

LogicomUSA  
TERMS OF SERVICE

Effective Date: July 13th, 2016

THESE TERMS OF SERVICE (THESE "TOS") GOVERN YOUR USE OF THE WEBSITE, LOCATED AT portal.logicom.center (THE "WEBSITE") AND THE SERVICES (INDIVIDUALLY OR COLLECTIVELY, THE "LogicomUSA SERVICES") ORDERED BY YOU AND PROVIDED BY LogicomUSA, INC. ("LogicomUSA" OR "PROVIDER") AS FURTHER DESCRIBED BELOW. THE TERMS AND CONDITIONS OF THESE TOS AND ANY ORDER FORMS ENTERED INTO BY YOU AND LogicomUSA (EACH, A "SERVICE ORDER") ARE COLLECTIVELY REFERRED TO AS THE "CLOUD SERVICES AGREEMENT" OR THE "AGREEMENT."

BY USING THE WEBSITE, YOU AGREE TO THOSE PORTIONS OF THESE TOS RELATING TO THE WEBSITE.

EXECUTING A PHYSICAL SERVICE ORDER FORM THAT REFERS TO THIS AGREEMENT, YOU AGREE TO THE FOLLOWING TERMS AND CONDITIONS GOVERNING YOUR USE OF ANY LOGICOMUSA SERVICES. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH COMPANY OR OTHER LEGAL ENTITY TO THIS AGREEMENT, IN WHICH CASE THE TERM "YOU" OR "CUSTOMER" SHALL REFER TO SUCH ENTITY (CUSTOMER AND LogicomUSA MAY BE REFERED TO HEREIN INDIVIDUALLY AS A "PARTY" AND, COLLECTIVELY, AS THE "PARTIES"). IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MUST NOT SIGN THE ORDER FORM, AND YOU MAY NOT USE THE LOGICOMUSA SERVICES.

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## 1. TERM

With the exception of those provisions that survive the termination of this Agreement, as identified below, the term of this Agreement shall be for the longest Service Term referenced in any Service Order(s) then in effect between LogicomUSA and You ("Term"), commencing on the earliest effective date ("Effective Date") referenced in any Service Order(s) then in effect between LogicomUSA and You ("Term"). This Agreement, and all associated Service Orders entered into, will automatically renew for additional terms of the same length, unless, at least thirty (30) days prior to the renewal date, a cancellation notice is provided, in writing, by You to the Provider.

## 2. SERVICE DESCRIPTIONS AND SCHEDULES

The descriptions of each type of LogicomUSA Service, and any terms and conditions specific to such Service, are set forth in the LogicomUSA Service Schedules located at [www.logicom.center/service-schedules](http://www.logicom.center/service-schedules) (each, a "Service Schedule" and collectively, the "Service Schedules").

The Provider will determine the appropriate method, details, and means of providing the LogicomUSA Services.

More general service descriptions are set forth below:

In addition to the LogicomUSA Services set forth in the Service Schedules, Provider also agrees to provide Customer with the following LogicomUSA Services:

- Release notes for each stable release, indicating what's included in the release;
- Customer-only newsletters related to upcoming features, before the general public; and
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## 3. CHARGES, PAYMENT AND TAXES

Applicable rates, fees and costs for each of the LogicomUSA Services are set forth in the applicable Service Order Form

In the event Provider makes adjustment to rates applicable to LogicomUSA Services with respect to which is outside the Provider's full control over the facilities impacting such rates, Provider will provide at least thirty (30) days prior notice to Customer of pending rate changes. Notification will be given via electronic mail to Customer's registered administrator, as listed in Customer's main account located on the Customer's Dashboard. An example of costs within the Provider's full control include the cost of hosting and server management. An example of costs outside the Provider's full control would include a sudden emergency tariff or rate increase imposed by a third party provider (for example, a wireless carrier imposing additional SMS charges due to specific activity on their network, which Provider would pass through to Customer).

Customer understands and acknowledges that Provider operates all LogicomUSA Services on a pre-paid basis. As such, Customer agrees to make all payments as set forth in the applicable Service Order (the "Due Date"), with the first payment being received on the Effective Date of such Service Order. Each

Party shall be responsible for all transaction charges assessed by, or on behalf of, its own bank.

Customer understands and agrees that it will pay, also on a pre-paid basis (i) the pro rata charges for any LogicomUSA Services added to a Service Order during a billing cycle and (ii) all installation and/or setup charges agreed to in the Service Order.

Customer understands and agrees that Provider's duty to provide LogicomUSA Services hereunder does not commence until Customer has pre-paid all applicable charges and provided all necessary equipment consistent with selections listed in the Service Order.

If Customer fails to remit payment in full of all amounts that are not otherwise disputed in good faith in accordance with the terms and conditions hereof by the Invoice's Due Date, LogicomUSA, in addition to other remedies available to it under this Agreement or at law, may charge a late fee of the lesser of one and one-half percent (1.5%) per month or the maximum fee allowed by law of the unpaid undisputed balance, which shall accrue from the Due Date of the invoice.

If Customer fails to make payment on the Due Date then Provider shall have the right, but is not obligated to, (i) give Customer written notification, by email, that Customer has committed a material breach of the Agreement due to non-payment, in which case Provider may impose a late payment charge of 1.5% per month, or, if such charge exceeds the highest legally permissible rate, then the highest legally permissible rate, and apply it to the undisputed amount past due, and/or (ii) interrupt, suspend, or terminate Customer's receipt of LogicomUSA Services immediately or at any time after Customer has failed to make timely payment.

(a) For contracted LogicomUSA Services which are provided to Customer and billed on a monthly recurring fee basis, Provider may, at Provider's discretion and in any combination:

(i) require a sufficient security deposit to continue the provisioning of LogicomUSA Service(s):

(A) if Customer's approved level of credit is deemed insufficient by Provider in its sole discretion; or

(B) as a result of the Customer's failure to timely pay in full for the LogicomUSA Service(s).

In the event Customer fails to make payment pursuant to this Section 3(a), Provider may immediately suspend or terminate Customer's LogicomUSA Service(s), and in such case Provider is not required to render any advance notice.

(b) For contracted LogicomUSA Services which are provided to Customer and billed on a per-usage or per-incident basis, Provider may, at Provider's discretion and in any combination:

(i) require a sufficient security deposit to continue the provisioning of LogicomUSA Service(s):

(A) if Customer's approved level of credit is deemed insufficient by Provider in its sole discretion;

(B) if the level of expected or actual Customer usage or number of incidents, as the case may be, warrants a deposit as determined by Provider in its sole discretion; or

(C) as a result of the Customer's failure to timely pay in full for the

LogicomUSA Service(s);

In the event Customer fails to make payment pursuant to Section 3(b), Provider may:

(i) immediately suspend or terminate Customer's receipt of LogicomUSA Service(s), and in such case Provider is not required to render any advance notice; or

(ii) demand immediate payment by wire in accordance with Provider's instructions or other prompt means and discontinue the provision of LogicomUSA Service(s) should Provider determine Customer's usage exceeds its approved level of credit; and/or

(iii) in the event Customer has a pre-payment arrangement and Customer's pre-paid balance is depleted or such balance is at a level that cannot cover Customer's estimated usage of rendered LogicomUSA Services during the time required for the Customer to replenish its prepaid balance, Provider may immediately suspend or terminate Customer's receipt of LogicomUSA Service(s), and in such case Provider is not required to render any advance notice.

Usage is measured based on Provider's internal systems, and Customer agrees to be responsible for all items applied to Customer's accounts, whether they are in use or not. Customer also agrees to be held responsible for auditing, maintaining and deleting items on their account which incur a charge.

Provider retains the right to bill, including any amended or corrected billing, for LogicomUSA Service(s) for a period of up to twelve (12) months, commencing from the date the billed Service(s) were provided to the Customer. Provider shall retain such billing rights for this twelve-month period notwithstanding any prior billing to Customer for the same period(s) and regardless of any otherwise conflicting billing conditions in this Agreement. Customer agrees that for the duration of this twelve month period, Provider shall not be deemed to have waived any rights with regard to billing for the provided LogicomUSA Service(s) that are the subject to this period, nor shall any legal or equitable doctrines apply, including estoppel or laches. This provision survives the termination of this Agreement.

You will be responsible for and will pay any applicable federal, state or local income taxes imposed by any governmental authority in accordance with applicable laws resulting from Your purchase of LogicomUSA Services under this Agreement (other than taxes based on LogicomUSA's net income, for which LogicomUSA will be solely responsible.)

#### 4. BILLING DISPUTES

In the event Customer disputes any invoiced charges (each, a "Billing Dispute"), Customer shall pay in full all charges invoiced by the Due Date, and submit written notification within thirty (30) days of the date on the invoice in question in the form of an email sent to [billing@logicom.center](mailto:billing@logicom.center)

with "Notice of Billing Dispute" in the subject line of the email. Such email notification must include the Customer's contact information, account name and/or subaccount, the specific charges and associated dollar amount in dispute, detailed reasons for the dispute, and any supporting documentation if available (each, a "Billing Dispute Notice"). Provider shall respond to Customer, in writing, within thirty (30) days of receiving the Billing Dispute Notice from Customer. Any dispute resolved in favor of Customer shall be credited as appropriate on the next available invoice(s). In the event that any disputed amounts are deemed to be correct as billed and in compliance with this Agreement, Customer shall be notified in writing that the charges have been deemed valid and legitimate, and the dispute will be considered resolved by both Parties. In such cases, if there should be any amount due from Customer related to the dispute, then all such amounts shall be due and payable within five (5) business days of Provider's written notice conveying its decision. Provider reserves the right to deny or delay any and all billing disputes and/or credits if the Customer's account is in arrears or otherwise not in good standing at or after the time that Customer sends its Billing Dispute Notice.

#### 5. DISPUTE RESOLUTION PROCESS AND APPLICABLE LAW

It is the mutual desire of the Parties to promptly and fully resolve any dispute arising in connection with this Agreement in good faith, confidentially, and informally with minimal transactions costs, and no public statement may be made by either party regarding any such dispute. For any dispute regarding Provider's provision of LogicomUSA Services to Customer other than a Billing Dispute, which shall be resolved in accordance with the procedures set out in Section 3 (each, a "Non-Billing Dispute"), Customer shall promptly notify Provider of the Non-Billing Dispute in writing in the form of an email sent to [billing@logicom.center](mailto:billing@logicom.center) with "Notice of Non-Billing Dispute" in the subject line of the email. Such email notification must include the Customer's contact information, account name and/or subaccount, the nature of the dispute, detailed supporting reasons for the dispute, and any supporting documentation if available (each, a "Non-Billing Dispute Notice"). Provider shall have sixty (60) days from the date of the Non-Billing Dispute Notice to attempt to resolve the problem before either Party may initiate the escalation process. If either Party determines after the end of such sixty-day period that the dispute cannot be resolved informally, then such Party may initiate an escalation process by giving written notice ("Escalation Notice") to the other Party. Each Party shall name one executive as its representative, who will be a person knowledgeable about the subject matter in dispute and someone with authority to resolve the dispute (hereinafter the "Officers"). The Officers shall meet in person or by conference call, together with any persons assisting them, within fifteen (15) calendar days after delivery of the Escalation Notice. All negotiations conducted by the Officers are confidential and shall be treated as compromise and settlement negotiations for purposes of the Federal Rules of Evidence (FRE 408) and any comparable state rules of evidence. In the event that the Officers are unable to resolve the dispute within fifteen (15) days of their conference, or within such additional time as the Parties may otherwise agree to in writing, either Party may make a written demand for mediation, whereupon the Parties shall, in good faith, try in good faith to settle the dispute by mediation administered by the American Arbitration Association ("AAA") under its Commercial Mediation Procedures before resorting to arbitration as outlined below. The Parties agree that such mediation will occur in New Jersey, and that they will bear their own respective costs and

expenses (including attorneys' fees) and an equal share of the mediator's and administrative fees of mediation.

If the dispute is not resolved after applying the escalation procedures set forth above, the Parties further agree that any remaining controversy or claim arising out of or relating to this Agreement shall be settled by binding arbitration administered by the AAA under its Commercial Arbitration Rules, and judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. The single arbitrator shall be appointed as provided in the AAA Commercial Arbitration Rules and have significant experience in the subject matter of the dispute. The Parties agree to waive any right to initiate or pursue any judicial proceeding arising out of or relating to this Agreement. Any such arbitration proceedings shall take place in New Jersey. Discovery shall be permitted, including the use of interrogatories, requests for admission and production of documents and depositions. All such discovery shall be in accordance with procedures approved by the arbitrator. If the amount claimed to be in dispute is less than \$500,000 all applicable expedited procedures of the AAA shall apply. The arbitrator's fees and reasonable and reasonably substantiated costs of the arbitration shall be borne by the Party against whom the award is rendered, except that if the arbitrator issues a split decision, granting partial relief to both Parties, the arbitrator shall equitably allocate the arbitrator's fees and other costs. Each Party shall pay its own attorney's fees related to any dispute related to this Agreement. Recovery shall be limited to the amount paid by Customer for Provider's LogicomUSA Services which are the subject of the Non-Billing Dispute. The arbitration award shall be final and binding on both Parties, shall not be subject to any appeal, and shall be enforceable in any court of competent jurisdiction.

It is the intent of the Parties to require any claims or controversies between them to be submitted to arbitration on an individual basis only. CLAIMS SUBJECT TO THIS ARBITRATION PROVISION MAY NOT BE JOINED OR CONSOLIDATED IN ARBITRATION WITH ANY CLAIM OF ANY OTHER PERSON OR BE ARBITRATED ON A CLASS BASIS, IN A REPRESENTATIVE CAPACITY ON BEHALF OF THE GENERAL PUBLIC OR ON BEHALF OF ANY OTHER PERSON, UNLESS OTHERWISE AGREED TO BY THE PARTIES IN WRITING.

#### 6. REPRESENTATIONS AND WARRANTIES OF THE PARTIES

Provider represents and warrants to Customer that it has the right to provide the LogicomUSA Service(s) specified herein, is duly organized and validly exists in good standing under the laws of its origin, with the ability to enter into and perform its obligations under this Agreement in accordance with its terms and conditions, including any documents incorporated into the Agreement by reference.

Customer represents and warrants to the Provider that it is duly organized and validly exists in good standing under the laws of its origin, with the ability to enter into and perform its obligations under this Agreement in accordance with its terms and conditions, including any documents incorporated into the Agreement by reference. Customer further represents and warrants that:

a.

There are no actions, suits, or proceedings, pending or threatened, which will have a material adverse effect on Customer's ability to fulfill its obligations under this Agreement;

b. Customer will immediately notify Provider if, during the term of this Agreement, Customer becomes aware of any action, suit or proceeding, pending or threatened, which may have a material adverse effect on Customer's ability to fulfill its obligations under this Agreement;

c. Customer has all necessary skills, rights, financial resources and authority to enter into this Agreement, including the authority to provide or license the material or services it will provide under the Agreement;

d. The material and services Customer provides will not infringe any patent, copyright or other intellectual property; moreover, as of the applicable Effective Date, no third party claim has been alleged against Customer that the material or services provided under the Agreement infringe upon such third party's intellectual property rights.

e. No consent, approval or withholding of objection is required from any entity, including any governmental authority, with respect to Customer's entering into or performance of this Agreement;

f. Customer's material and services will be provided free of any lien or encumbrance of any kind;

g. Customer will be fully responsible and liable for all acts, omissions and work performed by any of its representatives, including any subcontractor;

h. All representatives, including subcontractors, will strictly comply with the provisions specified in this Agreement; and,

i. Customer will strictly comply with the terms of this Agreement, including those specified in any Exhibits or Appendices thereto.

Each Party agrees that it will perform its obligations hereunder as an independent contractor and not as the agent, employee or servant of the other Party and that no joint venture or partnership is or has been express or implied.

## 7. CUSTOMER COOPERATION

The Customer agrees to comply promptly and fully with all reasonable requests of the Provider and to provide access to all equipment, documents and files reasonably necessary or expedient to Provider's performance of its services under this Agreement.

## 8. DEFAULT

A "Default" shall occur:

a. If Customer fails to make any payment for Providers provision of LogicomUSA Service(s) by its Due Date,

b. If either Party fails to perform or observe any material term or obligation, other than Customer's failure to make a payment to Provider, contained in this Agreement, with such failure remaining uncured for thirty (30) days after completion of the pre-arbitration escalation procedures outlined in Section 4 above,

c.

Upon the institution of bankruptcy, receivership, insolvency, reorganization or other similar proceedings, by or against either Party under any section or chapter of the United States Bankruptcy Code (or any non-US equivalent),

where such proceedings, if involuntary, have not been dismissed or discharged within thirty (30) days of such a proceeding's initiation,

d. Upon the making of an assignment for the benefit of creditors, adjudication of insolvency (where such adjudication, if involuntary, has not been dismissed or discharged within thirty (30) days of the completion thereof), or institution of any reorganization arrangement or other readjustment of debt plan, of or by either Party, where such proceedings do not involve the United States Bankruptcy Code, or

e. Upon the appointment of a receiver for all or substantially all of Customer's assets.

## 9. REMEDIES

Upon Default, the non-defaulting Party may, in addition to invoking the dispute resolution process set forth in Section 4 or Section 5, as the case may be, of this Agreement:

a. Suspend its performance under this Agreement so long as such default remains uncured or

b. Terminate this Agreement without liability or further obligation immediately upon written notification of termination to the defaulting Party.

If Customer is the defaulting Party and Provider terminates for Customer's Default in accordance with the applicable provisions of this Agreement, then Provider may collect from Customer:

a. Charges for all LogicomUSA Service(s) actually received by Customer in accordance with this Agreement and/or any other applicable agreement between the Parties and

b. Early termination charges, if any, as specified in the applicable Service Order(s) and/or any other applicable agreement between the Parties.

In the event Provider is the defaulting Party, Customer must notify Provider in writing of said Default and Customer will only be responsible for charges for LogicomUSA Service(s) actually received, in accordance with this Agreement or any other documents incorporated into this Agreement by reference, up to the date of the last day of the cure period after Provider's receipt of Customer's Default notification. Unless otherwise specified in this Agreement, all remedies expressed in this Agreement are without exclusion to any rights or remedies that the Parties may have under this Agreement or at law.

NOTWITHSTANDING ANYTHING STATED IN THIS AGREEMENT OR OTHERWISE TO THE CONTRARY, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE OR PUNITIVE DAMAGES OF ANY KIND OR NATURE, INCLUDING BUT NOT LIMITED TO ANY LOST PROFITS, LOST REVENUES, LOST SAVINGS OR HARM TO BUSINESS. EACH PARTY HEREBY RELEASES THE OTHER PARTY, ITS SUBSIDIARIES AND AFFILIATES AND THEIR RESPECTIVE OFFICERS, DIRECTORS, MANAGERS, EMPLOYEES AND AGENTS FROM ANY SUCH CLAIMS.

No single or partial exercise of any right or remedy with respect to one breach of this Agreement or any Service Order precludes the simultaneous or subsequent exercise of any other right or remedy with respect to the same or a different breach.

## 10. MAINTENANCE, MODIFICATIONS AND END-OF-LIFE POLICY

Some LogicomUSA Services offered by Provider may exist on infrastructure owned and operated by Provider. In such cases, Provider may, from time to time, interrupt or otherwise impact such Service(s) for routine maintenance or upgrades. Provider shall use commercially reasonable efforts to provide Customer a minimum of three (3) business days' notification (via phone or email) of such planned maintenance or upgrade activities. Provider reserves the right to interrupt, suspend or reduce its provision of LogicomUSA Services to Customer or any other person when such action is necessary in Provider's sole and absolute discretion. Provider may, where reasonably possible, but does not promise to, provide advance notice to Customer of any such interruption, suspension, or reduction.

Products and services reach the end of their product life cycle for a number of reasons. These reasons may be due to market demand, technology innovation and development driving changes in the product or service, or the products or services simply mature over time and are replaced by functionally richer technology. While this is a common and expected part of the overall product life cycle, Provider recognizes that product and service end-of-life milestones often prompt companies to review the way in which such product and service end-of-life milestones impact the Provider's products and services in their environments. Our product and service end-of-life policy is designed to help customers better manage their product and service end-of-life transition.

As a general rule, Provider will provide six (6) months' notice of the affected LogicomUSA Service's end-of-sale date and/or the last day when the affected LogicomUSA Service can be ordered. This notice will be delivered via electronic medium, either electronic email or a notice during login to the Customer Dashboard. At least three notices will be provided. In the case of email notifications, notices will be sent to Customer's registered administrator as listed in Customer's main account on the Customer Dashboard.

## 11. END USER LICENSE AGREEMENT (EULA)

The term "Software" as used herein means any Provider-proprietary object and/or source code licensed by Provider to Customer for the purposes of Customer's receipt of the LogicomUSA Services hereunder, and any portion of such code, translations, modifications, support materials, documents, and copies in human or machine readable form, related thereto.

Provider hereby grants Customer a non-exclusive, non-transferable, right to use the Software embedded in the LogicomUSA Services, solely for the internal business purposes of Customer and solely during the Service Term of the applicable Service Order, subject to the terms and conditions of the Agreement.

Customer shall not (i) modify, copy or create any derivative works based on the LogicomUSA Services, including but not limited to the Software; (ii) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the LogicomUSA Services, including but not limited to the Software, available to any third party; (iii) reverse engineer or decompile any portion of the LogicomUSA Services, including but not limited to the Software, except to the extent

required by law; (iv) access the LogicomUSA Services, including but not limited to the Software, in order to build any commercially available product or service; or (v) copy any features, functions, integrations, interfaces or graphics of the LogicomUSA Services, including but not limited to the Software.

## 12. EQUIPMENT AND THIRD-PARTY SOFTWARE

a. LogicomUSA-Provided Equipment. If the Agreement includes a Service Order for LogicomUSA Services which require the deployment of equipment, which may include Software, made available by LogicomUSA ("LogicomUSA Equipment"), all LogicomUSA Equipment (together with all appurtenant licenses, documentation, and media) provided by Provider to Customer as part of the delivery of such LogicomUSA Service are at all times the personal property of Provider, and subject to the terms and conditions set forth in the manufacturer's warranty (which may or may not be transferable to Customer) or end-user license applicable to such software, with no warranty of any kind from Provider. Upon termination of such LogicomUSA Services, Customer will immediately cease all use thereof and within two business days shall return to Provider any LogicomUSA Equipment and copies it has made of software, documentation or licenses owned by Provider that may have been used in conjunction therewith.

b. Sold to Customer. If requested by Customer, and agreed in writing by Provider, Provider shall use its commercially reasonable efforts to procure equipment or software on Customer's behalf in connection with the relevant LogicomUSA Services. In addition, Customer may have the ability to purchase equipment (e.g., phone devices) from Provider's partners through Provider's Website. In all instances referenced in this paragraph, Customer acknowledges that: (a) Provider is not a manufacturer of any such equipment or software; and (b) Provider is not bound by or liable for any representation, warranty or promise made by the manufacturer (which may or may not be transferable to Customer). Provider shall not be liable for any liability for loss, damage, or injury to any party or property as a result of any defects, latent or otherwise, in any equipment or software. Provider retains title to purchased equipment until the equipment is paid for in full by Customer, including any shipping, installation or maintenance contract costs related to such equipment.

c. On Loan, Lease, or Rental to Customer. Any property of Provider made available to Customer for its exclusive use ("Provider Property"), including but not limited to access badges, keys, media converters, power distribution devices, networking devices, rails, and shelves, are at all times the property of Provider. Customer agrees not to (a) disassemble, deface, or modify it in any way; (b) remove or attempt to obscure any labels or markings placed by Provider or the manufacturer; (c) reverse engineer it; or (d) place it in the possession or control of any third party. Provider may request the return of Provider Property at any time and for any reason. In such case, Provider may provide a functionally equivalent replacement. Any Provider Property not returned to Provider in the same condition that it was given, reasonably adjusted for normal wear, within five (5) business days of the earlier of Provider's written request for its return or any termination of this Agreement shall be deemed lost hereunder and, in such event, Provider

shall have the right to charge Customer for the replacement cost of the Provider Property.

### 13. E911 & Service Limitations

The Federal Communications Commission (FCC) requires that LogicomUSA provide E911 Service to all Customers who use LogicomUSA Services within the United States. Sections 13.a-13.g apply to all Customers who use LogicomUSA Services within the United States. Section 13.h applies to all Customers.

a. 911 ACKNOWLEDGEMENT AND WARNING LABELS. CUSTOMER ACKNOWLEDGES THAT LogicomUSA'S EQUIPMENT AND SERVICES DO NOT SUPPORT 911 EMERGENCY DIALING OR OTHER EMERGENCY FUNCTIONS IN THE SAME WAY THAT TRADITIONAL WIRELINE 911 SERVICES WORK. THE DIFFERENCES ARE DETAILED IN THIS SECTION 13 AND CUSTOMER AGREES TO NOTIFY ANY POTENTIAL USER OF THE LogicomUSA SERVICES, WHO MAY PLACE CALLS USING CUSTOMER'S LogicomUSA SERVICES, OF THE 911 LIMITATIONS DESCRIBED HEREIN. LogicomUSA WILL PROVIDE CUSTOMER WITH WARNING LABELS REGARDING THE LIMITATIONS OR UNAVAILABILITY OF 911 EMERGENCY DIALING. CUSTOMER AGREES TO PLACE A LABEL ON AND/OR NEAR EACH DEVICE OR OTHER CUSTOMER PREMISE EQUIPMENT ON WHICH THE LogicomUSA SERVICES MAY BE UTILIZED. IF ADDITIONAL LABELS ARE REQUIRED, CUSTOMER MAY REQUEST THEM FROM LogicomUSA. LogicomUSA WILL PROVIDE CUSTOMER WITH AN ADVISORY NOTICE REGARDING 911 EMERGENCY DIALING AND REQUEST ACKNOWLEDGMENTS FROM CUSTOMER (LogicomUSA'S "E911 CUSTOMER ACKNOWLEDGEMENT"), LOCATED AT [WWW.logicomusa.net/E911](http://WWW.logicomusa.net/E911), AS PART OF THE SERVICE ORDERING PROCESS. CUSTOMER AGREES TO RESPOND AND AFFIRMATIVELY ACKNOWLEDGE THAT LogicomUSA HAS ADVISED CUSTOMER OF THE CIRCUMSTANCES UNDER WHICH LogicomUSA E911 SERVICE MAY NOT BE AVAILABLE OR MAY BE LIMITED IN COMPARISON TO TRADITIONAL 911 EMERGENCY DIALING. LogicomUSA ADVISES CUSTOMER TO MAINTAIN AN ALTERNATIVE MEANS OF ACCESSING TRADITIONAL 911 SERVICES.

b. ELECTRICAL POWER. CUSTOMER ACKNOWLEDGES THAT THE LogicomUSA SERVICES WILL NOT FUNCTION IN THE ABSENCE OF ELECTRICAL POWER.

c. INTERNET ACCESS. CUSTOMER ACKNOWLEDGES THAT THE LogicomUSA SERVICES WILL NOT FUNCTION IF THERE IS AN INTERRUPTION OF CUSTOMER'S BROADBAND OR HIGH-SPEED INTERNET ACCESS SERVICE.

d. NON-VOICE SYSTEMS. CUSTOMER ACKNOWLEDGES THAT THE LogicomUSA 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. CUSTOMER HAS NO CLAIM AGAINST LogicomUSA FOR INTERRUPTION OR DISRUPTION OF SUCH SYSTEMS BY THE LogicomUSA SERVICES.

e. E911 SERVICE IS NOT OFFERED ON VIRTUAL NUMBERS, TOLL-FREE NUMBERS OR SIMILAR SERVICE ACCESSORIES OR ADD-ON PLANS. E911 SERVICE IS ONLY AVAILABLE IN SELECTED AREAS. CUSTOMERS WHO SUBSCRIBE TO LogicomUSA E911 SERVICE WILL BE REQUIRED TO REGISTER THE PHYSICAL LOCATION OF THEIR DEVICE WITH LogicomUSA, BY REGISTERING THE CORRECT E911 ADDRESS AT ALL TIMES, IN THE LogicomUSA WEB PORTAL. CUSTOMER AGREES TO UPDATE THE LOCATION WHENEVER THE PHYSICAL LOCATION OF LogicomUSA SERVICE CHANGES BY LOGGING INTO THE LogicomUSA WEB PORTAL AND MODIFYING THE ADDRESS INFORMATION AND RECEIVING A CONFIRMATION NOTICE THAT THE ADDRESS IS UPDATED. CUSTOMER ACKNOWLEDGES THAT LogicomUSA'S ONLY MECHANISM FOR ROUTING 911 CALLS TO THE CORRECT EMERGENCY CALL TAKER IS THE PHYSICAL LOCATION CURRENTLY REGISTERED FOR THE ACCOUNT AND/OR DEVICE. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT ANY ENHANCED LOCATION INFORMATION

PASSED TO AN EMERGENCY OPERATOR BY LogicomUSA WILL BE BASED UPON THE PHYSICAL LOCATION PROVIDED TO LogicomUSA BY CUSTOMER.

f. CUSTOMERS WHO ARE REQUIRED TO SUBSCRIBE TO LogicomUSA E911 SERVICE WILL BE SUBJECT TO A MONTHLY E911 SERVICE CHARGE. THE SERVICE ORDER MAY HAVE E911 BUILT INTO THE MONTHLY RECURRING PRICE. THE MONTHLY E911 SERVICE FEE SHALL BE IN ADDITION TO THE APPLICABLE RESIDENTIAL OR BUSINESS PLAN CHARGES FOR THE ASSOCIATED LINE. THE MONTHLY CHARGE FOR LogicomUSA E911 SERVICE IS ASSESSED ON A "PER-LINE" (THAT IS, PER PHONE NUMBER BASIS), AND WILL BE SET AT A LEVEL THAT REIMBURSES LogicomUSA FOR THE DIRECT COSTS IT INCURS IN PROVIDING LogicomUSA E911 SERVICE, INCLUDING EXPENSES LogicomUSA INCURS, EITHER DIRECTLY OR INDIRECTLY, IN THE FORM OF STATE, COUNTY OR MUNICIPAL E911 SURCHARGES, E911 AUTOMATIC LOCATION INFORMATION (ALI) DATABASE STORAGE, LINE INFORMATION DATABASE AND CALLER ID (LIDB/CNAM) EXPENSES, AND ANY OTHER TAXES OR SURCHARGES DIRECTLY OR INDIRECTLY ASSOCIATED WITH THE PROVISION OF LogicomUSA SERVICES TO CUSTOMERS SUBSCRIBING TO THIS SERVICE. LogicomUSA RESERVES THE RIGHT TO ADJUST THE LEVEL OF CHARGES ASSOCIATED WITH THE PROVISION OF E911 SERVICES TO REFLECT INCREASES OR DECREASES IN THE COSTS IT INCURS.

CUSTOMER ALSO ACKNOWLEDGES THAT LogicomUSA E911 SERVICE HAS CERTAIN CHARACTERISTICS THAT DISTINGUISH IT FROM TRADITIONAL, LEGACY, CIRCUIT-SWITCHED 911 SERVICE. THESE CHARACTERISTICS MAY MAKE LogicomUSA E911 SERVICES UNSUITABLE FOR SOME CUSTOMERS. BECAUSE CUSTOMER CIRCUMSTANCES VARY WIDELY, CUSTOMERS SHOULD CAREFULLY EVALUATE THEIR OWN CIRCUMSTANCES WHEN DECIDING WHETHER TO RELY SOLELY UPON LogicomUSA E911 SERVICE. CUSTOMER ACKNOWLEDGES THAT IT IS CUSTOMER'S RESPONSIBILITY TO DETERMINE THE TECHNOLOGY OR COMBINATION OF TECHNOLOGIES BEST SUITED TO MEET CUSTOMER'S EMERGENCY CALLING NEEDS, AND TO MAKE THE NECESSARY PROVISIONS FOR ACCESS TO EMERGENCY CALLING SERVICES (SUCH AS MAINTAINING A CONVENTIONAL LANDLINE PHONE OR WIRELESS PHONE AS A BACKUP MEANS OF COMPLETING EMERGENCY CALLS). THE FOLLOWING CHARACTERISTICS DISTINGUISH LogicomUSA E911 SERVICE FROM TRADITIONAL, LEGACY, CIRCUIT-SWITCHED 911 SERVICE:

\*\* LogicomUSA E911 SERVICE WILL NOT FUNCTION IF CUSTOMER'S DEVICE FAILS OR IS NOT CONFIGURED CORRECTLY OR IF CUSTOMER'S LogicomUSA SERVICE IS NOT FUNCTIONING FOR ANY REASON, INCLUDING, BUT NOT LIMITED TO, ELECTRICAL POWER OUTAGE, BROADBAND SERVICE OUTAGE, OR SUSPENSION OR DISCONNECTION OF SERVICE BECAUSE OF BILLING OR OTHER ISSUES. IF THERE IS A POWER OUTAGE, CUSTOMER MAY BE REQUIRED TO RESET OR RECONFIGURE THE EQUIPMENT BEFORE BEING ABLE TO USE THE LogicomUSA SERVICE, INCLUDING FOR E911 PURPOSES.

\*\* AFTER INITIAL ACTIVATION OF THE E911 SERVICE, AND FOLLOWING ANY CHANGE OF AND UPDATE TO CUSTOMER'S PHYSICAL LOCATION, THERE MAY BE SOME DELAY BEFORE THE AUTOMATIC NUMBER AND LOCATION INFORMATION IS PASSED TO THE LOCAL EMERGENCY SERVICE OPERATOR. THIS INFORMATION IS TYPICALLY POPULATED INTO OUR E911 DATABASES PRIOR TO SERVICE ACTIVATION, BUT NO GUARANTEE CAN BE MADE THAT THE AUTOMATIC NUMBER AND LOCATION INFORMATION WILL BE ACTIVATED WITHIN THIS SCHEDULE.

\*\* THE LOCAL EMERGENCY SERVICE OPERATOR RECEIVING LogicomUSA E911 EMERGENCY SERVICE CALLS MAY NOT HAVE A SYSTEM CONFIGURED FOR E911 SERVICES OR BE ABLE TO CAPTURE AND/OR RETAIN AUTOMATIC NUMBER OR LOCATION INFORMATION. THIS MEANS THAT THE OPERATOR MAY NOT KNOW THE PHONE NUMBER OR PHYSICAL LOCATION OF THE PERSON WHO IS MAKING THE LogicomUSA E911 CALL. DUE TO TECHNICAL FACTORS IN NETWORK DESIGN, AND IN THE EVENT OF NETWORK CONGESTION ON THE LogicomUSA NETWORK, THERE IS A POSSIBILITY THAT A LogicomUSA 911 CALL WILL PRODUCE A

BUSY SIGNAL OR WILL EXPERIENCE UNEXPECTED ANSWERING WAIT TIMES AND/OR TAKE LONGER TO ANSWER THAN 911 CALLS PLACED VIA TRADITIONAL, LEGACY, CIRCUIT-SWITCHED TELEPHONE NETWORKS.

\*\* IF CUSTOMER DOES NOT CORRECTLY IDENTIFY THE ACTUAL LOCATION WHERE THE DEVICE WILL BE LOCATED AT THE TIME OF ACTIVATION OF THE SERVICE, LogicomUSA E911 COMMUNICATIONS MAY NOT BE DIRECTED TO THE CORRECT LOCAL EMERGENCY OPERATOR.

g. CUSTOMER ACKNOWLEDGES AND UNDERSTANDS THAT LogicomUSA WILL NOT BE LIABLE FOR ANY SERVICE OUTAGE AND/OR INABILITY TO DIAL 911 OR ANY OTHER EMERGENCY TELEPHONE NUMBER USING LogicomUSA OR TO ACCESS AN EMERGENCY SERVICE OPERATOR DUE TO THE 911 DIALING CHARACTERISTICS AND LIMITATIONS SET FORTH IN THESE TOS. CUSTOMER AGREES TO DEFEND, INDEMNIFY, AND HOLD HARMLESS LogicomUSA, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES AND AGENTS AND ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO CUSTOMER IN CONNECTION WITH THE LogicomUSA SERVICES, FROM ANY AND ALL CLAIMS, LOSSES, DAMAGES, FINES, PENALTIES, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEY FEES) BY, OR ON BEHALF OF, CUSTOMER OR ANY THIRD PARTY OR USER OF THE LogicomUSA SERVICE RELATING TO THE FAILURE OR OUTAGE OF THE LogicomUSA SERVICE, INCLUDING THOSE RELATED TO 911 DIALING.

#### 14. INDEMNIFICATION AND LIMITATION OF LIABILITY

This section shall survive the termination of the provision of LogicomUSA Service(s) and the Term of this Agreement:

a. Customer shall indemnify, hold harmless, and defend Provider and its affiliates, directors, officers, employees and agents, in accordance with this section, against any Loss (as defined below) arising from or in connection with, or resulting from, the materials or services furnished by Customer or Customer's acts or omissions arising out of or relating to this Agreement, including personal or property damage, third party intellectual property infringement claims and breaches of Customer's confidentiality obligations under this Agreement, as well as the accuracy, quality, completeness and subject matter of any information transmitted with the use of the LogicomUSA Service(s). Customer's duty to indemnify, hold harmless, and defend Provider against Loss extends to Loss that may be caused, or alleged to be caused in part, by the negligence of Provider and other persons indemnified under this Agreement, to the fullest extent that such indemnification is permitted by applicable law.

b. "Loss" includes any liability, loss, claim, demand, suit, cause of action, settlement payment, cost and expense, interest, award, judgment, damages (including punitive damages), diminution in value, liens, fines, fees, penalties, and Litigation Expense. "Litigation Expense" means any court filing fee, court cost, arbitration fee, and each other fee and cost of investigating or defending an indemnified claim or asserting any claim for indemnification or defense under this Agreement, including attorney's fees, other professionals' fees, and disbursements.

c. Provider shall notify Customer in writing, and with reasonable promptness, of any claim, demand, suit, cause of action or legal proceeding that may give rise to a claim against Customer for indemnification provided for in this Agreement. If Provider fails to give notice, Customer is still obligated to indemnify, hold harmless and defend Provider, except that Customer is not liable for any costs, fees or liabilities which would not have arisen or been incurred, as the case may be, had Provider provided

timely notice to Customer of such claim, demand, suit, cause of action or legal proceeding.

d. At the request of Provider, Customer shall conduct Provider's defense (employing counsel acceptable to Provider), at Customer's expense, against any claim, demand, suit or cause of action within the scope of paragraph (a) above, whether or not litigation is actually commenced or the allegations are meritorious. At its own option, including in circumstances in which Provider in good faith believes that a joint representation of the Parties by a single set of counsel is not in Provider's best interests, Provider may employ separate counsel to conduct Provider's defense against such a claim, the costs of which Customer shall also bear. Provider and Customer shall cooperate in the defense of any such claim. Customer may control the defense and settlement of such a claim, but if the settlement of a claim may have an adverse effect on Provider, then Customer shall not settle such claim without the prior written consent of Provider, and Provider shall not unreasonably withhold or delay its consent. For the avoidance of doubt, Provider's refusal to consent to any settlement which requires Provider to admit any culpability or incur any costs or expenses not subject to Customer's reimbursement obligation hereunder, shall be considered reasonable.

e. Provider has no duty to indemnify, hold harmless or defend Customer against any Loss arising from or in connection with this Agreement or the performance of any Party to this Agreement.

f. Customer shall bring no claim or action for indemnification, contribution, or subrogation against Provider or its affiliates, directors, officers, employees and agents, nor shall Customer implead any of them in any action brought by another, based on injury to the person or death arising out or relating to Customer's performance under this Agreement. If, through any such action, Customer ever acquires a lien on a judgment against Provider or its agents or employees, then Customer shall assign such lien to Provider.

Customer has the sole and exclusive responsibility for the installation, configuration, security, and integrity of all Customer systems, equipment, software, and networks (the "Customer Equipment") used in conjunction with or related to the LogicomUSA Service(s) provided by Provider. Consistent with the general indemnity terms above, Customer therefore shall defend, indemnify and hold harmless Provider and its affiliates, directors, officers, employees and agents from and against any actual or alleged losses, costs, claims, liability of any kind, damages, or expenses or fees (including all attorneys' fees) on the part of or which may be incurred by Provider, Customer or a third-party relating to or arising from the use or operation of the Customer Equipment. Customer's indemnification in this subsection includes any alleged or actual losses or claims in connection with unauthorized access to or use of the LogicomUSA Service(s) by any third-party through Customer Equipment, whether or not such unauthorized access is unintentional, accidental, intentional or by fraud and regardless of whether Customer had knowledge of such unauthorized access. In all such cases of unauthorized access Customer agrees that it retains full and sole responsibility for any and all charges for the LogicomUSA Service(s) provided by Provider.

In the event Provider grants Customer access, either by online access, by application programming interface (API), or access by any other means, to a service ordering/management system and other related electronic tools (collectively, the "Electronic Tools"), Customer agrees that it is fully and exclusively responsible for all information accuracy, charges, costs,

transactions and activities conducted through such Electronic Tools. Customer agrees that it is fully and exclusively responsible to safeguard, monitor, manage, and maintain access to the Electronic Tools, and to only allow authorized use of the Electronic Tools to persons that Customer designates. Customer therefore agrees that it shall defend, indemnify and hold Provider and its affiliates, directors, officers, employees and agents harmless from and against any actual or alleged losses, costs, claims, liability of any kind, damages, or expenses or fees (including attorneys' fees) relating to or arising out of Customer's or any of its authorized or unauthorized users' use or operation of the Electronic Tools. Customer's indemnification in this subsection includes any alleged or actual losses or claims in connection with unauthorized access to, use of, or transactions or activities conducted through the Electronic Tools, whether or not such unauthorized access is unintentional, accidental, intentional or by fraud, and regardless of whether Customer had knowledge of such unauthorized access. In all such cases of unauthorized access Customer agrees that it retains full and sole responsibility for any and all charges for the LogicomUSA Service(s) provided by Provider.

#### 15. FORCE MAJEURE

In the event that either Party's performance under this Agreement (other than Customer's payment obligations hereunder) is delayed, prevented, obstructed or inhibited because of any act of God, governmental action or any other cause beyond either Party's reasonable control ("Force Majeure Event"), such Party will not be in default of this Agreement; provided, however, such Party shall exercise commercially reasonable efforts to prepare for, perform in spite of and resume performance after the Force Majeure Event. In the event of a Force Majeure Event that materially impacts performance for ten days or more ("Extended Delay"), either Party may terminate the affected LogicomUSA Service(s) without penalty or further obligation upon written notification to the other Party. During a Force Majeure Event, all payment obligations shall abate with respect to the impacted LogicomUSA Service(s).

#### 16. CONSTRUCTION AND INTERPRETATION

This Agreement has been prepared jointly and has been the subject of arm's length and careful negotiation. Each Party has been given the opportunity to independently review this Agreement with legal counsel and other consultants, and each Party has the requisite experience and sophistication to understand, interpret, and agree to the particular language of its provisions. Accordingly, the drafting of this Agreement is not to be attributed to either Party.

Section headings contained in this Agreement are for reference purposes only and are not to affect the meaning or interpretation of this Agreement. The word "include" in every form means to include without limitation by virtue of enumeration. Whenever this Agreement refers to a consent or approval to be given by either Party, such consent or approval is effective only if given in writing and signed by the Party giving approval or consent. The singular use of words includes the plural and vice versa.

## 17. CONFLICT OF TERMS AND SEVERABILITY

In the event any provision of this Agreement is held invalid, illegal, or unenforceable, the unaffected provisions shall remain in full force and effect. The Parties shall negotiate in good faith to substitute for such invalid, illegal or unenforceable provision a mutually acceptable provision consistent with the original intention of the Parties that is not invalid, illegal or unenforceable. If the provision eliminated is a material provision and the Parties are unable to negotiate a replacement provision, either Party may terminate the Agreement without liability or further obligation by providing thirty (30) days' written notification to the other Party, with the exception that Customer shall remain liable for payment of charges for all LogicomUSA Service(s) actually received by Customer in accordance with this Agreement prior to such termination.

## 18. CONFIDENTIALITY

a. In connection with this Agreement, including Customer's performance of its obligations hereunder and Provider's receipt of material and services from Customer, either Party may find it beneficial to disclose to the other Party (which may include permitting or enabling the other Party's access to) certain of its confidential information. For the purpose of this clause, Provider's disclosure of information to Customer includes any information that Customer receives, observes, collects, handles, stores, or accesses, in any way, in connection with this Agreement. Information of a disclosing Party shall be deemed to be confidential or proprietary if it is clearly marked or otherwise identified by the disclosing Party as being confidential or proprietary, provided that if it is orally or visually disclosed (including information conveyed to an answering machine, voice mail box or similar medium), the disclosing Party shall designate it as confidential or proprietary at the time of such disclosure. Notwithstanding the foregoing, a disclosing Party shall not have any such obligation to so mark or identify, or to so designate, information that the disclosing Party discloses to or is otherwise obtained by the other Party's employees, contractors, or representatives (i) who are located on the disclosing Party's premises; (ii) who access the disclosing Party's systems; or (iii) who otherwise obtain Provider and/or Provider's customer information in connection with this Agreement, any such information so disclosed shall automatically be deemed to be confidential and proprietary. Additionally, the failure to mark or designate information as being confidential or proprietary will not waive the confidentiality where it is reasonably obvious, under the circumstances surrounding disclosure, that the Information is confidential or proprietary; any such information so disclosed or obtained shall automatically be deemed to be confidential and proprietary. For greater certainty, information provided by either Party to the other Party prior to the applicable Effective Date in connection with the subject matter hereof, including any such information provided under a separate non-disclosure agreement (howsoever denominated) is also subject to the terms of this Agreement. Neither Party shall disclose information under this Agreement that includes, in any form, any of the following: customer or employee personal information; unless specifically requested in writing by the other Party, credit card and credit related information; health or financial information; and/or authentication credentials.

b.

With respect to the information of the disclosing Party, the receiving Party shall:

- (i) Hold all such information in confidence with the same degree of care with which it protects its own confidential or proprietary information, but with no less than reasonably prudent care;
  - (ii) Restrict disclosure of such information solely to its employees, contractors, and agents with a need to know such information, advise such persons of their confidentiality obligations hereunder with respect thereto, and ensure that such persons are bound by obligations of confidentiality reasonably comparable to those imposed in this Agreement;
  - (iii) Use such information only as needed to perform its obligations under this Agreement;
  - (iv) Except as necessary under the immediately preceding clause (c), not copy, distribute, or otherwise use any such information or allow anyone else to copy, distribute, or otherwise use such information; and ensure that any and all copies bear the same notices or legends, if any, as the originals; and
  - (v) Upon the disclosing Party's written request and at its election, promptly return or destroy all or any requested portion of the information, including tangible and electronic copies, notes, summaries, extracts, mail or other communications, and provide written certification within 15 business days to the disclosing Party that such information has been returned or destroyed, provided that with respect to archival or back-up copies of information that reside on the receiving Party's systems, the receiving Party shall be deemed to have complied with its obligations under this clause (e) if it makes reasonable efforts to expunge from such systems, or to permanently render irretrievable, such copies.
- c. Except for Provider's customer information, neither Party shall have any obligation to the other Party with respect to information which:
- (i)

At the time of disclosure was already known to the receiving Party free of any obligation to keep it confidential (as evidenced by the receiving Party's written records prepared prior to such disclosure);

- (ii) Is or becomes publicly known through no act of the receiving Party in breach of its confidentiality obligations hereunder (such obligations ceasing at the time such information becomes publicly known);
- (iii) Is received from a third party who the receiving Party believes in good faith is free of any obligation to keep it confidential;
- (iv) Is independently developed by the receiving Party or a third party, as evidenced by the receiving Party's written records, and wherein such development occurred without any direct or indirect use of or access to the information received from the disclosing Party, or
- (v) The disclosing Party consents in writing to be free of restriction.

d. If a receiving Party is required to provide information of a disclosing Party to any court or government agency pursuant to a written court order, subpoena, regulatory demand, or process of law, the receiving Party must, unless prohibited by applicable law, first provide the disclosing Party with prompt written notice of such requirement and, at the disclosing Party's reasonable expense, reasonable cooperation to the disclosing Party should it seek reasonable protective arrangements for the production of such information. The receiving Party will (i) take reasonable steps to limit any such provision of information to the specific information required by such court or agency, and (ii) continue to otherwise protect all information disclosed in response to such order, subpoena, regulation, or process of law.

e.

A receiving Party's obligations with respect to any particular information of a disclosing Party shall remain in effect, including after the expiration,

termination or cancellation of this Agreement, until such time as it qualifies under one of the exceptions set forth in clauses (c) or (d) above. Notwithstanding anything to the contrary herein, Provider's customer information shall remain confidential indefinitely and shall never be disclosed or used without the prior written approval of an authorized representative of Provider.

#### 19. NO WARRANTIES AND CUSTOMER ASSUMPTION OF RISK

Customer understands and agrees that Provider makes no warranties for any of the software or hardware provided or used by LogicomUSA or Customer in connection with LogicomUSA's provision and Customer's receipt of any LogicomUSA Services ordered by Customer pursuant to the terms of the Agreement. LogicomUSA does not warrant the interoperability of any particular Customer premises equipment (including VoIP-related telephones and equipment) with any LogicomUSA Equipment. Customer further acknowledges that Provider does not warrant the security, reliability, integrity or other characteristics of the data or equipment relating to Provider's LogicomUSA Services and Customer's use thereof; LogicomUSA does not warrant that the LogicomUSA Services will meet the Customer's requirements or that the LogicomUSA Services can or will prevent unauthorized access by third parties or misuse or fraud by Customer or its employees or agents.

PROVIDER MAKES NO WARRANTIES, EXPRESS OR IMPLIED, FOR THE PROVIDER SERVICE(S) (INCLUDING LogicomUSA SERVICES, LogicomUSA EQUIPMENT AND ANY CUSTOMER PREMISE EQUIPMENT, SERVICES, SOFTWARE, HARDWARE OR OTHER MATERIAL USED, LICENSED OR PROVIDED BY PROVIDER) PROVIDED UNDER THIS AGREEMENT AND SPECIFICALLY DISCLAIMS ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, USE, OR NON-INFRINGEMENT. CUSTOMER ACKNOWLEDGES THAT PROVIDER IS NOT THE MANUFACTURER OF ANY EQUIPMENT. PROVIDER DOES NOT WARRANT THAT THE LogicomUSA SERVICE(S) WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT THE LogicomUSA SERVICE(S) WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE LogicomUSA SERVICE(S) WILL PREVENT UNAUTHORIZED ACCESS BY THIRD PARTIES. THE LogicomUSA SERVICES AND ANY MATERIALS, SOFTWARE, OR LogicomUSA EQUIPMENT ARE SUPPLIED "AS IS" TO

THE FULLEST EXTENT PERMITTED BY LAW. PROVIDER EXERCISES NO CONTROL OVER, AND HEREBY DISCLAIMS ANY RESPONSIBILITY FOR, THE ACCURACY AND QUALITY OF ANY INFORMATION TRANSMITTED WITH THE USE OF THE LogicomUSA SERVICE(S). CUSTOMER HEREBY EXPRESSLY ASSUMES THE RISK OF ITS OR ITS CUSTOMERS' USE OF ANY INFORMATION TRANSMITTED VIA THE LogicomUSA SERVICE(S).

THE PARTIES AGREE THAT NEITHER PARTY IS LIABLE TO THE OTHER FOR SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, RELATED TO OR ARISING OUT OF A PARTY'S PERFORMANCE UNDER THIS AGREEMENT. ACCORDINGLY, PROVIDER IS NOT RESPONSIBLE FOR ANY DAMAGES INCURRED BY CUSTOMER OR CUSTOMER'S END-CLIENT(S) DUE TO SERVICE ISSUES.

THE PARTIES FURTHER AGREE THAT THE MAXIMUM LIABILITY OF PROVIDER TO CUSTOMER FOR ANY REASON AND UPON ANY CAUSE OF ACTION RELATED TO THE PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT, WHETHER IN TORT OR IN CONTRACT OR OTHERWISE, SHALL BE LIMITED TO THE AMOUNT ALREADY PAID BY CUSTOMER TO PROVIDER UNDER THIS AGREEMENT DURING THE ONE (1) YEAR PERIOD PRIOR TO THE EVENT THAT GIVES RISE TO A CUSTOMER CLAIM AGAINST PROVIDER, WITH THE MAXIMUM REFUND OR CREDIT BEING THE AMOUNT ALREADY PAID FOR THE PARTICULAR SERVICE IN QUESTION AND FOR

THE PARTICULAR ACCOUNT, SUB-ACCOUNT AND/OR DEVICES IN QUESTION DURING SUCH ONE (1) YEAR PERIOD.

CUSTOMER IS DIRECTLY RESPONSIBLE FOR ALL FEES AND CHARGES RELATED TO FRAUD, ERRONEOUS PORTS, AND 911 AND EMERGENCY SERVICE- RELATED ISSUES AND ERRORS.

## 20. NOTICES

Any legal notice or communication under the Agreement must be in writing to the Parties (i) in the case of Provider, at the address set forth below, and (ii) in the case of Customer, at the address set forth in the applicable Service Order, or in the case of clauses (i) and (ii) above, at such other address as may be notified in writing by either Party to the other in accordance with this Section 17, and shall be deemed to have been received by the addressee: (i) immediately upon receipt for hand delivery; (ii) the first business day following dispatch for overnight courier services; or (iii) the second business day after deposit in the mail for registered or certified mail, postage prepaid and return receipt requested. Each Party, in its sole discretion, shall have the right to provide the other with notices regarding the LogicomUSA Service or any related subject matter of this Agreement via email which, for the avoidance of doubt, shall be deemed written notice and received by the receiving Party when sent by the sending Party unless the Party which is the intended recipient of the notice can prove otherwise.

Provider address:

LogicomUSA  
2560 US Highway 22  
Number 167  
Scotch Plains, NJ 07076  
billing@logicom.center

Any Party may from time to time specify a different address by notice to the other Party. Any notice is considered given as of the date delivered.

## 21. GOVERNING LAW; JURISDICTION AND VENUE

This Agreement is governed by the laws of the State of New Jersey and the United States without regard to conflicts of laws provisions thereof, and without regard to the United Nations Convention on the International Sale of Goods. The exclusive jurisdiction and venue for judicial actions related to the subject matter hereof shall be the state courts located in Union County, New Jersey or the United States District Court for the Northern District of New Jersey, and both Parties submit to the personal jurisdiction of these courts.

## 22. COMPLIANCE WITH LAWS; ACCEPTABLE USE POLICY

The Parties will comply with all applicable federal, state, county and local laws, rules, regulations and orders that apply to it, its operations and facilities.

Customer agrees to comply fully with all relevant export laws and regulations of the United States, including but not limited to the U.S. Export Administration Regulations, administered by the Department of Commerce,

Bureau of Industry and Security. Customer also expressly agrees that Customer shall not export, directly or indirectly, re-export, divert, or transfer any portion of LogicomUSA Services or any direct product to any destination, company, or person restricted or prohibited by U.S. export controls.

Customer may use LogicomUSA Services only for lawful, proper and appropriate purposes and otherwise in compliance with LogicomUSA's Acceptable Use Policy as set forth at [www.logicom.center/legal](http://www.logicom.center/legal) as may be modified from time to time (LogicomUSA's "AUP"). Given that LogicomUSA may make modifications to its AUP from time to time, Customer is encouraged and expected to frequently revisit LogicomUSA's AUP located at [www.logicom.center/legal](http://www.logicom.center/legal).

If LogicomUSA believe that Customer has used LogicomUSA Services for an unlawful purpose, LogicomUSA may forward the relevant communication and other information, including Customer's identity, to the appropriate authorities for investigation and prosecution. Customer consents to our forwarding of any such communications and information to these authorities. In addition, Customer hereby agrees that LogicomUSA may disclose Customer's name, telephone number, credit card information, and other personal information, any communications sent or received by Customer, and any other information that LogicomUSA may have about Customer's account, including but not limited to, types of service, length of service, MAC address(es), IP address(es), email address(es), registered 911 address, and all other account information, as follows:

In response to law enforcement or other governmental agency requests;

As required by law, regulation, rule, subpoena, search warrant, or court order;

As necessary to identify, contact, or bring legal action against someone who may be misusing the LogicomUSA Services;

To protect LogicomUSA's rights and property; or

In emergency situations where disclosure of such information is necessary to protect LogicomUSA customers or third parties from imminent harm.

### 23. NO WAIVER OF RIGHTS

Provider's failure to exercise or enforce any right or provision of this Agreement will not constitute a waiver of the right or provision. Provider reserves all of its rights at law and equity to proceed against anyone who uses its services or equipment illegally or improperly. All determinations by Provider under this Agreement and exercise of its rights are made and done in our sole and absolute discretion.

### 24. SURVIVAL

The provisions of this Agreement that by their sense and context are intended to survive the termination or expiration of this Agreement shall survive.

### 25. THIRD PARTY BENEFICIARIES

If you are not a party to this Agreement, you do not have any remedy, claim, liability, reimbursement, or cause of action. This Agreement does not create any third party beneficiary rights.

## 26. SEVERABILITY

If any part of this Agreement is legally declared invalid or unenforceable, all other parts of this Agreement will remain valid and enforceable. Any particular invalidity or non-enforceability will not invalidate or render unenforceable any other portion of this Agreement.

## 27. PROVIDER MODIFICATIONS TO THESE TOS

Provider reserves the right, in its sole discretion, to modify these TOS any time and, other than as specifically set forth below, effective immediately, by posting a notice on the Website (which includes changing the 'Effective Date' referenced at the top of these TOS), or by sending You a notice via postal mail or electronic mail to Your registered administrator, as listed in Your main account located on Your Customer's Dashboard. You shall be responsible for reviewing and becoming familiar with any such modifications. Your use of the Website or the LogicomUSA Services following such notification constitutes your acceptance of the terms and conditions of these TOS as modified; provided, however, that with respect to Your use of LogicomUSA Services which are subject to a Service Order already in existence at the time of such modifications, any modification to the fees or costs of such Services shall be governed by the terms and conditions of Section 3 of these TOS.

## 28. ENTIRE AGREEMENT

This Agreement, together with the Service Order(s) identifying the service selections made by Customer and any attachments or amendments hereto, constitutes the entire agreement between the Parties pertaining to the subject matter hereof, and any and all written or oral agreements heretofore existing between the Parties with respect to the subject matter hereof are expressly canceled. Each Party acknowledges that it is not entering into this Agreement on the basis of, and has not relied on, any representations of the other Party not expressly contained herein.