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1. USE OF WAVESUITE

1.1. **WAVESUITE SOFTWARE FUNCTIONAL CAPABILITIES:** Subject to User's payment of the applicable License Fees in full (as defined in Exhibit A), Nokia hereby grants to User, for the Subscription Period, a limited, personal, non-exclusive, non-sub-licensable, non-transferable, non-assignable and right to use the WaveSuite Software and each WaveSuite Software Functional Capability purchased solely in connection with (a) User's Operated Network and for User's (a) processing of data originating from its (or, if so agreed with Nokia, an end User) business operations, and (b) internal operations purposes only.

User may furthermore make a reasonable number of backup copies of the WaveSuite Software solely for recovery purposes or to support authorized use.

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- (iv) merge any portion of the WaveSuite Software and any WaveSuite Functional Capability with other software or otherwise use the WaveSuite Functional Capability, or any portion thereof, other than as set forth in these WaveSuite Terms & Conditions.
- (v) use WaveSuite Software, any WaveSuite Functional Capability or Documentation in a manner that could subject it to an Open-Source Software license that conflicts with this Agreement or that does not otherwise apply to such Order Content,
- (vi) use WaveSuite Software, any WaveSuite Functional Capability or Documentation for the purpose of developing or enhancing products that are competitive with such WaveSuite Software or any WaveSuite Functional Capability, or
- (vii) engage in any hosting, time-sharing, service bureau, remote processing service, rental service, software-as-a-service, application service provision, or similar third party service, and with no right to sublicense or provide cloud or other similar services to third parties.

User further agrees never to remove any copyright, trademark and other proprietary notices or any other form of identification affixed to the WaveSuite Functional Capability, any Documentation, or any portion of the WaveSuite Functional Capability or Documentation.

1.4. **Application software and tools:** If and to the extent the WaveSuite Functional Capability includes API, application software and tools (as those will be specifically provided and identified by Vendor in the document “WaveSuite Subscription License Capabilities Table.xlsx or any other evolution of such document as provided by Vendor”. User may use such application software and tools made available by Nokia for the Subscription Period of the WaveSuite Functional Capability License. User acknowledges and agrees that it shall not assert any intellectual property infringement or misappropriation claims against Vendor or any third-party licensees of Vendor who use (or have used) the application software and tools.

2. LICENSE PERIOD, LICENSE CAPACITY AND INCREMENTS

2.1. **Subscription Period:** Any WaveSuite Software License to use a WaveSuite Software Capability, the Documentation License, shall be valid only for the term defined in the Purchase Order (the “Subscription Period”) and will hereinafter be referred to as “Term Based License”. A Term Based License for a WaveSuite Software Capability may be purchased by User for a minimum of a 1-year period up to 5-year period.

2.2. Upon the end of the Subscription Period WaveSuite Functional Capability (but except for the Manage Standard WaveSuite Functional Capability) as purchased by User, the Right to Use such WaveSuite Functional Capability expires, and User agrees to cease to use the WaveSuite Functional Capability and Documentation. For the sake of clarity, the expiration of the Subscription Period of any WaveSuite Functional Capability shall not impair the right to use Managed Standard WaveSuite Functional Capability that shall continue for an indefinite period.

2.3. License renewals of the Term Based WaveSuite Functional Capability License

A WaveSuite Software Capability may be renewed with the same scope of WaveSuite Functional Capability for the same or a different time period as the original Subscription Period (“Renewal Period”), following a new quotation issued by Vendor and a Purchase Order issued by User and accepted by Vendor.

2.4. **Capacity Increments:** User shall not use or consume more Licensed Capacity than specified in an accepted Purchase Order. User shall issue a new Purchase Order for Capacity Increments to expand and extend the Subscription prior to the Licensed Capacity being exceeded and pay Vendor’s invoice for the additional increments required to support their business functions. User shall place a further Purchase Order for Capacity Increments for these purposes once the relevant WaveSuite Functional Capability utilization guidelines indicate that a Licensed Capacity will soon be exceeded, requiring Capacity Increments to be in place within relevant lead times to avoid any gaps/shortfalls in coverage. Buyers’s failure to timely submit a new Purchase Order for a Capacity Increment in any WaveSuite Functional Capability subscription shall reserve to Nokia the right to block operations that consume additional license capacity (e.g. adding new nodes, etc.). In the event that a subscription of any WaveSuite Functional Capability expires with failure of the User to submit a new Purchase Order to renew, the WaveSuite Software shall be reverted back to a single standard management (Manage Standard WaveSuite Functional Capability) set of capabilities with a reduced commercial yearly subscription value, and Vendor shall be entitled to invoice User with the renewed functional capabilities. Quantities and features of Licensed Capacity purchased cannot be decreased or scaled down by User. Nothing in these WaveSuite Terms & Conditions shall be interpreted as restricting or precluding Vendor’s right and ability to limit the capacity and functionality of the WaveSuite Functional Capability in use by User to the capacity and features for which Vendor has been paid by User.

2.5. User acknowledges that the WaveSuite Functional Capability includes multiple solutions that may be part of different software applications each of which may from time to time require specific and distinct support. Vendor is not obliged to provide a WaveSuite Functional Capability on a “one size fits all” or “end to end” basis. User acknowledges that WaveSuite Functional Capability Releases are established on a *bi-yearly* basis, and that some WaveSuite Functional Capability are associated with such releases and these may require hardware upgrades to exercise these capabilities, which shall be the User’s responsibility .

3. OWNERSHIP

3.1. Nokia and/or its third-party licensors are the sole and exclusive owner(s) of the WaveSuite Software, WaveSuite Functional Capability, Documentation, License Keys and all Intellectual Property Rights therein. Nokia has the right to license the WaveSuite Functional Capability and Documentation to User under the terms and conditions stated herein. The WaveSuite Functional Capability, Documentation and License Keys, in whole or in part, and any copies thereof, are the proprietary and Confidential Information of Nokia.

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3.3. User shall not take any action that jeopardizes Nokia's and its licensor's Intellectual Proprietary Rights in the Wavesuite Software, WaveSuite Functional Capability, Documentation. To the extent not otherwise ruled by mandatory law, Nokia (and its licensors) shall own all rights in any copy, translation, modification, adaptation, decompilation, disassembly, reverse engineering or derivation of the WaveSuite Software, WaveSuite Functional Capability, Documentation and/or License Keys, including any improvement or configuration thereof.

4. SOFTWARE SUPPORT SERVICE

4.1. Any applicable Software Support Service will be defined in a separate CARE AGREEMENT between User and Vendor, will be effective during the Software Support Service Period and will be:

- (i) intended for the standard Nokia WaveSuite Software deployed in a commercial or laboratory communications network; and
- (ii) provided for issues detected in the Nokia WaveSuite Software that are demonstrable in the currently supported releases of Software, running unaltered, and on an appropriate run-time-environment as specified by the Vendor.

4.2. Supported Software releases are defined by the life-cycle specific for each WaveSuite Functional Capability or product line.

4.3. In general, software corrections are provided either in a scheduled maintenance release or in the next feature release under development. Decisions of which versions of software will be updated, and whether to include a correction in a maintenance release as opposed to including it in the next feature release, rests in Vendor's sole discretion.

4.4. The separate CARE AGREEMENT will further detail the scope of the Software Support Service, and Parties roles and responsibilities.

5. DELIVERY AND ACCEPTANCE OF LICENSED WAVESUITE FUNCTIONAL CAPABILITY AND RELEASES

5.1. Delivery of the WaveSuite Functional Capability shall be considered complete when Vendor provides User with a License Key (together with a delivery certificate) and a copy of this WaveSuite Terms and Conditions. The risk of loss for the applicable WaveSuite Functional Capability shall transfer to User upon delivery thereof, while title shall be retained by Vendor.

6. WARRANTY

6.1. Warranty: Provided that a CARE AGREEMENT for Software and Maintenance is in force between User and Vendor, Vendor warrants that, for a period of 90 days from the delivery of a License Key, the WaveSuite Functional Capability shall, under normal use, materially conform to Vendor's specifications therefor in effect on the date it is made available to User). The Warranty does not substitute for or include the Software Maintenance Services.

6.2. LIMITED WARRANTY

- a. Vendor does not warrant that the functions of the WaveSuite Software, the WaveSuite Functional Capabilities will meet User's requirements or that WaveSuite Software and any WaveSuite Functional Capability operation will be error-free or uninterrupted.
- b. USER ASSUMES THE RISK OF ANY AND ALL DAMAGE OR LOSS FROM USE, OR INABILITY TO USE, THE WAVESUITE SOFTWARE WAVESUITE FUNCTIONAL CAPABILITIES.
- c. EXCEPT AS SPECIFICALLY PROVIDED IN THIS AGREEMENT, THERE ARE NO OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE, WITH RESPECT TO THE WAVESUITE FUNCTIONAL CAPABILITIES AND THE ACCOMPANYING WRITTEN MATERIALS, AND/OR ANY WARRANTY OF NON-INFRINGEMENT.
- d. Some jurisdictions do not allow the exclusion of implied warranties or limitations on how long an implied warranty lasts, so the above limitations may not apply to User. This warranty gives User specific legal rights and User may also have other rights which vary from one jurisdiction to another.

6.3. LIMITATION OF LIABILITY

- a. USER AGREES THAT USER'S SOLE REMEDY AGAINST LICENSOR, ITS AFFILIATES, SUPPLIERS, AND AGENTS FOR LOSS OR DAMAGE CAUSED BY ANY DEFECT OR FAILURE IN THE WAVESUITE SOFTWARE OR WAVESUITE FUNCTIONAL CAPABILITIES REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (DELICT), INCLUDING NEGLIGENCE, STRICT LIABILITY OR OTHERWISE, SHALL BE THE REPAIR OF NON-CONFORMITIES OR REPLACEMENT OF DEFECTIVE MEDIA, PROVIDED SUCH MEDIA IS RETURNED TO LICENSOR. THIS SHALL BE EXCLUSIVE OF ALL OTHER REMEDIES AGAINST LICENSOR, ITS AFFILIATES, CONTRACTORS, SUPPLIERS OR AGENTS, EXCEPT FOR USER'S RIGHT TO CLAIM DAMAGES FOR BODILY INJURY TO ANY PERSON.
- b. VENDOR SHALL NOT BE HELD TO ANY LIABILITY WITH RESPECT TO ANY CLAIM BY USER OR ANY OTHER THIRD PARTY ON ACCOUNT OF, OR ARISING FROM, ANY FUNCTIONAL CAPABILITIES CREATED BY USER

THROUGH THE USE OF THE WAVESUITE SOFTWARE WAVESUITE FUNCTIONAL CAPABILITIES AND DOCUMENTATION INCLUDING BUT NOT LIMITED TO INFRINGEMENT.

- c. Regardless of any other provisions of this Agreement, neither Vendor nor its Affiliates, suppliers or agents shall be liable for any indirect, incidental, or consequential damages (including lost revenues, profits or earnings) sustained or incurred in connection with the use, operation or inability to use the WaveSuite Software or WaveSuite Functional Capabilities or for damages due to causes beyond the reasonable control of Licensor, its affiliates, contractors, suppliers and agents attributable to any service, products or action of any other person.

6.4. INFRINGEMENT INDEMNIFICATION

- a. Vendor agrees to defend at its own expense any action, suit or proceeding brought against User by a third party to the extent that it is based upon an allegation that the sale, License or use of the WaveSuite Software and WaveSuite Functional Capabilities supplied by Licensor under this Agreement infringes, as of its delivery date under this Agreement, a valid patent or copyright in the installation country ("Claim") and will pay any costs and damages finally awarded against User in any such actions which are attributable to any such Claim. Licensor's obligation under the preceding sentence is subject to the conditions that (i) User promptly notify Licensor in writing of any such Claim, (ii) Licensor or its duly appointed representative has sole control of such defense and all negotiations for any settlement or compromise, (iii) User provides all information and assistance requested by Licensor to handle the defense or settlement of the Claim, (iv) User does not, at any time during the term of this Agreement, challenge the validity of any patent belonging to or controlled by Licensor, or in which Licensor has any rights, and User does not give any assistance to a third party who challenges such validity, (v) User does not procure or assist the making of the Claim, and (vi) User does not make any admission prejudicial to the interest of Licensor with respect to this Claim or any infringement of any third party intellectual property rights.
- b. Should any WaveSuite Software or WaveSuite Functional Capability become, or in Licensor's opinion be likely to become, the subject of any such Claim, then User permits Licensor, at Licensor's option and expense, to procure for User the right to continue using such WaveSuite Software or WaveSuite Functional Capabilities, to replace or modify it so that it becomes non-infringing, or to grant User a credit for such WaveSuite Functional Capabilities as depreciated on a three-year, straight-line basis, and accept its return.
- c. Licensor has no liability under this section with respect to any claim which is based upon or results from (i) the combination of any WaveSuite Software or WaveSuite Functional Capabilities with any equipment, device, firmware or software not furnished or approved by Licensor, or (ii) any modification of any WaveSuite Software or WaveSuite Functional Capabilities by a party other than Licensor, (iii) the failure of others to install or have installed changes, revisions or updates as instructed by Licensor if such would

have made the WaveSuite Software or WaveSuite Functional Capabilities non-infringing, (iv) Licensor's compliance with User's specifications, designs or instructions, (v) any infringement occurring in a country different from the installation country, or (vi) use of a Product(s) in a manner or for a purpose not foreseeable by Supplier as of the Effective Date.

- d. THIS PARAGRAPH STATES YOUR SOLE REMEDY AND LICENSOR'S, ITS AFFILIATED COMPANIES' AND THEIR VENDORS ENTIRE LIABILITY FOR ANY CLAIM RELATING TO INFRINGEMENT OF ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.

Open Source Software (OSS):

If Software contains Open Source Software packaged separately from or integrated with Software, then information will be made available to User, either in the Open Source Software itself, on the website from which the download of Open Source Software is made available, or from Nokia upon Customer's request, indicating the Open Source Software license terms, and containing required acknowledgements, legends and/or notices. Open Source Software included with Software is distributed (not licensed) to Customer subject to the applicable Open Source Software License terms identified on, in or with the applicable Open Source Software.

7. NO RENEWAL AND TERMINATION

7.1. **No Renewal:** if the Parties fail to reach agreement on a new scope and terms and conditions for any WaveSuite Software Capability and Fees, or if User is ceasing to pay, then User does no longer have Right to Use a WaveSuite Functional Capability. The expiration of the Subscription Period of any WaveSuite Functional Capability shall not impair the right of User to use Manage Standard WaveSuite Functional Capability: User right to use Managed Standard WaveSuite Functional Capability shall continue for an indefinite period but, for the sake of clarity, without the right or the possibility to upgrade to any new release of any WaveSuite Software Capability).

7.2. **Termination.** Vendor may terminate any WaveSuite Functional Capability License and other rights granted to User under the WaveSuite Terms & Conditions upon a material breach by User of any term or condition contained herein which is not remedied by User within a period of thirty (30) days from receiving a written notice of such breach. If a party is in default of a payment obligation, then the terms of the preceding sentence shall apply except that the time period within which the breach shall be remedied shall be five (5) business days.

7.3. Vendor shall affect termination by written notice to be delivered to User after the thirty (30) day or the five (5) day period referenced above in Section 8.2. This notice of termination shall be without effect if User cures all breaches that gave rise to the termination prior to the effective date of the termination.

7.4. However, if the WaveSuite Terms & Conditions are breached through User's intentional misconduct or gross negligence, all licenses and other rights granted hereunder shall automatically terminate with immediate effect and without any notice from Vendor.

7.5. Upon termination of the WaveSuite Terms & Conditions by Vendor, or automatic termination pursuant to Section 7.4, all licenses and rights granted to User shall immediately cease and User may make no further use of the WaveSuite Functional Capability. Termination shall be without prejudice to the Parties' accrued rights and liabilities at the date of termination.

7.6. Neither Party has the right to terminate these WaveSuite Terms & Conditions for convenience.

Exhibit A - Definitions

The following capitalized words and phrases shall have the following meanings as used in the WaveSuite Terms & Conditions:

"API" means any application programming interface made available by Vendor to User under these WaveSuite Terms & Conditions.

"Capacity Increments" means increments (numbers) of 100Gbit of equivalent coherent line port units within the installed base of the User's optical network., used to identify the total amount of Licensed Capacity purchased by User in respect to a purchased WaveSuite Functional Capability, both in the original and subsequent Purchase Orders.

"CARE AGREEMENT" means the maintenance and technical support contract defined for Nokia products

"Documentation" means the official release notes or WaveSuite Software product guides provided by Vendor with any purchased WaveSuite Functional Capability (and each update or upgrade) and any other official Vendor-provided technical user manuals, product descriptions that are supplied to User as well as any and all APIs, related drawings, specifications, manuals, documents, designs, and data, pursuant to a Purchase Order.

"License Fees" means fees to be paid for the right of use of the WaveSuite Functional Capabilities.

"License Key" means a pattern of numbers and/or letters provided by Vendor to User, which are needed by User to activate and access any of the WaveSuite Functional Capability on WaveSuite Software.

"Subscription Period" means the period during which a WaveSuite Functional Capability can be used by User according to these WaveSuite Terms & Conditions, as indicated in the corresponding Purchase Order.

"User Operated Network" means the User (or an and User) optical network based on Nokia Optical Hardware Equipment Platforms or Multi-Vendor Hardware Equipment Platform.

WaveSuite Software: means software developed and/or licensed by Vendor from third parties which includes certain software features and capabilities that can manage and/or orchestrate certain operations of User's Operated Network.

WaveSuite Functional Capabilities

(also referred to as “WaveSuite Functional Capability”) means the enabled capabilities and features of the WaveSuite Software that that the User may decide to purchase from Vendor, activate (via a License Key provided by Vendor) and use in its Operated Network; the WaveSuite Software Functional Capabilities (that for the sake of clarity are comprehensive of the “Manage Standard” Functional Capability) are listed in a separate document provided by Vendor (WaveSuite Subscription License Capabilities Table.xlsx or any other evolution of such document as provided by Vendor)

WaveSuite Functional Capability Releases means new feature releases and upgrades of any purchased WaveSuite Functional Capability developed within the product lifecycle meant for both general availability and made available by the Vendor as part of any purchased Software Capability during the Subscription Period. WaveSuite Functional Capability shall also mean pre-general availability that can be trialed by the customer on a limited term basis for the purpose of proof of concepts before moving to purchasing a full subscription.

“WaveSuite Terms & Conditions” means the main body of the present terms and conditions, the WaveSuite Subscription License Capabilities Table.xlsx or any other evolution of such document as provided by Vendor and the appendices attached thereto as amended by the parties in writing.

“Customer Service Delivery Portal” means Nokia’s online delivery environment for online access to downloads of the WaveSuite Functional Capability, release notes, Documentation and related services.

“Nokia Optical Hardware Platforms” means certain Nokia optical products supplied by Vendor for User’s use in its optical network.