

# Sierra Wireless Customer Agreement

**Effective: July 21, 2023**

This Sierra Wireless Customer Agreement is between the entity you represent, or if you do not designate any entity, you individually (“**Customer**”, “**you**” or “**your**”) and Sierra Wireless, ULC, a Nova Scotia company on its own behalf and on behalf of its affiliates (“**Sierra Wireless**”, “**we**”, “**us**” or “**our**”). By clicking “I agree” or using any Sierra Solutions (defined below) you agree to these terms. Certain terms are defined in section 11.

## 1. This Agreement

- 1.1. Scope. This Agreement governs access to and use of (a) the Sierra Wireless online platform that references this Agreement (the “**Sierra Platform**”) and (b) any Services, Software and Hardware that are ordered or administered using, or received through, the Sierra Platform. The Sierra Platform and such Services, Software and Hardware are referred to collectively as the “**Sierra Solutions**”.
- 1.2. Solution Terms. Your order and use of a Sierra Solution is also subject to any additional terms that are specific to that Sierra Solution (the “**Solution Terms**”). You will be required to accept the applicable Solution Terms when you register for the Sierra Platform or Order the applicable Sierra Solution.
- 1.3. Orders. Sierra Solutions may be ordered through the Sierra Platform, or in some cases, via a physical order form that we accept (each, an “**Order**”).
- 1.4. Agreement. The contract between you and Sierra Wireless consists of the terms in this document, the applicable Solution Terms and any Orders placed under this Agreement (together, the “**Agreement**”). If there is any conflict between this document, the Solution Terms or the Order with respect to a specific Sierra Solution, the following priority will apply: (a) the Order, (b) the Solution Terms, and (c) this document.

## 2. Authorized Users

- 2.1. Authorized Users. You are responsible for designating individuals who are authorized to use the Sierra Platform and Sierra Solutions (“**Authorized Users**”) and for managing the rights and permissions of Authorized Users. Each Authorized User will be provided with a distinct account to access the Sierra Platform (a “**User Account**”).
- 2.2. Your Responsibilities. You are responsible for any activities by Authorized Users, or by anyone else who accesses the Platform using User Accounts. You are also responsible for revoking access for Authorized Users if you no longer wish them to have access. You should therefore ensure that you implement appropriate procedures to maintain the security and confidentiality of the access credentials used by Authorized Users to access the Sierra Platform, and to revoke User Accounts when the Authorized User no longer requires access.

## 3. Sierra Solutions; Orders

- 3.1. Ordering. By submitting an Order, you agree to the pricing and other terms set out in the Order and to the Solution Terms for the Sierra Solutions specified in the Order. No Order is binding on us until we have accepted it, which we may do either by providing an Order confirmation, by providing the applicable Sierra Solutions, or by charging your payment method. You acknowledge that you will be responsible for any Orders placed by your Authorized Users.
- 3.2. Access and Use. Subject to your compliance with this Agreement, including your timely payment of all applicable Fees, Sierra Wireless grants you and your Authorized Users the right to access and use the Sierra Solutions you have Ordered. You and your Authorized Users may use the Sierra Solutions solely in accordance with the terms of this Agreement. Additional or different terms relating to the use of Sierra Solutions may be included in the Solution Terms.

- 3.3. License to Software. If you Order any Software, or if any Hardware we provide comes with Software pre-installed, we grant you a non-exclusive, non-transferrable, non-sublicensable right to (a) install a single object-code instance of the Software on a single device, and (b) to execute the Software on the device on which it was first installed, in each case solely to support your use of other Sierra Solutions. Additional or different terms relating to the licensing of Software may be included in the Solution Terms. All Software is licensed and not sold. If we make any open source software available to you (including the Legato® application framework software, the associated development environment and Linux distribution), the software is provided without warranty, your use of such software will be governed by the applicable open source licenses, and you will be responsible for complying with those licenses if you choose to use the software.
- 3.4. Restrictions. You may not (a) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Sierra Solutions available to any third party, other than to Authorized Users or as otherwise contemplated by this Agreement; (b) use the Sierra Solutions to send or store any infringing or unlawful information; (c) send to or store malicious code in the Sierra Platform; (d) interfere with or disrupt the integrity or performance of the Sierra Solutions; (e) attempt to gain unauthorized access to the Sierra Solutions or any related systems or networks; (f) alter, modify or create derivative works of the Sierra Solutions; (g) frame or mirror any content forming part of the Sierra Solutions; (h) reverse engineer the Sierra Solutions for any purpose; (i) access the Sierra Solutions for purposes of building a competitive product or service, or copy any ideas, features, functions or graphics of the Sierra Solutions; or (j) directly or indirectly (including facilitating a third party), export or re-export the Sierra Solutions from the country in which you have indicated they will be used without obtaining all applicable governmental licences and complying with all applicable laws.
- 3.5. Prohibited Applications. You may not use the Sierra Solutions in any application (a) where the failure of the Sierra Solutions to function as intended could result in personal injury, death, or severe physical or environmental damage (“**Safety-Critical Environments**”), (b) that is regulated by agencies with authority over licensing and approval of health and medical applications, including the U.S. Food and Drug Administration, or (c) that violates the acceptable use policy of any Carrier.
- 3.6. Your Responsibilities. You will (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Your Data; (b) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Sierra Solutions, and notify us promptly of any unauthorized access or use; and (c) comply with all applicable local, state, provincial, federal and foreign laws in using the Sierra Solutions. You are solely responsible for ensuring that any hardware, software, service or other solution you develop that utilizes the Sierra Solutions complies with all applicable legal and regulatory requirements and telecommunications industry standards (e.g. FCC, PTCRB, RED), and for obtaining any required certifications and approvals.
- 3.7. Modifications and Limits. We may update the Sierra Solutions from time to time, including to add or remove features. We may also discontinue certain Sierra Solutions from time to time. We will endeavor to provide reasonable notice to you if we intend to discontinue or remove material functionality from a Service that you are using. We may also impose reasonable limits on the use of the Services, including the number and frequency of API calls or device communications.
- 3.8. Affiliates. If your affiliates use a Sierra Solution in any way, they will be bound by this Agreement, but you agree to be jointly and severally liable for any actions of your affiliates related to their use of a Sierra Solution.
- 3.9. Hardware Purchases. If you place any orders for Hardware through the Sierra Platform, this Agreement will govern the order and payment for such Hardware. However, all other terms relating to the purchase and sale of the Hardware (including delivery, warranty, indemnification and limitation of liability) will be governed by Sierra Wireless’ General Terms & Conditions of Sale, as posted at [www.sierrawireless.com/terms-of-sale](http://www.sierrawireless.com/terms-of-sale) at the time you place an order for Hardware.

## 4. Subscriptions

- 4.1. Subscriptions. Some Services may be Ordered in advance for a defined term (“**Subscriptions**”).

- 4.2. Initial Subscription Term. The initial term of a Subscription will be specified in the Order, and if not specified, will be 12 months (the “**Initial Subscription Term**”). The Initial Subscription Term will start on the date the applicable Service is first made available to you.
- 4.3. Subscription Renewals. Subscriptions will automatically renew for successive terms. The renewal term for a Subscription will be specified in the Order, or if not specified, will be the same duration as the Initial Subscription Term (the “**Subscription Renewal Term**”). If you do not wish to renew a Subscription you must select this option in the applicable place in the Sierra Platform, or notify us in writing at least 30 days prior to the renewal date.
- 4.4. Declined Renewals. We have no obligation to accept a renewal of a Subscription. We will endeavor to provide reasonable notice to you if we intend to refuse renewals of Subscriptions.
- 4.5. Termination. You may terminate a Subscription at any time. However, you will be required to pay any recurring Fees under the terminated Subscription up to the end of the then-current Initial Subscription Term or Subscription Renewal Term. If we change a Service in a manner that materially reduces its functionality, the termination Fee will be waived if you provide notice within 30 days of the change to terminate any Subscriptions directly affected by the change.

## 5. Fees and Payment

- 5.1. Types of Fees. The fees that may be charged under this Agreement include the following (“**Fees**”):
  - (a) *Subscription Fees*. A Subscription may include a Fee that is payable in order to access and use the applicable Service (“**Subscription Fee**”). The Subscription Fee applicable to the Initial Subscription Term will be specified in the Order and will not change during the Initial Subscription Term. The Subscription Fee applicable to a Subscription Renewal Term will be specified in the Sierra Platform, or if not, will be the same as the Subscription Fee for the previous term. Subscription Fees are either payable in advance at the beginning of the term or in installments throughout the term, as specified in the Order.
  - (b) *Usage Fees*. Fees that are incurred based on the actual usage of Sierra Solutions in a billing period, such as Fees charged per event, per active device or per gigabyte of data (“**Usage Fees**”). No Order is required for Usage Fees, and by entering into this Agreement you agree to pay all Usage Fees that are incurred, including Usage Fees attributable to unauthorized or fraudulent activity. Usage Fees will be specified in the Sierra Platform and may change at any time on 30 days’ notice. Usage Fees are payable in arrears based on actual usage in the preceding period.
  - (c) *A-La-Carte Fees*. Certain Sierra Solutions may be Ordered on an “a-la-carte” basis, for example an Order for a certain number of units of Hardware. The Fees applicable to these Sierra Solutions (“**A-La-Carte Fees**”) will be specified in the applicable Order. A-La-Carte Fees may change at any time without notice, but changes will only affect Orders placed after the date of the change. A-La-Carte Fees are payable in advance at the time of Order.
- 5.2. Payment Method. Unless we otherwise agree, all Fees must be paid using an electronic, pre-authorized payment method that has been approved by Sierra Wireless. All Fees will be charged to the payment method you select, using the payment details you provide in the Sierra Platform. You are responsible for providing accurate, current and complete details for your chosen payment method, and it is your obligation to keep these details up to date. By placing an Order or incurring Usage Fees, you authorize us to charge your payment method as and when the applicable Fees become payable (including any Taxes on those Fees), without obtaining any additional consent or authorization from you.
- 5.3. Physical Invoices. In certain circumstances we may email or mail you an invoice for certain Fees, which will be payable within 30 days of the invoice date.
- 5.4. Credit Limits. We may limit the amount of credit we extend to you, and we may suspend Service in accordance with section 7.2 if you exceed the credit limit.
- 5.5. Non-Refundable. Unless otherwise specified in the Order or the Solution Terms, Fees are not refundable.

- 5.6. Usage Quotas. Certain Sierra Solutions may include a usage quota that applies to a given Subscription, device and/or period (such as a Subscription that includes 1GB of data per month). Unless otherwise specified in the Order or the Solution Terms, usage quotas do not pool across Subscriptions or devices, and any unused usage quota in a period will expire and will not roll over to the next period. Usage quotas have no cash value.
- 5.7. Taxes. Fees are stated exclusive of any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction (collectively, “**Taxes**”). You will be responsible for paying all Taxes associated with your purchases, except for those taxes based on our net income. Should any payment for the Solutions be subject to withholding tax by any government, you will gross up the amounts paid to us so that we receive the full amount due, net of the withholding.

## **6. Intellectual Property; Your Data; Confidentiality**

- 6.1. Ownership of Sierra Solutions and Network Information. We and our licensors retain all right, title and interest in the Sierra Solutions and Network Information, including any technology and intellectual property rights developed or used in order to provide the Sierra Solutions to you. Unless otherwise specified in a statement of work, we will own all right, title and interest in and to any technology, deliverables and associated intellectual property rights we develop while performing professional services for you.
- 6.2. Ownership of Your Software and Algorithms. The Sierra Solutions may allow you to develop software applications or algorithms that either run on the Sierra Solutions or interface with them through APIs or other means. We do not claim any ownership over the software applications or algorithms that you develop.
- 6.3. Ownership of Your Data. We do not claim any ownership over Your Data. We may use Your Data for the following purposes: (a) to provide the Sierra Solutions to you and your Authorized Users, and (b) to comply with the terms of this Agreement and our legal obligations.
- 6.4. Security and Retention of Your Data. Without limiting section 8.2 or your obligations under section 3.6, we will implement reasonable risk-based measures, tailored to our systems, networks and environment, that are designed to assist you in securing Your Data against accidental or unlawful loss, access or disclosure. The Sierra Solutions are not intended to serve as a repository of information or as a data archive, and accordingly we may delete Your Data without notice. However, we will endeavor to provide reasonable notice if we believe that our deletion of Your Data is likely to materially affect your use of the Sierra Solutions.
- 6.5. Feedback. We welcome feedback and suggestions relations to the Sierra Solutions. If you choose to provide us with any feedback or suggestions, we will be entitled to use them in any manner without restriction, and without any obligation of confidentiality, attribution or compensation.
- 6.6. Confidentiality. The Receiving Party (a) shall not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (b) shall not disclose any Confidential Information of the Disclosing Party, except to its employees and representatives who have a need to know such information. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information of the Disclosing Party if required to do so by any applicable law, by any rule or regulation of any court or government agency of competent jurisdiction, or pursuant to legal process; provided that the Receiving Party provides the Disclosing Party with prompt written notice of the requirement to disclose (unless prohibited by law), and reasonable assistance in contesting such requirement. The Parties agree that any unauthorized disclosure of Confidential Information may cause immediate and irreparable injury to the Disclosing Party and that, in the event of such breach, the Disclosing Party will be entitled, in addition to any other available remedies, to immediate injunctive and other equitable relief. For clarity, a data security breach or other compromise to the security of Your Data will not be considered to be a breach of this section 6.6.
- 6.7. Personal Data. If Your Data includes any personal data that is governed by applicable privacy or data protection laws, it is your responsibility to ensure compliance with such laws. If you require us to enter into a data processing agreement (or any similar agreement relating to our processing of this data) you may contact us in accordance with section 10.3. We will have no obligations with respect to the processing of

personal data (other than the confidentiality obligations in section 6.6) unless we have signed a separate data processing agreement. If we decline to sign such an agreement, your sole remedy is to terminate this Agreement in accordance with section 7.4(c).

## 7. Term and Termination; Suspension

- 7.1. Agreement Term. This Agreement will remain in effect until the later of (a) the termination or expiration of all Subscriptions, and (b) the date that access to the Sierra Platform for all Authorized Users has been revoked, unless this Agreement is terminated earlier in accordance with section 7.3 or section 7.4. Termination of this Agreement will terminate all Subscriptions and all Orders.
- 7.2. Suspension. We may cease providing or suspend your access to the Sierra Platform or any Service (in whole or in part) (a “**Suspension**”) if you do not pay Fees when due under this Agreement, if you incur Fees that exceed the applicable credit limit that we have imposed, or if you violate any term of this Agreement. We may also Suspend if we are required to do so by applicable law, if we detect usage of the Sierra Platform or Service that we reasonably believe to be fraudulent or excessive, or if your usage of the Sierra Platform or Service is disrupting other users, our network, or the network of our third party providers. We will endeavour to provide notice before a Suspension, unless we reasonably believe that we need to Suspend immediately. Once we have confirmed that the reason for a Suspension has been fully addressed, we will resume providing the Service or re-instate your access to the Sierra Platform, as applicable. Recurring Fees will continue to accrue during a Suspension, and no refunds or credits will be issued for any period during which the Sierra Platform or a Service was unavailable due to a Suspension.
- 7.3. Termination by Us.
- (a) *Breach*. We may terminate this Agreement or any Subscriptions or Orders if you breach any material term of this Agreement, provided that we will provide you with written notice and 30 days to cure the breach. We may also terminate this Agreement (i) if you do not fully address the reason for a Suspension within 30 days after Suspension, or (ii) if there have been more than two Suspensions in any 12-month period.
  - (b) *Insolvency*. We may terminate this Agreement if you cease your business operations or become subject to insolvency proceedings and the proceedings are not dismissed within 90 days.
  - (c) *Convenience*. We may terminate this Agreement at any time on 90 days’ notice. If you have pre-paid any Fees for a Subscription we will refund to you the pro-rated portion of the Fees.
- 7.4. Termination by You.
- (a) *Breach*. You may terminate this Agreement if we breach any material term of this Agreement, provided that you provide us with written notice and 30 days to cure the breach.
  - (b) *Insolvency*. You may terminate this Agreement if we cease our business operations or become subject to insolvency proceedings and the proceedings are not dismissed within 90 days.
  - (c) *Convenience*. You may terminate this Agreement as a whole on 90 days’ written notice to us, however you will still be required to pay for any Orders you placed up to the effective date of termination, and the termination fees for any terminated Subscriptions, in accordance with section 4.5.
- 7.5. Effect of Termination. If this Agreement is terminated for any reason we will have no further obligation to provide the Sierra Solutions to you, we may delete Your Data, and you will immediately cease using all Services. You may continue to use any Hardware that was previously sold to you. You may continue to use any Software that was previously licensed to you until the end of the applicable license term, unless we terminated this Agreement for your breach, in which case you will stop using the Software immediately. Termination will not relieve you of your obligation to pay Fees that accrued prior to termination or revoke our authorization to charge your payment method for such Fees. Sections 3.4 and 4.5, article 6, this section 7.5, section 8.2, and articles 9, 10 and 11 will survive any expiration or termination of this Agreement.

## 8. Warranties

- 8.1. Solution Warranties. Our warranties with respect to the Sierra Solutions are included in the applicable Solution Terms.
- 8.2. Exclusions. THE REPRESENTATIONS AND WARRANTIES SET OUT IN THIS AGREEMENT ARE OUR EXCLUSIVE REPRESENTATIONS AND WARRANTIES IN CONNECTION WITH THIS AGREEMENT AND THE SIERRA SOLUTIONS. WE SPECIFICALLY DISCLAIM ALL OTHER REPRESENTATIONS, WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS (A) OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, (B) THAT THE SIERRA SOLUTIONS WILL BE PROVIDED ON AN UNINTERRUPTED OR ERROR-FREE BASIS; (C) THAT THE SIERRA SOLUTIONS ARE SECURE; (D) THAT THE SIERRA SOLUTIONS WILL OPERATE SATISFACTORILY IN CONJUNCTION WITH YOUR OR ANY THIRD PARTY'S HARDWARE, MEDIA, OR SOFTWARE; (E) THAT WE WILL CORRECT PROGRAM DEFECTS IN SOFTWARE; OR (F) THAT THE SIERRA SOLUTIONS ARE SUITABLE FOR USE IN SAFETY CRITICAL ENVIRONMENTS. FOR CLARITY, NOTHING CONTAINED ON THE SIERRA PLATFORM OR ON ANY SIERRA WIRELESS WEBSITE, MARKETING MATERIALS OR TECHNICAL DOCUMENTATION CONSTITUTES A REPRESENTATION OR WARRANTY WITH RESPECT TO A SIERRA SOLUTION.

## 9. Limitation of Liability

- 9.1. Limitation. OUR AGGREGATE LIABILITY IN CONTRACT, TORT (INCLUDING NEGLIGENCE OR BREACH OF STATUTORY DUTY), MISREPRESENTATION OR OTHERWISE ARISING IN CONNECTION WITH THE SIERRA SOLUTIONS OR THE PERFORMANCE OR NON-PERFORMANCE OF THIS AGREEMENT SHALL BE LIMITED TO DIRECT DAMAGES UP TO THE AGGREGATE AMOUNT OF THE FEES PAID UNDER THIS AGREEMENT IN THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE DATE ON WHICH THE LIABILITY AROSE. IF YOU HAVE NOT PAID ANY FEES UNDER THIS AGREEMENT IN THAT PERIOD, OUR LIABILITY IS LIMITED TO DIRECT DAMAGES UP TO US\$5,000.
- 9.2. Disclaimer. NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR THE SIERRA SOLUTIONS, NOR FOR ANY LOSS OF PROFITS OR REVENUES, LOST DATA, FAILURE TO REALIZE EXPECTED SAVINGS, INTERRUPTION OR LOSS OF USE OF SIERRA SOLUTIONS, NOR FOR ANY OTHER COMMERCIAL OR ECONOMIC LOSSES OF ANY KIND, IN EACH CASE WHETHER BASED IN CONTRACT, TORT (INCLUDING THEORIES OF NEGLIGENCE, RECKLESSNESS, STRICT LIABILITY, OR DEFECTIVE PRODUCT LIABILITY), OR ANY OTHER LEGAL THEORY, EVEN IF THE PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR THEY WERE REASONABLY FORESEEABLE.
- 9.3. Exceptions. The limitations in sections 9.1 and 9.2 apply to the fullest extent permitted by applicable law, but do not apply to (a) either party's obligations in section 6.6 (Confidentiality), (b) violation of the other party's intellectual property rights, or (c) your obligation to pay Fees.
- 9.4. Third Party Claims. You will at your expense defend us from, and pay any settlement amounts, losses, liabilities, damages, costs and expenses (including reasonable legal fees) arising out, of any third party claim, suit or proceeding that is asserted against us, our affiliates or our respective officers, directors or employees that arises from or relates to any (a) breach of section 3.5, or (b) any dispute between you and any user of the Sierra Solutions that you purchase under this Agreement.

## 10. Miscellaneous

- 10.1. Security. You are responsible for (a) configuring the Sierra Solutions in accordance with industry best practices and any instructions or bulletins we make available, and (b) promptly installing any security updates to the Sierra Solutions that we make available. We will not be responsible for any loss of security caused or contributed to by your failure to properly configure the Sierra Solutions or install security updates.
- 10.2. Publicity. Unless required by applicable law, neither party will issue any press releases or make any other public announcements relating to this Agreement without the other party's prior consent, which will not be unreasonably withheld. However, we may include your name and logo on websites and marketing materials

that generally identify our customers or users of the applicable Sierra Solutions. If you object in writing to such use, we will promptly remove the references to you.

10.3. Notices.

- (a) *Notices to You.* We may send notices to you at the email address we have on record for you in the Sierra Platform. Any notices we send to you will be deemed given when we send them. You are responsible for ensuring that the email address in the Sierra Platform remains up-to-date. We may also from time-to-time post notices in the Sierra Platform.
- (b) *Notices to Us.* If you need to send us any formal notices you must send them to the following address: Sierra Wireless, ULC 13811 Wireless Way, Richmond, BC, V6V 3A4, Canada, Attention: Legal Department, with a copy to [legal@sierrawireless.com](mailto:legal@sierrawireless.com). You must send notices by first class mail or by courier, and notices will be deemed given when we receive them.

10.4. Assignment. You may not assign this Agreement or any of your rights or delegate any of your obligations without our written consent. We may assign this Agreement if we provide notice to you. We may also assign this Agreement or any of our rights or obligations to one of our affiliates or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of our assets relating to the Sierra Solutions we are providing to you, without providing notice. Any purported assignment in contravention of the foregoing will be void.

10.5. Severability. Any provision of this Agreement which is, or deemed to be, unenforceable in any jurisdiction shall be severable from this Agreement in that jurisdiction without in any way invalidating the remaining provisions of this Agreement, and that unenforceability shall not make that provision unenforceable in any other jurisdiction.

10.6. Waiver. Failure to enforce any provision of this Agreement will not constitute a waiver.

10.7. Relationship. The relationship between the parties created by this Agreement is that of independent contractors and not partners, joint venturers or agents. There are no third-party beneficiaries to this Agreement.

10.8. Modification. We may revise this Agreement from time-to-time, and the most current version will always be posted on our website or in the Sierra Platform, which you should check regularly. If a revision is material (in our discretion) we will provide at least 30 days' notice to you in the manner contemplated by section 10.3 above. By continuing to use the Sierra Solutions after the revisions become effective, you agree to be bound by the revised Agreement. If you do not agree to the revised Agreement terms, you may terminate the Agreement within 30 days of receiving notice of the change.

10.9. Governing Law and Dispute Resolution. All disputes arising out of or in connection with this Agreement, including the formation, interpretation, breach or termination thereof, or arising in connection with the Sierra Solutions, shall be governed by the laws of the State of New York, U.S.A. and submitted to arbitration conducted by JAMS in New York, New York in accordance with JAMS rules of arbitration, except as follows: (a) If you are incorporated or organized within the regions of Europe, Middle East or Africa, the laws of France shall govern and arbitration shall be conducted in Paris, France by the International Court of Arbitration in accordance with the Rules of Arbitration of the International Chamber of Commerce; and (b) if you are incorporated or organized within the Asia region, Australia or New Zealand, the laws of Singapore shall govern and arbitration shall be conducted in Singapore by the Singapore International Arbitration Centre (SIAC) in accordance with the Arbitration Rules of the SIAC; in each case without regard to the conflict of law provisions of such jurisdiction. For greater certainty, the United Nations Convention on Contracts for the International Sale of Goods (The Vienna Convention) shall not apply to the purchase of Sierra Solutions. The arbitration shall be binding and conducted in English before a single arbitrator appointed in accordance with the applicable rules. Judgment on the award may be entered in any court having jurisdiction. THE PARTIES EXPRESSLY WAIVE ANY RIGHTS TO HAVE DISPUTES ADJUDICATED IN COURT, AND WAIVE THEIR RIGHTS TO TRIAL BY JURY.

- 10.10. Interpretation. Headings have been inserted for convenience of reference only and will not affect the construction of this Agreement. Any reference to “including” means “including without limitation”. Any references to dollars or the use of the dollar sign (\$) is a reference to United States dollars, unless expressly indicated otherwise.
- 10.11. Entire Agreement. This Agreement states the entire understanding between us with respect to the Sierra Solutions, and supersedes all prior proposals, marketing materials, negotiations and other written or oral communications between the parties with respect to the subject matter of this Agreement. Notwithstanding any language to the contrary therein no terms or conditions that you include or reference on any purchase order or any of your other order documentation will be incorporated into or form any part of this Agreement, and all such terms or conditions will be null and void.
- 10.12. Force Majeure. We will not be liable if our performance becomes commercially impracticable due to any contingency beyond our reasonable control including, acts of God, fires, floods, wars, sabotage, civil unrest, accidents, epidemics, labor disputes (other than those with our own employees) labor shortages, government laws, rules and regulations, power outages, Carrier or third party network outages, or our inability to obtain products, services or data supplied by a third party on commercially reasonable terms.

## 11. Definitions

“**Carrier**” means any third-party provider of products, services, or facilities that we utilize in connection with providing the Sierra Solutions including, without limitation, any third-party wireless, wireline, satellite, or hybrid telecommunications service provider or common carrier network operator, including such service provider’s or operator’s network and facilities.

“**Confidential Information**” means all confidential or proprietary information of a party (“**Disclosing Party**”) disclosed to the other party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of its disclosure. Our Confidential Information includes (a) the pricing and other terms included in Orders, (b) the specifications, technical details and software code relating to the Sierra Solutions, and (c) Network Information. Your Confidential Information includes Your Data. Confidential Information excludes information which (i) is or becomes publicly available without a breach of any obligation owed to the Disclosing Party; (ii) is already known to the Receiving Party at the time of its disclosure by the Disclosing Party, without a breach of any obligation owed to the Disclosing Party; (iii) following its disclosure to the Receiving Party, is received by the Receiving Party from a third party without breach of any obligation owed to the Disclosing Party; or (iv) is independently developed by the Receiving Party without reference to or use of the Disclosing Party’s Confidential Information.

“**Hardware**” means any module, gateway, modem, physical SIM card or other hardware device, but excluding any embedded software that comes pre-installed on the Hardware at the time of delivery.

“**Network Information**” means any data or information that is created by, derived from, utilizes or is necessary for, the operation of our network or the networks of our third-party providers, including any international mobile subscriber identity numbers (IMSI), IP addresses, PICs, telephone numbers, network access identifiers and cell site locations.

“**Service**” means any service that we provide under this Agreement, including access to the Sierra Platform and to any other software application that is hosted by us or on our behalf.

“**Software**” means any software (a) we provide to you for installation on a device that you own or control, or (b) that comes pre-installed on Hardware at the time of delivery (including firmware).

“**Your Data**” means (a) any unprocessed data or information that is collected by your devices or systems and transmitted to or from the Sierra Solutions, and (b) any data or information that you or your Authorized Users submit to the Sierra Platform, including any account, contact and payment information that you or they submit. Your Data does not include Network Information.