

EMBARQ MANAGED IP TELEPHONY SERVICES ANNEX

The following terms and conditions, together with the applicable EMBARQ cover agreement and EMBARQ Standard Terms and Conditions for Communications Services (collectively, the "Agreement") govern EMBARQ's provision of EMBARQ Managed IP Telephony Services ("Services") to Customer as specified in the purchase order, service order, Scope of Work or other EMBARQ ordering document, as applicable, ("Order"). Services include the services described in this annex, but do not include any transport services that will be used with the Services. When attached to the applicable cover agreement, this annex supersedes the version posted at www.embarq.com/ratesandconditions/.

1. **TERM.** The initial Order term for Services ("Initial Order Term") will be stated on the Order. The minimum Initial Order Term is 1 year. AFTER THE INITIAL ORDER TERM EXPIRES, IT WILL AUTOMATICALLY EXTEND FOR SUCCESSIVE 1-YEAR PERIODS, UNLESS 60 DAYS BEFORE THE END OF THE INITIAL ORDER TERM OR EACH EXTENSION: (A) CUSTOMER OR EMBARQ PROVIDES WRITTEN NOTICE TO THE OTHER PARTY CANCELING THE EXTENSION; OR (B) CUSTOMER SIGNS A NEW ORDER FOR SERVICES THAT HAS A TERM OF AT LEAST 1 YEAR.
2. **MANAGED IP TELEPHONY SERVICES OFFERINGS.** Customer may select the Monitoring Services Package or the Comprehensive Managed Services Package described below.
3. **MONITORING SERVICES PACKAGE.** EMBARQ will provide the following for EMBARQ-approved Internet Protocol Telephony ("IPT") devices and associated software, typically located on customer premises.
 - 3.1 **Monitoring and Fault Management.**
 - A. **IP Telephony Equipment (Router, Switch, gateway, server and Hub).** EMBARQ will monitor the overall integrity of Customer's telephony network by collecting status information to verify that devices are communicating properly within the network on a 24 hours per day, 7 days per week ("24x7") basis.
 - B. **Links.** EMBARQ will monitor the link between end-station devices associated with IP Telephony (router, switch, etc.) on a 24x7 basis.
 - 3.2 **Notification.** If a failure occurs, EMBARQ will use commercially reasonable efforts to notify Customer within 30 minutes of the event and initiate corrective maintenance processes.
 - 3.3 **Customer Contact.** EMBARQ will establish Customer contact procedures during the implementation of the Services. EMBARQ will include the procedures in EMBARQ's individual site records for managed devices.
4. **COMPREHENSIVE MANAGED SERVICES PACKAGE.** The Comprehensive Managed Services Package provides complete trouble management, fault detection and resolution for all covered, EMBARQ-approved IPT devices and associated software, typically located on Customer premises. EMBARQ will maintain sole device access and device configuration responsibility. Customer must separately purchase EMBARQ maintenance services for Managed IP Telephony devices. The Comprehensive Managed Services Package includes the following:
 - 4.1 **Engineering Support.** EMBARQ will assign an engineer to the account to serve as the primary contact for technical issues related to the Services (excluding alarms and normal service activation). The engineer will perform quarterly network reviews to ensure equipment is functioning properly. The engineer will also make quarterly recommendations to Customer related to hardware and software updates and the overall health of the network. Customer may engage the engineer for Tier III technical escalations or general consulting assistance. The engineer will participate in quarterly service performance meetings with Customer.
 - 4.2 **Single Point of Contact.** The EMBARQ Advanced Technical Assistance Center ("ATAC") will serve as the single point of contact for alarms and normal service activation activities and for troubles associated with the Services on a 24x7 basis. Customer may contact ATAC at 1-800-342-1600 as the primary service contact.

- 4.3 Trouble Ticket Handling.** EMBARQ will provide a trouble ticket number from EMBARQ's ticketing system to the Customer help desk that reports the trouble. For each trouble report, EMBARQ will maintain information about the trouble, the steps taken to resolve the trouble, and the final disposition of the trouble report. EMBARQ will not close a trouble ticket until the problem has been corrected.
- 4.4 Network Support.** EMBARQ will provide telephone support for network outages on the EMBARQ network through EMBARQ's service center 24x7.
- 4.5 Remote Diagnostics.** EMBARQ will provide remote diagnostics 24x7. An analyst from EMBARQ's service center can remotely access Customer's network to help diagnose and correct problems. The technician will then be able to check the device and its ports for trouble. Customer must provide in-band or out-of-band access to covered devices as specified in Section 6.1 below.
- 4.6 Engineering Changes.**
- A. The Service is a trouble management service.
 - B. EMBARQ will manage security fixes and patches that directly impact the operation of Customer's equipment if:
 - (1) Security fixes and patches are provided to EMBARQ at no charge from the manufacturer on a quarterly basis, and
 - (2) Remote access is available.
 - C. Any engineering changes not related to trouble are Billable Services. Topology changes and version upgrades, OS upgrades, and service releases are Billable Services.
- 4.7 Third Party Transport Coordination.**
- A. EMBARQ's service center provides a single point of contact for troubles associated with the Services, 24x7. EMBARQ will prepare a "Customer Interface Document" document before Service implementation to document the mutual understandings between EMBARQ and Customer's designated access and WAN service provider(s).
 - B. Customer must provide EMBARQ a Customer-signed Letter of Agency which entitles EMBARQ to report circuit problems and request escalation on Customer's behalf. In this capacity, EMBARQ's only obligation will be to report problems to Customer's service provider, when applicable, obtain updates, and escalate trouble reports via published escalation processes. Matters related to billing, payment for services, or other non-operational matters will be referred to Customer for resolution.
- 4.8 Reporting.** EMBARQ will provide Customer a login for the management web portal for real-time and historical reporting. The report will include alarm event details.
- 4.9 Backup Support.**
- A. EMBARQ dedicated Engineer(s) will verify monthly that Customer has backed up data on Customer's server(s). Servers should be backed up on a Customer-provided network share drive/ tape back-up. ATAC will ensure that the back-ups are occurring via reports produced showing monthly server backup activity.
 - B. Customer will:
 - (1) Provide back-up tape and media or a network share location as applicable;
 - (2) Have a direct arrangement in place with an off-site storage vendor;
 - (3) Be directly responsible for payment of fees due to the off-site storage vendor; and
 - (4) Provide for 24x7 access to the offsite backups, when needed.

4.10 Administrative Responsibilities. The Services include trouble management, fault isolation and vendor coordination. Customer-requested, non trouble-related activities are Billable Services as specified in Section 5.

5. BILLABLE SERVICES.

5.1 The following Billable Services may be performed by EMBARQ for an additional charge upon Customer's request:

- A.** Moves, adds, and changes, including the addition of equipment or options, the relocation of components or systems, and changes to system software or hardware configurations.
- B.** Network Change Requests (NCRs)
- C.** Software updates to address security vulnerabilities or feature defects.
- D.** Configuration changes requested after Managed IP Telephony implementation is completed.
- E.** Performing other services except as provided in the Agreement.

5.2 The following rate elements may apply to Billable Services:

- A.** Billable Services will be billed at EMBARQ's then-current labor rates;
- B. Overtime Rate.** Calls performed outside of business hours will be billed at EMBARQ's then-current overtime labor rates;
- C. Service Charge.** A service charge to cover EMBARQ's travel time will be applied to each Billable Service call. The charge will be at EMBARQ's then-current service charge rates;
- D. Expedite Fees.** An expedite fee will be applied whenever Customer requests that EMBARQ expedite Billable Services beyond normal response times. The charge will be at the then-current expedite fee rates;
- E.** Billable Services are billed in 15 minute increments, with a minimum of one hour billed for work performed during business hours. Work performed outside of business hours is billed at overtime rates with a minimum of two hours.

6. CUSTOMER RESPONSIBILITIES.

6.1 IP Telephony. (Alone or in combination with EMBARQ Managed Network Services for data Customer Premises Equipment ("CPE")). Customer will provide at its expense in-band or out-of-band access to EMBARQ's Network Operations Center. EMBARQ will provide the remote monitoring unit for the monitoring.

6.2. As a condition precedent to EMBARQ's performance of the Services as outlined in this Annex, Customer will undertake the following, at Customer's expense:

- A. Single Point of Contact.** Customer will provide a single point of contact (SPOC) to be the primary liaison with EMBARQ. The SPOC will be responsible for coordinating and directing Customer's performance under this Annex. The SPOC should have the authority to resolve issues and to provide timely decisions and direction to EMBARQ.
- B. System Modifications.** Customer will be responsible for modification to any of Customer's internal systems, as required, to provide EMBARQ with the use of interfaces necessary for EMBARQ to perform its Services obligations.

6.3 Customer must provide SSL access (TCP port 443) and one (1) public IP address for primary connectivity to the sites, as well as Nortel or Cisco VPN Client connectivity for redundant backup.

7. MONITORING EQUIPMENT.

7.1 Purpose. Customer acknowledges that EMBARQ, at its sole discretion, may install a data collection device at Customer's location to be used only to support remote diagnostic services and

delivery of the Services. This monitoring equipment may be either EMBARQ or Customer property depending on the nature of the Equipment.

7.2 EMBARQ-Owned. This monitoring equipment will remain the property of EMBARQ. At the expiration or termination of this Agreement, EMBARQ will be entitled to enter Customer's premises to remove all EMBARQ monitoring equipment.

7.3 Customer-Owned. EMBARQ provides the monitoring equipment to Customer under the *EMBARQ Standard Terms and Conditions* and the *Equipment Sales Product Annex*. EMBARQ will maintain the monitoring equipment at no additional cost to Customer during the Term. EMBARQ will include the specified charges for monitoring equipment as a line item on Customer's first invoice for Service.

8. SUBCONTRACTING. EMBARQ may, at its option, subcontract Services provided to Customer. Such subcontract will not release EMBARQ from any of its obligations. Non-union employees may be utilized by EMBARQ, subject to applicable bargaining agreements.

9. DISASTER RECOVERY.

9.1 Customer recognizes that the use of computer products entails a substantial risk of loss of magnetically or electronically stored data, and that industry standards dictate the systematic use of products that provide comprehensive backup of data so as to prevent such loss. Accordingly, EMBARQ does not assume any risk of loss of Customer's magnetically or electronically stored data in any way related to or resulting from the Services, products, Equipment, or systems provided by EMBARQ or any handling of magnetically or electronically stored data by EMBARQ. Customer hereby releases EMBARQ from any liability for loss of magnetically or electronically stored data from any and all causes.

9.2 Customer recognizes that industry standards dictate the development of a disaster recovery plan for all mission critical business operations. In the telecommunications industry this includes, but is not limited to, data backup, power backup, power/surge protection, spare system parts, system redundancy, site redundancy, escalation procedures, emergency support agreements with hardware and software vendors, public network based call forwarding to alternate locations, and documented recovery policies and procedures. Customer understands that developing and testing a disaster recovery plan is Customer's responsibility and is not included in this Agreement.

10. LIMITED WARRANTY.

10.1 EMBARQ warrants to Customer that any and all Services provided by EMBARQ under this Agreement will be performed in a good workmanlike manner, and in accordance with recognized industry standards.

10.2 If EMBARQ breaches this warranty and Customer notifies EMBARQ in writing of the breach, EMBARQ's sole obligation and Customer's exclusive remedy will be for EMBARQ to correct the portion of the work that does not conform to the warranty. If EMBARQ is unable to correct the Services, EMBARQ will refund the compensation received by EMBARQ for the non-conforming Services.

10.3 The warranty in Section 10.1 above does not apply if:

- A.** Customer breaches the terms of this Agreement,
- B.** the non-conformity was caused by Customer's (including Customer's employees, agents or contractors) abuse, misuse, damage, improper operation or use of the Equipment, such as abuse, misuse, damage, misappropriation or use in a manner other than intended, or
- C.** the damage is created by any cause not attributable to EMBARQ including without limitation, power irregularities, fire, earthquakes or acts of God or nature. EMBARQ makes no warranty for any Equipment or software that is provided by third parties.

11. TERMINATION.

11.1 In addition to other rights of the parties to terminate under this Agreement, EMBARQ may terminate this Agreement "for cause" if Customer fails to cure such "cause" within 30 days after receipt of written notice detailing the failure. For purposes of this Annex, the term "for cause" includes, but, is not limited to:

- A.** Customer's improper wiring, failure to maintain proper environmental conditions for the Equipment, and any removal, relocation, repair, additions to, or maintenance of the Equipment by persons other than EMBARQ authorized personnel. But, upon Customer's prior written request, EMBARQ, in its sole discretion, may permit Customer or Customer's designated agent to conduct the activities described in this subsection by providing Customer with written approval.
- B.** If, in EMBARQ's reasonable determination, Customer is misusing or abusing Services for purposes other than those intended or is using Services for an unlawful or unsafe purpose.

11.2 EMBARQ may terminate this Agreement with 30 days notice if EMBARQ cannot obtain maintenance support from the Equipment manufacturer.