



# Master Subscription Agreement

This Master Subscription Agreement (“Agreement”) is by and between You governs Your use of the Opero Services. Capitalized terms have the definitions set forth herein. By accepting this Agreement, either by (i) accessing or using a Service, or authorizing or permitting any User to access or use a Service, or (ii) clicking a box indicating acceptance, You agree to be bound by the terms of this Agreement with respect to the purchase, access, use, and support of the Service as of the date of such access or use of the Service (the “Effective Date”). If You are entering into this Agreement on behalf of a company, organization or another legal entity (an “Entity”), You are agreeing to this Agreement for that Entity and representing to Opero that You have the authority to bind such Entity and its Affiliates to this Agreement, in which case the terms “Subscriber,” “You,” “Your,” “Customer” or a related capitalized term herein shall refer to such Entity and its Affiliates. If You do not have such authority, or if You do not agree with this Agreement, You must not use or authorize any use of the Services.

THIS AGREEMENT CONSTITUTES A BINDING CONTRACT ON YOU AND GOVERNS THE USE OF AND ACCESS TO THE OPERO SERVICES BY YOU AND USERS. OPERO RESERVES THE RIGHT TO REVISE THESE TERMS AT ANY TIME WITHOUT PRIOR NOTICE, PROVIDED THAT WE WILL PROVIDE YOU WITH AT LEAST TEN (10) DAYS PRIOR NOTICE BY EMAIL OR BY POSTING ON OUR WEBSITE ANY MATERIAL CHANGES TO THIS AGREEMENT.

## **General Terms and Conditions**

### **SECTION 1. ACCESS TO THE SERVICES**

1.1 Services. We will make the Services available to You pursuant to this Agreement and Documentation in accordance with Your Service Plan. We will use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except (a) during Planned Downtime (of which We will give advance notice via Our Site or to the Account owner); and (b) Force Majeure Events.

1.2 Support. We will, at no additional charge, provide customer support for the Services.

1.3 Modifications. You acknowledge that Opero may modify the features and functionality of the Services during the Subscription Term. Opero shall provide You with commercially reasonable advance notice of any deprecation of any material feature or functionality.

1.4 Additional Features. We will notify You of applicable Supplemental Terms or alternate terms and conditions prior to Your activation of any Additional Features. The activation of any Additional Features by You in Your Account will be considered acceptance of the applicable Supplemental Terms or alternate terms and conditions where applicable.



1.5 Extension of Rights to Affiliates. You may extend Your rights, benefits and protections provided herein to Your Affiliates and to contractors or service providers acting on Your or Your Affiliates' behalf, provided that You remain responsible for Your and their compliance hereunder.

## **SECTION 2. USE OF THE SERVICES**

2.1 Access Management. We are providing you with the right to Access and use Our Services subject to Your payment of Fees and compliance with the terms and conditions set forth in this Agreement. You are responsible for confirming all retention settings applicable to the Services and for choosing the features that You use. You are responsible for implementing controls to protect the security and use of Your and Your User's access credentials used to verify an individual's identity and authorization for access and use of the Services.

2.2 Compliance. As between You and Opero, You are responsible for compliance with the provisions of this Agreement by Users and for any and all activities that occur under Your Account, which Opero may verify from time to time. Without limiting the foregoing, You will ensure that Your use of the Services is compliant with all applicable laws and regulations as well as any and all privacy policies, agreements or other obligations You may maintain or enter into with Users.

2.3 Service Rules. As a condition to Your use of the Services, You agree not to engage in any of the following prohibited activities: (i) copying, distributing, or disclosing any part of the Services in any medium, including without limitation by any automated or non-automated "scraping"; (ii) transmitting spam or chain letters through the Services; (iii) attempting to interfere with, compromise the system integrity or security or decipher any transmissions to or from the servers running the Services; (iv) taking any action that imposes, or may impose, an unreasonable or disproportionately large load on the cloud fax infrastructure; (v) uploading viruses, worms, or other software agents through the Services; (vi) interfering with the proper working of the Services; (vii) accessing any content on the Services through any technology or means other than those provided by the Services; (viii) bypassing any measures used to prevent or restrict access to the Services, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Services or the content therein; (ix) deciphering, decompiling, disassembling, creating derivatives of, or reverse engineering (or attempt to do any of the foregoing) the Services or technology, or take any steps to discover Opero's Confidential Information or trade secrets in the Services; (x) probing, scanning, or testing (or attempt to do any of the foregoing) the vulnerability of the Services, or any related system or network, or breach any security or authentication measures used in connection with the Services and such systems and networks; or (xi) using the Services in violation of any applicable law, regulation and convention, including those related to data privacy, international communications, exportation of technical or Personal Data, and the sending of certain unsolicited facsimiles.

2.4 Customer Responsibilities.

- A. Customer is responsible for regularly reviewing and correcting transmission errors resulting from the use of incorrect and outdated fax numbers to which it sends faxes. Opero reserves the right to take steps to address ongoing failed fax transmissions arising from Customer's continued use of incorrect and outdated fax numbers.



- B. Customer is fully and solely responsible for Customer's and Customer's end-users' use of the Services. Customer acknowledges that Opero is a passive conduit of information transmitted via its Services and that Opero has no independent knowledge of the destination nor the content of data that Customer or Customer's end-users may send.
- C. Customer is responsible for utilizing best practices to protect Customer's protected health information ("PHI"), personally identifiable information ("PII") and other sensitive data. Customer shall employ policies and procedures to prevent the intentional or inadvertent submission of PHI, PII, or other sensitive information in emails, fax coversheets, free form custom fields, support requests, or other communications related to the Services.
- D. The Services are provided for use by end-users exclusively as a tool to assist in document workflow and data management. Customer is responsible for having the Services configured to meet its needs consistent with recommended best practices and for the decisions Customer makes based on Your data. The Services do not engage in any decision making or professional determinations based on the data processed for Customer or on Customer's behalf.
- E. Customer is responsible for using the Services in compliance with all applicable local, state, national and international laws and regulations (including without limitation those governing data privacy and security, telecommunications, export control, consumer protection, unfair competition, anti-discrimination, securities or false advertising). Customer agrees not to transmit or upload any material that encourages conduct that could constitute a criminal offense, give rise to civil liability or otherwise violate any applicable local, state, national or international law or regulation.
- F. The Services make use of the internet and telecommunications providers for Customer to send and receive information of their own choosing. As a result, Customer conduct is subject to internet and telecommunications regulations, policies and procedures. Customer agrees not to use or reference Opero for chain letters, unsolicited fax advertisements, junk fax or junk mail, spamming or any activity making use of distribution lists to any person who has not given specific permission to be included in such a process or on such list.

2.5 System Requirements. A high-speed Internet connection is required for proper transmission of the Services. You are responsible for procuring and maintaining the network connections that connect Your network to the Services including, but not limited to, browser software that supports protocols used by Opero, including the Transport Layer Security (TLS) protocol or other protocols accepted by Opero, and to follow procedures for accessing services that support such protocols. We are not responsible for notifying You, or Users of any upgrades, fixes or enhancements to any such software or for any compromise of data, including Service Data, transmitted across computer networks or telecommunications facilities (including but not limited to the Internet) which are not owned, operated or controlled by Opero. We assume no responsibility for the reliability or performance of any connections as described in this Section 2.5.

### **SECTION 3. TERM, CANCELLATION AND TERMINATION**

3.1 Term. The term length of this Agreement is determined by Your selection when subscribing to the Services (the "Term"). The initial term will be prorated and the first day of the month immediately following the Effective Date will be the first day of the Term. Your subscription to the Service will renew automatically for a Subscription Term equivalent in length to the then expiring Subscription Term; and the Subscription Charges applicable to any subsequent Subscription Term shall be Our



standard Subscription Charges for the applicable Service Plan at the time such subsequent Subscription Term commences.

3.2 Cancellation. Either Party may elect to terminate Your Account and subscription to a Service as of the end of Your then-current Subscription Term by providing notice to [premiumsupport@concord.net](mailto:premiumsupport@concord.net) no less than thirty (30) days prior to the end of such Subscription Term.

3.3 Termination for Cause. Either Party may terminate this Agreement for cause (a) upon written notice to the other Party of a material breach by the other Party if such breach remains uncured at the expiration of ten (10) days from the date of the breaching Party's receipt of such written notice; or (b) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. We may terminate service to You if You or any of Your Users violate any of Your obligations hereunder and cure is not possible.

3.4 Payment Upon Termination. Except for Your termination under Section 3.3 for Our uncured material breach, if You terminate Your subscription to a Service or cancel Your Account prior to the end of Your then effective Subscription Term, or if We terminate or cancel Your Account pursuant to Section 3.3, in addition to any other amounts You may owe Opero, You must immediately pay any and all unpaid Subscription Charges associated with the remainder of such Subscription Term.

3.5 No Refunds. Except for Your termination rights under Section 3.3, which may entitle you to a pro-rata refund, if You elect to terminate Your subscription to a Service or cancel Your Account prior to the end of Your then current Subscription Term, no refunds or credits for Subscription Charges or other fees or payments will be provided to You.

3.6 Export of Service Data. Upon Your written request, We will make any Service Data in our possession available to You for export or download as provided in the Documentation for thirty (30) days after the effective date of termination, expiration or migration of Your Account. Thereafter, We will have no obligation to maintain or provide any Service Data, and We will, unless prohibited by law or legal order, delete Your Service Data in Our Services.

#### **SECTION 4. FEES, BILLING, PLAN MODIFICATIONS AND PAYMENTS**

4.1 Payment and Billing. You will be charged monthly for your use of the Services in accordance with the Fee schedule applicable to the Service Plan you selected and as further described in this Agreement. All Subscription Charges for your first whole or partial month are due in full upon commencement of Your Subscription Term unless otherwise provided in your Service Plan. You are responsible for providing valid and current payment information and You agree to promptly update your Account information, including payment information, with any changes that may occur (for example, a change in Your billing address or credit card expiration date). If You fail to pay Your Subscription Charges, within five (5) business days of Our notice to You that payment is delinquent, or if You do not update payment information upon Our request, in addition to Our other remedies, We may suspend or terminate access to and use of the Services by You, and Users



4.2 Outbound Fax Page Defined and Associated Outbound Terms. Most fax pages take less than sixty (60) seconds to transmit. However, for each outbound transmission, the number of pages sent is calculated based on the greater of the actual number of pages or the number of full and partial 60-second increments of transmission or connection time, whether the transmission occurs or is completed (such as instances when someone answers the call or transmission is interrupted before completion). For example, a one-page fax with a transmission duration of 30 seconds is recognized as one page and a one page fax with a transmission duration of one minute and six seconds is recognized as two pages.

4.3 Special Porting Charges:

- A. Port Cancellation: To cancel a port request within 24 hours of the confirmed port date, Opero will charge a per number fee of \$75.
- B. Port Snapback: To snapback (reverse) a port within 24 hours of completion, Opero will charge a per number fee of \$350.
- C. Port Expedite: An expedite is defined as any request to port a number in advance of the Firm Order Commit (FOC) date initially provided to Opero by the losing carrier. Opero makes no guarantee that a number can be ported outside of normal scheduling parameters, and any expedite request relies solely on the losing carrier's willingness to honor the request. Any expedite request, regardless of its outcome, will result in a per number fee of \$120.
- D. Reverse Port: Each number assigned to You which is ported away ("Reverse Port") to an alternative carrier or service will incur the Porting Single Number fee.
- E. Number Cancellation: Each number assigned to You which is cancelled and removed from Your available inventory will incur a number cancellation fee of \$10.

4.4 Upgrades; Price Changes. If You choose to upgrade Your Service Plan during Your Subscription Term, any incremental Subscription Charges associated with such upgrade will be charged a pro-rata amount in accordance with the remaining Subscription Term. In any future Subscription Term, Your Subscription Charges will reflect any such upgrades. Opero reserves the right to increase Fees once each calendar year with at least 60 days' prior written notice.

4.5 Downgrades. You may not downgrade Your Service Plan or reduce the number of Users during any Subscription Term. If You desire to downgrade Your Service Plan or reduce the number of Users under any Service Plan for a subsequent Subscription Term, You must provide Opero with thirty (30) days written notice prior to the end of Your then current Subscription Term.

4.6 Taxes. Opero's Fees do not include any sales taxes, duties, levies, or similar assessments imposed by any taxing or regulator authority. Except to the extent that You provide a valid exemption certificate in a form acceptable to Opero prior to the delivery of the Service, or as otherwise allowed or accepted by the jurisdiction at issue. Customer shall be responsible for the payment of any and all applicable local, state, and federal taxes or fees (however designated) imposed upon or incident to the use, provision, or sale of Services, including, but not limited to, value added, consumption, sales, use, gross receipts, excise, access, by pass, ad valorem, franchise or other taxes, fees, duties, or surcharges, including, any and all surcharges or regulatory fees imposed directly upon Opero by the applicable taxing or regulatory authority, or by the underlying carrier or service provider in connection with the Services. Regulatory surcharges and fees include, without limitation, charges associated with the recovery of all state and federal Universal Service Fund obligations. Any such





liabilities resulting from the provision of Services to Customer hereunder shall be added to Customer's invoice and shown separately.

4.7 Payment Agent. If You pay by credit card or certain other payment instruments, the Services provide an interface for the Account owner to change credit card information (e.g., upon card renewal). Payments made by credit card, debit card or certain other payment instruments for the Opero Service are billed and processed by Opero's Payment Agent. You hereby authorize the Payment Agent to bill Your credit card or other payment instrument in accordance with the terms of the Service Plan for the Services You subscribe until Your subscription to the Services terminates, and You further agree to pay any Subscription Charges so incurred. If applicable, You hereby authorize Opero and the Payment Agent to charge Your credit card or other payment instrument to establish prepaid credit. The Account owner will receive a receipt upon each acceptance of payment by the Payment Agent, or they may obtain a receipt from within the Services to track subscription status. To the extent the Payment Agent is not Opero, the Payment Agent is acting solely as a billing and processing agent for and on behalf of Opero and shall not be construed to be providing the applicable Service. The Payment Agent uses a third-party intermediary to manage credit card processing and this intermediary is not permitted to store, retain or use Your billing information except to process Your credit card information for the Payment Agent.

4.8 Payment Portals. If You mandate Opero use a vendor payment portal or compliance portal that charges Opero a subscription fee or a percentage of any uploaded invoice as a required cost of doing business, You shall be invoiced by Opero for, and You are obligated to pay, the cost of this fee.

## **SECTION 5. CONFIDENTIAL INFORMATION**

5.1 The terms and conditions of this Agreement, and all non-public information regarding the business of Opero or the Customer are confidential ("Confidential Information"). Confidential Information shall include all confidential and proprietary information and documentation belonging to either Party, disclosed and made available to the other Party, including, but not limited to, Service Data, the existence and content of discussions between the Parties, and the other Party's plans, present and future products, and policies. Customer acknowledges and agrees that its use of the Services requires Opero to use, disclose, and transmit Service Data, which shall not be a violation of this Section 5. Without the prior written consent of the other, neither Opero nor the Customer shall disclose to any person or entity other than its authorized employees, officers, directors, agents, and contractors, any Confidential Information of the other unless required by law or a court of competent authority. Each Party will protect the other's Confidential Information from unauthorized use, access or disclosure in the same manner as each Party protects its own Confidential Information, but with no less than reasonable care. Except as otherwise expressly permitted pursuant to this Agreement, each Party may use the other Party's Confidential Information solely to exercise its respective rights and perform its respective obligations under this Agreement and shall disclose such Confidential Information (a) solely to the employees and/or non-employee service providers and contractors who have a need to know such Confidential Information and who are bound by terms of confidentiality intended to prevent the misuse of such Confidential Information; (b) as necessary to comply with an order or subpoena of any administrative agency or court of competent jurisdiction; or (c) as reasonably necessary to comply with any applicable law or regulation.



Notwithstanding the foregoing, Confidential Information shall not include information that (a) was already known to the receiving Party at the time of disclosure by the disclosing Party; (b) was or is obtained by the receiving Party from a third party not known by the receiving Party to be under an obligation of confidentiality with respect to such information; (c) is or becomes generally available to the public other than by violation of this Agreement or another valid agreement between the Parties; or (d) was or is independently developed by the receiving Party without the use of the disclosing Party's Confidential Information.

5.2 Consumer Network Proprietary Information ("CPNI") is Confidential Information created by virtue of a customer's relationship with Us when it utilizes our cloud fax Services. CPNI includes any information that relates to the cloud fax services purchased, quantity, technical configuration, type, destination, location, and amount of use of Your cloud fax service, such as fax calling detail, logs, and specifics regarding your cloud fax account. Please note that by law, CPNI does not include a customer's name, postal address, or telephone number. We will use all this personal information for the provision, troubleshooting, and maintenance of the Services, invoicing Customer, and providing you with information regarding new or related services, including by sharing your CPNI to Opero Affiliates. You agree that Opero may send notices regarding the Services and CPNI via email to Your designated contact. Opero is required by federal law to protect the confidentiality of Customer's CPNI and You have the right to restrict the use, access, or disclosure of Your CPNI. By signing this Agreement and using the Cloud Fax Services You consent to Opero's use of CPNI for these purposes. You may revoke your consent at any time by providing a written revocation to Opero at [premiumsupport@concord.net](mailto:premiumsupport@concord.net), describing its objections to use of CPNI. You understand that any such revocation may result in Opero's inability to offer products and services tailored to Customer's needs and/or to provide the Services as intended.

5.3 The provisions of this Section 5 shall remain in full force and effect after expiration or termination of this Agreement. Violation of this provision by either Party or its agents shall entitle the other Party to injunctive relief for specific performance of the obligations described in this Section 5 without a showing of irreparable harm or injury and without bond.

5.4 Except for Opero's Security Non-Disclosure Agreement (where executed by You), the provisions of this Section 5 shall control over any non-disclosure agreement by and between the Parties and any such non-disclosure agreement shall have no further force or effect with respect to the exchange of Confidential Information after the execution of this Agreement. To be clear, any exchange of Confidential Information prior to the execution of this Agreement shall continue to be governed by any such non-disclosure agreement.

## **SECTION 6. OWNERSHIP AND SECURITY OF SERVICE DATA**

6.1 Ownership of Service Data. Subscriber shall retain ownership rights to all Service Data Processed under the terms of this Agreement.

6.2 No Sale of Service Data. Opero will never sell, rent, or lease Your Service Data to any third party. We will not share Your Service Data with third parties, except as permitted by this Agreement and in order to provide, secure, and improve the Services.



6.3 Safeguards. Opero will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Service Data.

## **SECTION 7. PRIVACY PRACTICES**

7.1 Data Processing Agreement and Subscriber as Data Controller. To the extent Service Data constitutes Personal Data, the Parties agree that You shall be deemed to be the Data Controller, and the relevant entity in Opero shall be deemed to be the Data Processor, as those terms are understood under the Applicable Data Protection Law. As the Data Controller, You retain full control over Your use of the Services and of the content, purpose, destination, and recipient of the Service Data that You transmit.

7.2 Sub-processors. You acknowledge and agree that Opero may use Sub-processors, who may access Service Data, to provide, secure and improve the Services. We shall be responsible for the acts and omissions of members of Opero Personnel and Sub-processors to the same extent that We would be responsible if Opero was performing the services of each Opero Personnel or Sub-processor directly under the terms of this Agreement.

## **SECTION 8. INTERNATIONAL FAXING**

Outbound faxing to international destinations outside the 011 international call prefix is disabled by default and can be enabled by contacting Premium Support at [premiumsupport@concord.net](mailto:premiumsupport@concord.net). Outbound faxing to certain countries remains blocked for security and fraud-prevention purposes. Customers who wish to have outbound faxing access to a specific number in blocked countries should consult with Premium Support. SPF (Sender Policy Framework) must be in place and enabled before outbound faxing to international destinations may be utilized.

## **SECTION 9. SPAM AND UNSOLICITED FAX POLICY**

Customer is prohibited from using Opero's Services as a location for responses to email or fax spam offers or other illegal purposes. At Opero's option and without further notice, Opero may use reasonable technologies and procedures, such as filters, that may terminate the transmission of such unsolicited faxes without delivering them. Opero is not responsible for blocking or filtering unsolicited faxes sent to customers. The transmission of unsolicited fax advertisements is illegal in the United States under the Telephone Consumer Protection Act of 1991 (47 USC 227) (see <https://www.fcc.gov/general/telemarketing-and-robocalls>) and is also illegal under the laws of a number of other countries, states, and provinces. Distribution of unsolicited fax advertisements through Opero Services is prohibited.

## **SECTION 10. PROHIBITED/FRAUDULENT FAXES AND TRACEBACK**

Customer understands and acknowledges that if Opero receives a request from an entity authorized to perform "tracebacks," including the Industry Traceback Group ("ITG") and any successor entities, for information about fax traffic sent through Opero, or other utilized underlying networks, which is reasonably believed to be prohibited traffic, Opero will promptly respond to the authorized traceback request. Customer understands and acknowledges that Opero will provide all requested information





to the traceback administrator without requiring a subpoena or similar legal process. Customer agrees to cooperate as needed with any such traceback request.

#### **SECTION 11. TEMPORARY SUSPENSION**

We reserve the right to restrict functionalities or suspend the Services (or any part thereof), Your Account or Your and/or Users' rights to access and use the Services and remove, disable or quarantine any Service Data or other content if (a) We reasonably believe that You or Users have violated this Agreement; (b) We suspect or detect any Malicious Software connected to Your Account or use of a Service by You or Users; or (c) We suspect or detect Your use of the Services in violation of law. Unless legally prohibited from doing so or where We are required to take immediate action, We will use commercially reasonable efforts to contact You directly via email to notify You when taking any of the foregoing actions. We shall not be liable to You, Users or any other third party for any such modification, suspension or discontinuation of Your rights to access and use the Services. Any suspected fraudulent, abusive, or illegal activity by You or Users may be referred to law enforcement authorities at Our sole discretion.

#### **SECTION 12. INTELLECTUAL PROPERTY RIGHTS**

12.1 Each Party shall retain all rights, title and interest in any Intellectual Property Rights. The rights granted to You, and Users to use the Service(s) under this Agreement do not convey any additional rights in the Service(s) or in any Intellectual Property Rights of Opero associated therewith. Subject only to limited rights to access and use the Service(s) as expressly stated herein, all rights, title and interest in and to the Services and all hardware, software and other components of or used to provide the Services, including all related Intellectual Property Rights, will remain with Opero and belong exclusively to Opero.

12.2 If You or any of Your employees or contractors sends or transmits any communications or materials to Opero by mail, email, telephone, or otherwise, suggesting or recommending changes to the Services or Documentation, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("Feedback"), Opero is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. You hereby assign to Opero on Your behalf, and on behalf of Your employees, contractors and/or agents, all right, title, and interest in, and Opero is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Opero is not required to use any Feedback. Opero also reserves the right to seek intellectual property protection for any features, functionality or components that may be based on or that were initiated by suggestions, enhancement requests, recommendations or other feedback We receive from You, Users, or other third parties acting on Your behalf.

#### **SECTION 13. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS**

13.1 Each Party represents and warrants to the other that (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms; (b) no authorization or approval from any third party is required in connection with such Party's execution, delivery or performance of this Agreement; and (c) the



execution, delivery and performance of the Agreement does not and will not violate the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound.

13.2 Warranties by Us. We warrant that during an applicable Subscription Term (a) The quality of Services provided hereunder shall be consistent with industry standards, applicable governmental regulations, and sound business practices, and (b) We will use reasonable efforts under the circumstances to maintain Our overall network quality.

13.3 Warranties by You. Customer represents and warrants that Customer's use of the Services will comply with all applicable laws, regulations and convention, including those related to data privacy, telecommunications, international communications, exportation of technical or Personal Data, and the sending of certain unsolicited facsimiles. Customer further represents and warrants that Customer has all rights necessary to allow for the Service Data it transmits to pass through computers outside the jurisdiction in which such Service Data originated.

13.4 Disclaimers. EXCEPT AS SPECIFICALLY SET FORTH IN SECTION 13.2, THE SITES AND THE SERVICES, INCLUDING ALL SERVER AND NETWORK COMPONENTS, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND TO THE FULLEST EXTENT PERMITTED BY LAW, AND WE EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT WE DO NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR FREE FROM VIRUSES OR OTHER MALICIOUS SOFTWARE, AND NO INFORMATION OR ADVICE OBTAINED BY YOU FROM US OR THROUGH THE SERVICES SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

#### **SECTION 14. INDEMNIFICATION**

14.1 Indemnification by Us. We will indemnify and defend You from and against any claim brought by a third party against You arising solely from Opero's breach of a warranty or representation set forth in this Agreement. We shall, at Our expense, defend such claim and pay damages finally awarded against You in connection therewith, including the reasonable fees and expenses of the attorneys engaged by Opero for such defense, provided that (a) You promptly notify Opero of the threat or notice of such IP Claim; (b) We will have the sole and exclusive control and authority to select defense attorneys, and defend and/or settle any such IP Claim (however, We shall not settle or compromise any claim that results in liability or admission of any liability by You without Your prior written consent); and (c) You fully cooperate with Opero in connection therewith. The provisions of this Section 14.1 state the sole, exclusive and entire liability of Opero to You and constitute Your sole remedy with respect to a third party claim brought by reason of access to or use of a Service by You, or Users.

14.2 Indemnification by You. You will indemnify, defend and hold Opero harmless against any claim brought by a third party against Opero arising from or related to use of the Services by You (not from or related to the Service itself), or Users in breach of this Agreement; provided that (i) We promptly notify You of the threat or notice of such claim; (ii) You will have the sole and exclusive control and authority to select defense attorneys, and defend and/or settle any such claim (however, You shall



not settle or compromise any claim that results in liability or admission of any liability by Us without Our prior written consent); and (iii) We fully cooperate with You in connection therewith.

#### **SECTION 15. LIMITATION OF LIABILITY**

15.1 UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) WILL EITHER PARTY TO THIS AGREEMENT, OR THEIR AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SERVICE PROVIDERS, SUPPLIERS OR LICENSORS BE LIABLE TO THE OTHER PARTY OR ANY AFFILIATE FOR ANY LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA (WHERE SUCH DATA IS LOST IN THE COURSE OF TRANSMISSION VIA YOUR SYSTEMS OR OVER THE INTERNET THROUGH NO FAULT OF OPERO), BUSINESS INTERRUPTION, LOSS OF GOODWILL, COSTS OF COVER OR REPLACEMENT, OR FOR ANY OTHER TYPE OF INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGES, OR FOR ANY OTHER INDIRECT LOSS OR DAMAGES INCURRED BY THE OTHER PARTY OR ANY AFFILIATE IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

15.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, OPERO'S AGGREGATE LIABILITY TO YOU, ANY AFFILIATE, OR ANY THIRD PARTY ARISING OUT OF THIS AGREEMENT OR THE SERVICES, SHALL IN NO EVENT EXCEED IN THE AGGREGATE THE SUBSCRIPTION CHARGES PAID BY YOU DURING THE SIX (6) MONTHS PRIOR TO THE FIRST EVENT OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. YOU ACKNOWLEDGE AND AGREE THAT THE ESSENTIAL PURPOSE OF THIS SECTION 15.2 IS TO ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES AND LIMIT POTENTIAL LIABILITY GIVEN THE SUBSCRIPTION CHARGES AND CONSULTING FEES, WHICH WOULD HAVE BEEN SUBSTANTIALLY HIGHER IF WE WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN. WE HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO PROVIDE YOU WITH THE RIGHTS TO ACCESS AND USE THE SERVICES PROVIDED FOR IN THIS AGREEMENT.

15.3 Some jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages or for personal injury or death, which means that some of the above limitations may not apply to You. IN THESE JURISDICTIONS, OPERO'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW.

15.4 Any claims or damages that You may have against Opero shall only be enforceable against Opero and not any other entity, nor any officers, directors, representatives or agents of Opero or any other entity.

#### **SECTION 16. NUMBER OWNERSHIP**

The Direct Inward Dial "DID" numbers and the toll-free numbers assigned to You by Opero for the use of Services are granted to You for Your exclusive use during the term of this Agreement. Upon termination of this Agreement, ownership of these numbers may be transferred to You upon Your request and Your payment of all associated porting and outstanding Service Fees. If You port Your



existing numbers to Us during implementation of Opero's Services, You may port them away from Us upon payment of all associated porting and outstanding Service Fees. If You port Your existing numbers to Us during implementation of Opero's Services, You authenticate and validate the right to use the telephone numbers and warrant that the telephone numbers used on the Opero network have no history of use within robocalling campaigns.

#### **SECTION 17. THIRD-PARTY SERVICE PROVIDERS**

You agree that Opero, and the third-party service providers that are utilized by Opero to assist in providing the Services to You, shall have the right to access Your Account and to use, reproduce, and distribute the personal information of Your Users to the extent necessary to provide, secure or improve the Services. Any third-party service providers utilized by Opero will only be given access to Your Account as is reasonably necessary to provide the Services and will be subject to (a) confidentiality obligations which are commercially reasonable and substantially consistent with the standards described in Section 5; and (b) the terms of this Agreement.

#### **SECTION 18. USAGE DATA**

Opero may collect, access, and/or analyze any information and metadata related to or reflecting Customer's access to or use of the Services, including CPNI ("Usage Data"). Opero may use this information to gauge usage levels and application performance, for end-user and technical support, to improve and develop services provided to You, and to recommend additional services to You, as well as to create anonymized statistics for our own marketing purposes. You grant Opero the right to analyze and use Usage Data and any feedback provided by You for purposes such as testing, developing, improving, creating, and enhancing Opero's products and services so long as neither You nor any individual is identifiable as the source of such information. Opero shall own all products and services that may be developed, improved or derived from Usage Data. Opero shall maintain the confidentiality of all Usage Data and shall not share, sell, or disclose Usage Data to any unaffiliated third party. Usage Data is exclusive of Service Data, which is information, data, and other content that is provided for or on behalf of Customer for processing by or through the Services.

#### **SECTION 19. ASSIGNMENT, ENTIRE AGREEMENT AND AMENDMENT**

19.1 Assignment. You may not, directly or indirectly, by operation of law or otherwise, assign all or any part of this Agreement or Your rights under this Agreement, or delegate performance of Your duties under this Agreement, without Our written prior consent, which consent will not be unreasonably withheld. We may assign this Agreement in connection with any merger or change of control of Opero or the sale of all or substantially all of Our assets provided that any such successor agrees to fulfill its obligations pursuant to this Agreement. If requested by Opero, You must execute Our form to give effect to Opero's assignment. Subject to the foregoing restrictions, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by the Parties and their respective successors and assigns.

19.2 Entire Agreement. This Agreement constitutes the entire agreement and supersedes any and all prior agreements between You and Opero with regard to the subject matter hereof. This Agreement shall supersede and apply in lieu of the terms or conditions in any purchase order or other order documentation You or any entity which You represent provides (all such terms or



conditions being null and void), and, except as expressly stated herein, there are no other agreements, representations, warranties or commitments which may be relied upon by either Party with respect to the subject matter hereof. There are no oral promises, conditions, representations, understandings, interpretations or terms of any kind between the Parties, except as may otherwise be expressly provided herein. The headings used herein are for convenience only and shall not affect the interpretation of the terms of this Agreement.

19.3 Amendment. We may amend this Agreement from time to time, in which case the new Agreement will supersede prior versions. We will notify You not less than ten (10) days prior to the effective date of any such amendment and Your continued use of the Services following the effective date of any such amendment may be relied upon by Opero as Your consent to any such amendment. Our failure to enforce at any time any provision of this Agreement does not constitute a waiver of that provision or of any other provision of this Agreement.

#### **SECTION 20. SEVERABILITY**

If any provision in this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision shall be deemed as stricken from this Agreement and all the remaining provisions of this Agreement shall remain in effect.

#### **SECTION 21. EXPORT COMPLIANCE AND USE RESTRICTIONS**

The Services and other Opero technology, and derivatives thereof, may be subject to export controls and economic sanctions laws and regulations of the United States and other jurisdictions. Subscriber agrees to comply with all such laws and regulations as they relate to use of and access to the Services and other Opero technology. Each Party represents that it is not named on any U.S. government restricted-party list, and Subscriber will not permit any User to access or use any Service in a U.S.-embargoed country or region (currently Russia, Cuba, Iran, North Korea, Syria or Crimea), or for any prohibited end use (e.g., nuclear, chemical, or biological weapons proliferation, or missile-development purposes).

#### **SECTION 22. RELATIONSHIP OF THE PARTIES**

The Parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the Parties.

#### **SECTION 23. NOTICE**

23.1 All notices provided by Opero to You under this Agreement may be delivered in writing by (a) nationally recognized overnight delivery service ("Courier") or U.S. mail to the contact mailing address provided by You on any Order Form; or (b) electronic mail to the electronic mail address provided for Your Account owner.

23.2 All Legal Notices provided by You to Opero under this Agreement must be delivered in English and in writing by Courier or U.S. mail to Concord III, L.L.C. 2025 First Ave., Suite 800, Seattle, WA 98121, Attn: Legal Department with a copy sent via electronic mail to [generalcounsel@concord.net](mailto:generalcounsel@concord.net).



All other notices provided by You to Opero under this Agreement must be delivered in English and in writing by electronic mail to support@concord.net.

23.3 All notices shall be deemed to have been given immediately upon delivery by electronic mail; or, if otherwise delivered upon the earlier of receipt or three (3) business days after being deposited in the U.S. mail or one (1) business day after being deposited with a Courier as permitted above.

#### **SECTION 24. GOVERNING LAW**

This Agreement shall be governed by the laws of the State of Washington, without reference to conflict of laws principles. Any disputes under this Agreement shall be resolved in a court of general jurisdiction in King County, Washington. You hereby expressly agree to submit to the exclusive personal jurisdiction of this jurisdiction for the purpose of resolving any dispute relating to this Agreement or access to or use of the Services by You, or Users.

#### **SECTION 25. FEDERAL GOVERNMENT END USE PROVISIONS**

If You are a U.S. federal government department or agency or contracting on behalf of such department or agency, each of the Services is a "Commercial Item" as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as those terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Services are licensed to You with only those rights as provided under the terms and conditions of this Agreement.





## **SECTION 26. SURVIVAL**

Sections 2.1-2.4, 3.4-3.6, 5, 12-20, 23, 24, 26, and 27 shall survive any termination of this Agreement with respect to use of the Services by You or Users. Termination of this Agreement shall not limit a Party's liability for obligations accrued as of or prior to such termination or for any breach of this Agreement.

## **SECTION 27. DEFINITIONS**

When used in this Agreement with the initial letters capitalized, in addition to the terms defined elsewhere in this Agreement, the following terms have the following meanings:

"Account" means any accounts or instances created by You or on Your or Your Affiliates' behalf within the Services.

"Additional Feature(s)" means additional features or functionality that are available or enabled through the Service, but do not form part of the Service.

"Affiliate" means, with respect to a Party, any entity that directly or indirectly controls, is controlled by, or is under common control with such Party, whereby "control" (including, with correlative meaning, the terms "controlled by" and "under common control") means the possession, directly or indirectly, of the power to direct, or cause the direction of the management and policies of such person, whether through the ownership of voting securities, by contract, or otherwise.

"Agreement" means this Master Subscription Agreement together with any and all Supplemental Terms, Order Forms and other documents such as a SOW, BAA, CCPA Addendum and DPA (each, where applicable).

"Applicable Data Protection Law" means, where applicable, the EU Regulation 2016/679 entitled "On the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation or GDPR)".

"Associated Services" means products, services, features and functionality designed to be used in conjunction with the Services that are not included in the Service Plan to which You subscribe. For avoidance of doubt, Additional Features that are expressly stated to be governed by separate Supplemental Terms shall not be deemed an Associated Service.

"Documentation" means any written or electronic documentation, images, or video specifying the functionalities or limitations of the Services or describing Service Plans, as applicable, provided or made available by Opero to You in the applicable Opero knowledge base(s).

"Force Majeure Event" means any circumstances beyond Our reasonable control, including, but not limited to, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees), Internet service provider failure or delay, Non-Opero Services, or acts undertaken by third parties, including without limitation, denial of service attack.



“Intellectual Property Rights” means any and all respective patents, inventions, copyrights, trademarks, domain names, trade secrets, know-how and any other intellectual property and/or proprietary rights.

“Legal Notice” means any notice provided by You to Opero under Sections 3.3, 14 and 23.2 of this Agreement.

“Malicious Software” means any viruses, malware, Trojan horses, time bombs, or any other similar harmful software.

“Non-Opero Services” means third party products, applications, services, software, networks, systems, directories, websites, databases and information which a Service links to, or which You may connect to or enable in conjunction with a Service, including, without limitation, Non-Opero Services which may be integrated directly into Your Account by You or at Your direction.

“Opero” means Opero, L.L.C. and its parent, Concord III, L.L.C. d/b/a Concord Technologies.

“Opero Documents” is a Salesforce.com application that allows the user to automatically generate PDF, Word, or Google Docs from Salesforce data.

“Opero Fax” is a Salesforce.com application available in the Salesforce App Exchange that allows organizations to configure their Salesforce.com implementation to allow users to send and receive faxes, and to automate faxing processes via a cloud fax platform.

“Opero Signature” allows a user to send Google Docs for eSignature with negotiation tools built in.

“Order Form” means Our generated service order form(s) or online ordering document or process completed, executed or approved by You with respect to Your subscription to a Service, which may detail, among other things, the Service Plan applicable to Your subscription.

“Payment Agent” means Opero or a payment agent designated by Opero.

“Personal Data” means any information relating to an identified or identifiable natural person (‘data subject’) where an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as name, an identification number, location data, an online identifier or to one or more factors specific to their physical, physiological, mental, economic, cultural or social identity of that natural person.

“Personnel” means employees and/or non-employee service providers and contractors of Opero engaged by Opero in connection with performance hereunder.

“Planned Downtime” means planned downtime for upgrades and maintenance to the Services scheduled in advance of such upgrades and maintenance.

“Service(s)” means the Opero and/or Opero services that are ordered by You online through a link or via an Order Form referencing this Agreement, whether on a trial or paid basis, and made available online by Us, other web pages designated by Us, including, individually and collectively, the



applicable updates, Documentation, and Services that are provided under this Agreement. Opero Services include Opero Fax, Opero Documents, and Opero Signature, owned by Concord III, L.L.C d/b/a Concord Technologies. Services exclude (a) Non-Opero Services as that term is defined in this Agreement; and (b) any Additional Features or that are not provided under this Agreement or Your Service Plan. From time to time, the names and descriptions of the Services or any individual Service may be changed. To the extent that You are given access to such Service as so described by virtue of a prior Order Form or other prior acceptance of this Agreement, this Agreement shall be deemed to apply to such Service as newly named or described.

“Service Data” means all data contained in documents submitted by or on behalf of You or Your Users for processing by or through the Services.

“Service Plan(s)” means the packaged service plan(s) and the functionality and services associated therewith (as detailed on the Site and in Documentation applicable to the Service) that You subscribed to when signing the Order Form.

“Site” means a website operated by Opero, including [www.opero.com](http://www.opero.com) and <https://concord.net/opero-document-processing-automation/>, (but shall not include the Services).

“Sub-processor” means any third-party data processor engaged by Opero, including entities from Opero, that receives Service Data from Opero for Processing on behalf of Subscriber and in accordance with this Agreement, Subscriber’s instructions (as communicated by Opero), and the terms of its written subcontract.

“Subscription Charges” means all charges associated with Your access to and use of an Account.

“Subscription Term” means the period during which You have agreed to subscribe to a Service.

“Supplemental Terms” means the additional terms and conditions that are (a) included or incorporated on an Order Form via hyperlink or other reference (e.g., when a Deployed Associated Service is purchased); (b) applicable to Additional Features when activated by You.

“Usage Charges” means Charges that are incurred by Subscriber relating to the consumption-based use of certain features and functionality that Subscriber enables within the Service.

“User” means an individual (including those of Your Affiliates) authorized to use the Service(s) through Your Account as a user and/or administrator.

“User Contact Information” means Personal Data about Your Users, such as their name and email address, that Opero stores separate from the Services in order to, among other things, communicate with Your Users and provide customer support. User Contact Information is not considered Service Data.

“We,” “Us” or “Our” means Opero as defined above.

“You,” “Your,” “Customer,” or “Subscriber” means the individual or entity who agreed to these terms by virtue of using the Services, opening an account, and/or signing an Order Form.