

CellTrust SERVICE AGREEMENT for Intradyn Customers

Version 25.7.8

20701 N. Scottsdale Road, Suite 107-451

Scottsdale, AZ 85255

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www.celltrust.com

THIS CellTrust SERVICE AGREEMENT (the "Agreement") is made as of the earlier that you either (i) execute a document accepting these terms or (ii) the day you first use any of the CellTrust SL2 Products or Services ("Effective Date") and is made by and between CellTrust Corporation, a Delaware corporation having its principal place of business at 20701 N. Scottsdale Road, Suite #107-451, Scottsdale, Arizona 85255-6499 ("CellTrust"), and the individual or entity installing or using the Products or Services with the License granted by this Agreement under the terms and conditions of this Agreement ("You"/"Customer"). You accept and understand that this Agreement is intended only for SL2 Customers who are making their purchase through Intradyn; however, the terms of this Agreement are exclusively between You and CellTrust. To use SL2, You must accept these Terms and Your authorized end users must download the SL2 app and accept the EULA applicable to their use. The CellTrust service level agreement, provided to Customer through Intradyn, applies to the CellTrust Products and Services; provided that, You must request credits directly from Intradyn for any unavailability of SL2.

In consideration of the covenants and agreements contained herein, and any additional agreements incorporated herein by reference including, but not limited to, where applicable, any App End User License Agreement ("App EULA"), Server End User License Agreement ("Server EULA"), or any carrier-required terms and conditions for access to archived messages or otherwise, CellTrust and the Customer hereby agree as set forth below. For express clarification, in the event of a conflict between terms that cannot be reasonably resolved by giving full meaning to the terms of each, the terms and conditions of this Agreement shall supersede any language to the contrary in any App or Server EULA, unless otherwise expressly stated herein.

1. DEFINITIONS

If Customer is utilizing the SL2 app offering, the Definitions contained in Section 1 of the App EULA shall be incorporated herein except as otherwise expressly set forth in this Agreement. If Customer is utilizing a carrier archiving solution offered through CellTrust that requires carrier-specific terms and conditions, the definitions set forth therein shall be incorporated herein except as otherwise expressly set forth in this Agreement.

"App" means the CellTrust mobile software app (in Machine Code form only), including any modifications, corrections, improvements, enhancements, and releases to which Customer, or Customer's User, is entitled as part of the License, as expressly set forth in this Agreement and the App EULA, and pursuant to the terms and conditions set forth therein.

"Addendum" has the meaning as set forth in Section 2.2 below.

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"Carrier(s)" means mobile networks.

"User" means any person connecting to Customer's CellTrust SL2 server.

"Interface" means any software, firmware or hardware created by Customer or by a third party for Customer or that Customer has elected to use, which does not modify the Software, and which is not part of, based upon, or a derivative work of the Software, but which provides an interface to the Software.

"Machine Code" means code resulting from the translation or processing of source code by a computer into a form that would not be convenient for human understanding of the program logic, but which is appropriate for execution or interpretation by a Device.

"Message(s)" shall mean the data transmitted between two or more Devices or between the Server Software and a Device whether voice, text, or other.

"Mobile Business Number™" or "MBN™" means the phone number assigned through registration to the App associated with a particular User. Any MBN assigned by CellTrust or its provider may only be ported or transferred with approval from the carrier, provider, and CellTrust, and only if Customer has had an account in good standing with CellTrust for at least one year and has fully paid the applicable porting fees and properly completed the port out process.

"Products" and/or "Services" has the meaning as set forth in the applicable EULA. "Purchased Products or Services" means exclusively those CellTrust products and/or services specifically identified in an Addendum to this Agreement as described in Section 2.2, which may be amended from time to time upon acceptance by both Customer and CellTrust or as otherwise provided for in this Agreement.

"Server Software" means the CellTrust computer software programs (in Machine Code form only), including Documentation, together with any modifications, corrections, improvements, enhancements, and releases to which Customer is entitled as part of the Server License to service either the App installed on each Customer Device and/or the carrier capture service, as expressly set forth in this Agreement and the Server EULA, and pursuant to the terms and conditions set forth therein.

"Software" means, collectively, the Server Software and App.

2. GENERAL TERMS AND CONDITIONS

2.1 Grant of Services. CellTrust grants to Customer the use of Services subject to the terms of this Agreement. Customer acknowledges that any rights granted to Customer to the Products and/or Services are LICENSED NOT SOLD to Customer.

2.2 Addenda. For Products and/or Services, Customer will accept at least one Customer Ordering Document from Intradyn for Products and Services which shall be considered an addendum to this Agreement (which may include without limitation any acceptance of pricing terms via the Internet, email, or other means), and incorporated herein by reference (each, an "Addendum"). Each such Addendum will specify the Products and/or Services purchased by Customer through Intradyn, based on the pricing provided by Intradyn or its authorized reseller or distributor, for such Products and/or Services, and the length of the licenses granted for such pricing. For the avoidance of doubt, in the absence of any specific term length in an Addendum, the term by default shall be one (1) year from the date of acceptance of the Addendum; however, the purchase of additional licenses of the same Product or Services under an existing Addendum shall run concurrent, renew, and co-terminate with the licenses purchased under the existing Addendum.

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The terms and conditions of this Agreement are hereby incorporated into, and shall apply to, each Addendum (including all attachments thereto).

- 2.3 Server License and App License(s). CellTrust grants to Customer a non-exclusive, non-transferable, non-assignable right and license (without the right to grant sublicenses) to use the Server Software (the "Server License") and, for each carrier capture unit purchased, if any, a non-exclusive right and license (without the right to grant sublicenses) to use a single carrier-provided phone number for archived messaging services directly from the specific carrier, subject to the terms and conditions set forth by CellTrust and such carrier for the carrier capture services. CellTrust grants to Customer for each App License Fee purchased, a non-exclusive, non-transferable, non-assignable right and license (without the right to grant sublicenses) to use a single copy of the App on a single Device (the "App License"). Customer's App License(s) shall be limited in number as expressed on the Addendum but shall not exceed four-hundred-ninety-nine (499) such licenses under this Agreement. If Customer wishes to use five hundred (500) or more licenses, Customer must execute a standard CellTrust Service Agreement, which will supersede and replace this Agreement. Such Server License, App License(s), and/or carrier capture license(s) may be renewed upon payment of the applicable License Fees but shall terminate immediately upon termination of this Agreement. Except as expressly stated in this section, nothing contained in this Agreement transfers to Customer any license or rights in the Products or Services. All rights of CellTrust not expressly granted to Customer in this Agreement are reserved to CellTrust.
- 2.4 Changes to Services. As part of the Services and at no additional charge to Customer, CellTrust shall from time to time modify the Products and Services (and update or upgrade the hardware and network facilities used to host and provide the Services) to ensure that the Services remain current with evolving service trends and improved or new technologies; provided, however, that CellTrust shall provide Customer with prior written notice of any such modification to the Services by CellTrust (or any hardware or network facilities of CellTrust) when CellTrust is aware it may have a substantially deteriorating impact or effect on Customer's or any User's ability to use or receive the Services. Furthermore, third parties necessary for use of the Services, including without limitation the phone and OS manufacturers, carriers, CTIA, The Campaign Registry, and other entities engaged in the telecom business as well as legislative and governmental agencies that may make or revise laws, rules, or regulations affecting the Products and Services, may also make modifications that may impact Customer's use of the Products or Services. Customer acknowledges that such third party requirements are beyond the control of CellTrust and CellTrust shall have no liability or responsibility for such changes. As a result of the foregoing, Customer acknowledges that modifications of Customer's systems and network or other IT may be required to continue the use of Services.
- 2.5 Services Limitations. Customer accepts and understands that certain service limitations may exist due to third party software, hardware, applications, other technical issues, rules, regulations, or otherwise, and, while CellTrust will take reasonable efforts to identify known issues impacting the Products and Services to its customers, CellTrust will be under no obligation to do so and shall not be liable for any limitations to the Products and Services due, in whole or in part, to third parties. Customer accepts and understands that 411 and 911 calls may be restricted or unavailable through a Mobile Business Number™ or "MBN™" and, if Customer disables the use of a regular Carrier to ensure calls are only sent via an MBN, such phone may not have the ability to make calls to information and emergency lines. Customer agrees to make any and all necessary disclosures to its Users regarding such limitations and to take any necessary

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precautions for its Users. Customer will not attempt to use the MBN Services to access or allow access to 911 or e911 service to contact emergency services personnel or public safety, "Emergency Services." Customer agrees and accepts that THE MBN SERVICES ARE NOT INTENDED TO SUPPORT OR CARRY EMERGENCY CALLS TO ANY EMERGENCY SERVICES. NEITHER CELLTRUST NOR ITS VENDORS WILL BE LIABLE UNDER ANY LEGAL OR EQUITABLE THEORY FOR ANY CLAIM, DAMAGE, OR LOSS (AND CUSTOMER WILL HOLD CELLTRUST HARMLESS AGAINST ANY AND ALL SUCH CLAIMS) ARISING FROM OR RELATING TO THE INABILITY TO USE THE SERVICES TO CONTACT EMERGENCY SERVICES.

- 2.6 Payment & Fees. Customer will pay such fees in the amounts and within the timing provided by Intradyn in addition to any fees and charges applicable to Customer's specific use of the Services, such as long-distance fees, foreign number fees, carrier surcharges, porting fees, service fees, and fees imposed by carriers, The Campaign Registry, or other regulatory or industry mandates. All pricing and payments are and shall be in U.S. dollars. Unless expressly otherwise agreed in writing, all payments are due upon acceptance of an Addendum for the initial term and within thirty (30) days of receipt of invoice for any renewal term. Each invoice will reflect the payments due for the payment period. Customer acknowledges that previous, unpaid invoice amounts may not be reflected on any other invoice. Any amounts not paid by Customer when due under this Agreement may be subject to a finance charge equal to one- and one-half percent (1.5%) per month or the highest rate allowable by law, whichever is less, determined and compounded monthly from the date due until the date paid. CellTrust will accept only credit cards or ACH transfers for payments. CellTrust reserves the right to change its methods of receiving payment at any time and will notify Customer at least thirty (30) days prior to the effective date of the change. CellTrust reserves the right to require payment by a specific method for a particular Product or Service or for a particular Customer in the event a specific payment method by such Customer has previously been dishonored. Fees paid are nonrefundable. If Customer utilizes the SMS channel, Customer acknowledges and understands that due to the encryption methods and the ability to send larger written messages, a single message may be considered more than one SMS message, and message charges from Customer's message and data plan provider, may be incurred for system requirements and features such as sending acknowledgements, contacts, contact status, or policies. Additionally, Customer further acknowledges that Customer may incur more than one message charge or credit for any single message, standard voice, or SMS on the SMS channel, transmitted outside the United States.
- 2.7 Disputes. If there is any good faith dispute associated with billing, Customer shall resolve the dispute directly with Intradyn.
- 2.8 Support. Intradyn will provide support to Customer in accordance with its then-current standard support offerings.
- 2.9 Taxes.
- 2.9.1 Paying Taxes. Sales, use, gross receipts or other taxes or surcharges (excluding taxes on CellTrust income) properly due to federal, state, or local taxing jurisdictions on the Products or Services provided under this Agreement, and which are not already reflected in the fees for Products or Services, shall be separately itemized on the bills rendered to Customer and shall be paid by Customer. Should any federal, state, or local jurisdiction determine that additional sales, use, gross receipts or other taxes or surcharges (and interest, penalty and/or surcharges thereon) are due on the provision of the Products or Services provided under this Agreement, CellTrust shall so advise Customer, and Customer shall be liable for any such tax, interest, penalty, and surcharge.

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However, if the Customer disagrees with the assessment of any such additional tax, penalty, surcharge and interest, the Customer shall, at its option and expense (including payment of any such assessment prior to final resolution of the issue), have the right to protest the assessment and participate in any legal challenge to such assessment, but shall be liable for any tax, penalty, surcharge, and interest ultimately determined to be due. CellTrust shall, when requested by Customer and at Customer's expense, cooperate with Customer in any such protest or legal challenge.

2.9.2 Responsibilities of CellTrust. CellTrust shall be solely liable for (i) any and all federal, state, local, or other taxes based on or measured by CellTrust's net income or receipts and (ii) SECA (Self Employment Contributions Account) taxes for CellTrust personnel. Fees under this Agreement are exclusive of federal, state, or local taxes, or other sales, use, value-added, excise, personal property, or other similar taxes. When applicable, such taxes will appear as a separate item on CellTrust's invoice. Customer shall have no liability for and no obligation to withhold at source any federal, state or local income tax (or portion of FICA) from any individual assigned by CellTrust to provide Services hereunder, nor shall Customer have any liability for FICA, FUTA, or SUI (State Unemployment Insurance) contributions on behalf of any individual assigned by CellTrust; provided, however, that nothing herein shall prevent Customer from imposing backup withholding tax as required by law on reportable payments to non-exempt contractors, or from withholding tax on United States source payments to non-United States persons as required by applicable law.

3. NO EXCLUSIVITY/ COMPETITION

Each party acknowledges and agrees that the rights granted to and obligations due to the other party in this Agreement are non-exclusive, and that, without limiting the generality of the foregoing, nothing in this Agreement shall be deemed or construed to restrict either party's ability to develop, manufacture, license, sub- license, distribute, deploy, support, or promote any technology or service whether or not similar to or competitive with either parties' services except as provided for in the App EULA, which limitations shall be in full force and effect.

4. MISCELLANEOUS TERMS

- 4.1 Force Majeure. Neither party shall incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences, or causes shall include, without limitation, acts of God, strikes, lockouts, riots, acts of war, terrorism, earthquakes, fire, and explosions, but the delay or failure to meet financial obligations under this Agreement is expressly excluded.
- 4.2 Entire Agreement. This Agreement (including any addenda or exhibits hereto expressly referencing the Agreement and accepted by both parties) contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous or contemporaneous communications, representations, understandings, and agreements, either oral or written, between the parties with respect to said subject matter. This Agreement may not be altered, modified, amended, changed, rescinded, or discharged in whole or in part, except by written agreement made by authorized officers of both Customer and CellTrust, or as otherwise provided herein.
- 4.3 Headings and Lists. The section and paragraph headings herein have been inserted solely for convenience of reference and in no way define, limit, or describe the scope or substance of any provision

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of this Agreement. Any list or example contained herein is intended to be illustrative and not all-inclusive.

- 4.4 Severability. If any term, condition, or provision in this Agreement is found to be invalid, unlawful, or unenforceable to any extent, then the meaning of said provision shall be construed, to the extent feasible, so as to render the provision enforceable, and if no feasible interpretation would save such provision, the parties shall use commercially reasonable efforts to agree to such amendments that shall preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition, or provision shall be severed from the remaining terms, conditions, and provisions, which shall continue to be valid and enforceable to the fullest extent permitted by law.
- 4.5 Assignability. Each party acknowledges that this Agreement and the rights and licenses granted hereunder are to a specific entity or legal person and are not assignable or transferable without the prior written notice to the other party. Notwithstanding any language in this provision to the contrary, either party may assign this Agreement without notice to (a) a purchaser of the whole or part of its business or other change of control, (b) another corporate entity in association with a merger or similar business combination, or (c) such party's affiliates. Any improper sublicense, assignment, or transfer any of the rights, duties, or obligations under this Agreement shall be void. Customer acknowledges that written notice must be provided immediately to CellTrust of any actual or potential ownership or ownership interest of Customer by a CellTrust competitor or company who owns a competing product.
- 4.6 Non-Solicitation. Neither party shall solicit Project-Related Parties (defined below) of the other party, to undertake employment with it, its parent company, any subsidiary company, or any affiliated company during the performance of this Agreement and for a period of one year after termination of this Agreement. This restriction does not apply to advertisements in the general media and, except to the extent that an individual was specifically encouraged to respond to such advertisements, there shall be no restrictions on the hiring of individual so responding. As used herein, "Project-Related Party" shall mean any employee or former employee of a Party (to the extent the former employee is solicited within six (6) months after his/her separation of employment with the other Party) who is or was materially involved with any aspect of the Services or deliverables provided or to be provided hereunder or who was otherwise introduced to the other party in connection with the performance of this Agreement.
- 4.7 Arbitration, Customer Claims, and Controversies. The parties will attempt in good faith to resolve any controversy or claim raised by Customer by negotiation or mediation. If they are unable to do so, and regardless of the causes of action alleged by Customer, the claim will be resolved by arbitration before a sole arbitrator in Phoenix, Arizona, USA, pursuant to the then-current Commercial Rules of the American Arbitration Association and the federal substantive and procedural law of arbitration. The arbitrator's award for such claim will be final and binding and may be entered in any court having jurisdiction thereof. The arbitrator will not have the power to award punitive or exemplary damages, or any damages excluded by, or in excess of, any damage limitations expressed within this Agreement. Each party will bear its own attorneys' fees and costs related to the arbitration. Any claim or action by Customer must be brought within two years after the cause of action accrues.
- 4.8 Governing Law and Jurisdiction. This Agreement shall have been deemed to have been made and executed in the State of Arizona, USA and shall be construed and interpreted in accordance with the laws of the State of Arizona and the laws of the United States, without regard to the application of conflicts of law principles. THE PARTIES HEREBY CONSENT TO THE EXCLUSIVE JURISDICTION OF THE

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STATE AND FEDERAL COURTS OF MARICOPA COUNTY, ARIZONA, USA. In the event an action or suit is brought by any party hereto to enforce the terms of this Agreement, the prevailing party shall be entitled to the payment of reasonable attorneys' fees and costs, as determined by the judge of the court or arbitrator(s), as applicable.

- 4.9 Translations. If this Agreement or any Documentation is translated from English, the translation is merely for convenience, and the English version of the Agreement provided by CellTrust shall govern and is intended by the Parties to do so.
- 4.10 Export Restrictions. Customer acknowledges and agrees that it shall not import, export, or re-export, directly or indirectly, any commodity, including Customer's products incorporating or using any CellTrust products in violation of the laws and regulations of any applicable jurisdiction.
- 4.11 Government Restricted Rights. The Software and Documentation are provided with Restricted Rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c)(l)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c)(l) and (2) of the Commercial Computer Software-Restricted Rights at 48 CFR 52.227-19, as applicable. Manufacturer is CellTrust Corporation, 20701 N. Scottsdale Road, Suite# 107-451, Scottsdale, Arizona 85255-6499. Such restrictions shall also apply to any other government according to the relative corresponding laws.
- 4.12 No Waiver. The failure of either party to enforce at any time any of the provisions hereof or exercise any right or option hereunder shall not be construed to be a waiver of the right of such party thereafter to enforce any such provisions or exercise such right or option. Any consent by a party to, or waiver of, a breach by the other party, shall not constitute consent to, waiver of, or excuse of any other different or subsequent breach. Any waiver by a party of such party's rights must be in writing to be valid and enforceable.
- 4.13 Relationship of Parties. The parties are independent entities and not the franchisee, agent, or partner of each other and neither party shall have the right to make any representations on behalf of the other. Nothing contained herein shall be construed to create any business relationship (other than licensor and licensee) or joint venture between the parties.
- 4.14 Customer Standard Terms. Unless otherwise executed in writing by an authorized representative of CellTrust, no terms, provisions or conditions of any purchase order, acknowledgement, or other business form that Customer or Intradyn may use in connection with the acquisition or licensing of the Products or Services shall have any effect on the rights, duties, or obligations of the parties hereunder, or otherwise modify, this Agreement, regardless of any failure of CellTrust to object to such terms, provisions, or conditions.
- 4.15 Interpretation. Unless the context of this Agreement clearly requires otherwise, (a) references to the plural include the singular, the singular the plural, the part the whole, (b) references to any gender include all genders, (c) "including" has the inclusive meaning frequently identified with the phrase "but not limited to" and (d) references to "hereunder" or "herein" relate to this Agreement. The section headings in this Agreement are for reference and convenience only and shall not be considered in the interpretation of this Agreement.
- 4.16 Parties Advised by Counsel. This Agreement has been negotiated between unrelated parties who are sophisticated and knowledgeable in the matters contained in this Agreement and who have acted in their own self-interest. In addition, each party has been, or has had the opportunity to be, represented by legal

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counsel. The provisions of this Agreement shall be interpreted in a reasonable manner to effect the purposes of the parties, and this Agreement shall not be interpreted or construed against any party to this Agreement because that party, or any attorney or representative for that party, drafted this Agreement or participated in the drafting of this Agreement.

5. TERM AND TERMINATION

- 5.1 Term. This Agreement will commence upon the Effective Date and will continue unless otherwise terminated as set forth below.
- 5.2 End of Services. Unless the parties have entered into an alternative agreement, this Agreement shall expire if all Services under Addenda have expired and not otherwise been renewed. So long as an active Addendum exists between the parties, this Agreement shall be deemed in full force and effect as the underlying terms.
- 5.3 Termination and Suspension. Except as otherwise set forth herein, the termination notice and details shall be as set forth in Customer's agreement with Intradyn for the Purchased Products and Services. Either party may terminate this Agreement by providing written notice to the other party of its intent to not renew the last underlying Addendum at least ninety (90) days prior to the Addendum term. Customer shall provide such cancellation to Intradyn in accordance with Intradyn's termination policies. Either party may terminate this Agreement immediately upon any material breach of the terms of this Agreement by such other party, provided that such other party has not cured such material breach within thirty (30) days after receipt of written notice of the breach and intent to terminate from the other party. CellTrust reserves the right to immediately suspend this Agreement without notice, and/or terminate upon notice, if Customer violates any law, regulation, or policy in connection to this Agreement and CellTrust has reason to believe that failure to suspend or terminate will result in a potential for increased legal liability to CellTrust.
- 5.4 Non-Payment. Notwithstanding any other provisions of this Agreement, CellTrust shall have the right to terminate Services and this Agreement immediately upon notice if any Services are not paid in full within thirty (30) days of the payment due date.
- 5.5 Insolvency. Either party may immediately terminate the Agreement if the other party (a) becomes or is declared insolvent or bankrupt; (b) is the subject of any proceeding related to its liquidation or insolvency (whether voluntarily or involuntarily) which is not dismissed within ninety (90) Days; (c) makes an assignment for the benefit of creditors; (d) experiences a material adverse change in financial condition which may reasonably be expected to affect its ability to perform; or (e) fails to comply with a reasonable, written request for reasonable assurances within ten (10) business days.
- 5.6 Effect of Termination. Upon the expiration or termination of this Agreement for any reason, Customer's rights to use the Products and Services, and any other rights granted hereunder shall immediately cease, and each party will be released from all obligations and liabilities to the other occurring or arising after the date of such termination, except that any termination of this Agreement will not relieve CellTrust or Customer from any liability arising prior to the termination of this Agreement. Furthermore, except as to accounting and legal records and residual data that may exist, or as otherwise required by law, CellTrust shall (1) immediately and permanently delete and destroy all copies of Customer Confidential Information (as defined in an Addendum) in CellTrust's possession or control, and (2) within 30 days of a request by Customer, deliver a certificate of compliance with this provision signed by an authorized representative of CellTrust. Customer shall (1) immediately and permanently delete and destroy all copies of the Products, including, but not limited to, all CellTrust Confidential Information (as defined in an Addendum), in

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Customer's possession or control, and (2) within 30 days of a request by CellTrust, deliver a certificate of compliance with this provision signed by an authorized representative of Customer. Customer expressly acknowledges and understands that, upon termination, all of the legal rights, obligations, and liabilities that Customer and CellTrust have benefited from, been subject to (or which have accrued over time while this Agreement has been in force), or which are expressed to continue indefinitely, shall be unaffected by the termination, and the choice of law and jurisdiction provisions shall continue to apply to such rights, obligations, and liabilities indefinitely. For the avoidance of doubt, and without any limitation, any financial obligation for the Products or Services shall become immediately due and survive termination, and any provision regarding definitions, license limitations, feedback, ownership, indemnification, intellectual property rights, disclaimers, warranties, limitations of liability, or general terms shall also survive termination of this Agreement. Customer understands and agrees that termination is not an exclusive remedy for CellTrust.

6. PUBLICITY

Customer agrees that, unless Customer has notified CellTrust in writing to the contrary via legal@celltrust.com, CellTrust may use Customer's name and logo in its print advertising, promotional materials and activities and industry shows during the term of this Agreement.

7. INDEMNIFICATION

- 7.1 Indemnification by CellTrust. CellTrust agrees to indemnify and hold Customer harmless from and against and either defend or settle, at CellTrust's expense and discretion, any claim, demand, threat, suit or proceeding brought by a third party against Customer to the extent that the claim, demand, threat, suit or proceeding alleges that Customer's use of the Software (in accordance with the terms of this Agreement), in the form delivered by CellTrust to Customer, as modified by CellTrust or under CellTrust's direction, infringes the claimant's United States patent, copyright, trademark or trade secret (collectively, "Claim") and shall pay any final judgments awarded or settlements entered into with CellTrust's prior written authorization, provided that Customer gives prompt written notice to CellTrust of any such Claim and gives CellTrust the authority to proceed as contemplated herein. CellTrust shall defend any such Claim and make settlements thereof at its own discretion. Customer shall have the right, at its option and expense, to participate in the defense of any suit or proceeding through a counsel of its own choosing. Customer shall give such assistance and information as CellTrust may reasonably require settling or defend such Claims. In the event any such Claim is brought or threatened, CellTrust may, at its sole option and expense: (a) procure for Customer the right to continue use of the Software or infringing part; (b) modify or amend the Software or infringing part in such a way as to make the modified Software or infringing part non-infringing, or replace the Software or infringing part with other software having substantially the same capabilities; or (c) if neither of the foregoing is commercially practicable in CellTrust's reasonable judgment, terminate the Server License, App License, or this Agreement, and refund a pro rata portion of fees for the then existing term of the affected Services.
- 7.2 Limitations: Exclusive Remedy. CELLTRUST SHALL HAVE NO LIABILITY TO CUSTOMER OR ANY THIRD PARTY FOR ANY ALLEGED INFRINGEMENT, OR CLAIM THEREOF, BASED UPON: (A) ANY MODIFICATIONS MADE TO THE SOFTWARE (OTHER THAN THOSE MODIFICATIONS PROVIDED BY CELLTRUST UNDER THIS AGREEMENT OR UNDER A PROFESSIONAL SERVICES AGREEMENT WITH CELLTRUST), INCLUDING BUT NOT LIMITED TO INTERFACES; (B) CUSTOMER'S FAILURE TO IMPLEMENT MODIFICATIONS OR ENHANCEMENTS AS REASONABLY REQUIRED BY

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CELLTRUST; (C) USE OF THE SOFTWARE IN CONNECTION OR IN COMBINATION WITH ANY COMPUTER HARDWARE OR SOFTWARE IF SUCH INFRINGEMENT OR CLAIM COULD HAVE BEEN AVOIDED BY THE USE OF OTHER EQUIPMENT, DEVICES OR SOFTWARE; (D) INSTALLATION OR USE OF THE SOFTWARE CONTRARY TO THE SPECIFICATIONS AND DIRECTIONS; (E) THE USE OF SOFTWARE OTHER THAN AS STRICTLY PERMITTED UNDER THIS AGREEMENT OR IN A MANNER FOR WHICH IT WAS NOT INTENDED OR THE USE OF OTHER THAN THE MOST CURRENT RELEASE OF THE SOFTWARE PROVIDED AS PART OF MAINTENANCE AND SUPPORT (IF SUCH CLAIM WOULD HAVE BEEN PREVENTED BY THE USE OF SUCH RELEASE); (F) THE USE OF THE ALLEGEDLY INFRINGING SOFTWARE AFTER BEING INFORMED OF MODIFICATIONS THAT WOULD HAVE AVOIDED THE ALLEGED INFRINGEMENT; OR (G) ANY COSTS OR EXPENSES INCURRED BY CUSTOMER TO REMEDY SUCH INFRINGEMENT WITHOUT CELLTRUST'S PRIOR WRITTEN APPROVAL OF SUCH COSTS. THE REMEDIES SET FORTH IN THIS SECTION SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES IN THE EVENT OF AN INFRINGEMENT CLAIM RELATING TO THE SOFTWARE.

7.3 Indemnification by Customer. Customer agrees that Customer shall have sole responsibility and liability for any action, omission, or representation of Customer's Users, employee, subcontractor, agent or other individual or entity that gains access or use to the Products or Services through Customer (individually or collectively, an "Associated Party"). Customer shall indemnify and hold harmless CellTrust, its employees and agents from and against all claims, losses, damages, judgments, and expenses (including reasonable attorney's fees), to the extent that such arises out of, results from, or is related to (i) the dishonesty of Customer or any Associated Party, (ii) the negligence or willful misconduct of Customer or any Associated Party, (iii) the material breach of this Agreement by Customer or any Associated Party, or (iv) claims brought or damages relating to Customer or any Associated Party's misuse and/or abuse of the Services. The foregoing shall in no way be deemed to hold Customer liable for indemnification or any claims, losses, damages, judgments, or expenses incurred by CellTrust as a result of a claim brought by Customer against CellTrust. Furthermore, for express clarification, nothing in the foregoing shall be construed to limit or negate Customer's indemnification obligations as expressed in an applicable App EULA and/or Server EULA, each incorporated herein by reference.

7.4 International Users. The Services are hosted in the United States. If Customer has Users accessing the Services from the European Union, Asia, or any other region with laws or regulations governing personal data collection, use, and disclosure that differ from United States laws, please be advised that Customer, through use of the Services which are governed by U.S. law, hereby authorizes Users to transfer personal information to the United States and expresses that Customer has received consent to that transfer from applicable data subjects or is otherwise authorized to transfer such personal information.

8. LIMITATIONS OF LIABILITY

EXCEPT AS TO A BREACH OF CONFIDENTIALITY, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY (NOR SHALL CELLTRUST BE LIABLE TO ANY THIRD PARTY, INCLUDING USERS) FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF RECREATING LOST DATA, COST OF COVER OR INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO THE FURNISHING, PERFORMANCE OR USE OF

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THE PRODUCTS OR SERVICES, OR OTHER ITEMS OR SERVICES PROVIDED HEREUNDER OR ANY DELAY IN DELIVERY OR FURNISHING THE PRODUCTS OR SERVICES EVEN IF CELLTRUST HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NOTWITHSTANDING ANY TERM OF THIS AGREEMENT, EXCEPT AS TO LIABILITY INCURRED FOR INDEMNIFICATION, EACH PARTY'S MAXIMUM AGGREGATE LIABILITY (WHETHER IN CONTRACT OR IN TORT OR UNDER ANY OTHER FORM OF LIABILITY) FOR DAMAGES OR LOSS, HOWSOEVER ARISING OR CAUSED, WHETHER OR NOT ARISING FROM NEGLIGENCE OR OTHERWISE, SHALL IN NO EVENT BE GREATER THAN THE FEES PAID TO CELLTRUST BY CUSTOMER DURING THE SIX (6) MONTH PERIOD PRIOR TO THE DATE OF THE EVENT GIVING RISE TO SUCH LIABILITY. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. The Services and any other services provided by any Carrier, which are provided, are provided "as is", "where is" and "when available". CellTrust shall not, under any circumstances, be responsible or liable for the Carrier or any other pass-through agent's actions, omissions, and/or ability to effectuate Customer's requests. CellTrust is therefore not responsible for the availability of any Carrier or the availability and/or performance of any other third-party provider required to effectuate any Services. CellTrust is also not responsible for any damages or costs Customer suffers or incurs as a result of any instructions given, actions taken, or omissions made by Customer. MULTIPLE CLAIMS WILL NOT EXPAND THE LIMITATIONS SET FORTH HEREUNDER. Notwithstanding the above, the limitations set forth above shall be enforceable to the maximum extent allowed by applicable law.

9. NOTICE

Except as otherwise expressly stated, any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (a) delivered in person, (b) sent by registered mail return receipt requested, (c) sent by overnight air courier, (d) by facsimile (with a hard copy mailed on the same date), or (e) if to Customer for support, NOC, or general information, by email.

If to CellTrust, notice shall be sent to:

CellTrust Corporation Attn: General Counsel

20701 N. Scottsdale Road Suite #107-451, Scottsdale, Arizona 85255-6499 USA

Fax: 480-699-9491

If to Customer, notice shall be sent to the address or email provided by Customer upon registration or via email to legal@celltrust.com, or, if no email address has been provided by Customer, then notice shall be effectuated upon publishing to CellTrust's website or through a message sent to Customer through the SL2 service.

Either party may change its contact information for notice by written notice to the other party. Notices shall be considered to have been given at the time of actual delivery in person, five business days after posting if sent by registered mail, one business day after delivery to an overnight air courier service, or upon receipt of machine confirmation of successful transmission by facsimile or email as described herein.

10. CONFIDENTIALITY

The term "Confidential Information," as used in this Agreement, shall mean any and all technical and business information (tangible or intangible), whether written, oral or graphic, that representatives of either party may disclose or reveal to the other party, including, but not limited to, financial information, plans and records, marketing plans, business strategies and relationships with third parties, client lists, customer lists and information, present and proposed products or services, trade secrets, know how, processes, patents or patent pending filings, computer software programs, software tools and descriptions of functions and features of software, source code,

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computer hardware designs, information regarding customers and suppliers, founders, employees and affiliates, methods for systems integration, company systems or software, techniques, sketches, drawings, design details and specifications, report formats or templates, apparatus and equipment. The Confidential Information may or may not be marked as confidential by the Disclosing Party. Each party agrees to treat as Confidential Information any and all information that is either designated as proprietary and/or confidential or ought in good faith to be treated as proprietary and/or confidential based upon reasonable understanding of general industry practices. Each party will use the same degree of care to protect such Confidential Information of the other party as it uses to protect its own information of like importance, but with no less than a reasonable degree of care. The Receiving Party of Confidential Information agrees to take all reasonable measures to protect such Confidential Information of the Disclosing Party from disclosure to and use by anyone other than the directors, officers, partners, employees, contractors, lawyers, scientific advisors or technical advisors, and agents (collectively hereinafter "Representatives") of the Receiving Party who have a business-related need to have access to such Confidential Information as necessary to fulfill its obligations under this Agreement. The Receiving Party agrees that it will not at any time or in any manner, either directly or indirectly, publish, communicate, divulge, disclose, disseminate or otherwise reveal the Confidential Information of the Disclosing Party to any person, entity or third party other than as authorized by this Agreement. Except as set forth in the Services Limitation below, the Receiving Party agrees to make available or transmit the Confidential Information of Disclosing Party only to those Representatives who are under an obligation of confidentiality to use and treat the Confidential Information consistent with the provisions of this Agreement. The Receiving Party will inform its Representatives having access to any of the Disclosing Party's Confidential Information of all limitations, duties and obligations regarding the non-disclosure and use of the Confidential Information of the Disclosing Party. The Receiving Party agrees not to use the Confidential Information of the Disclosing Party for its own use or for any purpose other than facilitating the Purpose of this Agreement, including, but not limited to the agreement that neither party shall (i) reverse engineer, decompile, duplicate performance characteristics of, attempt to discover the source code, or create derivative works of the other, or (ii) intentionally infringe the other party's patents or patent pending filings. The Receiving Party will immediately give notice to the Disclosing Party of any unauthorized use or disclosure of the Confidential Information of the Disclosing Party. The Receiving Party agrees to assist the Disclosing Party in remedying any such unauthorized use or disclosure of the Confidential Information of the Disclosing Party. Services Limitation: NOTWITHSTANDING ANYTHING TO THE CONTRARY WITHIN ANY AGREEMENT BETWEEN THE PARTIES, CUSTOMER HEREBY ACKNOWLEDGES AND ACCEPTS THAT IN THE COURSE OF ANY USE OF CELLTRUST'S SERVICES, WHETHER FOR EVALUATION PURPOSES OR OTHERWISE, IN THE EVENT: (A) A USER SENDS OR RECEIVES COMMUNICATIONS FROM A DEVICE WITHOUT THE SL2 APP, OR (B) CUSTOMER UTILIZES AN ARCHIVING PROVIDER WITHOUT A SECURE CONNECTION FOR THE TRANSMISSION FROM SL2, ANY SUCH INFORMATION CONTAINED IN SUCH TRANSMISSIONS AND COMMUNICATIONS MAY BE EXPOSED TO THIRD PARTIES AS NECESSARY TO EFFECTUATE THE SERVICES ANTICIPATED. ADDITIONALLY, EMAIL ADDRESSES AND PHONE NUMBERS MAY BE EXPOSED TO THIRD PARTIES THAT SERVE AS COMMUNICATIONS CONDUITS, SUCH AS TELEPHONE OR INTERNET CARRIERS, AS NECESSARY FOR THE TRANSMISSION OF COMMUNICATIONS UNDER THIS AGREEMENT. CUSTOMER UNDERSTANDS THAT SUCH THIRD PARTIES ARE OUTSIDE THE CONTROL OF CELLTRUST AND CANNOT BE SUBJECT TO THE TERMS BETWEEN CUSTOEMR AND CELLTRUST, AND CUSTOMER AGREES THAT THESE SPECIFIC DISCLOSURES (BUT ONLY TO THE EXTENT NECESSARY TO EFFECTUATE THE SERVICES HEREUNDER) SHALL NOT BE CONSTRUED AS A VIOLATION BY VENDOR OF ANY CONFIDENTIALITY, NONDISCLOSURE, USE, PRIVACY OR SECURITY OBLIGATION.

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11. PRIVACY

CellTrust respects the privacy of its customers and their users. CellTrust will only use personal data in accordance with its Data Protection Agreement available in the CellTrust customer portal and CellTrust's Privacy Statement online at <https://www.celltrust.com/privacy-statement>. Unless CellTrust has expressly agreed otherwise in writing, CellTrust's data centers for all SL2 data are hosted in the United States. CellTrust currently utilize a Cookie Consent tool exclusively for its <https://www.celltrust.com> website that stores the cookie consent records for one year in a Microsoft Azure data center in Ireland with back up in the Netherlands. For additional information regarding CellTrust's privacy and data processing practices, please contact legal@celltrust.com.

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