

TERMS AND CONDITIONS
For
SOFTWARE LICENSE AND SERVICES AGREEMENT

1. DEFINITIONS

(a) “ACS Hardware” means the auto configuration server hardware or virtual machine that (i) is enabled by the Software; and (ii) compliant with the Broadband Forum’s TR-069 specification. The ACS Hardware is provided by me based on Comtrend minimum requirement specification.

(b) “Documentation” means (i) the Software documentation (if any); and (ii) any other Software documentation provided by Comtrend to me.

(c) “Nodes” means the number of device records on the ACS Hardware that can be monitored by the Software user interface. For the avoidance of doubt, the total number of devices entered on the ACS, regardless of their status as being online or not, is counted toward the Node limitation as agreed by both Parties.

(d) “Services” means the services to be provided by Comtrend to me regarding install and configure the ACS software applications on the Hardware to enable production capabilities and upgrade the ACS Software applications on the Hardware of me based on the same system OS to any new maintenance or feature enhancement releases.

(e) “Software” means the Comtrend software installed in ACS-Auto Configuration Server for all TR-069 Compliant Devices.

2. LICENSE AND SERVICES

(a) Software and Documentation. Subject to all the terms and conditions of this Agreement and during the Term, Comtrend hereby grants to me a personal, non-exclusive, non-transferable, non-sublicensable, limited license to use (i) the Software in object code format on the ACS Hardware for the agreed number of Nodes, solely for the purpose of managing my end user’s CPE; and (ii) the Documentation in connection with my permitted use of the Software.

(b) License Restrictions. Nothing in this Agreement will be construed as an implied grant to me of any right to, and I shall not, and shall not permit any third party to: (i) use or reproduce any of the Software in source code format; (ii) decompile, disassemble, or otherwise reverse engineer or attempt to reconstruct or discover any source code or underlying ideas or algorithms of any of the Software by any means whatsoever; (iii) modify or alter any of the Software in any manner whatsoever; or (iv) distribute, disclose or allow use of any of the Software, in any format, through any timesharing service, service bureau, network or by any other means, to or by, any third party. I shall cause its employees who access the Software to comply with the terms and conditions of this Agreement. Once installed on the ACS Hardware, the Software may not be moved to other hardware without Comtrend’s prior written approval, and such a move may require additional fees. I shall cooperate with Comtrend, and shall render all reasonable assistance requested by Comtrend, to assist Comtrend in preventing and identifying any use of, or access to, the Software, by my employees or otherwise, in violation of this Agreement.

(c) Proprietary Notices. I will not remove any copyright, patent, trademark or other proprietary or restrictive notice or legend contained or included in any of the Software or Documentation, and I shall

reproduce and copy all such notices and legends on all copies of the Software and Documentation that are permitted to be made hereunder.

(d) Product Activation. For ensuring the compliance of License Restriction, the Software contains product activation which prevents unlimited free use of copied or replicated Software. This attached feature in Software hashes hardware serial numbers and an ID number specific to the License to generate a unique installation ID. This installation ID will be sent to Comtrend to verify the authenticity of the product key and to ensure that the product key is not being used for multiple installations. The collected ID numbers and other information in this will be restored only for this purpose and could be erased per the request by Customer any time after the termination of this License.

(e) Services. Comtrend will provide to me the Services. I understand that the Software is intended to work solely with the ACS Hardware for the purpose of monitoring CPE, and that the Software and Comtrend's performance under this Agreement is dependant in part on my actions, cooperation and other assistance. Accordingly, I agree to use reasonable commercial efforts to timely provide Comtrend with such cooperation and assistance, and any dates or time periods relevant to performance by Comtrend hereunder shall be appropriately and equitably extended to account for any delays resulting from changes to the my ACS Hardware configuration, or otherwise due to me if such delays affect the Software or Comtrend's ability to timely perform. In furtherance of the foregoing, I will (i) grant to Comtrend such reasonable access to the Hardware and my premises, as shall be necessary or appropriate to enable Comtrend to perform its obligations hereunder; (ii) cooperate fully with Comtrend in providing Services hereunder; (iii) provide adequate resources to participate in or facilitate the performance of the Services; (iv) timely participate in meetings and make its personnel readily available for such meetings; and (v) assign personnel with relevant training and experience to work in consultation with Comtrend, if applicable. For ensuring the Service preformed by Comtrend, I shall :

- Maintain the hardware of the ACS Hardware.
- Install and update the Linux operating system (Red Hat Enterprise Linux), including OS security updates and bug fixes.
- Set up firewall rules to protect the ACS server.
- Perform the daily backups of the runtime ACS Database and Config files.

(f) Nodes. The Nodes are enabled by an encrypted license file provided by Comtrend that must be loaded into the Software using the graphic user interface. Any Node whose associated device fails can be deleted from the Software and not counted towards the agreed number of Nodes. Failed Nodes can be replaced at any time by one of two ways: (i) changing of the Node identified MAC address; or (ii) by deleting the failed Node's record and adding a new record for the new replacement Node. Additional Nodes may be purchased at Comtrend's then current rates.

3. OWNERSHIP

I acknowledges that Comtrend is the exclusive owner of all right, title and interest in and to the Software, Services and all Documentation, regardless of any participation or collaboration by me in the design, development or implementation of any such Software, Services or Documentation. I further acknowledge that Comtrend is the owner and holder of all copyrights, patent, trademark, trade secret and other proprietary rights therein (collectively, "Comtrend Proprietary Rights"), and that Comtrend reserves all such Comtrend Proprietary Rights to itself except as expressly licensed to me hereunder. To the extent that any Comtrend Proprietary Rights do not otherwise vest in Comtrend, I hereby agree to promptly assign such Comtrend Proprietary Rights to Comtrend, and to do all other acts reasonably necessary to perfect Comtrend's ownership thereof, without additional consideration of any kind.

4. FEES AND PAYMENTS

(a) Fees. I will pay to Comtrend the applicable fees for the Hardware (if any), Software and Services in accordance with the payment as agreed by both Parties.

(b) Expenses. I shall also reimburse Comtrend for all reasonable documented out of pocket travel, lodging, meal and other expenses incurred by Comtrend personnel in the course of performing the Services.

(c) Payments. All payments due under this Agreement shall be payable by me within thirty (30) calendar days after the date of Comtrend's invoice. Payments remitted after such thirty (30) calendar day period shall bear interest at 0.1% per every day. All Fees paid hereunder are non-refundable.

(d) Taxes. All Fees are exclusive of any state, local, and other taxes and charges (other than income or franchise taxes payable by Comtrend) related to the Software or Services. I shall pay or reimburse Comtrend for all local or international or other taxes (other than taxes based on Comtrend's income) based on charges payable under this Agreement, whether such taxes are now or hereafter imposed under the authority of any federal, state, local or other taxing authority

(e) Audit. During the Term of this Agreement and for a three (3) year period following the expiration or termination hereof, I will keep accurate books and records (in accordance with generally accepted industry practices) supporting my calculations of the amounts payable to Comtrend hereunder and my compliance with its obligations under this Agreement. Such records will be open for audit by Comtrend or Comtrend's certified public accountants for the purpose of verifying my compliance with its payment and other obligations under this Agreement provided such audits are conducted (i) no more than twice per calendar year; (ii) during my regular business hours, and (iii) upon no less than ten (10) days advance written notice to me.

5. TERM AND TERMINATION

(a) Term. This Agreement is effective as of the Effective Date and will continue in effect for a period of one year (the "Initial Term"). Thereafter, this Agreement will automatically renew for subsequent one (1) year terms (each a "Renewal Term"), unless either party gives notice of its intent to terminate no less than sixty (60) days prior to the end of the then current term. The Initial Term and any subsequent Renewal Term(s) are collectively referred to herein as the "Term".

(b) Termination for Breach. Either party may terminate this Agreement if the other party is in material breach of this Agreement and has not cured such breach within thirty (30) days of receiving written notice specifying the breach.

(c) Termination for Insolvency. Either party, upon written notice to the other party, may elect to immediately terminate this Agreement upon the occurrence of any of the following events: (i) a receiver is appointed for either party or its property; (ii) either party makes an assignment for the benefit of its creditors; (iii) any proceedings are commenced by or for either party under any bankruptcy, insolvency, or debtor's relief law and such proceedings are not set aside within thirty days following their filing; or (iv) either party liquidates or dissolves or makes a good faith attempt to liquidate or dissolve substantially all of its assets related to this Agreement.

(d) Effects of Termination. Upon any termination or expiration of this Agreement, (i) I will pay Comtrend for any unpaid balance for any Hardware, Software or Services provided by Comtrend; (ii) Comtrend will not be obligated to continue performing any Services; (iii) each party will return any of the

other party's Confidential Information or other property within ten (10) days from the effective date of such termination or expiration; and (iv) I will immediately cease use of any Software provided under this Agreement. Sections 1, 3, 4(c), 4(e), 5, 6, 7(e), 8 and 9 will survive any termination or expiration of this Agreement.

6. CONFIDENTIAL INFORMATION

(a) Definition. Each party agrees to hold the Confidential Information of the other party in confidence, and not to use or disclose such Confidential Information, except as permitted hereunder. For purposes herein, "Confidential Information" means any and all technical and non-technical information disclosed by one party ("Disclosing Party") to the other ("Receiving Party") under this Agreement. The relationship between the parties and the fact and substance of this Agreement will also be Confidential Information. The Disclosing Party will mark all Confidential Information in tangible form "confidential" or "proprietary" or with words of similar import, and will identify as confidential at the time of disclosure any Confidential Information disclosed orally or in another intangible form. Regardless of whether so marked or identified, any information that the Receiving Party knew or should have known was considered confidential or proprietary by the Disclosing Party, including without limitation information learned by the Receiving Party upon visual inspection of the Disclosing Party's premises, will be considered Confidential Information of the Disclosing Party under this Agreement. All Software, Services and Documentation is Comtrend's Confidential Information.

(b) Exclusions. Notwithstanding the foregoing, neither party will have any obligation under this Section with respect to any information that it can prove is (i) now or hereafter, through no unauthorized act or failure to act on the Receiving Party's part, generally known to the public; (ii) known to the Receiving Party without an obligation of confidentiality effective at the time the Receiving Party received the same from the Disclosing Party, as evidenced by written records; (iii) hereafter furnished to the Receiving Party by a third party as a matter of right and without restriction on disclosure; or (iv) independently developed by the Receiving Party without use or reference to the Disclosing Party's Confidential Information. Nothing in this Agreement will prevent the Receiving Party from disclosing information to the extent the Receiving Party is legally compelled to do so by any governmental investigative or judicial agency pursuant to proceedings over which such agency has jurisdiction; provided, however, that prior to any such disclosure, the Receiving Party will (1) assert the confidential nature of the information to the agency; (2) immediately notify the Disclosing Party in writing of the agency's order or request to disclose; and (3) cooperate fully with the Disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of the compelled disclosure and protecting its confidentiality.

(c) Injunctive Relief. Each party acknowledges that an actual or threatened breach of this Section 6 would cause irreparable harm for which monetary damages are an inadequate remedy, and the non-breaching party may seek injunctive relief in a court of competent jurisdiction.

7. WARRANTY; DISCLAIMER

(a) Authority. Each party represents and warrants that it has (i) full corporate power and authority to enter into this Agreement; and (ii) not entered into nor will it enter into any agreements that would conflict with its obligations hereunder.

(b) Software Warranty. Comtrend warrants that, for a period of ninety (90) days after the date of delivery of the Software to me ("Warranty Period"), the Software will conform all required functions.

My sole remedy for any breach by Comtrend of the warranty provided in this Section 7(b) will be replacement of the nonconforming Software, at Comtrend's sole expense, in accordance with Section 7(c).

(c) Exclusive Remedy. If, during the Warranty Period, I discover that any Software fails to conform to the warranty provided in Section 7(b), I will give Comtrend written notice of such nonconformance promptly after such discovery. Comtrend will deliver to me replacement Software as may be necessary to correct the nonconformance. If I give Comtrend notice of an apparent nonconformance that Comtrend reasonably determines is not due to any fault or failure of the Software to conform to the warranty provided in Section 7(b), all time spent by Comtrend personnel resulting in such determination, including time spent attempting to correct the problem, will be billable to me in accordance with Comtrend's then current rates.

(d) Services. Comtrend represents and warrants that the Services will be performed by qualified personnel in a professional and workmanlike manner. My sole remedy for breach of this warranty will be re-performance of the nonconforming Services; provided that Comtrend must have received written notice of the nonconformity from me no later than thirty (30) days after the original performance of the Services by Comtrend.

(e) Disclaimer. OTHER THAN THE FOREGOING WARRANTIES, I ACKNOWLEDGE AND AGREE THAT THE HARDWARE, SOFTWARE AND THE SERVICES ARE PROVIDED "AS IS" AND COMTREND MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, TO ANY PERSON OR ENTITY WITH RESPECT TO THE HARDWARE, SOFTWARE OR THE SERVICES. FURTHER, COMTREND DOES NOT WARRANT, GUARANTEE, OR MAKE ANY REPRESENTATIONS REGARDING THE USE, OR THE RESULTS OF THE USE, OF THE HARDWARE, SOFTWARE OR THE SERVICES, IN TERMS OF CORRECTNESS, ACCURACY, RELIABILITY OR OTHERWISE. WITHOUT LIMITING THE FOREGOING, COMTREND SPECIFICALLY DISCLAIMS ALL EXPRESS WARRANTIES NOT STATED HEREIN AND ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. NO COMTREND AGENT OR EMPLOYEE IS AUTHORIZED TO MAKE ANY EXPANSION, MODIFICATION OR ADDITION TO THIS LIMITATION AND EXCLUSION OF WARRANTIES IN THIS AGREEMENT.

8. LIMITATION OF LIABILITY

(a) Limitation on Damages. I AGREE THAT, EXCEPT WITH RESPECT TO A BREACH BY COMTREND OF ITS OBLIGATIONS UNDER SECTION 6 (Confidential Information), IN NO EVENT WILL COMTREND'S MAXIMUM AGGREGATE LIABILITY FOR DIRECT DAMAGES UNDER OR IN CONNECTION WITH THIS AGREEMENT EXCEED THE LESSER OF: (i) THE FEES PAID BY ME TO COMTREND HEREUNDER IN THE TWELVE (12) MONTHS IMMEDIATELY PRIOR TO THE DATE FIRST NOTICE IS PROVIDED BY EITHER PARTY REFERENCING A CLAIM HEREUNDER;

(b) Exclusion of Damages. EXCEPT WITH RESPECT TO (i) A BREACH BY EITHER PARTY OF ITS OBLIGATIONS UNDER SECTION 6 (Confidential Information), (ii) DAMAGES INCLUDED IN CLAIMS THAT ARE THE SUBJECT OF A PARTY'S OBLIGATIONS UNDER SECTION 9 (Indemnification), AND (iii) A BREACH BY ME OF THE SCOPE OF THE LICENSE GRANTED IN SECTION 2 (License and Services), NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY FOR ANY SPECIAL, INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOST REVENUES) UNDER THIS AGREEMENT. THE FOREGOING EXCLUSION SHALL APPLY REGARDLESS OF

WHETHER CLAIMS BROUGHT UNDER OR IN CONNECTION WITH THIS AGREEMENT ARE FORESEEABLE, WHETHER THEY ARE BROUGHT UNDER TORT, NEGLIGENCE, CONTRACT OR ANY OTHER LEGAL OR EQUITABLE THEORY AND WHETHER ANY REMEDY UNDER THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

(c) Integral Element. The parties acknowledge that the limitations and disclaimers set forth in this Agreement were an integral element in the business arrangement between the parties. The pricing and other terms of this Agreement reflect this allocation of risk and the disclaimers and limitations of liability set forth herein.

9. MISCELLANEOUS

(a) Contacts for Notices. The parties' contacts for notices to be provided under this Agreement will be as set forth on the cover pages to this Agreement.

(b) Assignment. Neither this Agreement nor any rights, licenses or obligations hereunder, may be assigned by either party without the prior written consent of the non-assigning party (for the avoidance of doubt, a change in ownership representing fifty percent (50%) or more of the equity ownership of a party will be deemed to be an assignment under this Agreement). Notwithstanding the foregoing, Comtrend may assign this Agreement to any acquiror of all or of substantially all of Comtrend's equity securities, assets or business related to the subject matter of this Agreement. Any attempted assignment in violation of this Agreement will be void and without effect.

(c) Governing Law. This Agreement shall be governed by and construed under the laws of R.O.C. without regard to conflicts of laws provisions thereof. The parties hereby submit to the jurisdiction of Taiwan Taipei District Court located in Taipei City, R.O.C, and agree that such tribunals shall have exclusive jurisdiction and venue over all controversies in connection herewith.

(d) Severability. Should any term of this Agreement be declared void or unenforceable by any court of competent jurisdiction, such declaration shall have no effect on the remaining terms hereof, which shall continue in full force and effect.

(e) Waiver. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.

(f) Relationship of the Parties. The relationship of Comtrend and I established by this Agreement is that of independent contractor, and nothing contained in this Agreement will be construed to give either party the power to direct or control the day-to-day activities of the other, constitute the parties as partners, franchisee—franchiser, joint venturers, co-owners or otherwise as participants in a joint or common undertaking, or otherwise give rise to fiduciary obligations between the parties.

(g) Force Majeure. Except for the obligation to make payments, neither party will be liable to the other for delays or failures in performance resulting from causes beyond the reasonable control of that party, including, but not limited to, acts of God, riots, acts of war, governmental regulations, communication or utility failures. The party seeking relief from the force majeure event shall promptly notify the other of the occurrence of such event.

(h) Entire Agreement. This Agreement constitute the entire, final, complete and exclusive agreement between the parties and supersedes all previous agreements or representations, oral or written, relating to the subject matter of this Agreement. This Agreement may not be modified or amended except in writing signed by a duly authorized representative of each party. Both parties acknowledge having read

the terms and conditions set forth in this Agreement and all attachments hereto, understand all terms and conditions, and agree to be bound thereby.