

1. GENERAL

1.1. AG Projects provides you (the "Customer") with Multimedia Service Platform (the "Product") pursuant to these terms and conditions (the "Terms and Conditions") and the Customer Order Form (the "COF"), which is considered incorporated into these Terms and Conditions. The identity of the Customer and the Product provided by AG Projects will be detailed in the COF.

1.2. If there is a conflict between the documents, the order of precedence will be: (1) the COF and (2) an existing Service Agreement (Contract) and (3) these Terms and Conditions.

1.3. The Customer may not use the Product beyond the capacity purchased from AG Projects.

1.4. The Customer may not use the Product without a support contract from AG Projects.

1.5. The following platform software packages together with their source code: NGNPro, SIP Thor, all platform configuration files and database schema may not be copied, distributed or made public in any form without written permission from AG Projects.

1.6. No warranties. Except as expressly provided in these terms and conditions, AG Projects disclaims all warranties, express or implied, not explicitly stated in these terms and conditions, and in particular disclaims all warranties of merchantability, fitness for a particular purpose, and warranties related to equipment, material, services or software. The services and any materials or equipment are supplied "as is," to the full extent permitted by law.

1.7. When AG Projects provide Customer access to its own infrastructure, the Customer will not permit or allow others to: (i) abuse (like sending unsolicited mail, IM or voice messages from AG Projects addresses) or fraudulently use The Product, including, but not limited to, unauthorized or attempted access, alteration or destruction of AG Projects Customer data or other confidential information stored on AG Projects infrastructure; (ii) use the Product in such a manner that causes interference, or tampers with other Customers or users of AG Projects; or (iii) use the Product in a manner that violates AG Projects acceptable use policy.

1.8. The Customer may not make any illegal use of the Product.

2. PAYMENT TERMS

2.1. **Prices.** During the term of any COF, the Customer will pay to AG Projects the prices set forth in the COF or an attached pricing sheet ("Price-list") to the COF.

2.2. **Taxes.** AG Projects rates and charges do not include taxes. Except for AG Projects income taxes, Customer will pay all taxes, imposed on or based upon the delivery, support or use of the Product.

2.3. **Payment dates.** Unless otherwise specified in the COF, the Customer will pay AG Projects invoices in full in the currency in which the invoice presents the charges by the invoice due date, before the due date mentioned on the invoice. The payment will be executed to the bank account mentioned in the invoice.

2.4. **Interest charges.** If the Customer fails to pay the charges when due, AG Projects will charge the Customer interest on those charges equal to 4% per month of the outstanding balance or the maximum rate allowed by law.

2.5. **Offset.** AG Projects reserves the right to set off any amounts that are past due from Customer under this Service Agreement against any amounts that AG Projects or any of its affiliates or related companies owe to Customer under a separate service agreement. This right of set-off shall only be exercisable upon at least 5 days' prior written notice (during which Customer will have the opportunity to cure and avoid the implementation of the impending set-off), and is not applicable to amounts past due but subject to a bona fide dispute. The rights of AG Projects invoking set-off pursuant to this Section are in addition to other rights and remedies that AG Projects may possess.

2.6. **Banking fees.** Customers from outside the European Union will pay in full all banking transfer fees related to the payments.

3. DELIVERY

3.1. **Notification of delivery.** AG Projects will notify the Customer via the support interface when the Product is installed, tested and available for usage (the Delivery date). Following this notification, Customer will have ten business days in which it may reject the readiness of the Product; otherwise the Product is considered accepted.

4. USE OF NAME, SERVICE MARKS, TRADEMARKS OR TRADE SECRETS

4.1. Neither party will use nor will have any license to the service marks, logos, trademarks, trade secrets of the other party or any of its affiliates for any purpose including, but not limited to resale of AG Projects services without the other party's prior written consent.

5. INTELLECTUAL PROPERTY

5.1. No intellectual property is transferred to the Customer by the purchase of the Product. Intellectual property and copyright belongs to the authors of each software component of the platform. See the license that comes with each software package for more information.

5.2. AG Projects maintains and distributes to customers that have purchased the platform meta-packages with components that contains software developed inside and outside AG Projects. The meta-packages aggregate source code from, and not limited to, Debian Linux operating system and associated libraries, MySQL, FreeRadius, OpenXCAP, CDRTool, MSRPRelay, Asterisk, CallControl, Apache, SIP Thor, NGNPro, MediaProxy, PowerDNS, SER, OpenSER and OpenSIPs projects. See the license and other pertinent files that are available from each project web site for more information about licensing and usage information of each component. Customers that need to perform audit of each individual software license, will bear the costs for finding the relevant license information.

5.3. The Customer accepts that all contributions and/or change requests executed by AG Projects or any of its contractors, may, can and will likely will be contributed back to the original project or software maintainer and shared with other AG Projects customers.

6. OPERATIONS AND SUPPORT ACTIVITIES

6.1. **Operations.** The customer is responsible for performing day-to-day operations on the platform like monitoring of platform services, software availability and performance, CPU load, network traffic or other relevant resources usage, backup and restore, provisioning and accounting. Only technical personnel that have been trained for this purpose must perform operational activities.

6.2. **Data provisioning.** Any provisioning or collection of data on the platform is the responsibility of the Customer.

6.3. **Support requests.** Any request for support will be done by the Customer by means of opening a separate ticket for each problem in the support interface at <http://support.ag-projects.com>. When not specified in the COF, the price for support activities is 110 EUR per hour; a minimum of one hour is charged per intervention.

6.4. **Response time.** Response time for support request submitted by the customer to AG Projects is next business day except national holidays in the Netherlands. Business days are Monday till Friday 09:00 till 17:00 CET (Central European Time).

6.5. **Emergency maintenance.** AG Projects reserves the right to perform emergency maintenance including replacement of software and configurations for the software installed on its own or the customer infrastructure, which might disturb temporary some services should this prevent or fix a problem that, might be more disruptive at a later time.

6.6. **End-of-life product announcement.** Products that reached their end-of life are supported in their delivered form for another 12 months. It is the responsibility of the Customer to plan for the upgrade to the new supported software releases in a timely manner. AG Projects provides part of its support contract, the support for the migration to the new release versions.

7. CONFIDENTIALITY

7.1. Each party will treat as confidential all non-public information, marked as confidential, provided by the other party, including but not limited to pricing and technical information, software source code and configurations, operational procedures, the terms of any agreement, including the COF between AG Projects and Customer, the discussions, negotiations, and proposals related to that agreement of the COF. Such confidential information will not be disclosed or shared with third parties without the prior written consent of the disclosing party.

8. LIMITATIONS OF LIABILITY

8.1. Except as provided in a specific COF or SLA, AG Projects will not be liable for any service or network delay or interruption to the other party or that party's Customer. In any event, AG Projects entire liability for damages caused by any failure to perform its obligations under these Terms and

Conditions will not exceed 10% of the yearly support charge pro-rated at the number of months in the remaining Term.

8.2. Consequential damages. Neither party will be liable for any consequential, incidental, or indirect damages for any cause of action, whether in contract or tort or otherwise, including but not limited to any breakdown of facilities or any interruption or degradation of service, except for claims for which a party has an obligation of indemnity under these terms and conditions. Consequential, incidental, and indirect damages include, but are not limited to, lost profits, lost revenues, and loss of business opportunity, and incidental damage to Customer's premises for Service installation, whether or not the other party was aware or should have been aware of the possibility of these damages. This limitation of liability will not apply to claims arising from the parties' confidentiality and indemnification obligations under these Terms and Conditions.

8.3. Liability for content. AG Projects is not responsible for the content of any information transmitted or received by the Customer through the purchased Product.

9. ORDER DURATION AND TERMINATION

9.1. These Terms and Conditions are effective on the date of the signed COF and will not expire until the COF have either expired or terminated. The date that AG Projects will begin providing the Product is set forth in the applicable COF.

9.2. Notwithstanding termination of these Terms and Conditions as set forth in this Section, Customer will remain liable for all invoices, charges and fees that remain outstanding, whether or not invoiced by the termination date.

9.3. The minimum support contract duration is one year. The start date for the duration is the date of the signed COF. The support contract is automatically renewed for another year unless either party cancels the support contract in written form with at least 90 days before its expiration date.

9.4. If Customer terminates an Order before its delivery date, the Customer will remain responsible for a) all early termination liabilities imposed on AG Projects by third parties, b) all deployment fee charges and c) the support charges for first year.

9.5. Upon termination of the COF, the Customer must decommission the platform by deleting all software and configuration files belonging to the platform and may retain the content of its user databases.

10. MISCELLANEOUS

10.1. **Governing law.** The Terms and Conditions will be governed by the laws of the Netherlands without regard to choice of law principles. Where applicable, the English version of the Terms and Conditions will prevail over any foreign language versions.

10.2. **Dispute resolution.** Any controversy or dispute arising out of or related to the Product or these Terms and Conditions that cannot be amicably resolved will be settled in arbitration. All arbitration proceedings will be conducted in the English language pursuant to Rules of the International Chamber of Commerce ("ICC") and will be governed by the laws of the Netherlands without regard to choice of law provisions. The place of the arbitration will be Amsterdam, the Netherlands.

10.3. **Amendments.** Any amendments to an Order or these Terms and Conditions may only be made by a written amendment signed by both parties.

10.4. **Assignment.** Neither party may assign any rights or obligations under an Order without the other party's prior written consent, except that AG Projects may assign its rights under an Order and these Terms and Conditions, after 30 days prior written notice, to a parent company, controlled affiliate, or affiliate under common control.