

Nuvolinq Services

Terms and Conditions (Terms)

1. GENERAL

For the purposes of the Terms:

"Affiliate" means any entity, individual, firm, or corporation, directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with NuvoLinq.

"Applicable Laws" means all applicable federal, provincial, state, municipal and local laws, rules, orders (including court and regulatory orders), made or issued by governmental, legislative, administrative, or regulatory authorities.

"Charges" means the charges payable by Customer to NuvoLinq for the Services and any other charges incurred in using the Services.

"Customer Equipment" means the equipment of the Customer and/or its Users, used in conjunction with the SIMs in order to obtain the Services.

"Deactivated" means the SIMs is placed in a state in which it cuts off the connection or ability for data/ SMS/Voice to run through the Nuvolinq network. In this state a SIM can be re-activated.

"LinQView" means NuvoLinq's customer portal, through which the Customer can manage its SIM status.

"Retired" means the SIM is placed in a state in which it cuts off the connection or ability for data/ SMS/ Voice to run through the NuvoLinq network. In this state a SIM cannot be re-activated.

"Services" means certain wireless data telecommunications services, provided by NuvoLinq over its wireless network to the Customer using the SIMs purchased from NuvoLinq.

"Service Order" means the initial order for Services (the Service Order and Execution Page) and any subsequent orders for Services.

"SIM/ESIM" is a subscriber identification module microchip card when installed in devices allows a User to connect to NuvoLinq's network and receive the Services.

"Suspend" means the SIM is placed in a state in which it cuts off the connection or ability for data/ SMS/ Voice to run through the NuvoLinq network. In this state a SIM cannot be re-activated.

"User" means any person (including but not limited to the Customer), corporation or other entity, that utilizes the Services, including the Customer's own customers. Derivative terms such as "Usage" or "Use" will have corresponding meanings.

2. SERVICES

- 2.1 **Services.** NuvoLinq agrees to provide the Services, including the sale of SIMs and Hardware, to the Customer as described in the Service Order and Execution Page and any subsequent Service Order pursuant to these Terms and any specific terms and conditions set out in the applicable

Service Order (the “**Service Terms**”).

- 2.2 **Service Orders.** Customer can order specific Services either by submitting a Service Order electronically or communicating directly with NuvoLinq Sales Representative. NuvoLinq will not be obligated to accept any order for Services.
- 2.3 **Changes to Services/Additional SIMs.** Provided that Customer is not in default of a Service Order or this Agreement, the Customer may make changes to its Services, including ordering additional SIMs under a Service Order, electronically or communicating directly with NuvoLinq. NuvoLinq will not be obligated to accept any order for Services.

3. CHARGES AND PAYMENT TERMS

- 3.1 **Charges.** Customer shall pay NuvoLinq the Charges for all Services as specified in each Service Order at the prices as set forth in the Services Order and Schedule “A” (Service and Rate Table).
- 3.2 **Invoicing.** NuvoLinq will invoice the Customer for the Services with fixed Charges in advance on a monthly basis. Usage and Variable Charges will be billed in arrears.
- 3.3 **Payment Terms.** All Charges are due and payable to NuvoLinq on the due date stated on the invoice. All payments are to be made via electronic transfer to an account specified by NuvoLinq. NuvoLinq will charge Customer interest on any outstanding balances at a rate of at the rate of 1.5% per month, or the maximum legal rate, if less.
- 3.4 **Taxes.** Taxes, such as sales, use, or like taxes, are not included in the Charges and will be invoiced, if applicable, as separate items.
- 3.5 **Changes to Pricing.** NuvoLinq may change the rates for any Services upon 90 days' prior notice.
- 3.6 **Credits.** The Customer shall notify NuvoLinq within 60 days of the applicable invoice, of any Charges that should not have been billed or were over-billed. If NuvoLinq confirms those Charges should not have been billed or were over-billed, NuvoLinq will credit the Customer for those Charges.
- 3.7 **System of Record.** To the extent there is any dispute as to the amount of data transmitted to and from a unit of equipment in a particular period of time, the amount of data transmitted as determined by NuvoLinq's systems will govern.
- 3.8 **Rounding.** Rounding for billing purposes is done to the nearest kilobit for usage and to the nearest cent for billing.
- 3.9 **SIM Activation.** Any SIMs received by the Customer must be activated within 90 days of receipt. Any SIMs not activated within 90 days will be automatically Activated and charged according to the data plan outlined in the MSA.

4. SERVICE FACILITIES

- 4.1 **SIMs.**

- (a) All SIMs utilized by NuvoLinQ to provide the Services will at all times remain the exclusive property of NuvoLinQ.
- (b) Customer, and its Users, shall not remove, tamper with, re-arrange, disconnect, reconfigure, or repair any SIMs, including passwords and equipment identifiers, or to perform a software reset of any SIMs without the prior written permission of NuvoLinQ.
- (c) The Customer will be fully responsible for all Services originating from SIMs purchased from NuvoLinQ, and acknowledges that such SIMs may work, and incur charges, for services other than the Services and in wireless devices other than their equipment.

4.2 **IP Addresses.** Customer acknowledges that it has no right, title or interest in or to any IP address assigned to the Customer. NuvoLinQ may on reasonable notice to the Customer change that IP address. NuvoLinQ is not obligated to notify any other party of a change to the Customer's IP addresses.

5. OBLIGATIONS OF CUSTOMER

5.1 **Customer Responsibilities.** The Customer shall:

- (a) be solely responsible for use of the Services by any of its Users, and take all necessary measures to ensure that the Users use the Services in accordance with the terms of this Agreement;
- (b) be responsible for the supply, testing, installation and maintenance of the Customer Equipment and communications service necessary to connect to LinQView and otherwise utilize the Services;
- (c) comply with Applicable Laws;
- (d) not use or abuse the Services in any manner that violates this Agreement, the Acceptable Use and Fair Use Policy, Applicable Laws, or rights of any third-party.

5.2 **Acceptable Use and Fair Use.** Customer shall use the Services solely for lawful business purposes and in accordance with NuvoLinQ's Acceptable Use and Fair Use Policy, as amended from time to time. Customer is responsible for all activity originating from its account users, SIMs/eSIMs, devices, or credentials, including unauthorized activity resulting from compromised devices or credentials.

Without limiting the foregoing, Customer shall not, nor permit any User to:

- (a) Use the Services in violation of any Applicable Laws or third-party rights;
- (b) Interfere with, disrupt, compromise, or attempt to gain unauthorized access to NuvoLinQ's networks, or those of any third party;
- (c) Engage in fraud, network abuse, denial-of-service attacks, unauthorized scanning, spoofing, phishing, unsolicited communications, or other malicious or unlawful activities;
- (d) Resell, redistribute, share, or otherwise provide the Services, SIMs/eSIMs, or network access to third parties except authorized in Service Order or written reseller agreement;

- (e) Use SIMs/eSIMs, or Services in manner inconsistent with the authorized device type application, or use case identified in the applicable Service Order;
- (f) Use the Services in a manner that materially exceeds normal usage for the application service plan or adversely affect network performance, capacity, or other customers.

Customer shall implement reasonable security measures to protect devices, credentials, portal accounts, API's, and provisioning keys, promptly remediate compromised devices, and notify NuvolinQ without undue delay upon becoming aware of any actual or suspected security incident affecting the Services.

NuvolinQ may monitor network and usage metadata as reasonably necessary to operate the Services, detect fraud or abuse, protect network integrity, comply with Applicable Laws, and enforce this Agreement. Where NuvolinQ reasonably determines that Customer's use violates this Agreement, or presents a risk to the Services or network, NuvolinQ may, without limiting any other rights or remedies, issue notices, require remediation, apply traffic management measures, suspend affected Services or SIMs, or terminate Services in accordance with this Agreement.

- 5.3 **Failure to Comply.** In the event of a breach of section 5.1 or 5.2, or otherwise uses the Services in a manner that materially affects the NuvolinQ network, upstream carrier networks or other customers, NuvolinQ may take such actions as it reasonably considers necessary including traffic management, suspension, or termination of affected Services.
- 5.4 **NUVOLINQ PORTAL Account.** NuvolinQ will provide Customer an account designation for LinQView. Customer agrees that: (a) a Service Order placed by Customer through LinQView is the equivalent of a signed Service Order; (b) Customer is responsible for all costs and charges, incurred in order to use LinQView; and (c) Customer accepts all liability for any acts or omissions that occur under Customer's password or on Customer's account for LinQView.
- 5.5 **Customer Representations.** The Customer warrants and covenants that: i) it is duly organized and is validly existing and in good standing under the laws of the jurisdiction of its incorporation or organization; (ii) it has the right, power and authority to enter into this Agreement and to fully perform its obligations under this Agreement, (iii) the entering into and performance of this Agreement does not violate, or conflict with any other contract or agreement to which Customer is a party or by which it is bound; and (iv) its use of Services will comply with all Applicable Laws. Customer shall be responsible for obtaining and having in effect any license, permit, or authorization required or granted under any applicable national, state, or local law or regulation, any right-of-way, and any other arrangements necessary for Customer to use the Services. NuvolinQ reserves the right to immediately suspend or terminate affected Services and/or remove Customer or its Affiliates from the Services if any governmental authority, agency, commission or committee determines that Customer or its Affiliates or their respective Users' use may violate any laws or regulations or that Customer or its Affiliates' use of the Services does not conform with the requirements set forth in this Agreement.

6. TERM

- 6.1 **Term of the Agreement.** This Agreement will commence on the Effective Date outlined in your Master Service Agreement and will continue until all Service Orders hereunder have expired or have been terminated (the "Term").

- 6.2 **Term of Service Order.** The term of each Service Order and any renewal periods will be specified in that Service Order (the “**Service Term**”), provided that if this Agreement is terminated for any reason, the Service Orders will automatically terminate concurrently with this Agreement

7. TERMINATION

- 7.1 **Early Termination by Customer.** Subject to the provisions of Section 7.5, the Customer may terminate a Service Order for convenience at any time by giving notice of termination to NuvoLinq at least 30 days before the proposed early termination date.
- 7.2 **Termination for Cause.** Either party may terminate this Agreement or any Service Order, by giving notice in writing, in the event: (i) the other party is in material breach of the Agreement and/or the applicable Service Order and does not remedy that default within 30 days after receiving notice of the default; or (ii) immediately upon written notice to the other party if the other party becomes insolvent or there is filed by or against the other party any bankruptcy, receivership, reorganization or similar proceeding. For greater clarity, Customer's failure to pay any invoiced Charges when due is considered a material breach.
- 7.3 **Suspension of Services.** NuvoLinq may, in its sole discretion, elect to restrict or suspend Services under this Agreement or any Service Order in lieu of termination (a “**Service Suspension**”). If NuvoLinq suspends the Service, NuvoLinq will not be responsible or liable to the Customer for the provision of the Services and Customer will be responsible for all applicable Charges during the Service Suspension. During a Service Suspension, NuvoLinq will provide Customer with a reasonable opportunity to cure such violation or failure, but a Service Suspension in no way will limit NuvoLinq's termination rights under this Agreement, including where required to enforce the Acceptable Use and Fair Use Policy.
- 7.4 **Effect of Termination of Service Orders.** Notice of termination of any specific Service Order will not be considered termination of this Agreement unless specifically stated in the notice.
- 7.5 **Termination Fees.** In the event that Customer terminates a Service for convenience pursuant to Section 7.1, cancels a specific Service prior to the Service Activation Date, or NuvoLinq terminates the Service for material breach pursuant to Section 7.2 (a “**Terminated Service**”), Customer shall pay NuvoLinq all Charges due for the Terminated Service up to the date of termination, including installation charges or non-recurring charges, and an amount equal to: (a) the amount equal to the last three (3) months of billing prior to termination (b) as otherwise provided in the Service Order, as well as any applicable termination fees set out in the Service Terms (the “**Termination Fees**”). Customer acknowledges and agrees that the Termination Fees are liquidated damages and consideration for the Services and are not a penalty.
- 7.6 **No Liability of NuvoLinq.** NuvoLinq will not be liable for any loss, damage or inconvenience suffered by Customer as a result of any termination, restriction or suspension of the Services.
- 7.7 **Survival.** The terms of this Agreement, which by their nature are intended to extend beyond the term of this Agreement, will survive any termination or expiration of this Agreement, including Sections 3.8, 4, 7, 10, 11, 12, and 13.

8. SUPPLY TERMS

- 8.1 Customer shall order SIMs in batches based on internally developed activity forecast. SIMs will be delivered in the 'test ready state'. Once installed into the Customer Equipment devices, they will self-activate upon any usage exceeding 20 kilobytes, at which time billing of activation fee and the monthly data plan will commence. NuvoLinq will continue billing for such active SIMs until the following month of the month in which such SIMs are retired and NuvoLinq is advised of such deactivation.
- 8.2 The purchase of SIMs will require the Customer to provide payment for such SIMs upon submitted a Service Order, if applicable. Billing for data plans does not initiate until the SIMs are installed into the Customer Equipment devices.
- 8.3 NuvoLinq will ship SIMs to the requested destination(s) of the Customer as specified in the Service Order.
- 8.4 Any SIM that has been tested and confirmed by NuvoLinq as defective will be replaced at no charge.
- 8.5 Customer agrees that it will not, and nor will its Users, resell any of the SIMs to any third party.

9. SERVICE OBLIGATIONS

- 9.1 **Disclaimer.** Customer acknowledges that NuvoLinq does not warrant: (i) uninterrupted or error-free Services; and (ii) that there will not be delays, interruptions, errors, defects or failures associated with the Services, NuvoLinq's network or the networks of NuvoLinq's network service providers. NuvoLinq may interrupt the Services at any time for any duration of time, without any notice or liability, in order to install, repair, replace or to perform necessary maintenance on the SIMs, NuvoLinq network, or for other technical reasons as may be required. Customer acknowledges that the Services are available to the SIMs only within the operating range of NuvoLinq's network and that NuvoLinq, its Affiliates and its third party vendors will not be liable to the Customer or its Users with respect to any claim or damage related to or arising out of or in connection with any coverage gap or any interruption, curtailment or other limitation provided above.
- 9.2 **Waiver.** THE WARRANTIES PROVIDED IN THIS AGREEMENT REPLACE ALL OTHER WARRANTIES AND CONDITIONS. THE CUSTOMER WAIVES AND NUVOLINQ DISCLAIMS ALL OTHER WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR AVAILABILITY OR RELIABILITY OF THE SERVICES.

10. LIMITATION OF LIABILITY

- 10.1 **LIMITATION OF LIABILITY.** NEITHER NUVOLINQ NOR ITS AFFILIATES WILL BE LIABLE TO CUSTOMER, USER OR ANY OTHER PERSON FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, RELIANCE, SPECIAL, PUNITIVE DAMAGES, OR FOR ANY DAMAGES FOR BUSINESS INTERRUPTION OR LOSS OF PROFITS OR BUSINESS, LOST REVENUE OR LOSS OF OR DAMAGE TO DATA, FAILURE TO REALIZE EXPECTED SAVINGS, COMPETITIVE ADVANTAGE OR GOODWILL OR

ANY COMMERCIAL OR ECONOMIC LOSS OF ANY KIND OR NATURE WHATSOEVER, REGARDLESS OF THE FORESEEABILITY THEREOF OR EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF THE PROVISION OF SERVICE OR IN ANY WAY ARISING OUT OF THIS AGREEMENT. THE CUSTOMER'S EXCLUSIVE REMEDY AND NUVOLINQ'S TOTAL LIABILITY, IF ANY, FOR DAMAGES FOR ANY CAUSE WHATSOEVER, WILL BE NO MORE THAN OR THE RECURRING CHARGES PAID BY CLIENT FOR THE AFFECTED SERVICE FOR THE THREE MONTHS PRECEDING THE EVENT ALLEGED TO HAVE CAUSED THE DAMAGES, WHICHEVER IS LESS.

- 10.2 **Indemnity.** Customer shall indemnify and defend NuvoLinq, NuvoLinq's Affiliates, and each of their shareholders, directors, officers, employees, agents, underlying providers, contractors and licensors from and against all claims, losses, and expenses, including reasonable legal fees, resulting from any action, inaction or breach of this Agreement by Customer or its Users.

11. CONFIDENTIAL INFORMATION

- 11.1 **Confidential Information.** Each party may receive or have access to technical information, as well as information about product plans and strategies, promotions, customers and related non-technical business information which the disclosing party considers to be confidential ("**Confidential Information**").
- 11.2 **Use of Confidential Information.** Confidential Information of the disclosing party may only be used by the receiving party with respect to the performance of its obligations under this Agreement. The receiving party shall protect the Confidential Information of the disclosing party to prevent the unauthorized use, dissemination, or publication of such Confidential Information. A receiving party will not acquire any interest in any Confidential Information received from the disclosing party by reason of this Agreement or by reason of the disclosure of such Confidential Information pursuant to this Agreement.
- 11.3 **Exceptions.** The obligations stated in this Section 11 will not apply to any information which is: (a) already known by the receiving party prior to disclosure; (b) publicly available through no fault of the receiving party; (c) rightfully received from a third party without a duty of confidentiality; (d) independently developed by the receiving party prior to or independent of the disclosure; (e) disclosed under requirement of law or timely disclosure requirements of stock exchanges (provided the party wishing to disclose for such reasons gives timely notice to the other party so that it can obtain a protective order); or (f) disclosed by the receiving party with the disclosing party's prior written approval.

12. CONTENT AND INTELLECTUAL PROPERTY

- 12.1 **Content.** Customer acknowledges that NuvoLinq does not own or have any control over the content, availability, accuracy or other aspect of any information, data, files, pictures or content in any form or type (collectively, the "**Content**") accessible or that may be available to or by the Customer or its Users through the use of the Services. NuvoLinq does not monitor the use of the Services by the Customer or its Users, however, NuvoLinq will be entitled to electronically monitor the Services from time to time and disclose any information that is necessary to satisfy any law, regulation or lawful request or as necessary to operate the Services or to protect the rights or property of itself or others.

- 12.2 **Ownership.** Title to, ownership of, and all intellectual property rights in and to any facilities, equipment, software, systems, processes, and documentation used to provide the Services to Customer, including without limitation, the SIMs, will be and remain with NuvoLinq, or its suppliers and licensors.

13. GENERAL PROVISIONS

- 13.1 **Notice.** All notices that are required to be given under this Agreement will be in writing and will be sent to the addresses set out on the Service Order and Execution Page of this Agreement and/or address as each party may designate by notice given in accordance with this Section 13.1. Any such notice may be delivered by hand, by overnight courier, by facsimile transmission, by email and online via any secure website made available by NuvoLinq for this purpose, and will be deemed to have been received: (a) by hand delivery - at the time of delivery; (b) by overnight courier -24 hours after the date of delivery to courier; and (c) by email or any secure website made available by NuvoLinq - the next business day.
- 13.2 **Customer Affiliates.** The Customer executes and delivers this Agreement on its own behalf and on behalf of its Affiliates, if applicable.
- 13.3 **Entire Agreement.** This Agreement and all documents and agreements referenced in this Agreement constitutes the entire agreement between the parties, and supersedes any prior or contemporaneous communications, representations or agreements between the parties, whether oral or written, regarding the subject matter of this Agreement. Customer's additional or different terms and conditions will not apply.
- 13.4 **Assignment.** The Customer shall not assign any rights or obligations under this Agreement, including any Service Order, without the prior written consent of NuvoLinq and any purported assignment in violation of the provisions of this Section will be null and void.
- 13.5 **Force Majeure Event.** Neither Party shall be liable for any delay, failure in performance, loss or damage due to: fire, explosion, power blackout, earthquake, hurricane, flood, the elements, embargo, labor disputes (outside of its control), third-party strikes, acts of civil or military authority, war, acts of God, acts of regulatory or governmental agencies, or other causes beyond such Party's reasonable control.
- 13.6 **Invalidity of Particular Provision.** If any term or provision of this Agreement is held to be illegal or unenforceable, the validity or enforceability of the remainder of this Agreement will not be affected.
- 13.7 **Governing Law and Attornment.** This Agreement is made under and will be construed in accordance with the laws of the Province of Ontario applicable therein. Any legal suit, action or proceeding must be brought solely and exclusively in Toronto, Ontario.
- 13.8 **Counterparts.** This Agreement may be executed in any number of counterparts with the same effect as if all parties had signed the same document.
- 13.9 **Currency.** Unless otherwise specified in a Service Order, all dollar amounts referred to in this Agreement are expressed in Canadian dollars.

- 13.10 **Enurement.** This Agreement will be binding upon and enure to the benefit of each party and their respective successors and permitted assigns.
- 13.11 **Acceptable Use Policy.** The Acceptable Use and Fair Use Policy published by Nuvolinq, as amended from time to time upon reasonable notice, is incorporated into and forms part of this Agreement. In the event. In the event of a conflict between the Policy and this Agreement, the terms of this Agreement shall prevail unless expressly stated otherwise.