

Aculab's Terms and Conditions of Service

The Aculab Cloud Customer Agreement

Version 1.8 produced on 15th November, 2017

IMPORTANT

PLEASE READ THOROUGHLY AND CAREFULLY

THIS IS A BINDING CONTRACT

1. Introduction

- 1.1 This Aculab Cloud Customer Agreement ('Agreement') is a legally binding contract by and between Aculab Plc, with offices at Lakeside, Bramley Road, Milton Keynes MK1 1PT United Kingdom ('Aculab') and You and/or, if applicable, the company or other legal entity You represent (collectively, 'You').
- 1.2 In order to use the Aculab Cloud Management Console ('Console') located at cloud.aculab.com and Aculab Cloud, and/or the functions, services and features, which Aculab Cloud provides or makes available to You ('Services') and which are more particularly described below, You must enrol at cloud.aculab.com and You must accept the terms and conditions of this Agreement. In order to signify Your acceptance of this Agreement, You must click the blue 'Sign Up' button for this Agreement. By clicking on the 'Sign Up' button for this Agreement, You agree to be bound by the terms and conditions of this Agreement and to the revised Agreement resulting from any Changes that are made to this Agreement in accordance with section 2 below. If You are not of legal age to form a binding contract or do not have the legal authority to bind a company or other legal entity You represent to this Agreement, or if You do not agree with the terms and conditions of this Agreement, You must not click the 'Sign Up' button and You shall not use the Console, Aculab Cloud or the Services.
- 1.3 When You enrol and agree to be bound by the terms and conditions of this Agreement, an Aculab Cloud Account ('Account') will be created for You and You will be provided with log-in access to the Console.
- 1.4 Section and paragraph headings in this Policy are for ease of use and cross-reference purposes only, and are not to affect the meaning or interpretation of this Policy.

2. Modifications to this Agreement

- 2.1 Aculab reserves the right, at its sole and absolute discretion, to change, modify or amend ('Changes') the terms and conditions of this Agreement from time to time and shall do so by posting an updated version of this Agreement on the Console. Each successive version of this Agreement shall be identified by an incremental version number, which shall appear at the top of the document immediately below its title. Changes made to this Agreement are effective immediately it is published on the Console. You should review this Agreement frequently as it is Your responsibility to

remain informed about any Changes that Aculab has made. Aculab may terminate this Agreement if You fail to accept any Changes.

3. Term, Termination and Suspension

3.1 The term of this Agreement ('Term') shall commence once You accept this Agreement as provided above and this Agreement shall remain in effect until and unless terminated by You or Aculab in accordance with this Section 3.

3.1.1 **Termination by You.** Other than for Premium Accounts You may terminate this Agreement for any reason or no reason, at Your convenience, by de-enrolling from the Console using the means provided on the Console for so doing or by sending an email to cloud.info@aculab.com and in either case, by ceasing to use the Services.

3.1.1.1 **Termination of Premium Accounts.** If You have a Premium Account, the options for termination shall be set out in a Schedule to this Agreement.

3.1.2 Termination or Suspension by Aculab

3.1.2.1 Aculab may suspend Your right and license to use the Console and the Services or terminate this Agreement in its entirety for any reason or for no reason, at its discretion at any time by providing You, in advance, with thirty (30) days' notice in accordance with Section 18 below.

3.1.2.2 Aculab may suspend Your right and license to use the Console and the Services or terminate this Agreement in its entirety for cause effective as set out below:

3.1.2.2.1 Immediately upon Aculab's notice to You in accordance with Section 18 below if (i) You violate or Aculab has reason to believe that You have violated Aculab's Acceptable Use Policy; (ii) there is an unusual spike or increase in Your use of the Services for which there is reason to believe such use or increase in traffic is fraudulent or negatively impacting or threatening the operating capability of Aculab Cloud or the Services; (iii) Aculab determines, at its sole discretion, that its provision of the Services to You is prohibited by applicable law or has become impractical or unfeasible for any legal or regulatory reason whatsoever; (iv) required to comply with law or any judicial, regulatory or other governmental order or request; (v) subject to applicable law, upon Your liquidation, commencement of dissolution proceedings, admission of inability to pay debts as they mature, disposal of Your assets, failure to continue Your business, assignment for the benefit of creditors, appointment, or that of any court, of a trustee or receiver, or if You become the subject of a voluntary or involuntary bankruptcy or similar proceeding; or (vi) during the previous six (6) months Your Account has registered zero usage ('Non-use') of the Services, whether Free Services or Paid-for Services.

3.1.2.2.2 Immediately and without notice if You are in default of any payment obligation with respect to Paid-for Services for any reason, including if Charges are refused by any payment mechanism you have provided to Aculab.

3.1.2.2.3 Five (5) days following Aculab's notice to You in accordance with Section 18 below if You breach or fail to perform or observe any other material term or

condition of this Agreement and fail, as determined by Aculab, at its sole discretion, to cure such breach within such five (5) -day period.

3.1.2.2.4 Aculab may, at its sole discretion: a) elect to suspend forthwith the provision of the SMS Outbound Service until further notice; or b) terminate the provision of the SMS Outbound Service in the event that: 1) You use the SMS Outbound Service: i) contrary to Aculab's Acceptable Use Policy, including SMS Abuse; ii) for illegal purposes; iii) for any purposes not approved by an applicable national regulatory authority; 2) Aculab is required by a national regulatory authority to suspend or terminate Your use of the SMS Outbound Service; or 3) Aculab is unable to comply with the regulatory requirements of a national regulatory authority.

3.1.3 Consequences of Suspension or Termination

3.1.3.1 Upon the suspension by Aculab of Your right and license to use the Console or the Services, or the termination of this Agreement, Aculab shall cease to provide or make available to You the Console and the Services, (i) for the period of suspension in the case of suspension; and (ii) permanently in the case of termination.

3.1.3.2 Restoration by Aculab of Your right and license to use the Console or the Services following any suspension shall be at the sole discretion of Aculab and shall be dependent upon Your having rectified to the satisfaction of Aculab any and all cause or causes, which resulted in said suspension.

3.1.3.3 Upon the termination of this Agreement, (i) Aculab shall not take any action to intentionally erase any of Your data stored in Aculab Cloud through Your use of the Services or via the Console for a period of thirty (30) days after the effective date of termination; and (ii) Your retrieval of such data during such period shall be conditional on Your payment of applicable Charges and payment in full of any and all due or outstanding Charges for Paid-for Services, in accordance with Section 10 below, and Your compliance with any terms and conditions Aculab may establish with respect to such data retrieval.

3.1.3.4 Upon the suspension by Aculab of Your right and license to use the Console or the Services, in whole or in part, for any reason, or upon the termination of this Agreement, (i) Charges shall continue to accrue for any Paid-for Services that are still in use by You or allocated to Your use, including Charges in relation to national and international PSTN phone numbers or Direct Inward Dialling (DID [or DDI]) phone numbers ('Phone Number Charges'), notwithstanding the termination or suspension; and (ii) You shall remain liable for all Charges and any other obligations You have incurred or that have accrued through the date of termination or suspension with respect to the Services.

3.1.3.5 Upon termination of this Agreement for any reason, (i) You shall remain liable for all Charges and any other obligations You have incurred or that have accrued through the date of termination with respect to the Services; (ii) You shall pay to Aculab forthwith and in full any and all outstanding or due Charges for Paid-for Services, and in accordance with Section 10 below; (iii) Aculab shall not be liable to refund any Charges pre-paid or paid in advance, whether or not the Services for which such Charges have been paid have been availed of or consumed; (iv) Your

right and license to use the Console or the Services under this Agreement shall immediately terminate; and (v) You shall immediately return, or if instructed so to do by Aculab, destroy all Confidential Information, as defined in Section 11 below, and any Materials then in Your possession.

3.1.4 **Survival.** In the event of this Agreement being terminated, this Section 3, Sections 7, 11, 12, 14, 15, 16, 17, 18, and 19, and Sections 4 and 10 with respect to Charges that are accrued but unpaid at the time of termination, and any applicable definitions, will survive termination.

4. Grant of Right and Licence to use Aculab Cloud, Console, Services and Materials

4.1 Subject to Your acceptance of and compliance with this Agreement, Aculab hereby grants You a limited, non-exclusive, non-transferable, non-sub-licensable, revocable right and license during the Term of this Agreement in and under its intellectual property rights, to access and use Aculab Cloud, the Console and the Services, solely in accordance with the terms and conditions of this Agreement.

4.2 From time to time, Aculab may make available to You a variety of software; utilities; application programming interfaces ('APIs'); sample code; data; text-to-speech ('TTS') synthesis; automatic speech recognition ('ASR'); website content; other content; specifications describing operational and functional capabilities, use limitations, technical and engineering requirements, and testing and performance criteria relevant to the proper use of the Services and related APIs and technology; and printed and electronic documentation (collectively, 'Material'), originated by and supplied by Aculab via Aculab's website, the Console, physical media, or by any other means, for which this grant of licence also applies as per the terms of this Agreement.

4.3 You may install, copy and use the Material, solely in connection with, and as necessary for Your use of the Services, in accordance with the terms and conditions of this Agreement. The Material is neither sold nor distributed to You and You shall not transfer the Material outside the scope needed for effective use of the Services without specific authorisation so to do.

4.4 Except as expressly authorised under this Agreement, You shall not and shall not attempt to, nor shall You allow any third party to or attempt to create derivative works from, disseminate, incorporate, delete, amend, alter, tamper with, modify, repair, distribute, sell, disclose, lend, transfer, convey, decompile, disassemble, translate, reverse compile, or reverse engineer, the Services, or the Material more particularly described above, or any component or element thereof, for any purpose, including applying any process or procedure to derive source code from the Material, whatsoever. You shall not allow any unauthorised third party to access the Console or the Services for any purpose whatsoever.

4.5 Use of Marks.

4.5.1 For the purposes of and solely in accordance with the terms and conditions of this Agreement, Aculab hereby grants to You a limited, non-exclusive, non-transferable, non-sub-licensable, revocable license during the Term of this Agreement to display then current trade names, trademarks, service marks, logos, and domain names of

Aculab (each, an 'Aculab Mark') for the purpose of promoting or advertising that You use Aculab Cloud and the Services. Other than as specified in this Agreement, You shall not use any Aculab Mark unless You obtain prior written consent from Aculab. Notwithstanding the above, You may not issue any press release with respect to Aculab Cloud, the Services or this Agreement without the prior written consent of Aculab. All uses of Aculab Marks and goodwill associated with such use shall inure to the benefit of Aculab.

4.5.2 You shall not remove, obscure, delete, amend or otherwise alter any legend or notice of any Aculab copyright, Aculab Mark, or other intellectual property or proprietary right displayed or appearing on the Console, or contained within the Services or the Material, or attached to the Material. You shall not display an Aculab Mark in a manner that implies a relationship or affiliation with, sponsorship, or endorsement by Aculab, use an Aculab Mark to disparage Aculab or its products or services, or display an Aculab Mark on a site that violates any law or regulation.

4.5.3 In return for the concession granted as per Section 4.5.1 above, You hereby grant Aculab a limited, non-exclusive, non-transferable, non-sub-licensable license during the Term of this Agreement to display Your trade names, trademarks, service marks, logos, domain names and the like for the purpose of promoting or advertising that You use Aculab Cloud and the Services.

4.5.3.1 Furthermore, Aculab may request from You testimonials and create case studies (collectively 'Collateral'), for the purpose of joint marketing and public relations efforts that will be published on Aculab's website and shared with current and potential customers, and You may not unreasonably withhold cooperation in producing such Collateral.

4.6 **Non-exclusive Rights.** Nothing in this Agreement shall prevent or hinder Aculab from developing or appointing third parties to develop or integrate products or services that compete with Your Application and Your Content.

5. The Services

5.1 **Free Services.** Free Services shall be those Services, which Aculab lists on the respective Charges detail pages on the Console as being free to use on the basis described therein and, which Aculab makes available to You via your access to the Console and the Services. Free Services expressly excludes any Paid-for Services.

5.2 **Paid-for Services.** Paid-for Services shall include those Services, which Aculab lists on the respective Charges detail pages on the Console as being available to use on a chargeable basis as described therein and, which Aculab makes available to You via your access to the Console and the Services. Paid-for Services for which Charges are payable can include Subscription Charges, Platform Charges, Data Storage Charges, PSTN Phone Number Charges, DID Phone Number Charges, and Outbound Call Charges. Paid-for Services also include those for which Aculab specifically provides a separate customer service agreement, including but not limited to chargeable forms of professional services or support.

6. Terms of Service

- 6.1 You shall not access or use the Console or the Services in a way intended to avoid Your obligations under this Agreement.
- 6.2 You may write a software application or website (an 'Application') that uses the Material and interfaces with the Services. You acknowledge that Aculab may add new functions or features to the Services and change, deprecate or republish APIs from time to time, and that it is Your responsibility to ensure that calls, messages or requests You make to or via the Services are compatible with then current APIs for the Services. Aculab will make a reasonable attempt to inform You of any changes via the Console in order for You to make any corresponding changes to Your Application, but Aculab shall be under no obligation so to do.
- 6.3 Unless explicitly stated otherwise, the Services shall also include any new functions or features provided by Aculab that augment or enhance prior existing Services.
- 6.4 You shall comply with the current technical documentation applicable to the Services, including the applicable developer guides, as posted and updated by Aculab from time to time and made available via the Console.
- 6.5 Provided that You comply with the terms of this Agreement and Aculab's Acceptable Use Policy, You may use the Services in connection with Applications built, developed, created, owned or lawfully obtained by You. You shall be held solely responsible for the performance and impact of Your Applications, including, without limitation, any audio, data, text, short message service (SMS) message, images or other content that is owned, licensed or lawfully obtained by You (collectively, 'Content') and therein contained or thereby delivered. You may enable access to and use of Your Applications, including any Content therein contained or thereby delivered, by your end users in accordance with the terms of this Agreement and You shall be responsible for all end user terms and conditions applicable to Your Applications and Your Content.
- 6.6 You shall only use the Console and the Services to store, retrieve, query and serve Your Content, and/or to execute Your Applications.
- 6.7 Your Applications may make network calls or requests to the Services, or may receive or make phone calls via the Services, or may send or receive SMS messages, as per the terms of this Agreement and at any time that the Services are available, provided that those requests do not violate the terms of Aculab's Acceptable Use Policy, included herein as Schedule 1, or the terms of this Agreement.
 - 6.7.1 You acknowledge that Aculab may temporarily store and retain audio recordings of speech data made for the purpose of inputting such data to an ASR engine and subsequently providing Your Applications with an ASR result as part of the function of Your Applications following a call or request to the applicable Services. You further acknowledge that such recordings may contain passages of speech from conversations between users of Your Applications.
 - 6.7.2 You acknowledge that Aculab may temporarily store recordings of audio data made for the purpose of training and improving the accuracy and performance of applicable Services, such as its ASR engine and live speaker or answering machine detection. You further acknowledge that such recordings may contain

passages of machine generated speech, machine reproduced speech or human speech utterances made in response to the execution of Your Applications.

- 6.7.3 Aculab shall not under any circumstances rent, sell, share or provide copies of such audio recordings to any third party whatsoever. In any event, Aculab shall cease to store and retain each such audio recording through deleting or destroying it by permanent erasure after a period not to exceed twenty-eight (28) days from the date the recording was made.
- 6.8 You may elect to use Paid-for Services, but You are under no obligation so to do. By electing to use any Paid-for Services and changing the status of your Account from that of Development Account to Production Account or Premium Account, You agree to pay the applicable Charges and as set forth in Section 10.
- 6.9 Non-use of Free Services shall mean zero activity visible on Your Account, including zero log-ins using Your Credentials and zero traffic originating from or terminating upon Your Applications.
- 6.10 You acknowledge that You will not be able to use PSTN Phone Numbers or PSTN DID Phone Numbers ('Phone Numbers') associated with your Account for calls using the Services until such time as the numbers have been set up and enabled for Your use following Your request to obtain such numbers, and that, prior to the date on which such Phone Numbers are available on which to make or take calls, such date to be known as the Service Date on a per Phone Number basis, You shall change the status of your Account from that of Development Account to Production Account or Premium Account in order to be able to make outbound (or outgoing) calls to Phone Numbers or receive inbound (or incoming) calls on Phone Numbers.
- 6.10.1 You shall comply with the following in relation to your purchase and use of Phone Numbers: i) You shall not give notice to terminate a Phone Number within three (3) months of the Service Date of such Phone Number (the 'Minimum Period'); ii) following the expiry of the Minimum Period, You may give Aculab thirty (30) days notice of your intention to terminate a Phone Number; and iii) should you discontinue use of a Phone Number within the Minimum Period, You acknowledge that You shall remain liable to pay Aculab for such Phone Number until the earlier of the following: a) the expiry of a thirty (30) day notice period immediately following the Minimum Period, provided that You have given Aculab notice of your intention to terminate such Phone Number; or b) the payment by You to Aculab of an Early Termination Fee, which shall be equivalent to three (3) months of Charges in respect of such Phone Number, following a request by You for such early termination in relation to such Phone Number.
- 6.11 You acknowledge that You will not be able to use SMS short codes associated with your Account for SMS messages using the Services until such time as the short codes have been set up and enabled for Your use following Your request to obtain such short codes, and that You shall change the status of your Account from that of Development Account to Production Account or Premium Account in order to send or receive SMS messages.
- 6.12 You shall be personally responsible for all traffic originating from Your Applications using the security credentials associated with Your Account ('Credentials') to log in and access the Console and the Services. You shall be fully responsible for all activities that occur under Your Credentials, regardless of whether such activities are

undertaken by You or by a third party, and all actions taken using Your Credentials shall be deemed to be actions taken by You. It is Your responsibility to protect Your Credentials and You may not sell, transfer or sublicense Your Credentials to any other party. Credentials are issued on the basis of one Account per email address, which email address shall be that used to enrol for access to the Console and the Services when You agreed to be bound by the terms and conditions of this Agreement.

- 6.13 You shall provide information or other materials related to Your Applications and Your Content (including copies of any client applications) as reasonably requested by Aculab in order to verify Your compliance with this Agreement. Aculab may monitor the external interfaces (e.g., ports) of Your Applications and Your Content to verify Your compliance with this Agreement. You shall not block or interfere with Aculab's monitoring, but You may use encryption technology or firewalls to help keep Your Applications and Your Content confidential. You shall reasonably cooperate with Aculab to identify the source of any problem with the Console or the Services that Aculab reasonably believes may be attributable to Your Applications and Your Content or any end user materials that You control.

7. Acceptable Use Policy

- 7.1 You only may use the Console and the Services in accordance with Aculab's Acceptable Use Policy, included herein as Schedule 1, and the applicable Service Terms.

8. Downtime and Service Suspensions

- 8.1 In addition to Aculab's rights to terminate this Agreement or suspend your rights to use the Console and the Services as described in Sections 3 and 4 above, You acknowledge that, (i) Your access to and use of the Console and the Services may be suspended for the duration of any unanticipated or unscheduled downtime or unavailability of any portion or all of the Console and the Services for any reason, including as a result of power outages, system failures or other interruptions; and (ii) Aculab shall also be entitled, without any liability to You, to suspend access to any portion or all of the Console or the Services at any time: (a) for scheduled downtime to permit Aculab to conduct maintenance or make modifications to any of the Services; (b) in the event of a denial of service attack or other attack on the Console or the Services or other event that Aculab determines, at its sole discretion, may create a risk to the Console or the applicable Services, to You or to any of Aculab's other customers if the Services were not suspended; or (c) in the event that Aculab determines that any of the Services are prohibited by applicable law or Aculab otherwise determines that it is necessary or prudent to do so for legal or regulatory reasons (collectively, 'Service Suspensions').
- 8.2 Without limitation to Section 14, Aculab shall have no liability whatsoever for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that You may incur as a result of any Service Suspension. Aculab will endeavour to provide You with notice of any Service Suspension in accordance with Section 18 below, but shall have no liability so to do. Aculab may post updates regarding resumption of Services following any Service Suspension, but shall have no liability for the manner in which such updates are posted or if Aculab fails to post such updates.

9. Security

- 9.1 Aculab will endeavour to keep Your Content secure, but does not guarantee that it will be successful at so doing. Accordingly, You acknowledge that You bear sole responsibility for adequate security, protection and backup of Your Content and Applications. Aculab strongly encourages You, where available and appropriate, to use encryption technology to protect Your Content from unauthorised access and routinely archive Your Content. Without limitation to Section 14, Aculab shall have no liability to You for any unauthorised access or use, corruption, deletion, destruction or loss of any of Your Content or Applications.

10. Service Charges and Payment

- 10.1 Service Charges ('Charges') are payable for Paid-for Services.
- 10.2 In consideration of Your use of any Paid-for Services, You shall pay all applicable Charges for such Paid-for Services in the amounts set forth on the respective Charges detail pages on the Console appropriate to the applicable Paid-for Services and according to Your usage of the Paid-for Services.
- 10.3 Aculab may, at its sole discretion, (i) increase or decrease the Charges for any existing Paid-for Services; (ii) introduce new Paid-for Services; (iii) implement Charges for any Services previously offered free of charge as Free Services, in which case such Services will thereafter be deemed Paid-for Services; or (iv) cease Charges for certain Paid-for Services, in which case such Paid-for Services will thereafter be deemed Free Services.
- 10.4 Aculab may provide notice in advance of changes to Charges and such notice may be posted on the Console on the respective Charges detail page for the applicable Services. You shall be responsible for checking the Console regularly to remain informed about the applicable amounts and effective dates of any changes or new Charges.
- 10.5 All Charges are listed exclusive of applicable taxes and duties, including, without limitation, VAT and applicable sales tax. You shall provide such information to Aculab as is reasonably required to determine whether Aculab is obligated to collect VAT from You.
- 10.6 **Payment.** Aculab shall specify the manner in which You shall pay any Charges and any such payment shall be subject to Aculab's general accounts receivable policies from time to time in effect. All amounts payable by You under this Agreement shall be made without setoff or counterclaim and without deduction or withholding. If any deduction or withholding is required by applicable law, You shall notify Aculab as per the procedures identified in Section 18 and shall pay such additional amounts to Aculab as necessary to ensure that the net amount that Aculab receives, after such deduction and withholding, equals the amount Aculab would have received if no such deduction or withholding had been required. Additionally, You shall provide Aculab with documentation that the withholding and deducted amounts have been paid to the relevant taxing authority. If payment is not made on the due days or otherwise Aculab's terms are not complied with, Aculab may at its absolute discretion suspend Your access to the Console, and Your use of Aculab Cloud and the Services, and may, without notice, charge interest from the due date on moneys outstanding on a per diem basis at the rate of four (4) percent over the base lending rate from time to time of Barclays Bank plc. No time or indulgence allowed by Aculab shall prejudice any contractual right or remedy of Aculab's in the matter of payment of Charges or monies due.

10.6.1 Billing for Premium Accounts

- 10.6.1.1 For Premium Accounts where Your regular monthly use of Paid-for Services is anticipated to meet or exceed an amount ('Agreed Amount'), documented in a Schedule to this Agreement, Aculab shall grant credit terms and invoice You

monthly in arrears according to Your use of Paid-for Services. Payment shall be due and must be made within thirty (30) days of date of invoice and in accordance with clause 10.

10.6.1.2 To qualify for credit terms and invoicing monthly in arrears, You shall accept that a minimum Term (the 'Schedule Term'), documented in a Schedule to this Agreement, be in force between You and Aculab ('the Parties'), whereby such Schedule Term shall commence on a date to be agreed between the Parties, and that such Schedule Term shall automatically renew for additional Schedule Term periods (each a 'Renewal Term') unless one of the Parties provides notice of non-renewal no less than an agreed number of days, documented in a Schedule to this Agreement, prior to the end of a Renewal Term.

10.6.1.3 For Premium Accounts where, notwithstanding actual use, You have agreed to pay at least a minimum monthly amount (the 'Minimum Commitment'), documented in a Schedule to this Agreement, for the use of Paid-for Services, and Your actual use in any one month subsequent to the applicability of such a Schedule fails to meet or exceed such Minimum Commitment, Aculab shall invoice You an amount equal to the Minimum Commitment for each such month and in arrears. Payment shall be due and must be made within thirty (30) days of date of invoice and in accordance with clause 10.

10.7 You shall be solely responsible for the payment of all Charges associated with the use of Paid-for Services incurred through the use of Your Credentials.

11. Confidentiality

11.1 **Use and Disclosure.** You shall not disclose Aculab Confidential Information during the Term or at any time during the three (3) year period following the end of the Term. As used in this Agreement, 'Aculab Confidential Information' means all non-public information disclosed by Aculab, its business partners or its or their respective agents or contractors that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be confidential. Aculab Confidential Information includes, without limitation, (i) non-public information relating to Aculab's or its business partners' technology, customers, business plans, promotional and marketing activities, finances and other business affairs (including, but not limited to, any information about or involving one of its so-called beta tests or a beta test product that You obtain as a result of Your participation in such beta test), (ii) third-party information that Aculab is obligated to keep confidential, and (iii) the nature, content and existence of any discussions or negotiations between You and Aculab. Aculab Confidential Information does not include any information described in Section 11.2 or any information that You are required to disclose by law.

11.2 **Excluded Information.** Notwithstanding any other provision in this Agreement, You shall not have any confidentiality obligation to Aculab under Section 11.1 above, with respect to any information provided or made available by Aculab hereunder, and Aculab shall not have any confidentiality or non-use obligation to You hereunder with respect to any information, software application, data or content provided or made available by You hereunder that: (i) is rightfully in the public domain other than by a breach of this Agreement; (ii) can be shown by documentation to have been known to

the Receiving Party at the time of its receipt from the Disclosing Party; (iii) is rightfully known to the Receiving Party without any limitation on use or disclosure prior to its receipt from the Disclosing Party; (iv) is received from a third party without any obligation of confidentiality or from a third party who did not acquire or disclose the same by a wrongful or tortious act; or (v) can be shown by documentation to have been independently developed by the Receiving Party.

- 11.3 **Conflict with Separate Non-Disclosure Agreement.** If You and Aculab are parties to a separate non-disclosure agreement and there is a conflict between the terms of such an agreement and the terms of this Section 11, the terms of the separate non-disclosure agreement shall prevail.

12. Intellectual Property

12.1 Rights and Title

12.1.1 Other than the limited use and access rights and licenses expressly set forth in this Agreement, all title, ownership, interest, copyrights, patents, trademarks, trade secrets, intellectual property rights, mask work protection rights, proprietary rights, and all other rights (collectively, 'Rights and Title'), in and to: (i) Aculab Cloud; (ii) the Console; (iii) the Services; (iv) the Material and all copies of the Material in any form whatsoever; (v) Aculab Marks; and (vi) any other technology, software, functions, content, images, materials, and other data or information that Aculab provides or uses to provide the Services and the Materials (collectively from (i) to (vi), 'Aculab's Products'), shall remain with Aculab and in no circumstances shall any licence or Rights and Title in Aculab's Products be expressly or by implication conferred upon or acquired by You or any third party.

12.1.2 Other than the rights and interests expressly set forth in this Agreement, and excluding the Materials and works derived from the Materials, You reserve all right, title and interest, including all intellectual property and proprietary rights, in and to Your Applications and Your Content.

12.2 **Disclosure.** Other than as necessary to provide the Services to you, Aculab shall not disclose Your Content except, (i) if such disclosure is expressly authorised by You in connection with Your use of the Services; or (ii) to comply with this Agreement, the request of a governmental or regulatory body, or subpoenas or court orders.

12.3 **Feedback and Communications.** In the event You elect, in connection with any of the Services, to communicate to Aculab suggestions for improvements to Aculab's Products (collectively, 'Feedback'), Aculab shall own all right, title, and interest in and to the Feedback, even if You have designated the Feedback as confidential, and Aculab shall be entitled to use the Feedback without restriction. Furthermore, any other information or content You post or provide to Aculab via comments, forums, emails and the like (collectively, 'Communications') shall be considered the property of Aculab. You hereby irrevocably assign all right, title and interest in and to the Feedback and Communications to Aculab and agree to provide Aculab with such assistance as it may require to document, perfect and maintain its rights to the Feedback and Communications.

12.4 **Non-Assertion.** During and after the Term of this Agreement, with respect to any of the Services that You elect to use, You will not assert, nor will You authorise, assist, or

encourage any third party to assert, against Aculab or any of its customers, end users, vendors, business partners (including third party sellers on websites operated by or on behalf of Aculab), licensors, sub-licensees or transferees, any patent infringement or other intellectual property infringement claim with respect to such Services.

13. Force Majeure

13.1 Aculab shall have no liability to You whatsoever for damages due to fire; explosion; lightning; pest damage; power surges or failures; strikes or labour disputes; water; acts of God; the elements; war; civil disturbances, acts of civil or military authorities or the public enemy; inability to secure raw materials, products or transportation facilities; fuel or energy shortages; acts or omissions of communications carriers; or other causes beyond such party's control, whether or not similar to the foregoing.

14. Representations and Warranties; Disclaimers; Limitations of Liability

14.1 **Use.** You represent and warrant that You will not use Aculab's Products, Your Application or Your Content in a manner that violates Aculab's Acceptable Use Policy. Notwithstanding that Aculab does not assume the duty or obligation to monitor any materials created, posted or uploaded by You or any third parties, Aculab reserves the right, in its sole and absolute discretion, to monitor any and all materials posted or uploaded by You or any third parties at any time without prior notice to ensure that they conform to any usage guidelines or policies (including Aculab's Acceptable Use Policy) relating to the Console or the Services.

14.2 **Applications and Content.** You represent and warrant that, (i) You are solely responsible for the development, operation, and maintenance of Your Application and for Your Content, including without limitation, the accuracy, appropriateness and completeness of Your Content and all product related materials and descriptions; (ii) that You have the necessary rights and licenses, consents, permissions, waivers and releases to use and display Your Application and Your Content; (iii) neither Your Application nor Your Content (a) violates, misappropriates or infringes any rights of Aculab or any third party, (b) constitutes defamation, invasion of privacy or publicity, or otherwise violates any rights of any third party, or (c) is designed for use in any illegal activity or promotes illegal activities, including, without limitation, in a manner that might be libellous or defamatory or otherwise malicious, illegal or harmful to any person or entity, or discriminatory based on race, creed, sex, religion, nationality, disability, sexual orientation, or age; (iv) neither Your Application nor Your Content contains any unauthorised data, malware, viruses, Trojan horses, spyware, worms, or other malicious or harmful code (collectively 'Harmful Components'); and (v) to the extent to which You use any of the Aculab Marks, that You will conduct Your business in a professional manner and in a way that reflects favourably on the goodwill and reputation of Aculab. You also represent and warrant that You are responsible for any charges incurred by virtue of Your use of the Application, whether the Application acted in error or otherwise.

14.3 **Phone Numbers.** You further agree that You understand that You may use any phone number (including any previously provisioned direct inward toll free numbers or vanity

numbers) assigned or ported in to Your Account and Aculab shall not interfere with Your right to port that number away so long as Your Account is in good standing and that You provide appropriate supporting documentation in accordance with common industry standards for porting such number away from Aculab; provided, however, that if Your Account has closed, suspended or lapsed for any other reason (including termination of this Agreement) and You have not reactivated Your Account or rectified such status within sixty (60) days after the earliest to occur of such event, then at the end of such sixty- (60) day period Aculab will immediately assume ownership of any phone numbers and reserves the right to give any of those numbers to other customers, and Your portability rights will be lost. During such sixty- (60) day period, You shall retain the exclusive right to port phone numbers associated with Your Account away from Aculab and You shall remain liable for all Charges, including Phone Number Charges, in connection with phone numbers associated with Your Account.

14.4 Laws and Regulations. You represent and warrant that You will abide by all applicable local, state, county, national, country, foreign and international laws and regulations and that You will be solely responsible for all acts or omissions that occur under Your Account or Credentials, and Your Applications and Your Content and Your use of the Console and the Services.

14.5 Public Software and Feedback. You represent and warrant that without Aculab's express written consent You will not use, and will not authorize any third party to use, any Public Software (as defined in Section 14.5.1 below) in connection with the Services in any manner that requires, pursuant to the license applicable to such Public Software, that any of Aculab's Products be (i) disclosed or distributed in source code form, (ii) made available free of charge to recipients, or (iii) modifiable without restriction by recipients. With respect to any Feedback, You represent and warrant that such Feedback, in whole or in part, contributed by or through You (a) is legally distributable by You, either because You own the copyright or because You have fully complied with any copyright terms associated with the software or content, (b) contains no third party software or any software that may be considered Public Software and (c) does not violate, misappropriate or infringe any intellectual property rights of any third party.

14.5.1 Public Software means any software, documentation or other material that contains, or is derived (in whole or in part) from, any software, documentation or other material that is distributed as free software, open source software (e.g., Linux) or similar licensing or distribution models, including, but not limited to software, documentation or other material licensed or distributed under any of the following licenses or distribution models, or licenses or distribution models similar to any of the following: (i) GNU's General Public License (GPL); the Lesser/Library GPL (LGPL); the Free Documentation License; (ii) The Artistic License (e.g., PERL); (iii) the Mozilla Public License; (iv) the Netscape Public License; (v) the Sun Community Source License (SCSL); (vi) the Sun Industry Standards License (SISL); (vii) the BSD License; or (viii) the Apache License.

14.6 Authorization and Account Information. You represent and warrant that, (i) the information You provide in connection with Your enrolment for the Console and the Services is accurate and complete; (ii) if You are registering for access to the Console and the Services as an individual, that You are at least eighteen (18) years of age and

have the legal capacity to enter into this Agreement; and (iii) if You are enrolling for the Console and the Services as an entity or organisation, (a) You are duly authorised to do business in the jurisdiction, country or countries in which or where You operate, (b) the individual clicking 'Accept' on this Agreement and completing the enrolment for access to the Console and the Services meets the requirements of subsection (ii) above and is an authorised representative of Your entity, and (c) Your employees, officers, representatives and other agents accessing the Console and the Services are duly authorised to access the Console and the Services and to legally bind You to this Agreement and all transactions conducted under Your Account.

14.7 Disclaimers. ACULAB'S PRODUCTS AS PROVIDED BY ACULAB OR ITS LICENSORS ARE PROVIDED 'AS IS'. ACULAB AND ITS LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE WITH RESPECT TO ACULAB'S PRODUCTS. EXCEPT TO THE EXTENT PROHIBITED BY APPLICABLE LAW, ACULAB AND ITS LICENSORS DISCLAIM ALL WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE. ACULAB AND ITS LICENSORS DOES/DO NOT WARRANT THAT ACULAB'S PRODUCTS WILL, (i) FUNCTION AS DESCRIBED; (ii) BE UNINTERRUPTED OR ERROR FREE OR FREE OF HARMFUL COMPONENTS; OR THAT (a) THE CONTENT OR DATA YOU STORE WITHIN ACULAB'S PRODUCTS WILL BE SECURE; (b) SAFE FROM UNAUTHORISED ACCESS; OR (c) NOT OTHERWISE ALTERED, DELETED, LOST, DAMAGED OR DESTROYED. ACULAB AND ITS LICENSORS SHALL NOT BE RESPONSIBLE FOR ANY INTERRUPTIONS TO ACULAB'S PRODUCTS, INCLUDING, WITHOUT LIMITATION, POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS. NO ADVICE OR INFORMATION OBTAINED BY YOU FROM ACULAB OR FROM ANY THIRD PARTY OR THROUGH ACULAB'S PRODUCTS SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

14.8 Your Applications and Your Content are Your Responsibility. In addition to the foregoing, Aculab specifically disclaims all liability, and You shall be solely responsible for the development, operation, access to and maintenance of Your Application and Your Content, and for all materials that appear on or within Your Application and Your Content and You agree that You shall, without limitation, be solely responsible for:

14.8.1 The technical operation of Your Application and all related equipment;

14.8.2 The accuracy and appropriateness of any materials posted on or within Your Application or Your Content (including but not limited to any product related materials);

14.8.3 Ensuring that Your Application accurately and adequately discloses, either through a privacy policy or otherwise, how You collect, use, store, and disclose data collected from visitors, including, where applicable, that third parties (including advertisers) may serve content and/or advertisements and collect information directly from visitors and may place or recognise cookies on visitors' browsers; and

14.8.4 Any of Your users' or customers' claims relating to Your Application or Your Content or any Services utilised in connection with Your Application.

- 14.9 **Website Links.** Aculab's Websites, the Management Console and/or the Services may contain links to Websites that are not under Aculab's control ('Third Party Sites'). Aculab is not responsible for the contents or functionality of any Third Party Sites or any Website that can be accessed via links on any Third Party Site. Aculab provides such links to You as a convenience and the inclusion of any such links does not constitute or imply Aculab's endorsement or validation of any Third Party Site.
- 14.10 **Limitations of Liability.** NEITHER ACULAB NOR ANY OF ITS LICENSORS SHALL BE LIABLE TO YOU IN ANY MANNER WHATSOEVER FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, CONSEQUENTIAL OR EXEMPLARY DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, DATA OR OTHER LOSSES, EVEN IF ACULAB HAS OR HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, IN CONNECTION WITH THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY SUCH DAMAGES RESULTING FROM, (i) THE USE OR THE INABILITY TO USE ACULAB'S PRODUCTS; (ii) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES; (iii) CORRUPTION, DELETION, OR DESTRUCTION OF DATA OR YOUR CONTENT; OR (iv) UNAUTHORISED ACCESS TO OR ALTERATION OF YOUR APPLICATIONS AND/OR YOUR CONTENT. IN ANY CASE, ACULAB'S AGGREGATE LIABILITY UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID BY YOU TO ACULAB HEREUNDER FOR THE SERVICES. SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN WARRANTIES OR THE LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES. ACCORDINGLY, SOME OR ALL OF THE ABOVE EXCLUSIONS OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MAY HAVE ADDITIONAL RIGHTS.
- 14.11 **Emergency Services.** ACULAB CLOUD, THE CONSOLE AND THE SERVICES DO NOT AND ARE NOT INTENDED TO SUPPORT OR CARRY EMERGENCY CALLS TO ANY EMERGENCY SERVICES. 'EMERGENCY SERVICES' SHALL MEAN SERVICES THAT ALLOW A USER TO CONNECT WITH EMERGENCY SERVICES PERSONNEL OR PUBLIC SAFETY ANSWERING POINTS SUCH AS 999, 112, 911, E9-1-1, OR NG9-1-1 SERVICES. NEITHER ACULAB NOR ITS OFFICERS, EMPLOYEES OR AFFILIATES MAY BE HELD LIABLE WHETHER IN CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER FORM OF LIABILITY FOR ANY CLAIM, DAMAGE, OR LOSS (AND YOU HEREBY WAIVE ANY AND ALL SUCH CLAIMS OR CAUSES OF ACTION), ARISING FROM OR RELATING TO YOUR INABILITY TO USE ACULAB'S PRODUCTS TO CONTACT ANY EMERGENCY SERVICES, OR YOUR FAILURE TO MAKE ADDITIONAL ARRANGEMENTS TO ACCESS EMERGENCY SERVICES.
- 14.12 **Third Party Materials.** Certain content, products, and services available via Aculab's Websites, the Management Console or the Services (or links contained therein) may include materials, software, plug-ins, applications and other resources from third parties and access to third party websites (collectively 'Third Party Materials'). You acknowledge and agree that Aculab is not responsible for examining or evaluating the content or accuracy of any such Third Party Materials and that Aculab does not warrant or endorse and does not assume (and will not have) any liability or responsibility for any Third Party Materials or any damage or loss resulting therefrom. The availability of Third Party Materials is provided solely as a convenience to You. You agree that you must evaluate, and bear all risks associated with, the use of any

Third Party Materials, including any reliance on the accuracy, completeness, or usefulness thereof.

15. Indemnification

- 15.1 **General.** You agree to indemnify, defend and hold Aculab, its affiliates and licensors, each of its and its affiliates' and licensors' business partners (including third party sellers on websites operated by or on behalf of Aculab) and each of its and its affiliates' and licensors' respective employees, officers, directors and representatives, harmless from and against any and all corresponding claims, losses, damages, liabilities, judgments, penalties, fines, settlements, costs and expenses, including reasonable legal fees, arising out of or in connection with any claim arising out of (i) Your use of any of Aculab's Products in a manner not authorised by this Agreement; and/or (ii) Your violation of any of the applicable restrictions and/or the Acceptable Use Policy; and/or (iii) applicable law; and/or (iv) Your Application; and/or (v) Your Content; and/or (vi) the combination of Your Application and Content with other applications, content or processes; and/or (vii) Your infringement or misappropriation of any third party patent, copyright, trademark, trade secret or other intellectual property rights; and/or (viii) Your use, development, design, manufacture, production, advertising, promotion and/or marketing of Your Application and/or Content; (ix) Your violation of any term or condition of this Agreement and/or any of its included schedules, incorporated notices, incorporated statements, or incorporated policies, including without limitation, your representations and warranties; and/or (x) You or Your employees' or personnel's negligence or wilful misconduct.
- 15.2 **Notification.** Aculab agrees to promptly notify You of any claim subject to indemnification, provided that Aculab's failure to promptly notify You shall not affect Your obligations hereunder except to the extent that Aculab's failure to promptly notify You delays or prejudices Your ability to defend the claim. At Aculab's option, You will have the right to defend against any such claim with counsel of Your own choosing, subject to Aculab's written consent, and to settle such claim as You deem appropriate, provided that You shall not enter into any settlement without Aculab's prior written consent and provided that Aculab may, at any time, elect to take over control of the defence and settlement of the claim.

16. Import and Export Compliance and Restrictions

- 16.1 You shall, in connection with Your use of Aculab's Products, comply with all applicable import, export and re-export control laws and regulations of any country or region, including the U.S. Export Administration Regulations, the U.S. International Traffic in Arms Regulations, Council Regulation (EC) No 428/2009 on the control of exports of dual-use items and technology, such as but not limited to those including strong encryption techniques, and country-specific economic sanctions programs or embargoes adopted against countries or individuals under any applicable national or international legislation, including any measures implemented by the United Kingdom, the European Union, the European Commission, countries covered by the Community General Export Authorisation ('CGEA'), or the U.S. Office of Foreign Assets Control.

17. Disputes

- 17.1 Notwithstanding anything to the contrary, Aculab may seek injunctive or other relief in any court of competent jurisdiction for any actual or alleged infringement of Aculab's or any third party's intellectual property rights and/or proprietary rights. Any dispute relating in any way to Your use of Aculab's Products, shall be adjudicated in any court of competent jurisdiction in England, and You consent to exclusive jurisdiction and venue in such courts. You further acknowledge that Aculab's rights in Aculab's Products are of a special, unique and extraordinary character, giving them peculiar value, the loss of which cannot be readily estimated and may not be adequately compensated for in monetary damages.
- 17.2 **Applicable Law.** By using Aculab's Products, You agree that the laws of England, without regard to principles of conflicts of laws, will govern this Agreement and any dispute of any sort that might arise between You and Aculab.

18. Notices

- 18.1 **Notices made by Aculab.** Except as otherwise set forth herein, notices made by Aculab to You under this Agreement that affect Aculab's customers generally (for example, notices of updated fees, etc.) will be posted on the Console. Notices made by Aculab under this Agreement for You or Your Account specifically (for example, notices of breach and/or suspension) will be provided to You via a notification message displayed on Your Account page or via the email address provided to Aculab when You enrolled for access to the Console and the Services.
- 18.2 **Your email address.** It is Your responsibility to keep Your email address and other contact information for Your Account current and to maintain the accuracy of such information. You will be deemed to have received any email sent to Your email address, upon Aculab's sending of the email, whether or not You actually received the email.
- 18.3 **Notices made by You.** For notices made by You to Aculab under this Agreement and for questions regarding this Agreement or the Console and the Services, You may contact Aculab as follows: by prepaid mail at Aculab Plc., Lakeside, Bramley Road, Milton Keynes, Bedfordshire, MK1 1PT, United Kingdom., or by contacting Aculab at cloud.info@aculab.com
- 18.4 **Language.** All communications and notices to be made or given pursuant to this Agreement shall be in the English language.

19. Miscellaneous Provisions

- 19.1 **Responsibility.** If You authorise, assist, encourage or facilitate another person or entity to take any action related to the subject matter of this Agreement, You shall be deemed to have taken the action Yourself.
- 19.2 **Severability.** If any portion of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect, and any invalid or unenforceable portions shall be construed in a manner that most closely reflects the effect and intent of the original language. If such construction is not possible, the provision will be severed from this Agreement, and the rest of the Agreement shall remain in full force and effect.
- 19.3 **Waivers.** The failure by Aculab to enforce any provision of this Agreement shall in no way be construed to be a present or future waiver of such provision nor in any way affect Aculab's right to enforce such provision thereafter. All waivers by Aculab must be in writing to be effective.
- 19.4 **Successors and Assigns.** This Agreement will be binding upon, and inure to the benefit of the parties and their respective successors and assigns.
- 19.5 **Entire Agreement.** This Agreement includes any Schedules attached thereto and incorporates by reference, (i) the privacy notice posted on www.aculab.com ('Privacy Notice'); (ii) the legal statement posted on www.aculab.com ('Legal Statement'); (iii) the acceptable use policy attached as Schedule 1 hereto and posted on cloud.aculab.com ('Acceptable Use Policy'); and (iv) all policies and guidelines posted on the Console and/or Aculab's Websites at ww.aculab.com , www.applianx.com , or cloud.aculab.com as these policies and terms may be modified thereafter by Aculab from time to time and constitutes the entire agreement between You and Aculab regarding the subject matter hereof and supersedes any and all prior or contemporaneous representation, understanding, agreement, or communication between You and Aculab, whether written or oral, regarding such subject matter.
- 19.6 You and Aculab acknowledge that neither Party has been induced to enter into this Agreement by any representations or promises not specifically stated.
- 19.7 **No Endorsement.** You understand and acknowledge that Aculab is not certifying nor endorsing, and has no obligation to certify or endorse, any of Your Applications or Your Content.
- 19.8 **Relationship.** Nothing in this Agreement is intended to nor does it create any type of joint venture, creditor-debtor, escrow, partnership or any employer/employee or fiduciary or franchise relationship between You and Aculab (or any of Aculab's affiliates).
- 19.9 Aculab shall not be bound by, and specifically objects to, any term, condition or other provision, which is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) and which is submitted by You in any order, receipt, acceptance, confirmation, correspondence or other document.
- 19.10 **Governing Law.** The construction, interpretation and performance of this Agreement shall be construed in accordance with and governed by the laws of England.

SCHEDULE 1

ACULAB'S ACCEPTABLE USE POLICY

Version 1.1 produced on 1st November, 2013

Introduction

This acceptable use policy ('Policy') describes prohibited uses of Aculab Cloud, the Aculab Cloud Management Console ('Console') located at cloud.aculab.com and/or the Services ('Services') that are more particularly defined in Aculab's Terms and Conditions of Service in the Aculab Cloud Customer Agreement and offered by Aculab Plc. ('Aculab'). The Prohibited Uses described in this Policy are provided as examples, which shall not be considered exhaustive.

Compliance with this policy means that You will likely be compliant with United States Federal and State restrictions, applicable national regulatory authorities, national and international carrier regulations, and best practices established by appropriate national and international industry trade groups.

All capitalised terms used but not defined in this Policy shall have the meanings set forth in Aculab's Terms and Conditions of Service in the Aculab Cloud Customer Agreement.

Section and paragraph headings in this Policy are for ease of use and cross-reference purposes only, and are not to affect the meaning or interpretation of this Policy.

Changes to this Policy

Aculab reserves the right, at its sole discretion, to modify this Policy from time to time and shall do so by posting an updated version of this Policy on the Console. Changes made to this Policy are effective immediately it is published on the Console. You should review this Policy frequently as it is Your responsibility to remain informed about any changes to it.

Agreement

By accessing the Console or using the Services, You agree to be bound by the terms and conditions contained in the latest issue of this Policy. In the context of this Policy, the terms 'issue', 'version' and 'revision' shall be synonymous.

Violation

If You violate this Policy or authorise or assist others to do so, Aculab may, in addition to any remedy that it may have at law or in equity, suspend or terminate Your use of the Services in accordance with Aculab's Terms and Conditions of Service in the Aculab Cloud Customer Agreement. Aculab reserves the right at its sole discretion to determine whether You are in violation of this Policy.

Aculab reserves the right, but it does not assume the obligation, to monitor and/or investigate any violation of this Policy and Aculab may remove, disable access to, or modify any Content or resource that violates this Policy or any other agreement it has with You.

Aculab reserves the right to monitor Your SMS messaging activity and to block any phone number or suspend Your account and use of the Services if it determines that You or Your

users or subscribers are in violation of this Policy, or if it receives complaints from Your users or subscribers or from a third party.

If You become aware of any violation of this Policy, You shall immediately notify Aculab and provide it with assistance, as requested, to stop or remedy the violation.

Violation of this Policy may result in civil and/or criminal liability and Aculab may report any activity that it suspects violates any law or regulation to appropriate law enforcement officials, regulators, or other appropriate third parties. Aculab's reporting may include disclosing appropriate customer information. Aculab may cooperate with appropriate law enforcement agencies, regulators, or other appropriate third parties, including those who have provided notice to Aculab stating that they have been harmed by Your failure to abide by this Policy, to help with the investigation and prosecution of illegal conduct by providing network and systems information related to alleged violations of this Policy.

Aculab's failure to enforce this Policy in each and every instance in which it might have cause does not amount to a waiver of Aculab's rights hereunder.

Prohibited Uses

The following sections provide a non-exhaustive list of unacceptable uses of the Console or the Services i.e., uses, such as, but not limited to, those described below are Prohibited Uses and are not permitted.

General statement

You shall not use or encourage others to use the Console or the Services for any Prohibited Uses, nor shall You transmit, store, display, distribute or otherwise make available Content or material, such as, but not limited to that described below, in any manner via Your use of the Console or the Services.

Illegal use

You shall not use the Console or the Services for any illegal purpose whatsoever and You shall not violate any legislations, or the civil or criminal laws of any nation, state, country, or jurisdiction.

In Your use of the Console and/or the Services, You shall not violate any UK, US, or foreign laws regarding the transmission of data or software, nor shall You engage in activity for which OFCOM, the United States Federal Communications Commission, or any equivalent national regulatory authority, has restricted or regulated in relation to proper use of the public telephony network or the Internet.

You shall not use the Console or the Services if You are a person barred from receiving the Services under the laws of the United Kingdom, the United States or other countries, including the country in which You are resident or from which You wish to access the Console or use the Services.

You shall not use the Console or the Services if Aculab determines at its sole discretion that its provision to You of any of the Services is prohibited by applicable law or has become impractical or unfeasible for any legal or regulatory reason.

Harmful or offensive use

You shall not use the Console or the Services for any purposes that are harmful or offensive to others, including to reputation, where harmful or offensive use includes that, which can be considered libellous, defamatory, pornographic, obscene, abusive, an invasion of privacy, harassment, malicious, offensive or harmful to any person or entity, discriminatory based on creed, race, sex, religion, nationality, disability, sexual orientation or age, or otherwise objectionable, including content that constitutes child pornography, relates to bestiality, or depicts non-consensual sex acts.

You shall not use the Console or the Services for any purposes, which may damage, interfere with, surreptitiously intercept, or expropriate any system, program or data, including viruses, Trojan horses, worms, time bombs, cancel-bots, or any other malicious, harmful or deleterious programs.

Fraudulent use

You shall not use the Console or the Services to offer or otherwise make available to others fraudulent goods, services, schemes, or promotions, including make-money-fast schemes, ponzi and pyramid schemes, phishing, pharming, harvesting or similar deceptive practices.

Infringing use

You shall not use the Console or the Services in a manner that infringes, violates or misappropriates the intellectual property, trademarks, trade names, service marks, logos, domain names, copyright, rights of publicity and other proprietary rights (collectively, 'Intellectual Property') of Aculab or any third party.

You shall not use the Console or the Services, in any manner whatsoever, which could subject Aculab or any third party to liabilities, damages of any kind, or dangers.

Security violations

You shall not use the Console or the Services to violate the security or integrity of any network, computer or communications system, software application, or network or computing device (each, a 'System') and, in addition, You shall not:

- i. Access or use any System without authorisation or permission, including attempting to probe, scan, or test the vulnerability of a System or to breach any security or authentication measures used by a System;
- ii. Attempt to bypass or break any security mechanism on any System or use the Services in any other manner that poses a security or service risk to Aculab and/or its customers or to any user of the Services or customers of such a user; or
- iii. Monitor or intercept data or traffic on a System without permission.

You shall not use the Services with Credentials that do not belong to You, or intentionally or unintentionally allowing others to use Your Credentials.

Network Abuse

You shall not make network connections to any users, hosts, systems or networks used to provide or make available to You the Console and the Services (each, a 'Target') unless You have permission to communicate with them and, in addition You shall not:

- i. Monitor or crawl a Target in a manner that in any way impairs or disrupts such Target;
- ii. Launch or facilitate the inundation of a Target, whether intentionally or unintentionally, with communications requests so the Target either cannot respond to legitimate traffic or responds so slowly that it becomes ineffective; an activity known also as a denial of service (DoS) attack;
- iii. Interfere, whether intentionally or unintentionally, in any manner, with the functionality or proper working of any Target, including any attempt to overload a Target by mail bombing, news bombing, broadcast attacks, or flooding techniques;
- iv. Operate network services such as open proxies, open mail relays, or open recursive domain name servers;
- v. Use manual or electronic means to avoid any use limitations placed on a Target, such as access, storage and system restrictions; or
- vi. Violate the regulations, policies or procedures of a Target.

Email Abuse

You shall not distribute, publish, send, or facilitate unsolicited mass emailings, promotions, advertising, or solicitations, including informational announcements, direct marketing, unsolicited contacting of sellers or customers, or other impermissible commercial advertising or marketing. You shall not violate anti-spamming laws and regulations of any nation, state, country, or jurisdiction, including such as the CAN SPAM Act of 2003 and the Do-Not-Call Implementation Act.

You shall not collect replies to messages sent from another Internet service provider if those messages violate this Policy or the acceptable use policy of such provider.

SMS Abuse

You shall not send or facilitate unsolicited SMS messages, for any purpose, such as, but not necessarily limited to, mass transmissions, mass broadcast, mass marketing, bulk messaging, promotions, advertising, or solicitations, including informational announcements, direct marketing, unsolicited contacting of sellers or customers, or other impermissible commercial advertising or marketing.

You shall not violate anti-spamming laws and regulations of any nation, state, country, or jurisdiction.

You shall not send or facilitate SMS messages for illegal purposes or any other purposes not approved by the regulatory authority of any nation, state, country, or jurisdiction.

You shall not collect replies to SMS messages sent from another service provider if those messages violate this Policy or the acceptable use policy of such provider.

You only shall send SMS messages to recipients who have opted in to the service You provide and are as a result anticipating or expecting communication from You.

You shall comply with mass marketing restrictions in each nation, state, country, or jurisdiction (collectively 'Territory') in which You offer SMS messaging services, acknowledging that those restrictions may vary from Territory to Territory.

You shall not send or facilitate SMS messages via mobile carriers that do not allow mass marketing SMS messages, whether solicited or not, to be sent on long codes (10-digit numbers).

Where mobile carriers do not allow mass marketing SMS messages, whether solicited or not, to be sent on long codes (10-digit numbers), You only shall send mass marketing SMS messages using shortcodes (special 5- or 6-digit numbers).

Note that Aculab does not support mass marketing to US or international phone numbers.

You shall not send or facilitate the sending of harassing or abusive SMS messages, nor shall you send or facilitate SMS messages to send threats, unwanted messages, or 'SMS-bombing' (the sending of many messages to a single number without the recipient's permission).

Identity Abuse

You shall not falsify the origin of or forge TCP-IP packet headers, email headers, or any part of an SMS message or phone call describing its origin or route.

You shall not alter or obscure packet headers, email headers, or any part of an SMS message or call setup message or spoof or assume a sender's identity without the sender's explicit permission, nor shall You create a false identity or forged email address or header or phone number, or otherwise attempt to mislead others as to the identity of the sender.

Emergency services

You shall not use the Console or the Services to offer to connect or allow a user to connect with emergency services personnel or public safety answering points such as 999, 112, 911, E9-1-1, or NG9-1-1 services (collectively, 'Emergency Services').

Import and Export Compliance and Restrictions

You shall not use the Console or the Services in a manner that constitutes or facilitates the illegal export of any controlled or otherwise restricted items, including, without limitation, software, algorithms or other data that is subject to import, export and re-export control laws and regulations of any country or region, including the U.S. Export Administration Regulations, the U.S. International Traffic in Arms Regulations, Council Regulation (EC) No 428/2009 on the control of exports of dual-use items and technology, such as but not limited to those including strong encryption techniques, and any country-specific economic sanctions programs or embargoes adopted against countries or individuals under any applicable national or international legislation, including any measures implemented by the United Kingdom, the European Union, the European Commission, countries covered by the Community General Export Authorisation ('CGEA'), or the U.S. Office of Foreign Assets Control.