERED INTO, INCLUDING BUT NOT LIMITED TO LOSS OF ANTICIPATED PROFITS, ANTICIPATED SAVINGS, REVENUES, BUSINESS OR MISSED OPPORTUNITY BASED ON ANY BREACH OR OTHER ACT OR OMISSION ARISING OUT OF, RELATING TO, OR OCCURRING IN CONNECTION WITH, THIS AGREEMENT. THESE LIMITATIONS SHALL APPLY REGARDLESS OF WHETHER THE LIABILITY ARISES OUT OF BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE AND STRICT LIABILITY) OR ANY OTHER THEORY. THESE LIMITATIONS SHALL IN ALL CASES BE DEEMED INDEPENDENT OF EACH AND EVERY REMEDY PROVIDED IN THIS AGREEMENT AND ARE INTENDED BY THE PARTIES TO SURVIVE AND TO BE ENFORCEABLE EVEN IF THE AVAILABLE REMEDIES DO NOT PROVIDE ADEQUATE COMPENSATION, FAIL OF THEIR ESSENTIAL PURPOSE, OR ARE DETERMINED TO BE UNCONSCIONABLE. HOWEVER, NONE OF THESE LIMITATIONS SHALL APPLY TO ANY OBLIGATION TO DEFEND, INDEMNIFY, OR HOLD HARMLESS EXPRESSLY ASSUMED BY A PARTY UNDER THIS AGREEMENT IN CONNECTION WITH A CLAIM ASSERTED BY ANY THIRD PARTY.

13. **Termination.**

13.1 **Termination.** Upon 30 days written notice to Supplier, Buyer may terminate a PO, in whole or in part, without cause in which event Buyer's sole liability shall be to pay to Supplier fair and reasonable compensation for work-in-progress at the time of cancellation but such compensation shall not include loss of anticipated profits or any consequential losses and Buyer shall retain any delivered Deliverables, if any, in which event Buyer shall be liable only for payment for the allocable price of such delivered and/or retained Deliverables. In the event of a partial termination, Supplier shall continue performance of the remaining Deliverables provided that the pricing thereof, if not capable of being apportioned, be adjusted by the Parties.

13.2 **Termination for Material Breach.** Upon 15 days prior written notice, either Party may terminate this Agreement or a PO, in whole or in part, for the other Party's material breach, provided that such breach has not been cured by the end of such 15 day period.

13.3 **Deliverables Status.** In the event all or part of a PO is terminated subject to the provisions of this clause, Supplier shall immediately document in detail the status of the Deliverables that have been terminated.

13.4 **Termination for Insolvency.** Either Party may terminate this Agreement immediately upon notice, if the other has a receiver or an administrator appointed over it or any part of its undertaking or assets or passes a resolution for winding up (other than for the purposes of a bona fide scheme of solvent amalgamation or reconstruction) or a court of competent jurisdiction makes an order to that effect or if the other becomes subject to an administration order or enters into any voluntary arrangement with its creditors or ceases or threatens to cease to carry on business, or undergoes or is subject to any analogous acts or proceedings under any foreign law.

14. **Indemnification.**

14.1 **Supplier Indemnification.** Subject to the clause entitled "Control and Consent to Settlement", Supplier indemnifies each Buyer Indemnitee from and against any loss, costs (including reasonable legal costs), damages or expenses that any Buyer Indemnitee incurs or is liable for, directly or indirectly in connection with any:

- 14.1.1 infringement or alleged infringement of a third party's Intellectual Property by the Deliverables or by use of the Deliverables (including by Supplier or any Supplier Personnel in the course of performing the Services);
- 14.1.2 personal injury, death or damage to property (including tangible personal property and real property) caused or contributed to by Supplier or any Supplier Personnel;
- 14.1.3 willful misconduct of Supplier or any Supplier Personnel;
- 14.1.4 unlawful or negligent act or omission of Supplier or any Supplier Personnel;
- 14.1.5 non-compliance with the clauses entitled "Import and Export", "Homologation", "Confidentiality and Data Protection", "Environmental Regulations" or "Anti-Bribery Laws"; and
- 14.1.6 the absence of an independent contractor relationship between Supplier or any Supplier Personnel and Buyer.

Any Buyer Indemnitee may recover any such loss, costs, damages or expenses as a debt due and owing.

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- 14.2 **Third Party Actions.** In addition to the defence and indemnification obligations of Supplier hereunder, Supplier agrees that if any Deliverables or the exercise of any rights conferred by or pursuant to this Agreement with respect to such Deliverables, becomes, or in Buyer's reasonable opinion is likely to become, the subject of any third party actions, allegation, arbitration, demand, law suit, investigations, liabilities, penalties or claims ("Action") described under the clause entitled "Supplier Indemnification", or is enjoined or prohibited in connection with any such Action, Supplier shall, at its sole expense, take the following actions listed in the order of requirement: (i) obtain a license and/or other necessary rights permitting the continued exercise of the rights conferred by or pursuant to this Agreement with respect to such Deliverables; or (ii) replace or modify the affected Product and/or Software, or third party equipment, or re-perform Services so that the same still comply with the applicable Specifications, SOW and/or other requirements of this Agreement, while permitting the continued exercise of the rights conferred by or pursuant to this Agreement with respect to such Deliverable. In the event that Supplier cannot accomplish (i) or (ii) above on commercially reasonable terms not later than 30 days after Supplier becomes aware of the Action, the issuance of such injunction or prohibition, or receipt of Buyer's notice that an Action is likely to occur, as applicable, then Supplier shall promptly upon Buyer's written request, refund to Buyer all amounts paid in connection with the applicable Deliverable or the cost of repair or replacement of the affected third party equipment as is reasonably required in exchange of the return of the same, subject to Applicable Law and any order or directions made by any court of competent jurisdiction in the Action.
- 14.3 **Control and Consent to Settlement.** Supplier shall have control of the defence and negotiations for settlement of Actions under this clause entitled "Indemnification", provided, however, that Supplier must consult with the relevant Buyer Indemnitee prior to settling any such Action, and Supplier cannot bind Buyer Indemnitee or materially prejudice Buyer Indemnitee without Buyer Indemnitee's prior written consent. Buyer Indemnitee shall also have the right to participate in the investigation, defense and settlement negotiations of any such Action with separate counsel chosen and paid for by Buyer Indemnitee. Moreover, at any time, Buyer Indemnitee may at its own cost and expense (which cost and expense shall not be subject to indemnification under this clause entitled "Indemnification") settle any such Actions against it so long as such settlement is expressly without prejudice to the interest or position of Supplier.
- 14.4 **Insurers.** Supplier and Supplier's insurers shall ensure that all investigations into the incident from which the Action arises and any subsequent settlement discussions are conducted expeditiously and without unnecessary delay.
- 14.5 **Negotiations for Settlement.** Notwithstanding the clause entitled "Control and Consent to Settlement", Buyer Indemnitee shall be entitled to conduct, or take over from Supplier and/or its insurers the conduct of, all negotiations for settlement of the Action being taken against Buyer Indemnitee arising out of the matters referred to in the sub-clause entitled "Supplier Indemnification".  
Supplier agrees to indemnify Buyer Indemnitee against all costs and expenses incurred by Buyer Indemnitee in relation to the investigation of the incident from which the Action arises and any such negotiations and/or litigation.
15. **Insurance.**
- 15.1 **Insurance.** Supplier shall maintain insurance as set forth below and shall provide Buyer certificate(s) of insurance or photocopies of policies and their amendments to evidence such coverages from insurance companies reasonably acceptable to Buyer. Supplier warrants that no termination, nonrenewal or adverse material modification of such coverage shall be made without Supplier first providing 30 days' prior written notice to Buyer:
- 15.1.1 any mandatory employee-related insurance in accordance with Applicable Laws and regulations and employers' liability for an amount not less than USD 1,000,000;
  - 15.1.2 public and products liability insurance appropriate to Supplier's activities, with Buyer, its parent and their respective subsidiaries, Affiliates and directors, officers and employees thereof named as an additional insured for an amount of not less than USD 1,000,000, for any one occurrence and in the aggregate in respect of any liability for bodily injury (including death) of any person, personal injury, or property damage arising out of or in connection with the performance of this Agreement or a PO;
  - 15.1.3 professional indemnity insurance for an amount of not less than USD 1,000,000 in respect of any one claim and in the aggregate, for liability arising from any negligent act, error, omission,



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- misstatement, misleading statement, neglect, breach of duty, malpractice, unintentional breach of contract, personal injury offense or intellectual property infringement, other than patent actually or allegedly committed or attempted by Supplier in the rendering or failure to render the Deliverables or in the failure of the Deliverables to perform the function or serve the purpose intended by Supplier; or
- 15.1.4 excess liability insurance of not less than USD 2,000,000.
- 15.2 **Supplier's Liability.** Neither the insurance required herein nor the amount and type of insurance maintained by Supplier shall limit or affect the extent of Supplier's liability hereunder for injury, death, loss or damage.
- 15.3 **Supplier Property.** Buyer, its parent, and their respective subsidiaries, Affiliates and directors, officers and employees thereof shall not insure or be responsible for any loss or damage to property of any kind owned or leased by Supplier or its employees, servants and agents. Any policy of insurance covering the property owned or leased by Supplier against loss by physical damage shall provide that the underwriters have given their permission to waive their rights of subrogation against Buyer, its parent and their respective subsidiaries, Affiliates and directors, officers and employees thereof.
- 15.4 **Subcontractor Insurance.** If Supplier utilizes subcontractor(s) per this Agreement, then Supplier shall require such subcontractor(s) to comply with these insurance requirements and supply certificates of insurance or photocopies of the relevant insurance policies before any work commences.
- 15.5 **Subrogation Waiver.** Supplier waives its right, and its underwriter's right, of subrogation against Buyer, its parent and their respective subsidiaries, Affiliates and directors, officers and employees thereof, providing that such waiver prior to loss does not void or alter coverage.
- 15.6 **Insurance Requirements.** For avoidance of doubt, these insurance requirements may be modified to suit specific procurements by inclusion of specific insurance requirements in the associated PO.
16. Compliance, Supplier Code of Conduct.
- 16.1 **Applicable Laws.** Supplier shall comply with all Applicable Laws of the countries, states and localities in which Supplier operates.
- 16.2 **Supplier Code of Conduct.** Buyer is committed to conducting its business in an ethical, legal and socially responsible manner. Buyer expects its suppliers to share this commitment and has therefore established a Supplier Code of Conduct set forth at <http://www.verizon.com/ethics> which Supplier agrees to adhere to. Buyer reserves the right to change the Supplier Code of Conduct from time to time, effective upon posting of the revised Supplier Code of Conduct Policy at <http://www.verizon.com/ethics> or other notice to Supplier.
17. **Anti Bribery Laws.**
- 17.1 Supplier hereby agrees, represents and warrants that neither itself nor any of its directors, shareholders, officers, employees or agents will make or has made or offered, or caused to be made or offered, any payment, loan or gift of money or anything of value directly or indirectly to:
- 17.1.1 any official or employee of any foreign government, or any agency or instrumentality thereof;
- 17.1.2 any political party or official thereof or any candidate for political office;
- 17.1.3 any individual who holds any legislative, administrative or judicial position, exercises a public function, or is an official or agent of a public international organisation; or
- 17.1.4 any other person, company, partnership or legal entity under circumstances in which Supplier, its directors, employees or agents know, or have reason to know, that all or any portion of such money or thing of value will be offered or given, directly or indirectly, to any person named in sub-clauses 17.1.1 – 17.1.3 to influence a decision or to gain any advantage for itself, its directors, employees or agents, Buyer or any Affiliate of Buyer, or its or their directors, employees or agents, or their affiliates, in connection with any transaction relating to this Agreement that could result in a violation of the U.S. Foreign Corrupt Practices Act, the UK Bribery Act 2010 and any other Applicable Law relating to bribery, corruption, kick-backs, or similar business practices.
- 17.2 Supplier represents and warrants that in performing Services under this Agreement, neither the Supplier nor any of its Affiliates, any director, officer, employee, supplier, sub-contractor or any third party performing Services on behalf of Supplier, shall directly or indirectly accept or request the payment of money, commission, gift, hospitality, inducement or anything else of value from any person, company, partnership or legal entity to improperly perform, or to induce another person to perform improperly, any function that is of a public nature, connected with business, undertaken in the course of a person's employment, or a function by or on behalf of a

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body of persons, or for the purpose of awarding, giving, maintaining or directing business, or to secure or obtain any improper business advantage.

- 17.3 Supplier represents and warrants that Supplier, its principals, directors and officers, or any third parties engaged by Supplier in performing Services under this Agreement have not been: (i) listed by any government or public agency (such as the United Nations or the World Bank) as debarred, suspended, or proposed for suspension or debarment or otherwise ineligible for government procurement programs; or (ii) formally charged with, convicted of, or pleaded guilty to any offense involving fraud or corruption.
- 17.4 Supplier will institute and maintain in place adequate procedures and policies designed to prevent any person (including an employee, agent, subcontractor or subsidiary) who performs services for or on Supplier's behalf from undertaking any of the prohibited actions noted in this Clause 17 and from violating any applicable Anti-Corruption laws, regulations, orders or decrees having the force of law relating to bribery, kickbacks or similar business practices.
- 17.5 From time to time, Supplier will at the reasonable request of Buyer confirm in writing that it has complied with this provision and will provide any information reasonably requested by Buyer in support of such compliance and promptly report to Buyer any breach of such obligations. Any breach of this Clause 17 shall be considered an irrevocable breach of this Agreement and shall be cause for immediate termination of the Agreement. Following notice of termination, Buyer shall not be responsible for any payments due under the Agreement, and shall not be required to complete any order or take any other action pursuant to this Agreement if it has reasonable basis to believe that such payment, completion of order, or other action would violate any applicable law, including but not limited to the Foreign Corrupt Practices Act or the UK Bribery Act 2010.
18. **Cybersecurity Incident Notification.** Supplier agrees to notify Verizon at [cirtext@verizon.com](mailto:cirtext@verizon.com) without undue delay of any data breach or other security incident that could negatively impact Verizon or might compromise security in Supplier's interactions with Verizon or Verizon systems or Verizon's interaction with Supplier systems.
19. **Miscellaneous.**
- 19.1 **Costs.** Each Party shall bear all of its own costs expenses and liabilities arising out of, or in connection with, this Agreement. Neither Party shall be liable or have any obligation to the other for any such costs expenses or liabilities.
- 19.2 **Assignment.** Neither Party shall assign any of its rights or obligations hereunder, except to an Affiliate or successor in interest, without the prior, written consent of the other Party, which consent shall not be unreasonably withheld.
- 19.3 **No Waiver.** No failure or delay in exercising any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any right, power or privilege hereunder.
- 19.4 **Entire Agreement and Variation.** This Agreement: (a) is the complete agreement of the Parties concerning the subject matter hereof and supersedes any prior oral or written agreements between the Parties; and (b) may not be amended or in any manner modified except by a written instrument signed by authorized representatives of both Parties.
- 19.5 **Notices.** Except as otherwise expressly provided herein, any notices required to be given under this Agreement will be in English and shall be delivered by hand or posted by recorded delivery mail to in the case of the Supplier, the relevant address described on the front page of this Agreement or the applicable PO, and in the case of the Buyer to both addresses below:
- (i) Attention of: the Head of International Procurement  
Verizon  
Reading International Business Park  
Basingstoke Road  
Reading  
Berkshire  
RG2 6DA  
United Kingdom
  - (ii) Attention of: Legal Counsel  
Verizon

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Pacific Century Place Marunouchi  
1-11-1 Marunouchi  
Chiyoda-ku  
Tokyo, 100-6218  
Japan

- 19.6 **Headings.** The clause headings are for reference and convenience only and shall not affect the interpretation of this Agreement.
- 19.7 **Force Majeure.** If the performance of this Agreement, or of any obligation, is prevented, restricted or interfered with by reason of Force Majeure, then the Party affected, upon giving prompt notice to the other Party, but in any event no more than 20 days after either learning of such event or after the date when such Party should have known of the event, shall be excused from such performance on a day-to-day basis to the extent of such prevention, restriction, or interference (and the other Party shall likewise be excused from performance of its obligations on a day-to-day basis to the extent such Party's obligations are related to the performance so prevented, restricted or interfered with); provided, however, that the Party so affected shall use its commercially reasonable efforts to avoid or remove such causes of non-performance as soon as practicable and both Parties shall resume performance whenever such causes are removed or cease and the Initial Term shall be extended by the term of the duration of the Force Majeure event. Any delay that will or does exceed 30 days duration, shall at Buyer's option, be cause for termination for convenience without payment of liquidated damages.
- 19.8 **Governing Law.** This Agreement shall be governed by the laws of Japan without regard to its conflicts of law principles. The Parties further agree that the courts thereof shall have exclusive jurisdiction over any disputes, controversy and claims arising from the Agreement. The Parties agree that, to the extent permitted by law, the Vienna Convention of 1980 ("The Convention on Contracts for the International Sale of Goods") and all international and domestic legislative (or other) implementations of that convention shall not apply in relation to the supply of Deliverables under this Agreement.
- 19.9 **Survival.** The Parties agree that the provisions of the clauses entitled "Confidentiality and Data Protection", "Work Products", "Warranty", "Exclusion of Certain Damages", "Indemnification", "Miscellaneous" and "Definitions" shall survive the expiration or earlier termination of this Agreement, as shall any other provisions of this Agreement which by their nature should also survive.
- 19.10 **Severability.** If any provision of this Agreement, including any limitation, is held by a court or a governmental agency or authority to be illegal, invalid or unenforceable, the remaining terms of this Agreement shall not be affected. The Agreement shall be interpreted as if the illegal, invalid or unenforceable provision had not been included in it, and the illegal, invalid or unenforceable provision shall be replaced by a mutually acceptable provision which, being legal, valid and enforceable comes closest to the intention of the Parties underlying the illegal, invalid or unenforceable provision.
20. **Definitions.**
1. "Affiliate" means a corporation, partnership, joint venture or other entity controlling, controlled by or under common control with a Party now or in the future. For the purposes of this definition, "control" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity whether through the ownership of voting securities of such entity, by contract or otherwise.
  2. "Agreement" means, as between Buyer and Supplier, this Japan Online Product and Service Supply Agreement, (including the terms and conditions contained in all attached Annexes, and in any other documents made a part of this Agreement or incorporated by reference, including any written amendments hereto), and, as between Buyer and Supplier, the relevant PO(s) incorporating the terms of this Japan Online Product and Service Supply Agreement.
  3. "Asia Pacific" or "AP" includes countries in that region (as determined by Verizon).
  4. "Applicable Laws" means all laws, rules, statutes, ordinances, regulations, executive orders, policies and procedures of any country, state, municipality, province or the like, applicable to the business activities of Supplier or Buyer and any requirements applicable to the importation, exportation, use, sale, loan, purchase, production, destruction, and distribution of Products and/or Services under telecommunications, consumer, environmental, labour, tax, and any other laws and regulations, of any government or other competent authority where the Products and/or Services are to be sold, used or deployed.

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5. “Business Day” means every day excluding Saturdays, Sundays and any national holidays in the jurisdiction in which the Buyer is situated.
  6. “Buyer” means the Verizon entity identified in the relevant PO.
  7. “Buyer Data” means data provided by Buyer, its Affiliates and their respective agents (including employee business contact personal information) in connection with the establishment, billing or procurement of the Services.
  8. “Buyer Indemnitee” means Buyer, Buyer’s employees, officers, directors, agents and contractors.
  9. “Confidential Information” means information, in whatever form disclosed, provided by or on behalf of either Party or any of its Affiliates (“Discloser”) to the other Party or any of its Affiliates (“Recipient”), or to which a Recipient otherwise gains access, in the course of or incidental to the performance of this Agreement, and that should reasonably have been understood by the Recipient because of legends or other markings, the circumstances of disclosure or the nature of the information itself, to be proprietary and confidential to the Discloser, an Affiliate of the Discloser or a third party.
  10. “Customer” means an entity which is served, or is proposed to be served, by Buyer, for which Supplier may provide Deliverables to Buyer to be on sold or otherwise provided by Buyer to Customer.
  11. “Customer Contract” means an agreement between Buyer or an Affiliate of Buyer and its customer (including government entities).
  12. “Deliverables” means the Products and/or Services provided by Supplier pursuant to this Agreement as specified on any PO.
  13. “Effective Date” means the date stated above, or where no date has been specified, the date of the PO issued pursuant to this Agreement.
  14. “EMEA” is an acronym for Europe, Middle East and Africa and includes countries in those regions (as determined by Verizon).
  15. “Environmental Regulations” means all EU directives, regulations and the national implementation thereof and similar legislation in the EEA and Switzerland concerning producer responsibility, environmental protection, disposal of waste including but not limited to (i) RoHS Directive 2002/95/EC (“Restriction on the use of certain Hazardous Substances in electrical and electronics equipment” Directive); (ii) WEEE Directive 2002/96/EC (“Waste Electrical and Electronic Equipment” Directive).
  16. “Force Majeure” means causes or circumstances outside the reasonable control of a Party and without fault or negligence of the Party affected that cannot be avoided by the exercise of due care, including but not limited to: (a) acts of God; or (b) wars, revolution, terrorism, or civil commotion.
  17. “Homologated” means modification of Deliverables to conform to a country’s published mandatory regulations for power and safety requirements for such Deliverables to be placed in use in such country.
  18. “Intellectual Property” means all intellectual, moral, industrial or proprietary rights recognized under applicable law anywhere in the world, whether issued or pending, registered or unregistered, including all forms of copyrights, patents, trademarks and service marks, and rights in trade secrets, and all of the tangible embodiments thereof.
  19. “Malicious Code” means a computer program or piece of computer code that intentionally corrupts computing systems, software, and/or computer networks, including any so-called “worms” or “Viruses”.
  21. “OEM” means the original equipment manufacturer who originally manufactured a Deliverable.
  22. “OEM Deliverable” means products and/or services directly provided by an OEM that are directly acquired from an OEM or resold by Supplier to Verizon or Verizon Affiliate.
  23. “Party” in its singular or plural form, refers to Buyer or Supplier or any of them, as dictated by the use.
  24. “PO” or “Purchase Order” means a purchase order placed by Buyer pursuant to this Agreement for the Deliverables which may be accompanied by Supplier’s quotation.
  25. “Products” means any good/s and/or Software which Buyer purchases from Supplier (including any of them or any part of them) pursuant to this Agreement, as specified on any PO.
  26. “Release” means a new version of the Software that contains significant new functionality, level of performance and/or features including any new or modified related User Documentation.
  27. “Services” means any service which Buyer purchases from Supplier (or any of them or any part of them) pursuant to this Agreement, as specified on any PO.

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28. “Software” means: (a) the computer software programs that have been provided to Buyer as may be specified on any PO, including any operating system, firmware or any other software integrated into or otherwise made a part of Products; (b) any subsequent Releases and/or Updates provided to Buyer; (c) the related User Documentation for any of the foregoing, and (d) any related end user license, in the absence of which, the OEM’s standard end user license shall apply.
  29. “Specifications” means, with respect to the Products and/or Software, the description of applicable features, functions, performance and/or other attributes, as set forth in the applicable User Documentation or other technical documentation made generally available to users of such Products and/or Software or which has been otherwise provided to Buyer.
  30. “SOW” or “Statement of Work” means a document agreed between the Parties setting out the work activities, Deliverables and timeline that Supplier will execute against in performance of the Services for Buyer.
  31. “Supplier” means the supplier entity identified in the relevant PO.
  32. “Supplier’s Distribution Centre” means the facility that is used by Supplier to receive, store, and/or distribute the goods specified in Buyer’s PO. “Supplier Personnel” means any and all Supplier employees, agents, and subcontractors authorized by Supplier to provide Deliverables to Buyer.
  33. “Territory” means EMEA and AP.
  34. “Update” means a modification to the Software other than a Release, including those intended to correct an error in the Software, and that may or may not include additional features, level of performance and/or functionality for the Software, and shall also include any new or modified related User Documentation.
  35. “User Documentation” means any user guides, manuals, operator guides, installation guides, and other similar materials generally made available to end users/customers, resellers or distributors of the Deliverables to facilitate their use thereof.
  36. “Work Product” means all items and information, tangible or intangible, in whatever form or media, whether or not physically delivered to Buyer or protectable or registerable anywhere in the world as Intellectual Property, which are created, conceived, developed, made, discovered or otherwise result from the Services or are otherwise incorporated into the results of such Services, together with all Intellectual Property in any of the foregoing. For the purposes of this Agreement, a Work Product shall be deemed to be a Product.



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## ANNEX 1

### INVOICING

1. **Supplier shall invoice Buyer:**

- 1.1 quarterly in advance for the maintenance Services portion of the Deliverables;
- 1.2 upon Acceptance by Buyer and/or Customer as applicable for development/installation of Software portions of the Deliverables;
- 1.3 upon delivery for Product portions of the Deliverables;
- 1.4 upon Acceptance by Buyer and/or Customer as applicable for Product installation portions of the Deliverables; and/or
- 1.5 upon Acceptance of Deliverables in accordance with the applicable completion and acceptance criteria for Services described in a SOW.

For the purpose of this clause 1, “Acceptance” means: (i) a written confirmation from Buyer to Supplier stating that it accepts the relevant portion of the Deliverables; or (ii) any other acceptance criteria specified in this Agreement.

2. **Invoicing Details**

All invoices and/or credit notes submitted must be accurate and properly completed in that they must contain the following information and be directed to the following department:

Accounts Payable

Buyer’s Accounts Payable Address as noted on each PO.

The invoice must state:

net amount,

- gross amount,
- VAT/GST amount,
- rate of VAT/GST,
- invoice number,
- date of invoice,
- PO number and line number from, the applicable PO, of the item being invoiced, Any invoice not quoting this information will be returned to the Supplier,
- details of what Deliverables are purchased under the relevant PO number, and
- period for which the invoice relates.

Where applicable the invoice should also indicate details of the relevant location at which the Deliverables to have been delivered/provided.

If Supplier submits any invoice, which does not comply with any of the above, Buyer may reject that part of the invoice and will not have to pay that part of the invoice until it has been properly submitted. Buyer shall inform Supplier without undue delay if it identifies any invoice that does not comply with these requirements.

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## ANNEX 2

### WORK PRODUCT TERMS AND CONDITIONS

#### 1. Definitions:

- 1.1 **“Excluded IP Rights”** means the logos, get-up, trade names, internet domain names, database rights, semiconductor topography rights, utility models, rights in know-how belonging to any Party whether registered or unregistered and including applications for registration, and all rights or forms of protection having equivalent or similar effect anywhere in the world.
- 1.2 **“Pre-Existing IP”** means all Intellectual Property owned by a legal entity or other person, the ownership of which either: (i) pre-dates the Effective Date; or (ii) arises exclusively as a result of independent development by such legal entity or other person and not as a result of the performance of this Agreement or of such legal entity’s or other person’s exposure to any Confidential Information or other Intellectual Property of Buyer.
- 1.3 **“Moral Rights”** has the meaning given in article 6bis of the Berne Convention for the Protection of Literary and Artistic Works.

#### 2. Intellectual Property Rights:

- 2.1 Unless otherwise agreed in writing, Buyer shall be the sole owner of all right, title and interest to the Work Product including all Intellectual Property therein but excluding the Excluded IP Rights. To the extent the Work Product consists of works protectable by copyright, the Parties agree that the Work Product shall be deemed work-made-for-hire, as defined in the US Copyright Act of 1976, (and if Buyer is Verizon Japan Ltd., the definition of the Law of Japan (Law No.48, May 6, 1970 shall apply)), with all copyrights vesting immediately in Buyer. With respect to all forms of Intellectual Property and except for the Excluded IP Rights, Supplier on behalf of itself and all Supplier Personnel hereby assigns to Buyer the ownership of all Intellectual Property in the Work Product, and Supplier agrees, and will cause all Supplier Personnel, to execute all documents, perform all acts and provide any other assistance or information, all as necessary or appropriate to Buyer’s perfection of its sole ownership of such Intellectual Property and Work Product. Notwithstanding the foregoing but subject to Clause 2.4 below, the terms of this Clause 2.1 shall not apply to the Excluded IP Rights and any Pre-Existing IP of Supplier or any third party incorporated into the Work Product.
- 2.2 Supplier shall, and shall cause all Supplier Personnel to, promptly disclose all portions of the Work Product to Buyer, including any writings, concepts, processes, ideas, methods, inventions, improvements or discoveries, whether or not copyrightable or patentable, drawing attention to any new or innovative features or concepts therein.
- 2.3 All Work Products shall constitute Confidential Information of Buyer. Supplier shall, and shall cause all Supplier Personnel to, mark all tangible embodiments of Work Product, including software, with the legends “Confidential Information of Verizon” and “© 20\_\_ Verizon. All Rights Reserved” immediately upon creation.
- 2.4 Supplier shall not, without the prior written consent of Buyer, incorporate into the Work Product any Pre-Existing IP in which Supplier, any Supplier Personnel or any other person claims an ownership interest that would conflict with Buyer’s sole ownership pursuant to this Intellectual Property Rights provision. Supplier shall immediately identify to Buyer any Intellectual Property as to which it intends to seek such consent, and Buyer may withhold such consent in its sole discretion. Supplier hereby grants (and if necessary shall cause all Supplier Personnel and any other relevant legal entity or other person to grant) to Buyer a non-exclusive, non-terminable, noncancellable, fully-paid up, royalty free, assignable, transferable, sub licensable, irrevocable, worldwide, perpetual license to copy, distribute, perform publicly, display publicly, prepare derivative works of, make, have made, use, have used, sell, have sold and modify or have modified any and all Pre-Existing IP incorporated into the Work Product (but only to the extent so incorporated and excluding all Excluded IP Rights), all as reasonably necessary or appropriate to Buyer’s enjoyment and commercial exploitation of its rights of ownership of the Work Product pursuant to this Intellectual Property Rights provision. Supplier hereby represents and warrants to Buyer that it possesses

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all ownership or license rights or other powers necessary to grant (or to cause Supplier Personnel and any other relevant legal entity or other relevant person to grant) to Buyer the rights described in this Intellectual Property Rights provision.

- 2.5 Supplier must procure from those of Supplier Personnel who are the authors or makers of any copyright material in the Work Product, a consent in writing authorizing Buyer, its licensees and successors in title and any other person authorised by Buyer or by its licensees or successors in title, to use such material for the purposes for which the material was created and for Buyer's other business purposes, including exercising for any of those purposes all acts comprised in the copyright in the material, even if that use or act would infringe any Moral Rights of any person. Supplier must ensure that the consents of Supplier Personnel are genuinely given and must promptly provide Buyer with written evidence of all such consents if required by Buyer.

3. **Termination:**

- 3.1 In the event all or part of a PO is terminated subject to the provisions of this Agreement, Supplier shall immediately deliver to Buyer all copies of the Work Product that are in its or any third party's possession, whether or not such Work Product has been completed or is still in progress. Such Work Product shall, for all purposes of this Agreement, be deemed a Product delivered to Buyer, with respect to which Buyer shall have all applicable ownership rights.

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## ANNEX 3

### ADDITIONAL TERMS

**Additional terms applying to a Supplier which is either an OEM, Distributor or Value Added Provider.**

**I. Where Supplier is an OEM, Supplier shall agree to the following provisions:**

1. **Product Information.** Supplier shall maintain current information on Product, Services and Software lead times which shall be made available to Buyer by a method that allows prompt (preferably, real-time) access at any time and to assist Buyer in facilitating opportunity driven due dates.
2. **Global Trade Compliance.** Supplier shall agree to submit the Deliverables to the Bureau of Industry and Security, US Department of Commerce or foreign equivalent, to undergo product classification, encryption review, mass market review, as necessary or undergo any other procedures required under applicable export-import laws and regulations to facilitate importation, exportation or re-exportation of the Deliverables.

**II. Where Supplier is a distributor, reseller, or channel partner that resells OEM Deliverables, Supplier shall agree to the following provisions:**

1. **Returns.** Buyer may return unused Products with current labels, seals and packaging intact. Product must be shipped back (prepaid) to Supplier at Buyer's own cost. Supplier will refund 100% of the net purchase price of the Product upon receipt of the Products as stated herein.
2. **Global Trade Compliance.** Supplier shall cooperate in good faith to support efforts to have the original equipment manufacturer or developer submit the Deliverables for product classification and review to the Bureau of Industry and Security, US Department of Commerce or foreign equivalent, to undergo product classification, encryption review, mass market review, as necessary or undergo any other procedures required under applicable export-import laws and regulations to facilitate importation, exportation or re-exportation of the Deliverables.
3. **Pricing.** In respect of OEM Deliverables the discount off OEM list price and Supplier's uplift percentages (if any) are set forth in the PO or SOW. Unless otherwise stated, Buyer Price shall be the OEM's current list price less the discount the OEM has agreed to provide to the Buyer Affiliate that has a direct relationship with the OEM plus Supplier's uplift. The formula is: Buyer Price (net cost) = (List Price – (OEM supported Buyer Affiliate Discount \* LP)) + (LP \* Supplier Uplift) where LP = OEM List Price.
4. **Warranties.** Supplier will ensure that Buyer and its Customers have the benefit of any manufacturer warranties and any Intellectual Property indemnities ("**IP Indemnity**"). The inability to pass on the manufacturer warranties and/or IP Indemnity to its Customer will be a cause for Buyer, at its election, to terminate the purchase of the affected Products and/or Software and associated PO (either in whole or in part) without liability.
5. **Shipping and Delivery.** Supplier must ensure that all in-stock Products are delivered to the local destination specified in the PO by the delivery date specified in the PO, ("**Delivery Date**"). If Supplier fails to meet the Delivery Date, Buyer may require an expedited delivery, with any additional costs to be borne solely by Supplier, or Buyer may cancel all or part of the Deliverables without penalty or liability or any further obligation to Supplier with respect to such Deliverables.

**III. Where Supplier is a value-added provider that provides services in relation to OEM Deliverables, Supplier shall agree to the following:**

1. **Global Trade Compliance.** Supplier shall agree to submit the Deliverables to the Bureau of Industry and Security, US Department of Commerce or foreign equivalent, to undergo product classification, encryption review, mass market review, as necessary or undergo any other procedures required under applicable export-import laws and regulations to facilitate importation, exportation or re-exportation of the Deliverables.

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2. **Acceptance**

2.1 All Deliverables shall be subject to the acceptance process set out herein. Buyer will accept a Deliverable if, in Buyer's reasonable opinion, the Deliverable conforms with the PO and any applicable Specifications or SOWs ("**Acceptance**"). Acceptance or failure to accept ("**Non-Conformance**") shall not affect Buyer's rights or Supplier's obligation to perform under the clause entitled "Warranty" of this Agreement or any other rights or remedies available to Buyer. Buyer's right to inspect and test does not relieve Supplier from its testing, inspection and quality control obligations, if applicable.

2.2 **Acceptance Process**

2.2.1 Unless a longer period is mutually agreed on a case-by-case basis, Buyer shall have a period of 30 Business Days following delivery ("**Acceptance Period**") within which to either accept the Deliverable or provide Supplier with written notice of Non Conformance.

2.2.2 If a Deliverable (or any part thereof) is Non-Conforming, Buyer may return such Non-Conforming Deliverable to Supplier, at Supplier's risk and expense, and receive a full refund or credit for all amounts paid for the Deliverable. In the alternative, Buyer may grant Supplier the opportunity to repair or replace or reperform any Non-Conforming Deliverable, in whole or in part, within five Business Days, or such time period as is determined by Buyer to be reasonable based on Customer's expectations and requirements. After such repair, replacement, or reperformance is completed, the Acceptance process set forth in this clause entitled "Acceptance Process" shall begin anew

3. **Risk of Loss.** The following provision shall apply in lieu of the clause entitled "Risk of Loss" of this Agreement:

"If Supplier installs the Products upon delivery to Buyer or Customer's site, risk of loss (including damage) shall pass to Buyer upon Acceptance (as defined in paragraph III Clause 2.2 of Annex 3) of the installation Service. If the Supplier does not install or carry out any other Services in relation to the Products following delivery of the same, risk of loss (including damage) shall pass to Buyer upon delivery of the Products to Buyer or Customer's site by the Supplier."