

Cariot with KDDI America

TERMS OF USE

These Cariot with KDDI America Terms of Use (the “Terms of Use”) govern the use of the Services (as hereafter defined) provided by KDDI America, Inc.. (“KDDIA”). These Terms of Use represent an agreement entered into between the Customer (as hereafter defined) and KDDIA (each a “Party” and collectively the “Parties”).

Article 1 (General Provisions)

1.1) The Customer shall acknowledge, agree to, and comply with, the Articles contained in these Terms of Use when using the Service.

1.2) KDDIA may from time to time and at any time inform the Customer of additional provisions and/or rules in relation to the use of the Service in writing or via email, and such provisions and/or rules shall constitute part of these Terms of Use. In the event of any conflict between these Terms of Use and such provisions and/or rules, these Terms of Use shall prevail.

Article 2 (Definitions)

In these Terms of Use, the following definitions shall apply unless the context does not permit such application:

- 1) “**Application**” means the application operating in connection with the SFDC Platform based on Salesforce OEM Partner Agreement, which stores Customer’s information at the cloud storage which is collected by a Cariot Vehicle-Loaded Device and a third-party communications network.
- 2) “**Application Information**” means information requested by KDDIA from a Customer when the Customer is applying for the Service and/or during the term of the Service, and information amended or added by the Customer.
- 3) “**Cariot User Licence**” means the cloud-use license for Salesforce OEM,

provided by KDDIA in place of Salesforce.com.

- 4) “**Cariot Vehicle Licence**” means an online, web-based cloud-use license provided by KDDIA to connect with the Application.
- 5) “**Cariot Vehicle-Loaded Device**” means the device supplied by KDDIA which is loaded on vehicles for the purpose of data collection.
- 6) “**Confidential Information**” means any non-public information which is proprietary and confidential to KDDIA including but not limited to the terms and conditions of these Terms of Use, any information concerning the organisation, business, finances, transactions or affairs of KDDIA, any of KDDIA’s clients' or customers' transactions or affairs, the KDDIA’s technology, designs, documentation, manuals, processes, systems, budgets, financial statements or information, accounts, dealers' lists, customer lists, marketing studies, drawings, notes, memoranda and the information contained therein, any information therein in respect of trade secrets, technology and technical or other information relating to the development, manufacture, analysis, marketing, sale or supply or proposed development, manufacture, analysis, marketing, sale or supply of any products or services by KDDIA and information and material which is either marked confidential or is by its nature intended to be exclusively for the knowledge of KDDIA alone.
- 7) “**Contents**” means data that Customers can access through the Services including but not limited to text, images, videos, voice files, music, software and code.
- 8) “**Customer**” or “**Customers**” means any corporation or organization which has entered into a Application for Service with KDDIA and which has agreed to these Terms of Use.
- 9) “**Event of Force Majeure**” shall include acts of God, natural disasters, fire, explosion, acts of war (declared or undeclared), floods, earthquakes, terrorism, riots, civil commotion, vandalism, sabotage, or malicious mischief, epidemic, any outbreak of disease, revolution or strikes or any

other circumstances beyond the reasonable control of a Party.

- 10) **“Intellectual Property Rights”** means all ideas, reverse knowledge, concepts, inventions, discoveries, developments, prototypes, software, content, textual or artistic works, know-how, structures, designs, formulas, algorithms, methods, apparatus, recipes, trade secrets, processes, systems and technologies in any stage of development as well as patents, utility models, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, copyright, rights in designs, database rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world

- 11) **“Third Party Service”** means services (including but not limited to the use of devices, software and network lines) provided by a third party in relation to the Service and any other information provided, reported, or announced by KDDIA in relation to these Terms of Use and the Service.

- 12) **“Third Party Terms of Use”** means any terms of use or documents for the use of Third Party Service.

- 13) **“Salesforce OEM”** means OEM (Original Equipment Manufacturing) services provided by Salesforce.com.

- 14) **“Services”** means any of the services provided by means of the Application.

- 15) **“Application for Service and/or AFS”** means the licensing agreement between a Customer and KDDIA for the use of the Service, the Cariot Vehicle License and Cariot User License, and the Third Party Terms of Use.

16)“**Subscription**” means the right provided by KDDIA to the Customer under the Application for Service and these Terms of Use.

17)“**Transmitted Data**” means the Contents that are entered by a Customer using the Services and includes Contents collected from sensor devices or other equipment.

18)“**Usage Fees**” means the fees payable under these Terms of Use and Application for Service.

Article 3 (Application for Service)

3.1) A person which wishes to use the Services shall enter into a Application for Service with KDDIA and abide by these Terms of Use and the Third Party Terms of Use. A person may enter into a Application for Service with KDDIA by providing Application Information in a manner as requested by KDDIA or its vendors.

3.2) The various Third Party Terms of Use provided by third parties to the Customer are as follows:

3.2.1) Communication network services provided by network providers:

a) Conexio Corporation (“TRIBE-biz”)

(http://service.tribe.ne.jp/biz/pdf/biz_e_yakkan2.pdf) and

(<http://service.tribe.ne.jp/biz/contract.html>)

b) Soracom, Inc, (“SORACOM Air”)

(https://soracom.jp/files/terms/airjp_terms.pdf)

c) KDDI Corporation (“Dorareko Plan”)

(http://media3.kddi.com/extlib/files/corporate/kddi/kokai/keiyaku_yakkan/pdf/ryokinhyo_kddi_lte.pdf)

3.2.2) Salesforce.com Platform Service (“SFDC Platform”)

(https://www.salesforce.com/jp/assets/pdf/misc/salesforce_MSA.pdf)

3.2.3) Google Maps

(https://www.google.com/intl/ja_jp/help/terms_maps.html)

3.2.4) Amazon Web Services

(<https://aws.amazon.com/jp/legal/>)

3.2.5) Cariot Vehicle-Carried Devices manufactured by device manufacturers

a) ATrack Technology Inc.

(<http://www.atrack.com.tw/product.php?lg=en>)

b) Ecomott Inc.

(<https://www.ecomott.co.jp/product/>)

3.3) KDDIA shall have the discretion to decide whether to accept an AFS from any person, and shall exercise such discretion in accordance with KDDIA's policies and standards. If KDDIA accepts the AFS from the person, the AFS shall be established between the Customer and KDDIA by way of notice or announcement from KDDIA. The person shall thereafter be allowed to use the Services in the manner as specified by KDDIA and pursuant to the AFS.

3.4) KDDIA may in its sole and full discretion reject any AFS by a person if:

- a) the person has previously had its use of the Services suspended before or is currently suspended from using the Services;
- b) the person is a competing company or organization which deals with or is involved in products and/or services that are similar or identical to the products and services KDDIA provides; and
- c) KDDIA is of the view that there are reasons why it should reject an AFS from a person.

Article 4 (Use of Services)

The Customer shall use the Services provided by KDDIA in accordance with the provisions of the AFS and these Terms of Use and within the usage means as specified by KDDIA.

Article 5 (Changes to Registered Information)

The Customer shall notify KDDIA of any changes to its registered information in the manner as specified by KDDIA.

Article 6 (Management of Passwords and User IDs)

6.1) The Customer shall be responsible for the proper management and safekeeping of its passwords and user IDs in relation to the Services. The Customer shall not allow third parties to use the Customer's passwords or user IDs, or give, transfer or sell such passwords or user IDs to third parties.

6.2) The Customer shall be responsible for any damage caused by improper management of passwords or user IDs, use by third parties and no responsibility shall be held by KDDIA for any such damage caused.

Article 7 (Third-Party Services)

7.1) The Customer may apply to KDDIA or KDDIA's vendors for use of Third Party Services. The Third Party Services will be provided by third parties to the Customer, and the price and other conditions for Third Party Services will be defined separately. When the Customer applies for use of a Third Party Service, KDDIA shall as soon as reasonably possible provide and/or facilitate the provision of such Third Party Service. KDDIA makes no representations or guarantees that such Third Party Service will be available and that the time to start the use of, and the terms and conditions of, such Third Party Service is/are as the Customer wishes.

7.2) KDDIA shall not be responsible or liable for any products or service provided as part of the Third Party Services. KDDIA makes no representations or guarantees as to whether the Third Party Service is fit for the Customer's purpose, merchantability, accuracy, completeness, legality, conformity with any regulation of the Customer or any organization, and makes no representations or guarantees as to whether the Third Party Service is absent of security issues, bugs and defects, or infringes any third party right.

7.3) In the event of termination/expiry of AFS, the Customer's right to any Third Party Service shall also be terminated unless otherwise agreed in writing between the Customer, KDDIA and the provider of the Third Party Service.

Article 8 (Usage Fees)

8.1) The Customer shall pay the Usage Fee by the due date provided by KDDIA. The Usage Fee shall consist of the purchase price of the Cariot Vehicle-Loaded Devices and the fees for the Subscription for one (1) year as required under the AFS.

8.2) If the Customer purchases the Service as an addition to an existing Subscription which the Customer has with KDDIA, the Usage Fees payable by the Customer shall consist of the purchase price of the Cariot Vehicle-Loaded Devices and the fees for the Subscription shall be pro-rated in respect of the remaining months of that annual period. For the avoidance of doubt, the fees for the Subscription are charged on a monthly basis. If the customer purchases the Services as an addition to an existing Subscription in the middle of a month, the fees for the Subscription in respect of that entire month will be charged for that entire month.

8.3) The Customer is to pay the Usage Fees on a date ("**Payment Due Date**") as agreed between the Parties. If the Customer fails to pay KDDIA any Usage Fees or any other fees under the AFS and/or these Terms of Use by the Payment Due Date, then without prejudice to its other rights and remedies KDDIA shall be entitled to charge interest on the outstanding amount at the rate of 14.6% a year or the maximum allowed by law, based on the outstanding amount from the Payment Due Date until the outstanding amount is paid in full.

8.4) KDDIA reserves the right to amend the Usage Fees. KDDIA shall provide prior written notice of 7 days to the Customer prior to any amendment of the Usage Fees. If KDDIA provides prior written notice under this Article 8.4 and the Customer does not terminate its Subscription in accordance with Article 13, the Customer shall then be taken to have agreed

to the new Usage Fees.

Article 9 (Refunds, Returns, Exchanges, Repair)

9.1) There shall be no refund of any element of the Usage Fees by KDDIA to the Customer save as provided in these Terms of Use.

9.2) The Parties acknowledge that the Cariot Vehicle-Loaded Devices are not compatible with all vehicles. The Customer agrees that if Cariot Vehicle-Loaded Devices are purchased without the Customer first doing a free trial to check vehicle compatibility (see Article 10) and after the delivery of the Cariot Vehicle-Loaded Devices they are found to be incompatible with the intended vehicles, KDDIA shall not accept any requests for return or replacement of devices by the Customer.

9.3) The Customer agrees that KDDIA shall not bear any liability in relation to Cariot Vehicle-Loaded Devices, including liabilities for any defects.

9.4) The Parties agrees that KDDIA shall not give any guarantee or warranty, whether express or implied (by statute or otherwise), with regard to the Cariot Vehicle-Loaded Devices. The Parties acknowledge that any warranty of the Cariot Vehicle-Loaded Devices shall be provided by the manufacturers of such Cariot Vehicle-Loaded Devices (“**Manufacturer**”).

9.5) Any defective Cariot Vehicle-Loaded Devices received by the Customer shall be replaced by the Manufacturer upon confirmation by the Manufacturer, provided that the Customer notifies the Manufacturer in writing of the claimed defects immediately upon its receipt and delivers the defective Cariot Vehicle-Loaded Devices to the Manufacturer.

9.6) If the Manufacturer, after inspection, confirms in writing that the Cariot Vehicle-Loaded Devices which the Customer claims to be defective were not defective when they received by the Customer, then the Customer shall be notified by the Manufacturer as to whether the Customer nevertheless wishes to have the said Cariot Vehicle-Loaded Devices repaired. If the Customer agrees to the repair of the said Cariot Vehicle-Loaded Devices,

then the Customer agrees to pay for the repairs performed upon presentation in writing of the costs of repair of the Cariot Vehicle-Loaded Devices. The costs and duration taken for repair shall be at the discretion of the Manufacturer and repairs shall be performed on a “send-back” basis.

9.7) If the Customer requests for a substitute Cariot Vehicle-Loaded Device as a substitute for the Cariot Vehicle-Loaded Device which is under repair, KDDIA shall lend the Customer a trial-use Cariot Vehicle-Loaded Device subject to the availability of such trial-use Cariot Vehicle-Loaded Device (“**Substitute Cariot Vehicle-Loaded Devices**”). If the Substitute Cariot Vehicle-Loaded Devices is damaged or lost, the Customer shall make full payment of the replacement or restoration of that Substitute Cariot Vehicle-Loaded Devices. All Substitute Cariot Vehicle-Loaded Devices shall be subject to Article 10.5 below.

Article 10 (Free Trials)

10.1) KDDIA may provide free trials of the Service. The free trial will last for two (2) weeks commencing from the date which the trial-use Cariot Vehicle-Loaded Device is used by the user of the Trial (“**Trial User**”). A trial may be extended for up to eighty-five (85) days upon prior written agreement between KDDIA and the Trial User.

10.2) If during the free trial period, the Trial User submits a AFS in accordance with Article 3 and such AFS is entered into between KDDIA and the Trial User, then the use of the Cariot Vehicle-Loaded Device shall be governed by the AFS and these Terms of Use.

10.3) If there is no subscription made as described in the previous Article 10.2 during the free trial, then after the end of the free trial period, KDDIA may delete all of the data saved or used by the Trial User without giving notice to the Trial User.

10.4) Notwithstanding any other Articles under these Terms of Use, KDDIA does not warrant, guarantee or make any representation that the Cariot Vehicle-Loaded Device is error or defect free, or that the Cariot

Vehicle-Loaded Device will meet the Trial User's requirements during the trial period. KDDIA shall not bear any liability in relation to provision of the Service to the Trial Users during the trial period, including the compensation of damages.

10.5) If during the trial period, an equipment in relation to the Cariot Vehicle-Loaded Device is borrowed by the Trial User from KDDIA, the Trial User shall be responsible for that borrowed equipment. If the borrowed equipment is damaged or lost, the Trial User shall cover the cost of restoring or replacing the borrowed equipment. If the borrowed equipment is not returned after a date agreed between the Trial User and KDDIA, KDDIA reserves the right to charge the Trial User based on the purchase price of that borrowed equipment in relation to the Cariot Vehicle-Loaded Device.

Article 11 (Changes to Price Plan)

11.1) If the Customer desires to change their price plan, they shall notify KDDIA or a KDDIA vendor of their desire to do so in the manner specified by KDDIA. The change to the price plan shall take effect upon KDDIA's prior written approval to the Customer. The Customer may only choose one price plan per contract.

11.2) The new price plan shall take effect from the 1st day of the month following the month in which KDDIA gives its written approval to the Customer in accordance with Article 11.1.

11.3) The Customer agrees and acknowledges that the process described in this Article 11 cannot be used to downgrade the price plan.

Article 12 (Prohibited Acts)

The Customer may not engage, either by itself or through a third party, in any of the following acts when using the Service:

- a) acts that violates, assists in violating, or is likely to violate a law or legal order, a court ruling, decision or order, or a binding government

order;

- b) acts that deceives or threatens KDDIA, other customers or third parties;
- c) acts that are opposed to public policy or that are prejudicial to public morals;
- d) acts that infringe the Intellectual Property Rights, privacy or other rights or damage the profits of KDDIA or a third party, or that may do so;
- e) use the Service beyond the scope granted by the Subscription without the prior written consent from KDDIA;
- f) acts that involve the sale or supply of services that are significantly similar or equivalent to the Service (except for as needed for standard use of the Service) without the prior written consent from KDDIA;
- g) modifying the Service or creating works based on the Service without the prior written consent from KDDIA;
- h) allowing re-use of the Service by a third party without the prior written consent from KDDIA;
- i) revealing the Service's benchmark tests or analysis results to a third party;
- j) reverse-engineering the Service, decompiling or disassembling, recreating or transforming the Service, or otherwise attempting to decode the source code;
- k) selling, renting or leasing the Service without the prior written consent of KDDIA ;
- l) applying excessive load to the Service's system;

- m) accessing systems connected to the Service without the right to do so, or illicitly overwriting or deleting data on KDDIA equipment;
- n) impersonating KDDIA, other customers, or third parties;
- o) directly or indirectly inciting any of the above-mentioned acts, or enabling others to do them;
- p) other acts deemed inappropriate by KDDIA; and
- q) using the IDs or passwords of other users of the Service.

Article 13 (Termination by the Customer)

13.1) The Customer may terminate a Subscription by providing KDDIA with at least three (3) months' notice. There will be no refund of paid Usage Fees in the event a Subscription is terminated by the Customer.

13.2) If at the time of the termination by the Customer in accordance with this Article 13, the Customer owes any obligation to KDDIA under the AFS or these Terms of Use, such obligations of the Customer shall be accelerated and become immediately due and payable.

Article 14 (Measures in case of violation of Terms of Use)

14.1) If KDDIA determines that any of the below apply or are thought to possibly apply, KDDIA can, at its own discretion, delete the Customer's Application Information or Transmitted Data, temporarily suspend or apply restrictions the Customer's use of the Service, or terminate the Customer's Subscription (hereafter referred to as "**Usage Halt Measures**").

- a) the Customer violated any Article of these Terms of Use;
- b) Application Information submitted by the Customer to KDDIA is found to have been falsified;

- c) the Customer is late in payment of Usage Fees to KDDIA, and does not correct this within seven (7) days of receiving a bill from KDDIA;
- d) the Customer becomes unable to make payments, or has filed to begin bankruptcy, civil rehabilitation, liquidation or similar proceedings;
- e) the Customer had a very large drop in credit reliability or made businesses changes that adversely affect credit reliability;
- f) the Customer has decided to disband, merge with another company or otherwise go through restructuring;
- g) the Customer has not responded for thirty (30) days or more to an inquiry or message from KDDIA seeking response;
- h) KDDIA judges that Usage Halt Measures on the Customer are necessary for the management of the Service; and
- i) KDDIA has judged that an issue similar to the above-mentioned cases applies.

14.2) The application of Usage Halt Measures does not absolve the Customer from any responsibilities or debts from the Subscription, including but not limited to damage compensation debts that the Customer may owe KDDIA or a third party.

14.3) KDDIA shall not bear any liability for damage incurred by the Customer as a result of actions taken by KDDIA in accordance with this Article 14.

14.4) If any of the conditions of Article 14.1 are judged to apply to the Customer and the Customer owes any amount payable to KDDIA at that time such amount payable by the Customer shall be accelerated and become immediately due and payable.

Article 15 (Changes, Additions, Termination or Halting of the Service)

15.1) KDDIA reserves the right to add to or change all or part of the Services without prior notice to the Customer.

15.2) KDDIA may at its full discretion terminate part or all of the provision or operation of the Services. KDDIA will, prior to its terminating part or all of the provision or operation of the Services, provide prior notice to the Customer in a manner that KDDIA regards as appropriate. However, if the urgency of the situation that arises is such that it would be impractical (as solely determined by KDDIA) to do so, KDDIA may choose not to notify the Customer first.

15.3) Subject to Article 15.4, KDDIA may halt the service for system or server maintenance, such as for software updates or other maintenance. KDDIA will provide prior written notice to the Customer of the time and date of maintenance and other necessary information.

15.4) KDDIA may temporarily halt part or all of the Services without first notifying the Customer on the occurrence of the following events:

- a) if performing regular or emergency maintenance on hardware, software, communications equipment, etc. used for the Services;
- b) if the system is under unexpected burden, such as due to excessive access;
- c) if it has become necessary to ensure the Customer's security;
- d) if the network provider's service is unavailable;
- e) if an Event of Force Majeure prevents provision of the Service;
- f) if operation of the Services has been disabled by a law or legal order or a measure based on a law or legal order; and

g) if, for a reason similar to those listed above, KDDIA judges a temporary halt to be necessary.

15.5) KDDIA accepts no responsibility for damage caused to the Customer by measures conducted based on this Article.

Article 16 (Post-termination)

16.1) In case of a termination based on Article 13.1, or in the case of the expiry of a AFS without renewal, if within thirty (30) days of the end of the AFS the Customer makes a request to KDDIA, KDDIA will endeavor to provide the Transmitted Data saved in the database at the time of the request in CSV format. However, the Customer understands that due to technical or other reasons, the Customer's wishes may not be met, and that KDDIA makes no guarantees about the contents of the Transmitted Data.

16.2) Article 16.1 shall not apply when an AFS has been terminated in accordance with Article 14 or terminated in accordance with Article 15.2.

Article 17 (Ownership of Intellectual Property Rights)

17.1) All Intellectual Property Rights associated with the Service, Contents and other information related to the Service that are supplied by KDDIA shall belong to KDDIA or the party licensing its services to KDDIA.

17.2) The Customer may not, without permission from KDDIA, create derivatives, edit or remake the Service and release it or allow a third party to use it, and may not for any reason perform acts (including but not limited to disassembling, decompiling and reverse-engineering) that infringe or may infringe on the Intellectual Property Rights of KDDIA or those who have agreed to subscriptions with KDDIA.

17.3) KDDIA's Trade Marks shall remain vested with KDDIA. Nothing in these Terms of Use shall be deemed to grant ownership of KDDIA's Trade Marks to the Customer or any third party in relation to the Services supplied under the AFS or these Terms of Use.

17.4) All ownership of Intellectual Property Rights and other rights associated with Transmitted Data which belong to the Customer prior to the AFS shall remain with the Customer or the owner that has authorized the transmission of their data, and usage of the Service or sending of Transmitted Data to KDDIA does not constitute the transfer the Intellectual Property Rights or other rights associated with such Transmitted Data to KDDIA.

Article 18 (Transmitted Data)

18.1) The Customer expresses and guarantees to KDDIA that it has the right and capacity to send the Transmitted Data and that the Transmitted Data does not infringe any rights of any third parties.

18.2) If KDDIA determines that Transmitted Data violates or may violate any applicable laws or these Terms of Use, KDDIA may delete such data or otherwise limit the Customer's use of the Service without prior notice. KDDIA assumes no responsibility for damage caused to the Customer by the application of said limits on the Customer's use of the Service.

Article 19 (Collection and Handling of Data about the Customer)

19.1) For handling of Application Information and other information about the Customer, KDDIA will abide by the separately defined privacy policy(<https://us.kddi.com/privacypolicy/>), and the Customer agrees that KDDIA shall handle such information in accordance with the privacy policy and share it to FLECT CO., LTD. (The service provider of Cariot Service) for providing Cariot service, data aggregation and analysis.

and the Customer agrees that KDDIA shall handle such information in accordance with the privacy policy.

19.2) KDDIA can use or incorporate into the Service all proposals, improvement requests and other feedback supplied by the Customer, and the

Customer agrees to this.

19.3) KDDIA can use the Customer's Application Information, Transmitted Data or other information or data to, under its own discretion, improve the provision, operation or contents of the Service, and to release statistical data in a form that does not identify the Customer, and the Customer agrees to this.

Article 20 (Support)

20.1) KDDIA will offer support for questions from the Customer through email or telephone. KDDIA will endeavor to respond within two (2) business days from receiving an initial inquiry, but the Customer acknowledges that KDDIA may require a period longer than the said two (2) Business days to respond.

20.2) KDDIA does not guarantee that the support provided in accordance with Article 20.1 will provide a solution to the Customer's question in Clause 20.1.

20.3) When providing an updated version of the Service, KDDIA will first notify the Customer through a method such as email, and the Customer will be able to use the updated version in a manner provided by KDDIA separately. KDDIA does not assume any responsibility for any malfunctions in the Service if the Customer does not use the updated version.

20.4) While KDDIA makes backups of data on the Service's servers in case of system-wide damage or other similar events, KDDIA does not have a duty to recover the Customer's data in the event of such system-wide damage or other similar events.

20.5) Other than the support services described in this Article 20, any additional support services which KDDIA provides shall be chargeable based on a separate agreement between KDDIA and the Customer.

Article 21 (Confidentiality)

21.1) The Customer undertakes that it shall not at any time use the Confidential Information for any purpose other than to perform its obligation under these Terms of Use, or disclose to any person Confidential Information disclosed to it by KDDIA.

21.2) Upon KDDIA's request, all documents, records, media storage or copies of Confidential Information previously given by KDDIA to the Customer shall be promptly removed from the possession of the Customer or deleted, destroyed or rendered unusable in accordance with KDDIA's instructions.

Article 22 (Warranties and Indemnities)

22.1) The Customer warrants that it shall use the Services solely for its intended purpose, and for no unlawful purpose.

22.2) The Customer acknowledges that the Services will be provided through Third-Party Services. Rules for the use of the Third Party Services are governed by the SLA and any other rules of the providers of those services.

22.3) KDDIA does not warrant, guarantee or make any representations that:

- a) the Services are error or defect free;
- b) the Services is of a satisfactory quality;
- c) the provision of the Services will by uninterrupted; or
- d) the Services will meet the Customer's requirements or will fit the Customer's purposes, whether or not such requirements or purposes have been informed to KDDIA.

22.4) The Customer acknowledges and agrees that the Services provided by KDDIA to the Customer are provided on an "as is" and "as available" basis, with all faults, and except as otherwise expressly provided to the contrary in these Terms of Use, KDDIA disclaims all warranties of whatever nature,

whether express or implied, including but not limited to warranties on the ownership of Intellectual Property Rights and all warranties of non-infringement, performance, merchantability and fitness for a particular purpose with respect to the Services and/or any services provided pursuant to these Terms of Use.

22.5) The Customer indemnifies KDDIA against all losses, costs, expenses, damages, liabilities and claims (including legal fees) suffered or incurred by KDDIA to the extent arising from the Customer's use of the Services or breach of these terms and conditions except to the extent that such losses, costs, expenses, damages, liabilities and claims are caused by KDDIA's negligence or breach of these Terms of Use.

Article 23 (Exclusion and Limitation of Liability)

23.1) Nothing in these Terms of Use shall limit or exclude the liability of either Party for:

- a) death or personal injury caused by its negligence, or the negligence of its employees, agents or subcontractors (as applicable);
- b) fraud or fraudulent misrepresentation; or
- c) any matter in respect of which it would be unlawful to exclude or restrict liability.

23.2) Subject to Clause 23.1 above, to the fullest extent permitted by law, KDDIA will not be liable to the Customer for any indirect, incidental, special, consequential or exemplary loss or damage whether in any case arising from or related to these Terms of Use, regardless of the type of claim, whether in contract, tort (including negligence), warranty, misrepresentation, whether or not foreseeable, and regardless of the cause of such damages and/or losses even if KDDIA has been advised of (or is otherwise aware of) the possibility of such damages and/or losses in advance, including, without limitation:

- a) any loss of profits, sales, business or revenue;

- b) loss of business opportunity;
- c) loss of anticipated savings;
- d) loss of goodwill;
- e) pure economic loss; and
- f) any indirect or consequential loss.

23.3) Where KDDIA's liability is not expressly excluded or permitted to be excluded or permitted to be excluded under these Terms of Use or under any applicable law, KDDIA's liability for direct damages to the Customer in contract, tort (including negligence) or otherwise whatsoever and whatever the cause thereof, arising by reason of or in connection with the Services KDDIA is providing to the Customer under this Terms of Use, shall for any and all claims (whether during the term of the AFS or after) against KDDIA be limited to a maximum aggregate amount of six (6) months of the Usage Fees.

Article 24 (Term)

24.1) The AFS and these Terms of Use take effect from the day of the AFS in accordance with Article 3.

24.2) If the Customer purchases the Service as an addition to an existing Subscription(s), the aforesaid Services shall expire or terminate on the same expiration or termination date as of the earliest existing Subscription.

Article 25 (Amendments to Terms of Use)

KDDIA may amend these Terms of Use. KDDIA may also amend the Third Party Terms of Use subject to consent from the relevant third party. If KDDIA changes these Terms of Use or the Third Party Terms of Use, KDDIA shall notify the Customer of the changes using the methods described in

Article 26. If the Customer uses the Service after the changes are made or does not take measures to end their contract with a period set by KDDIA, the Customer shall be considered to have agreed to the changes in the Terms of Use and the Third Party Terms of Use.

Article 26 (Communications and Notifications)

26.1) Communications by KDDIA to the Customer about the Service including notifications about changes to these Terms of Use will be done by email, facsimile, registered mail, or other methods as deemed appropriate by KDDIA.

26.2) Communications by the Customer to KDDIA including inquiries about the Service will be done by email, facsimile, registered mail, or other methods as specified by KDDIA.

Article 27 (Transfer of Terms of Use Roles)

27.1) The Customer may not assign the AFS or any interest therein or delegate part or all of their rights or responsibilities in the AFS to a third party in any manner without the prior written agreement of KDDIA.

27.2) The Customer agrees and acknowledges that, if KDDIA transfers its business in relation to the Service to another company, it may transfer its status as a service provider under the Subscription and any part or all interest therein the rights and responsibilities thereunder, and the Customer's Application Information and other related information to such transferee. The transfer of business referred to in this Article includes the cases that KDDIA ceases to exist in its previous form or is restructured due to a merger or dissolution.

Article 28 (Severability)

If any of the provisions of these Terms of Use or any part of any provisions are determined to be invalid or unenforceable, the other articles of these Terms of Use and the remainder of the relevant provision in question shall

remain in full force and effect.

Article 29 (Surviving Articles)

Articles 9.1, 9.2, 9.3, 13 to 19, 21 to 23, and 26 to 30 will survive the termination or expiration of the AFS and this Terms of Use.

Article 29 (No Rights of Third Parties)

Any person who is not a party to these Terms of Use (whether or not such person shall be named, referred to, or otherwise identified, or shall form part of a class of persons so named, referred to, or identified, in these Terms of Use) shall have no right whatsoever under these Terms of Use, nor will they be able to enforce these Terms of Use or any of its terms.

Article 30 (Governing Law and Dispute Resolution)

These Terms of Use shall be construed and be governed by the laws of the State of New York,. If there are any disputes arising out of or in connection with these Terms of Use, the Parties shall discuss the matter sincerely and endeavor to resolve the dispute amicably. Any dispute arising out of or in connection with these Terms of Use which cannot be resolved amicably between the Parties shall be referred to and finally resolved in the United States of America, by binding arbitration administered solely by the American Arbitration Association (“AAA”) in accordance with their then current Commercial Arbitration Rules, which rules are deemed to be incorporated herein by the reference in this clause. The seat of the arbitration shall be New York City, NY. The AAA Tribunal shall consist of one (1) arbitrator. The language of the arbitration shall be English.