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Hiber Services

Terms and Conditions.

1. Applicability.

These Hiber Standard Terms and Conditions of Service ("Terms") apply to the provision of Hiberband services ("Services") by Magnitude Space B.V., a company registered in Amsterdam, The Netherlands and doing business as Hiber ("Hiber"), to End Users, resellers, integrators, and other commercial and governmental customers ("Customers"). In the event that Hiber and the Customer have executed a separate agreement, such as a master sales agreement, reseller agreement, non-disclosure agreement, etc., and such agreement is in effect as of the date that the Services are purchased by Customer, then the terms of such separate agreement shall take precedence over any inconsistent provisions contained in these Terms.

2. Definitions.

- a. **Communications Node or CN:** The End User Asset generating the data messages combined with the Hiber Modem.
- b. **CN Fleet:** A Customer's total fleet of CNs as measured by the total number of the Customer's active Subscriptions.
- c. **Credits:** Units of monetary balance to be purchased by Customers by means of Mission Control and applied to the activation of Subscriptions.
- d. **Customer:** The entity purchasing Services from Hiber, either as an End User, for integration into its own service or product offering, or for resale to End Users or other parties.
- e. **Data Package:** The data message delivered from the End User Asset to the Hiber Modem and transmitted from the CN using Hiberband.
- f. **End User:** The operator of the End User Asset; this may be a Customer or a third party.
- g. **End User Asset:** The device being monitored that sends the Data Package to the Hiber Modem for onward transmission to Hiberband.
- h. **Hiber Modem:** The modem/battery/transmission antenna unit attached to the End User Asset that receives the Data Package from the End User Asset and transmits it to Hiberband. Only units supplied by a manufacturer authorized by Hiber shall be used.
- i. **Hiberband:** The satellite-based communications network operated by Hiber for the receipt and onward transmission of Customer data messages.
- j. **Mission Control:** The online interface operated by Hiber from which the End User purchases Credits, activates Subscriptions, retrieves its Data Packages, and otherwise manages its use of the Services.
- k. **Resale Customer:** A party to whom a Customer, in its own name, resells Services sold to Customer by Hiber.
- l. **Subscription:** The unit of activation of Service for one CN for a specified period as activated on Mission Control.

3. Pricing and Taxes.

- a. Subscriptions. All Services are purchased by means of prepaid annual Subscriptions activated by Customers utilizing Mission Control, and all Subscriptions are purchased by the application by the Customer of Credits purchased on Mission Control. Options for purchase of Credits may include, without limitation, payment by credit bank, bank transfer, and debiting from existing account balance.
- b. Each Subscription represents Service that is provided to one CN for a specified period as activated by the Customer on Mission Control. The period for each CN Subscription shall commence on the first day of the month following activation of the Subscription by the Customer. Hiber may establish minimum activation quantities of Subscriptions, which will be specified on Mission Control.
- c. Customer may set up automatic Credit purchases and/or Subscription activations and renewals, in which case Customer shall maintain adequate funds in its account or maintain a valid credit card or bank account debit on file with Hiber. Customer may purchase Credits without immediately activating Subscriptions; such Credits will be maintained in the Customer's Mission Control account, to be activated into live Subscriptions at a later date.
- d. All pricing and parameters (e.g., length of Subscription, frequency of Data Package reporting) for Services shall be as stated on Mission Control and shall be firm fixed prices. All pricing for new or renewed Subscriptions is subject to change based on market conditions. Upon expiration of a Subscription term, any renewal of the Subscription will be at the Subscription rate applicable at the time of the renewal.
- e. All pricing shall be exclusive of all taxes, regulatory fees, customs fees, and other charges. Customer will be solely responsible for the following: (a) any applicable national, state, provincial, and regional local sales, excise, use or



other tax assessment, including VAT or GST where applicable and surcharges or similar charges of any nature levied upon the Service by any governmental taxation or revenue entity (except for taxes based on Hiber's income) arising out of or related to the sale of the Services ("Taxes"); and (b) telecommunications regulatory fees imposed by any governmental authority. If Customer provides Hiber with an applicable tax exemption certificate, Hiber will work with Customer to obtain applicable tax exemptions to the extent consistent with applicable law.

- f. Rates for the purchase of Credits and Subscriptions will be denominated in Euros. Payments on Mission Control may be made in Euros, U.S. Dollars, and British Pounds. In the case of payment by Dollars and Pounds, Mission Control will calculate the appropriate amount based on the current exchange rate as established by Hiber's bank.

4. Acceptance and Payment Terms.

- a. A Customer order for Subscription or account credit shall be deemed accepted by Hiber upon the emailed confirmation by Hiber of an order placed on Mission Control ("Acceptance").
- b. Payment in advance is required for all purchases of Services. Billing in arrears is not permitted.
- c. In the event that any Tax, duty, impost, levy or like charge becomes payable in any territory, either by deduction or otherwise, on or in respect of any amount to be paid by Customer to Hiber, or which Customer may be required to withhold in respect of any amount due to Hiber, such tax, duty, impost levy or like charge shall be for the account of Customer, and Customer shall pay to Hiber such an amount as to yield to Hiber a net equal to the amount that but for such tax, levy, impost or charge would have been received by Hiber.
- d. Customer Purchase Orders and Terms. In the event that Customer issues a purchase order to Hiber in connection with ordering Services, such purchase order will be treated as an administrative document only and not an offer subject to acceptance, and will not add to, delete from, or modify any of these Terms. Any Customer acceptance or acknowledgement of these Terms shall not serve to modify these Terms unless expressly confirmed in writing by Hiber.

5. Cancellations.

Recognizing the unique nature of the Services provided by Hiber and the customized and discrete nature of Hiber's operations, once a Customer has paid for Credits or Subscriptions, the order may not be cancelled by the Customer without the written consent of Hiber, which may be subject to a cancellation fee of up to the full value of the order in question.

6. Data Protection.

Customer agrees and understands that Hiber may store, process and use data collected from Customer for the purposes

of managing Customer's Mission Control account, processing the Customer's orders, and providing Services. For additional information on the data that Hiber maintains and how it is processed, please see Hiber's Privacy Policy posted on Hiber's website.

7. Service Requirements, On-Line Tools, and Data Package Delivery.

- a. **Hiber Service.** Hiber operates Hiberband as a communications network service provider. Hiber's Service responsibility is the delivery of the Data Package from the CN to Mission Control. It is the responsibility of the Customer to properly install and operate the CN, including the End User Asset and the Hiber Modem. The Hiber Modem shall attach to the End User Asset by means of an industry-standard connector. The Customer shall only utilize hardware approved by Hiber for use with Hiberband. The Customer shall also ensure that the CN antenna is installed in such a manner as to permit line-of-sight access to the Hiberband satellites.
- b. **Mission Control.** Hiber will provide to each Customer or End User, as appropriate, access to Mission Control for the purpose of allowing the Customer to manage all of its CNs and Services on Hiberband.
- c. **Service Offerings.** Mission Control permits the Customer, when activating a Subscription, to select the type of Service offering desired. Offerings may include differing levels of Service, such as options for Data package reporting frequency as permitted by satellite and network availability. In any offering, the CN will only transmit data to the extent that the End User Asset has sent a reportable Data Package to the Hiber Modem. Availability and pricing for different Services shall be as specified in Mission Control and may change from time to time.
- d. **Data Package Delivery.** Hiber will deliver the Data Package to Mission Control in the format received from the End User Asset. The Data Package will be encrypted at the CN and will be transmitted and delivered to Mission Control in encrypted form. Once delivered to Mission Control, Customer shall be able to access the Data Package as desired; each Data Package will include a unique sequential identifier, the identity and location of the transmitting CN, and the time stamp of message transmission.
- e. Hiber will provide a specific availability standard for the Hiberband network, which will be specified in the Customer's Mission Control account. This minimum Service Level Agreement ("SLA") will be based on a number of applicable metrics and will be a measurement of (i) the total number of Data Packages delivered via Hiberband and available at the Customer portal in a calendar month divided by (ii) the total number of Data Packages sent by all of the End User Assets in the Customer's CN Fleet during that month. Hiber's liability in connection with an SLA below the specified level for a given month will be included in the Customer's Mission Control account. In all cases, the SLA shall exclude any Hiberband Service interruptions caused by a Force



Majeure event as described in Article 10 and shall also exclude delivery failures caused by any fault or anomaly in the CN, including but not limited to improperly installed or aligned antennas.

- f. The provision of all Services by Hiber is subject to the availability of capacity on Hiberband. Services may be temporarily unavailable or limited because of capacity limitations, equipment failure, modifications, upgrades, repairs or similar activities. Except as described in Article 7(e), Hiber shall have no liability for unavailability or malfunction of Hiberband or for the failure to deliver any Data Package. Hiber will endeavor to provide all Customers with advanced notice of any planned maintenance on Hiberband that might affect service availability.

8. Indemnity and Limitation of Liability.

- a. There are no implied or other standards of performance, guarantees or warranties except as expressly stated in these terms, and any express or implied warranties or other terms implied by law, including, but not limited to warranties of merchantability or fitness for any purpose or use are hereby expressly excluded and disclaimed to the fullest extent permitted by law. Hiber shall not be liable to Customer, nor shall Customer make any claim against Hiber, for claims, actions, losses, costs and damages ("Liabilities") sustained by reason of any unavailability, delay, faultiness or failure of the Services. In the event that Customer is selling the Services to a Resale Customer, Customer agrees that it will include in any contracts or terms to such Resale Customer an explicit commitment on the part of the Resale Customer to waive any right to make any claim against Hiber for Liabilities sustained by reason of any unavailability, delay, faultiness or failure of the Services provided by Hiber.
- b. Neither Customer nor Hiber shall be liable to the other, any user, or other person for any indirect, consequential, incidental or special, exemplary or punitive losses or damages, including without limitation, loss of profits, loss of earnings, or loss of business opportunities, however arising, even if the party has been made aware of the possibility of such loss or damages occurring. Hiber shall not be liable to Customer for infringement of patents or other intellectual property rights arising from manufacture, sale, or use of the Services or the use of the Services in combination with Customer-provided equipment.
- c. Should Hiber be found liable to Customer under these Terms and Conditions, in no event shall Hiber's total liability exceed the amount paid by Customer to Hiber over the preceding twelve-month period.
- d. Customer shall use the Services in full compliance with all applicable laws and regulations. Customer shall ensure that its ground equipment, including the Hiber Modem, is properly licensed by the relevant governmental authority in the country where the CN is located. Customer shall be responsible for all Liability arising out of or relating to the use of the Services by

Customer or otherwise related to any acts or omissions of Customer. Customer shall indemnify and hold Hiber and its officers, employees and agents harmless from and against all such Liability.

- e. Where the provision of Services by Hiber to Customer requires that employees or contractors of Hiber perform work on premises owned, leased or otherwise occupied by Customer, Customer shall provide a safe and secure work environment consistent with all applicable industry standards. Customer shall be solely liable for any injury or death to any Hiber employee or contractor arising in connection with the negligence or willful misconduct of Customer or its employees, contractors, and licensees, and Customer shall indemnify and hold Hiber harmless from and against any Liability arising in connection with any such injury or death.
- f. Any limitations of liability in these Terms shall not apply in case of: (a) death or personal injury caused by a party's negligence where it would be illegal under applicable law for a party to exclude or attempt to exclude its liability; and (b) fraud or fraudulent misrepresentation by a party.

9. Provisions Applicable to Resale of Services.

In the event that Customer is purchasing Services for resale to Resale Customers, the provisions of this Article 9 shall apply to such resale, as shall the other provisions of these Terms.

- a. Customer shall perform all accounting, billing and collections activities necessary with respect to its Resale Customers and shall be solely responsible for all expenses related to the performance of such activities. Customer must have, at its sole expense, the capability to extract and store usage and performance information from Mission Control. Customer shall be solely responsible for all credit risk relating to its Resale Customers and shall be responsible for paying all amounts due to Hiber for such services notwithstanding any non-payment by or disputes with any Resale Customers; it is Customer's responsibility to ensure that all equipment and associated hardware and software are properly configured with respect to the Services being used. Customer may pass through the SLA guarantees specified in Article 7(e) to its Resale Customers at its sole discretion.
- b. Customer shall defend, indemnify and hold harmless Hiber and its officers, employees, and agents against all claims, actions, losses, costs and damages arising from claims by Resale Customers or third parties relating to the use of the Services by such Resale Customers (including without limitation the failure by Resale Customers to abide by the provisions of Article 9(e) of these Terms), except to the extent such claims are based upon the gross negligence or willful misconduct of Hiber.
- c. Customer shall be solely responsible for all Taxes, tariffs and surcharges, if any, arising from the purchase of Services by Customer and the resale to its Resale Customers. This includes but is not limited to Customer

being responsible for payment or reimbursement of any goods and services taxes, value added taxes, and income taxes, universal service levies, charges, levies, duties, withholding, usage or other fees which may be asserted against Customer or Hiber by any governmental entity with respect to or arising out of the provision of Services hereunder. All rates paid by Customer are exclusive of all such amounts.

- d. Customer shall only permit the use by its Resale Customers of ground equipment that is certified for use by Hiber.
- e. Customer shall require its Resale Customers to abide by terms consistent with these Terms. Customer shall require any Resale Customers to use the Services, Mission Control, and any other facilities, services, information, hardware, and data that may be provided under these Terms only for lawful purposes and in compliance with all applicable laws and regulations of the territories in which Customer or any Resale Customer uses the same or to which it is otherwise subject, including without limitation telecommunications licensing, export control requirements, patent, copyright, trademark, and any other intellectual property rights, and laws concerning defamation, obscenity, privacy and data protection.
- f. Customer shall maintain, at its own expense, all regulatory licenses and certifications, governmental or otherwise, necessary for Customer to provide for resale the Services under these Terms to the extent that Hiber does not provide such licenses and certifications itself. Specifically, Customer is responsible for service provider licenses to market and/or sell services to Resale Customers within all countries in which it engages in business or where its Resale Customers operate CNs.
- g. Customer shall be solely responsible for providing first-level support relating to Services to its Resale Customers. Hiber shall provide second- and third-level support with respect to any Resale Customer Service issues that are not supported by means of the on-line Mission Control tools or through information that can be extracted using the on-line platform. Hiber reserves the right to charge Customer a support fee for non-routine support provided to any of its Resale Customers.
- h. Customer shall be responsible for all of its Hiber Modems, including installation, commissioning, integration, validation, activation, and maintenance (including the performance of any such tasks by a third-party integrator or supplier engaged by the Customer.
- i. Use of Hiber Trademarks. Hiber hereby grants Customer a non-transferable, non-sublicensable, non-exclusive license to use certain trademarks, trade names, service marks, other commercial symbols, designs and logos owned by Hiber (hereinafter "Marks") for the purpose of promoting and reselling the Services to Resale Customers. Customer acknowledges that the Marks are the exclusive property of Hiber and that neither these Terms nor the carrying on of business by Customer will in any way give Customer any interest or ownership in

any of the Marks, or in other promotional advertising or other written material prepared by Hiber regarding the Services. Customer must cease use of the Marks upon written notice from Hiber or upon termination of the business relationship. Customer must obtain the written approval of Hiber to apply the Marks to services other than those covered under this Terms.

10. Excusable Delay and Force Majeure.

Except for Customer's payment obligations as set forth above, no party will be liable for any failure to perform due to a cause beyond such party's reasonable control ("Force Majeure") including, but not limited to, acts of Nature, actions or inaction of any governmental body in either its sovereign or contractual capacity, explosions, fires, floods, earthquakes, epidemics, strikes or other labor difficulties, freight embargoes, unusually severe weather, riots, war, theft, national emergencies or natural disasters; provided that the party failing to perform promptly notifies the other party of such circumstances and uses its reasonable efforts to avoid or remove such cause of non-performance. During any period when performance of a party's obligation is prevented by Force Majeure, that obligation shall be suspended for the duration of the period of Force Majeure. Upon removal or cessation of such cause of non-performance, all obligations will resume.

11. Governing Law and Disputes.

- a. These Terms and the sale of the Services shall be governed by and interpreted in accordance with the laws of England and Wales, excluding any conflict of law or choice-of-law provisions or principles that would require the application of the laws of any other jurisdiction.
- b. Any disputes arising in connection with the sale of the Services or these Terms shall be finally and exclusively resolved by arbitration conducted in London, England. The rules for such arbitration shall be the Rules of Arbitration of the International Chamber of Commerce ("ICC Rules") then in effect, as such ICC Rules may be modified by this Article 11. To the extent that the ICC Rules are in conflict with Article 11, the provisions of this Article 11 shall prevail. The following shall apply to any arbitral proceeding conducted pursuant to this Article 11:
 - i. One or more arbitrators will be appointed for the arbitration by the ICC in accordance with the ICC Rules. Each arbitrator shall be fluent in the English language and be familiar with the Governing Law. The arbitration proceeding shall be conducted in the English language.
 - ii. Any award of the arbitrators shall be enforceable by any court having jurisdiction over the party against which the award has been rendered, or wherever assets of the party against which the award has been rendered can be located. The award may not include any damages waived by a party pursuant to these Terms.
 - iii. The arbitration award shall be final and binding on the parties, and each party hereby waives any right of appeal to any court or tribunal of competent jurisdiction to the fullest extent permitted by the governing law.

- c. Notwithstanding the provisions of Article 11(b), any action to collect money owed to Hiber may be brought by Hiber in any court of competent jurisdiction. In any such case, Customer shall pay all costs incurred by Hiber in such action, including without limitation court costs and attorneys' fees.

12. Export Licensing, Anti-Corruption, and Other Requirements.

- a. The provision of Services may be subject to applicable export and international sanctions laws and regulations. The parties will comply with all such applicable laws, including without limitation export, trade compliance, embargo, and sanctions laws and regulations of the European Union and the United States of America.
- b. Customer shall comply with the terms of all relevant export licenses as well as with all relevant export and import laws of the European Union and the United States of America and other applicable countries to ensure that the Services and related hardware are not re-exported or otherwise transferred in violation of such laws. Customer shall be solely responsible for obtaining any required import and export licenses required.
- c. Customer shall comply with applicable laws and regulations relating to anti-corruption, including, without limitation, (i) the United States Foreign Corrupt Practices Act, (ii) the United Kingdom Bribery Act 2010, and (iii) anti-corruption laws in any country in which the Customer is organized or located or where the Services are to be performed. Customer warrants that it will (a) comply in all respects with such laws and regulations, including the comparable laws of all jurisdictions where it or its agents are conducting business, (b) provide written certification of its compliance with the foregoing when asked by Hiber, and (c) cooperate with Hiber and its designees at Customer's expense in any inquiry or investigation of Customer or its agents regarding their conduct or alleged conduct relating to compliance or failure to comply with any of the foregoing.
- d. Notices and communications. All notices and communications permitted or required ("Notices") shall be in writing in the English language and shall be sent by facsimile, overnight courier, or certified mail, as appropriate in light of the subject matter of the Notice. All notices to Hiber shall be sent to the following:
Magnitude Space BV d/b/a Hiber
Attn: Legal Department
Keizersgracht 209
1016 DT Amsterdam, The Netherlands

14. Severability.

If any provision of these Terms is declared invalid, illegal or unenforceable by a court or regulatory agency of competent jurisdiction, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. In the event that any such provision is declared invalid, illegal or unenforceable due to its scope, breadth or duration, then it shall be modified to the scope, breadth or duration permitted by law and shall continue to be

fully enforceable as so modified.

15. Proprietary Rights and Disclosure:

- a. All information including, but not limited to drawings, prints, publications, specifications, processes, manufacturing techniques, software products and programs (in object code or any other form), and other intellectual property, accessed or obtained by the Customer prior to and during the provision of the Services under these Terms shall be received in confidence by the Customer and shall remain the property of Hiber. Such information shall not be reproduced, used, or disclosed to any third party by the Customer without the prior written consent of Hiber.
- b. Duties and Responsibilities:
The Customer shall make no attempt, nor authorize any other party, to reverse engineer, (including reverse compile, disassemble or otherwise reverse engineer), modify or make derivatives of any Service, hardware, software, prototype, data or other supplies delivered, provided or disclosed by Hiber. Customer agrees that it will not induce its Resale Customer, as applicable, or any other third party to perform any such reverse engineering.
- c. Each party shall respect the proprietary and patent interests of the other party and shall endeavor to prevent the disclosure or use of data so identified to or by persons not specifically authorized to receive such information. Proprietary data, if any, shall be used only for the purpose defined in this contract.

16. Relationship of Parties:

Nothing in these Terms shall grant to either party the right to make commitments of any kind for or on behalf of the other party. These Terms shall not constitute a joint venture, agency relationship, or partnership as between the parties, and the rights and obligations of the parties shall be limited to those expressly set forth herein.

17. Assignment:

Neither these Terms nor any interest herein, may be assigned, in whole or in part, by either party without the prior written consent of the other party hereto, except that without securing such prior consent, either party shall have the right to assign these Terms to any successor which results from a merger, consolidation, spin-off, or the acquisition of substantially all of the entire business and assets of that party relating to the subject matter of these Terms, provided, however, that such successor shall have expressly assumed all of the obligations and liability of such party under these Terms, and such successor is not a competitor to the other party.

18. Entire Agreement.

These Terms constitute the entire understanding between Hiber and Customer as to the subject matter hereof and supersede all prior agreements, discussion, representations, and understandings, written or oral, between Hiber and Customer with respect to such subject matter.

