



**NATIVE CLEC MESSAGE TRANSMISSION SERVICE P-TO-P
(PERSON-TO-PERSON)**

THIS ANNEX to the terms and conditions of the End User License Agreement and Terms of Service between Codecom, LLC, d/b/a Optivon, a corporation established under the laws of the Commonwealth of Puerto Rico ("OPTIVON"), and the customer ("Customer" or "You") of the OPTIVON services.

1. DEFINITIONS.

"Active Telephone Number" means a Telephone Number from which at least one Message originates within any monthly billing cycle during the Term.

"Affiliate" means an entity that now or in the future, directly or indirectly controls, is controlled by, or is under common control with, a Party to this Agreement. For purposes of the foregoing, "control" shall mean the ownership of (i) greater than fifty percent (50%) of the voting power to elect the directors of the Customer, or (ii) greater than fifty percent (50%) of the ownership interest in the Customer.

"Applicable Law" means any law, regulation, rule, order, or award of any government authority applicable to a Party, its business, or the subject matter of the End User License Agreement and Terms of Service and this ANNEX, including but not limited to the following United States statutes: the Telephone Consumer Protection Act, the Telephone Consumer Fraud & Abuse Prevention Act, the Controlling the Assault of Non-Solicited Pornography and Marketing (CAN-SPAM) Act, and the Children's Online Privacy Protection Act.

"Confidential Information" means any information however disclosed by a Party (a "Disclosing Party") to the other Party (a "Receiving Party") that is (i) when disclosed, or within thirty (30) days of disclosure, designated or described as "Confidential," "Proprietary," or otherwise bears some other designation reasonably indicating confidentiality or (ii) treated as confidential by the Disclosing Party and would be understood by a Receiving Party exercising reasonable business judgment to be confidential whether or not so designated or described. Without limiting the foregoing, but for avoidance of doubt, Confidential Information includes any information however disclosed relating to a Party's (a) network (i) elements, (ii) geography and scope, (iii) configurations, specifications, and protocols, (iv) capability and capacity; (b) services and products, including pricing information; (c) accounting and invoicing methods, procedures, and capabilities; (d) historical, current, and projected (i) traffic volumes, routes, and types, and (ii) connectivity or commercial arrangements with any third parties; and (e) Privacy Restricted Data.

"Customer Gateway" means any technical interface(s) used or operated by Customer, or used or operated by a third party providing a paid or unpaid service for, or acting on behalf of, Customer, to establish Connectivity directly with any OPTIVON Gateway for the purpose of receiving Messages from, or transmitting Messages to, any OPTIVON Gateway.

"Customer Network" means any network and technology used or operated by Customer to provide Customer Services, including without limitation (a) all technology, equipment, and other plant, hardware, and software owned or licensed by Customer that is used to provide Customer Services and any all replacements, updates, enhancements, customizations, revisions, modifications, and future releases relating thereto, (b) Customer Gateway(s), and (c) any and all intellectual property rights of Customer in the foregoing.

"Customer Services" means any services provided by Customer to any third party Person, including without limitation any Subscriber Individual or Subscriber Entity.

"Connectivity" means a transmission connection via a private network connection, including without limitation an SS7 cloud connection, virtual private network ("VPN") over Internet,

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a permanent virtual circuit ("PVC") over frame relay, multi-protocol label switching ("MPLS"), or dedicated lease line at Customer's expense. The application protocol layer may be either Short Message Peer-to-Peer (SMPP) or GSM MAP (e.g., SS7) over the above-mentioned network connectivity.

"Content" means any and all data, text, pictures, video, or any other type or form of information contained in the message body of any Message.

"+1 Zone SMS MO Message" means an SMS MO Message that originates from a Customer Gateway and is destined for a Network Operator Gateway in the +1 Zone.

"+1 Zone SMS MT Message" means an SMS MT Message that originates from a Network Operator Gateway in the +1 Zone and is destined for a Customer Gateway.

"+1 Zone SMS Message" means a +1 Zone SMS MO Message or a +1 Zone SMS MT Message.

"+1 Zone SMS Service" means the transmission by OPTIVON, subject to the terms of the Agreement, of +1 Zone SMS Messages to and from a Customer Gateway, a Network Operator Gateway if OPTIVON has direct Connectivity thereto, or a Peering Intermediary Gateway if OPTIVON does not have direct Connectivity to the applicable Network Operator, as the case may be.

"End User" means a Subscriber Individual with one or more physical devices, including an IP-Connected Device, enabled to receive and/or send Messages.

"Inappropriate Content" means any Content and/or Message that (i) violates Applicable Law, (ii) is unsolicited, including without limitation, bulk Messages, spam or other unsolicited commercial or other advertising material; (iii) causes the introduction of "viruses," "worms," "Trojan horses," "bombs," "cancel boots" or other similar destructive computer programming routines into the OPTIVON Network or the networks of any Network Operator or Peering Intermediary, or the physical devices of any Network Operator's Subscribers; (iv) violates the CTIA Inter-Carrier Messaging: Feature-Set & Interfaces, Version 3.1 and as subsequently modified by the CTIA, defining the use of SMS with Telephone Numbers, including guidelines for P2P (Person to Person) and Group Messaging, or violates any Network Operator requirements, conditions, or codes of practice; (v) constitutes "hate speech" directed at any Person based upon the race, sex, creed, national origin, religious affiliation, sexual orientation or language of such Person, (vi) is obscene, offensive, threatening, defamatory, discriminatory, or intentionally misleading or inaccurate for commercial gain; or (vii) infringes or misappropriates the intellectual property of any Person.

"IP-Connected Device" means a physical device that connects to the Internet and can send Content to, and receive Content from, the Internet

"Message" or "Messages" means any SMS Message and/or MMS Message, as the applicable case may be.

"MO Message" means any Message that originates from a Customer Gateway and is successfully transmitted from a Customer Gateway to a OPTIVON Gateway.

"MT Message" means any Message that originates from a Network Operator Gateway, is received by a OPTIVON Gateway from such Network Operator Gateway or a Peering Intermediary Gateway, as the case may be, and is transmitted from a OPTIVON Gateway to a Customer Gateway.

"Network Operator" means any third party operator or user of a communications network or any Non-CMRS Provider, but not a Peering Intermediary, to and from which OPTIVON can at a point in time during the Term directly, or indirectly via a Peering Intermediary, transmit and receive an SMS Message.

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"Network Operator Gateway" means the technical interface used or operated by a Network Operator to establish Connectivity directly with a OPTIVON Gateway, or with a Peering Intermediary, for the purpose of receiving Messages from, or transmitting Messages to, a OPTIVON Gateway.

"Non +1 Zone" means countries and territories that are not within the +1 Zone.

"Non-CMRS Provider" means, with respect to short message service peer-to-peer messages, a network agnostic provider of telecommunications and/or information services whose end user customers, or customer's end users, use physical devices that have been lawfully assigned a Telephone Number and that are technically enabled, including without limitation by an application resident on such device and/or available via the Internet, to send and receive short message service messages from and to other individual end users of short message services in all events based on such Telephone Number and in no event using short codes or other non-E.164 telephone numbers for such purpose."

"Peering Intermediary" means any third party Person, but not a Network Operator, with which OPTIVON might have from time to time an agreement pursuant to which such third party Person (a) receives from OPTIVON SMS Messages or MMS Messages originating from a Customer Gateway and designated for delivery to a Network Operator with which OPTIVON does not have direct Connectivity but with which such third party Person does have direct Connectivity (a "Peering Destination Operator") and (b) transmits to a OPTIVON Gateway SMS Messages or MMS Messages originating from a Peering Destination Operator that are designated for delivery to a Network Operator with which OPTIVON does have direct Connectivity.

"Peering Intermediary Gateway" means the technical interface used or operated by a Peering Intermediary to establish Connectivity, directly or indirectly, with a OPTIVON Gateway for the purpose of receiving Messages from, or transmitting Messages to, a OPTIVON Gateway.

"Person" means any individual, Customer, corporation, firm, partnership, joint venture, association, organization, or trust, or other legally cognizable entity or group.

"Privacy Restricted Data" means any personally identifying data OPTIVON receives or derives from any source pursuant to this Agreement that concerns prospective, former, and existing Subscribers and End Users if and as retained by OPTIVON, as the case may be, except for Telephone Numbers and transmission-related data and time-related data included with any Message in connection with OPTIVON's provision of an SMS Service or MMS Service.

"Secondary Subscriber Entity" means any third party Person that is a customer of a Subscriber Entity but not an individual.

"Service Order" means a duly and fully executed service order for any Service that Customer and OPTIVON execute subsequent to the Effective Date.

"Service" or "Services" means any service or services expressly provided to Customer by OPTIVON pursuant to this Agreement and to any Service Order, including without limitation SMS Service and/or MMS Service.

"SMS Message" means a short message service text message consisting of text as per the Global System for Mobile communications alphabet

"SMS MO Message" means an SMS Message that is an MO Message.

"SMS MT Message" means an SMS Message that is an MT Message.

"SMS Service Availability Date" means the first calendar date on which Customer uses any SMS Service commercially, regardless of the volume of any such usage but excluding demonstrable test messaging up to 500 test SMS MO Messages, or sixty (60) calendar days after the Effective Date, whichever is earlier.

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"SMS Services" means the +1 Zone SMS Services and/or International SMS Services as the applicable case may be and as designated in Schedule A or in any Service Order.

"Subscriber Individual" means any third party individual receiving Customer Services.

"Subscriber Entity" means any third party Person, other than an individual, directly receiving Customer Services.

"Subscriber" means any Subscriber Individual or Subscriber Entity.

"OPTIVON Gateway" means any OPTIVON SMS Gateway operated by OPTIVON or an SMS Gateway operated by an OPTIVON contractor from which Optivon resells the Services.

"OPTIVON Network" means the network owned or operated by OPTIVON and its Affiliates to provide any Services, including without limitation (a) all technology, equipment, and other plant, hardware, and software owned or licensed by OPTIVON and its Affiliates that is used to provide any Services and any all replacements, updates, enhancements, customizations, revisions, modifications, and future releases relating thereto, (b) all OPTIVON Gateway(s), and (c) any and all intellectual property rights of OPTIVON and its Affiliates in the foregoing.

"OPTIVON SMS Gateway" means any technical interface used or operated by OPTIVON or its Affiliates to establish Connectivity directly with a Customer Gateway, any Network Operator Gateway, or any Peering Intermediary Gateway for the purpose of receiving SMS Messages from, or transmitting SMS Messages to, a Customer Gateway, a Network Operator Gateway, or a Peering Intermediary Gateway.

"OPTIVON Span of Control" means the OPTIVON Network

"Term" shall mean the Initial Term and all Renewal Terms as defined in Section 10.1 hereof.

"Telephone Number" means a lawfully assigned and unique ITU-T Recommendation E.164 telephone number and in no event any Short Code or other non-E.164 telephone number.

"Territory" means the +1 Zone and/or the Non +1 Zone, subject to any more specific geographical restriction and coverage for a particular Service that may be set forth in any definitions herein pertaining to a particular Service or as set forth Schedule A or in any Service Order.

"Third Party Charges" means any fees or charges that a Network Operator, a Peering Intermediary, or any government authority imposes, or seeks to impose, on OPTIVON in connection with any Services, including without limitation Termination Fees and Transit Fees.

"Termination Fees" means any fees imposed by a Network Operator on OPTIVON for the termination by such Network Operator of any MO Message.

"Transit Fees" means any fees imposed by a Peering Intermediary for the transmission by such Peering Intermediary of any MO Message.

"+1 Zone" means the United States and all other countries or territories within the North American Numbering Plan, excluding the Dominican Republic.

2. OPTIVON SERVICES AND RELATED OBLIGATIONS

2.1 SMS Services. Subject to the terms of this Agreement, OPTIVON will provide to Customer on a non-exclusive basis the SMS Services, if any, selected by Customer as designated in Schedule A and in any Service Order. Subject to the terms of this Agreement, OPTIVON shall (a) transmit SMS MO Messages successfully received at a

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OPTIVON SMS Gateway from a Customer Gateway to (i) any Network Operator Gateway with which OPTIVON has at such time direct Connectivity and that are properly designated for such Network Operator or (ii) the appropriate Peering Intermediary if at such time OPTIVON does not have direct Connectivity with the designated destination Network Operator and has direct Connectivity with such Peering Intermediary and (b) transmit to a Customer Gateway SMS MT Messages OPTIVON successfully receives from a Network Operator Gateway or from a Peering Intermediary Gateway at a OPTIVON SMS Gateway and that are properly designated for Customer. OPTIVON' s obligations hereunder do not exceed the OPTIVON Span of Control and OPTIVON shall have no obligation to transmit any SMS Message to, or receive and transmit any SMS Message from, any Network Operator or Peering Intermediary (i) located outside of the Territory for the applicable SMS Service or (ii) with which OPTIVON does not have direct Connectivity at the time of desired transmission of such SMS Message during the Term. OPTIVON is not responsible, and shall have no liability hereunder, for any failed or delayed delivery of any SMS MO Messages or SMS MT Messages at any time to any Customer Gateway, to any Network Operator Gateway, or to any Peering Intermediary Gateway due to the functionality of any Customer Gateway, Network Operator Gateway, or Peering Intermediary Gateway or due to Customer, any Network Operator or any Peering Intermediary not accepting, not transmitting, or not delivering SMS MO Messages or SMS MT Messages for any reason.

2.2 Responsibility for OPTIVON Network and Connectivity. OPTIVON , at its expense, will be solely responsible for all aspects of the design, operation, and maintenance of the OPTIVON Network and its Connectivity to any Customer Gateway, any Network Operator Gateway, and any Peering Intermediary Gateway in the Territory with which OPTIVON has Connectivity at any time during the Term, provided that with respect to any dedicated Connectivity requested by Customer, it shall be within OPTIVON's sole, but reasonable, discretion whether to provide such Connectivity and in such event shall be at Customer's sole expense.

2.3 Technical Formatting. OPTIVON shall use commercially reasonable efforts to maintain the original Content of Messages that it receives from any Customer Gateway, Network Operator Gateway, or Peering Intermediary Gateway, provided that if OPTIVON deems it necessary to maintain consistency with the technical limitations of any Network Operator, Peering Intermediary, or Customer, OPTIVON may alter the technical characteristics of any original Content or a Message to the extent OPTIVON deems it necessary to be technically compatible with that Network Operator, Peering Intermediary, or Customer.

3. GENERAL CUSTOMER OBLIGATIONS

Customer, at its expense, will be solely responsible for all aspects of the design, operation, and maintenance of the Customer Network and any Customer Gateway. Customer shall terminate MT Messages delivered to Customer's Gateway by OPTIVON.

4. CONTENT RESPONSIBILITIES

4.1 Content Control. Customer agrees and acknowledge that OPTIVON exercises no control whatsoever over any Content and is a passive conduit in providing any SMS Service. As between Customer and OPTIVON, Customer is responsible for (i) the Content of any Message delivered by it, or by any third party on its behalf, to a OPTIVON Gateway for further transmission to a Network Operator and (ii) the acts or omissions of Customer, any Customer Affiliate, and any Subscriber with respect to any Content of any Message.

4.2 Blocking/Suspending Inappropriate Content. Customer shall not use the Services, or permit any Services to be used directly or indirectly, to transmit Inappropriate Content, sending threats, unwanted messages, and "SMS-bombing" – sending many messages to a single number without the recipient's permission. OPTIVON shall have the right not to accept, transmit or deliver any Message that OPTIVON reasonably believes, exercising reasonable discretion based on industry

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experience, contains Inappropriate Content or that is, or could reasonably become, the subject of any legal, regulatory, or other governmental proceeding or process, including without limitation any law enforcement, proceeding, process, or inquiry.

4.3 **SPAM.** You should only send SMS messages to recipients who have opted in to your service and are expecting communication from you. Optivon actively monitors for this kind of activity and we may block the phone number or suspend your account if we receive complaints from your subscribers or any other Optivon Customer.

4.4 **Mass Marketing.** Mobile carriers do not allow marketing SMS messages, whether solicited or not, to be sent on long codes (10-digit numbers). Marketing messages may only be sent using shortcodes (special 5 or 6-digit numbers). If you're interested in a dedicated US short code please contact our sales team. Mass marketing restrictions vary from country to country. Optivon does not support mass marketing on US or international phone numbers.

4.5 **Emergencies.** Inbound and outbound communications between emergency service providers and end users are explicitly not permitted on Optivon numbers. SMS notifications can be used to provide information during an emergency, but should not be used as a replacement for or a means to contacting actual emergency services. If you have an emergency, call 911. It is acceptable to use Optivon to send notifications that do not directly impact life safety. For example, early warning alerts, safety advisories, event cancellations, crime tips, etc. are allowed. We recommend building in redundancy for important applications and using Optivon's notifications in conjunction with other public warning systems like sirens, radio and TV broadcasts if applicable.

4.6 **Fraud and abuse.** Optivon takes fraud and abuse very seriously. Report it at fraud@optivon.net. Sending messages with fraudulent information or phishing to request confidential information from subscribers is not allowed. It's also never a good idea to provide financial information or any other sensitive personal information to your customers over SMS.

4.7 **Spoofing.** Spoofing the SenderID or otherwise attempting to mislead message recipients as to who is sending the SMS message is not allowed. It's good business sense to identify your brand or name in each message you send. But it's not ok to identify yourself as another individual or business.

5. FEES AND PAYMENTS

5.1 **Pricing and Third-Party Charges.** Unless otherwise set forth in the Service Order, Customer's payment obligations to OPTIVON hereunder shall begin to accrue on the applicable SMS Service Availability Date, and with respect to any other Services as agreed herein or in any Service Order. Customer shall pay to OPTIVON such amounts as required by the terms in the Service Order and This Agreement with respect to any SMS Services, or any other Services, and any Third-Party Charges incurred and invoiced by OPTIVON in connection with any Services provided by OPTIVON hereunder.

5.2 **Invoicing and Payment.** OPTIVON will provide Customer a monthly invoice setting forth the amount due from Customer for the applicable month during which Services were provided. Each invoice will set forth (a) the total amount due, (b) each of the Services and the amount due per Service and (c) any Third-Party Charges during the applicable month. Invoices may also set forth such other billing information as OPTIVON determines or as the Parties may mutually agree is appropriate. All payments for undisputed charges are due and payable by Customer to OPTIVON in immediately available funds in United States dollars within thirty (30) calendar days from the date of the invoice.

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5.3 **Reporting and Buffering.** OPTIVON shall make available daily billing details for each SMS Message, as the case may be, in Customer's message detail record ("MDR") format. An MDR will contain fields defined by OPTIVON, and within OPTIVON discretion might include originating and destination number or code by which an End User is identified, the originating Network Operator, destination Network Operator, timestamp, description field, and message length. The MDR data may be retrieved by Customer via FTP (file transfer protocol) or portal consistent with protocols employed by OPTIVON.

6. SHORT MESSAGE SERVICES MESSAGE SPECIFICATIONS

OPTIVON will provide SMS Services to Customer as defined in this Annex and in accordance with this Annex OPTIVON reserves the right to provide the SMS Services using such technology as it deems desirable at the time. As used herein, "Message" means an SMS Message, unless otherwise indicated.

- 6.1. **Messages.** From the Customer Network, the Message must contain the originating address, destination address (i.e., 10-digit or 11-digit U.S. or international '-FCC' E.164 format with up to 20 digits, and the text, or body, of the Message before OPTIVON can provide the SMS Service. The End User must not enter the recipient's destination address in the body of the Message or enter a wireless email address for successful Message delivery. Based on this information, OPTIVON will route the Message to the destination Network Operator Gateway in the Territory provided that at that time OPTIVON has Connectivity with such Network Operator. If a Network Operator is unreachable at the time delivery is attempted, the Message will be stored and queued for future delivery. Further delivery attempts will be performed based on a configurable time schedule with a specified reasonable number of attempts as determined in OPTIVON's reasonably exercised discretion. OPTIVON will send Messages to Network Operator Gateway based only on the Network Operators' subscribers' destination address (i.e. 10-digit or 11-digit U.S. or international '+CC' E.164 format with up to 20 digits) and not based on wireless email. OPTIVON will route all Messages based on the destination address (i.e. 10-digit or 11-digit U.S. or international '+CC' E.164 format with up to 20 digits), thereby assigning the Message to the Network Operator.
- 6.2. **Mobile-Terminated Messages.** Messages addressed to End Users that are routed through OPTIVON from Network Operators will be delivered to the Customer Gateway based on the link(s) described above. A Message must contain (in addition to other parameters) the originating address, a destination address, and Message body in order for OPTIVON to deliver a Message to the Customer Gateway. OPTIVON will support inter-Network Operator SMS messaging to Customer from any mobile or fixed network
- 6.3. **Responding to Messages.** The receiving party will be able to respond via a reply Message without typing a destination address or address information in the Message (i.e. no special characters, such as the email sign @, are required). When a direct connection exists between OPTIVON and a Network Operator offering inter-Network Operator SMS, the receiving party can respond by selecting "Reply" and need not input a telephone number, if supported by the End User's handset and the Network Operator's Network.

7. DATA PROTECTION FOR COMPLETE MESSAGES

OPTIVON will use commercially reasonable efforts to minimize the risk that data from the bodies of Messages are lost as a result of Messages using different formats or protocols being transformed back and forth. OPTIVON supports all network technologies as well as standardized interfaces that would enable networks to originate and terminate Messages. All Messages are subject to Network Operator policies and conditions, including without limitation regarding maximum Message length. OPTIVON reserves the right to segment, truncate, or otherwise reduce the length of any Message or to refuse to transmit and/or deliver a Message that does not comply with a Network Operator's policies or conditions.

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8. BILLING

OPTIVON may make available daily billing details for each Message in Customer's MDR (Message Detail Records) format. These MDRs will contain fields defined by OPTIVON that may include the originating and destination addresses, originating Network Operator name, destination Network Operator name, timestamp, description field, and Message length. The billing data files will be retrieved by Customer via FTP (file transfer protocol) or portal.

9. TELEPHONE NUMBER REQUIREMENT.

All physical devices used by any Subscriber to originate any SMS Message that is delivered by Customer to OPTIVON for transmission must be assigned a lawful OPTIVON CLEC Telephone Number and Customer shall only use the SMS Service, and permit such Service to be used, based on such Telephone Numbers. OPTIVON shall automatically assume, and rely on the foregoing obligation of Customer, that Telephone Numbers provided by the Customer to OPTIVON have been lawfully obtained. In case of a conflict with a Network Operator with respect to Telephone Numbers and the ability of the Customer to provide the Service to them, OPTIVON shall reasonably attempt in good faith to resolve any such conflict on behalf of Customer, but Customer is wholly responsible in all events for any such resolution or other consequences of such Telephone Numbers.

10. MONTHLY ZONE 1 SMS MO FEES FOR ZONE 1 SMS MO MESSAGES (PER MO MESSAGE PRICING).

Fees for each calendar month during the Term for Zone 1 SMS MO Messages shall be an amount equal to the product of the applicable rate per Zone 1 SMS MO Message as set forth in the Zone 1 SMS MO Message Fee Table attached to the Service Order multiplied by the total volume of Zone 1 SMS MO Messages in such month. As used herein, "Zone 1 SMS MO Message" means any +1 Zone SMS MO Message and any International SMS MO Message that is destined for a Network Operator Gateway in any country or territory listed under the heading "Zone 1" in the Zone-Based Rate Table (defined below). The pricing for other zones/countries is available upon request.

ZONE 1 COUNTRIES COVERAGE

+1 Zone Countries (excluding Dominican Republic)
Anguilla
Antigua
Aruba
Argentina
Bahamas
Barbados
Belize
Bolivia
Brazil
British Virgin Islands
Cayman Islands
Chile
Colombia
Costa Rica
Dominica
Ecuador
El Salvador
Grenada
Guatemala

Guyana
Honduras
Jamaica
México
Montserrat
Netherlands Antilles
Nicaragua
Panamá
Paraguay
Perú
Puerto Rico
St. Kitts & Nevis
St. Lucia
Surinam
Trinidad & Tobago
Turks & Caicos
Uruguay
Venezuela