

BLUIP EQUIPMENT SUBSCRIPTION AGREEMENT TERMS AND CONDITIONS

CONFIDENTIAL

These BluIP Equipment Subscription Terms and Conditions (“Equipment Subscription Terms and Conditions”) govern, supplement and are hereby made a part of the BluIP Equipment Subscription Agreement, including all schedules, addendum, exhibits, linked urls and the like (“Agreement”) and describe the terms and conditions under which the named customer on the applicable Service Order (“Customer”) procures a Subscription to Equipment. Defined terms are as set forth herein, in the BluIP Equipment Subscription Agreement, or are as commonly understood in the telecommunications industry. In the event of discrepancy between these Equipment Subscription Terms and Conditions

WITHOUT LIMITING THE EFFICACY OF THE AGEEMENT, BY SIGNING THESE EQUIPMENT SUBSCRIPTION TERMS AND CONDITIONS TERMS AND CONDITIONS, OR A DOCUMENT THAT INCORPORATES THESE EQUIPMENT SUBSCRIPTION TERMS AND CONDITIONS TERMS AND CONDITIONS, PARTNER EXPRESSLY AGREES TO FOLLOW AND TO BE BOUND HEREBY. THESE EQUIPMENT SUBSCRIPTION TERMS AND CONDITIONS TERMS AND CONDITIONS INCLUDE THE APPLICABLE BLUIP POLICIES WHICH ARE HEREBY INCORPORATED. THE BLUIP POLICIES ARE LOCATED AT [HTTP://WWW.BLUIP.COM/LEGAL](http://www.bluip.com/legal) OR ARE ACCESSIBLE BY CLICKING “POLICIES.” THE BLUIP POLICIES APPLICABLE TO THIS AGREEMENT ARE THE BLUIP: [ACCEPTABLE USE POLICY](#) OR “AUP,” [TERMS OF USE](#) AND [PRIVACY POLICY](#). PLEASE READ ALL DOCUMENTS COMPRISING THE AGREEMENT CAREFULLY. THE PERSON ENTERING INTO THE AGREEMENT, ON BEHALF OF PARTNER, CONFIRMS, WARRANTS AND REPRESENTS THAT THEY HAVE READ AND UNDERSTAND THE AGREEMENT, INCLUDING ALL OF ITS TERMS AND CONDITIONS, AND HAVE THE AUTHORITY TO BIND PARTNER AND ITS RELATED PARTIES HERETO.

1. FEES AND PAYMENTS.

1.1. Fees.

1.1.1. **Payment Terms.** Customer shall pay BluIP for all charges under a Service Order at the rates and currency set forth in such Service Order. Except as otherwise provided in an applicable Service Order, Customer is obligated to meet the Minimum Commitment Fees. All amounts owed by Customer are due and payable upon receipt of BluIP’s invoice, and shall be past due thirty (30) days or more from and after the date of the invoice.

1.1.2. **Rates, Rate Changes and Permitted Reduction.** Rates as specified in Service Orders are subject to Customer’s fulfillment of the Initial Subscription Term and the Minimum Commitment Fees (if any Minimum Commitment Fees are specified) under the applicable Service Order. If Customer does not fulfill the Initial Subscription Term (and/or any Minimum Commitment Fees, if applicable), Customer Rates will accrue at 100% of list subscription price for month-to-month Subscription Terms. BluIP may change the rates for any Services effective upon commencement of a Renewal Subscription Term as stated in the Agreement, and if not herein stated then upon ninety (90) days’ Notice to Customer prior to the expiration of the then-current Subscription Term, provided that third-party-based usage fees, or other carrier-based fees, may change from time-to-time during a Subscription Term, without advance notice to Customer.

1.1.3 **Shipping and Handling** BluIP shall ship the Equipment. Additional charges shall apply for shipping, insurance and special handling and administrative support, all of which charges shall be borne by Customer pursuant to the payment terms hereunder. Unless otherwise agreed by the parties, wireless switch and switch-related Equipment shall be shipped to the installation site(s). Other wireless Equipment will be shipped to Customer’s designated initial delivery location. Customer shall be responsible for the coordination of delivery arrangements required to comply with project schedule dates and for freight, insurance, handling and any other applicable

charges from Customer’s initial delivery location to the installation sites.

1.2. **Payment Amounts.** Customer is responsible to pay non-recurring charges and recurring monthly charges set forth in the Service Order (the “Non-Recurring Charges” and “Monthly Recurring Charges,” respectively). Charges may include amounts in respect of the following: Equipment and/or Professional Services and other charges required to complete the construction, activation, set-up or provisioning of any local access facilities, and all other charges set forth in an SOW or a Service Order or otherwise agreed in writing by the parties. Other than with respect to Monthly Recurring Charges comprising any part of Cancellation Fees, Monthly Recurring Charges in respect of Equipment, provided for only a portion of the first and/or last month of the then-current Subscription Term, and/or unless otherwise required by third party, will be prorated. All payments shall be made without set-off or counterclaim.

1.3. **Taxes.** All payments, charges, fees, or quotations for Equipment are net of applicable Taxes. Customer will be responsible for payment of all such Taxes, and all fees to recover expenses and pay deficits, late fees, and all other liabilities incurred by BluIP related to its collection of such Taxes and compliance with related regulations. To that end, Customer shall indemnify and hold BluIP harmless for Customer’s failure to pay Taxes as and when due. If either Customer or BluIP is required by applicable Law to make any deduction or withholding from any payment due hereunder to BluIP, then the gross amount payable by Customer to BluIP will be increased so that, after any such deduction or withholding for such Taxes, the net amount received by BluIP will not be less than the amount BluIP would have received had no such deduction or withholding been required. BluIP may pay Taxes on Customer’s behalf and, list such Taxes on the applicable invoice. Customer shall be responsible for reimbursing BluIP, in accordance with the payment terms applicable to the subject invoice, in the event BluIP has remitted Taxes on Customer’s behalf.

1.4. Governing Payment Terms. Only the terms and conditions of the Agreement, including the Service Orders, shall govern the payment terms and fee requirements in respect of the Equipment. Language in any ordering document, payment authorization document or document originally generated by Customer to BluIP with respect to the Equipment, shall be deemed to be for Customer's internal use only, and the provisions thereof shall have no effect whatsoever upon the terms and conditions of the Agreement or the provision of Equipment. BluIP reserves the right to recover bank and/or finance fees related to payments when such payments are not made as per the remittance instructions on BluIP's invoice.

1.5. Late Payments. If a payment due by Customer to BluIP under the Agreement is not received by the due date as set forth above, BluIP may charge, and Customer shall pay: (a) a late charge equivalent to the lesser of: (i) 1.5% per month; or, (ii) the maximum rate permitted by applicable Law on past due balances until paid in full; and (b) any additional charges or expenses incurred by BluIP in recovering outstanding amounts due under the Agreement (including, without limitation, any legal costs and expenses and/or the cost of engaging a debt recovery agent). Customer shall immediately inform BluIP if the address where the Equipment is installed or used has changed. Customer acknowledges that pricing may result in adjustments and/or Support (if any), when Equipment is relocated. BluIP shall bill Customer at the address set forth in the applicable Service Order, or such other billing address that has been previously provided to BluIP in writing. BluIP shall make good faith efforts to modify future invoices to reflect the correct billing entity or address within sixty (60) days of Customer's written request therefor. Customer is responsible to timely pay all invoices, including those that have been sent prior to Notice from Customer to modify Customer's billing address, even if any such invoice has been sent to a prior billing address.

1.6. Billing Disputes. If Customer disputes any portion of a BluIP invoice, Customer must: (a) pay the undisputed portion of the invoice in accordance with the Equipment Subscription Agreement; and (b) within thirty (30) days of the date of the invoice giving rise to the dispute, submit a written claim to billing@bluip.com regarding the disputed amount, setting forth the particulars thereof.

2. Termination/Remedies.

2.1. Default. Each of the following events shall be deemed a "Default" under the Agreement. Without waiver of any other remedies each party may have at law or in equity, upon a Default, the non-defaulting party may terminate the Agreement or suspend a subscription. A "Default" is: (a) any failure of Customer to pay any undisputed amounts as provided in the Agreement; (b) a party's termination or suspension of its business or its insolvency; or, (c) a party's material breach of the Agreement; provided, however, that unless otherwise stated under the Agreement, a party will not terminate the Agreement or any subscription, or suspend a subscription for the other

party's Default unless such Default continues for more than thirty (30) days following the date of Notice thereof to such other party, or ten (10) days following the date of such Notice, in the case of failure to pay money.

2.2. Termination/Suspension. Notwithstanding the foregoing, Customer shall also be in Default, and BluIP shall have the right to immediately terminate or suspend the subscription, without Notice, other notice or cure period, upon any violation by Customer of an applicable Law affecting the use of Equipment or performance of Customer's obligations of security, confidentiality, intellectual property, and/or as under the [AUP](#). BluIP also reserves the right to immediately suspend or terminate a subscription, without Notice, other notice or cure period, in the event of any governmental prohibition or required alteration of the Equipment, or in any existing or anticipated circumstance where compromise to the Equipment, BluIP's network, injury to people or damage to property is reasonably possible. BluIP shall affect such suspension if BluIP determines, in good faith, that no other commercially reasonable actions will adequately protect such people, facilities, systems or property.

Notwithstanding any other provision of the Agreement, if BluIP cancels or terminates a subscription due to a Default of Customer, such cancellation or termination shall apply to an individual Service Order, multiple Service Orders or the Agreement in its entirety, as determined by BluIP in its sole discretion.

2.3. Termination by Customer for Cause. Customer may cancel or terminate the Agreement without payment of any Cancellation Fees solely because an uncured (if capable of cure) Default of BluIP pursuant to this Section.

2.4. Cancellation.

2.4.1. Cancellation Fees. If any of the Services provided pursuant to a Service Order is canceled or terminated during the Initial or Renewal Subscription Term of such Equipment: (a) by (i) Customer for any reason other than for a Default by BluIP; or (ii) by BluIP due to Customer's Default then, (b) Customer shall pay to BluIP, no less than the following sums (such sums to be known as "Cancellation Fees").

2.4.2. Amount. (a) Cancellation Fees shall be equal to the sum of: (i) all unpaid (A) Non-Recurring Charges; and, (B) Monthly Recurring Charges for Equipment specified in the applicable Service Order(s) through the date of termination, and as further set forth in the below subsection (c); (ii) one hundred percent (100%) of all Monthly Recurring Charges for canceled or terminated Equipment specified in the applicable Service Order(s) through the balance of the then-current Subscription Term of the applicable Service Order; and, (iii) all fees related to the canceled or terminated subscription that BluIP is charged by each third party including without limitation, all termination charges due to any and all third party service providers. BluIP will use commercially reasonable efforts, but is not otherwise

obligated to avoid or abate such third party charges. (b) Such third party fees will not be separately or additionally charged if they are included in Non-Recurring or Monthly Recurring Charges to be paid under this Section (Cancellation Fees). (c) Cancellation Fees shall accrue and be payable as of the effective date of cancellation or termination, and shall be payable by Customer within thirty (30) days therefrom; for purposes of clarity, Monthly Recurring Charges, for purpose of calculating Cancellation Fees, shall be deemed to be the full list, retail or month-to-month charges, regardless of Customer's Term or other discount employed in the applicable Service Order.

2.4.3. No Penalty. The parties agree that Cancellation Fees: (a) constitute liquidated damages, not a penalty; (b) such damages bear a reasonable and appropriate relationship to the range of harm arising from cancellation; (c) such damages have been reasonably anticipated by the parties as of the Effective Date; and, (d) actual damages for such harm may be costly, inconvenient or difficult to prove or foresee. The parties further agree that payment of Cancellation Fees shall be in lieu of any actual damages arising solely from a termination of the Agreement. For any termination of the Agreement by Customer, for BluIP's Default pursuant to Section 5.1(a) or Section 5.3, Customer shall have no obligation to BluIP for payment of Cancellation Fees; provided, however, that in no event shall Customer be relieved of any obligations and/or liabilities, nor shall BluIP be deemed to have waived its rights and remedies related to: fees for Equipment and Professional Services performed as of the date of subscription termination; other Defaults that had occurred prior to such termination of the Agreement; or, any other obligations or liabilities that survive the termination of the Agreement.

2.4.4. Notice of Cancellation. Customer will provide notification of cancellation to BluIP by electronic mail to disconnect@bluip.com, or by Notice. Subscriptions will be cancelled the later of: (a) thirty (30) days following the date the BluIP disconnect department has received such notification; or, (b) the cancellation date provided by Customer, in such notification. Customer acknowledges that third party providers may not necessarily, and Customer will be responsible for all charges arising from such third parties that do not, cancel subscriptions commensurate with BluIP's cancellation of the subscriptions as above set forth in this Section.

3. Limitation of Liability and Warranties.

3.1. Title and risk of loss for Equipment shall pass from BluIP to Customer upon delivery to the carrier.

3.2 Limitation of Liability. NEITHER PARTY, NOR ANY OF ITS RELATED PARTIES, SHALL BE LIABLE TO THE OTHER PARTY OR TO THE OTHER PARTY'S RELATED PARTIES, WHETHER FOR BREACH OF CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, COSTS, EXPENSES OR LIABILITY (INCLUDING, WITHOUT LIMITATION, FOR

ANY DAMAGES, COSTS, EXPENSES OR LIABILITY THAT ARE INCURRED BY A PARTY DUE TO PRODUCT LIABILITY, LOST DATA, LATENCY, LOSS OF CONNECTIVITY, TRANSMISSION OF MALICIOUS CODE, LOST REVENUES, LOST PROFITS, LOST CUSTOMERS, LOSS OF GOODWILL, REPLACEMENT COSTS, LOSS OF ACCESS TO THE EQUIPMENTS), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THE DAMAGES ARE OTHERWISE FORESEEABLE. OTHER THAN AS EXPRESSLY SET FORTH IN THIS SECTION, THE CUMULATIVE, AGGREGATE LIABILITY OF A PARTY, AND ALL OF ITS RELATED PARTIES, UNDER THE AGREEMENT SHALL BE DIRECT DAMAGES IN AN AMOUNT NOT TO EXCEED THE FEES PAID TO BLUIP FOR THE EQUIPMENT THAT ARE THE SUBJECT OF THE DISPUTE WHICH FEES HAVE PAID TO BLUIP DURING THE TWELVE MONTHS IMMEDIATELY PRIOR TO THE COMMENCEMENT OF THE DISPUTE. NOTWITHSTANDING THE FOREGOING, NONE OF BLUIP SUPPLIERS OR THEIR RELATED PARTIES OR SUPPLIERS WILL BE LIABLE TO CUSTOMER OR ITS RELATED PARTIES FOR DAMAGES OR LIABILITY OF ANY KIND ARISING UNDER THE AGREEMENT.

3.2.1. Exceptions. THIS LIMITATION OF LIABILITY SHALL NOT OPERATE SO AS TO: (a) LIMIT OR REDUCE: (i) THE AMOUNTS PAYABLE AS CANCELLATION FEES; (ii) ANY AMOUNTS DUE AND PAYABLE UNDER UNCONTESTED INVOICES; NOR, (iii) OTHER CHARGES DUE AND PAYABLE BY CUSTOMER TO BLUIP; OR, (b) LIMIT LIABILITY FINALLY DETERMINED TO HAVE RESULTED FROM A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

3.2.2. Emergency Calling Liability Disclaimer. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THE AGREEMENT, NEITHER BLUIP, NOR ANY OF ITS RELATED PARTIES WILL HAVE ANY LIABILITY TO CUSTOMER, ANY OF CUSTOMER'S RELATED PARTIES, USERS OR OTHER PERSONS WHERE THE CLAIMS ARISE OUT OF, RELATE TO OR ARE CAUSED BY THE INABILITY OF CUSTOMER, USERS OR ANY OTHER PERSON OR PARTY TO DIAL, REACH OR ACCESS ANY EMERGENCY CALLING SERVICES, INCLUDING 911, INCLUDING CALLING SUCH EMERGENCY PERSONNEL THROUGH ANY OF THE EQUIPMENT PROVIDED BY BLUIP.

3.3. Warranty Disclaimer. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THE AGREEMENT, BLUIP AND BLUIP ON BEHALF OF ITS RELATED PARTIES AND OTHER SUPPLIERS, DISCLAIMS ALL WARRANTIES. THE EQUIPMENT, SOFTWARE, AND PROFESSIONAL SERVICES ARE PROVIDED TO CUSTOMER ON AN "AS IS" "WHERE IS" AND "AS AVAILABLE" BASIS WITHOUT WARRANTY OF ANY KIND EITHER EXPRESS OR IMPLIED, INCLUDING BUT

NOT LIMITED TO THOSE RELATED TO ACCURACY, DURABILITY, OR WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR THOSE ARISING FROM COURSE OF DEALING, CUSTOM USAGE OF TRADE OR PRIOR DEALING. BLUIP MAKES NO REPRESENTATIONS OR WARRANTIES THAT USE OF THE EQUIPMENT WILL BE UNINTERRUPTED, TIMELY, COMPLETE, OR ERROR-FREE. CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY INFORMATION OR ADVICE GIVEN OR PROVIDED BY BLUIP, OR BLUIP'S RELATED PARTIES, SHALL NOT BE DEEMED TO CREATE OR IN ANY WAY, INCREASE THE SCOPE OF THE WARRANTIES SET FORTH HEREIN, AND THAT CUSTOMER SHALL NOT RELY ON ANY SUCH INFORMATION OR ADVICE.

4. INTELLECTUAL PROPERTY

Copyright / Trademark / Unauthorized Use of Equipment or Software. The Software, Equipment, other devices and any other firmware or software used to provide the Equipment are provided to Customer in conjunction with providing the Equipment or other devices, and all services, information, documents and materials on BluIP's website(s), or otherwise provided, obtained or accessible are protected by trademark, copyright or other intellectual property Laws and international treaty provisions and all other applicable Laws. All Marks are and shall remain the exclusive property of BluIP, or its respective Related Party, and nothing in the Agreement shall grant Customer the right to license, remove, modify or otherwise use any Marks, unless expressly set forth in the Agreement.

5. ASSIGNMENT AND SUCCESSORS IN INTEREST.

5.1. **Assignment.** Customer may not assign the Agreement without the prior written consent of BluIP (which consent shall not be unreasonably withheld or unduly delayed), except that either party may assign the Agreement with prior Notice to the other party, but without the other party's prior written consent, or any part or parts thereof, and have its rights and obligations assumed thereunder: (a) to any Affiliate of the assigning party; (b) pursuant to any sale or transfer of the majority of the issued and outstanding capital stock or controlling interest of such party; (c) pursuant to any sale or transfer of all or substantially all of the assets of said party; or, (d) pursuant to any merger or other consolidation, restructuring or reorganization; provided that absent the written consent of BluIP, any assignment of Customer under this Section shall not relieve Customer of its responsibility for any and all liabilities incurred and payment obligations undertaken prior to such assignment.

5.2. **Terms Inure.** The perspective terms, covenants and conditions contained in the Agreement shall bind and inure to the benefit of the parties and their respective administrators, successors and assigns.

6. COMPLIANCE.

6.1. **Compliance with Laws.** Each party is responsible for complying with all Laws applicable to their activities pertaining to the provision and use of the Equipment and Professional Services and in performing their obligations under the Agreement. The Agreement is subject to all Laws and regulations, rulings, orders, and other actions of government agencies and judiciary having authority over the Agreement, the parties hereto, the Equipment, the Professional Services or any matter related hereto or thereto. All Equipment and Professional Services provided to Customer are subject to Customer's compliance with all applicable Laws in each country where such is provided by BluIP. Without limiting anything contained in the Agreement, in the event of any violation of Law by, or liability that results from actions or inactions of Customer, with respect to this Section (Compliance), Customer shall Indemnify BluIP in accordance with the Indemnification procedures under the Equipment Subscription Agreement.

6.2. **Ethical Compliance.** Customer understands that: (a) BluIP is committed to acting in accordance with the highest level of business and professional ethics in connection with the promotion, marketing, distribution and other exploitation of the BluIP offerings under the Agreement; and, (b) at all times under the Agreement, Customer shall act in accordance with the foregoing ethical standards. Various Laws have created standards of such compliance. Such Laws include: Foreign Corrupt Practices Act the U.K. Bribery Act, the OECD Convention on Combating Bribery of Public Officials in International Business and the UN Convention Against Corruption. Without limiting anything contained in the Agreement, Customer warrants that it shall comply with such Laws, as applicable.

6.3. **Modifications as a Result of Change of Law.** If any applicable present or future government authority, Law or the like requires a modification or waiver of any term of the Agreement, the parties will promptly and in good faith undertake the actions required by such Law, authority or the like.

7. INDEMNITY.

7.1. **Indemnification.** Customer shall Indemnify BluIP for any claim, loss, or damage arising in connection with Customer's (a) use of the Equipment and Professional Services; and, (b) or Users and/or its Related Parties': (i) violation of applicable Law; or, (ii) other violation of the Agreement.

7.2. **Mitigation and other Duties.** BluIP shall take all reasonable steps to mitigate any potential expenses and shall provide Customer with: (a) prompt Notice of any such claim or actions, or possibility thereof upon becoming aware of the same; (b) all relevant information (subject to confidentiality restrictions BluIP owes to third parties), (c) sole control, authority and reasonable assistance to settle or defend such claim or action. Notwithstanding the foregoing, BluIP shall have the right to retain counsel of its own choice, at its own

expense, in respect of the subject of the Indemnification, for purposes including services as co-counsel or to monitor the defense provided by Customer's appointed counsel. BluIP shall have the right to approve counsel selected by Customer, which approval shall not be unreasonably withheld or delayed. Such right of approval shall continue through the duration of representation under this Section [SM], such that if at any time, the actions or inactions of such counsel are not acceptable to the BluIP for material cause, as determined by the BluIP in its prompt, prudent, reasonable and good faith discretion, BluIP may request replacement of such counsel. BluIP shall have the right to approve any replacement counsel, which approval shall not be delayed, or unreasonably withheld or denied.

8. IMPORT AND EXPORT RESTRICTIONS. The parties acknowledge that the Software and Equipment, other software technical data and other intellectual property provided hereunder may be subject to import, export and re-export controls under the U.S. Export Administration Regulations, certain regulations under the Office of Foreign Assets Control of the U.S. Department of Commerce and regulations of other countries or governments. Neither party shall export or re-export any Software and Equipment, other software, technical data or intellectual property, or undertake any transaction in violation of any export and import Laws, and each party, on behalf of itself and each Related Party, shall be responsible for its respective compliance with all such Laws.

9. MISCELLANEOUS.

9.1. Severability, Headings and Defined Terms. If any provision of the Agreement is held by a court to be invalid, void or unenforceable, the remainder of the Agreement shall nevertheless remain unimpaired and in effect. The headings stated in the Agreement are for convenience of reference only, and shall not have any bearing on the construction or interpretation hereof. Defined terms shall have the meanings defined in the Definitions Section and otherwise throughout the Agreement, or as commonly understood in the technology industry. Terms defined in the plural shall have the same meaning when used in the singular, and vice versa; terms defined as one type of word (noun, verb, adverb, adjective, etc.) shall have the same meaning as all types of that word. Failure to use the appropriate defined term will not defeat the meaning of the term if it is reasonably understood to be the same as the capitalized term.

9.2. Relationship of the Parties. Each party is an independent contractor, not an employee or employer of the other party. No license (except to the extent expressly granted under the Equipment Subscription Agreement), joint venture or partnership, express or implied, is granted by BluIP pursuant to the Agreement.

9.3. Confidentiality.

9.3.1 Protection. Each party agrees to maintain in confidence the Confidential Information of the other party that is disclosed

under the Agreement and shall not use the Confidential Information for any purpose other than in connection with the exercise of its rights and obligations under the Agreement. Without limiting the foregoing, each recipient of Confidential Information of the party shall: (a) protect the confidentiality of such Confidential Information using the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care) to prevent unauthorized use or disclosure; and, (b) not disclose Confidential Information to any person, other than an employee, Related Party, consultant or agent of such recipient party with a need to know such Confidential Information, and who or which is bound by terms at least as restrictive as those set forth herein.

9.3.2. Exceptions. Obligations of confidentiality shall not apply to disclosed information that (a) the recipient: (i) already possessed without legal or codified obligation of confidentiality; (ii) develops independently without use of the other party's Confidential Information; or, (iii) rightfully receives from a third party without legal or codified obligation of confidentiality; or, (b) becomes publicly known or available through no breach of the Agreement by recipient.

9.3.3. Required Disclosures. Notwithstanding anything contained in this Section ("Confidentiality"), either party may disclose information of the other party to a government authority pursuant to a judicial, legislative, or regulatory subpoena, order or proceeding; provided that recipient shall: (a) notify discloser of any duty to disclose, affording opportunity for discloser to take protective actions (except to the extent notice is prohibited by Law); and, (b) disclose only as much of the Confidential Information as required, maintaining all proprietary notices applicable to such Confidential Information.

9.3.4. Return of Information. Upon written request in connection with the expiration or termination of the Agreement, each party shall promptly deliver to the other party or destroy all copies of such other party's Confidential Information. Notwithstanding the foregoing, recipient may retain an archival record of Confidential Information to the extent required pursuant to applicable Law subject to recipient's compliance with the remaining terms of this Section ("Confidentiality").

9.3.5. Equitable Relief. In the event of a recipient's breach of the Agreement, the disclosing party may suffer irreparable harm and have no adequate remedy at Law. In such event, or when encountering risk of such event, without limiting any other of its rights and remedies, the disclosing party shall be entitled to seek injunctive relief, to seek specific performance, and to seek other equitable remedies without the need to prove monetary damages or the inadequacy of other remedies.

9.4. Professional Services. BluIP will perform Professional Services (i. e. the professional services described in a Statement of Work or Service Order executed by the parties

on a time and materials basis unless otherwise stated in the applicable SOW or Service Order), if any. BluIP shall control the manner by which the Professional Services are performed and may use subcontractors in the performance of the Professional Services. BluIP reserves the right to make all staffing decisions in its sole and reasonable discretion. BluIP warrants that it shall perform the Professional Services in a professional and workperson-like manner. BluIP expressly disclaims all other warranties as set forth under the above Warranty Disclaimer Section. Customer shall make available at no charge all technical data, computer facilities, programs, files, documentation, test data, sample output, office space, equipment and other assistance as reasonably requested by BluIP in the performance of Professional Services. BluIP retains sole and exclusive ownership of all materials created in connection with its performance of the Professional Services, including but not limited to: methodologies; know-how; source and object code; specifications; configurations; designs, architecture; processes; techniques; concepts; discoveries; inventions made or developed; and, all Derivative Works of the foregoing (collectively, "PS Creations"). To the extent, and for any reason the foregoing statement of ownership is not effective, BluIP shall have a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use all PS Creations. Unless otherwise set forth in the Statement of Work, Customer is hereby granted a license to use the PS Creations solely in connection with, and under the same provisions as, its use of the Equipment.

9.5. Force Majeure. Neither party shall be liable for any loss or damage of any kind, or for any consequences resulting from delays or failures to perform by reason, in whole or in part due to consequences Force Majeure. Any such failure or delay shall not be deemed a breach of the Agreement. Any Force Majeure delay or failure shall suspend a Subscription Term until the event of Force Majeure ceases. Each such suspended Subscription Term shall be extended by the length of such applicable suspension.

Notwithstanding the foregoing, a failure to pay money by either party shall not be excused under this Section (Force Majeure) for a period longer than five (5) days.

9.7. Marketing. Customer grants BluIP the right to use Customer's name and logo to identify Customer as a BluIP customer. Subject to prior written approval of content, Customer grants BluIP the right to issue a media release after execution of the Agreement announcing that Customer has become a BluIP customer, and to make other such announcements and place promotion in various publications and media. Except as set forth in a mutually agreed written public statement, Customer will not imply or state that Customer is affiliated with or endorsed by BluIP, publicize the existence of the Agreement or disclose any of its terms.

9.8. No Waiver. The failure by either party to take action to enforce compliance with the Agreement, exercise any right under the Agreement or to give Notice of any breach shall not constitute a waiver or relinquishment of such right. No claim may be asserted by either party against the other party with respect to any event, act or omission that occurred more than two (2) years prior to the assertion of such claim.

9.9. Choice of Laws. The Agreement shall be governed by the Laws of the State of California in and for Los Angeles County, California, and if there is federal jurisdiction, the United States District Court for the Central District of California. Each such venue shall have the personal and exclusive jurisdiction, which such jurisdiction is acknowledged to be proper and convenient; the parties waive any rights to change venue. The UN Convention for the International Sale of Goods shall not apply to the Agreement in whole or in part. In any dispute under the Agreement, in addition to other relief sought or awarded, the prevailing party shall be entitled to recover its cost of bringing and enforcing its claim, including but not limited to attorney fees and costs from the non-prevailing party.

9.10. Notices. "Notices" required pursuant to the Agreement shall comprise the following: a writing, transmitted to the applicable party's address, and will be considered given when delivered and signed for by the recipient where tangible evidence of confirmed delivery is issued. Notices to BluIP must be addressed to BluIP, 410 Rampart Blvd., Suite 460, Las Vegas NV 89145, Attn: Legal Notices. Notices to Customer must be addressed to Customer as set forth on the initial Service Order, or such other address as may be designated in writing by the respective party.

9.11. Non-Exclusivity. The parties' respective obligations under the Agreement are non-exclusive and nothing herein is intended to restrict Customer as to the purchase, resale or use of any other company's equipment, even if such equipment is similar to services provided by BluIP hereunder. Nothing herein is intended to limit BluIP's right to offer Equipment to other customers or end users, even if such customers or end users compete with Customer. Nothing herein is intended to restrict solicitation by BluIP or Customer of any specific or prospective customers or restrict solicitation of any general categories of prospective or existing customers.

9.12. Third Party Beneficiaries. No third-party beneficiary relationships are created by the Agreement.

9.13. Survival. The provisions of the Agreement regarding payment, confidentiality, assignment, definitions, limitation of liability, intellectual property, indemnification and any provision which by its nature should survive, will survive the termination of the Agreement. In the event that any provision of the Agreement is held to be invalid or unenforceable, the remaining provisions of the Agreement shall remain in full force.

9.14. Complete Agreement; Amendment. The

Agreement is composed of this Equipment Subscription Agreement Terms and Conditions, each Service Order, [Policies](#) and all other schedules, exhibits, attachments, addenda and the like, including all documents linked by url and herein incorporated (other than product brochures and other marketing collateral and service descriptions), and together constitutes the complete agreement between the parties. The Agreement supersedes all prior agreements and representations, written or oral, concerning the subject matter of the Agreement. In the event of any conflict between the various documents included in the Agreement, the provisions of the Service Order shall in all respects govern and control. Notwithstanding the foregoing, the provisions, regarding Limitation of Liability, Compliance, Conditions of Regulatory Rules, Acceptable Use and this Section (Complete Agreement) may only be modified in an otherwise controlling document by a direct reference to the sections under the less dominant document that are to be modified by the controlling document. In addition, and in any event, all provisions as amongst the documents comprising the Agreement shall be subject to the rule that specific clauses shall prevail over more general clauses dealing with the same subject matter. In any event, modifications and amendments of the Agreement are effective only by a writing signed by a duly authorized representative of each party. The terms of the

Agreement shall supersede the terms in any Customer purchase order or other ordering document.

9.15. Execution, Digitized Copies, Hyperlinks and urls.

The parties agree that the Agreement, and any part(s) thereof subject to execution, may be executed by any means of signature, including electronic commerce or transmission, including facsimile, email, or acknowledgement through a webpage. The Agreement may be executed in two (2) or more counterparts, each of which is deemed an original, but which together constitute one contract or document. Signed digitized copies of the Agreement and other associated documents, including attachments and amendments shall legally bind the parties to the same extent as original documents. The parties further agree that all of the terms, provisions and conditions comprising a document incorporated by referencing a hyperlink or url in the Agreement shall be fully binding upon the parties as if the linked document were printed and attached to the Agreement.

9.16. Authority to Execute. The individual executing the Agreement on behalf of a party represents and warrants that they have been duly authorized under the party's charter documents and applicable Law to do so.

Schedule 1 to the BluIP Equipment Subscription Agreement Subscription

Definitions

To avoid doubt or confusion in interpreting the Agreement, the following interpretations shall apply under the Agreement. The phrase “Customer will” or “You or “you” will” has the same meaning as “Customer must” or “You or “you” must,” respectively, and the phrase “[party] may” has the same meaning as “[party] has the contractual right to.” Actions described herein as being taken “under the Agreement” must be taken in a manner consistent with the Agreement’s requirements. The words, “purchase”, “sale”, “sell” or “sold” means: (a) with respect to Equipment, any sale, lease, rental or other transfer of such Equipment; (b) with respect to any Software, the granting of a limited license to use the Software; and, (c) with respect to the Professional Services, the provision of a right to access and use such service as permitted by the Agreement for the applicable Subscription Term(s).

Please note that the categories of BluIP offerings in the Service Order do not necessarily correspond to the defined terms. For example, “Type” as identified in the Service Order does not necessarily correspond to the categories of BluIP offerings as defined in this Equipment Subscription Agreement (e. g., “Professional Services” and “Equipment”). In the event of inconsistency, the categories of BluIP offerings, as defined in this Equipment Subscription Terms and Conditions, will prevail and be controlling under the Agreement. Without limiting the foregoing, this order of precedence applies to all Service Orders, such that regardless of any “Type” therein designated, the category of BluIP offering shall be that which is set forth under the Equipment Subscription Agreement.

The following terms used in the Agreement have the meanings given them below:

1. “Affiliate”: Any person or entity that Controls, is Controlled by, or is under common Control with another (with “Control(s)” and “Controlled” meaning ownership of 50% or more of the voting control of any person or entity).

2. “Agreement Term”: The term during which the Agreement is effective. The Agreement Term commences upon Effective Date, and ends upon completion of the subscriptions unless earlier terminated by either party in accordance with the Agreement.

3. “Commencement Date”: The date which is the soonest of: (a) Customer’s first use of the Professional Services or the Equipment; (b) a Support Ticket or other emailed or posted notification, accessible by Customer, indicates that the Equipment has been delivered; (c) the Intended Commencement Date; or (d) upon the elapse of the number of days from and after the execution of the Agreement, as specified in the “Commencement” section of the Agreement. The Commencement Date will be deemed to have occurred regardless of whether the subscription is in a ramp/phase-in

period or fully delivered; provided that unless the parties have agreed to the contrary, during a ramp/phase-in period, the Subscription Term will not have begun to commence upon the Commencement Date until the Equipment is fully delivered. That said, billing shall begin upon the Commencement Date regardless of partial or full delivery of the Equipment.

4. “Confidential Information”: Any information disclosed by one party to the other party, or otherwise learned by the recipient from the discloser, marked "confidential" or disclosed or learned under circumstances that would lead a reasonable person to conclude that the information was confidential. Notwithstanding the foregoing, BluIP Confidential Information includes but is not limited to the terms of the Agreement. Customer Confidential Information includes but is not limited to Customer Data and Sensitive Information. In addition, whether or not marked "confidential" or otherwise identifiable as confidential, the following information shall be deemed Confidential Information of the discloser: inventions, product development plans, education materials, pricing, marketing plans, and customer lists and customer information.

5. “Critical Vendor”: A ‘critical vendor,’ as such term is defined in the Bankruptcy Code, under which the debtor seeks authority to make payment of all or a significant portion of certain vendors’ unpaid pre-petition claims.

6. “Customer Resources”: Any or all of Customer’s data, applications Customer’s or third party’s, equipment, including any remote computers and devices, and any wireless or wired Internet connection and network.

7. “Effective Date”: The effective date of the Agreement (and any incorporated document), which is the date of the last signature of, or as otherwise stated in, the first linking Service Order.

8. “Equipment”: Third party devices and other products provided on a pass-through basis without warranty from BluIP.

9. “Force Majeure”: Delays or failures on performance resulting from acts beyond the control of a party. Such acts include natural or human-made disaster, epidemics, pandemics, war, labor or other governmental or civil controversy, uprising or assembly, Laws effective after the Effective Date, encumbered intellectual property rights, Equipment or third party service blockades, denial-of-service attacks, communication line failures, power failures, fire, theft, shortages, inability to obtain materials, shipping, storage or space, breakdowns, delays or interruptions of carriers and/or other third parties, warehouses, devices, Equipment, manufacturers, or suppliers, including providers of telecommunication services or other facilities.

10. “Indemnify”: (and all forms of the word (e. g. **Indemnification**)): Agreement to indemnify, hold harmless, and defend the other party and its Related Parties from and

against any and all third-party claims, demands, sums of money, actions, rights, causes of action, obligations, allegations and liabilities of any kind or nature whatsoever, and from any resulting liabilities, damages, losses, and costs (including, but not limited to, attorney fees, costs and disbursements) arising from or relating, directly or indirectly, to the use, act, omission, or manner set forth as the subject of and giving rise to the claim.

10. "Initial Subscription Term": The minimum term of a particular Service beginning as of the Commencement Date of such subscription, and continuing for the duration set forth in the applicable Service Order.

12. "Intended Commencement Date": The date set forth in the applicable Service Order as the date the parties reasonably intend the Initial Subscription Term to begin.

13. "Law(s)": All federal, state, provincial, regional, territorial and local laws, statutes, regulations, rules, executive orders, supervisory requirements, directives, circulars, opinions, interpretive letters, treaties, conventions, official releases and the like of any territorial division, of or by any government, or any authority, department or agency thereof or self-regulatory organization ("SRO"). For purposes of the Agreement, Laws shall also include all generally accepted accounting principles ("GAAP") as such principles may be modified during the Term by the Public Company Accounting Oversight Board or other applicable authorities.

14. "Malicious Code" Any virus, worm, trojan horse, spyware, adware, rootkit, scareware, rogueware, ransomware, backdoor, trap door, logic bomb, Disabling Code or similar item intended to cause or capable of causing undesired effects, security breaches and/or damage to a system or a system's contents.

15. "Marks": BluIP's or its Related Party's websites, corporate names, service marks, trademarks, trade names, logos, domain names and the like.

16. "Minimum Commitment Fees": The minimum Fees set forth in a Service Order, defining the scope of Customer's purchase commitment for the Subscription Term. Minimum Commitment Fees may be set forth for a monthly, annual, biannual or other basis. Fees incurred during the period of time per which the Minimum Commitment Fees are assessed in excess of the Minimum Commitment Fees will not roll-over to reduce minimums in any other period. Unless otherwise stated in the Agreement, if Minimum Commitment Fees are set forth on a basis other than monthly, the Minimum Commitment Fees true-up calculations to determine whether the Minimum Commitment Fees have been met will be conducted on a quarterly basis.

17. "Professional Services (or PS)": The professional services described in a Statement of Work or Service Order executed by the parties.

18. "Related Parties": A party's past, present and future officers, directors, employees, and other personnel, agents, insurers, reinsurers, servants, attorneys, parent company, subsidiaries and affiliates.

19. "Renewal Term": Each Subscription Term following the Initial Subscription Term. Each Renewal Term commences upon the anniversary date of the commencement of the Initial Subscription Term, and unless set otherwise set forth in an applicable Service Order, continues for periods equal to one year.

32. "Service Order": The ordering document to be utilized under the Agreement which shall set forth the Professional Services and Equipment ordered, the price, duration of the Initial Subscription Term, the Minimum Commitment Fees, the Intended Commencement Date, and any Equipment-specific terms and conditions ("Business Exceptions"). Each Service Order will be deemed an attachment to and governed by the Equipment Subscription Agreement. The term "Service Order" shall be deemed to include reference to new Service Orders and/or Change Orders.

20. "Software": The firmware, plug-ins and software included in or associated with any Equipment, all updates, upgrades, patches, and fixes thereto and/or Derivative Works thereof

21. "Subscription" or "subscription": Term-based grant, for a specified time to use a specific quantity and type of Equipment all listed in the applicable a Service Order in accordance with the Agreement. Subscriptions exclude non-recurring services such as decommissioning Customer's use of the Equipment, migration of customer data, and storage and retrieval of records associated with Customer's use of the Equipment.

22. "Subscription Term": The Initial Subscription Term and each Renewal Subscription Term, collectively or individually.

23. "Support": The maintenance and support of the Equipment, subject to the then-current BluIP Support terms and policies.

24. "Taxes": Any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including regulatory fees (such as USF), fines, penalties, value-added, use or withholding taxes. Taxes shall not include charges based upon BluIP's income, assets or net worth or that of its employees.

25. "Third-Party Applications": Third party or Customer-developed online, Web-based applications and offline software products that are provided by Customer or third parties, that may or may not interoperate with the Equipment.

26. "User": An individual or a device (a) who/which, subject to the terms and conditions of the Agreement (i) is authorized by Customer; and, (b) for whom/which a subscription has been purchased or selected by Customer to access the Equipment. Users may include employees, consultants, contractors and agents of Customer, BluIP-authorized devices or third parties with which Customer transacts business. A User may be enabled or actual. An enabled User is a unit of the Equipment enabled for use by a User, and deemed a User regardless of whether the User is actually using the Equipment.