



MASTER SERVICES AGREEMENT

KEY DOCUMENTS

The Agreement includes and incorporates by reference:

- The Master Services Agreement;
- The Service Quotation;
- Any current or future SoW;
- All Additional Terms referred to in each SoW;
- The AUP

EFFECTIVENESS

The Agreement is effective and made as of the date the initial SoW is signed by the last party to sign it (as indicated by the date associated with that party's signature).

MASTER SERVICES AGREEMENT

This Master Services Agreement (the “**MSA**”) is between Uniserve Communications Corporation (“**Uniserve**” “**us**” “**our**” or “**we**”) and the customer ordering the Services identified in an applicable SoW (“**Customer**” or “**you**”, and together with Uniserve, the “**Parties**” and each a “**Party**”). This MSA forms a part of each SoW entered into between Uniserve and Customer.

1. **DEFINITIONS.**

1.1 **Defined Terms.** Capitalized terms not defined within the text of the Agreement have the meanings provided in Section 18 or in the applicable Additional Terms or SoW.

2. **SERVICES.**

2.1 **Services.** Uniserve shall provide Customer with the services (“**Services**”) specified in each Service Quotation and SoW in accordance with the Agreement and subject to all laws applicable to Uniserve. Details of the Services are set forth in the applicable service descriptions within each SoW. Additional Terms may apply to the Services. If Additional Terms apply to the Services, they will be incorporated by reference into the SoW. The initial service periods (each a “**Service Period**”) and fees for each Service are described in the SoW. Uniserve is not obligated to provide any services that are not specified in a SoW.

2.2 **Renewal.** After the expiration of the initial Service Period as stated in the SoW, the Services will automatically renew for additional terms of one year each (such additional terms, each also a “**Service Period**”) unless a different renewal period is specified in the applicable SoW in which case the renewal period specified in the SoW will govern. If Customer decides not to renew a Service, Customer must notify Uniserve by sending an email to cancel@uniserveteam.com at least ninety (90) days prior to the expiration of the initial Service Period or any renewal Service Period for such Service. Uniserve may cancel any Service at the end of the initial Service Period for such Service or any renewal Service Period by giving Customer thirty (30) days prior written notice.

- 2.3 Equipment. Certain Services may involve Uniserve providing Equipment to Customer. Any Equipment provided to Customer pursuant to the Agreement will at all times remain the property of Uniserve or its third-party suppliers unless expressly stated otherwise in the applicable SoW.
- 2.4 Subcontracting. Uniserve may subcontract its obligations under the Agreement without the prior written consent of Customer. The use of a subcontractor will not relieve Uniserve of its obligations under the Agreement and Uniserve will, subject to Section 14, be responsible for the acts and omissions of its subcontractors.
- 2.5 Service Limitations. Uniserve is not obligated to provide Services to Customer's End-Users unless specifically agreed to in a SoW.
- 2.6 Credit Requirements. Notwithstanding anything to the contrary herein, Uniserve is not obligated to provide Services to Customer at any time Customer does not meet Uniserve's credit requirements. Customer authorizes Uniserve to conduct a review of its credit history and to make inquiries with respect to Customer at any credit reporting agency. Uniserve may also disclose payment history information relating to Customer to any credit reporting agency. All information obtained by Uniserve relating to Customer's credit may be disclosed to any assignee or successor in interest of Uniserve's rights and interests under this Agreement.
3. **CUSTOMER OBLIGATIONS.**
- 3.1 Customer Obligations. Customer shall:
- (a) cooperate with Uniserve and reasonably assist in all matters relating to the Services and appoint and, in its reasonable discretion, replace a Customer employee to serve as the primary contact with respect to the Agreement and who will have the authority to act on behalf of Customer with respect to matters pertaining to the Agreement;
 - (b) provide such access to Customer's premises, the Customer's System, suitably qualified personnel, and such office accommodation and other facilities, as may reasonably be requested by Uniserve, for the purposes of performing the Services;
 - (c) respond promptly to any Uniserve request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Uniserve to perform Services in accordance with the requirements of the Agreement;
 - (d) provide such materials and information as Uniserve may reasonably request in order to carry out the Services, in a timely manner, and ensure that it is complete and accurate in all material respects;
 - (e) ensure that all Customer-Equipment is in good working order and suitable for the purposes for which it is used in relation to the Services and conforms to all relevant legal and industry standards or requirements;
 - (f) perform all obligations identified as "Customer Responsibilities" in each SoW;
 - (g) ensure the Customer's System is set up and in working order (except to the extent such set up and maintenance forms part of the Services) to allow Uniserve to perform the Services and deliver and, where applicable, install, software and equipment in accordance with each applicable SoW;
 - (h) participate through suitably qualified and authorized Customer personnel in (i) all meetings scheduled in or in accordance with each applicable SoW and (ii) such other meetings as may be scheduled by Uniserve;
 - (i) provide all consents, approvals, notices and other communications as required under the Agreement and, where applicable, as specified in each applicable SoW;

- (j) take all steps necessary, including obtaining any required licenses or consents, to prevent Customer-caused delays in Uniserve's provision of the Services;
- (k) not resell Services, or access to Services or Equipment, directly or indirectly to third parties, except as authorized by a SoW;
- (l) ensure that no Uniserve Personnel are subject to Harassment or an unsafe working environment while at Customer's premises or when providing the Services; and
- (m) comply with any third-party license agreements which apply to any software Uniserve make available to Customer.

Additionally, Customer shall not use the Services in ways that infringe the rights of others, or interfere with other users of our network or other networks. For example, Customer shall not distribute chain letter or unsolicited bulk electronic mail ("spamming"); propagate computer worms or viruses; use a false identity; attempt to gain unauthorized entry to any site or network; distribute child pornography, obscenity or defamatory material over the Internet; or infringe copyrights, trademarks or other intellectual property rights. Uniserve reserves the right to suspend or terminate the Services (or any portion thereof) without notice in the event that Uniserve believes that Customer's use (or any of User's use) of the Services is in violation of this section.

3.2 Customer Responsibilities. Customer is responsible for determining the suitability of the Services it orders and the manner in which it and its Users use the Services, including, without limitation the policies and procedures Customer establishes to protect the security of its data, computer network and other facilities; Customer's choice of equipment, software and online content; and all other matters related to how Customer and its Users use the Services.

3.3 Acceptable Use Policy. Customer shall, and shall cause its Users to agree to, comply with the AUP. Without limiting the foregoing, Customer shall not, and shall cause its Users to agree not to:

- (a) use the Services for service bureau or time-sharing purposes or in any other way allow third parties to exploit the Services, except as specifically authorized by the Agreement;
- (b) provide Services related passwords or other log-in information to any third party, except as specifically authorized by the Agreement;
- (c) share non-public Services features or content with any third party;
- (d) in its use of the Services or any property provided to Customer by Uniserve, comply with all applicable Laws, including without limitation, export laws, and Privacy Laws and any other Laws applicable to the protection of Customer Data; and
- (e) access the Services in order to build a competitive product or service, to build a product using similar ideas, features, functions or graphics of the Services, or to copy any ideas, features, functions or graphics of the Services; or
- (f) engage in web scraping or data scraping on or related to Services, including without limitation collection of information through any software that simulates human activity or any bot or web crawler.

In the event that Uniserve suspects any breach of the requirements of this Section 3.3, including without limitation by Users, Uniserve may suspend the Services without advanced notice, in addition to such other remedies Uniserve may have. Neither the Agreement nor the AUP requires that Uniserve take any action against Customer or any User or other third party for violating the AUP, this Section 3.3, or the Agreement, but Uniserve is free to take any such action it sees fit.

- 3.4 Unauthorized Access. Customer shall take reasonable steps to prevent unauthorized access to the Services, including without limitation by protecting its passwords and other log-in information. Customer shall notify Uniserve immediately of any known or suspected unauthorized use of the Services or breach of its security and shall use best efforts to stop said breach.
- 3.5 Effect of Customer Failure or Delay. Uniserve is not responsible or liable for any late delivery or delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under the Agreement. In the event of any such delay or failure, Uniserve may, in its sole discretion and by written notice to Customer, extend all such performance dates as Uniserve deems reasonably necessary and, where applicable, amend any applicable SoW to reflect such extensions. The foregoing is in addition to, and not in lieu of, all other remedies Uniserve may have for any such failure or delay by Customer.
- 3.6 Non-Solicitation. While any Service Period is in effect and for 2 years after, Customer shall not, and shall not assist any other Person to, directly or indirectly, recruit or solicit (other than by general advertisement not directed specifically to any Person or Persons) for employment or engagement as an independent contractor any Person then or within the prior 12 months employed or engaged as a contractor by Uniserve who is or was involved in any respect with the Services or the performance of the Agreement.
- 3.7 Responsibility for Access. Customer is responsible and liable for: (a) all User's use of the Services, including without limitation unauthorized User conduct and any User conduct that would violate the AUP or the requirements of the Agreement applicable to Customer; and (b) any use of the Customer's Services account, whether authorized or unauthorized.
- 3.8 Move Between ISP/MSP Providers. Uniserve is not liable for any costs incurred by Customer associated with service transfers between Uniserve and another ISP/MSP.

4. **CONFIDENTIALITY AND PRIVACY LAWS**

- 4.1 Confidential Information. Subject to Section 4.2 and 4.5, "**Confidential Information**" means non-public information in any form or medium (whether oral, written, electronic or other) that: (a) in connection with this Agreement, either party (as the "**Disclosing Party**") has disclosed to the other party (as the "**Receiving Party**"); and (b) the Disclosing Party expressly marked as confidential or which is manifestly of a confidential nature or which is confirmed in writing to be confidential within 7 days of its disclosure. Without limiting the foregoing, the Parties confirm that the Uniserve Materials and the terms of the Agreement are the Confidential Information of Uniserve.
- 4.2 Exclusions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with the Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with the Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, to the Receiving Party's knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.
- 4.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:
- (a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with the Agreement;
 - (b) except as may be permitted by and subject to its compliance with Section 4.4, not disclose Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for

purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with the Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 4.3; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 4.3;

- (c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its sensitive information and in no event less than a reasonable degree of care;
 - (d) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' noncompliance with, the terms of this Section 4.
- 4.4 **Compelled Disclosures.** If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy, or waive its rights under Section 4.3; and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 4.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, upon the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.
- 4.5 **Clarification.** The uploading or transmission of data or information to the Uniserve Data Centre or to any other hosted environment provided by Uniserve is not a disclosure for the purposes of Section 4.1.
- 4.6 **Compliance with Privacy Laws.** Each Party shall be responsible for ensuring that performance of its obligations and exercise of its rights under the Agreement complies with all applicable Privacy Laws. If the Agreement or any practices which could be, or are, employed in performance of the Agreement are inconsistent with or do not satisfy the requirements of any Privacy Laws: (i) the parties shall agree in good faith upon an appropriate amendment to the Agreement to comply with such laws and regulations; and (ii) the parties shall execute and deliver any documents required to comply with such Privacy Laws.

5. **CUSTOMER DATA AND SECURITY**

- 5.1 **Data Backup.** Uniserve will have no responsibility for backing up Customer Data except to the extent specifically agreed upon in a SoW. Notwithstanding the foregoing, the Services do not replace the need for Customer to independently maintain regular data backups or redundant data archives on an IT System separate from Service System. Regardless of the Services ordered, Customer remains responsible for maintaining the integrity and security of Customer Data.
- 5.2 **Customer Control and Responsibility.** Customer has and will retain sole responsibility for: (a) all Customer Data, including its content and use; (b) all information, instructions and materials provided by or on behalf of Customer or any User in connection with the Services; (c) Customer Systems; (d) the security and use of Customer's and its Users' Access Credentials; and (e) all access to and use of the Services and directly or indirectly by or through the Customer Systems or its or its Users' Access Credentials, with or without Customer's knowledge or consent, including all results obtained from, and all conclusions, decisions and actions based on, such access or use.
- 5.3 **Access and Security.** Customer shall employ all physical, administrative and technical controls, screening and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Services; and (b) control the

content and use of Customer Data, including the uploading or other provision of Customer Data for processing by the Services.

- 5.4 **Disclaimers.** Notwithstanding Section 4, Uniserve has no liability to Customer or any other Person for unauthorized access to Customer Data. Customer recognizes and agrees that hosting data online involves risks of unauthorized disclosure or exposure and that, in accessing and using the Services, Customer assumes such risks. Uniserve offers no representation, warranty, or guarantee that Customer Data will not be exposed or disclosed through errors or the actions of third parties.
- 5.5 **Data Accuracy.** Uniserve will have no responsibility or liability for the accuracy of data uploaded to the Services by Customer, including without limitation Customer Data and any other data uploaded by Users.
- 5.6 **Ownership of Data.** As between Customer and Provider, Customer is and will remain the sole and exclusive owner of all right, title and interest in and to all Customer Data, including all Intellectual Property Rights relating thereto, subject to the rights and permissions granted in Sections 5.7 and 5.8. Uniserve is the owner of all Resultant Data and Aggregate Data.
- 5.7 **Consent to Use Customer Data.** Customer hereby irrevocably grants all such rights and permissions in or relating to Customer Data: (a) to Uniserve and the Uniserve Personnel as are necessary or useful to perform the Services; and (b) to Uniserve as are necessary or useful to enforce this Agreement and exercise its rights and perform its obligations hereunder.
- 5.8 **Aggregate & Anonymized Data.** Notwithstanding the provisions above of this Article 5, Uniserve may use, reproduce, sell, publicize, or otherwise exploit Aggregate Data and Resultant Data in any way, in its sole discretion.
6. **Fees.**
- 6.1 **Prices.** Prices stated in any SoW are applicable for the specified Service Period and any renewal Service Periods, subject to Section 6.3. Customer is responsible for paying the fees for the Services and other prices for products stated in the applicable SoWs. Depending on the Service or products, fees may be one-time or recurring.
- 6.2 **Taxes.** All fees and other amounts payable by Customer under the Agreement are exclusive of taxes, tariffs, telecommunications surcharges, and similar assessments. Without limiting the foregoing, Customer is responsible for all goods and services, harmonized sales, sales, service, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, provincial or territorial governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Uniserve's income.
- 6.3 **Price Changes.** Uniserve reserves the right to change prices for the Services as of the beginning of any renewal Service Period by giving Customer at least sixty (60) days prior notice (written or electronic). If Customer receives a notice of increased fees and Customer does not wish to renew the Services at the increased price, Customer may cancel such Services by sending email to cancel@uniserveteam.com at least thirty (30) days prior to the expiration of then-current Service Period or renewal Services Period for such Services.
- 6.4 **Invoicing.** Unless otherwise stated in a SoW, Uniserve will invoice Customer monthly. Customer shall pay all applicable fees and taxes within thirty (30) days from receipt of an invoice by the payment method specified in the SoW.
- 6.5 **Late Payments.** If Customer fails to make any payment when due then, in addition to all other remedies that may be available:
- (a) Uniserve may charge interest on the past due amount at the rate of 24% per annum, calculated daily

and compounded monthly (effective rate of 26.824% per annum) or, if lower, the highest rate permitted under applicable Law;

- (b) Customer shall reimburse Uniserve for all reasonable costs incurred by Uniserve in collecting any late payments or interest, including attorneys' fees, court costs and collection agency fees;
- (c) if such failure continues for 30 days following written notice thereof, Uniserve may suspend performance of the Services, terminate or suspend licenses granted hereunder, and repossess any property Uniserve has provided to Customer until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Customer or any other Person by reason of such suspension; and
- (d) if such failure continues for 60 days following written notice thereof, Section 7.6(e) will be triggered irrespective of whether or not Uniserve terminates the Agreement pursuant to Section 7.1(a).

For the avoidance of doubt, Customer's failure to make any payment when due is deemed to be a material breach of this Agreement.

6.6 No Deduction or Setoff. Customer shall pay all amounts due under the Agreement without setoff, deduction, recoupment or withholding of any kind for amounts owed or payable by Uniserve whether under the Agreement, applicable Law or otherwise and whether relating to Uniserve's breach, bankruptcy or otherwise.

6.7 Reimbursable Expenses. Unless specified otherwise in a SoW, Customer shall reimburse Uniserve for all travel and out-of-pocket expenses incurred by Uniserve in connection with travelling to and performing the Services in-person at Customer's premises and any other reimbursable expenses specified in a SoW.

7. **TERMINATION**

7.1 Termination for Cause. Either Party may terminate the Agreement, effective upon written notice to the other Party (the "**Defaulting Party**"), if the Defaulting Party:

- (a) materially breaches the Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within 30 days after receipt of written notice of such breach.
- (b) becomes insolvent or admits its inability to pay its debts generally as they become due.
- (c) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven days or is not dismissed or vacated within 45 days after filing.
- (d) is dissolved or liquidated or takes any corporate action for such purpose.
- (e) makes a general assignment for the benefit of creditors.
- (f) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

(each of the above causes for termination, a "**Cause**")

7.2 Customer Cancellation for Convenience. Customer may cancel the Services at any time by providing sixty (60) days' prior written notice via email to: cancel@uniserveteam.com. If Customer cancels during a Service Period, Customer shall pay Uniserve:

- (a) all Service fees accrued as of the cancellation date;
- (b) an early cancellation fee (the "**Early Cancellation Fee**") in the amount specified in the applicable SoW,

or if not specified in an applicable SoW then an amount equal to 50% of Service fees that would have been due for the canceled portion of the Service Period;

- (c) the following additional charges, if applicable (collectively, the “**Additional Charges**”):
- (i) for dedicated access services, any minimum bandwidth commitments and, any telephone circuit, Internet, data line, or fibre cancellation charges;
 - (ii) for hosting services, any outstanding fees due for hardware and software licenses;
 - (iii) any minimum volume commitments; and
 - (iv) any outstanding fees due for non-standard components set forth in a SoW.

Such charges and fees, including applicable taxes, will be due in full at the time of cancellation. Notwithstanding the foregoing, in the event that Customer terminates the Agreement due to Uniserve’s uncured material breach as described in Section 7.1(a) above, or due to a change of the Services as described in Section 10.1 below, Customer will not be responsible for paying the Early Cancellation Fee.

- 7.3 No Active Service Period. Uniserve may terminate the Agreement by providing written notice to Customer at any time there is no active Service Period.
- 7.4 Uniserve Termination. In addition to Uniserve’s other rights, Uniserve may immediately terminate, restrict, or suspend Services without written notice:
- (a) if Customer materially breaches the Agreement;
 - (b) to prevent damage degradation to Uniserve’s or the Suppliers’ network or services by Customer or anyone using the Customer’ access;
 - (c) to comply with any Laws;
 - (d) if Customer or a User violates the AUP;
 - (e) for other conduct that in Uniserve’s sole discretion may be deemed to be illegal or otherwise necessary to protect Uniserve from legal liability.
- 7.5 Customer Termination. Notwithstanding the cancellation notice period in section 2.2, if Customer delivers a Rejection Notice to Uniserve in accordance with Section 17.7 (*Amendments*), Customer may terminate the Agreement at the end of the earliest expiring Service Period by providing written notice of termination to Uniserve at any time prior to the expiration of such Service Period.
- 7.6 Effect of Termination. Without limiting anything else in the Agreement, upon expiration or termination of the Agreement:
- (a) Customer shall: (i) immediately cease all use of and within 30 days deliver to Uniserve, or at Uniserve’s written request destroy, all documents and tangible materials containing, reflecting, incorporating or based on the Uniserve Materials or Uniserve’s other Confidential Information; (ii) permanently erase the Uniserve Materials and Uniserve’s other Confidential Information from its computer systems, except, in each case, to the extent that Customer requires or will require such Uniserve Materials or Uniserve’s Confidential Information to perform any of its obligations or exercise any of its rights or licenses under any surviving terms of the Agreement or except if Uniserve directs otherwise; (iii) provide all reasonable assistance and access requested by Uniserve to deprovision and disentangle the Services, Deliverables, Licensed Materials, and Equipment.
 - (b) All rights, licenses, and authorizations granted to Customer hereunder will immediately terminate and Customer shall: (i) immediately cease all use and other activities with respect to the Licensed Materials;

and (ii) within 30 days deliver to Licensor, or at Licensor's written request destroy, and permanently erase, the Licensed Materials, including all documents, files and tangible materials (and any partial and complete copies) containing, reflecting, incorporating or based on any of the foregoing, whether or not modified or merged into other materials unless Customer has independently obtained a license to such Licensed Materials authorizing Customer's intended use of such Licensed Materials and has provided satisfactory (from the perspective of Uniserve) evidence of such license to Uniserve;

- (c) Customer will return the Equipment and software in accordance with Section 9;
- (d) If Customer terminates the Agreement pursuant to Section 7.1(a), Customer will be relieved of any obligation to pay any fees hereunder for Services and Deliverables that Uniserve has not provided as of the effective date of termination and Uniserve will refund fees paid in advance for such Services and Deliverables; and
- (e) If Uniserve terminates the Agreement pursuant to Section 7.1(a), all fees that would have become payable had the Agreement remained in effect until expiration of the active Service Periods plus all Additional Charges (as determined by Uniserve in its sole discretion) will become immediately due and payable, and Customer shall pay such amounts, together with all previously-accrued but not yet paid fees and reimbursable expenses, on receipt of Uniserve's invoice.

7.7 Survival. The provisions set forth in the following Sections, and any other right or obligation of the parties in the Agreement that, by its nature, should survive termination or expiration of the Agreement, will survive any expiration or termination of the Agreement: 3.6, 3.7, 4.1-4.4, 5.4, 5.6-5.8, 6.5, 6.6, 7.6, 11.8, 8, 9, 11.1-11.5, 11.9, 11.10, 12.2, 13.2, 13.3, 14, 15, 16, and 17.

8. IP ADDRESSES AND DOMAIN NAME FEES.

8.1 Upon expiration, cancellation or termination of the applicable Services, Customer shall relinquish any IP addresses or address blocks assigned to Customer by Uniserve. If Uniserve deems it necessary for technical reasons, Customer may be required to renumber the IP addresses assigned to Customer by Uniserve. All fees associated with domain name registration and periodic maintenance of domain names are Customer's responsibility and will be billed directly to Customer by an applicable registration authority.

9. RETURN OF EQUIPMENT AND SOFTWARE.

9.1 Upon termination or expiration of the applicable Service Period (unless extended by the Parties), Customer shall return to Uniserve all Equipment and software that Uniserve has provided to Customer in connection with the Services (other than Equipment and software which Customer has purchased from Uniserve). In the event such Equipment and software is not returned to Uniserve within thirty (30) days following Customer's receipt of Uniserve's written notice requesting return of such Equipment and software, Uniserve reserves the right, in Uniserve's sole discretion, to: (a) recover and repossess the unreturned Equipment and software at Customer's expense and Uniserve will for the purpose of recovery or repossession have the right to access any place where such Equipment or software is located; or (b) charge Customer the list price or reasonable replacement cost for such Equipment and software.

10. UPDATE TO SERVICES

10.1 Uniserve reserves the right to make changes to service components if such components are no longer supported by Uniserve. In the event that such a change adversely impacts Customer's use of the Services, and Uniserve cannot reasonably mitigate the impact, then Customer may terminate the adversely affected Services without further fee payment obligation (except unpaid accrued fees) for such Services. However, for greater certainty, all other Customer obligations arising on termination and Customer obligations specified to survive will continue.

11. INTELLECTUAL PROPERTY RIGHTS

- 11.1 Uniserve Ownership. All right, title and interest in and to (a) the Services, (b) the Uniserve Materials, and (c) all works, inventions and other subject matter incorporating, based on or derived from any Services or Uniserve Materials, including all customizations, enhancements, improvements and other modifications thereof (collectively, “**Derivatives**”), in each case (subclause (a), (b) and (c)) by whomsoever made and including all Intellectual Property Rights therein, are and will remain, as appropriate, with Uniserve. Customer has no right or license with respect to any Uniserve Materials or Derivatives except as expressly licensed under Section 11.6, in each case subject to Section 11.7. Uniserve expressly reserves all other rights in and to the Uniserve Materials and Derivatives
- 11.2 Customer Materials. As between the parties, Customer is and will remain the sole and exclusive owner of all right, title and interest in and to the Customer Materials, including all Intellectual Property Rights therein, subject to the license granted under Section 11.4.
- 11.3 Third Party Materials. All right, title and interest in and to the Third-Party Materials, including all Intellectual Property Rights therein, are and will remain with their respective third-party rights holders subject to the terms and conditions of the applicable third-party license agreements. Customer has no right or license with respect to any Third-Party Materials except as expressly licensed hereunder or under such third-party license agreements. Before use of Third-Party Materials, Customer may be required to accept the terms of third-party license agreements.
- 11.4 Customer Materials License.
- (a) If Customer provides Uniserve with Customer Materials, then Customer hereby grants to Uniserve a worldwide, fully paid-up and royalty-free, non-exclusive right and license to use, reproduce, perform, display, distribute, modify and create derivative works and improvements of the Customer Materials to perform the Services or to further develop and improve the Uniserve Materials as necessary or desirable to perform the Services. This license commences upon Customer’s first delivery of Customer Materials to Uniserve and is irrevocable and perpetual.
 - (b) Customer represents, warrants and covenants to Uniserve that Customer owns or otherwise has and will have the necessary rights and consents in and relating to the Customer Materials so that, as received by Uniserve and used in accordance with the Agreement, they do not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights of any third party or violate any applicable Law.
- 11.5 Ownership of Work Product. Except as specifically provided in a SoW, Uniserve is and shall be the exclusive owner of all right, title, and interest in and to any Work Product, including, without limitation all Intellectual Property Rights therein.
- 11.6 Customer Use License. In the event Uniserve provides Customer with any software (including, without limitation, Third-Party Software) or Work Product (collectively, “**Licensed Materials**”) in connection with the Services and Uniserve is the authorized licensor or sublicensee of such Licensed Materials, then subject to and conditioned upon Customer’s compliance with Section 11.7 and the other terms and conditions of the Agreement, Uniserve grants Customer a limited personal, non-exclusive, non-transferable, non-sublicensable, license, for the duration of the applicable Service Period to which the Licensed Materials relate, to use such Licensed Materials solely for Customer’s internal uses and only to enable Customer to use the Services, and, in the case of software, only on the Service System on which it is installed (collectively, the “**Permitted Use**”). Otherwise, if Uniserve is not the authorized licensor or sublicensee of Licensed Materials, then Customer’s use of such Licensed Materials is conditional upon Customer entering into and complying with the applicable third-party license agreements for such Licensed Materials, complying with Section 11.7, and only using the Licensed Materials for the Permitted Use.

Customer acknowledges that the Licensed Materials are copyrighted, that title to such Licensed Materials

remains with Uniserve or Uniserve's suppliers, and that the content and design of such Licensed Materials may contain valuable trade secrets. Customer acknowledges that Uniserve is not purchasing a license to the Licensed Materials on the Customer's behalf.

For certain software, additional licensing terms apply as set forth in the applicable SoW, or in case of client software, are included as a "click-wrap" license with the software. To the extent the Licensed Materials include Third-Party Software, Customer's use of the Third-Party Software is governed by the applicable license agreement which relates to such Third-Party Software.

- 11.7 License Restrictions. Customer shall not, and shall not permit any other Person to, access or use any Licensed Materials except as expressly permitted by the Agreement. For purposes of clarity and without limiting the generality of the foregoing, with respect to all Licensed Materials, Customer shall not, except as the Agreement expressly permits:
- (a) modify, create derivative works from, distribute, publicly display, publicly perform, or sublicense the Licensed Materials;
 - (b) use the Licensed Materials in any way forbidden by Section 3.3 (*Acceptable Use*).
 - (c) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Licensed Materials to any other Person, including through or in connection with any time-sharing, service bureau, software as a service, cloud or other technology or service;
 - (d) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Licensed Materials or any part thereof;
 - (e) remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices from any Licensed Materials, including any copy thereof;
 - (f) use any Licensed Materials in a manner or for any purpose that infringes, misappropriates or otherwise violates any Law or Intellectual Property Right;
 - (g) use any Licensed Materials in, or in association with, the design, construction, maintenance or operation of any hazardous environments, systems, structures, or applications; or
 - (h) otherwise use the Licensed Materials beyond the scope of the licenses granted under the Agreement.
- 11.8 Uninstallation. Customer agrees not to use the Licensed Materials after the Service Period without obtaining a valid license from Uniserve or from the third-party licensor. If valid licenses have not been obtained, then upon termination of the applicable Service Period which pertains to the Licensed Materials, Customer shall allow Uniserve's Personnel access to Customer's Service System to enable Uniserve to uninstall any unlicensed software contained in the Licensed Materials.
- 11.9 Open-Source Components. If Uniserve provides Customer with any Open-Source Components, Customer's use of the Open-Source Components is subject to the applicable open source license. If there is a conflict between the Agreement and the open source license, the open source license will govern to the extent of the inconsistency.
- 11.10 Customer Provided Software. In the event Customer uses any Customer Provided Software on the Service System or otherwise provides Customer Provided Software to Uniserve, Customer represents and warrants that Customer owns the Customer Provided Software or has the necessary rights to use the Customer Provided Software in connection with the Services (for example, the Services might include, without limitation, hosting of the Customer Provided Services on Uniserve's IT System or the management or maintenance of the Customer Provided Software by Uniserve). Customer represents and warrants to Uniserve that, with

respect to any Services that Customer requests in relation to the Customer Provided Software, Customer has a written license agreement with the authorized licensor of the Customer Provided Software which permits the provision of such Services by Uniserve. If any of the Services involve upgrading, patching, troubleshooting, or managing the Customer Provided Software, Uniserve's obligation to provide such Services is conditional upon the Customer retaining the original vendor provided support services, and access to vendor provided patches and upgrades. Customer shall, upon request from Uniserve, certify by way of affidavit or statutory declaration that it is in compliance with this this Section 11.10 and any license agreements which apply to the Customer Provided Software and shall provide such evidence of compliance as Uniserve may reasonably request. Without limiting Uniserve's other remedies, if Customer fails to provide satisfactory evidence of compliance, as determined by Uniserve acting reasonably, Uniserve may suspend or terminate those Services which relate to the applicable Customer Provided Software.

11.11 Infringement. If provision of the Services or Deliverables is or in Uniserve's opinion is likely to be claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property Rights, or if Customer's use of the Services or Deliverables is enjoined or likely to be enjoined, Uniserve may at its option and sole cost and expense:

- (a) Obtain the right for Customer or Uniserve to continue using the Services or Deliverables as contemplated by the Agreement;
- (b) Modify the Services or Deliverables, in whole or part, to seek to make the Services or Deliverables (as so modified or replaced) non-infringing, in which case such modifications or replacements will constitute part of the Services or Deliverables (as applicable); or
- (c) By written notice to Customer, terminate the infringing or potentially infringing Services and any license to the Deliverables and require Customer to immediately cease using such Services and Deliverables. In such an event, Customer will be entitled to a refund of any pre-paid fees pro-rated for unused Services which have been terminated.

SECTION 11.11 SETS FORTH CUSTOMER'S SOLE REMEDIES AND UNISERVE'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT THE SERVICES OR DELIVERABLES INFRINGE, MISAPPROPRIATE OR OTHERWISE VIOLATE ANY THIRD PARTY INTELLECTUAL PROPERTY RIGHT.

12. SERVICE LEVEL AND LIMITED REMEDY

12.1 Unless a failure or defect is caused by a Force Majeure Event, Uniserve shall provide the remedies listed in the applicable Service Level Agreement for any failure or defect of the Services to meet the applicable service levels described in such Service Level Agreement, *provided that*: (a) Customer meets the requirements described in the SoW for the Service Level Agreement; and (b) the Service Level Agreement applies to the Services in question. A Service Level Agreement will apply to Services only if the applicable Service Level Agreement is confirmed by Uniserve in the SoW as being applicable to those Services.

12.2 EXCEPT FOR CUSTOMER'S RIGHT TO TERMINATE AS SET FORTH IN SECTION 7.1(a) ABOVE, THE SERVICE LEVEL AGREEMENT SETS OUT THE SOLE AND EXCLUSIVE REMEDY FOR FAILURE OR DEFECT OF SERVICES (INCLUDING WITHOUT LIMITATION FAILURE TO MEET SERVICE LEVELS) AND IF NO SERVICE LEVEL AGREEMENT APPLIES TO THE SERVICES THEN SECTION 7.1(a) PROVIDES CUSTOMER'S ONLY REMEDY. Customer recognizes and agrees that if the Service Level Agreement does not list a remedy for a given failure or defect, Customer has no remedy other than its right to terminate as set forth in Section 7.1(a). Service credits issued pursuant to the Service Level Agreement apply to outstanding or future invoices only and are forfeit upon termination of the Agreement. Uniserve is not required to issue refunds or to make payments against such credits under any circumstances, including without limitation after termination of the Agreement.

13. **WARRANTIES**

13.1 Limited Warranty. Uniserve warrants that the Services provided to Customer will be performed by qualified personnel in a professional manner.

13.2 DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN SECTION 13.1 (*Limited Warranty*), THE SERVICES, LICENSED MATERIALS, THE EQUIPMENT, WORK PRODUCT, AND ALL OTHER DELIVERABLES ARE PROVIDED "AS IS" AND UNISERVE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND UNISERVE SPECIFICALLY DISCLAIMS ALL IMPLIED CONDITIONS OR WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, UNISERVE MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES, LICENSED MATERIALS, EQUIPMENT, WORK PRODUCT, OR ANY OTHER DELIVERABLES, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL: (I) MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS; (II) OPERATE WITHOUT INTERRUPTION; (III) ACHIEVE ANY INTENDED RESULT; (IV) BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES (EXCEPT IF AND TO THE EXTENT EXPRESSLY SET FORTH IN THE QUOTATION); OR (V) BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

ALL THIRD PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD PARTY MATERIALS IS STRICTLY BETWEEN CUSTOMER AND THE THIRD-PARTY OWNER OR THIRD-PARTY DISTRIBUTOR OF THE THIRD PARTY MATERIALS.

13.3 Additional Disclaimer. To the maximum extent permitted by law, Uniserve disclaims all responsibility for any error, interruption, data loss or corruption, loss of stability, or security breach affecting the Services caused by Customer Provided Software, the acts or omissions of Customer or Users, or any services requested by Customer that are not on the advice of, or are contrary to the advice of, Uniserve.

14. **LIMITATION OF LIABILITY.**

14.1 Exclusion of Liability. IN NO EVENT WILL UNISERVE OR ANY OF ITS LICENSORS, SUBCONTRACTORS, SERVICE PROVIDERS OR SUPPLIERS BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY UNDER OR IN CONNECTION WITH THE AGREEMENT, THE SERVICES, OR THE AGREEMENT'S OTHER SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING WITHOUT LIMITATION BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, REVENUE, OR PROFIT; (b) DIMINUTION IN VALUE; (c) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES OTHER THAN FOR THE ISSUANCE OF ANY APPLICABLE SERVICE CREDITS PURSUANT TO SECTION 12.1; (d) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY (EVEN WHERE SUCH LOSS, DAMAGE, CORRUPTION, OR BREACH IS CAUSED BY A SERVICE INTERRUPTION); OR (e) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

14.2 CAP ON DAMAGES. IN NO EVENT WILL UNISERVE'S AND ITS LICENSORS, SUBCONTRACTORS, SERVICE PROVIDERS AND SUPPLIERS AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO UNISERVE PURSUANT TO THE AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

15. **INDEMNIFICATION**

15.1 Indemnification from Customer. Customer shall indemnify and defend Uniserve and Uniserve's Representatives against any "**Indemnified Claim**," meaning any third party claim, suit, or proceeding arising

out of or related to:

- (a) Customer or a User's breach of the Agreement; or
- (b) Customer's or a User's alleged or actual use of, misuse of, or failure to use the Services or Deliverables, including without limitation:
 - (i) claims by Users or by Customer's or Users' employees;
 - (ii) claims related to unauthorized disclosure, leak, breach, or exposure of personally identifiable information or other private information, including Customer Data;
 - (iii) claims related to infringement or violation of a copyright, trademark, trade secret, or privacy or confidentiality right; and
 - (iv) claims that use of the Services through Customer's account, including by Users, harasses, defames, or defrauds a third party or violates CASL, the CAN-Spam Act of 2003, or any other law or restriction on electronic advertising.
- (c) the negligence or wilful misconduct of Customer or a User; or
- (d) claims made by Customer against a third party who in turn claims contribution or indemnity from Uniserve.

Indemnified Claims also include claims related to the injury to or death of any individual, or any loss of or damage to real or tangible personal property, caused by the act or omission of Customer or of any of its agents, subcontractors, employees, or other Users. Indemnified Claims listed above in this Section 15.1 include, without limitation, claims arising out of or related to Uniserve's negligence if such claim is made by a User.

- 15.2 Litigation & Additional Terms. The obligations of Customer pursuant to Section 15.1 above: (a) include, without limitation, retention and payment of attorneys and payment of court costs, as well as settlement at Customer's expense and payment of judgments; and (b) will be excused to the extent that Uniserve's or Uniserve's Representatives' failure to provide prompt notice of the Indemnified Claim or reasonably to cooperate materially prejudices the defense. Customer will control the defense of any Indemnified Claim, including appeals, negotiations, and any settlement or compromise thereof; provided Uniserve will have the right, not to be exercised unreasonably, to reject any settlement or compromise that requires that it admit wrongdoing or liability or subjects it to any ongoing affirmative obligations.

16. **PUBLICITY.**

- 16.1 Uniserve may disclose that it has provided Services to Customer and may use Customer's name and logo in promotional materials, including, without limitation, on Uniserve's website and in any press releases. Customer shall not issue or release any announcement, statement, press release, or other publicity or marketing materials relating to the Agreement or Services or use Uniserve's trademarks without the prior written consent of Uniserve.

17. **GENERAL**

- 17.1 Entire Agreement. The Agreement, including and together with any related exhibits, schedules, statements of work, attachments and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter.

- 17.2 Notices. Uniserve may send notices pursuant to the Agreement to Customer's email address or other address

on file with Uniserve, and such notices will be deemed received 24 hours after they are sent. Customer may send routine communications to sales.admin@uniserveteam.com and send legal notices pursuant to the Agreement to:

Uniserve Communications Corporation
209-333 Terminal Avenue, Vancouver
British Columbia V6A 4C1

and such legal notices will be deemed received upon receipt by Uniserve. All legal notices sent by Customer must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid).

In addition, Customer is on notice and agrees that: (a) for claims of copyright infringement, the complaining party may contact _____; and (b) Uniserve will terminate the accounts of subscribers who are repeat copyright infringers.

- 17.3 Force Majeure. Uniserve will not be liable or responsible to Customer, nor be deemed to have defaulted or breached the Agreement, for any failure or delay in fulfilling or performing any term of the Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Uniserve including, without limitation, acts of God, flood, fire, storm, hurricane, tsunami, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labour disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage (each of the foregoing, a "**Force Majeure Event**"), provided that, if the event in question continues for a continuous period in excess of 30 days, Customer shall be entitled to give notice in writing to Uniserve to terminate the Agreement.
- 17.4 Severability. If any term or provision of the Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of the Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 17.5 Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing contained in the Agreement will be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the Parties, and neither Party shall have authority to contract for or bind the other party in any manner whatsoever.
- 17.6 Assignment. Neither party may assign the Agreement or any of its rights or obligations hereunder without the other's express written consent, except that Uniserve may assign the Agreement to an Affiliate, or in connection with a merger or acquisition of Uniserve or an acquisition all or substantially all of Uniserve's assets, or an amalgamation, arrangement or reorganization involving Uniserve.
- 17.7 Amendments. Uniserve may amend the Agreement, including without limitation this MSA and any Additional Terms located on Uniserve's Website, by providing written notice to Customer. Such amendment will be deemed accepted and become effective 30 days after such notice (the "**Proposed Amendment Date**") unless Customer first gives Uniserve written notice of rejection of the amendment ("**Rejection Notice**"). In the event of such rejection, the Agreement will continue under its original provisions, and the amendment will become effective at the start of the next Service Period following the Proposed Amendment Date (unless Customer

first terminates the Agreement pursuant to Section 7.5). Customer's continued use of the Services following the effective date of an amendment will confirm Customer's consent thereto. The Agreement may not be amended in any other way except through a written agreement by authorized representatives of each party. Notwithstanding the foregoing provisions of this Section 17.7, Uniserve may revise the Privacy Policy and AUP at any time by posting a new version of either at Uniserve's website, and such new version will become effective on the date it is posted; *except that* if such amendment materially reduces Customer's rights or protections, such revisions will instead be governed by the provisions of Section 17.7 which precede this sentence.

- 17.8 Successors and Assigns. This Agreement is binding on and inures to the benefit of the Parties to the Agreement and their respective successors and permitted assigns.
- 17.9 Choice of Language. The Parties confirm that it is their express wish that the Agreement, as well as any other documents related to the Agreement, including notices, schedules and authorizations, have been and shall be drawn up in the English language only. Les parties aux présentes confirment leur volonté expresse que cette convention, de même que tous les documents s'y rattachant, y compris tous avis, annexes et autorisations s'y rattachant, soient rédigés en langue anglaise seulement.
- 17.10 Waiver. Neither party will be deemed to have waived any of its rights under the Agreement by lapse of time or by any statement or representation other than by an authorized representative in an explicit written waiver. No waiver of a breach of the Agreement will constitute a waiver of any other breach of the Agreement.
- 17.11 Conflicts. In the event of any conflict among the attachments to the Agreement and this MSA, the following order of precedence will govern, with lower numbers governing over higher ones: (1) this MSA; (2) Additional Terms, (3) any SoW, with more recent SoW taking precedence over later ones; (4) any Uniserve policy posted online, including without limitation the AUP or Privacy Policy; and (5) a Service Quotation. No Additional Terms, SoW, or other attachment incorporated into the Agreement after the coming in to force of this MSA will be construed to amend this MSA or any earlier attachment unless it specifically states its intent to do so.
- 17.12 Construction. The parties agree that the terms of the Agreement result from negotiations between them. The Agreement will not be construed in favor of or against either party by reason of authorship.
- 17.13 Technology Export. Customer shall not: (a) permit any third party to access or use the Services or Deliverables in violation of any Canadian law or regulation; or (b) export any software provided by Uniserve or otherwise remove it from Canada except in compliance with all applicable Canadian laws and regulations. Without limiting the generality of the foregoing, Customer shall not permit any third party to access or use the Service in, or export such software to, a country subject to a Canadian embargo or otherwise in violation of Canadian sanctions.
- 17.14 Choice of Law. This Agreement will be governed solely by the internal laws of the Province of British Columbia and the federal laws of Canada applicable therein, without reference to: (a) any conflicts of law principle that would apply the substantive laws of another jurisdiction to the Parties' rights or duties; (b) the 1980 United Nations Convention on Contracts for the International Sale of Goods; or (c) other international laws.
- 17.15 Arbitration. If the courts in Customer's jurisdiction will not permit Customer to consent to binding arbitration, then any legal suit, action, or proceeding arising out of or related to the Agreement will be instituted exclusively in the courts of the Province of British Columbia, Canada, and Customer irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Otherwise, Customer agrees that, in the event of any dispute between Customer and Uniserve arising out of or relating to the Agreement, Customer and Uniserve shall consult and negotiate with each other and, recognizing their mutual interests,

attempt to reach a solution satisfactory to both Parties. If Customer and Uniserve do not reach settlement within a period of 60 days, then such dispute shall be referred to and finally resolved by mandatory and binding arbitration under the International Commercial Arbitration Rules of Procedure of the British Columbia International Commercial Arbitration Centre. The appointing authority shall be the British Columbia International Commercial Arbitration Centre. The case shall be administered by the British Columbia International Commercial Arbitration Centre in accordance with its Rules. The place of arbitration shall be Vancouver, British Columbia, Canada. The number of arbitrators shall be set to one unless otherwise required by the Rules. The language of the arbitration will be English. The existence and content of the arbitration proceedings, including documents submitted by the parties, correspondence to and from the British Columbia International Commercial Arbitration Centre, correspondence to and from the arbitrator, and orders and awards issued by the sole arbitrator, shall remain strictly confidential and shall not be disclosed to any third party (except for professional advisors) without the express written consent from the other party unless: (a) (i) the disclosure to the third party is reasonably required in the context of conducting the arbitration proceedings; and (ii) the third party agrees unconditionally in writing to be bound by the confidentiality obligation stipulated herein; or (b) such disclosure is required by applicable law or court order.

17.16 Waiver of Class Action and Jury Trial. Customer hereby agrees to waive any right Customer may have to commence or participate in any class action against Uniserve related to any claim and, where applicable, Customer also agrees to opt out of any class proceedings against Uniserve. Where applicable, if a dispute arises between Customer and Uniserve, Customer hereby waives any right Customer may have to participate in a trial by jury with respect to that dispute.

17.17 Equitable Relief. Customer acknowledges and agrees that a breach or threatened breach by Customer of any of its obligations under Section 3.3 (*Acceptable Use Policy*), Section 4.3 (*Protection of Confidential Information*), or Section 11.7 (*License Restrictions*) would cause Uniserve irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, notwithstanding Section 17.15, Uniserve will be entitled to seek equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

17.18 Third-Party Beneficiaries. Subject to the next sentence, the Agreement benefits solely the Parties to the Agreement and their respective permitted successors and assigns and nothing in the Agreement, express or implied, confers on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of the Agreement. The Parties hereby designate the Uniserve Representatives as third-party beneficiaries of Section 15, having the right to enforce Section 15 and Uniserve's licensors, subcontractors, service providers, and suppliers as third-party beneficiaries of Section 14 having the right to enforce Section 14.

18. DEFINITIONS

Capitalized terms in the Agreement have the meanings set forth below:

"Access Credentials" means any user name, identification number, password, license or security key, security token, personal identification number (PIN) or other security code, method, technology or device used, alone or in combination, to verify an individual's identity and authorization to access and use the Services.

"Additional Charges" has the meaning provided in Section 7.2(c);

“Additional Terms” means additional terms and conditions applicable to certain Services, as set out in schedules or appendices either located on the Uniserve Website or attached to an applicable SoW.

“Affiliate” means of a Person means any other Person that, directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with, the first Person

“Aggregate Data” refers to Customer Data with the following removed: personally identifiable information and the names and addresses of Customer and any of its Users.

“Agreement” means, collectively, the MSA, Service Quotation, Additional Terms, AUP, Terms of Service, and any applicable duly executed SoW, and appendices attached to any of the foregoing, and any other legal terms agreed to by the Parties in writing which govern the Services.

“AUP” means Uniserve’s acceptable use policy currently posted at <https://www.uniserve.com/acceptable-use/>.

“CASL” means an *Act to promote the efficiency and adaptability of the Canadian economy by regulating certain activities that discourage reliance on electronic means of carrying out commercial activities, and to amend the Canadian Radio-television and Telecommunications Act, the Competition Act, the Personal Information Protection and Electronic Documents Act and the Telecommunications Act (Canada)*.

“Control” (and the terms **“Controlled by”** and **“under common Control with”**) means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.

“Customer Data” means other than Resultant Data, information, data and other content, in any form or medium, that is collected, downloaded, managed, stored, transmitted, or otherwise received, directly or indirectly from Customer, User, or End-User by or through the Services.

“Customer-Equipment” means any equipment, systems, cabling or facilities provided by Customer and used directly or indirectly in the provision of the Services;

“Customer’s IP” means Intellectual Property authored, invented, created, or owned by Customer prior to or during any Service Period.

“Customer Materials” means any materials, information, data, documentation, manuals, guidelines, business processes, methodologies, database rights, designs, drawings, Confidential Information, software or other Intellectual Property provided to Uniserve by Customer in connection with the Agreement. For greater certainty, Customer Materials does not include Resultant Data.

“Customer Provided Software” means any software which is provided by Customer, whether or not proprietary to Customer.

“Customer’s System” Customer's information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), networks and internet connectivity, whether operated directly by Customer or through the use of third-party services.

“Deliverables” means all tangible and intangible property that Uniserve is required to provide or make available to Customer in the course of providing the Services.

“Designated Locations” means the designated locations set out in the SoW.

“End-User” means any of Customer’s clients or customers or other third parties that Customer gives access to the Services.

“Equipment” means the tangible personal property which is, or is to be, provided or made available to Customer under the Agreement and all replacements made to the Equipment, and all accessories, parts, and all additions

thereto, and any packaging shipping material incidental to the provision of such property. All Equipment is Deliverables hereunder.

“Equipment Software” means any Software or data contained in or delivered for use in connection with the Equipment.

“Harassment” means any act or acts of harassment and violence of any kind whether intended or not, including, but not limited to, unwanted and inappropriate verbal comments, gestures, or physical contact or assault which is unsolicited, unwelcome and which may adversely affect an individual or group of individuals

“Intellectual Property” means (a) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all patents, patent applications, and patent disclosures, together with all reissues, continuations, continuations-in-part, revisions, extensions, and reexaminations thereof, (b) all trademarks, service marks, trade dress, logos, trade names, and corporate names, together with all translations, adaptations, derivations, and combinations thereof and including all goodwill associated therewith, and all applications, registrations, and renewals in connection therewith, (c) all copyrightable works, all copyrights, and all applications, registrations, and renewals in connection therewith, (d) all mask works and all applications, registrations, and renewals in connection therewith, (e) all trade secrets and confidential business information (including ideas, research and development, know-how, formulas, compositions, manufacturing and production processes and techniques, technical data, designs, drawings, specifications, customer and supplier lists, pricing and cost information, and business and marketing plans and proposals), (f) all computer software (including data and related documentation), (g) all other proprietary rights, and (h) all copies and tangible embodiments thereof (in whatever form or medium).

“Intellectual Property Rights” means any and all registered and unregistered rights granted, applied for or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

“IT System” means an information technology system or infrastructure, including computers, software, hardware, databases, electronic systems and networks.

“Laws” means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, provincial, municipal, or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

“Maintenance Services” means the maintenance and support services available for software and equipment as, and on the terms and conditions, set forth in an applicable Schedule of Maintenance and Support.

“Open-Source Components” means any software component that is subject to any open-source copyright license agreement, including any GNU General Public License or GNU Library or Lesser Public License, or other obligation, restriction or license agreement that substantially conforms to the Open Source Definition as prescribed by the Open Source Initiative or otherwise may require disclosure or licensing to any third party of any source code with which such software component is used or compiled

“Service Quotation” means a documented service quotation accepted by the Parties which describes in basic terms the services to be provided by Uniserve to Customer and which provides estimates of the fees for those services.

“SoW” means a documented statement of work duly executed by the Parties describing the Services that Customer is purchasing.

“Person” means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.

“Privacy Laws” means all present and future Laws applicable to the Services relating to the collection, use, and

disclosure of personally identifiable information.

“**Privacy Policy**” means Uniserve’s privacy policy currently posted at <https://enterprise.uniserve.com/privacy-policy/>.

“**Representatives**” means, with respect to a party, that party’s employees, officers, directors, consultants, agents, independent contractors, service providers, sublicensees, subcontractors and legal advisors.

“**Resultant Data**” means information, data and other content that is derived by or through the Services from processing Customer Data and is sufficiently different from such Customer Data that such Customer Data cannot be reverse engineered or otherwise identified from the inspection, analysis or further processing of such information, data or content.

“**Service Level Agreement**” means Customer’s service level agreement for the Services.

“**Service System**” means an IT System which is a target of the Services or is otherwise related to the Services.

“**Terms of Service**” means Uniserve’s website’s terms of service currently posted at <https://home.uniserve.com/terms-of-service/>

“**Third Party Data Centre**” means the physical premises, computer hardware and equipment operated by a third-party provider on which the Applications may run.

“**Third Party Materials**” means materials and information, in any form or medium, including any open-source or other software, documents, data, content, specifications, products, equipment or components of or relating to the Services that are not proprietary to Uniserve.

“**Third-Party Software**” means software applications that are proprietary to and/or licensed from a third-party software vendor.

“**User**” means any Person who uses the Services on Customer’s behalf or through Customer’s account or passwords, whether authorized or not, or as an End-User of Customer, including, without limitation, Customer’s employees, agents, customers, and clients.

“**Uniserve Data Centre**” means the physical premises, computer hardware, and equipment operated by Uniserve on which certain Services and software may be operated or made available.

“**Uniserve IP**” means Intellectual Property authored, invented, created, or owned by Uniserve prior to or during any Service Period

“**Uniserve Materials**” means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, equipment or components of or relating to the Services that are proprietary to Uniserve, including without limitation, any Uniserve IP.

“**Uniserve Personnel**” means all employees and subcontractors, if any, engaged by Uniserve to perform the Services.

“**Website**” means Uniserve’s website currently located at <https://www.uniserve.com/>.

“**Work Product**” means all Intellectual Property and other materials and Deliverables created by Uniserve in the course of providing the Services.