

MASTER SERVICE AGREEMENT

This Master Service Agreement (this “MSA”) is made by and between Neptune Technology Group Inc. (“Neptune”), and the undersigned Customer as of the Effective Date identified below.

The following list of terms are used throughout this agreement. Definition of each term is provided as reference:

Application Availability - The degree to which the application is operational, functional and usable by the subscriber of Neptune’s SaaS application.

Connectivity - The ability for Neptune’s meter data collection devices to send readings to Neptune’s SaaS application, assuming the collection devices are operational.

Maintenance Window - A scheduled outage of services for planned changes, upgrades, and/or repairs for Neptune’s SaaS application.

Penetration Testing – Testing by Customer or a third party retained and authorized by Customer to conduct vulnerability and penetration testing against Neptune systems.

Software as a Service (SaaS) - A software licensing and delivery model in which Neptune’s software application is licensed on a subscription basis and is delivered and managed remotely.

System Availability - The availability of all servers and connectivity resources to allow subscribers access to Neptune’s SaaS application.

1. Service Order Agreements. This MSA sets forth the terms and conditions pursuant to which Neptune will provide hosting services as described in greater detail in Section 2 of this MSA and any Service Order Agreement (each, an “SOA” and collectively, the “SOAs”) (the “Service”) to the Customer. Neptune and Customer may enter into one or more SOAs describing, among other things, other features of the Service. The features of the Service may vary between one SOA and another SOA. Each SOA will exist and operate separately from any other SOA. Unless otherwise agreed to in writing by Neptune and Customer, this MSA will apply to all SOAs entered into between Neptune and Customer.

2. Service. Neptune (either itself or through a contractor) will provide the Service to Customer during the Service Terms set forth in the SOAs. Customer shall not use, and shall not permit the use of, the Service by any end-users other than the subscribers contemplated by the SOAs. Customer shall not use or permit the use of Neptune’s systems for any purpose other than providing the subscribers contemplated by the SOAs with the Service. Unless identified in an SOA, the Services include only the following services:

- a) Providing secure access to the hosted Neptune SAAS application for the Customer.
- b) Providing application, server and Network monitoring, security monitoring, and database preventive maintenance monitoring.
- c) Providing telephone support at 1-800-647-4832 Monday-Friday from 7:00am-5:00pm central time. Excluding corporate holidays.
Support requests can also be initiated via email at support@neptunetg.com
- d) Providing updates and upgrades to Neptune SAAS APPLICATION releases. If Neptune makes an upgrade available, the Customer will be notified three (3) months prior to the software upgrade availability. Customer will have two (2) months after said availability to acquaint themselves with the upgrade software version through a demonstration environment. After such time, Neptune will automatically implement the software upgrade into the Customer’s production system.

Services do not include (and are subject to additional charges at Neptune’s then-current rates) any item not specified above or in an SOA, and specifically does not include the following:

- e) Providing services in the field that require inspection of or access to any endpoint module.
- f) Providing remote firmware maintenance for Neptune’s R900 Gateway collection hardware.

- g) Providing services around the management and connectivity of R900 Gateway collection hardware (data backhaul and general uptime/field service).
- h) Providing all application user administration.
- i) Penetration Testing. If Customer desires to conduct Penetration Testing or to have a third party conduct Penetration Testing on its behalf, Customer must provide written notice to Neptune on a form supplied by Neptune. Customer must request the form from Neptune and must submit the completed form to Neptune at least thirty (30) days prior to the Penetration Test. Penetration Testing is not authorized until after receipt and validation of the required information provided to Neptune by Customer and after delivery to Customer of authorizations for Penetration Testing provided by Neptune or its contractor. Any Penetration Testing conducted by or at the request of the Customer will be limited to the source and destination IP addresses and network bandwidth specified in the Penetration Testing request form, and the times and other conditions specified in the authorization provided by Neptune or its contractor, and Customer will abide by the policies of Neptune or its contractor provided to Customer regarding the use of security assessment tools and services. Customer is responsible for any damages to Neptune or other Neptune customers that are caused by Penetration Testing activities.

3. Billing and Payment. Pricing for the Service will be as set forth in the SOAs. Unless otherwise specified in an SOA, billing for the Service will begin on the Effective Date set forth in an SOA, and payment in full is due upon the Effective Date of the SOA. A 5% late charge will be assessed on all amounts not paid by the 5th day of the month following the Effective Date. All amounts not paid by the 10th day of the month following the Effective Date will bear interest until paid in full at the rate of 15% per annum or, if less, the maximum rate permitted by applicable law.

4. Technical Support. Neptune will open a trouble ticket (a “Ticket”) upon the earlier of (i) when Neptune first observes a trouble issue or (ii) when the Customer first reports the trouble. If a trouble issue relates to the subscriber’s system and Neptune becomes aware of the trouble, Neptune will promptly report this information to the Customer.

5. Service Level

(a) **Network.** For purposes of this MSA, “Network” shall mean Neptune’s SAAS APPLICATION.

(b) **Service Level Objectives.** Neptune will use commercially reasonable efforts to uphold the service level objectives outlined below (collectively, the “Service Level Objectives”):

<u>Application Availability</u>	At least 99% uptime of the Neptune SaaS application during regular business hours over any calendar year. Regular business hours are Monday-Friday from 7am-5pm central time.
<u>System Availability</u>	At least 99% availability for all server and connectivity resources to allow customers subscribers and R900 Gateways to access the host software

(c) **Service Failures.** Neptune shall use commercially reasonable efforts to attempt to correct the Service Failure as soon as reasonably possible. If at any time during the Service Term (as defined in each SOA) the Service is not being provided in accordance with the Service Standards (“Service Failure”), Customer may elect to terminate per Section 11.

(d) **Internet Unavailability.** Neptune shall not be responsible for any failure or deterioration of performance of Services that are attributable, directly or indirectly, to issues arising from or relating to the public internet or any internet network connection provided by any third party.

6. Force Majeure. Section 5 above notwithstanding, Neptune shall incur no liability of any kind to Customer or any other party due to (i) causes unrelated to the Network, including, but not limited to, any disruption in

Customer's or its subscribers' networks or any disruption in the Internet or World Wide Web, or (ii) any other causes beyond its reasonable control, including, but not limited to, acts of God, war, terrorism, electrical storm, wind storm, tornado, hurricane, strikes or lack of access to equipment at Customer's site or subscriber modules. Neptune does not guarantee network security, or the integrity of any data which is sent over, backed up, stored or subject to load balancing, or that Neptune's security procedures will prevent the loss of, alteration of, or improper access to, Customer's or its subscribers' data or information.

7. Disclaimer of Warranties. NEPTUNE DOES NOT MAKE ANY WARRANTY, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES RENDERED HEREUNDER, AND HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS AND IMPLIED, WITH RESPECT TO SUCH SERVICES, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND NEPTUNE EXPRESSLY DISCLAIMS SUCH WARRANTIES AND CONDITIONS.

8. IP Addresses. Customer shall be solely responsible for providing public IP addresses for all of its subscribers. Except for IP addresses expressly registered in the name of Customer or its subscribers, all IP addresses, Network-based domain names and telephone numbers shall remain, at all times, the property of Neptune and shall not be transferable. Customer shall have no right to use such IP addresses upon termination or expiration of the SOA or otherwise.

9. Connectivity with Customer. Customer shall be solely responsible for supplying routing connectivity between Neptune's network and Customer's Ethernet/IP network.

10. Term. The Service Term for the provision of the Service for each SOA is as stated in the SOA. After the initial Service Term, the Service Term for an SOA shall automatically be renewed for additional consecutive one-year terms unless either party delivers written notice to the other that it does not desire to renew such Service Term at least thirty (30) days prior to the end of the then current Service Term. This MSA shall remain in effect at all times that an SOA between Neptune and Customer is active; provided, however, that Section 3, Section 6, Section 7, Section 8, Section 16, Section 18, Section 19 and Section 20 shall survive the termination of any or all SOAs and this MSA.

11. Termination of SOA by Customer. Customer may cancel the Service with respect to an SOA and terminate such SOA prior to the expiration of the Service Term for such SOA only by delivering written notice thereof to Neptune and paying Neptune a termination fee equal to 100% of all payments scheduled to be made to Neptune under such SOA during of the remainder of the Service Term of such SOA.

12. Termination by Neptune. Neptune may discontinue providing the Service and terminate this MSA and any or all SOAs at any time by giving one hundred twenty (120) days prior written notice thereof to Customer. If Neptune discontinues the Service and terminates this MSA or the applicable SOA for convenience pursuant to the prior sentence, then Neptune will refund or credit Customer for any payments for the Service that have been made by the Customer prior to the effective date of the discontinuance of the Service and termination of this MSA or the applicable SOA on a pro rata basis based on any remaining months in the then-current Term of this MSA or the applicable SOA. Notwithstanding the foregoing, Neptune may discontinue providing the Service and terminate this MSA and any or all SOAs at any time without giving any prior notice thereof to Customer (i) if required to do so by applicable law, (ii) in response to a court order or government demand, or (iii) if Neptune determines, in its sole discretion, that Customer's use of the Service is in violation of any provision of the applicable SOA(s) or this MSA or applicable law or will cause Neptune to be in violation of applicable law, expose Neptune to harm, or cause harm to the integrity or normal operations of Neptune or Neptune's ability to provide services to other customers.

13. Data Ownership and Rights upon Termination. Any data and information provided to Neptune by Customer or its subscribers (“Customer Data”) remains the property of the Customer. Customer grants to Neptune the right and license to host, access, store, and use the Customer Data for the purposes of Neptune’s performance pursuant to this MSA, including, but not limited to for the purposes of providing and maintaining the Service. Upon expiration or termination of this MSA or an applicable SOA, Neptune will no longer provide the Service and Customer may no longer use the Service. Following such expiration or termination, provided that Customer is current in all payments to Neptune, upon the written request of the Customer made within thirty (30) days after the effective date of the expiration or termination, Neptune will use commercially reasonable efforts to prepare for export or download any Customer Data, with such export or download to be made in a mutually agreed format. Customer hereby agrees to pay Neptune for all services associated with the export or download at Neptune’s then-current rates or at such other rate that is agreed to by Customer and Neptune. After such thirty (30) day period, Customer acknowledges and agrees that Neptune has no obligation to maintain or provide the Customer Data, and Neptune may delete or destroy all Customer Data (and all copies of Customer Data) in its systems or otherwise in its possession or control, unless prohibited by law.

14. Equipment Installation and Access. If Neptune is to install subscriber modules in connection with an SOA, Customer agrees to secure for Neptune and its employees, independent contractors and other representatives reasonable access to subscribers’ sites and premises for the purpose of installing any and all equipment that is necessary to provide the Service. Customer shall obtain all appropriate authorizations for Neptune and its employees, independent contractors and other representatives to have access to such equipment. If Neptune is not installing the subscriber modules, Customer shall take all actions necessary to install the subscriber modules at the subscribers’ sites. Neptune shall not have any liability for the installation of subscriber modules by Customer or its contractors.

15. Equipment Maintenance. Neptune shall not be responsible for the maintenance of (i) subscriber modules or other elements of the subscribers’ networks or (ii) connectivity equipment located at Customer’s site. All such maintenance shall be the responsibility of Customer or its subscribers, as applicable.

16. Limitation of Liability. NOTWITHSTANDING ANYTHING IN THE AGREEMENT TO THE CONTRARY, IN NO EVENT SHALL NEPTUNE BE LIABLE TO CUSTOMER, ANY SUBSCRIBER OR ANY OTHER THIRD PARTY FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, INDIRECT, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF GOODWILL OR BUSINESS REPUTATION, BUSINESS INTERRUPTION, COSTS OF PROCURING SUBSTITUTE GOODS, LOSS OF DATA, OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF OR CONNECTED IN ANY WAY WITH THIS MSA OR ANY SOA OR THE PROVISION OR NON-PROVISION OF THE SERVICE (WHETHER IN CONTRACT, TORT OR OTHERWISE), EVEN IF CUSTOMER, ANY SUBSCRIBER OR ANY SUCH THIRD PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEPTUNE’S LIABILITY FOR DAMAGES ARISING OUT OF OR CONNECTED IN ANY WAY WITH THE MSA OR AN SOA OR THE PROVISION OR NON-PROVISION OF THE SERVICE (WHETHER IN CONTRACT, TORT OR OTHERWISE) SHALL BE DIRECT DAMAGES, NOT TO EXCEED AN AGGREGATE OF THE AMOUNT PAID TO NEPTUNE IN THE YEAR BEFORE THE EVENT WHICH CAUSED THE DAMAGES. CUSTOMER HEREBY ACKNOWLEDGES THAT WITHOUT THE LIMITATION OF LIABILITY SET FORTH HEREIN THE FEES CHARGED FOR THE SERVICE WOULD BE HIGHER.

17. Responsibilities of Customer.

(a) Customer acknowledges and agrees that the procurement, compatibility, operation, security, support and maintenance of Customer’s hardware and software (that are not the express subject of this MSA) is the responsibility of Customer.

(b) Application user administration, including but not limited to the definition, management, and security of usernames and passwords are the sole responsibility of Customer.

(c) Customer represents and warrants to Neptune that it will hold at all relevant times all appropriate licenses and consents required to operate its business for which the Service is provided and that it will at all relevant times conduct its business in accordance with applicable law and regulation. Customer and/or its subscribers shall be responsible for the payment of any taxes, assessments or fees associated with the use of the Service by Customer's subscribers. Neptune prohibits use of its Service in any way that: (i) is unlawful; (ii) interferes with use of the Network or the Internet by any other person or entity; (iii) infringes the intellectual property rights or privacy rights of any other person or entity; (iv) presents security or privacy risks, including, without limitation, interfering with or gaining unauthorized access to or otherwise violating the security of the Network or any other person or entity's server, e-mail accounts, or data; or (v) is inconsistent with the terms and conditions of this MSA or the applicable SOA.

18. Indemnification. Customer hereby agrees to indemnify and hold harmless Neptune and its officers, managers, directors, members, shareholders, employees, representatives and agents, and their respective affiliates, successors and assigns (collectively, the "Indemnitees"), from and against any loss, liability, claim, damage, cost, expense (including reasonable attorney's fees, disbursements and other charges of counsel), or diminution in value suffered by any Indemnitee, resulting or arising from or in connection with any breach of the terms of, or any inaccuracy of the representations and warranties contained in, the SOAs or this MSA by Customer, Customer's subscribers or any of their respective employees, consultants, agents or other representatives.

19. Confidentiality. Customer acknowledges and agrees that Neptune's network design and management system are proprietary to Neptune. Customer agrees to keep confidential the details of Neptune's network design and management system and all other proprietary information of Neptune which Customer obtains in connection with this MSA, the SOAs, the receipt of the Service or otherwise. Customer agrees not to disclose or use any such information except in connection with performing its obligations under this Agreement. Customer further agrees not to disclose this MSA or any SOA, or the terms thereof, to any third party without Neptune's prior written consent. To the extent that information is proprietary it can be held confidentially. However, Customer is subject to the Public Records Act and have time limits for production. Neptune will have to identify proprietary documents.

20. Miscellaneous. Customer may not assign or otherwise transfer, by operation of law or otherwise, an SOA or this MSA or any of its rights or obligations thereunder without first obtaining the written consent of Neptune. Neptune may freely assign its rights and obligations under the SOAs and this MSA to any party that succeeds to its interest in the assets used to provide the Service, whether by stock sale, asset sale or merger. The SOAs and this MSA shall be binding upon and inure to the benefit of each party's permitted assigns and successors. This MSA, together with the SOAs, constitute the entire understanding and agreement between the parties with respect to the subject matter hereof and shall supersede any prior proposals, understandings and agreements, whether written or oral, between the parties with respect to that subject matter. Neither this MSA nor any SOA may be amended or modified except by a written instrument executed by duly authorized representatives of both Neptune and Customer. The headings in this MSA, including all Section and subsection titles or captions, are inserted for convenience only and shall not constitute a part hereof nor affect the interpretation of this MSA. This MSA and each SOA may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile copy of a counterpart shall have the same effect as an original.

21. Effective Date. This MSA shall be effective on the date (the "Effective Date") on which an SOA is first entered into between Customer and Neptune.

IN WITNESS, WHEREOF, intending to be legally bound, the parties hereto have caused this MSA to be executed by their duly authorized officers on the respective dates set forth below.

Billings, City of _____

By: _____

Name: _____

Title: _____

Date: _____

Neptune Technology Group, Inc

By: _____

Name: _____

Title: _____

Date: _____

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