

**SPIRENT/GNSS FORESIGHT**

**MASTER SUBSCRIPTION AND SERVICES AGREEMENT**

THIS SPIRENT MASTER SUBSCRIPTION AND SERVICES AGREEMENT (the “Agreement”) is entered into as of \_\_\_\_\_, 202\_\_\_\_ (the “Effective Date”), by and between **SPIRENT COMMUNICATIONS, INC.**, with its principal place of business at \_\_\_\_\_ (“Spirent”) and \_\_\_\_\_, with its principal place of business at \_\_\_\_\_ (“Customer”).

**1. DEFINITIONS.**

**1.1. “Affiliate”** means any entity that controls, is controlled by, or is under common control with a party, where “control” means ownership of at least fifty percent (50%) of the outstanding voting securities or the ability to control the operations of the entity in question (but only as long as such person or entity meets these requirements).

**1.2. “Agreement”** means, collectively, the terms set forth below, and the attached Exhibits hereto, as well as any Order Schedule or SOW agreed to by the parties, each of which are incorporated herein by this reference.

**1.3. “Confidential Information”** means this Agreement, the Spirent Technology, the Licensed Data, the Spirent pricing information, and any other information disclosed by one party (“Discloser”) to the other (“Recipient”) hereunder.

**1.4. “Customer Data”** means any Customer-specific data, materials, or content provided or submitted to or through the Hosted Service.

**1.5. “Documentation”** means the online help files, use instructions, and related description of the Hosted Services features and functionality that Spirent provides for use with the Hosted Service.

**1.6. “Electronic Communications”** means any transfer, transmission, and/or receipt of text, images, data, or other information of any nature to, from, or through the Services.

**1.7. “Hosted Service”** means the SaaS-based services to be provided by Spirent to Customer, and known as the GNSS Foresight Forecast Service, as more particularly described in the relevant Order Schedule.

**1.8. “Intellectual Property Rights”** means patents, copyrights, trademarks, service marks, trade names, domain name rights, know-how, and other trade secret rights, and all other intellectual property rights.

**1.9. “Licensed Data”** means any data or content provided by Spirent in connection with the Services, including all data contained within Navigation Reports (whether that data originates with Spirent or with a Third Party Data Provider).

**1.10. “Navigation Reports”** means the reports generated by Spirent for Customer using the Services, including any Licensed Data contained therein.

**1.11. “Order Schedule”** means a document agreed between the parties in accordance with Section 2, that details the Hosted Services to be provided by Spirent, the associated fees and other related details, and which is based on the template set out in Exhibit B (Order Schedule Template).

**1.12. “Professional Services”** means the risk analysis services to be provided by Spirent to Customer, and known as GNSS Foresight Risk Analysis, as more particularly described in the relevant Order Schedule and/or SOW.

**1.13. “Services”** means the Hosted Service, the Professional Services, or both, as the context specifies.

**1.14. “Service Area”** means the geographical area defined as such in the relevant Order Schedule or SOW (being the area in respect of which Customer is to be authorized to make use of the Services, to request Navigation Reports and to access and use the Licensed Data).

**1.15. “Service Term”** means period during which Spirent will provide the Hosted Service to the Customer, as specified in the relevant Order Schedule or SOW.

**1.16. “Spirent Technology”** means the technology provided via the Services, including any and all associated data, enhancements, improvements, modifications, and derivative works to any of the foregoing, as well as any and all suggestions, ideas, enhancement requests, and feedback relating thereto.

**1.17. “Statement of Work” or “SOW”** means a document that describes the Professional Services to be provided by Spirent (if any), the associated fees and other related details, and is based on the template set out in Exhibit C (SOW Template).

**1.18. “Support Services Policy”** means Spirent’s standard policy for providing support in relation to the Hosted Service as made available at [support.spirent.com](http://support.spirent.com) or such other website address as may be notified to the Customer from time to time.

**1.19. “Third Party Data Provider”** means any of Spirent’s licensors or suppliers whose data is used by Spirent in the course of providing the Services.

**1.20. “User”** means Customer employees, contractors, or agents whom Customer authorizes to use the Hosted Service.

## **2. ORDERING PROCEDURE.**

**2.1. Structure of Agreement.** This Agreement constitutes a Framework Agreement under which Spirent and Customer may enter into one or more Order Schedules for the provision of the Hosted Service or Professional Services.

**2.2. Order Schedules - general.** If multiple Order Schedules are agreed under this Agreement, they will be numbered sequentially. All mutually executed Order Schedules are deemed incorporated herein by this reference. Each Order Schedule is intended to define a separate contract particular to that order, incorporating by reference this Agreement. An Order Schedule may also contain other terms or conditions, mutually agreed upon by Spirent and Customer, which apply specifically to that particular order/contract. Customer agrees that each Order Schedule will be signed by a representative having the authority to bind Customer, and that Spirent may presume that such representative has such authority. A binding order is created when Spirent accepts and executes the Customer-executed Order Schedule.

**2.3. Order Schedules – Professional Services.** An Order Schedule may be used in connection with, or in lieu of, an SOW. Upon the parties’ execution of the SOW (or Order Schedule governing such SOW), such SOW will be incorporated herein by reference.

## **3. PROVISION OF HOSTED SERVICE AND SPIRENT TECHNOLOGY.**

**3.1. Provision of Hosted Service; Access Right.** Subject to the terms and conditions of this Agreement, during the applicable Service Term, Spirent will provide Customer with the Hosted Service described in this Agreement and on one or more Order Schedules. Spirent will host the Hosted Service (either directly or through a third-party hosting services provider) and may update the content, functionality, and user interface of the Hosted Service from time to time. Spirent will use commercially reasonable efforts to ensure that any changes made to the Hosted Service will not materially diminish its core functionality, performance or security. Unless otherwise specified in the applicable Order Schedule, the Hosted Services are purchased on a subscription basis. Accordingly, subject to the terms and conditions of this Agreement, Customer is hereby granted a limited, personal, non-exclusive, worldwide, non-sublicensable, nontransferable right to access and use the Hosted Service, and to use the Navigation Reports and the Licensed Data contained therein, solely for Customer’s internal business purposes in connection with the use cases (if any) set forth in the Order Schedule. Spirent may create and maintain administrative, support, system, and maintenance accounts within the Hosted Service, all with Customer Data access for Spirent and its service providers and other personnel, in order to deliver the Hosted Service and perform all other activities set forth in or contemplated by this Agreement. Customer acknowledges that in order to use the Hosted Service, (a) Customer must (i) independently have or must independently obtain Internet access, either directly or through devices that access Web-based content, as well as browser software that supports protocols used by Spirent; and (ii) follow logon procedures for the services that support such protocols; and (b) Spirent assumes no responsibility for the foregoing.

**3.2. Access and License Restrictions.** Customer will not (nor authorize nor permit any third party to):

- (i) sublicense, sell, transfer, assign, distribute or otherwise commercially exploit the Services, the Spirent Technology or the Navigation Reports;
- (ii) modify, adapt, translate, or create derivative works based on the Services, the Spirent Technology or the Navigation Reports;

- (iii) create Internet “links” to the Hosted Services or “frame” or “mirror” any content provided in connection therewith;
- (iv) reverse engineer or access the Services, the Spirent Technology or the Navigation Reports in order to build a product using similar features, functions or graphics or to extract the underlying Licensed Data;
- (v) copy any features, functions or graphics of the Hosted Services, the Spirent Technology or the Navigation Reports;
- (vi) use the Services to: (a) send unsolicited or unlawful messages; (b) send or store infringing, obscene, threatening, harmful, libelous, or otherwise unlawful material, including material harmful to children or violative of privacy rights; (c) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, or agents; (d) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (e) attempt to gain unauthorized access to the Hosted Service or its related systems or networks;
- (vii) provide or disclose to, or permit use of the Hosted Service, the Spirent Technology or the Navigation Reports by, persons other than Users; or
- (viii) copy, separate, unbundle, extract, isolate, remove or otherwise use or distribute any imagery, pixels, data, metadata, layers, content, or other information owned or managed by any Third Party Data Provider and provided to Customer via the Services.

**3.3. Security/Data Integrity.** Spirent will maintain reasonable administrative, physical, and technical safeguards designed for the protection, confidentiality, and integrity of Customer Data. Customer acknowledges that it is not feasible for Spirent to accommodate conflicting data security requirements from multiple Spirent Customers; accordingly, Spirent will use good faith efforts to accommodate Customer’s request as and where feasible; however, failure to accommodate Customer’s request will not be deemed a breach of this Agreement. The terms of Spirent’s standard data processing addendum (“DPA”), a copy of which will be made available to Customer upon request, are hereby incorporated by reference and shall apply to the extent Customer Data includes Personal Data, as defined in the DPA. To the extent Personal Data from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Spirent, the EU-US and/or Swiss-US Privacy Shield, and/or the Standard Contractual Clauses shall apply, as further set forth in the DPA. For the purposes of the Standard Contractual Clauses, Customer is the data exporter, and Customer’s acceptance of this Agreement shall be treated as its execution of the Standard Contractual Clauses and Appendices. Additional details to Spirent’s privacy policy are set forth at <https://www.Spirentnav.com/privacy-policy>.

**3.4. Professional Services.** Spirent will provide such resources and utilize such Spirent employees and/or consultants, using the methods and means, all as Spirent deems necessary to perform Professional Services. Customer will provide Spirent any Customer materials needed for Spirent to perform the Professional Services, and hereby grants Spirent a royalty-free, non-exclusive, worldwide license to use the same to enable Spirent to perform the Professional Services. Spirent will use commercially reasonable efforts to meet the schedules set forth in the SOW. Customer will cooperate in good faith to allow Spirent to complete the Professional Services in a timely manner. If achieving a milestone depends on Customer’s (or its agent’s) performance of tasks, the projected dates for accomplishing such milestones will be adjusted to reflect any necessary changes. Spirent is not providing to Customer any Spirent Technology pursuant to this section; such Spirent Technology (and the associated Hosted Service) is being provided, if at all, pursuant to the terms of Section 3.2.

**3.5. Support Services.** Spirent will, as part of the Hosted Service, provide Customer with the Supplier’s standard customer support services in accordance with the Support Services Policy in effect at the time that the Hosted Services are provided. Spirent may amend the Support Services Policy in its sole and absolute discretion from time to time. Customer may purchase enhanced support services separately at Spirent’s then-current rates.

**3.6. Trial Subscriptions.** If Customer receives free access, paid trial, or evaluation subscription to the Hosted Service (a “Trial Subscription”), Customer may use the Hosted Service in accordance with the terms and conditions of this Agreement (including Section 3.2) for the period designated in the Order Schedule (“Trial Period”). Trial Subscriptions are permitted solely for Customer’s use to determine whether to purchase a full subscription to the Hosted Service. Customer may not use a Trial Subscription for any other purposes. At the end of the Trial Period, the Trial Subscription will expire, and all Customer Data will be permanently deleted, unless Customer purchases a paid subscription to the Hosted Service (provided that the paid subscription is for the same Spirent product). If Customer purchases a full subscription, all of the terms and conditions in this Agreement will apply to such purchase and the use of the Hosted Service. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, SPIRENT WILL HAVE NO WARRANTY, INDEMNITY, SUPPORT, OR OTHER OBLIGATIONS WITH RESPECT TO TRIAL SUBSCRIPTIONS (WHICH ARE PROVIDED “AS IS” AND “WITH ALL

FAULTS”).

**3.7. Warranty Offered in Lieu of Acceptance.** Unless otherwise set forth in an Order Schedule with regard to a particular Service (and in such event, solely to the extent applicable to such Service), the Services are deemed irrevocably accepted upon delivery and/or performance. However, the foregoing does not affect Spirent’s warranty obligations (or Customer’s rights relating thereto), as and to the extent set forth in Section 7 (Representations and Warranties).

#### **4. CUSTOMER RESPONSIBILITIES.**

**4.1. Compliance with Laws.** Customer will abide by all applicable laws, treaties and regulations regarding use of the Services.

**4.2. Responsibility for Users; Safeguarding Access Credentials.** Customer will be responsible and liable for the acts and omissions of all Users in connection with this Agreement, as well as any and all access to and use of the Service by any User or any other person logging in under access credentials registered under Customer’s account or providing and/or receiving Customer Data or other information through the Services. Customer acknowledges that Customer’s access information, including user names and passwords of its Users, will be Customer’s “key” to the Hosted Service; accordingly, Customer will be responsible for maintaining the confidentiality of such access information. Customer will: (i) notify Spirent promptly of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) report to Spirent promptly and use reasonable efforts to stop immediately any copying or distribution of Spirent Technology or Licensed Data that is known or suspected by Customer or Customer’s Users; and (iii) not impersonate another Spirent user or provide false identity information to gain access to or use the Hosted Service. Spirent will not be responsible for any unauthorized use until Customer notifies Spirent of the same, in writing.

**4.3. Provision of Customer Data.** Customer acknowledges that by transmitting Customer Data and other information in connection with the Services, Customer is making information available for use by Spirent and by the other authorized users (including customers and their personnel) of the Hosted Service on an aggregated, anonymized basis, as further set forth in Section 5.2. Accordingly, Customer grants Spirent a nonexclusive, perpetual, irrevocable, transferable, sublicensable, fully paid-up and royalty free, worldwide license to de-identify Customer Data and to use Customer Data on an aggregated, anonymized basis.

**4.4. Responsibility for Customer Data Issues.** Spirent is not obligated to screen Customer Data, although Spirent reserves the right to screen Customer Data and to suspend access to Customer Data that Spirent reasonably considers may breach this Agreement or any applicable law. Spirent will notify Customer as soon as practicable if Spirent suspends access to any Customer Data and will restore access to such Customer Data as soon as, in Spirent’s reasonable opinion, doing so would not place Spirent at risk of loss or damage. Spirent is not liable for any damage or loss caused by Spirent’s decision to suspend access to Customer Data for any permissible reason under this Agreement. Customer is entirely responsible for the content and delivery of Customer Data, including without limitation, the accuracy, usefulness, timeliness, completeness, appropriateness, quality, integrity, reliability, and legal sufficiency of Customer Data, and for obtaining all rights related to the Customer Data required by Spirent to perform the Services and other obligations, and to exercise all rights, hereunder. Customer is responsible for ensuring Customer Data is correctly addressed and timely and does not represent a breach of any obligations to a third party or of law.

#### **4.5. Responsibility for Personal Data.**

**(a) General.** Customer, on behalf of itself and all Users (whose prior written permission Customer represents and warrants that Customer has obtained) agrees to allow Spirent and its Affiliates and their personnel to store and use Customer’s and Users’ contact information, including names, phone numbers, and e-mail addresses, in every jurisdiction in which the foregoing individuals reside and/or conduct business. Such information will be processed and used only in connection with the parties’ business relationship described and contemplated hereunder, including the provision of the Services hereunder, and may be provided to Spirent and its Affiliates and its and their personnel, contractors, business partners, and assignees for uses consistent with their collective business activities, including communicating with Customer (for example, for processing orders).

**(b) Spirent’s Responsibilities.** Customer represents that (i) Customer is duly authorized to provide personal data to Spirent and Customer does so lawfully in compliance with relevant legislation, (ii) Spirent and any entity within the Spirent group of companies (each, a “**Spirent Entity**”) or its subcontractors can process such data and (iii) Spirent may disclose such data to any Spirent Entity and its subcontractors for the purpose of satisfying its obligations to Customer and may transfer such data to countries outside of the country of origin. The Spirent Entities have committed to comply with relevant data protection/privacy legislation, and to the extent Customer Data includes personal data protectible under laws requiring a data processing addendum to be executed, then Spirent will enter into such Spirent form of addendum then in effect.

(c) **Customer's Responsibilities.** Without prejudice to sub-sections (a) and (b) above, Customer is responsible for: (i) any required notices, consents, and/or authorizations related to Customer's (or any User's) provision of, and Spirent's processing of, Customer Data (including any personal data) as part of the Services; (ii) any security vulnerabilities, and the consequences of such vulnerabilities, arising from Customer Data, including any viruses, Trojan horses, worms, or other harmful programming routines contained in Customer Data; and (iii) any use by Customer or any User of the Services in a manner that is inconsistent with the terms of this Agreement. To the extent that Customer (or any User) discloses Customer Data to a third party that is not subject to any restriction on the disclosure of the Customer Data, Spirent is no longer responsible for the security, integrity, or confidentiality of such Customer Data.

(d) **Data Restrictions.** Unless specified in an Order Schedule, Customer Data will not include any sensitive or special data that imposes specific data security or data protection obligations on Spirent in addition to or different from those described herein (or in Spirent's form of data protection addendum).

## **5. INTELLECTUAL PROPERTY OWNERSHIP.**

**5.1. By Customer.** As between Spirent and Customer, Customer owns all right, title and interest, including all related Intellectual Property Rights, in and to the Customer Data.

**5.2. By Spirent.** As between Spirent and Customer, Spirent (or its licensors and suppliers) owns and will continue to own all right, title and interest, including all related Intellectual Property Rights, in and to the Services, the Spirent Technology and the Navigation Reports. The foregoing also includes any and all system performance data and machine learning, including machine learning algorithms, and the results and output of such machine learning. No jointly owned intellectual property is created under or in connection with this Agreement. Customer acknowledges that the Spirent name, the Spirent logo, and the product names associated with the Service are trademarks of Spirent or third parties, and no license to such marks is granted herein.

**5.3. No "works for hire".** Without limiting Section 5.2, Spirent and Customer expressly agree that none of the Services delivered by Spirent shall be considered a "work for hire" and any Intellectual Property Rights created in the performance of the Services remain the sole and exclusive property of Spirent. To the extent that Spirent creates any Intellectual Property Rights in creating deliverables in performing the Services, Spirent shall grant a limited license to Customer to use such deliverables for Customer's internal use only.

**5.4. Data aggregation.** Customer acknowledges and agrees that Spirent may aggregate data across multiple customers, provided that the results do not identify Customer ("**Aggregated Anonymous Data**"), and the Aggregated Anonymous Data is deemed Spirent Technology. For clarity, Spirent may use the Aggregated Anonymous Data for any purpose relating to Spirent's business, including providing Aggregated Anonymous Data to external sources, and/or combining the Aggregated Anonymous Data with external data, and to serve other business purposes as Spirent deems appropriate.

## **6. INVOICES AND PAYMENT.**

**6.1. Application of this Section.** This Section (Invoices and Payments) only applies where Customer is contracting directly with Spirent for the provision of the Services. If Customer's contract is with a Spirent reseller, then Spirent directs Customer to follow the provisions of that contract concerning invoices and payments, which shall apply instead of this Section.

**6.2. Fees; Payment.** For Services performed in accordance with this Agreement, Customer shall pay Spirent the fees and expenses as set out in the applicable Order Schedules or SOWs. Fees are determined according to Service Area, Service Term, permitted User numbers, and other commercial factors. Spirent shall submit invoice(s) to Customer as described in the relevant Order Schedule or SOW, and each invoice submitted by Spirent to Customer shall be accompanied by appropriate supporting documentation with detailed itemization to include a status report for work actually performed. Unless otherwise set forth in an Order Schedule or SOW, amounts are due and payable within thirty (30) days following the date of each applicable invoice; multiple invoices for the Services ordered may be issued, and each will be payable according to the terms set forth herein. Except as otherwise specified in this Agreement or in an Order Schedule or SOW, (i) fees are quoted and payable in United States dollars, (ii) fees are based on services purchased and data volume used and not actual usage, (iii) payment obligations are non-cancelable and fees paid are non-refundable, and (iv) the number of subscriptions purchased cannot be decreased during the relevant Service Term. If an Order Schedule specifies any limits for the applicable Hosted Service, Customer agrees not to exceed such limit(s); otherwise, Spirent will charge for, and Customer agrees to pay for such additional access.

**6.3. Taxes.** All fees are exclusive of federal, state, municipal or other governmental excise, value-added, sales, use, excise, personal property, occupational, withholding obligations and other levies now in force or enacted in the future. Accordingly, all fees

payable to Spirent are subject to an increase equal to the amount of any such tax, excise or levy Spirent may be required to collect or pay in connection with the Services, other than a tax on the net income of Spirent. Any applicable charge or tax shall be borne by customer in addition to the fees quoted.

**6.4. Effect of Nonpayment.** This Agreement and the Services may be suspended or terminated if Customer's account falls into arrears and five (5) business days have passed after written notification to Customer (email sufficing). Customer will continue to be charged for Services during any suspension. Any amounts not paid within the thirty (30) day period mentioned in Section 6.2 above shall bear interest at the lesser of (i) the maximum rate allowable under applicable law where Customer is located and (ii) two percent (2%) per month. Customer's payment of such interest on late payments shall not prevent Spirent from exercising any other rights under this Agreement or applicable law.

**6.5. Audit.** During the term of this Agreement, Customer will maintain, at Customer's executive offices, reasonable files, records, and books of accounts relating to Customer's access to and use of the Services including, at a minimum, all information and data required to verify Customer's compliance with this Agreement. Customer will permit Spirent or its representatives to review Customer's relevant records and audit usage to verify compliance with this Agreement no more than once every twelve (12) months, and at any time (with reasonable notice) if a prior review has revealed a non-compliance (such as an underpayment or breach of this Agreement). Inspections will be conducted during normal business hours and upon reasonable notice. Customer will promptly pay any underpayment of amounts due, plus if the underpayment exceeds 5% of the actual amount due, Customer will pay interest in an amount equal to one and one-half percent (1½%) of the underpayment per month, or the maximum legal rate, if less, calculated monthly from the date the underpayment was due until the date payment is made, as well as remedy any noncompliance indicated by such audit. All audits will be conducted at Spirent's expense, except that if the results reveal an underpayment of ten percent (10%) or more, Customer will also reimburse Spirent for the reasonable cost of the audit. In lieu of such audit, and upon reasonable request of Spirent at any time, Customer will certify its compliance with the terms of this Agreement.

**6.6. Invoice Disputes.** In the event Customer in good faith disputes a portion of an unpaid invoice, Customer will notify Spirent within thirty (30) days from the date of such unpaid invoice. Customer agrees to provide reasonable supporting documentation to Spirent concerning any amount disputed, along with Customer's dispute notice, and Customer acknowledges and agrees that invoices issued in accordance with the Order Schedule will be presumed to be valid and payable. The amount not in dispute (i.e., not subject to a timely dispute notice) shall be paid in accordance with the terms of this Agreement. Once an invoice dispute is resolved, Customer will pay within thirty (30) days of dispute resolution. If necessary, Spirent will reissue an invoice for the undisputed and disputed portions of the invoice to facilitate Customer's payment of the undisputed invoiced amounts.

## **7. TERM; TERMINATION.**

**7.1. Term of Agreement.** This Agreement begins on the Effective Date and, unless earlier terminated as set forth below, will continue while any Order Schedule is in effect between the parties.

**7.2. Term and renewal of Order Schedules.** Each Order Schedule will come into force on the date specified therein and shall remain in force for the applicable Service Term. No later than ninety (90) days prior to the expiration of a Service Term, Customer will either: (a) renew the Service Term for a renewal Service Term equal in duration to the then-current Service Term, at Spirent's then-current fees or such other fees as the parties may mutually agree (provided that (i) this Agreement is still in force at that point and (ii) Spirent continues to make the applicable Hosted Service modules available); or (b) allow the Service Term to expire. If Customer fails to elect either (a) or (b), then (b) will apply.

**7.3. Termination for cause.** Either party may terminate this Agreement (or any Order Schedule or SOW) upon the other party's material breach that remains uncured for thirty (30) days following notice of such breach, except that in the event of a breach of Section 3.2 (Access and License Restrictions) or Section 11 (Confidentiality), the cure period is five (5) days. Spirent reserves the right to modify, or discontinue offering, any Hosted Service module effective as of the conclusion of Customer's then-current Service Term.

**7.4. Treatment of Customer Data Following Expiration or Termination.** Following termination of Customer's account, Spirent may deactivate Customer's account. Following a reasonable period of not less than thirty (30) days, Spirent will be entitled to delete Customer's account from Spirent's "live" site. During this thirty (30) day period and upon Customer's request, Spirent will grant Customer limited access to the Service to retrieve Customer Data. Spirent will not be liable to Customer nor to any third party for any termination of Customer access to the Service or deletion of Customer Data, provided that Spirent is in compliance with the terms of this section.

**7.5. Effect of Termination; Survival.** Upon expiration or termination of this Agreement: (a) any amounts (including expenses) owed to Spirent for completed Services and work in progress, as well as fees applicable to the duration of the terminated subscription, and other unpaid amounts, will be immediately due and payable; (b) all subscriptions granted under this Agreement and



Spirent's obligation to provide (and Customer's right to access and use) the Service and Spirent Technology, will terminate; (c) Customer Data will be returned or deleted pursuant to Section 7.4; and (d) the Sections of this Agreement headed "Definitions", "Access and License Restrictions", "Customer Responsibilities", "Intellectual Property Ownership", "Billing and Payment", "Treatment of Customer Data Following Expiration or Termination", "Effect of Termination; Survival", "Representations and Warranties", "Indemnification", "Limitation of Liability", "Confidentiality" and "General" will survive termination of this Agreement, as well as any other obligations of the parties that are specified in this Agreement to survive, or which by their intent are of a continuing nature.

## **8. REPRESENTATIONS AND WARRANTIES.**

### **8.1. By Spirent.**

**(a) Hosted Service.** Spirent warrants that the Hosted Service, when used in accordance with the instructions in the Documentation and this Agreement, will conform to the specifications expressly set forth in the applicable Documentation. Customer must notify Spirent as soon as practicable of a breach of the foregoing warranty, in which event, Spirent's entire liability and Customer's sole and exclusive remedy for such breach will be, at Spirent's election, to either: (A) rectify the Hosted Service so that it so conforms to such warranty; or (B) provide a refund of the fees paid for the Hosted Service under the relevant Order Schedule (pro rated according to the unexpired portion of the then-current Service Term) in which event the relevant Order Schedule and Customer's right to access such Service will immediately terminate. Spirent will have no obligation under this Agreement to correct, and Spirent makes no warranty with respect to, errors caused by or relating to: (1) use of the Hosted Service in a manner inconsistent with the Documentation or this Agreement; or (2) third party hardware or software misuse, modification, or malfunction.

**(b) Availability.** Spirent shall use commercially reasonable endeavours to maintain a minimum of 95% availability for the Hosted Service on a 365-day, twenty-four hour, seven days a week (365x24x7) basis, subject to the provisions of Exhibit A (Availability Service Level Agreement).

**(c) Professional Services.** Spirent warrants that the Professional Services will be performed in a professional and workmanlike manner consistent with industry standards. Customer will have seven (7) days following the performance of each Professional Service to notify Spirent of a breach of the foregoing warranty as to such Professional Service, in which event, Spirent's entire liability and Customer's sole and exclusive remedy for such breach will be to provide a refund of the fees paid for the affected Professional Service. Any remedy provided by Spirent will not extend the original warranty period. Spirent will have no obligation under this Agreement to correct, and Spirent makes no warranty with respect to, errors caused by or relating to use of the Professional Service (or its deliverable(s)) independently from the Hosted Service.

**(d) Noninfringement.** Spirent warrants that the Services, when used in accordance with the instructions in the Documentation and this Agreement, do not and will not infringe or misappropriate any third party's Intellectual Property Rights. As Spirent's sole and exclusive obligation and Customer's sole and exclusive remedy for breach of the foregoing warranty, Spirent will indemnify Customer as set forth in Section 9.

**(e) Licensed Data.** Spirent (on behalf of itself and its Third Party Data Providers) represents and warrants that the Licensed Data is provided according to industry standards, and that Spirent exercises reasonable care in collecting such Licensed Data and producing Navigation Reports in connection with the Services. For clarity, Customer acknowledges that Spirent (and its suppliers and licensors) collect data from a number of third party sources and accordingly, Spirent and its suppliers and licensors do not and cannot warrant the validity, genuineness, or accuracy of the Navigation Reports or the Licensed Data used in their creation.

### **8.2. By Customer.**

**(a) Customer Data.** Customer warrants that the Customer Data is accurate and complete, and does not and will not violate the terms or conditions of this Agreement, applicable law, or infringe or misappropriate any third party's Intellectual Property Rights. As Customer's sole and exclusive obligation and Spirent's sole and exclusive remedy for breach of the foregoing warranty, Customer will indemnify Spirent as set forth in Section 9.

**(b) Customer status.** The Customer represents and warrants that (i) it is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (ii) it is not listed on any U.S. Government list of prohibited or restricted parties.

**8.3. WARRANTY DISCLAIMERS - GENERAL.** EXCEPT AS WARRANTED HEREIN, ALL REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS, QUALITY, ACCURACY, OR QUIET ENJOYMENT, ARE DISCLAIMED BY SPIRENT, ON

BEHALF OF ITSELF AND ITS SUPPLIERS AND LICENSORS. SPIRENT'S SERVICES MAY BE SUBJECT TO, AND SPIRENT IS NOT RESPONSIBLE FOR, LIMITATIONS, RISKS, AND OTHER PROBLEMS INHERENT IN ELECTRONIC COMMUNICATIONS, AND SPIRENT DOES NOT WARRANT THAT USE OF THE SERVICES IS RISK-FREE. SPIRENT DOES NOT PROVIDE REPRESENTATIONS, WARRANTIES, OR ASSURANCES AGAINST INTERCEPTION OR ACCESS, AND WITHOUT LIMITING SPIRENT'S OBLIGATIONS UNDER SECTION 3.3 (SECURITY/DATA INTEGRITY), SPIRENT IS NOT RESPONSIBLE FOR ANY UNAUTHORIZED ACTS RESULTING IN LOSS OF OR DAMAGE TO CUSTOMER DATA OR OTHER PROPERTY IN CONNECTION WITH CUSTOMER'S USE OF THE SERVICES. CUSTOMER ACKNOWLEDGES AND AGREES THAT PURCHASES HEREUNDER ARE NEITHER CONTINGENT NOR DEPENDENT ON THE DELIVERY OF ANY FUTURE FUNCTIONALITY OR FEATURES NOR STATEMENTS RELATING THERETO. SPIRENT MAY, IN PERFORMING ITS OBLIGATIONS PURSUANT TO THIS AGREEMENT, BE DEPENDENT UPON OR USE DATA, MATERIAL, AND OTHER INFORMATION FURNISHED BY CUSTOMER WITHOUT ANY INDEPENDENT INVESTIGATION OR VERIFICATION THEREOF, AND SPIRENT MAY ASSUME THAT SUCH INFORMATION IS ACCURATE, COMPLETE, AND LEGALLY SUFFICIENT.

**8.4. WARRANTY DISCLAIMERS – ADVICE AND RECOMMENDATIONS.** WITHOUT LIMITING SECTION 8.3, CUSTOMER ACKNOWLEDGES (A) THAT THE NAVIGATION REPORTS AND ANY OTHER OUTPUTS THE CUSTOMER RECEIVES FROM THE HOSTED SERVICE AND THE PROFESSIONAL SERVICES INVOLVE REAL-TIME ANALYSIS BY SPIRENT OF GNSS NAVIGATION DATA IN CONJUNCTION WITH OTHER DATA FROM MULTIPLE THIRD PARTY SOURCES THAT ARE NOT PROVIDED BY OR INDEPENDENTLY VERIFIED BY SPIRENT AND MAY NOT BE UPDATED IN REAL-TIME, (B) THAT THE NAVIGATION REPORTS AND ANY OTHER SUCH OUTPUTS ARE INTENDED TO BE USED ONLY IN CONJUNCTION WITH OTHER PLANNING AND NAVIGATION TOOLS AND DIRECTIONAL CONTROL MECHANISMS AND ARE NOT TO BE REGARDED AS THE SOLE BASIS FOR MAKING DECISIONS AS TO ROUTE PLANNING AND SAFE NAVIGATION, (C) THAT THE AVAILABILITY, COMPLETENESS, CURRENCY AND ACCURACY OF THE DATA SOURCES USED IN THE SERVICES, AND ACCORDINGLY THE NAVIGATION REPORTS AND ANY OTHER OUTPUTS FROM THESE SERVICES, ARE DEPENDENT ON FACTORS THAT ARE BEYOND SPIRENT'S CONTROL, AND (D) THAT WHILE IN PERFORMING THE SERVICES AND PROVIDING NAVIGATION REPORTS, SPIRENT MAY BE MAKING RECOMMENDATIONS AND PROVIDING ADVICE, ALL DECISIONS ABOUT IMPLEMENTING SUCH RECOMMENDATIONS AND ADVICE (INCLUDING WITHOUT LIMITATION THE CHOICE OF FLIGHT PATHS OR OTHER ROUTES) WILL BE MADE BY AND WILL BE THE SOLE RESPONSIBILITY OF CUSTOMER. SAFE NAVIGATION OF ANY SYSTEM IS ALSO THE SOLE RESPONSIBILITY OF CUSTOMER. SPIRENT WILL NOT BE LIABLE TO CUSTOMER FOR ANY RESULT OBTAINED OR NOT OBTAINED AS A CONSEQUENCE OF CUSTOMER'S IMPLEMENTATION OF SUCH RECOMMENDATIONS OR ADVICE, AND CUSTOMER MUST NOT RELY SOLELY ON SUCH NAVIGATION REPORTS, RECOMMENDATIONS OR ADVICE AS THE BASIS FOR MAKING ITS DECISIONS AS TO ROUTE PLANNING AND SAFE NAVIGATION.

## **9. INDEMNIFICATION.**

**9.1. By Spirent.** Subject to Section 9.3, Spirent will defend Customer from and against any and all third party lawsuits to the extent alleging that the Hosted Service infringes or misappropriates any Intellectual Property Rights; and Spirent will indemnify and hold Customer harmless from any and all damages, losses, liabilities, costs, expenses, and other amounts to the extent awarded by a court of final jurisdiction relating to such claim, or agreed to in a monetary settlement of such claim. Spirent will have no indemnification obligation for infringement or misappropriation claims to the extent arising from: (i) Customer's or any User's use of the Services other than as permitted under this Agreement; (ii) the combination of the Services with any Customer or third party products, services, hardware, data, content, or business process(s); or (iii) the modification of the Services or any Spirent Technology by any party other than Spirent or Spirent's agents. THE FOREGOING IS SPIRENT'S SOLE AND EXCLUSIVE OBLIGATION FOR THE THIRD PARTY CLAIMS DESCRIBED IN THIS SECTION.

**9.2. By Customer.** Subject to Section 9.3, Customer will defend Spirent from and against any and all third party lawsuits to the extent alleging that the Customer Data directly infringe or misappropriate any Intellectual Property Rights; and Customer will indemnify and hold Spirent harmless from any and all damages, losses, liabilities, costs, expenses, and other amounts to the extent awarded by a court of final jurisdiction relating to such claim, or agreed to in a monetary settlement of such claim.

- 9.3. Indemnity Process.** Each party's indemnification obligations are conditioned on the indemnified party: (a) promptly giving written notice of the claim to the indemnifying party;
- (b) giving the indemnifying party sole control of the defense and settlement of the claim (provided that the indemnifying party may not settle any claim without prior written consent);
- (c) providing to the indemnifying party all available information and assistance in connection with the claim, at the indemnifying party's request and expense; and (d) not compromising or settling such claim. The indemnified party may participate in the defense of the claim, at the indemnified party's sole expense (not subject to reimbursement).

## **10. LIMITATION OF LIABILITY.**

EXCEPT FOR A BREACH OF THE SECTIONS OF THIS AGREEMENT HEADED "ACCESS AND LICENSE RESTRICTIONS", "CUSTOMER RESPONSIBILITIES", "CONFIDENTIALITY" OR "U.S. GOVERNMENT END USERS", AND EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS, AND EXCEPT FOR DIRECT DAMAGES TO THE EXTENT ARISING OUT OF A PARTY'S INTENTIONAL MISCONDUCT OR FRAUD (COLLECTIVELY, THE "EXCLUDED CLAIMS"), NEITHER SPIRENT'S NOR ITS SUPPLIERS' OR LICENSORS', NOR CUSTOMER'S, AGGREGATE



LIABILITY WILL EXCEED THE SUMS ACTUALLY PAID BY AND/OR DUE FROM CUSTOMER UNDER THE APPLICABLE ORDER SCHEDULE(S) OR SOW(S).

EXCEPT FOR THE EXCLUDED CLAIMS, NEITHER SPIRENT NOR ITS SUPPLIERS OR LICENSORS, NOR CUSTOMER, WILL BE LIABLE FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR SIMILAR DAMAGES (INCLUDING LOSS OF DATA, REVENUE, PROFITS, OR USE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY OR ERROR IN THE CONTENT, EVEN IF SPIRENT HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CUSTOMER ACKNOWLEDGES THAT THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 10 REFLECT THE ALLOCATION OF RISK BETWEEN THE PARTIES UNDER THIS AGREEMENT, AND THAT IN THE ABSENCE OF SUCH LIMITATIONS OF LIABILITY, THE ECONOMIC TERMS OF THIS AGREEMENT WOULD BE SIGNIFICANTLY DIFFERENT.

## **11. CONFIDENTIALITY.**

**11.1.** Recipient may use Discloser's Confidential Information solely to perform Recipient's obligations or exercise its rights hereunder.

**11.2.** Recipient may not knowingly disclose, or permit to be disclosed, Discloser's Confidential Information to any third party without Discloser's prior written consent, except that Recipient may disclose Discloser's Confidential Information solely to Recipient's employees and/or contractors who have a need to know and who are bound in writing to keep such information confidential pursuant to confidentiality agreements consistent with this Agreement. Notwithstanding the foregoing, if Customer elects to use Licensed Data in connection with which disclosure of Customer Data to relevant third parties would be necessary or useful, Customer acknowledges and agrees that, as a condition of using such data, Spirent will be permitted to disclose Customer Data to such third parties, and that because such third parties are outside of Spirent's direct control, Spirent will not be responsible for such third parties' acts or omissions. By way of example, but not limitation, Spirent is permitted to store Customer Data with Spirent's third party hosting providers.

**11.3.** Recipient agrees to exercise due care in protecting Discloser's Confidential Information from unauthorized use and disclosure, and will not use less than a reasonable degree of care. The foregoing will not apply to any information that: (i) is in the public domain through no fault of Recipient; (ii) was properly known to Recipient, without restriction, prior to disclosure by Discloser; (iii) was properly, and with authority, disclosed by a third party to Recipient, without restriction; (iv) Recipient independently develops without use of Discloser's Confidential Information; (v) is expressly permitted to be disclosed pursuant to the terms of this Agreement; or (iv) is required to be disclosed pursuant to a judicial or legislative order or proceeding; provided that Recipient provides to Discloser prior notice of the intended disclosure and an opportunity to respond or object thereto.

**11.4.** The parties' rights and obligations set out in this Section 11 are in addition to and not in lieu of any right or obligations set out in any separate non-disclosure or confidentiality agreement ("NDA") entered in to by the parties, which shall not be superseded by this Agreement. To the extent reasonable, this Agreement and any such NDA shall be interpreted to be consistent with each other; to the extent such interpretation is not reasonable the provisions that are more protective shall govern to the extent of the conflict or inconsistency.

## **12. GENERAL.**

### **12.1. Acknowledgements with regard to Third Party Data Providers.**

**(a)** This Agreement is concluded between Spirent and Customer only, and not with any Third Party Data Provider. Spirent (and not any such Third Party Data Provider) is solely responsible for the Services and the content thereof.

**(b)** Spirent is solely responsible for providing any maintenance and support services with respect to the Services, as specified in this Agreement or required under applicable law. The Third Party Data Providers have no obligation to furnish any maintenance and support services to the Customer.

**(c)** To the maximum extent permitted by applicable law, all Third Party Data Provider materials used in the Services have been provided "as is" without any representations or warranties of any kind, and all warranties, whether express or implied, oral or written, arising by law or otherwise, are expressly disclaimed and excluded, including, without limitation all implied warranties of merchantability, title, non-infringement, and fitness for a particular purpose. The Third Party Data Providers will have no other warranty obligation whatsoever with respect to the Services, and any other claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to any warranty will be the sole responsibility of Spirent (subject to the other provisions of this Agreement).

(d) Unless prohibited by law, in no event will the Third Party Data Providers be liable for any incidental, consequential, special, exemplary, or indirect damages (including lost profits or lost data) arising from, or relating to, the Services, even if Spirent or the Third Party Data Providers have been advised of the possibility of such damages.

(e) The Third Party Data Provider materials used in the Services are licensed and not sold and all worldwide intellectual property and proprietary rights therein and related thereto, including, without limitation, all patents, copyrights, trademarks, trade secrets, moral rights, *sui generis* rights and other right in databases, and all rights arising from or pertaining to the foregoing rights, are and will remain the exclusive property of the relevant Third Party Data Provider.

(f) All rights in and to the Third Party Data Provider materials in the Services that are not expressly granted to the Customer are reserved by the relevant Third Party Data Provider. In the event of any third party claim that the Services or the Customer's use of the Services infringes a third party's intellectual property rights, Spirent (not the Third Party Data Provider) will be solely responsible for the investigation, defense, settlement and discharge of such intellectual property infringement claim.

(g) Any questions, complaints or claims with respect to the Services should be directed to Spirent via the portal at [support.spirent.com](https://support.spirent.com) and not to any Third Party Data Provider.

(h) When using the Services, the Customer must comply with all applicable third party license restrictions, if any, that may apply to the materials, platforms or tools provided by Third Party Data Providers.

## **12.2. Insurance.**

(a) Spirent will:

(i) maintain statutory Workers' Compensation and Employers' Liability and Business Automobile Liability Insurance on behalf of Spirent and its subcontractors, in each instance of at least \$1,000,000 (U.S.) per occurrence;

(ii) maintain Broad Form Commercial General Liability (CGL) including Contractual Liability Insurance of at least \$1,000,000 (U.S.) each occurrence and annual aggregate in respect of Products Liability;

(iii) maintain insurance covering its assets and operations in an amount that Spirent reasonably deems sufficient to fund the costs of compliance with this Agreement;

(iv) maintain professional liability insurance, which does not exclude cyber liability, in the amount of \$1,000,000 each occurrence and annual aggregate;

(v) maintain Umbrella/Excess Liability Insurance of \$5,000,000 (U.S.) in respect of Workers' Compensation, Employers' Liability and Business Auto Liability per occurrence but in the annual aggregate in respect of Products Liability;

(vi) name Customer as an additional insured under the Commercial General Liability policy (if additional insured parties are permitted to be added under the applicable policy); and

(vii) provide Customer with thirty days' minimum prior written notice of cancellation or material change.

Policy deductibles and self-insured retentions will not limit or apply to Spirent's liability to Customer and will be Spirent's sole responsibility.

(b) Upon written request, Spirent shall provide to Customer a certificate of insurance signed by a duly authorized officer or agent of the insurer certifying the levels of coverage, naming Customer as a certificate holder and as an additional insured (if and to the extent applicable, per the preceding paragraph).

(c) Nothing contained in these insurance requirements will be deemed to limit or expand the scope, application or limits of the coverage afforded. This coverage will apply to each insured to the full extent provided by the terms and conditions of the policies. Nothing contained in these insurance requirements will affect or alter the application of any other provision contained in this Agreement. Spirent affirms that it is in compliance with these insurance requirements.

**12.3. Notices.** All notices to be given by a party under this Agreement shall be in writing in English and shall be marked for the attention of the person, and delivered by hand or sent by first class pre-paid post or sent by facsimile transmission to the address detailed for the party below:

(a) In the case of Spirent:

*Spirent Communications Inc*  
*2708 Orchard Parkway, Suite 20*  
*San Jose*  
*CA 95134*  
*USA*

**With a copy to:**

*Spirent LegalBell Works*  
*101 Crawfords Corner Road, Suite 4-216*  
*Holmdel NJ 07733*  
*USA*

(b) In the case of Customer:

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A party may change the details recorded for it in this Section by notice to the other in accordance with this Section 12.3.

**12.4. Assignment.** Customer may not assign this Agreement, by operation of law or otherwise, without Spirent's prior written approval which will not be unreasonably withheld. Any attempted assignment in violation of the foregoing will be null and void.

**12.5. Governing Law; Venue.** This Agreement shall be governed by and construed in accordance with the laws of California, without regard to conflict of law principles or the U.N. Convention on Contracts for the International Sale of Goods or the Sale of Goods provisions of the Uniform Commercial Code. Each party hereby submits to the jurisdiction and venue of both the California State and United States Federal Courts of California in relation to any claim, dispute or difference that may arise hereunder. Each party hereby waives any claim of lack of personal jurisdiction in regard to both the Federal and State Courts of California. This Agreement shall be enforceable and judgment upon any award rendered may be entered in any Court having jurisdiction.

**12.6. Remedies.** Except as provided in Sections 8 and 9, the parties' rights and remedies hereunder are cumulative. Customer acknowledges that the Services and Spirent Technology contain Spirent's valuable trade secrets and proprietary information, that any breach of this Agreement relating thereto will constitute harm to Spirent for which monetary damages would be inadequate, and that injunctive relief is an appropriate remedy.

**12.7. Third Party Beneficiaries.** The parties acknowledge and agree that the Third Party Data Providers (and their respective Affiliates) are third party beneficiaries of this Agreement, and have the right (and will be deemed to have accepted the right) to enforce this Agreement against the Customer as a third party beneficiary hereof.

**12.8. Independent Contractors.** The parties are independent contractors. No joint venture, partnership, employment, or agency relationship exists between the parties as a result of this Agreement or use of the Services. Except as stated in Section 12.7, there are no third-party beneficiaries under this Agreement. Spirent's business partners and other third parties, including any third parties with which the Services have integrations or that are retained by Customer (or any User) to provide services or applications that interact with the Services, are independent to Spirent and are not Spirent's agents. Spirent is not bound by any terms or conditions between Customer and any third party, nor is Spirent liable or responsible for any problems with the Services or Customer Data arising out of or relating to any acts or omissions of any such business partner or third party, unless such business partner or third party is providing Services as Spirent's subcontractor on an engagement ordered under this Agreement and, if so, then only to the same extent as Spirent would be

responsible for Spirent resources under this Agreement.

**12.9. U.S. Government End Users.** If Customer is a U.S. government agency, the following applies. Spirent provides the Service, including related software and technology, in accordance with the following: government technical data and software rights related to the Service include only those rights customarily provided to the public as defined in this Agreement. This customary access right and license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227- 7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Spirent to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights, must be included in any applicable contract or agreement.

**12.10. Export Compliance.** Customer acknowledges that the Services may be subject to U.S. and foreign export and import restrictions. Customer will not and will not allow any export or re-export of any part of the Services, or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) otherwise in violation of any export or import restrictions, laws or regulations. Customer agrees to the foregoing and warrants that it is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. The Services are further restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology, or for terrorist activity, without the prior permission of the United States government.

**12.11. Waiver; Severability.** A party's failure to enforce any provision in this Agreement will not constitute a waiver unless in writing. No modification hereof will be effective unless in writing and signed by both parties. If any provision of this Agreement is unenforceable, it will be changed and interpreted to accomplish the objectives of such provision to the extent legally permissible; remaining provisions will continue in full force and effect. However, Section 10 will remain in effect notwithstanding the unenforceability of any provision in Section 8. Neither party will be liable for failure to perform due to causes beyond its reasonable control.

**12.12. Entire Agreement.** This Agreement forms the entire agreement between Customer and Spirent. It supersedes all prior or contemporaneous negotiations or agreements between the parties regarding its subject matter. Any conflict between the above terms and the terms of any Order Schedule, SOW or Exhibit hereto, will be resolved in the following order: (a) any Order Schedule; (b) any SOW; and (c) this Agreement. Any preprinted terms on any Customer purchase order will have no effect on the terms of this Agreement and are hereby rejected, notwithstanding any such preprinted terms to the contrary. Headings are for reference purposes. "Including" means "including but not limited to."

**IN WITNESS WHEREOF,** the parties hereto have caused this Agreement to be executed by their respective authorized representatives, as of the Effective Date.

**SPIRENT COMMUNICATIONS, INC. ("SPIRENT")**

\_\_\_\_\_ ("**CUSTOMER**")

By: \_\_\_\_\_

By:

\_\_\_\_\_

Name: \_\_\_\_\_

Name:

\_\_\_\_\_

Title: \_\_\_\_\_

Title:

\_\_\_\_\_

## Exhibit A

### Availability Service Level Agreement

1. **Applicable definitions.** In this Appendix A:

**1.1 “Outage”** means two consecutive API request failures within a five-minute period, beginning when the second such failure occurs and ending when the Customer or User is able to make a successful API request (whether or not such a request is actually made).

**1.2 “Planned Maintenance”** means scheduled maintenance of the SaaS infrastructure maintenance used to provide the Hosted Service, together with upgrades and patches that occur approximately eight times per year and may require downtime in addition to the scheduled maintenance.

**1.3 “Quarter”** means a period of three calendar months running from the first day of any month during the Service Term (e.g. 1 January to 31 March, 1 February to 30 April).

**1.4 “Service Credit”** means a service credit calculated in accordance with Section 5 of this Exhibit.

2. **Availability target.** Spirent aims to maintain a minimum of 95% availability for the GNSS Foresight Forecast Service calculated according to Section 3 below.

3. **Calculation method.** Availability is calculated retrospectively on a quarterly basis, according to the following formula:

$$A = (T - O) / T$$

where

A is availability, expressed as a percentage;

T is the total number of hours in the relevant Quarter, measured on a 24 x 7 x 365 basis, minus any periods of Planned Maintenance; and

O is the number of hours that the Hosted Service is subject to an Outage during the relevant Quarter, measured on a 24 x 7 x 365 basis.

4. **Remedy for under-performance against availability target.** If Spirent does not achieve the availability target of 95% in any Quarter, Spirent will, upon request, provide Customer a Service Credit as Customer's sole and exclusive remedy. To claim a Service Credit, Customer must notify Spirent, via email, within 15 days following the close of the relevant Quarter. Such notification must include the dates, times, and conditions of any Outages experienced by Customer or its Users.

5. **Service Credits and escalation.** Service Credits take the form of an extension to the Service Term, and shall be calculated as follows:

a) Where availability in any Quarter is below 95% but equal to or greater than 90%, the applicable Service Credit will be a five (5) day extension of the Service Term.

b) Where availability in any Quarter is below 90%, the applicable Service Credit will be a ten (10) day extension of the Service Term. In this case, the parties shall also escalate the under-performance to senior leadership levels.

Total annual Service Credits shall not exceed thirty (30) days per annum. Service credits shall be cumulative and extend the Service Term at no cost to Customer. Any renewal of a Service Term shall take effect after all Service Credits have been fully utilized.

6. **Exclusions.** Spirent shall have no liability for Service Credits or other remedies, to the extent that any Outage is caused by any of the following:

a) Suspension or termination of Customer's right to use the Services pursuant to the Agreement;

- b) Overall Internet congestion, slowdown, or unavailability;
- c) Unavailability or performance degradation of publicly accessed internet infrastructure or services (e.g. DNS servers or public cloud hosting providers) due to malicious actors, power outages, or equipment/service failures;
- d) Force majeure events;
- e) Customer acts or omissions (unless undertaken at the express direction of Spirent) or the acts or omissions of third parties beyond Spirent's control;
- f) A result of Customer equipment or third-party computer hardware, software, or network infrastructure; and/or
- g) Periods of Planned Maintenance (and Spirent will endeavor to provide advance notice to Customers regarding any such Planned Maintenance).



## Exhibit B

### Order Schedule Template

This Order Schedule is issued pursuant to the terms of that certain Spirent GNSS Foresight Master Subscription and Services Agreement (the "**Agreement**") dated [ ] by and between Spirent Communications Inc. ("**Spirent**") and [ ] ("**Customer**").

This Order Schedule is effective as of the date of the last signature of the parties below. Unless otherwise indicated herein, capitalized terms used in this Order Schedule without definition shall have the respective meanings specified in the Agreement.

| Contact Information          |   |  |
|------------------------------|---|--|
| Customer / Facility location | Principal Contact<br>(Name / Phone / email) | Technical contact if different<br>(Name / Phone / email) |
|                              |   |  |
| Spirent Sales contact:       |   |  |

| Requirements   |
|--|
| Service Area(s) (define areas of interest, including estimated area (in km <sup>2</sup> ) and if desired the altitudes above ground level that are needed):<br><i>Provide filename for file defining AOI in .kml format. If possible, paste screenshot below</i> |
|  |

|  |              |  |
|--|--------------|--|
| Use Case:<br><i>Note use case and items of interest e.g. typical routes, altitudes, take off / landing locations, receiver integration, etc.</i> |              |  |
|  |              |  |
|  |              |  |
| GNSS Constellation(s) Required <i>(Default is GPS only.)</i>   |              |  |
| GNSS Constellation   | Required (X) | Details (specify constellation set required) |
| GPS  |              |  |
| Galileo  |              |  |
| GLONASS  |              |  |
| BeiDou   |              |  |
| Multiple Constellations  |              |  |
| Other  |              |  |
| Dilution of Precision (DOP) output required <i>(Confirm DOP type required. Default PDOP)</i>   |              |  |
| DOP Type   | Required (X) |  |
| PDOP   |              |  |
| HDOP   |              |  |
| VDOP   |              |  |
| Vertical levels required <i>(Height Above Ground Level. Max. 10 levels, default 1m, 2m, 10m, 20m)</i>  |              |  |
|  |              |  |

**Pricing and payment arrangements:**

*Describe how the Fees payable to Spirent are calculated and invoiced for the Hosted Services described in this Order Schedule*

### Exhibit C SOW Template

This Statement of Work ("**SOW**") is issued pursuant to the terms of that certain Spirent GNSS Foresight Master Subscription and Services Agreement (the "**Agreement**") dated \_\_\_\_\_ by and between Spirent Communications Inc. ("**Spirent**") and \_\_\_\_\_ ("**Customer**").

This SOW is effective as of the date of the last signature of the parties below. Unless otherwise indicated herein, capitalized terms used in this SOW without definition shall have the respective meanings specified in the Agreement.

#### I. Customer Requirements

*[Guidance note: insert a brief description of the Customer's specific requirements for the GNSS Foresight Risk Analysis services.]*

#### II. Deliverables

##### a. Deliverables

*[Guidance note: state the navigation reports (or other deliverables) that are the outputs from the GNSS Foresight Risk Analysis service to be provided under this SOW.]*

##### b. Service Area

*[Guidance note: state the geographical area in respect of which the Customer is to be authorized to make use of the Services, to request Navigation Reports and to access and use the Licensed Data.]*

##### c. Service Term

*[Guidance note: state the Service Term (if any) applicable to this SOW.]*

### III. Success Criteria

*[Guidance note: state applicable Success Criteria (if any).]*

### IV. Roles and Responsibilities

#### a. Spirent responsibilities

*[Guidance note: state the obligations of Spirent with regard to the performance of the relevant services.]*

#### b. Customer responsibilities

*[Guidance note: state the obligations of the Customer with regard to the performance of the relevant services. This includes any assumptions or dependencies to be fulfilled by the Customer, as well as any requirements Spirent has about the provision by the Customer of information or other resources.]*

### V. Scheduling

*[Guidance note: state the intended time schedule for performance of the relevant services, including the parties' responsibilities described in Section IV above.]*

### VI. Pricing and payments

#### a. Fees

*[Guidance note: state the charging arrangements for this SOW. The MSSA states that the fees are determined according to Service Area, Service Term, permitted User numbers "and other commercial factors" so these must all be clearly and unambiguously stated.]*

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#### b. Invoicing arrangements

*[Guidance note: state the applicable invoicing arrangements, and whether invoices will be issued on signature of this SOW, on commencement of work, on completion – or some combination of the foregoing. Again, it is essential to have clarity about all of this. Failure to define the invoicing arrangements in an unambiguous way is a common cause of contract-related disputes.]*

### VII. Contact Information

#### **Spirent Communications Inc.**

Account Representative: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Email: \_\_\_\_\_

Project Manager: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Email: \_\_\_\_\_

Service Delivery Manager: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Email: \_\_\_\_\_

**Customer**

Primary Contact: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Email: \_\_\_\_\_

Project Manager: \_\_\_\_\_  
Phone: \_\_\_\_\_  
Mobile: \_\_\_\_\_  
Email: \_\_\_\_\_

| For Spirent | For        |
|-------------|------------|
| Name:       | Name:      |
| Title:      | Title:     |
| Signature:  | Signature: |
| Date:       | Date:      |