

## END USER AGREEMENT

This End User Agreement (the "**Agreement**") is entered into by and between **DIGITRAD FRANCE**, a limited liability company incorporated and existing under the laws of France, with a registered capital of EUR 15.000, registered with the Trade and Companies Registry of Grasse under number B 428 685 168, whose registered offices are located at 630sis, Route des Dolines, Valbonne - Sophia Antipolis - Ophira II - BP 142 - 06903, France, represented by the signatory below acting as duly authorized representative (hereinafter referred to as "**Digitrad**") and you ("**End User**"), (individually or collectively referred to as the "**Party**" or the "**Parties**").

WHEREAS, Digitrad develops software and applications which are commercialized within Digitrad's unified communication platform enabling the automatic treatment of voice, video and data electronic communications.

WHEREAS, End User intends to use the Unified Communication Services.

WHEREAS, the Parties wish to formalize the terms and conditions for purchase and/or license of Unified Communication Services by the End User during the term set forth in the Agreement.

NOW, THEREFORE, THE PARTIES AGREE AS FOLLOWS:

### ARTICLE 1 DEFINITIONS

For the purposes of this Agreement, the definitions set forth in this Article shall apply to the respective capitalized terms:

"**Access Codes**" shall mean a user name and a password designated by the End User when creating a Profile on Digitrad's website, as modified from time to time, enabling registration and identification of the End User in a secured-access area on Digitrad's website.

"**Affiliate**" shall mean any person or entity that, directly or indirectly, controls or is controlled by or is under common control with one Party.

"**Annual Fee**" shall mean the annual service fee for the use of the Unified Communication Platform due by the End User, including the license fee for Software, as specified in the corresponding Order.

"**Digitrad**" shall mean Digitrad and its Affiliates, and their respective officers, employees, agents, representatives, counsels, advisors and sub-contractors.

"**Digitrad IPRs**" shall mean copyrights, patents, trade secrets, and other intellectual property rights therein, including, without limitation, Software, domain names and websites associated to Unified Communication Services and Digitrad's Trademarks.

"**Digitrad's Trademarks**" shall mean Digitrad, Stand4U, Peertelecom, Organip, Yes.tel, Numero multimedia, Multimedia number, and other trademarks as may be notified from time to time by Digitrad.

**"Effective Date"** shall mean the date of this Agreement which is accepted by End User by clicking on the "ACCEPT" button on Digitrad's website or during the Software installation in order to use the Unified Communication Services, as confirmed by Digitrad in the notice sent to the End User in that respect.

**"Enhancements"** shall mean Upgrades and Updates as defined below that may be integrated with the Software or offered for licensing separately by Digitrad and that alter the functionality of the Software or add new functions thereto.

**"Error"** shall mean a defect in the Software that prevents it from performing in any material respect according to its published functionality.

**"Fixed Monthly Costs"** shall mean the ongoing fixed monthly costs due by the End User, as specified in the applicable Order.

**"Maintenance"** shall include namely: (i) general support to End User through the website regarding proper use of Unified Communication Services, and (ii) remote application of Maintenance Modifications, Enhancements and Upgrades.

**"Maintenance Modifications"** shall mean computer software changes provided by Digitrad to be integrated with the Software to correct Errors, but that do not alter the basic functionality of the Software.

**"Object Code"** shall mean the form of Software wherein computer programs are assembled or compiled in magnetic or electronic binary form on software media, which are readable and usable by machines, but not generally readable by humans without reverse-assembly, reverse-compiling, or reverse-engineering.

**"Order"** shall mean the End User's orders for purchase/license of the Unified Communication Services, Software and/or Maintenance submitted to Digitrad in accordance with Article 9 of this Agreement, as accepted and confirmed by Digitrad.

**"Profile"** shall mean an on-line profile created by the End User in a secured-access area on Digitrad's website, containing all End User-related information provided by the End User as requested by Digitrad, as well as information provided by Digitrad regarding the use, ordering, invoicing and provision of the Unified Communication Services.

**"Registration Agreement"** shall mean an agreement to be executed between Digitrad as a provider of the registration services within the registry of the .tel top-level domains and the End-Users wishing to register for such domains.

**"Service Initialization Costs"** shall mean the costs due by the End User relating to the initialization of the use of the Unified Communication Platform, as specified in the applicable Order.

**"Service Use Costs"** shall mean the costs due by the End User for the provision and use of the Unified Communication Services, Software and/or Maintenance, as specified in the applicable Order.

**"Software"** means the Digitrad software in the Object Code form of the software products, including all Maintenance Modifications and Enhancements thereto, which is made available by Digitrad to the End Users of Digitrad's Unified Communication Services and associated Software.

**"Term"** shall mean both the Initial Term and the Renewal Term, as provided in Article 12 of this Agreement.

**"Unified Communication Service"** shall mean all communications initiated or routed through Digitrad Unified Communication Platform.

**"Unified Communications Platform"** shall mean all Digitrad equipment, network, software and system necessary to carry out and use the Unified Communication Services.

**"Updates"** shall mean improvements to Software, which are not Maintenance Modifications or Upgrades.

**"Upgrades"** shall mean new versions of Software made generally available for licensing, which provide a substantial change in or addition to Software.

## **ARTICLE 2 PURPOSE**

This Agreement relates to use of Unified Communication Services by End User, and defines the terms and conditions under which these Unified Communication Services are provided by Digitrad and accepted and used by End User. End User acknowledges and agrees that by clicking on the "ACCEPT" button, or similar buttons or links as may be designated by Digitrad, to show End User approval of any foregoing text End User is entering into a legally binding contract with Digitrad.

## **ARTICLE 3 DIGITRAD'S RESPONSIBILITIES**

Subject to the terms and conditions of this Agreement, Digitrad agrees to: (i) keep and maintain available and provide access to the Unified Communication Platform to End User, in accordance with technical, security and other standards commonly applicable to the industry and/or required by the applicable legal and regulatory requirements, (ii) provide the Unified Communication Services, Software and Maintenance to End User, in accordance with the terms of this Agreement, (iii) grant End User the rights and licenses to the Software as set forth in Article 10 hereof, (iv) provide Maintenance for the Unified Communication Services and associated Software as set forth in Article 8 hereof, (v) register a .tel domain name(s) as set forth in Article 6 hereof, (vi) provide telephone number(s) as set forth in Article 6 hereof, and (vii) warrant the Unified Communication Services and associated Software as set forth in Article 11 hereof.

## **ARTICLE 4 END USER'S RESPONSIBILITIES**

Subject to the terms and conditions of this Agreement, End User shall: (i) use Unified Communication Services and associated Software as set forth in this Agreement and for its internal purpose only (no resale activity of Digitrad's services/products is authorized under this Agreement), (ii) use the Profile and Access Codes as set forth in Article 5 hereof, (iii) use the .tel domain name(s) and telephone number(s) attributed or otherwise made available by Digitrad as set forth in Article 6 hereof, (iv) protect Digitrad's IPRs, including, without limitation, in the Unified Communication Services and associated Software as set forth in Article 10 hereof, (v) pay all due fees and costs required by Article 9 hereof, (vi) comply with all applicable laws and regulations of governmental bodies or agencies in its performance under this Agreement, and (vii) indemnify Digitrad as set forth in Article 11 hereof.

## **ARTICLE 5 END USER PROFILE AND ACCESS CODES**

**5.1** In order to use the Unified Communication Services in accordance with this Agreement, the End User must register on Digitrad's website by selecting its Access Codes and by creating its Profile. Digitrad shall send a notice to the End User confirming the successful completion of the registration process.

**5.2** End User shall not authorize third parties to use the Profile and shall keep and maintain the Access Codes strictly confidential. Consequently, Affiliate shall be responsible for all usage and activity of the Profile and for loss, theft or unauthorized disclosure of the Access Codes and other Profile information.

**5.3** The Profile may contain the End User-related information, as well as any other information submitted by the End User upon Digitrad's request. The Profile may also contain information provided by Digitrad regarding the use, ordering, invoicing and provision of the Unified Communication Services.

End User shall have to update Profile regularly and shall be responsible for the completeness and accuracy of information provided by the End User. End User warrants that Profile (including all information contained therein provided by the End User) is its lawful property and that it has the right to communicate it to Digitrad.

**5.4** Digitrad shall be authorized to exploit and use the Profile (including all information contained therein) for the purposes of this Agreement and the on-line promotion and marketing of Unified Communication Service.

**5.5** Digitrad shall be entitled to modify the form and content of the Profile from time to time at its sole discretion, including without limitation to add new functionalities to the Profile. However, adding of any commercial links to the Profile by Digitrad shall have to be agreed in advance with the End User.

**5.6** If it considers that End User is in breach of the terms and conditions of this Agreement, Digitrad may, at its sole discretion, upon notice to the End User, suspend the Profile and the use of the Unified Communication Services until such breach is cured by the End User or until Digitrad terminates this Agreement, in accordance with Article 12 hereof.

## ARTICLE 6 TELEPHONE NUMBERS AND .TEL DOMAIN NAMES

- 6.1 To the extent it is authorized to do so, Digitrad shall (i) attribute to End-User the available telephone number(s) for the use of the Unified Communication Services, and (ii) register on behalf of the End-User the available .tel domain name(s) for the use of Unified Communication Services. Digitrad shall attribute such resources, provided they are available, in accordance with technical and other terms applicable to such resources (including, without limitation, the applicable legal and regulatory requirements).
- 6.2 Upon End User's request, Digitrad may accept to use the End User's current telephone numbers or domain names for the provision of the Unified Communication Services, provided, however, that portability of such numbers/domain names is technically and legally possible and upon payment of the related fees and costs. In such event, End User shall use the Unified Communication Services and associated Software in conformity with the terms and conditions of the telecom operators who are holders of the telephone numbers that may be attributed to the End User for the use of the Unified Communication Services.
- 6.3 End User agrees that telephone numbers attributed by Digitrad for the use of the Unified Communication Services may be modified or replaced by new numbers, upon Digitrad's notice, where necessary in order to improve technical, security, service quality or similar reasons. Digitrad shall use commercially reasonable efforts and available technical means in order to reduce any unnecessary disruption of the Unified Communication Services which may occur for the End User on such occasions.

End User further agrees that such resources are limited and that Digitrad shall not be held liable for its inability to provide all or part of the requested resources. End User further agrees to use (i) the attributed telephone number(s), and (ii) the registered .tel domain name(s), in accordance with the applicable rules and regulations, requirements, standards, policies and procedures and/or specific Digitrad's instructions, if any. In particular, End User shall comply with all instructions that Digitrad may provide in view of installation or use of the said resources.

End User shall be entitled to use such resources strictly and only to the extent necessary for the use of the Unified Communication Services and Software in accordance with (i) the applicable legal and regulatory requirements, and (ii) the terms of use as set forth in this Agreement, as may be modified from time to time by Digitrad.

- 6.4 The registration of the .tel domain names on behalf of the End User is subject to (i) execution of the Registration Agreement (including the Acceptable Use Policy) between Digitrad and the .tel. domain name holder, a form of which is provided in **Schedule 6.4** to this Agreement and (ii) payment of the applicable registration fees, as may be modified from time to time by Digitrad.

End User agrees that registration and attribution of such .tel domain names and telephone numbers is subject to the terms and acceptable use policies of the corresponding Digitrad

licenses and authorizations, including, without limitation, the Registration Agreement and the Applicable Use Policy, as may be modified from time to time by Digitrad.

## **ARTICLE 7 MODIFICATION AND SUSPENSION OF SERVICE**

- 7.1 Digitrad reserves the right to modify the terms of use of Unified Communication Services, Software and/or Maintenance, at any time and upon notice to the End User, including, without limitation, in order to conform to legal and regulatory obligations.
- 7.2 To the extent permitted by the data privacy and other applicable laws and regulations, Digitrad shall be authorized to monitor the use of the Unified Communication Platform, and/or the Unified Communication Services and Software by the End User and disclose and otherwise use the information thus obtained in order to (i) comply with applicable law, regulations or other governmental requests or orders, (ii) ensure that the Unified Communication Platform, and/or the Unified Communication Services and Software are used in conformity with the terms of this Agreement, and (iii) protect the integrity of Digitrad's Unified Communication Platform.

Additionally, End User also understands that calls to or from the public switched telephony network are not encrypted and, as such, could be potentially subject to interception by law enforcement officials or other such monitoring by other legally authorized third parties. Digitrad shall not be liable for any disruption, delays, monitoring, eavesdropping or other omissions in the services associated with Unified Communication Services and associated Software.

- 7.3 Digitrad reserves the right to modify or suspend the provision and use of the Unified Communication Services, Software and/or Maintenance immediately and upon notice to the End User in one of the following cases: (i) in order to conform to any law, regulation, court order, competent authority, or other governmental request or order requiring immediate action, (ii) in order to avoid or prevent any interference which could result in damage to or degradation of Digitrad's network, equipment, software or system, (iii) in order to avoid or prevent the misuse of the Unified Communication Services, Software and/or Maintenance which could engage Digitrad's or End User's responsibility or violation of legal and regulatory obligations, and (iv) where End User failed, within seven (7) days from Digitrad's notice of default, to comply with its financial obligations towards Digitrad, as provided in this Agreement.
- 7.4 Digitrad shall restore the provision and use of Unified Communication Services, Software and/or Maintenance, upon extinction of the aforementioned causes giving raise to suspension. If the provision or use of the Unified Communication Services, Software and Maintenance is suspended for more than five (5) days or if it becomes otherwise reasonably probable that the cause of suspension cannot be cured, Digitrad may terminate this Agreement immediately, upon notice to the End User.

## **ARTICLE 8 MAINTENANCE**

- 8.1** Digitrad shall provide Maintenance and Enhancements available with regards to Unified Communication Services and associated Software, in accordance with the maintenance and support terms set forth in **Schedule 8.1**, as may be modified from time to time by Digitrad upon notice to End User (the “**Maintenance Terms**”), and within the scope of the limited warranty and limitation of liability provided under Article 11 of this Agreement.
- 8.2** End User shall be entitled to Maintenance only if it has accepted to be bound by the Digitrad’s Maintenance Terms and has paid the applicable fees and other applicable costs.

## **ARTICLE 9 ORDERING, INVOICING AND PAYMENT TERMS**

- 9.1** The sale/license of Unified Communication Services, Software and/or Maintenance by Digitrad to the End-User according to this Agreement shall be subject to payments to Digitrad (such as the Service Initialization Costs, Fixed Monthly Costs, Service Use Costs and the Annual Fee), in accordance with the financial terms set forth in **Schedule 9.1**, as may be modified from time to time by Digitrad.

These fees and costs are net of all taxes (including, without limitation, VAT) or duties that may be applicable on the date of the invoice.

- 9.2** All Orders for purchase of the Unified Communication Services, Software and/or Maintenance must be submitted electronically through the End User's Profile on Digitrad's website in accordance with Digitrad's instructions, as may be modified from time to time by Digitrad.

Digitrad shall confirm such Orders by a notice sent to the End User within fourteen (14) days following receipt of the complete Order containing all relevant information necessary for Digitrad to assess Order.

- 9.3** For purchases of Digitrad's services (including the .tel domain purchases) a prepaid account will be opened, a receipt will be issued when the prepaid amount is received.

End User shall not be entitled to reduce or set-off the amounts invoiced by Digitrad against any and all claims or compensations that End User may be entitled to claim from Digitrad.

End User shall execute all payments to Digitrad by electronic wire transfer according to the banking instructions notified by Digitrad to End User for that purpose.

Any delay in payment of invoices shall be subject to the highest of the following: (i) three (3) times the amount of the statutory late interest rate under the Applicable Law, or (ii) the annual EURIBOR rate increased by 10 points.

- 9.4** In the event End User believes that Digitrad has charged End User in error, he must contact Digitrad’s customer services within ninety (90) days after such charge by e-mail to [billing@digitrad.com](mailto:billing@digitrad.com) or to any other e-mail notified by Digitrad. Digitrad reserves the right

to not give any refunds or adjustments for any charges which are more than ninety (90) days old.

## **ARTICLE 10 LIMITED LICENSE AND DIGITRAD'S IPRs**

- 10.1** To the extent necessary for the use of Unified Communication Services by the End User, Digitrad hereby grants to End User a non-exclusive, revocable and non-transferable (i) right to license the Software necessary for the Unified Communication Services, and (ii) right to use Digitrad's Trademarks associated to the Unified Communication Services.

End User shall be authorized to use the Software necessary for the Unified Communication Services in accordance with Digitrad's terms of limited license set forth in **Schedule 10.1** (the "**Limited License Terms**") and subject to payment of the license fees and other applicable costs. Digitrad shall have the right to maintain, enhance or otherwise modify Digitrad IPR. End User shall not be authorized by Digitrad to make any modifications, extensions or additions to the Limited License Terms.

End User shall not remove any proprietary notices from any Software or Digitrad's Trademarks (including, without limitation, the mention "Powered by Digitrad") which must be clearly marked, at all times, on Software and Digitrad's Trademarks.

End-User shall refrain from filing applications for the protection of any trademark, logo or trade name identical or similar to Digitrad's Trademarks.

- 10.2** End User shall not claim or assert title to any such Digitrad IPRs. End User shall not copy Digitrad IPRs without prior written approval from Digitrad. End User shall ensure that any such copies shall be strictly and solely for its own internal use, in accordance with this Article (including the Limited License Terms).

End User shall refrain from modifying, translating, reverse engineering, decompiling or disassembling Digitrad IPRs, except to the extent that this restriction is expressly authorized by Applicable Law.

End User shall not create any derivative software based on Digitrad IPRs nor develop any other application under the terms of this Agreement.

If any unauthorized copies are made of Digitrad IPRs, or if they are used in violation of this Agreement, then, in addition to any other rights and remedies to which Digitrad may be entitled, Digitrad shall have the right to seek an injunction against such unauthorized copying or use.

- 10.3** Digitrad shall be entitled to use the reports of defect in Digitrad's IPR or the proposition to change or modify Digitrad's IPR submitted to it by the End-User, including, without limitation, the incorporation of such reports into Digitrad's IPR or Digitrad's products/services, without any obligation to the End-User.

**10.4** In addition to any other right it may have according to this Agreement or the applicable law, Digitrad may suspend or block access to Digitrad IPRs at any time and without notice for any of the following reasons: (i) compliance with any law, regulation, court order, competent authority, or other governmental request or order requiring immediate action, (ii) to prevent interference with, damage to, or degradation of Digitrad's network, equipment, software or system, (iii) if Digitrad IPRs are used in a manner which exposes or may expose Digitrad to legal liability, or in a manner that violates any applicable law or regulation, or (iv) if Digitrad IPRs are used contrary to the terms of the limited license provided according to this Article (including the Limited License Terms).

**10.5** End User shall indemnify and hold harmless Digitrad from and against any and all claims, liabilities, damages and costs with respect to unauthorized use of Digitrad IPRs by the End-User or third parties.

Except as expressly set forth in these Limited License Terms, any and all title, right, interest (including, without limitation, all patent rights, copyrights, trademark rights, trade secret rights and other intellectual property rights) in and to Digitrad IPRs, shall, at all times, remain solely with Digitrad and any corrections, bug fixes, enhancements, modifications, updates, upgrades, or new versions thereto, whether or not made by Digitrad, which shall be deemed part of the relevant Digitrad IPR and subject to these Limited License Terms.

## **ARTICLE 11 LIMITED WARRANTY AND LIMITATION OF LIABILITY**

**11.1** Digitrad warrants that it shall provide the Unified Communication Services (including Software and Maintenance) in accordance with the terms of the Agreement. However, all other warranties and conditions (including, but not limited to merchantability and fitness for a particular purpose, lack of Errors, interruptions of the Unified Communication Services or unavailability of the Unified Communication Platform) are hereby expressly excluded to the extent permitted by the Applicable Law.

End User shall be authorized to use the Unified Communication Services in accordance with Digitrad's terms of limited warranty set forth in **Schedule 11.1** (the "**Limited Warranty Terms**"), and subject to payment of the service fees and other applicable costs.

**11.2** Digitrad shall take all reasonable care and shall provide its products/services in a workmanlike manner, in accordance with the state of the art and technology. Digitrad shall be subject to an obligation of means (due care) for all Digitrad's products/services.

End User accepts and acknowledges that Errors, interruptions and unavailability of the Unified Communication Services and the Unified Communication Platform may occur. In that respect, Digitrad shall use commercially reasonable efforts to diagnose and resolve the incidents reported to it according to the Maintenance Terms applicable. However, Digitrad shall not be held liable if such incident could not be partially or completely resolved, despite all due care and efforts made by Digitrad.

End User further accepts and acknowledges that: (i) the Unified Communication Services cannot be used for emergency calling, (ii) Digitrad's services do not carry or support, or intend to carry or support emergency calls and (iii) the Unified Communication Services are not a “traditional telephone service” and are not a replacement for End User primary telephone service.

Digitrad shall not be liable for loss or inaccuracy of data, nor for any and all indirect, incidental or consequential damages and costs arising out of or in connection with the provision of its products/services.

Digitrad shall not be liable for loss or any and all damages occurring to data, files, computer memory or any document, hardware or program which may have occurred in relation to the provision of its products/services. Furthermore, Digitrad shall not be held liable for failures, errors or negligence of the End User/third parties and their employees, nor in the event of non conformity to the instructions given by Digitrad.

- 11.3** Digitrad shall not be liable for, and it is excused from, any failure or delay in performance due to a force majeure event beyond its reasonable control qualified as such under the Applicable Law.

The Parties hereby expressly agree that the following events shall be considered, without limitation, as force majeure event: acts of God, inclement or severe weather, industrial disputes, failure or shortage of power supplies, lightning or fire, acts of government or other competent authorities, war, civil disorder, acts or omissions of other telecommunications operators, or events beyond the reasonable control of one Party's suppliers and sub-contractors.

- 11.4** Digitrad's maximum aggregate liability for any and all damages and costs which may occur to End User or any third party arising out of or in connection with this Agreement shall be limited to (i) 500,000 (five hundred thousand) Euros in respect of any one incident or series of incidents arising from a common cause, but not more than (ii) the aggregate amount of the net invoices paid by the End User to Digitrad according to this Agreement during the current calendar year.

For any property damage caused by Digitrad's personnel while exercising their functions, Digitrad shall compensate the End User within the scope of its civil liability insurance.

Notwithstanding the above, Digitrad shall not be liable for any and all indirect damages and costs to End User or any third party arising out of or in connection with this Agreement. The Parties hereby expressly agree that the following shall be considered as indirect damages: (i) the loss of profits, revenue, opportunities, any postponement or disruption in the project planning or the company activity, any loss of data, files or computer programs whatsoever, which may result from the non-performance of this Agreement, and any and all consequential and punitive damages, and (ii) any other damages and costs considered as indirect under the Applicable Law. The Parties hereby expressly agree that any action carried

out by a third party against Digitrad constitutes an indirect damage and, consequently, does not entitle them to compensation.

End User shall indemnify and hold harmless Digitrad from and against any and all claims, liabilities, damages and costs with respect to End User or third parties which may result from breaches of End User according to this Agreement or otherwise from the use of the Unified Communication Services.

Furthermore, End User shall reimburse to Digitrad any and all damages and costs occurred in that respect, including, without limitation, those claims, costs and damages arising out of or in connection with the use of Unified Communication Services, Software and/or Unified Communication Platform contrary to the provisions of this Agreement or contrary to the applicable legal and regulatory requirements.

## ARTICLE 12 TERM AND TERMINATION

- 12.1** Unless otherwise terminated as provided herein, this Agreement shall become effective on the Effective Date and shall remain in full force and effect throughout the initial subscription to .tel domain name as designated by the End User (the "**Initial Term**").

Unless terminated by either Party upon notice at least thirty (30) days prior to the expiry of the Initial Term, the Agreement shall be tacitly renewed for an additional period corresponding to the renewal subscription to .tel domain name as designated by the End User (the "**Renewal Term**").

Any further renewal of this Agreement shall have to be expressly agreed to in writing between the Parties.

- 12.2** Each Party shall have the right to terminate this Agreement in the event of the other Party's breach of contractual obligations hereunder which remain uncured upon thirty (30) days default notice.

If, however, End User commits a breach of its obligations hereunder regarding the authorized use of Unified Communication Services and associated Software, Digitrad may, upon notice to the End User, terminate this Agreement immediately, unilaterally, automatically and without recourse to any court or tribunal.

Furthermore, in the event of bankruptcy, liquidation, receivership or any similar procedure declaring financial incapacity of one Party, the other Party may terminate this Agreement, immediately, unilaterally, automatically and without recourse to any court or tribunal.

- 12.3** Upon expiry or termination of this Agreement, all rights to use the Unified Communication Services and associated Software, as well as the right to use any telephone number attributed or otherwise made available by Digitrad, shall terminate as of the effective date of termination (regardless of whether such termination was with or without cause) and End User shall cease any and all use of the Unified Communication Services, Software and such

telephone number(s). In addition, Each Party shall have to retribute, without delay, to the other Party all Confidential Information (as defined herebelow) belonging to such other Party.

Unless otherwise agreed between the Parties, the expiry or termination of this Agreement shall not affect the Orders confirmed by Digitrad prior to such expiry or termination.

## **ARTICLE 13 CONFIDENTIALITY**

**13.1** The Party receiving the information (the “**Receiving Party**”) understands that the Party disclosing the information (the “**Disclosing Party**”) has disclosed or may disclose information relating to the Disclosing Party’s business (including, without limitation, the intellectual property rights, know-how, formulas, processes, ideas and other technical, business, financial, customer and product development plans) which shall be considered confidential as clearly marked by the mention “Confidential Information” (the “**Confidential Information**”).

The Parties expressly agree that the terms and provisions of this Agreement shall be considered as Confidential Information.

**13.2** Confidential Information shall not include information that: (i) is or becomes generally known or available to the public, through no act or omission on the part of the Receiving Party, (ii) was known by the Receiving Party prior to receiving such information from the Disclosing Party and without restriction as to use or disclosure, (iii) is rightfully acquired by the Receiving Party from a third party who has the right to disclose it and who provides it without restriction as to use or disclosure; or (iv) is independently developed by the Receiving Party without access to any Confidential Information of the Disclosing Party.

**13.3** The Receiving Party agrees during the term of this Agreement and for five (5) years thereafter, (i) to maintain the other party's Confidential Information in strict confidence; (ii) not to disclose such Confidential Information to any third parties; and (iii) not to use any such Confidential Information for any purpose except for the purpose and to the extent necessary for the implementation of this Agreement.

Notwithstanding the above, the Receiving Party may disclose the Confidential Information of the Disclosing Party to its employees and consultants who have a bona fide need to know such Confidential Information but solely to the extent necessary for the implementation of this Agreement, provided that such employee(s) and consultant(s) first execute(s) a written agreement (or is otherwise already bound by a written agreement) that contains use and nondisclosure restrictions at least as protective of the Disclosing Party’s Confidential Information as set forth in this Agreement.

**13.4** The Receiving Party shall not be restricted from disclosing the Disclosing Party’s Confidential Information to the extent required by any applicable law or regulation; provided that the Receiving Party is required to make reasonable efforts to give the Disclosing Party reasonable advance notice of such required disclosure in order to enable the Disclosing Party

to prevent or limit such disclosure to the extent possible.

- 13.5** All Confidential Information remains the sole and exclusive property of the Disclosing Party. Each Party acknowledges and agrees that nothing in this Agreement will be construed as granting any rights to the Receiving Party, by license or otherwise, in or to any Confidential Information of the Disclosing Party, or any patent, copyright or other intellectual property or proprietary rights of the Disclosing Party, except as specified in this Agreement.
- 13.6** Upon the Disclosing Party's request, the Receiving Party will promptly return to the Disclosing Party all tangible items and embodiments containing or consisting of the Disclosing Party's Confidential Information and all copies thereof (including electronic copies).

#### **ARTICLE 14 ASSIGNMENT**

- 14.1** Each Party agrees that it may not assign its rights or obligations according to this Agreement without the prior written consent from the other Party.
- 14.2** Digitrad may, however, without End User's consent and upon notice to the End User, assign this Agreement (i) to a third party who acquires all or substantially all of its assets or equity (including by operation of law pursuant to a merger of such party with or into any other entity) or (ii) to any of its Affiliates.

#### **ARTICLE 15 AMENDMENT**

- 15.1** No variation of this Agreement shall be effective unless it is in writing and signed by the Parties.
- 15.2** Digitrad reserves the right to modify the Agreement at any time by providing such revised Agreement to End User or by publishing the revised Agreement on Digitrad's website, which shall become effective within thirty (30) days thereof, unless End User expressly accepts the revised Agreement by clicking on the "ACCEPT" button.
- 15.3** If, within such period, End User notifies its refusal of the revised terms and conditions of this Agreement, Digitrad may exercise its rights to terminate this Agreement unilaterally.
- 15.4** If, however, End User continues to use the Unified Communication Services and associated Software after the expiry of the said period, it shall be deemed having accepted to be bound by the terms and conditions of the revised Agreement.

#### **ARTICLE 16 RELATIONSHIP OF THE PARTIES**

- 16.1** Digitrad and End User are independent contractors and nothing in this Agreement shall be construed as creating an employer-employee or agency relationship, a partnership or a joint venture between the Parties.

**16.2** Consequently, each Party shall be responsible for operating its business at its own risks and perils, including, without limitation, responsibility for payment of all taxes applicable to the conduct of its business and implementation of this Agreement, including, without limitation, applicable withholding taxes and any social security charges for all compensation paid to employees and consultants.

## **ARTICLE 17 NOTICES**

All notices, demands and other communications provided for or permitted under this Agreement shall be made in writing and shall be sent by registered or first class post, facsimile service (with telephone confirmation of receipt), courier service, email or personal delivery to the addresses indicated at the beginning of this Agreement.

## **ARTICLE 18 APPLICABLE LAW AND JURISDICTION**

**18.1** All questions concerning the validity, operation, interpretation, and construction of this Agreement will be governed by and determined in accordance with French law.

**18.2** Each Party hereby consents to the exclusive jurisdiction of French courts.

## **ARTICLE 19 SEVERABILITY**

If any provision of this Agreement shall be found illegal, unenforceable, or in conflict with the applicable law or any other legal or regulatory requirements which may be applicable in a particular case, the validity of the remaining portions or provisions hereof shall not be affected thereby.

## **ARTICLE 20 ENTIRE AGREEMENT**

**20.1** Each of the Parties hereto acknowledges that it has read this Agreement, understands it, and agrees to be bound by its terms.

**20.2** The Parties further agree that this Agreement is the complete and exclusive state of agreement and supersedes all proposals (oral or written), understandings, representations, conditions, warranties, covenants, and all other communications between the Parties relating thereto.

BY CLICKING "I AGREE" YOU EXPRESSLY AGREE TO ADHERE TO DIGITRAD END-USER AGREEMENT AND CONSENT TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS AGREEMENT, INCLUDING WITHOUT LIMITATION, ALL DOCUMENTS, POLICIES AND PROCEDURES INCORPORATED HEREIN BY REFERENCE. IF YOU DO NOT UNDERSTAND OR AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS END-USER AGREEMENT, CLICK THE "CLOSE" BUTTON.

## **LIST OF SCHEDULES**

SCHEDULE 6.4	REGISTRATION AGREEMENT (INCLUDING THE ACCEPTABLE USE POLICY)
SCHEDULE 8.1	MAINTENANCE TERMS
SCHEDULE 9.1	PRICES AND ASSOCIATED COSTS AND FEES
SCHEDULE 10.1	LIMITED LICENSE TERMS
SCHEDULE 11.1	LIMITED WARRANTY TERMS

## SCHEDULE 6.4

### REGISTRATION AGREEMENT

This Registration Agreement (the "**Registration Agreement**") is made and entered into by and between:

**DIGITRAD FRANCE**, a limited liability company incorporated and existing under the laws of France, with a registered capital of EUR 15.000, registered with the Trade and Companies Registry of Grasse under number B 428 685 168, whose registered offices are located at 630sis, Route des Dolines, Valbonne - Sophia Antipolis - Ophira II - BP 142 - 06903, France, represented by the signatory below acting as duly authorized representative (hereinafter referred to as "**Registrar**")

and

you (hereinafter referred to as the "**Domain Name Holder**"),

(individually or collectively referred to as the "**Party**" or the "**Parties**"),

WHEREAS, Registrar is accredited by Telnic Limited, a limited liability company duly incorporated and validly existing under the laws of England and Wales, with its principal place of business at 37 Percy Street, London W1T 2DJ, United Kingdom (the "**Registry**"), in accordance with the Registry-Registrar Agreement between Registrar and Registry (the "**Registry-Registrar Agreement**"), and

WHEREAS, Registry is responsible, in accordance with the Registry Agreement with the Internet Corporation for Assigned Names and Numbers (the "**ICANN**") for providing registration services within the registry of the .tel top-level domain (the "**Registry TLD**"), and

WHEREAS, Registrar is authorized by the Registry to collect registration data from applicants within the .tel top-level domain and submit such applications and registration information for entry in the registry database, and

WHEREAS, Domain Name Holder wishes to apply for and to hold a .tel top-level domain name registration,

NOW, THEREFORE, for and in consideration of the mutual promises, benefits and covenants contained herein and for other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, Registrar and Domain Name Holder, intending to be legally bound, hereby agree as follows:

#### ARTICLE 1 SCOPE

Subject to execution of this Registration Agreement and payment of the applicable registration fees by Domain Name Holder, Registrar shall provide (i) support to accept orders for registration, cancellation, modification, renewal, deletion or transfer of a second level domain name within the domain of the Registry TLD (the "**Domain Name**") and (ii) customer service (including Domain Name record support) and billing and technical support to Domain Name Holders. Registrar shall provide Domain Name Holders with emergency contact information.

Registrar shall provide direct communication between Domain Name Holder and Registry limited to one (1) initial communication upon registration of a Domain Name, and no more than one (1) other communication every three (3) months thereafter, but reserves the right to make additional communications if required by law or in response to other exigent circumstances.

#### ARTICLE 2 UPDATING REGISTRATION INFORMATION

Domain Name Holder will immediately correct and update the registration information for the Domain Name during the registration term for the Domain Name.

#### ARTICLE 3 COMPLIANCE WITH REQUIREMENTS

Domain Name Holder agrees to use the Domain Name in conformity with all applicable requirements, standards, policies and procedures for the Registry TLD that are adopted by Registrar or Registry, including, but not limited to, the Acceptable Use Policy (the "**Acceptable Use Policy**") attached hereto as **Exhibit A** and the Sunrise Policy, as well as any other policy as may be modified and amended from time to time by Registrar or Registry (the "**TDL Requirements**").

#### **ARTICLE 4 LAUNCH AND SUNRISE PROGRAMS**

Domain Name Holder agrees to be bound by the policies relating to the initial launch of the Registry TLD, such as the Sunrise Policy and any applicable Landrush requirements, and acknowledges that neither Registrar nor Registry have liability of any kind for any loss or liability resulting from any such policies or requirements, including, without limitation: (i) the ability or inability of a registrant to obtain a Domain Name during these periods, and (ii) the results of any dispute over a Sunrise registration.

#### **ARTICLE 5 REGISTRATION FEES**

Any and all fees charged by the Registrar for provision of its services under this Registration Agreement, including the fees charged by the Registry for registering a Domain Name following a decision to accept a Domain Name application (the "**Registration Fees**") shall be paid in full by the Domain Name Holder prior to the time of registration.

Such fees may include, without limitation, a validation and processing fee for each Domain Name Application, a registration fee for an initial mandatory period for each Domain Name registered, a yearly general availability fee, a yearly renewal fee, fees for transfer of registered Domain Name, fees for re-activation of expired Domain name.

The current Registration Fees, invoicing and payment terms applicable by Registrar are attached as **Exhibit B** hereto, and may be adjusted and modified from time to time upon notice to Domain Name Holder.

Fees are exclusive of VAT and any other applicable taxes unless otherwise specified.

The establishment and maintenance of accounts for Registration Fees shall be subject to the terms and conditions established by Registrar from time to time.

#### **ARTICLE 6 RIGHT TO DENY, CANCEL OR TRANSFER A REGISTRATION**

Domain Name Holder acknowledges and agrees that Registrar and Registry reserve the right to deny, cancel or transfer any registration or transaction, or place any Domain Name(s) on registry lock, hold or similar status, that they deem necessary, in their discretion: (a) to protect the integrity and stability of the Registry TLD; (b) to comply with any applicable laws, government rules or requirements, requests of law enforcement, or any dispute resolution process; (c) to avoid any liability, civil or criminal, on the part of Registrar or Registry, as well as their affiliates, subsidiaries, officers, directors, and employees; (d) per the terms of this Registration Agreement; (e) to correct mistakes made by Registrar or Registry in connection with a Domain Name registration; (f) to enforce the TLD Requirements; and (g) to prevent use of the Domain Name in a manner contrary to the intended purpose of the Registry TLD.

Registrar and Registry also reserve the right to lock, hold or place a similar status on Domain Name during resolution of a dispute.

Registrar or Registry shall have no liability of any kind to Domain Name Holder, its customers, affiliates, service providers or any other party as a result of such denial, cancellation or transfer.

#### **ARTICLE 7 USE OF PERSONAL DATA**

Domain Name Holder consents to the use, copying, distribution, publication, modification and other processing of Domain Name Holder's data about any identified or identifiable natural person, and any data that is considered personal data for the purposes of the Data Protection Act 1998 (the "**Personal Data**") by Registrar and Registry, their service providers, subcontractors and agents in a manner consistent with Registrar and Registry's posted privacy policy, WHOIS policy and all other purposes of collection notified to Domain Name Holder by Registrar or Registry.

#### **ARTICLE 8 INTELLECTUAL PROPERTY**

Each Party will continue to independently own its intellectual property, including all patents, trademarks,

trade names, service marks, copyrights, trade secrets, proprietary processes and all other forms of intellectual property.

## **ARTICLE 9 CONFIDENTIALITY**

During the term of this Registration Agreement, each Party (the "**Disclosing Party**") may disclose to the other Party (the "**Receiving Party**") information and materials (including, without limitation, computer software, data, intellectual property, databases, protocols, reference implementation and documentation, financial information, statistics and functional and interface specifications marked or otherwise identified as confidential (the "**Confidential Information**").

The Receiving Party shall treat as strictly confidential, and use all reasonable efforts to preserve the secrecy and confidentiality of all Confidential Information of the Disclosing Party, including implementing reasonable security measures and operating procedures.

The Receiving Party will use any Confidential Information of the Disclosing Party solely for the purpose of exercising its rights or performing its obligations under this Registration Agreement and for no other purposes whatsoever.

The Receiving Party shall make no disclosures whatsoever of any Confidential Information of the Disclosing Party to others; provided, however, that if the Receiving Party is a corporation, partnership, or similar entity, disclosure is permitted to the Receiving Party's officers, employees, contractors and agents who have a demonstrable need to know such Confidential Information, provided the Receiving Party shall advise such personnel of the confidential nature of the Confidential Information and of the procedures required to maintain the confidentiality thereof, and shall require them to acknowledge in writing that they have read, understand, and agree to be individually bound by the confidentiality terms of this Agreement.

Where Registrar is the Receiving Party, it may disclose Confidential Information to Registry, ICANN, as required by the registry agreement, accreditation agreement and/or the operation of the Registry TLD.

The Receiving Party shall not modify or remove any confidentiality legends and/or copyright notices appearing on any Confidential Information of the Disclosing Party.

The Receiving Party agrees not to prepare any derivative works based on the Confidential Information.

Notwithstanding the foregoing, this Article imposes no obligation upon the Parties with respect to information that (i) is disclosed in the absence of a confidentiality agreement and such disclosure was agreed to by the Disclosing Party in writing prior to such disclosure; (ii) is or has entered the public domain through no fault of the Receiving Party; (iii) is known by the Receiving Party prior to the time of disclosure; (iv) is independently developed by the Receiving Party without use of the Confidential Information; (v) is made generally available by the Disclosing Party without restriction on disclosure, or (vi) is required to be disclosed by law, regulation or court order; provided that in the event the Receiving Party is required by law, regulation or court order to disclose any of Disclosing Party's Confidential Information, Receiving Party will promptly notify Disclosing Party in writing prior to making any such disclosure in order to facilitate Disclosing Party to seek a protective order or other appropriate remedy from the proper authority, at the Disclosing Party's expense. Receiving Party agrees to cooperate with Disclosing Party in seeking such order or other remedy. Receiving Party further agrees that if Disclosing Party is not successful in precluding the requesting legal body from requiring the disclosure of the Confidential Information, it will furnish only that portion of the Confidential Information which is legally required.

The Receiving Party's duties under this Article shall expire five (5) years after the expiration or termination of this Registration Agreement or earlier, upon written agreement of the Parties.

## **ARTICLE 10 REPRESENTATIONS AND WARRANTIES**

By submitting a request for a Domain Name, Domain Name Holder represents and warrants that: (i) to its knowledge, the registration of the requested Domain Name does not and will not infringe upon or otherwise violate the rights of any third party; (ii) it is not submitting the request for a domain name for an unlawful purpose, and it will not use the Domain Name for an unlawful purpose; (iii) it will not knowingly use the Domain Name in violation of any applicable laws or regulations or of the rights of any third parties; and (iv) that it will use the Domain Name in accordance with the TLD Requirements.



terminated or expires without renewal or (ii) the Registrar-Registry Agreement is terminated or expires without entry of a subsequent registry and this Registration Agreement being assigned.

Either Party may terminate this Registration Agreement at any time by giving thirty (30) days prior notice of termination.

In the event that Registrar elects to amend its form of Registration Agreement, Domain Name Holder will either execute an amendment substituting the revised agreement in place of this Registration Agreement or, at its option exercised within fifteen (15) days after receiving notice of such amendment, terminate this Registration Agreement immediately by giving written notice to Registrar. In the event that Registrar does not receive such executed amendment or notice of termination from Registrar within such fifteen (15) day period, Domain Name Holder shall be deemed to have terminated this Registration Agreement immediately.

In the event that either Party materially breaches any of its obligations under this Agreement and such breach is not substantially cured within fifteen (15) calendar days after written notice thereof is given by the other Party, then the non-breaching Party may, by giving written notice thereof to the other Party, terminate this Agreement as of the date specified in such notice of termination.

If, however, Domain Name Holder breaches the Acceptable Use Policy or any other Requirements, and such breach is not cured within five (5) business days after notice thereof from Registrar, Registrar may, by giving written notice thereof to Domain Name Holder, terminate this Registration Agreement as of the date specified in such notice of termination.

Upon the expiration or termination of this Registration Agreement for any reason whatsoever (i) Registrar will ensure that registration of all Domain Names processed by Registrar prior to the effective date of such expiration or termination is completed, provided that Domain Name Holder's payments to Registrar for Registration Fees are current and timely, (ii) Registrar shall transfer its sponsorship of registered Domain Names to another ICANN-accredited registrar in compliance with any procedures established or approved by ICANN, (iii) all Confidential Information of the Disclosing Party in the possession of the Receiving Party shall be immediately returned to the Disclosing Party, save that Registrar shall be entitled to

retain copies of such information for legal compliance, its obligations pursuant to the Registrar-Registry Agreement or ICANN accreditation and/or good corporate governance, and (iv) all Registration Fees and other fees owed to Registrar by Domain Name Holder shall become immediately due and payable.

In the event of termination or expiration of this Registration Agreement, the following Articles shall survive: Article 7, 9 10, 11, 12, 13, 15 and 22.

Neither Party shall be liable to the other for damages of any sort resulting solely from terminating this Registration Agreement in accordance with its terms.

#### **ARTICLE 15 NOTICES**

Notices required to be delivered to any Party under this Registration Agreement shall be served in writing by hand or by registered mail and shall be deemed properly received when delivered to the Parties' registered offices as indicated above, unless such Party has given notice of a change of address in writing

Notwithstanding the above, Registry may communicate directly with the Domain Name Holder in connection with issues relating to a Domain Name and the Domain Name Holder's membership of the .tel community.

#### **ARTICLE 16 ASSIGNMENT**

Each Party agrees that it may not assign its rights or obligations according to this Registration Agreement without the prior written consent of the other Party.

Registrar may, however, without the Domain Name Holder's consent, assign this Registration Agreement (i) to a third party who acquires all or substantially all of its assets or equity (including by operation of law pursuant to a merger of such party with or into any other entity), or (ii) to any of its Affiliates.

In addition to the above, in the event that Registrar's accreditation agreement with ICANN for the Registry TLD is validly assigned, Registrar's rights under this Registration Agreement shall be automatically assigned to the assignee of the accreditation agreement.

#### **ARTICLE 17 FORCE MAJEURE**

Registrar shall not be liable for any loss or damage resulting from any cause beyond its reasonable control (a "Force Majeure Event") including, but not limited

to, insurrection or civil disorder, war or military operations, national or local emergency, acts or omissions of government or other competent authority, compliance with any statutory obligation or executive order, industrial disputes of any kind (whether or not involving either party's employees), fire, lightning, explosion, flood, subsidence, weather of exceptional severity, and acts or omissions of persons for whom Registrar is not responsible.

#### **ARTICLE 18 WAIVER**

No failure on the part of Registrar to exercise any power, right, privilege or remedy under this Registration Agreement, and no delay in exercising any power, right, privilege or remedy under this Registration Agreement, shall operate as a waiver of such power, right, privilege or remedy, unless the waiver of such claim, power, right, privilege or remedy is expressly set forth in a written instrument duly executed and delivered on behalf of Registrar.

#### **ARTICLE 19 SEVERABILITY**

If any provision of this Registration Agreement shall be found illegal, unenforceable, or in conflict with the applicable law or any other legal or regulatory requirements which may be applicable in a particular case, the validity of the remaining portions or provisions hereof shall not be affected thereby.

#### **ARTICLE 20 ENTIRE AGREEMENT**

Each of the Parties hereto acknowledges that it has read this Registration Agreement, understands it, and agrees to be bound by its terms.

The Parties further agree that this Registration Agreement is the complete and exclusive state of agreement and supersedes all proposals (oral or written), understandings, representations, conditions, warranties, covenants, and all other communications between the Parties relating thereto.

#### **ARTICLE 21 RELATIONSHIP OF THE PARTIES**

Registrar and Domain Name Holder are independent contractors and nothing in this Registration Agreement shall be construed as creating an employer-employee or agency relationship, a partnership or a joint venture between the Parties.

#### **ARTICLE 22 DISPUTE RESOLUTION AND APPLICABLE LAW**

Domain Name Holder hereby expressly agrees to submit to proceedings commenced under ICANN's Uniform Domain Name Dispute Resolution Policy (the "UDRP").

The Agreement shall be governed by and construed in accordance with the laws of England and Wales without regard to its choice of law principles or the U.N. Convention on Contracts for the International Sale of Goods.

Any dispute, controversy or claim between the Domain Name Holder and Registry relating to a Domain Name or a request for a Domain Name shall be subject to the laws of England and Wales and the exclusive jurisdiction of the courts located in London, England.

Notwithstanding the above, nothing in this article shall limit: (i) the right of the parties to seek provisional or protective relief in the courts of another jurisdiction prior to, during or after any substantive proceedings have been instituted in London, England; or (ii) the right of the parties to bring enforcement proceedings in another jurisdiction to enforce a judgment of the English courts.

BY CLICKING "I AGREE" YOU EXPRESSLY AGREE TO ADHERE TO DIGITRAD REGISTRATION AGREEMENT AND CONSENT TO BE BOUND BY ALL TERMS AND CONDITIONS OF THIS REGISTRATION AGREEMENT, INCLUDING WITHOUT LIMITATION, ALL DOCUMENTS, POLICIES AND PROCEDURES INCORPORATED HEREIN BY REFERENCE. IF YOU DO NOT UNDERSTAND OR AGREE TO ALL OF THE TERMS AND CONDITIONS OF THIS REGISTRATION AGREEMENT, CLICK THE "CLOSE" BUTTON.

**EXHIBIT A**

**ACCEPTABLE USE POLICY**



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**ACCEPTABLE USE POLICY**

**JUNE 2008**

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## ARTICLE 1 DEFINITIONS

*A Record* a type of DNS resource record specified in RFC 1035 that defines an IPv4 address.

*A6 Record* a type of DNS resource record specified in RFC 2874 that defines an IPv6 address or part of an IPv6 address.

*AAAA Record* a type of DNS resource record specified in RFC 1886 that defines an IPv6 address

*Acceptable Use Policy* this Acceptable Use Policy, as may be properly amended or modified from time to time.

*Address Record* an A Record, A6 Record or an AAAA Record or any other DNS resource record that may be specified as a representation of an IP address by the IETF or other relevant standards-making body.

*CNAME Record* a type of DNS resource record specified in RFC 1035.

*DNAME Record* a type of DNS resource record specified in RFC 2672.

*DNS* the Internet domain name system.

*Domain Name* a second level domain name within the domain of the Registry TLD about which the Registry or an affiliate engaged in providing Registry Services maintains data in the Shared Registry System, arranges for such maintenance, or derives revenue from such maintenance. A name in the Shared Registry System may be a Domain Name even though it does not currently

appear in the Registry TLD zone file.

*Domain Name Applicant* an individual, organisation or company in whose name a Domain Name Application is submitted to the Registry.

*Domain Name Application* a request for registration of a Domain Name made by a Registrar.

*Domain Name Holder* an individual, organisation or company holding a Domain Name registration.

*Extended Name* is defined in Section 4.2.

*ICANN* the Internet Corporation for Assigned Names and Numbers.

*NAPTR Record* a type of DNS resource record used to hold communications contact information in the form of a Universal Resource Identifier (URI), as specified in RFCs 3263, 3401, 3402, 3403, 3404, 3405 and 3761.

*Registrar* a person or entity accredited by ICANN that (i) contracts with Domain Name Applicants, (ii) has entered into a Registry-Registrar Agreement with the Registry, (iii) collects registration data about such Domain Name Applicants, and (iv) is entitled to submit Domain Name Applications and registration information for entry in the registry database.

*Registration Fee* the fee that is charged by the Registry to the Registrar when registering a Domain Name following a decision to accept a Domain Name Application.

**Registry** Telnic Limited, a limited liability company duly incorporated and validly existing under the laws of England and Wales, with its principal place of business at 37 Percy Street, London W1T 2DJ, United Kingdom, which is responsible, in accordance with the Registry Agreement, for providing Domain Name registration services within the Registry TLD. Where applicable, the term “Registry” also includes the Registry’s service providers and subcontractors.

**Registry Agreement** the Registry Agreement between the Registry and ICANN (or its assignee) dated 30<sup>th</sup> May 2006, for the operation of the Registry TLD, as properly amended or renewed from time to time.

**Registry Policies** the Acceptable Use Policy, the Sunrise Policy, the Whois Policy, the TelHosting Policy and such other policies as may be adopted by the Sponsoring Organisation for application to the Registry TLD.

**Registry Services** is defined in the Registry Agreement.

**Registry TLD** the .tel top-level domain.

**Registry Web Site** the web site operated for the Registry TLD by the Registry.

**Shared Registry System** the Registry system that allows Registrars to register, renew and maintain Domain Names.

**Sponsoring Organisation** the entity responsible for the policies and deployment principles of the Registry TLD.

**Sunrise Period** the period during which owners of certain trademarks may apply with the Registry for the registration of a Domain Name in accordance with the Sunrise Policy.

**Sunrise Policy** the Sunrise Policy, as published by the Sponsoring Organisation at the Registry Web Site and as may be properly amended or modified from time to time.

**TelHosting Policy** the TelHosting Policy, as published by the Sponsoring Organisation for the Registry TLD on the Registry Web Site and as may be properly amended or modified from time to time.

**Whois Policy** the Whois policy, as published by the Sponsoring Organisation on the Registry Web Site and as may be properly amended or modified from time to time.

## **ARTICLE 2 PARTIES SUBJECT TO THIS POLICY**

In order to protect the integrity of the Registry TLD, the Sponsoring Organisation has developed this Acceptable Use Policy, which describes, among other items, (i) the requirements for submitting Domain Name Applications, (ii) the restrictions on what can be done with registered Domain Names, and (iii) the way in which the Sponsoring Organisation or Registry may enforce Registry Policies. This policy, together with any interpretative guidelines issued by the Sponsoring Organisation, applies to:

- (a) the Registry;
- (b) the Registrar; and
- (c) the Domain Name Holder.

**ARTICLE 3 CONTENTS OF A DOMAIN NAME APPLICATION**

**3.1 “First Come, First Served” Principle.**

(a) Unless provided for otherwise in any Registry Policy, Domain Name Applications will be received and processed by the Registry on a first come, first served basis. The date and time of receipt by the Registry’s systems of a complete and technically correct Domain Name Application shall be the only reference point for determining the order in which such requests are received. The time and/or date of ordering a Domain Name with a Registrar, or the time and/or date of the Registrar transmitting a Domain Name Application to the Registry will not be determinative.

(b) The Registry will only accept and process Domain Name Applications that (i) cumulatively meet the requirements and conditions described in Sections 3.2 to 3.3 below, and (ii) are submitted to the Registry by a Registrar. The Registrar will be deemed to be acting on the request of the party in whose name the Domain Name Application is submitted.

**3.2 Acceptable Domain Name Applications.**

Only the following names can be registered as a Domain Name:

- (a) names that are available. A name is “available” when:
  - (i) it is not already registered as a Domain Name,
  - (ii) it is not reserved or blocked by the Registry, and

- (iii) it has not been applied for during the Sunrise Period, or it has been applied for during the Sunrise Period but has subsequently been made available by the Registry in accordance with the Sunrise Policy;

(b) names that meet the following technical requirements:

- (i) containing a minimum of 3 characters selected from the letters “a” to “z” or “A” to “Z” in standard US ASCII character set, the digits “0” to “9” and the hyphen (“-”);
- (ii) containing a maximum of 63 characters (not including the “.tel” suffix);
- (iii) containing at least one letter (“a” to “z” or “A” to “Z”) in standard US ASCII script;
- (iv) not beginning or ending with a hyphen (“-”);
- (v) not containing a hyphen (“-”) in the 3<sup>rd</sup> and 4<sup>th</sup> positions; and
- (vi) not consisting purely of digits.

**3.3 Contents of a Domain Name Application.** A Domain Name Application must contain accurate information in at least the fields described below. This information is to be supplied by the Domain Name Holder to the Registrar during the registration process.

- (a) <domain>: the Domain Name for which a Domain Name Application is submitted with the Registry;
- (b) <name>: the full name of the natural person in whose name the Domain

- Name Application is submitted or, in case such party is a legal person, the full name of the representative of such a legal person;
- (c) <organisation>: the party in whose name the Domain Name Application is submitted (in case such party is a company or organisation);
- (d) <street>: the street where the party in whose name the Domain Name Application is submitted resides;
- (e) <city>: the city / town where the party in whose name the Domain Name Application is submitted resides;
- (f) <postal code>: the postal code or zip code of the city / town where the party in whose name the Domain Name Application is submitted resides;
- (g) <country>: the country where the party in whose name the Domain Name Application is submitted resides;
- (h) <email>: the e-mail address where the party in whose name the Domain Name Application is submitted (or its representative) can be reached;
- (i) <phone>: the full telephone number where the party in whose name the Domain Name Application is submitted or its representative can be reached;
- (j) <technical contact>: the name of the individual or legal entity responsible for the technical operation of the Domain Name;
- (k) <billing contact>: the name of the individual or legal entity responsible for billing matters in relation to the Domain Name;

- (l) <admin contact>: the name of the individual or legal entity responsible for administrative matters in relation to the Domain Name; and
- (m) <Disclosure confirmed>: the legal or natural person listed at (b) above has/has not confirmed full disclosure of the information on the Domain Name.

**3.4** Registration and Activation. If all requirements in this Article 3 are fulfilled and the Registrar has sufficient funds available in its account with the Registry, the Registry will register and activate the Domain Name requested in the Domain Name Application.

**3.5** Registration Fees. The Registration Fees paid to the Registry depend on the term of registration of the Domain Name and are subject to change from time to time in accordance with the Registry-Registrar Agreement.

#### **ARTICLE 4 OBLIGATIONS AND ACCEPTABLE USE POLICY**

**4.1** Obligation. From the time of the initial registration of a Domain Name, the Registrar must:

- (a) keep the information described in Section 3.3 above and provided by Domain Name Holder to Registrar accurate and up-to-date with the Registry at all times;
- (b) not include any Address Record in connection with the Domain Name, with the sole exceptions of glue records (DNS metadata) or an Address Record that points to a .tel web proxy server authorised (and formally published) by the .tel Sponsoring Organisation. For the avoidance of doubt, this restriction applies to any domain referenced within a CNAME Record or DNAME Record held in connection with the Domain

Name, except with respect to such a CNAME or DNAME record referring to a domain authorised (and published) by the Sponsoring Organisation for this purpose. Although it is primarily the responsibility of the Domain Name Holder to comply with these requirements, the Sponsoring Organisation or the Registry may seek assistance from the Registrar in enforcing them; and

- (c) include at least one NAPTR Record referencing a communications contact such as a telephone number, an email address, an instant-messaging handle or a web link associated with the Domain Name Holder.

4.2 Sub-delegations. Domain Names may not have sub-delegations or additional labels (an “*Extended Name*”) that would be in violation of and/or contrary to Section 4.1(b), except that Extended Names are permitted on the following conditions:

- (a) the registration and/or use made of such Extended Name is in accordance with the provisions in these Policies; and
- (b) the registration and/or use of the Extended Name is free of charge to and is only for the use of subsidiaries, business units or employees of the company or members of the association that is the Domain Name Holder, and is not offered as a service to third parties, or, where the Domain Name Holder is a natural person, the Extended Name is only for the personal use of the Domain Name Holder or the family of the Domain Name Holder, is not offered as a service to third parties, and no fee or other compensation is charged in connection with such sub-delegation.

Although it is primarily the responsibility of the Domain Name Holder to comply with these requirements, the Sponsoring Organisation or the Registry may seek assistance from the Registrar in enforcing them.

4.3 Address Record. Neither the Domain Name Holder nor the Registrar may change the Address Record, DNAME Record or CNAME Record values assigned to each registered Domain Name by the Registry. These values are used to generate consistent results to web-based queries on the Domain Name. In the event the Domain Name Holder or Registrar changes the Address Record, DNAME Record or CNAME Record values assigned to any registered Domain Name, the Sponsoring Organisation and/or the Registry is entitled to take such immediate action as it or they deem necessary, including but not limited to revocation of the Domain Name held by Domain Name Holder or revocation of the Registrar’s accreditation with the Sponsoring Organisation.

4.4 Submitting Changes. The Registrar must submit any changes requested by the Domain Name Holder to the information described in Section 3.3 to the Registry within seventy-two (72) hours of receiving such changes.

## ARTICLE 5 ENFORCEMENT

5.1 Notice of Violation and Opportunity to Correct. In case the Sponsoring Organisation or the Registry encounters and/or is informed of any alleged non-compliance or violation by the Registrar or the Domain Name Holder of Registry Policies, it will investigate the alleged non-compliance or violation. Unless otherwise provided for in the Registry Policies, if the Sponsoring Organisation or the Registry concludes that the Domain Name Holder has violated a Registry Policy, it may, at its sole option and discretion:

- (a) if the registration data provided by the Domain Name Holder appears to be inaccurate, request the

Domain Name Holder to correct such data within a thirty (30) days' notice period; or

- (b) if the Domain Name is registered and/or used in violation of a Registry Policy, request the Domain Name Holder to comply with the relevant Registry Policy within a thirty (30) days' notice period or, if the violation relates to the use of Address Records in violation of Sections 4.1(b) or 4.3, within a five (5) days' notice period.

The Registrar of record for the Domain Name will be copied on all such requests and notices. The Domain Name Holder must be copied on all such requests and notices where reasonably practical and appropriate.

**5.2** Revocation. In case an inadequate response or no response has been received within the notice period given to the Domain Name Holder, the Sponsoring Organisation or the Registry may revoke the Domain Name registration without any further notice, and without the Domain Name Holder being entitled to any damages resulting from such revocation.

**5.3** Verification by Sponsoring Organisation. The Sponsoring Organisation or the Registry may, in its discretion, periodically attempt to verify a Domain Name Holder's compliance with the Registration and Acceptable Use Policy.

**5.4** Interim Measures. During the applicable notice period, the Sponsoring Organisation or the Registry may, without liability to any other party, make inactive, cancel or otherwise change the state of the Domain Name in question, in which case, the Domain Name cannot be updated or transferred, and may not resolve.

**5.5** Notice Recipients. Following the change of state of a Domain Name by the Sponsoring

Organisation or the Registry pursuant to this Article 5, the Registry will, where possible, send an e-mail to the email address of the Domain Name Holder, informing him or her of the fact that the Domain Name state has been changed. The Registrar of record for the Domain Name must be copied on all such communications. Additionally, the Domain Name Holder for the Domain Name must be copied on all such communications where reasonably practical and appropriate.

## ARTICLE 6 DOMAIN NAME STATES

**6.1** States. A registered Domain Name can have the following states:

- (a) <Ok> – The Domain Name is active and all operations are allowed;
- (b) <Client Delete Prohibited> – The Client/Registrar is not allowed to delete the Domain Name;
- (c) <Client Hold> – The Client/Registrar has the domain on hold. The Domain Name will not resolve;
- (d) <Client Renew Prohibited> – The Client/Registrar cannot renew the Domain Name;
- (e) <Client Transfer Prohibited> – The Client/Registrar cannot transfer the Domain Name;
- (f) <Client Update Prohibited> – The Client/Registrar cannot update the Domain Name;
- (g) <Server Delete Prohibited> – The Domain Name cannot be deleted;
- (h) <Server Hold> – The Domain Name is on hold and will not resolve;
- (i) <Server Renew Prohibited> – The Domain Name cannot be renewed;

- (j) <Server Transfer Prohibited> – The Domain Name cannot be transferred;
- (k) <Server Update Prohibited> – The Domain Name cannot be Updated;
- (l) <Inactive> – The Domain Name will not appear in the zone because it lacks the proper delegation information (name servers);
- (m) <Pending Delete> – The Domain Name is in Pending Delete status and will be deleted according to the configuration; and
- (n) <Pending Transfer> – The Domain Name is Pending a Transfer operation.

**6.2** Change of Status. The Sponsoring Organisation reserves the right to change the status of any registered Domain Name. The Registrar of record for the Domain Name will be promptly notified of all such changes in status.

## **ARTICLE 7 TRANSFER OF A DOMAIN NAME**

**7.1** Information. Any request to transfer a registered Domain Name to a new Domain Name Holder must include the information described in Section 3.3 above.

**7.2** No Transfer of Applications. Only registered Domain Names may be transferred to a new Domain Name Holder. Pending Domain Name Applications may not be transferred to new Domain Name Holders.

## **ARTICLE 8 MISCELLANEOUS**

This Acceptable Use Policy may be amended from time to time by the Sponsoring Organisation, which amendments will take effect at the time they are published on the Registry Web Site. The Sponsoring Organisation may furthermore issue interpretive guidelines on the Registry Web Site regarding the provisions of this Acceptable Use Policy.

## **EXHIBIT B**

### **REGISTRATION FEES**

Please refer to our internet website <http://digitrad.com> which includes the applicable prices.

## SCHEDULE 8.1

### MAINTENANCE TERMS

Digitrad undertakes to take all reasonable care for the provision of the services under these Maintenance Terms, in a workmanlike manner, in accordance with the state of the art and technology. Digitrad shall be subject to an obligation of means (due care) for all the services provided under these Maintenance Terms.

The Parties expressly accept and acknowledge that Errors, interruptions and unavailability of the Unified Communication Services and the Unified Communication Platform may occur. In that respect, Digitrad shall use commercially reasonable efforts to diagnose and resolve the incidents reported to it according to these Maintenance Terms. However, Digitrad shall not be held liable for End User if such incident could not be partially or completely resolved, despite all due care and efforts made by Digitrad.

The limited warranty and limitation of liability provided under Article 8 of this Agreement are fully applicable to these Maintenance Terms.

In addition, End User hereby expressly waives the right to hold Digitrad liable for any and all damages occurring to data, files, computer memory or any document, hardware or program which may have occurred to End User within the context of the Maintenance provided. Furthermore, Digitrad shall not be held liable should End User not respect all of its obligations hereunder, or in the event of error or negligence by the End User, nor in the event of non conformity to the Digitrad's instructions given to the End User.

End User's sole and exclusive remedy for breach of Maintenance Terms by Digitrad shall be, at Digitrad's option, performance of new services or return of the corresponding portion of the service fee paid to End User to Digitrad.

The Parties expressly agree that the support services provided by Digitrad in accordance with these Maintenance Terms shall under no circumstances include the following:

- products/infrastructure deployed for provision of the Unified Communication Services which are modified, unless the modifications are provided by Digitrad or specifically authorized in writing by Digitrad,
- products/infrastructure deployed for

provision of the Unified Communication Services, which are not installed, operated, or maintained in accordance with the applicable instructions or documentation,

- products/infrastructure deployed for provision of the Unified Communication Services, which are subjected to unusual physical or electrical stress, misuse, negligence or accident, or used in hazardous activities,
- support, maintenance, warranty or repair service of any product deployed for provision of the Unified Communication Services other than the Unified Communication Platform, and
- any infrastructure equipment deployed for provision of the Unified Communication Services other than the Unified Communication Platform.

In addition, Digitrad shall not be held accountable for service failure under this Schedule or otherwise due to the following causes:

- any and all failures caused by the End-User or a third party,
- misconfigurations of the Unified Communication Services or the Unified Communication Platform by the End-User or a third party,
- technical failure of any other system, equipment, platform, hardware or software other than those of Digitrad included in the Unified Communication Platform.
- environmental failures affecting the Unified Communication Services or the Unified Communication Platform (including without limitation communication line failures, power failures, etc.).

Maintenance shall mean provision of technical assistance to the End User of the Unified Communication Services in order to resolve any and all incidents related to the use of such Unified Communication Services by the End User.

Maintenance to the End User is provided continuously throughout the use of the Unified Communication Services and according to the applicable industry or other standards. In particular, personnel providing the Maintenance to the End User shall be qualified accordingly.

The contact details (including a phone number and an e-mail) shall be made available to the End User in order to report any incidents related to the use of the Unified Communication Services.

## SCHEDULE 9.1

### PRICES AND ASSOCIATED COSTS AND FEES

Please refer to our internet website <http://digitrad.com> which includes the applicable prices.

## SCHEDULE 10.1

### LIMITED LICENSE TERMS

To the extent necessary for the use of Unified Communication Services and provided it has adhered to these Limited License Terms and paid the license fees and other applicable costs, End-User shall be entitled to use the Digitrad's Software and Digitrad's Trademarks associated to the Unified Communication Services (the "**Digitrad's IPR**"). This right is given on a personal, non-exclusive, revocable and non-transferable basis, without the right to sublicense.

Except as expressly set forth in these Limited License Terms, any and all title, right, interest (including, without limitation, all patent rights, copyrights, trademark rights, trade secret rights and other intellectual property rights) in and to Digitrad IPRs, shall, at all times, remain solely with Digitrad and any corrections, bug fixes, enhancements, modifications, updates, upgrades, or new versions thereto, whether or not made by Digitrad, which shall be deemed part of the relevant Digitrad IPR and subject to all of the provisions of these Limited License Terms.

Digitrad shall have the right to maintain, enhance or otherwise modify Digitrad IPR.

End-User agrees to protect Digitrad IPR licensed hereunder in a manner consistent with these Limited License Terms and Digitrad's proprietary rights, including displaying of any copyright marking and other proprietary or confidential markings, notices or legends incorporated by Digitrad in Digitrad's IPR.

These Limited License Terms do not entitle the End-User to:

- file applications for the protection of any trademark, logo or trade name identical or similar to Digitrad's Trademarks,
- claim or assert title to any Digitrad's IPR,
- copy Digitrad's IPR without prior written approval from Digitrad. Any such copies shall be strictly and solely for the End-User's internal use,
- reproduce, modify, translate, reverse engineer, decompile or disassemble of Digitrad's IPR or any portion thereof, or otherwise attempt to gain access to the source code of all or any portion of the Digitrad's Software, except to the extent that this restriction is expressly authorized by the law,
- sell, rent, lease, loan, provide, distribute or otherwise transfer all or any portion of the Digitrad's IPR.

- remove, alter, cover or obfuscate any copyright notices, trademark notices or other proprietary rights notices placed or embedded on or in the Digitrad's Software,
- unbundle any components of the Digitrad's Software;
- create any derivative software nor develop any other application based on Digitrad's IPR, or
- cause or permit any third party to do any of the foregoing.

End-User is entitled to provide to Digitrad the reports of defects in Digitrad's IPR or to propose and suggest any changes or modifications thereto. Digitrad shall be entitled to use such reports of defect, including, without limitation, the incorporation of such reports into Digitrad's IPR or Digitrad's products/services, without any obligation to End-User.

If any unauthorized copies are made of Digitrad IPRs, or if they are used in violation of these Limited License Terms, then, in addition to any other rights and remedies to which Digitrad may be entitled, Digitrad shall have the right to seek an injunction against such unauthorized copying or use.

In addition, Digitrad may suspend or block access to Digitrad IPRs at any time and without notice for any of the following reasons: (i) compliance with any law, regulations, court orders, competent authorities, or other governmental requests or orders requiring immediate action, (ii) to prevent interference with, damage to, or degradation of Digitrad's network, equipment, software, system, (iii) if Digitrad IPRs are used in a manner exposing or which may expose Digitrad to legal liability, or in a manner that violates any applicable law or regulation, or (iv) if Digitrad IPRs are used contrary to the terms of these Limited License Terms.

## SCHEDULE 11.1

### LIMITED WARRANTY TERMS

The warranties and conditions hereunder constitute Digitrad's sole and exclusive liability hereunder and End-User's sole and exclusive remedy and are in lieu of all other warranties, conditions, representations and other terms, express or implied, all of which are excluded (including, but not limited to, merchantability, satisfactory quality, fitness for a particular purpose or best care or skill, title, availability, reliability, usefulness, or arising through the course of performance, dealing, usage or trade) to the extent allowed by Applicable Law.

Digitrad shall take all reasonable care and shall provide its products/services in a workmanlike manner, in accordance with the state of the art and technology. Digitrad shall be subject to an obligation of means (due care) for all Digitrad's products/services.

Please note that Errors, interruptions and unavailability of the Unified Communication Services and the Unified Communication Platform may occur. In that respect, Digitrad shall use commercially reasonable efforts to diagnose and resolve the incidents reported to it, according to the Maintenance Terms applicable. However, Digitrad shall not be held liable if such incident could not be partially or completely resolved, despite all due care and efforts made by Digitrad.

Digitrad shall not be liable for loss or inaccuracy of data, nor for any and all indirect, incidental or consequential damages and costs arising out of or in connection with the provision of its products/services. The following shall be considered as indirect, incidental or consequential

damages: (i) the loss of profits, revenue, opportunities, any postponement or disruption in the project planning or the company activity, any loss of data, files or computer programs whatsoever, which may result from the non-performance of this Agreement, and any and all consequential and punitive damages, and (ii) any other damages and costs considered as indirect under the law.

Digitrad shall not be liable for loss or any and all damages occurring to data, files, computer memory or any document, hardware or program which may occur in relation to the provision of its products/services. Furthermore, Digitrad shall not be held liable for failures, errors or negligence of other parties or their employees, nor in the event of non conformity to the instructions given by Digitrad.

Digitrad shall not be liable for any failure or delay in performance due to a force majeure event beyond its reasonable control qualified as such under the law. The following events shall be considered, without limitation, as a force majeure event: acts of God, inclement or severe weather, industrial disputes, failure or shortage of power supplies, lightning or fire, acts of government or other competent authorities, war, civil disorder, acts or omissions of other telecommunications operators, or events beyond the reasonable control of Digitrad, its suppliers and sub-contractors.

Digitrad's total aggregate liability is limited to amounts paid to Digitrad or to the End User for the particular Digitrad products/services with respect to which a claim is made.