

## Theora Care Terms and Conditions

These Terms and Conditions ("Terms") cover the use of Theora Components. You, as User, accept these Terms by either creating a Theora account, through Your use of the Components, or by continuing to use a Theora Component after any revision in these Terms has been published.

THESE TERMS CONTAIN A BINDING ARBITRATION CLAUSE AND CLASS ACTION WAIVER IN SECTION 7. All rights not granted under these Terms are reserved by Provider.

### 1. Scope and Intended Use of Theora Components

IT IS IMPORTANT TO UNDERSTAND THE INTENDED USE OF THEORA COMPONENTS AND YOUR ROLE AS THE USER OF THEORA COMPONENTS.

A. Theora Components [Definitions of key terms are in Section 8.] are designed to provide a system of solutions to allow the User to monitor aspects of their or another person's location, movements, environmental conditions, or certain conditions associated with personal well-being. Theora Components can be utilized in various combinations to provide the type of information that best suits the User's situation.

B. *Theora Components are not medical devices, in any context.* Therefore, regardless of how or by whom a Theora Component is being used, whether (i) as a single device or (ii) in combination with other Theora Components or third-party solutions, Theora Components are not designed or intended for use in the diagnosis of disease or other conditions, or in the cure, mitigation, treatment, or prevention of disease or bodily condition.

C. Provider is not responsible for health-related decisions made based on information provided by Theora Components or received from Provider.

#### D. Who is the User?

##### 1) Types of Users:

1. If Theora Components are being used in a caregiving scenario (where one or more persons are involved in the care of a Care Recipient), the Caregiver is the User.
2. If Theora Components are being used in a professional caregiving scenario (where a business entity is providing care for one or more Care Recipients), the business entity is the User.
3. If Theora Components are being used outside of a caregiving scenario, the person or entity that has authority to make decisions regarding the use of Theora Components and the use of the data provided by the Components is the User.

2) A person who, due to diminished mental capacity, needs assistance from another person cannot be a User of Theora Components.

3) Each User will need to establish an account with Provider.

#### E. Consent to use of Theora Components

##### 1) If Theora Components are being used in a caregiving scenario, whether private or professional, You affirm that:

1. To the extent a Care Recipient is able to understand the manner in which Theora Components are being used to monitor and augment their lives, (i) You have explained how and why You have chosen to use each Component and (ii) how the use of those Components will impact the Care Recipient's life and privacy and (iii) the Care Recipient has given their consent; or
2. To the extent that a Care Recipient is not able to understand the manner in which Theora Components are being used, (i) You have sufficient legal rights to give consent on the Care Recipient's behalf and (ii) You, on behalf of the Care Recipient, give consent to using Theora Components on behalf of the Care Recipient.

2) If Theora Components are being used outside of a caregiving scenario to collect data relating to a third party, You affirm that, for each person: (i) You have explained how and why You have chosen to use each Component and (ii) how the use of those Components will impact the person's life and privacy and (iii) the person has given their consent;

3) If Theora Components are being used for Your personal use, You affirm that You understand how the use of those Components will impact Your life and privacy.

F. **Data Legal Requirements:** It is not likely, but if certain types of data are being actively transmitted by You through Your Theora Components, this section will apply.

- 1) For some types of data, the law requires a level of security or privacy that must be maintained. You acknowledge that You will abide by all legal requirements regarding the data that You transmit to or store with Provider. For types of data where the law does not require a specific level of security or privacy, it is still recommended (i) that You encrypt

Your data prior to transmitting the data to Provider and (ii) that You do not disclose the encryption key to Provider or any third party.

2) Protected Health Information. You represent and warrant that in the event that You and/or anyone using Your account utilize any aspect of Provider Components to transmit, receive, store, or process Protected Health Information ("PHI") as that term is defined by the Health Information Portability and Accountability Act of 1996 ("HIPAA") and the Health Information Technology for Economic and Clinical Health Act ("HITECH Act") as amended and as implemented by the associated regulations (collectively, the "Acts"), You will be fully compliant with the Acts. and will encrypt all PHI at rest and in motion

2. Specific Terms and Conditions: In addition to the terms and conditions contained in the main body of this document, the following additional terms and conditions apply, as applicable:

A. Theora Account and Theora Care Services: Theora Services provide useful functions and enhancements to Theora Components and hardware. [Attachment A](#) contains additional terms and conditions specific to Theora Services.

B. Theora Hardware: [Attachment B](#) contains additional terms and conditions specific to Theora Hardware.

C. Wireless communications: Some Theora Components provide a way to connect the Theora Component to a wireless communications carrier. [Attachment C](#) contains additional terms and conditions specific to the use of wireless services.

D. Theora Software: [Attachment D](#) contains additional terms and conditions specific to Theora Software.

E. The purchase of Theora Components directly from Clairvoyant Networks, Inc. is subject to Theora Purchase Terms (contained in a separate document).

3. Privacy: Your privacy and the privacy of Your personal information is important to us. The Theora Privacy Statement may be viewed at <https://clairvoyantnetworks.com/legal/privacy-policy/>.

4. WARRANTY, EXCLUSIONS, AND RISKS:

A. Hardware warranty provisions: Specific Theora Hardware warranty provisions are contained in [Attachment B](#).

B. General Warranty Exclusions (applicable to all Theora Components): To the extent allowed by law,

1) PROVIDER, AND ITS AFFILIATES, RESELLERS, DISTRIBUTORS, AND VENDORS, MAKE NO WARRANTIES, EXPRESS OR IMPLIED, GUARANTEES OR CONDITIONS REGARDING THE USE OF THEORA COMPONENTS. YOU UNDERSTAND THAT USE OF THEORA COMPONENTS IS AT YOUR OWN RISK AND THAT THE COMPONENTS ARE PROVIDED ON AN "AS IS" BASIS "WITH ALL FAULTS" AND "AS AVAILABLE." YOU BEAR THE ENTIRE RISK OF USING THE SERVICES. THERE IS NO GUARANTEE REGARDING THE ACCURACY OR TIMELINESS OF THE DATA OR INFORMATION AVAILABLE FROM THEORA COMPONENTS.

2) PROVIDER EXCLUDES ALL IMPLIED WARRANTIES, INCLUDING THOSE PERTAINING TO MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU MAY HAVE CERTAIN RIGHTS UNDER YOUR LOCAL LAW. NOTHING IN THESE TERMS IS INTENDED TO AFFECT THOSE RIGHTS, IF THEY ARE APPLICABLE.

C. Disruptions and Risks:

1) There are risks inherent in Internet/network connectivity, transmission of data, and storage of data (either remotely or on Your or others' devices). As such, it is acknowledged that, due to inherent risks in current technologies, there can be events that result in the loss of privacy, privacy data, confidential information and property.

2) Services may not be available at every geographic location. You are responsible for determining whether the Services are available and of a quality sufficient to meet Your requirements.

3) Provider reserves the right to reduce the speed at which transactions are conducted (i.e. to "throttle" transactions) if the size of transactions, individually or as a group, in Your account within a predefined period of time adversely affects the overall performance of Provider's network.

4) Services may experience occasional disruptions and outages, and Provider is not liable for any disruption or loss You may suffer because of an outage. Provider recommends, to the extent the extent that the data is available to You, that You regularly back-up available data

5) Provider may use Third-Party Suppliers for data transport and storage. These technologies may utilize virtualized or multi-tenancy architecture, where parties not associated with Provider or a Third-Party Supplier may also store or transmit data within the same framework that is used to store or transmit Your data. You also acknowledge that the transmission and storage of Your data may result in Your data crossing through or residing in multiple political jurisdictions. Each of these jurisdictions may have unique provisions relating to the privacy of Your data and information.

6) Services may be temporarily unavailable for scheduled or unscheduled maintenance by Provider or Third-Party Suppliers, or for other causes beyond Provider's reasonable control.

5. LIABILITY [In this section, the term "Provider" will include Provider, its directors, employees, and contractors.]
- A. You agree to defend, indemnify, and hold harmless Provider against and in respect of any claims, loss, damages, obligations, penalty, deficiency or liability (including, without limitation, attorneys' fees) imposed upon, incurred by or asserted against Provider that result from or are related to Your breach of these Terms or an alleged violation of law.
- B. PROVIDER WILL NOT BE LIABLE (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND PROVIDER'S REASONABLE CONTROL, EVEN IF PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF ANY OF THE FOREGOING LOSSES OR DAMAGES; (D) FOR ATTACKS ON OR HACKS OF YOUR DATA, WHETHER IN TRANSIT OR IN STORAGE; (E) FOR PHYSICAL ATTACKS OR CYBER-ATTACKS UPON PROVIDER OR ITS NETWORK OR THE NETWORKS OR FACILITIES OF THIRD-PARTY SUPPLIERS; OR (F) IF RESULTING FROM SOME FORM OF TECHNOLOGY ATTACK BY A THIRD PARTY, THE BREACH OF OR LOSS OF PRIVACY OF E-MAIL ADDRESSES, REGISTRATION AND IDENTIFICATION INFORMATION, DISK SPACE, COMMUNICATIONS, CONFIDENTIAL OR TRADE-SECRET INFORMATION, OR ANY OTHER CONTENT STORED ON PROVIDER'S EQUIPMENT, TRANSMITTED OVER NETWORKS ACCESSED BY PROVIDER, OR OTHERWISE CONNECTED WITH THE USE OF THE THEORA COMPONENTS.
- C. PROVIDER SPECIFICALLY DISCLAIMS ANY AND ALL LIABILITY AND WARRANTIES, IMPLIED OR EXPRESS, FOR USES REQUIRING FAIL-SAFE PERFORMANCE OR FOR USES WHERE FAILURE COULD LEAD TO PERSONAL INJURY OR DEATH. FOR EXAMPLE, THIS DISCLAIMER APPLIES TO, BUT IS NOT LIMITED TO, SOLUTIONS INVOLVING LIFE SUPPORT, MEDICAL DEVICES, OR HEALTH-RELATED MONITORING. THEORA COMPONENTS ARE NOT DESIGNED FOR AND SHOULD NOT BE USED IN ANY OF THESE OR OTHER FAIL-SAFE APPLICATIONS
- D. You acknowledge that a governmental entity may (a) intercept Your data or (b) require Provider to disclose Your data or information.
- E. It is understood and agreed that, regardless of the how liability is asserted or adjudged, Provider's liability will not exceed the aggregate amount of fees collected in Your account over the twelve (12)-month period preceding the date on which the claim against provider arose.
- F. The limitations and exclusions apply to the maximum extent permitted by applicable law. The stated price is a consideration in limiting Provider's liability. No action, regardless of form, arising out of these Terms may be brought by You more than one year after the cause of action has accrued.
6. Intellectual Property
- A. You acknowledge that, except as expressly stated, Provider retains all rights in its trademarks, service marks, software, technology, and any other items of intellectual property.
- B. Theora Components may not be reverse engineered, decompiled, or modified, nor may derivative works be created, without the prior written consent of Provider.
- C. Unsolicited Ideas. Provider does not solicit proposals or ideas, including without limitation ideas for new products, technologies, promotions, product names, product feedback and product improvements (collectively "Unsolicited Ideas"). If You send Unsolicited Ideas to Provider:
- 1) You grant all right, title and interest in the Unsolicited Ideas to Provider. This grant is royalty-free, fully paid-up, perpetual, irrevocable, transferable, and unlimited.
  - 2) You acknowledge and agree that Provider will not be under any obligation of confidentiality with respect to the Unsolicited Ideas.
  - 3) You represent and warrant that (i) the Unsolicited Ideas do not contain confidential, health-related, or proprietary information of You or of a third party; and (ii) Provider is under no obligation, to compensate or reimburse You for any reason or action related to the Unsolicited Ideas.
7. Dispute Resolution, Binding Arbitration and Class Action Waiver: If a dispute should arise between the parties:
- A. 60-day negotiation period. If a dispute arises, the parties will first attempt to resolve any disputes by negotiation. No dispute may be submitted to arbitration or to a court until 60 days after the parties first begin good faith efforts to resolve the dispute by negotiations.
- B. Arbitration: If the dispute cannot be resolved by negotiation, the dispute will be resolved by binding arbitration before the American Arbitration Association ("AAA") under the Federal Arbitration Act ("FAA"). The parties agree not to seek resolution by bringing suit in court in front of a judge or jury. Instead, a single, neutral arbitrator will hear the dispute. The arbitrator's decision will be final except for a limited right of review under the FAA. Class action lawsuits, class-wide arbitrations, private attorney-general actions, and other similar proceeding, where someone acts in a representative capacity, are not allowed.
- C. Exceptions to arbitration provisions.

1) Notwithstanding the foregoing, in the event of an actual or anticipated violation of these Terms by You, You agree that Provider will be entitled to apply for injunctive remedies (or an equivalent type of legal relief).

2) If a claim would fall within the jurisdiction of a small claims court, You and Provider agree to waive the arbitration provision in these Terms, and the dispute may be submitted to an appropriate small claims court sitting in Travis County Texas.

D. Any claim, regardless of where and how it is submitted, must be filed within one year from the time the claim arose; otherwise, it is permanently barred.

E. If You (i) improperly file a claim and (ii) Provider has notified You in writing that the filing is improper and (iii) You have failed to withdraw the claim, Provider may recover its attorneys' fees and costs incurred in responding to and defending against the improperly filed claim.

F. For purposes of jurisdiction, Your data is presumed to have resided or to have been transmitted within the State of Texas.

G. In the event a dispute should be filled for judicial resolution, even if filed in a manner that is in conflict with these Terms, each party consents to the exclusive jurisdiction and venue of the courts residing in Travis County, Texas. Provider's consent to jurisdiction and venue will not serve as a waiver of the dispute resolution provisions of these Terms. This subsection should not be interpreted as a waiver of the provisions in this section 7.

## 8. Definitions

A. "Terms" refers to this document, i.e., Theora Care Terms and Conditions

B. "Provider" refers to Clairvoyant Networks, Inc., the licensor and distributor of Theora Components.

C. "Components" or "Theora Components" refer to the devices, hardware, software, applications or Services provided as part of the Theora family of solutions.

D. "Services" refers to software and firmware functionality, made available by Provider, (i) that enables a Theora hardware component to connect to other devices or networks or (ii) that manages or processes data within the Theora technology framework.

E. "Care Recipient" refers to a person who, due to diminished mental or physical capabilities, is or should be receiving assistance from another person.

F. "Caregiver" refers to one or more persons giving assistance to a Care Recipient.

G. "You" refers to the User of one or more Theora Components.

H. "User": the conditions for determining who is a User of Theora Components is set forth in section 1.D. The User is the party to this document.

I. "Intellectual Property Rights" will mean ownership or usage rights in created or designed works or technologies and includes copyright, trademark, trade dress, patent, trade secret, unfair competition.

## 9. GENERAL PROVISIONS:

A. Complete Agreement: These Terms contain the complete and exclusive agreement between the parties and supersedes all prior or contemporaneous written or oral communications between the parties relating to the subject matter hereof.

B. Assignment: Neither party may assign its rights or obligations under these Terms without the express written consent of the other, which consent will not be unreasonably withheld. This paragraph will not apply if all, or substantially all, of a party's assets are being sold to a third party and the rights and all obligations of these Terms are being transferred to that third party.

C. Relationship Of The Parties: Each party is an independent entity and has no power, right or authority to bind the other or to assume or to create any obligation or responsibility, express or implied, on behalf of the other.

D. Governing Law. These Terms, and all claims or causes of action (whether in contract, tort or statute) that may be based upon, arise out of or relate to these Terms, or the negotiation, execution or performance of these Terms (including any claim or cause of action based upon, arising out of or related to any representation or warranty), will be governed by, and enforced in accordance with, the laws of the State of Texas, including its statutes of limitation, but without giving effect to any choice of law or conflict of law rules or provisions that would cause the application of the laws of any jurisdiction other than the State of Texas.

E. Force Majeure: Neither party will be liable for a failure or delay in performing an obligation under these Terms, where such failure or delay is caused by: (i) circumstances beyond its reasonable control (an "Event"); (ii) that could not have reasonably been anticipated; and (iii) that could not have reasonably been avoided or overcome. The term "Event" may include, without limitation: breakdown of communication facilities, damage or unavailability of data stored with a third-party vendor, natural catastrophes, extreme weather conditions, governmental acts or omissions or orders, changes in laws or regulations, accident, riots, war (declared or not), terrorist act, epidemic, pandemic, quarantine, civil commotion, labor disruptions, fire, disruptions in shipping or transport, lack of availability of raw

materials, or extended disruption in utility or Internet services. For the avoidance of doubt, force majeure Events do not include (a) financial distress nor the inability of either party to make a profit or avoid a financial loss, (b) changes in market prices or conditions, or (c) a party's financial inability to perform its obligations hereunder. Upon the occurrence of an Event, the affected party will notify the other party. Upon request, the affected party will provide details regarding each Event and the steps being taken to remedy any failure of or delay in performance of obligations.

F. The fact that Clairvoyant has not acted to enforce or exercise any provision of these Terms, or any related right, will not constitute a waiver of that provision or right.

G. If a court of competent jurisdiction finds any provision of these Terms, or portion thereof, to be unenforceable, that provision will be enforced to the maximum extent permissible so as to affect the intent of the parties as reflected by that provision, and the remainder of these Terms will continue in full force and effect.

H. Notices: Any required or permitted notice must be in writing and may be sent: (i) by mail, with proof of delivery; (ii) by commercial delivery, with proof of delivery; or (iii) by email, with a return acknowledgment, sent by recipient.

I. Materials that are acquired by or on behalf of the United States of America, its agencies, and/or agents ("U.S. Government"), are subject to the provisions of FAR 12.211 - "Technical Data", and FAR 12.212 - "Computer software" or to clauses providing equivalent protections in DFARS or other agency specific regulations.

J. Effect of Termination: Provisions that by their nature are intended to survive the termination of these Terms will survive termination notwithstanding the cause of termination. Such provisions that are intended to survive include, without limitation, those that relate to indemnification, warranty, liability and any limits thereon, proprietary rights and trade secrets, confidentiality of information, and payments due.

K. Export Laws. You must comply with all domestic and international export laws and regulations, which include restrictions on destinations, end users, and end use.

L. The United Nations Convention on Contracts for the International Sale of goods will not apply.

## Attachment A: Theora Account and Theora Care Services

This Attachment contains additional terms and conditions specific to Your use of Theora Services and is in addition to the Theora Terms and Conditions. If there is a conflict between this Attachment and Theora Terms and Conditions, this Attachment will take precedence. The definitions of capitalized terms in the Theora Terms and Conditions apply to this Attachment.

### 1. Your Theora Account:

#### A. Your Account:

- 1) Your account grants You access to Theora Services.
- 2) To create an account, You will be required to register and select a password and account ID. You agree to provide accurate and complete, registration information and will update Your registration information, as necessary, to keep it current. You may not use, as an account ID, the name of another person with the intent to impersonate that person without appropriate authorization.
- 3) You will be responsible for maintaining the physical security of (i) each Theora Component and (ii) Your account, passwords, and files.
- 4) You are solely responsible for: (i) all use of the Components by You or a third-party as a part of Your account, whether or not authorized by You or done with Your knowledge, and (ii) for data, information or other content uploaded to Provider as part of Your account.

#### B. Subscription Fees:

- 1) Account subscription fees are billed monthly, and fees are in US dollars.
- 2) For monthly billing, payment is due on the same day each month. The payment day is the same day (by number) of the current month as the date on which that Your account is activated. The payment day will be moved forward to the last day of the month, when necessary. (For example, if Your activation day was on the 31<sup>st</sup> and the current month has less than 31 days, Your payment day is the last day of the current month.)
- 3) Account fees are payable regardless of whether Services are being used. Fees are non-refundable. Provider reserves the right to change the amount of the fees or applicable charges and to institute new charges which will apply to the next account term. In addition, Provider may introduce new features and functionalities, which may be made available to You at an additional cost.
- 4) Fees for Services do not include taxes. You will be responsible for all applicable taxes, imposed on or based on the provision, sale or use of the Services (except for taxes based on Provider's net income).
- 5) Provider may suspend or cancel Your Theora Account if Provider does not receive an on-time, full payment. Suspension or cancellation of the Services for non-payment could result in a loss of access to and use of Your account and its content.

#### C. Billing and Payment:

- 1) Services are provided by subscription. When You establish an account, You will be asked to provide a payment method. You acknowledge and agree (i) that You are authorizing recurring payment(s), (ii) that payments will be made to Provider by the method You have established, (iii) that You are authorized to use the payment method provided and that any payment information provided is accurate and complete; and (iv) that payments will be charged at recurring intervals, until the subscription for that Service is terminated.
- 2) Authorization. By authorizing recurring payments, You authorize Provider to process such payments as either electronic debits or fund transfers, or as electronic drafts from Your designated account (in the case of Automated Clearing House or similar payments), or as charges to Your designated account (in the case of credit card or similar payments). Subscription fees are generally billed or charged in advance of the applicable subscription period. If any payment is returned unpaid or if any credit card or similar transaction is rejected or denied, Provider or its payment service Providers reserve the right to collect applicable payment rejection or insufficient funds fees and to process any such payment as an electronic payment that is authorized under this subsection.
- 3) If You believe that Provider has charged You in error, You must contact Provider within 90 days of such charge. No refunds will be given for any charges more than 90 days old. Provider reserves the right to issue refunds or credits at its sole discretion. If Provider issues a refund or credit, Provider is under no obligation to issue the same or similar refund in the future. This refund policy does not affect any statutory rights that may apply.

#### D. Data Retention. Unless otherwise provided within Your account the data transmitted to Provider is not retained on a long-term basis. Provider may, in its discretion, purge Your data at any time, in compliance with its normal procedures. Upon termination of Your account, Provider may, but is not obligated to, delete the data associated with Your account.

2. SERVICE SUBSCRIPTION TERMS

A. Subject to timely payment of all charges in Your account and if You are not in breach of these Terms, Provider grants You a limited, revocable, non-perpetual right to use the Services during the period for which full payment has been received. Provider reserves all rights not otherwise expressly granted herein.

B. Canceling Services. You may cancel a Service at any time, with or without cause. If You cancel a Service, Your access to the Service ends at 11:59 pm (Central Time) on the day before Your next payment date.

C. Price Changes. Provider may change the price of a Service at any time. If You do not agree to the price change, You may cancel and stop using the Service.

3. TERMINATION AND SUSPENSION

A. Provider may, without liability, suspend or terminate any or all Services to some or all of its account holders or Users: (a) following a possible or actual security breach or cyber-attack on Provider; (b) in order to protect the Provider network; or (c) if required by a governmental entity.

B. Provider may, without liability, suspend or terminate any or all Services in Your account if: (a) You are engaging in suspected fraudulent or unauthorized use, (b) You have breached these Terms (c) A payment in Your account is past due; (d) You fail to provide a reasonable level of cooperation in an investigation pursuant to section 0; or (e) as otherwise provided in this Document.

C. Provider may, without liability, suspend or terminate Services if (i) You are using a Theora Component that is defective or being used in a way that is not legal; (ii) the Component is causing technical or other problems on Provider network or (iii) upon termination of Your account.

4. The services are provided "as is" and on an "as available" basis. Your use occurs at Your own risk.

## Attachment B: Theora Hardware Terms and Conditions

This Attachment contains additional terms and conditions specific to Theora Hardware and is in addition to the Theora Terms and Conditions. If there is a conflict between this Attachment and Theora Terms and Conditions, this Attachment will take precedence. The definitions of capitalized terms in the Theora Terms and Conditions apply to this Attachment.

1. Types of warranties:
  - A. Theora 30 Day Satisfaction Guaranteed Policy: In addition to other available warranties, if You are not satisfied with Your Theora Component for any reason, You have 30 days from the date of purchase to return it and request a full refund.
  - B. 1-year Standard Limited Warranty: Clairvoyant Networks, Inc. warrants that, for a period of one year from the date of purchase of a Theora hardware Component, that the Component will be free from defects in materials and workmanship.
  - C. Extended Limited Warranty: If You have purchased an extended warranty term from Provider, the 1-year Standard Limited Warranty will be extended for an additional length of time, as specified by the purchased extension (typically one year).
2. To qualify for warranty service, all the following conditions must be met:
  - A. The Theora hardware Component that is returned (in this attachment, the "Item") must have been purchased new (i) from Theoracare.com or (ii) from an authorized retail seller or web site.
  - B. A return authorization must be requested from and issued by our customer service team. The Item must be returned within 2 weeks of receipt of the return authorization.
  - C. You must return the Item, before the warranty will be processed. Returned Item(s) must be in good physical condition (not misused, broken or damaged). All accessories originally included with the returned Item must be included with Your return.
  - D. Modified components are not eligible for warranty coverage.
  - E. The return authorization number must be included along with the returned Item.
  - F. You are responsible for all charges related to returning the Item, and You assume the risk of loss or damage to the returned Item(s) while in transit to Provider.
  - G. Shipping and handling charges, and taxes paid are not refundable.
  - H. If You return an Item to Provider (i) without a return authorization or (ii) without all parts and accessories originally included with Your purchase, Provider retains the right to refuse acceptance of the return.
3. Standard Limited Warranty Terms:
  - A. If a Theora hardware Component covered by this warranty fails due to a defect in materials or workmanship, Provider will repair it without charge, or replace it, at its discretion.
  - B. If a returned item qualifies for repair or replacement, Provider will be responsible for all charges related to sending the repaired Item or replacement unit to you and will assume the risk of loss or damage while the unit is in transit to you.
  - C. This warranty does not cover damage caused by accident, improper care, negligence, normal wear and tear, or the natural breakdown of colors and materials over extended time and use.
  - D. In the case of replacement, Provider may replace the returned Item with a unit that is not new and/or that has been refurbished, as long as the replacement unit is of equal or better condition and functions within original specification.
  - E. The original warranty (the one that applied at the time of purchase) will continue to run from the date of purchase and will: (i) remain in effect, without change to terms or conditions, if the item was repaired or (ii) transfer, without change to terms or conditions, to the replacement unit.
  - F. If some form of extended warranty or agreement is purchased from a third party, this Limited warranty will be secondary to the third-party warranty.



## Attachment C: Wireless Terms and Conditions

Some Theora hardware Components provide data and/or voice connections through a Wireless Carrier Network. This Attachment contains additional terms and conditions specific to Your use of such Wireless Service and is in addition to Theora Terms and Conditions. If there is a conflict between this Attachment and the Theora Terms and Conditions, this Attachment will take precedence. The definitions of capitalized terms in the Theora Terms and Conditions apply to this Attachment.

1. The following definitions apply to this Attachment.
  - A. "Wireless Service" refers to wireless wide area network communications service, including any applicable data, voice, SMS, and ancillary services, delivered over a Carrier Network within the proscribed territory.
  - B. "Carrier" means a mobile network operator with which Provider has a contractual arrangement for use of a network to provide Wireless Service.
  - C. "Network" means those integrated mobile switching facilities, servers, cell sites, connection, billing systems, activation systems and other related facilities over which the Wireless Service is provided.
2. IT IS UNDERSTOOD AND AGREED THAT: (1) YOU HAVE NO CONTRACTUAL RELATIONSHIP WITH THE WIRELESS SERVICE CARRIER, (2) YOU ARE NOT A THIRD PARTY BENEFICIARY OF ANY AGREEMENT BETWEEN PROVIDER AND THE WIRELESS SERVICE CARRIER, (3) THE WIRELESS SERVICE CARRIER HAS NO LIABILITY OF ANY KIND TO YOU, WHETHER FOR BREACH OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY IN TORT OR OTHERWISE, (4) DATA TRANSMISSIONS AND MESSAGES MAY BE DELAYED, DELETED OR NOT DELIVERED, (5) 911 OR SIMILAR EMERGENCY CALLS ARE TYPICALLY NOT SUPPORTED AND, IF SUPPORTED, MAY NOT BE COMPLETED, (6) THE WIRELESS SERVICE CARRIER CANNOT GUARANTEE THE SECURITY OF WIRELESS TRANSMISSIONS AND WILL NOT BE LIABLE FOR ANY LACK OF SECURITY RELATING TO THE USE OF THE WIRELESS SERVICES.
3. Wireless Service is made available only within the area of the Carrier's Network. Wireless Service may be temporarily refused, interrupted, or limited because of: (a) facilities limitations; (b) transmission limitations caused by atmospheric, terrain, other natural or artificial conditions adversely affecting transmission, weak batteries, system overcapacity, movement outside a Wireless Service area or gaps in coverage in a service area and other causes reasonably outside of Provider's and/or Wireless Carrier's control such as, but not limited to, intentional or negligent acts of third parties that damage or impair the Network or disrupt the Wireless Service; or (c) equipment modifications, upgrades, relocations, repairs, and other similar activities necessary for the proper or improved operation of the Wireless Service. WIRELESS SERVICE IS MADE AVAILABLE AS-IS AND NEITHER PROVIDER NOR THE WIRELESS CARRIER MAKES WARRANTIES OR REPRESENTATIONS AS TO THE AVAILABILITY OR QUALITY OF WIRELESS SERVICE AND WILL NOT BE LIABLE IN ANY CAPACITY FOR ANY ERRORS, OUTAGES, OR FAILURES.
4. You are responsible for determining whether the Wireless Service provided is appropriate for Your use of Theora Components.
5. A WIRELESS NETWORK HAS MANY COMPLEX ELEMENTS AND IS NOT GUARANTEED AGAINST EAVESDROPPERS, HACKERS, DENIAL OF SERVICE ATTACKS, VIRUSES, OR INTERCEPTORS. YOU AGREE THAT PROVIDER AND THE WIRELESS SERVICE CARRIERS WILL NOT BE LIABLE FOR ANY LACK OF PRIVACY OR SECURITY, PROVIDED THAT COMERCIAALLY REASONABLE SAFEGUARDS CONSISTENT WITH CUSTOMARY INDUSTRY PRACTICES HAVE BEEN MAINTAINED.
6. Wireless Service is limited to portions of North America. Contact customer service to discuss Wireless Service outside of Your Wireless Service territory (i.e., for roaming service outside the United States).

## Attachment D: Theora Software Terms and Conditions

Some Theora Components incorporate application software or contain firmware (in this attachment, collectively referred to as “Software”) that provide additional features to Theora hardware. This Attachment contains additional terms and conditions specific to Your use of such Theora Software and is in addition to Theora Terms and Conditions. If there is a conflict between this Attachment and the Theora Terms and Conditions, this Attachment will take precedence. The definitions of capitalized terms in the Theora Terms and Conditions apply to this Attachment.

1. License To Use:
  - A. License: Subject to timely payment of all charges in Your account and if You are not in breach of the Terms, the following grants are made, as applicable:
    - 1) For Software that ships with a Theora Component, Provider grants You a limited, revocable, non-perpetual right to use the Software. This license includes patches, upgrades, and updates to the Software that originally shipped with Your unit.
    - 2) For Software provided as part of a Theora Service, Provider grants You a limited, revocable, non-perpetual right to use the current version of the Software.
  - B. This license grant is valid only if: (i) you are the rightful owner of the Theora Component in which the Software is functioning, (ii) the Software is being used with that Theora Component, and (iii) the Software is used in a way that is consistent with the Theora Clear solution.
  - C. Provider reserves all rights not otherwise expressly granted herein.
2. Suspension
  - A. Provider may, without liability, suspend or terminate connections or communication with the Software of some or all its account holders or Users: (a) following a possible or actual security breach or cyber-attack on Provider, (b) in order to protect the Provider network, or (c) if required by a governmental entity.
  - B. Provider may, without liability, suspend or terminate connections or communication with the Software on any of our devices if: (a) You are engaging in suspected fraudulent or unauthorized use, (b) You have breached the Terms, (c) A payment in Your account is past due; (d) You fail to provide a reasonable level of cooperation in an investigation, as set forth in of the Terms, (e) the Software is causing technical or other problems on Provider network, (f) upon termination of Your account, or (e) as otherwise provided in the Terms.
3. Provider is the owner or licensee of the Software and is authorized to grant the license in this Attachment.