

## UNIFIED DELIVERY NETWORK SERVICES TERMS AND CONDITIONS

Version: 2018-03-15

These UDN Services Terms and Conditions, as updated from time to time on <http://www.ericssonudn.com/legal/tos>, together with the relevant SLA, AUP, and the relevant Service Description(s) as incorporated herein (the "Terms") are between the Ericsson entity signing the applicable Order Form ("Ericsson") and the other signatory to such applicable Order Form ("Customer") and sets out the terms under which Ericsson sets up and provides access to its UDN to Customer and provisions of the related Service(s).

The Parties agree as follows:

**1. Scope and structure.** Ericsson will provide Services to Customer in order to make available content on behalf of Customer for its end users in certain territories from the UDN or the Ericsson's partner equipment in accordance with the terms below. For the avoidance of doubt, such Services are digital services and will be made through electronic communications only. Customer may order Services by signing an Order Form, subject to this Terms forming an integral part thereof, which should be countersigned by Ericsson to become fully binding (hereinafter collectively "the Agreement").

### 2. Services

2.1 Ericsson will provide Customer the On-boarding Service (if any) at the date agreed between the Parties. This includes establishing Customer's service account with a service portal.

2.2 Ericsson will provide the Media Delivery Service detailed under its Service Description and the Optional Services (if any) detailed under the applicable Service Description. These services will commence when Ericsson has notified the Customer that the applicable service is accessible. The Customer may, after mutual agreement of the Parties, add Optional Service(s) during the term of the Agreement.

2.3 Ericsson reserves the right to decide the service location and personnel including making available the content from anywhere on its UDN. Ericsson may, in its sole discretion, utilize third parties in providing the Services. Ericsson may transfer to, or remotely access Customer content (including personal data), from Ericsson facilities for redundancy purposes, or normal operation and support of the Services, including data collection. For these purposes Ericsson may use an employee, contractor or facility in any place where an Ericsson Affiliate or any contractor is located, and Ericsson is liable for their performance. Customer appoints Ericsson to perform any such transfer and consents for Ericsson to appoint such processors and sub-processors. Upon request, each Party will enter into any additional data processing or transfer agreement that is required under applicable data protection law for such transfer or sub-processing. (such additional agreements being subject to the terms of this Agreement). Ericsson, its Affiliate or its contractor may process and store a Customer employee's contact information for performing this Agreement. Additional terms might be added to the Order Form for Customers in the European Economic Area or Switzerland.

2.4 Ericsson is responsible for the maintenance and operation of the infrastructure owned or otherwise used by Ericsson to provide the Services. Ericsson may in its discretion, change, reconfigure, replace, upgrade or install hardware and/or software related to the infrastructure used to deliver the Services to the extent such actions will not have a negative impact on Ericsson's ability to deliver the Services.

2.5 If any free trial has been agreed in the Order Form, Ericsson will make one or more Services available to Customer on a trial basis until the earlier of (a) the end of the free trial period for which Customer registered to use the applicable Service(s), or (b) the start date of any purchased Service subscriptions ordered by Customer for such Service(s), or (c) termination by Ericsson in its sole discretion. Notwithstanding anything in this Agreement, during the free trial period, Customer has a non-exclusive, non-assignable, limited right to access and use the Service on trial mode, for the sole purpose of evaluating, testing or demonstrating the Service. Notwithstanding anything to the contrary, during any free trial, the Services are provided "as-is" without any Service Level, and Ericsson shall have no liability for any damages.

### 3. Ericsson Responsibilities

3.1 Ericsson will provide the On-boarding Service in cooperation with the Customer. Both Parties will work together until the connection is achieved unless otherwise agreed by the Parties in writing.

3.2 Ericsson will provide the Optional Services on a reasonable commercial effort basis. If Ericsson fails to do so, Ericsson will re-perform such service, in due time after Customer notifies Ericsson of the failure. Such re-performance is Customer's sole remedy for such failure. However, some Optional Services might have Service Levels as specified in the Order Form and in such a case, Ericsson will provide such Optional Services in accordance with the agreed Service Levels. Optional Services might also be subject to specific terms as further described in their related Service Description.

3.3 Ericsson will provide the Media Delivery Service in accordance with the agreed Service Levels.

3.4 If Ericsson fails to meet any agreed Service Levels solely due to Ericsson, the Customer can ask Ericsson to pay agreed Service Credits. Service Credit shall be the sole and final remedy of Customer for any failure by Ericsson to deliver the Service. Ericsson's testing method described in the Service Levels are used to evaluate Service Level events and calculate Service Credit.

3.5 To request a Service Credit, Customer must deliver a written request (with sufficient detail to identify the affected Service and alleged failure) within 30 days after the end of the month in which the event occurred. It is expressly agreed that Customer may not request any Service Credit after this time period.

3.6 The Customer may not bring any claim for Service Credits, damages or any other financial remedy against Ericsson in respect of a failure by Ericsson to meet any Service Levels or deliver the Services (i) if the failure is due to reasons attributable to the Customer, its subcontractors (other than Ericsson's sub-contractors under this Agreement), agents, personnel or any other third party engaged by the Customer or (ii) if the failure is due to reasons outside of Ericsson's control or (iii) if the failure results from (a) inaccessibility, erroneous measurements or non-responses attributable to test object which are not unauthenticated or publicly available; or (b) an excused outage due to curtail delivery in the event that Customer's bandwidth abnormally exceeds its committed rate or (c) events during a free trial period.

3.7 Except as set out in this Agreement, Ericsson (and its Affiliates or contractors) does not make any other express or implied warranties or representations, including non-infringement of third-party rights, merchantability, satisfactory quality or fitness for purpose. Ericsson does not warrant that any particular result can be derived from using any Services provided under this Agreement.

3.8 The responsibilities of Ericsson set forth herein, are the only responsibilities undertaken by Ericsson in relation to the provision of the Services or any part thereof and the sole remedy for any failure by Ericsson to provide the Services or any part thereof and are in lieu of any other obligations,

warranties, liability, rectifications and remedies regarding failure to provide the Services (including but not limited to any warranties, obligations, liability, rectifications and remedies for errors and defects that may arise under any law).

#### **4. Customer responsibilities**

4.1 Customer will provide all information and support that Ericsson reasonably requires to perform the Service, including ensuring co-operation with any other contractors in relation to On-Boarding Service.

4.2 When using the Services, Customer shall comply with (i) Ericsson's then-current acceptable use policy located at <http://www.ericssonudn.com/legal/aup> ("AUP") and (ii) any specific conditions agreed in writing between the Parties notably in the Service description. By using the Service, Customer agrees and confirms that this meets Customer's security requirements and processing instructions.

4.3 Customer shall not resell the Services to a third party nor enter into similar relationship with a third party to enable the purchase or use of the Services through Customer. It is hereby clarified that end users accessing Customer website are not considered to be using the Services.

4.4 Customer is solely responsible for all content and application, including any third party content or applications, provided to Ericsson for delivery via the Ericsson UDN or through the Services ("Customer Content"). Customer represents and warrants that it owns all right, title and interest in the Customer Content, or possesses the necessary rights to permit the Customer Content to be stored, sent or received using the Services. Without limiting the generality of the foregoing, Customer shall be responsible for (i) making the Customer Content available on an agreed addressable webserver, (ii) providing the right format, language and version of the Customer Content for the applicable device(s) and user experience, (iii) maintaining a copy of the Customer Content including backups and data warehousing and (iv) for any DRM, watermarking or any copyrights protection mechanisms.

4.5 Customer warrants that its use of the Services will not violate any applicable law, rule or regulation including without limitation any data security, data privacy or export compliance law or regulation, breach an agreement with, or infringe the copyright or other intellectual property rights of a third party.

4.6 Customer might undertake a minimum usage commitment of the Media Delivery Services per month as mentioned in the Order Form ("Minimum Usage Commitment").

**5. Suspension of the Service.** Ericsson may restrict or suspend the Services or part thereof at any time in accordance with the Applicable Use Policy.

#### **6. Ownership**

6.1 Ericsson, its Affiliate or its contractor retains all intellectual property rights in and to (a) the Services and any other service provided under this Agreement, (b) any graphics or content included in the Services or data related to performance, configuration and infrastructure from a design and design implementation perspective as more fully described in 6.4; (c) all underlying software, data, and other materials that operate the Services (including any APIs); (d) any modification, enhancement or derivative work made of (a) through (c), including Customer's feedback or suggestions about the Services. The Customer acquires no rights of whatever nature under this Agreement to any Ericsson intellectual property rights or other rights.

6.2 As between the Parties, Customer retains all rights, title and interest in the Customer Content and such content shall not be deemed part of any Services by virtue of being located on or served from Ericsson UDN.

6.3 When required to provide the Services, Customer grants Ericsson permission and license to alter, modify, reformat, archive, transmit, cache, strip metadata and otherwise manipulate live videos or content for which on demand or live streaming for instance is leveraged and indemnifies Ericsson from any losses associated with performing these licensed actions on behalf of Customer.

6.4 Ericsson or its Affiliate may collect, copy, use and exploit design and performance data in the Service for (a) normal operation and support of the Service, (b) Ericsson's product or service development, and (c) Ericsson reports or analysis to any person, on the condition that Customer or its customers are not identifiable.

**7. Effect of termination on Services.** At the end of the Agreement for any reason, Customer's shall cease to use the Services and Ericsson will terminate access to Customer's service account on UDN. Except for a Customer termination as described below in Section 9, if the Agreement is terminated for any reasons before its term, the Customer shall be liable to pay, as a compensation, all outstanding fees for the remainder of such term.

#### **8. Fees and payment**

8.1 Customer will pay Ericsson, if applicable, and as set forth in the Order Form:

(a) **On-boarding Service:** the applicable flat fee for On-boarding Services to be paid in advance as set forth in the Order Form;

(b) **Optional Services:** (i) flat fees (either monthly recurring fees or one time fee as set forth in the Order Form) for Optional Services to be paid in advance except for certain Optional Services as specified below;

(ii) for some Optional Services (such as Secure Delivery) as expressly agreed in an Order Form, monthly recurring flat fees as set forth in the Order Form and a usage fee based on consumption, as calculated in the Order Form, to be paid monthly in arrears;

(c) **Media Delivery Service Fee:** fixed and variable fees for Service per Mbps or GB transfer to be paid monthly in arrears:

(i) fixed monthly recurring fee covering the Minimum Usage Commitment undertaken by the Customer (if any),

and (ii) usage fee exceeding the Minimum Usage Commitment for the immediate preceding month (such amount will be invoiced by Ericsson based on the consumption information in Ericsson system).

8.2 Customer might provide Ericsson with a written non-binding estimated consumption volume or capacity, as further set forth in the Order Form. Ericsson's receipt of such estimation is not to be regarded as an acceptance by Ericsson to provide the estimated capacity. In case any rate or price for usage fee is based on such estimated volume, and the estimated volume is not reached for 3 months in a row, Ericsson shall have the right to adjust the rate or price to the real volume achieved for the following month. The Customer shall have the right to benefit again from the initial rate when the initial estimated volume is reached again for 3 consecutive months. Customer acknowledges that any flat or fixed fees not based on usage (such as the fixed monthly recurring fee for Media Delivery Service covering the Minimum Usage Commitment) will be due regardless of actual use of Media Delivery Services or Optional Services.

8.3 Usage fees will be invoiced as soon as the traffic data are available and at the latest on the tenth business day of the calendar month to which the invoice pertains.

8.4 Customer will pay all amounts within 30 days of the invoice date, without any right of set off or counterclaim. Any overdue payment shall automatically (without notice) carry an interest at a rate of the monthly LIBOR (London Inter Bank Offered Rate) plus three percent (3%) accumulated rate per month of the outstanding amount until payment is made of the accumulated outstanding amount.

8.5 If Customer believes, in good faith, that Ericsson's invoice is incorrect, Customer must give Ericsson written notice within 16 calendar days of the date of the invoice containing the amount of the usage fee in question to be eligible to receive an adjustment or credit for the disputed amount. Such notice must contain a detailed description of the usage fees in question and the good faith basis for disputing such amounts. Customer agrees to promptly remit

payment for all other amounts and irrevocably waives its right to challenge any amount not disputed during such 16 calendar day period. If Ericsson does not agree to Customer's request, an escalation procedure shall be agreed upon between the Parties.

## **9. Term and termination**

9.1 This Agreement starts on the effective date mentioned in the Order Form, and remains in effect for one year (or any other longer period specified in the Order Form), unless terminated earlier as set out below. At the end of such term or any renewed term, unless a Party gives other a 90 days' written notice to the other, the Agreement will continue to be in effect by additional periods of 1 year from when the Agreement otherwise would have ended.

9.2 Either Party may terminate this Agreement for cause immediately if a Party materially breaches this Agreement, on the condition that the non-defaulting Party gives reasonable written notice and reasonable time to comply. Failure to pay a fee is a material breach. Further, either Party may terminate this Agreement immediately upon written notice if (a) the other Party breaches confidentiality provisions in this Agreement; or (b) the other Party ceases its business, cannot pay its debts when due, or is subject to insolvency or bankruptcy proceedings.

9.3 Ericsson may terminate this Agreement immediately upon written notice if: (a) change of control of the Customer to the benefit of, or Customer agrees to transfer its business to, a company that competes with Ericsson or its Affiliates; or (b) Ericsson is required to do so by law.

9.4 Provisions contained in this Agreement, that are expressed or by their sense and context are intended to survive the expiration or termination of this Agreement shall so survive the expiration or termination, including but not limited to Sections 6, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 17.

## **10. Compliance with laws, data privacy and export control**

10.1 Each Party is responsible for complying with any law or regulation that applies to its responsibilities under this Agreement.

10.2 Customer is responsible for obtaining all necessary permissions to use, provide and store its and its customer's or end user's content in connection with the Service. Customer will obtain all necessary consents from, or make all necessary notifications to, any customer or end user to allow Ericsson to lawfully process content (including personal data) in providing the Services and performing its obligations under this Agreement and notably as regards cookies tracking.

10.3 Customer and Ericsson will comply with all applicable import, re-import, export, and re-export control laws and regulations that apply to their responsibilities under this Agreement. For Customer, this includes Customer's and its customer's transfer and processing of content.

10.4 If a change in law relevant to the whole or part of the Services and/or Ericsson UDN or the purpose of the Services and/or Ericsson UDN occurs or is shortly to occur Ericsson reserves the right to make changes to the Services and/or Ericsson UDN to deal with the change in law and with respect to such changes Ericsson shall (i) be relieved from compliance with any obligations set out in the Agreement to the extent to which they conflict with the Ericsson's Services and/or Ericsson UDN compliance with the change in law and (ii) not be liable for any damages that may result from either any change to the Services and/or Ericsson UDN or the change in law.

## **11. Indemnification**

11.1 Ericsson shall, at Ericsson's expense, defend Customer from and against any claims, demands, actions, causes of action and/or proceedings arising from any actual or alleged infringement or violation of a patent, trade secret, copyright or other intellectual property rights of any third party resulting from the proper non-trial use of the Services (an "Infringement Claim"). Ericsson shall indemnify Customer from and against any reasonable expenses (including, reasonable attorneys' fees), damages, losses, and/or liabilities that are: (1) directly related to an Infringement Claim; and (2) finally awarded by a court of competent jurisdiction or are required to be paid as part of a settlement agreement approved in writing by Ericsson. Ericsson has no obligation for any claim under this Section if the Infringement Claim results from or is based on: (i) modifications of the Services not made by Ericsson or its subcontractors or agents, or use of the Services in contradiction with this Agreement or use or enjoyment of the Services by anyone other than the Customer, or (ii) the combination or use of the Services with services or products not provided by Ericsson, or (iii) the value of the use of a non-Ericsson product service, data, business process, or other intellectual property rights, including Customer products, services, content and business processes, or (iv) Customer causing or contributing to the events that gave rise to the Infringement Claim for which it seeks defence and/or indemnity; or (v) a specification, requirement, design or instruction provided by Customer; or (vi) any failure of the Customer or their end-customer to take a license and/or pay participation fees expressed to be paid by a third party other than a network equipment provider or technology provider under any licensing regime, or (vii) any duties or levies payable for artistic or music rights clearance (including levies to collecting societies etc.) with respect to Customer Content, or (viii) claims in respect of which the Customer indemnifies Ericsson or (ix) the use of the Services or part thereof, if Customer has refused an offer of a replacement or modification for such Services or part thereof and such replacement or modification is not subject to the Infringement Claim.

11.2 If any Infringement Claim is made or in Ericsson's reasonable opinion is likely to be made, then Ericsson may, at its option and expense, and Customer shall permit Ericsson to, either: (i) obtain the right for Customer to continue using the Services that are the subject of the Infringement Claim; or (ii) replace or modify the Services that are the subject of the Infringement Claim with non-infringing products of equivalent functionality. If neither of the alternatives set forth in the foregoing sub-clauses (i) and (ii) above is reasonably commercially practicable in Ericsson's discretion, then (a) Ericsson will notify Customer to discontinue using the Services (or portions thereof); (b) Customer will discontinue use of the Services (or portions thereof); and (c) Ericsson shall refund to Customer the prepaid fees to Ericsson for the pertinent Service. If Customer fails to discontinue use of the Services (or portions thereof) as set forth in the immediately preceding sentence, Ericsson shall have no liability for such continued use by Customer of the relevant Service.

11.3 Customer shall defend, indemnify and hold Ericsson and its partners harmless from and against all liabilities, actions, or claims arising from Customer's Content, operation of Customer's web site(s), or misuse of the Services or the Ericsson UDN, or any breach of or failure to comply with Customer's responsibilities or warranties as described above including for the avoidance of doubt the AUP.

11.4 The indemnified Party shall (a) promptly notify the indemnifying Party in writing of any claim, suit or proceeding for which indemnity is claimed, and (b) allow the indemnifying Party solely to control the defence of any claim, suit or proceeding, however, the indemnified Party shall have the right to participate at its own expense in the defence through counsel of its own choosing. At all times the indemnified Party shall cooperate fully with the indemnifying Party in the defence.

11.5 Subject to the limitation of liability, the above provides both Party's sole liability and sole remedy in case of claims of infringements of IPR or any other proprietary rights by a third party as a result of the use of the Services or part thereof.

## **12. Limitation of liability and disclaimers**

12.1 Except as set forth in Section 12.4, a Party's aggregate liability for all claims under this Agreement (including any indemnity) is limited to any actual direct damages that the other incurs up to 100% of the amounts Customer pays Ericsson under this Agreement in the preceding 6 months prior to the claim.

12.2 Except as set forth in Section 12.4, A Party is not liable for any of the following, under any claim (including any indemnity) or theory of liability, even if the other Party knew it was possible or reasonably foreseeable: (a) lost profit, revenue, business, market share, use, production, contracts, goodwill,

savings, lost or unauthorised access to content or data (including personal data); or (b) any special, indirect, incidental, punitive or consequential damage in any way.

12.3 The limits and exclusions apply to each Party and its employees, contractors and Affiliates collectively.

12.4 The limitation of liability provided for in this Section 12 shall not apply with respect to damages related to (a) a Party's liability for breach of confidentiality under section 14; (b) Customer's payment and indemnification obligation under this Agreement or (c) damages that cannot be limited under applicable law.

### 13. Taxes

13.1 Each Party is responsible for its own taxes. Ericsson is responsible for any tax based on Ericsson's net income, and for the personal income tax of its employees or contractors.

13.2 The fees described in Section 8 and any other fees exclude VAT or similar and withholding tax. Customer will pay these and any other tax or duty related to this Agreement.

13.3 If under any present or future law or regulation, Ericsson must pay or Customer must deduct any tax or duty under this Agreement, Customer will increase the payable amount to cover such deduction or payment.

13.4 Ericsson will charge VAT or similar (such as goods and services tax) as applicable local law or regulation requires. Customer will pay such VAT, but only if Ericsson provides Customer with a valid tax invoice that: (a) specifically states the amount of VAT or other tax chargeable, if applicable; (b) meets all requirements imposed by the local tax authority; and (c) meets any further legal requirements to allow Customer to obtain any applicable tax relief, if available. Ericsson will provide Customer with an invoice or credit note for any underpayment or overpayment of VAT with payment in accordance with the payment terms.

### 14. Confidentiality

14.1 This Agreement, including the terms and conditions herein, and the Services and any and all parts thereof, shall be deemed to be confidential information. Further, any and all other information received under this Agreement (including all techniques and ideas embodied and expressed in such information), irrespective of the way of disclosure shall be deemed confidential information; provided that (a) such information is disclosed in writing or other permanent form, and clearly marked as being confidential or (b) if disclosed orally, identified as being confidential at the time of disclosure and confirmed in writing to the receiving party to be confidential within thirty (30) days following the original disclosure or (c) the nature of the information makes it obvious that it is confidential. All of the above are hereinafter referred to as ("Confidential Information"). A Party will (a) not disclose to any person, in any form or way, any Confidential Information that it receives under this Agreement; and (b) keep it secure and protected to a reasonable level of care against loss, damage or unauthorised access. A Party may only use or reproduce (or disclose as below) the information or documentation received to fulfil and manage its rights and obligations under this Agreement. A Party may disclose, use and reproduce such Confidential Information to its Affiliate, employee or subcontractor, but only if that person accepts confidentiality obligations substantially the same as this Agreement and the Party is liable for that person's breach. Ericsson may disclose, use and reproduce such Confidential Information to allow an assignment by Ericsson of its receivables under this Agreement to a financial institution.

14.2 This Section does not apply to any portion of information that (i) the disclosing Party agrees to a disclosure to a person, or that is required to fulfil or manage a Party's right or obligation under this Agreement; (ii) is already or becomes publicly available, except by breach of confidentiality; (iii) is demonstrably developed at any time without use of such documentation or information; (iv) was already known before disclosure or obtained at any time, without obligation of confidentiality or (v) is required by law to be disclosed, provided that, to the extent legally permissible, the receiving Party provides the disclosing Party as much notice as practicable under the circumstances of such requirement prior to disclosure and provides to the disclosing Party, at the disclosing Party's expense, such reasonable assistance as the disclosing Party requests in order to pursue protective orders and the like.

14.3 The obligation of confidentiality set out in this section survives three years after the end of this Agreement.

14.4 A Party shall return or destroy all copies of Confidential Information in its control within 30 days of when the Agreement ends, but excluding Confidential information that (i) a Party requires for any law or regulation, internal record keeping or decision making, or to perform its continuing obligations under the Agreement; or (ii) Ericsson owns or has developed on behalf of Customer.

14.5 Notwithstanding anything to the contrary, Ericsson may use the Customer's name, trade name, trademarks, icons, and logos to refer publicly to Customer or in its relationship with network service provider, orally and in writing, as a customer of the Services. Any other use of Customer's brands requires Customer's prior written consent.

**15. Force majeure.** Neither Party is liable for any failure or delay to fulfil its obligations to the extent caused by any event beyond its reasonable control. It is hereby agreed that denial of services resulting in extraordinary levels of traffic on the network should be considered as a force majeure event. If such event occurs, the affected Party will immediately notify the other in writing with sufficient detail of the event. Both Parties will use reasonable efforts to mitigate the effect of the event and the affected Party will use reasonable efforts to fulfil its obligation as long as the event continues. If the event continues for more than 1 month, either Party may terminate this Agreement.

**16. Governing law and dispute resolution.** The laws of the country in which Ericsson is registered (excluding its conflict of law principles) govern all matters under this Agreement, including non-contractual claims. The Parties will settle any dispute arising out of this Agreement by arbitration under the Rules of Arbitration of the International Chamber of Commerce using three arbitrators, in the city where Ericsson is registered, with all documents and proceedings in English. Notwithstanding the aforesaid, nothing in this Agreement shall prevent the Parties from seeking any interim or final injunctive or equitable relief by a court of competent jurisdiction. Judgment on the award rendered in any such arbitration may be entered in any court having jurisdiction. The Parties' confidentiality obligations under this Agreement apply to the arbitration proceedings and documentation.

### 17. Other provisions

17.1 If there is a conflict between the documents in this Agreement: (a) the Terms prevails over any document incorporated by reference or Order Form; (b) a later document prevails over an earlier, unless an explicit reference has been made in an Order Form to the effect that a certain provision in that Order Form shall prevail notwithstanding certain provisions in these Terms.

17.2 Except as set out in this Agreement, no other amendment of this Agreement is effective unless it is in writing and signed by the Parties. Neither Party may assign any right or transfer any obligation under this Agreement unless it has obtained the prior written consent of the other Party. But Ericsson may assign its receivables arising under this Agreement to a financial institution, but only if such assignment does not affect Ericsson's obligations to Customer or create additional Customer obligations. Ericsson may assign or transfer this Agreement in connection with a merger or acquisition of all or substantially all of the assets of the Ericsson UDN business (provided that the assignee agrees in writing to be bound by all terms and conditions of this Agreement), by providing the Customer with prompt written notice of assignment. Any purported assignment in violation of this section will be void.

17.3 This Agreement does not constitute a partnership or agency relationship between the Parties. Neither Party has any authority to bind or commit the other Party, or assumes any responsibility for the other Party's regulatory obligations, business or operations. Each Party is responsible for determining the assignment of its employees and contractors, and for their direction, control, and compensation.

17.4 No waiver of satisfaction of a condition or non-performance under this Agreement is effective unless it is in writing and signed by the Party granting the waiver.

17.5 Each Party has a duty to mitigate any loss or expense that would otherwise be recoverable from the other Party (including under an indemnity) under this Agreement by that Party taking commercially reasonable actions to reduce or limit the loss or expense. Neither Party will bring a legal action arising out of or related to this Agreement more than two years after the cause of action arose. The Parties intend that no person, other than the Parties, has any cause or right of action under this Agreement.

17.6 If any provision of this Agreement is held to be unenforceable (i) that provision is to be interpreted either by modifying it to the minimum extent to make it enforceable (if permitted by law), or disregarding it (if not); (ii) and the rest of this Agreement is to remain in effect as written. An unenforceable provision is to remain as written except when the provision is held to be unenforceable. The Parties intend that this Agreement is to be interpreted as if the Parties have negotiated and drafted it jointly.

17.7 Any notice required or permitted shall be in writing and shall be delivered to the contact person listed in the Order Form by personal delivery, deposited with an established overnight courier, or mailed by certified or registered mail, return receipt requested. Such notice will be deemed to have been given as of the date it has been so delivered or deposited, or five days after it has been mailed.

17.8 This Agreement constitutes the entire Agreement of the Parties relating to the subject matter of this Agreement. This Agreement supersedes all other oral or written agreements, understandings, representations or courses of dealing relating to the subject matter of this Agreement, including any other terms sent by Customer on confirmation or any other documents.

**18. Definitions.** In addition to any specific definition set out in this Agreement, the following expressions have the following meanings:

**"AUP"**: the acceptable use policy as defined in Section 4.2 located at <http://www.ericssonudn.com/legal/aup> and incorporated herein.

**"Affiliate"**: (a) any entity that controls, is controlled by, or under common control with, a Party, or (b) for Ericsson, means Telefonaktiebolaget LM Ericsson (publ) or each legal entity that Telefonaktiebolaget LM Ericsson (publ) directly or indirectly controls.

**"Media Delivery Service"**: Customer's access to a proprietary basic HTTP delivery service from the UDN or the Ericsson's partner equipment, designed to support the distribution of progressive video and large binary file delivery across a global caching platform as further described in its Service Description.

**"On-boarding Service"**: support provided to the Customer to help the Customer to create the connection between the UDN and the applicable customer webserver.

**"Order Form"**: an ordering document for a Service containing the Terms, the SLA and AUP, filled out and signed by Customer and accepted in writing by Ericsson which shall include, inter alia, the full name and contact of the Parties, identification of the Services purchased, the fees and charges, the Minimum Usage Commitment (if any), and the Effective Date.

**"Optional Services"**: services that can be added at Customer's discretion to the Media Delivery Service to provide additional features such as Content Targeting, Token Authentication or Secure Delivery, as further described in the applicable Service Description.

**"Party"** or **"Parties"**: Ericsson and Customer individually or collectively as the case may be.

**"Services"**: Media Delivery Service, Optional Services and On-boarding Service.

**"Service Description"**: the description of the Services as made available by Ericsson, and updated from time to time, as appended to the Order Form or, if not, accessible via [www.ericssonudn.com/legal](http://www.ericssonudn.com/legal) and incorporated herein.

**"Service Level"**: the service levels and agreed standards for the performance of the Media Delivery Service or Optional Services (if any) included in the Order Form and incorporated herein.

**"Service Credit"**: the amount due for failure to meet the Service Level as set out in the Service Level.

**"UDN"**: unified delivery network which is operated and owned by Ericsson to deliver the Media Delivery Service and Optional Service.