

These Terms of Service apply to the provision of the Service by SaskTel to the Customer pursuant to the Managed Video Collaboration Service Agreement in which they are referenced, and form part of the Agreement. For the sake of clarity, "Agreement" as used herein shall include the Managed Video Collaboration Service Agreement, all schedules thereto and these Terms of Service.

In these Terms of Service SaskTel and Customer are individually referred to as a "Party" and collectively as the "Parties".

Article 1 – Service Offering

- 1.1 SaskTel provides the Customer access to the Telemerge Video Collaboration Exchange ("Telemerge's VCE"), a cloud-based video conferencing service (the "Service"), in accordance with the provisions contained in this Agreement. The Customer's use of VCE (the "Service") is conditional upon the Customer's acceptance of the Agreement as it may be updated by SaskTel from time to time. These Terms of Service together with other applicable schedules referenced in the Agreement set out the Customer's rights, duties and responsibilities associated with providing the Customer with the Service through a designated account or accounts (the "Accounts"). By accessing the Service, the Customer and SaskTel agree to be bound by the terms and conditions contained in all the components of the Agreement. If the Customer does not wish to be so bound, the Customer may not access or use the Service.
- 1.2 The Service provides the Customer with access to Telemerge's VCE and is made available by SaskTel by Public Internet access for the purposes of video conferencing and document collaboration.
- 1.3 The Service does not include any video conferencing equipment. The Customer must ensure that any video conferencing equipment connected to or used with the Service is (i) connected and used in accordance with any applicable instructions, safety and security procedures; and (ii) attached (directly or indirectly) to the Service is compliant with any relevant legislation.
- 1.4 If the Customer decides to cancel its subscription to the Service before installation has been completed, the Customer will be charged a cancellation fee reasonably determined by SaskTel to compensate SaskTel for labour and expenses incurred in processing and implementing the Customer's order for the Service.

Article 2 – Service Pricing

- 2.1 Customer agrees to pay to SaskTel:
 - (a) the applicable charges set forth in Schedule "A" of the Agreement; commencing upon the In Service Date;
 - (b) such additional rates and charges as may be applicable from time to time under this Agreement;
 - (c) applicable sales or other taxes that apply to the Service, payable at the time of payment of the rates and charges to which they apply;
 - (d) in the event of termination of this Agreement prior to the expiration of the Initial Agreement Period, termination charges calculated in accordance with Article 4 of this Agreement; and
 - (e) late payment charges at the rate of 2% per month compounded monthly (26.82% annual equivalent) on any and all amounts not paid within thirty (30) days of the billing date of any and all such amounts. A returned cheque fee or N.S.F. charge and any late payment charges incurred will be charged to the Customer for non-payment of any bank draft or cheque issued by the Customer.
 - (f) All payments are to be made in Canadian Dollars.
- 2.2 In this Agreement, "In Service Date" means the date on which SaskTel advises the Customer the Service is ready for Customer's use whether or not the Customer actually proceeds to use the Service.
- 2.3 Any applicable installation fees will be charged up front in accordance with the installation fees, if any, identified to the Customer upon placing the Customer's order for the Service and specified in the Agreement Overview. Rates and fees do not include applicable taxes.

SaskTel Managed Video Collaboration Terms of Service

- 2.4 Additional engineering time outside of the scope of implementing the Service will be invoiced to the Customer at the then current SaskTel hourly rates.

Article 3 – Term

- 3.1 This Agreement shall become effective on the later of the dates of execution by SaskTel and the Customer. The initial term of this Agreement will be effective for an initial term of one (1) year, or three (3) years (“Initial Agreement Period”) from the In Service Date. The Agreement and any Orders for the Service shall automatically be renewed for successive one-year terms (each a “renewal term”) on each anniversary of the Effective Date (or on the third anniversary of the Effective Date for three-year term Agreements, respectively) unless, at least 60 days prior to the expiration of the Initial Agreement Period or any automatic renewal, either the Customer or SaskTel gives to the other written notice that they do not wish to renew this Agreement. The Initial Agreement Period and any renewals are the “Term”.

Article 4 – Termination

- 4.1 This Agreement may be terminated:

- (a) by the Customer upon ninety (90) days advance notice in writing delivered to SaskTel; provided that if this Agreement is terminated at any time prior to the expiration of the Initial Agreement Period or any renewal term as the case may be, either by the Customer for any reason or by SaskTel by reason of the default of the Customer, the Customer shall forthwith pay to SaskTel:
 - (i) a sum equal to fifty percent (50%) of the monthly charge for the Service in the month immediately preceding the month in which the Service is terminated multiplied by the number of months remaining in the Initial Agreement Period or the renewal term as the case may be, at the time of such termination; and
 - (ii) any outstanding charges accrued and owing as of the date of termination;
- (b) by SaskTel at any time in the event of default of the Customer under this Agreement after the Customer has been notified of the default and has failed to correct same within thirty (30) days after such written notice, in which event the termination charge described in Paragraph (a) of this clause shall be paid by the Customer together with any outstanding charges to the date of termination; and
- (c) by the Customer in the event SaskTel is in default of performance of its obligations under this Agreement and such default remains uncorrected for a period of thirty (30) days after written notice thereof from the Customer to SaskTel. There shall be no termination charges payable by the Customer where the Customer terminates this Agreement for the default in performance on the part of SaskTel under this Agreement.

- 4.2 SaskTel and Customer agree that the termination charge described herein is a genuine pre-estimate of liquidated damages arising out of termination of this Agreement and not a penalty.

- 4.3 Upon termination of this Agreement Customer’s right to use the Service and the software application underlying the Service terminates. The right granted to the Customer pursuant to this Agreement to have access to and use the Service is not transferable by the Customer in any circumstance without SaskTel prior consent, which consent may be withheld in the sole discretion of SaskTel.

Article 5 – Account Suspension

- 5.1 SaskTel may suspend or restrict the Customer’s use of the Service, or terminate the Customer’s use of the Service if:



| Business Solutions |

SaskTel Managed Video Collaboration Terms of Service

- (a) The operations or efficiency of the Service is unreasonably impaired by the Customer's use of the Customer's Account or the Service other than in accordance with the Agreement; or
- (b) Any undisputed amount is more than sixty (60) days past due from the Customer to SaskTel and the Customer has been notified in writing of such failure to pay; or
- (c) There has been or is any breach by the Customer of any material term or condition of these Terms of Service.

During any suspension the Customer shall still be obligated to pay for the Service. Any termination of the Customer's use of the Service shall not relieve the Customer from any amounts owing or other liability accruing hereunder prior to the time that such termination becomes effective.

Article 6 – Customer Requirement

- 6.1 If required, Customer shall, at its own expense, and in a timely manner, provide such information as is required by SaskTel for the configuration of the Service to the Customer needs.

Article 7 – Ownership

- 7.1 SaskTel and its suppliers and licensors retain at all times ownership of all intellectual property rights including without limitation patent, copyright and trade secrets in the configuration of the Service for Customer pursuant to this Agreement and in the software application that Customer has access to pursuant to this Agreement.
- 7.2 If equipment is provided by SaskTel as part of the Service, the ownership of all equipment and facilities supplied by SaskTel together with all modifications, substitutions and additions thereto shall remain with SaskTel. SaskTel or its sub-contractors shall be the sole source of maintenance and repair service for all equipment provided by SaskTel in conjunction with the Service that resides upon the Customer's premises. No such equipment shall be removed from the Customer's premises by Customer or any other party without SaskTel prior consent. SaskTel may in its discretion elect to make any such removal of equipment using only its own personnel.
- 7.3 Customer retains all ownership and intellectual property rights in its applications being connected to by the Service and in all data supplied by the Customer or data resulting from the processing of such data by the Customer's application, but not including any system operating or performance related data generated by SaskTel hardware and software made available for Customer's use as part of, or in conjunction with the Service. Such system operating and performance related data is owned by SaskTel.

Article 8 – Risk of Loss

- 8.1 In the event of damage to or destruction of the Service or of or to the SaskTel Service environment, including without limitation any software, due to the negligent action of the Customer, its employees, representative or agents, SaskTel shall have the right to require Customer to pay the cost of restoring the Service or the SaskTel environment for the Service or any portion or element thereof to its original functionality. Such liability of the Customer shall include any damages SaskTel may be required to pay other Customers of any service provided by SaskTel from the SaskTel environment for the Service.

Article 9 - Use Subject to SaskTel Policies

- 9.1 The Customer is solely responsible for all access to the Service through the Customer's Accounts. The Customer agrees to comply with and use the Service in accordance with the provisions of this Agreement, as



| Business Solutions |

SaskTel Managed Video Collaboration Terms of Service

well as any policies to which the Customer is directed when registering for or using the Service, and with any applicable laws. The Customer agrees to hold SaskTel, its affiliates and its agents harmless from all liabilities and expenses related to any violation of the Agreement by the Customer or any user of the Customer's Accounts, or in connection with the use of the Service. While using the Service, the Customer may not post, transmit or otherwise distribute information constituting or encouraging conduct that would constitute a criminal offense, or otherwise use the Service in a manner, which is contrary to law or to SaskTel policies or would serve to unreasonably restrict any other user from using or enjoying the Service. Without limiting anything contained in the Agreement, the Customer agrees not to use the Service, for operation of an Internet Service Provider's business nor for any other purpose other than video conferencing and collaboration unless authorized in writing by SaskTel.

Article 10 - Service Bandwidth Resale Prohibited

10.1 Resale of bandwidth or any other part of the Service for any purpose is strictly forbidden unless authorized in writing by SaskTel. Failure to comply with this condition will result in immediate cancellation of the Service, including the Customer's Accounts, at the sole discretion of SaskTel. The Customer is liable for any damages incurred by SaskTel for such actions by the Customer.

Article 11 - The Customer's Equipment

11.1 As part of Telemerge's research and development, Telemerge constantly tests and certifies various manufacturers' hardware and software interoperability over the Telemerge network. SaskTel, on behalf of Telemerge will certify certain interoperable hardware, software and operating configuration environments and will recommend such certified configurations to the Customer. Although it is in the Customer's best interest to choose from a list of recommended certified solutions, the Customer is not obliged to do so and may use whatever video conferencing hardware/software solution they so choose. Notwithstanding, the fact that SaskTel does recommend and support certain combined video conferencing hardware and software configurations, for the purposes of video conferencing and collaboration using the Service, SaskTel accepts no liability for the performance of any non SaskTel certified video conferencing hardware/software and operating configuration environment and the service levels for the Service set out in the Agreement shall not apply to any such non-certified equipment, software or environment.

11.2 It is the Customer's responsibility to ensure that the Customer's computer and/or video conferencing hardware and software meet the current minimum requirements, certified by SaskTel, as being compatible in order to receive technical support for the hardware/software and operating environment deployed by the Customer. From time to time, the computer and/or video conferencing equipment required to access and use the Service may change. Accordingly, the Customer's computer and/or video conferencing hardware and software may cease to be adequate to access the Service. In such event, the Customer may:

- (i) Upgrade their hardware/software and/or operating environment (at the Customer's expense) to the minimum requirements as set out by SaskTel; or
- (ii) Continue to use the Service in their existing hardware/software and/or operating environment acknowledging such environment's limitations over the SaskTel network; or
- (iii) Terminate the Service subject to termination fees as set out in these Terms of Service applying.

Article 12 - Hardware, Software and Documentation Supplied

12.1 Any hardware, software or documentation supplied by SaskTel to the Customer to use in conjunction with the Service shall remain the property of SaskTel or its suppliers, as applicable. The Customer shall take appropriate steps to protect the same against loss or damage. The Customer is responsible for any and all costs associated with the replacement of any software licenses and/or media lost, stolen or damaged while in the possession of the Customer.

Article 13 - Installation Appointments

SaskTel Managed Video Collaboration Terms of Service

13.1 In no event will SaskTel be responsible for any claims, damages, losses or expenses, including, without limitation, loss of revenue, loss of profits, loss of data, failure to realized expected savings or any other loss or damage of any kind whether direct or indirect, in the event that an installation appointment for the Service is missed, either by the Customer, by SaskTel, or by any third party installer. It is the Customer's responsibility to create data backups before the installation.

Article 14 - Video Performance Levels

14.1 SaskTel warrants that it will have sufficient systems and network capacity to handle all of its current and expected future Customer data flow, without interruption. Speed can be a function of the bottlenecks experienced upon the wider network architecture of the networks of SaskTel. As such, SaskTel does not guarantee the maximum Service performance (throughput speeds) levels but will use reasonable efforts to ensure a minimum of 1 Mbps data speed (768 kbps video speed) through all parts of the network except where higher or lower speeds are specified. The Customer understands that the content of a video conference passes through Telemerge's multi-conference server, but that none of the content is recorded, unless requested by the Customer. Any such request to record conference content will precipitate additional fees, subject to applicable taxes, due by the Customer to SaskTel and set out and agreed upon in the Agreement or any Addendum thereto.

14.2 SaskTel does not guarantee any performance level, data speed, or success rate of any IP or ISDN conference that leaves SaskTel networks and is transported through external extranets or utilizes the Internet or the public switched telephone network. The Internet is a public and un-secure domain for which SaskTel is not responsible in terms of throughput, levels of performance or security when used by the Customer in conjunction with the Service. The Customer assumes all responsibility and liability of any communication that leaves the SaskTel network.

Article 15 - Billing Resolution

15.1 If the Customer in good faith disputes any invoiced amount, it shall submit to SaskTel, within thirty (30) days following the date of the invoice, full payment of the undisputed portion of the invoice and written documentation identifying and substantiating the disputed amount. The Customer and SaskTel will endeavor to promptly resolve any questions or disagreements regarding a disputed billing. If the Customer fails to resolve and pay any undisputed portion of any SaskTel billing invoice or any settlement in favor of SaskTel within 30 days after the date of notice of dispute, SaskTel shall have the right to issue to the Customer a written notice of suspension of Service to the Customer, whereupon SaskTel shall have the right to disconnect and cease the provision of any and all Service or connectivity to the Customer. Cancellation fees outlined within the Agreement will apply.

Article 16 – Arrears

16.1 SaskTel shall not be obligated to provide any component of the Service to the Customer while any payments required to be made by the Customer to SaskTel pursuant to this Agreement are in arrears, meaning any amount has not been paid within 30 days of the billing date for any such amount.

Article 17 – Service Support

17.1 SaskTel will provide support for the Service in accordance with Schedules in the Customer agreement.

Article 18 –Disclaimer of Warranty

18.1 SaskTel does not represent, warrant, guarantee or offer any warranty, condition or promise that the Service is secure or will not be breached or compromised, including without limitation, breach or compromise by a third party. Any and all such representations, warranties or conditions are specifically disclaimed. SaskTel will not be liable to the Customer or user of the Service or any third party for any claim, loss or damage of any kind whatsoever, whether direct or indirect, arising or resulting from, or directly or indirectly related to the Service

SaskTel Managed Video Collaboration Terms of Service

not providing benefits anticipated, whether or not any such loss, claim or damage was reasonably foreseeable or not, including without limitation, loss of or corruption of Customer's data and any other loss Customer suffers resulting from such loss or corruption of data.

18.2. SaskTel does not warrant, represent or guarantee in any way that the Customer or any users of the Service or any third party will not be exposed to or affected by computer viruses, trojan horses, worms or any other destructive devices such as malicious code designed to attack computers or applications. Any and all such representations, warranties or conditions are specifically disclaimed. SaskTel will not be liable to the Customer or any user of the Service or any third party for any claim, loss or damage of any kind whatsoever, whether direct or indirect, arising or resulting from, or directly or indirectly related to the Customer, any user of the Service or any third party being in any way exposed to, or affected by, a computer virus, trojan horse, worm or other malicious code, while using or having used the Service or the Customer's application being hosted by the Service, whether any such loss, claim or damage was reasonably foreseeable or not, including without limitation, loss of or corruption of Customer's data and any other loss Customer suffers resulting from such loss or corruption of data.

Article 19 – Limitation of Liability

19.1 In no event shall SaskTel be liable to the Customer or any other party including users of the Service for any claims of any kind or damages for death or injury to persons or for any other loss of any kind, whether direct or indirect, consequential, incidental, or special, whether reasonably foreseeable by SaskTel or not, including without limitation, lost revenues, loss of profits, failure to realize expected savings or any other business or economic loss and whether based in tort, contract, or on any other theory of liability, arising directly or indirectly in any manner or in any way related to Customer's use of the Service, excluding only direct damages for claims or losses directly and solely related to SaskTel's negligence. Even in the event of SaskTel's negligence, SaskTel's liability to the Customer for direct damages for loss or corruption of Customer's data or any other loss Customer suffers resulting from such loss or corruption of Customer's data, shall not exceed the amount paid by the Customer to SaskTel for the Service in the six (6) month period immediately preceding the occurrence of the event giving rise to such direct damages.

Article 20 – Force Majeure

20.1 Force Majeure shall mean an event, the cause of which is beyond the control of the party affected thereby, and which, by the exercise of due diligence, the party affected is unable to overcome, including without limitation, acts of God, accidents, fires, explosions, weather conditions materially preventing or impairing work, inability to secure fuel or power, wars, civil commotion, riot, sabotage, applicable legislation and regulations there under, interruptions by government or court orders and future orders (lawful or otherwise) of any regulatory body of competent jurisdiction but shall not include financial difficulty. A delay or failure of performance by either party shall not constitute a breach or default hereunder this Agreement, nor shall the same be deemed to act as, be the basis for, or give rise to, any claim for damages, direct, incidental or consequential, if and to the extent such delay or failure is caused by Force Majeure. Should either party be prevented from performing due to Force Majeure it shall give notice to the other party setting forth in reasonable detail the nature thereof and the anticipated extent of the delay and remedy such a cause as soon as is reasonably possible.

Article 21 – Waiver

21.1 Neither the granting of any time or any other indulgence by either party, nor the failure of a party to insist upon the strict performance of any covenant, term or condition hereof, or to enforce any rights hereunder,

SaskTel Managed Video Collaboration Terms of Service

shall be construed as a waiver of a party's rights or remedies and the same shall continue to be in full force and effect. A waiver of any default hereunder shall not operate as a waiver of any subsequent default. All waivers shall be in writing and delivered to the other party.

Article 22 – Severability

22.1 Any term, condition or provision of this Agreement, which is and shall be deemed to be void, prohibited or unenforceable shall be severable here from and be ineffective to the extent of such avoidance, prohibition or unenforceability without in any way invalidating the remaining terms, conditions or provisions of this Agreement.

Article 23 – No Assignment

23.1 This Agreement may not be assigned either in whole or in part by the Customer without the prior written consent of SaskTel, which consent may be unreasonably withheld.

23.2 Any assignment by the Customer of this Agreement shall be conditional at a minimum upon the Customer providing to SaskTel:

- (a) a true copy of the proposed assignment contract;
- (b) an agreement and undertaking from the assignee to be bound by the provisions of this Agreement and not to further assign its rights without complying with the provisions of this Article 17.2; and
- (c) an agreement and undertaking from the assignor to be bound by the provisions of this Agreement in the event of default of the assignee.

Article 24 – Notices

24.1 Any notice under this Agreement shall be in writing, delivered personally, sent by registered mail, return receipt requested, or by facsimile to the addresses of either party as specified in this Agreement, unless changed by notice to the other party. Any notice so given shall conclusively be deemed to be given on the date of delivery if personally delivered, on the third business day after the date of mailing if mailed or on the day after transmission by facsimile. Any notice by the Customer to SaskTel shall only be effective if a copy is also provided to: SaskTel Legal Dept., 13th Floor, 2121 Sask. Drive, Regina, Sask. S4P 3Y2, Attention: V.P. Corporate Counsel & Regulatory Affairs, Fax: (306) 569-8445. Either party may, by notice in writing to the other party, designate a different address for notices to be sent to it.

Article 25– Governing Law

25.1 This Agreement and its application and interpretation will be governed exclusively by the laws prevailing in the Province of Saskatchewan and the federal laws of Canada applicable therein. The courts of the Province of Saskatchewan shall have exclusive jurisdiction over all matters arising in relation to this Agreement and each party hereby submits to the jurisdiction of the courts of the Province of Saskatchewan in respect of all such matters.

Article 26– Customer Acknowledgement

26.1 Customer warrants that it has full power and authority to enter into, perform and execute this Agreement. The person signing this Agreement on behalf of Customer has been properly authorized and empowered to enter into and execute this Agreement. Customer acknowledges that it has read this Agreement, understands it and agrees to be bound by its terms and conditions.

SaskTel Managed Video Collaboration Terms of Service

Article 27 – Confidentiality

27.1 (a) Confidential Proprietary Data and Publicity

Protection of Confidential Information

In the performance of this Agreement or in contemplation thereof, either party and its employees and agents may have access to private or confidential information owned or controlled by the other party and such information may contain proprietary details and disclosures. All information and data identified as proprietary or confidential by either party and so acquired by the other party or its employees or agents under this Agreement or in contemplation thereof shall be and shall remain the disclosing party's exclusive property, and the recipient shall use its best efforts (which in any event shall not be less than the efforts a reasonably prudent person in the position of the recipient would take to ensure the confidentiality of its own proprietary and other confidential information) to keep, and have its employees and agents keep, any and all such information and data confidential, and shall not copy or publish or disclose it to others, nor authorize its employees, or agents or anyone else to copy, publish or disclose it to others, without the disclosing party's written approval; nor shall the recipient make use of such information except for the purposes of executing its obligations hereunder, and except as provided for herein, shall return such information and data to the first party at its request

(b) Excluded Information

The terms and conditions contained in Article 27.1(a) will not apply to information which is or which becomes generally known to the public by publication or by any means other than a breach of duty on the part of the recipient, is information previously known to the recipient, is information independently developed by or for the recipient or is information generally released by the owning party without restriction.

(c) Publicity Activities

Neither party shall use the name of the other in any publicity activities of the party, including without limiting the generality of the foregoing, any news releases, advertising and marketing literature or interviews, without having first obtained the prior written authorization and agreement to do so from the other party. Nothing herein shall prevent SaskTel from disclosing to any third party the fact that it is or has provided the Service to the Customer and has or had a contract with the Customer for such Service provided that no particulars of this Agreement are disclosed to any such third party by SaskTel.

(d) Right to Injunctive Relief

Because of the unique nature of confidential information and the concern for use of their names in publicity activities of the other, both parties understand and agree that each party will suffer irreparable harm in the event that the other party fails to comply with any of its obligations under this Article 21, and that monetary damages will be inadequate to compensate either party for such breach. Accordingly, both parties agree that either party will, in addition to any other remedies available to it at law or in equity, be entitled to injunctive relief to enforce the terms of this Article.

Article 28 – Section Headings

28.1 The captions used herein are for convenience only, and shall not be deemed to constitute integral provisions of this Agreement.

SaskTel Managed Video Collaboration Terms of Service

Article 29– Remedies

29.1 Customer and SaskTel agree that all remedies provided in this Agreement are cumulative and either party shall be entitled to enforce one or more remedies successively or concurrently. Each party further agrees that the remedies particularly set forth in this Agreement are not meant to be exhaustive of all remedies available to either party and any and all other remedies that might be available to either party at law or in equity are hereby declared to be specifically preserved and available to either party at its election.

Article 30 – Survival

30.1 Articles 2, 4, 7, 8, 18, 19, 25, 27, 32 and this Article 30 shall survive the expiration or termination of this Agreement.

Article 31 – Independent Contractor

31.1 SaskTel personnel and Customer personnel shall not be deemed to be at any time employees or servants of the other party. The parties agree that SaskTel shall be an independent contractor in the performance of the Services and that no master and servant relationship is to be created between SaskTel personnel and Customer or Customer personnel and SaskTel and further that no employee benefits available to employees of either party shall accrue to any personnel of the other party. Each of SaskTel and Customer shall pay and accept full and exclusive liability for the assessments or contributions required by, but not limited to, The Unemployment Insurance Act, The Canada Pension Plan Act, The Income Tax Act (Canada) and The Workers' Compensation Act in respect of their personnel.

31.2 Customer acknowledges and agrees that Telemerge Canada Inc. is an intended third party beneficiary of the provisions of the Agreement and a SaskTel supplier for the purposes of the Agreement, including these Terms of Service, and may elect to enforce the relevant provisions of the Agreement in its own name for its sole benefit.

Article 32 – Dispute Resolution

32.1 (a) In the event that there shall be a dispute as to the interpretation of this Agreement or in respect of the performance of the respective obligations imposed on the parties, the dispute shall first be referred to the designated contact representative of the parties. If the parties are unable to resolve the dispute at this stage within ten (10) calendar days of referral then same shall be referred to a panel comprised of one (1) senior level executive of each party to this Agreement. The submission shall be in writing and shall contain a description of the dispute and a designation of the submitting party's representative to the executive panel. The other party shall appoint one (1) senior executive to the panel which shall convene within five (5) days of the submission by the submitting party at such location as the parties may agree for the purpose of hearing the dispute. In the event that a location for the hearing of the dispute cannot be agreed upon by the parties the same shall be held at the head office of SaskTel in Regina, Saskatchewan. It is the intention and purpose of the executive panel to resolve disputes without arbitration or litigation, therefore, the panel will attempt to reach mutually acceptable settlements and no panel decision shall be binding upon any party unless unanimously agreed.

(b) Arbitration

If the parties do not resolve the dispute after exhausting the procedure described in Article 26.1(a), such dispute shall be settled by arbitration with the provisions of The Arbitration Act, 1992 of the Province of Saskatchewan as amended from time to time. Pending arbitration as herein provided and except as herein specifically provided for, each of the parties shall continue to perform its obligations under this Agreement.

SaskTel Managed Video Collaboration Terms of Service

Any failure to perform its obligations by either party pending arbitration shall be deemed to be a separate breach of this Agreement.

(c) Exception

The dispute resolution mechanism and process set forth in this Article 26 shall not be applicable to any claim by SaskTel for any amounts due and payable by the Customer pursuant to this Agreement. SaskTel retains the right to proceed directly to any court of competent jurisdiction at any time to collect any amount owing pursuant to this Agreement.

Article 33 – Request for Change

33.1 Either party may request a change in the Service or particulars of this Agreement or an addition thereto by delivering to the other party a change request. The party receiving the “Request for Change” from the initiating party will respond to such “Request for Change”. The parties agree that they may change the form of a Request for Change as they may determine from time to time and may also deliver either a “Request for Change” or a response thereto to each other by such electronic or other means as they may agree upon from time to time.

Article 34 - Warranties, Liability, Indemnity

34.1 The Parties represent and warrant to each other as follows:

- (a) the Parties have at the present time and will at all times during the term of this Agreement have good and sufficient power, authority and right to enter into and perform its obligations under this Agreement; and
- (b) this Agreement constitutes a valid, binding and legally enforceable obligation of the Parties in accordance with its terms.

34.2 Except as expressly stated in the Agreement, neither Party makes any warranties of any kind whatsoever, whether express or implied, statutory or otherwise and, without limitation, all implied warranties or statutory conditions of quality, merchantability, non-infringement, or fitness for a particular purpose are, except as expressly provided in the Agreement, disclaimed by the Parties and their affiliates, directors, officers, employees, agents, successors, and assigns.

34.3 Notwithstanding any other provision of the Agreement, the sole and exclusive remedy of Customer in contract or in tort for any claim, loss or damage in any way related to, or arising out of, the Agreement shall in be limited to its actual, proven direct damages, and shall in no event exceed the total amount of SaskTel fees and charges for the previous month. In no event shall SaskTel be liable for indirect, special, consequential, incidental, exemplary or punitive losses or damages of any kind or nature whatsoever or howsoever caused, including without limitation, loss of data, loss of income, loss of profit or failure to realize expected savings arising directly or indirectly from breach of the Agreement (including fundamental breach or otherwise), negligence, any act or omission of SaskTel or under any other theory of law or equity, even if SaskTel had been advised of, had knowledge of, or reasonably could have foreseen the possibility of such damages.

34.4 Customer agrees to defend, indemnify and hold harmless SaskTel, its officers, directors, shareholders, employees, agents, and permitted assigns from any claims, liabilities, losses, costs or damages, including attorney’s fees, arising out of the acceptance of any Service by Customer or the provision of any Service to Customer, or Customer’s or permitted assign’s use of the Service that: (i) is caused by any act omission, fault, negligence of Customer or Customer’s employees, Customers or permitted assigns, or (ii) arises under a warranty or representation by Customer to SaskTel or to any third party in connection with the Service, (iii) arises out of libel, slander, infringement of copyright, trademarks, service marks, trade secrets or patents, or breach in the privacy or security of transmissions related to the Service directly or indirectly, or (iv) arises from an error or omission made by Customer or Customer’s or permitted assign’s in using the Services contemplated by this Agreement, (v) arises out of the provision or lack of provision or delay in the provision by SaskTel of any Service.

SaskTel Managed Video Collaboration Terms of Service

34.5 SaskTel agrees to defend, indemnify and hold harmless Customer, its officers, directors, employees, and permitted assigns from any and all claims arising out of or relating to: (i) the gross negligence or willful misconduct of SaskTel in the performance of its duties under the Agreement, or (ii) any breach by SaskTel of any material representation or warranty explicitly made by SaskTel under the Agreement

34.6 Each Party shall promptly notify the other of any suit, claim or action which may give rise to the other Party's (the "Indemnifying Party") obligation to indemnify the Party with such right to be indemnified (the "Indemnified Party"), and shall fully cooperate with the Indemnifying Party and its insurance agents in the defense of such suit, claim or action. The Indemnifying Party shall have absolute and sole discretion to settle any such suit, claim or action except if to the detriment of the Indemnified Party. Any indemnification shall be offset by any insurance payment recovered by the Indemnified Party or insurance benefits to which it is entitled.

Article 35 – Terms of Service Changes

35.1 SaskTel may periodically make modification to these Terms of Service. When modifications are made, the Customer will be notified by email sent to the main Customer contact on record. The Customer's continued use of the Service represents acceptance of any changes to these Terms of Service.

Article 36– Entire Agreement

36.1 This Agreement and any amendments to this Agreement constitute the entire agreement between SaskTel and the Customer and there are no representations, warranties or conditions, express or implied, other than as stated in this Agreement. This Agreement is binding on the Customer and SaskTel and each of their respective successors and permitted assigns and, where applicable, Customer's heirs, executors and administrators. Any amendments to this Agreement shall not be effective until executed by both SaskTel and Customer in writing. This Agreement may be executed in two or more counterparts, each of which will be deemed an original and all of which together will constitute one instrument. The parties agree that the exchange of signature pages to this Agreement in pdf or other secure electronic format shall be sufficient signature of this Agreement and the parties intend to be bound by their signatures in such form.