

# Developer Program

## Open Developer Membership Terms and Conditions

### 1.0 TERMS OF OPEN DEVELOPER MEMBERSHIP

Open Developer membership is subject to (a) Nortel Networks Inc. (Nortel) acceptance, (b) the terms and conditions in this document and (c) Company's payment of annual non-refundable membership fee. Nortel may extend Open Developer membership benefits to Company as Nortel elects in its sole discretion. Nortel may change or withdraw any or all such benefits at any time at its sole discretion. The Nortel Developer Program is subject to cancellation by Nortel at its sole discretion at any time with 60-day advance notice. Such notice and any other notice under these Terms and Conditions may be made by Nortel in the form of an email to the Prime Contact as indicated by the Open Developer Member in their initial enrollment application, or as subsequently updated in writing by Open Developer Member and shall be deemed received two (2) business days after transmission by email. Nortel is not responsible for e-mail notices that are undelivered due to failure by Open Developer Member to maintain contact information with Nortel, or due to blockage by internet filters.

Nortel may issue Developer Program Guides or summaries thereof containing information about Open Developer membership and/or benefits extended thereunder. Company acknowledges and understands that any Developer Program Guide or summary thereof is provided as a general overview of Open Developer membership, does not commit Nortel to extend any individual Open Developer membership benefit to Company, and is not part of the membership Terms and Conditions.

### 2.0 OPEN DEVELOPER MEMBERSHIP TERM AND TERMINATION

Open Developer membership shall become effective on the date Company is notified of acceptance by Nortel and shall expire on December 31 of that year. Unless terminated as provided hereunder, Open Developer membership will automatically renew for successive one-year terms, commencing January 1 of each year, providing that the annual non-refundable membership fee is received by Nortel no later than February 15 of that year. Company or Nortel may immediately terminate Open Developer membership at any time on written notice to the other party.

Company's obligations of Confidentiality under Section 7 of this Terms and Conditions document shall survive termination or expiry of Company's Open Developer membership.

### 3.0 ASSIGNMENT/TRANSFERRAL OF OPEN DEVELOPER MEMBERSHIP

Open Developer membership may not be assigned nor transferred without Nortel's prior written consent. In the event that Company is acquired by, or merges with, another company, Open Developer membership is immediately terminated, and the new entity or parent company must reapply for Open Developer membership.

### 4.0 NORTEL TRADEMARKS

Open Developer membership does not grant any license to use any Nortel trademark, graphic or trademark. Company may not use any Nortel trademark, graphic or trademark without Nortel's express written permission.

### 5.0 PUBLICITY

Company shall not publish or use any advertising, sales promotion, press releases or publicity matters relating to its Open Developer membership without Nortel's prior written approval. Company authorizes Nortel to use Company's trademarks, brandmarks and trade names to publicly identify Company as a member of the Nortel Developer Program in and on advertising, press releases, websites and other publicity. Other public uses of Company's trademarks and brandmarks by Nortel shall be subject to Company's review and approval.

### 6.0 DISCLAIMER

Nortel makes no representation as to any sales or revenues that may result from Company's Open Developer membership. Company acknowledges that its Open Developer membership does not create any agency, dealer, reseller, joint venture, partnership, employment, or franchise relationship with Nortel. Company acknowledges that nothing contained in this Terms and Conditions document shall restrict either party from entering into similar agreements with other parties.

THE NORTEL DEVELOPER PROGRAM IS PROVIDED "AS IS" AND WITHOUT ANY WARRANTY OR CONDITION OR ACCEPTANCE OF ANY LIABILITY OF ANY NATURE WHATSOEVER BY NORTEL INCLUDING BUT NOT LIMITED TO INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGES, ARISING OUT OF OR RELATING TO THIS DOCUMENT, THE NORTEL DEVELOPER PROGRAM, OR ANY MEMBERSHIP THEREIN.

### 7.0 CONFIDENTIALITY

Nortel may from time to time disclose Confidential Information to Company in conjunction with Company's Open Developer membership. During each membership term and for a period of three (3) years after the termination or expiry of Company's Open Developer membership, Company shall hold any Confidential Information received from Nortel in confidence, shall use such information only for the purpose of and in accordance with its membership, and shall not without the prior written approval of Nortel disclose such Confidential Information to anyone other than authorized employees of the Company with a need-to-know who have entered into a written agreement with Company containing confidentiality terms no less restrictive than those contained herein.

# Developer Program

"Confidential Information" means:

1. any documents, agreements, developer toolkits and associated documentation, trade secrets, technical information, business plans and marketing strategies obtained by, or presented to, Company through membership in the Nortel Developer Program;
2. information disclosed to Company by Nortel in written or other tangible form that is labeled as "Confidential" or with a similar legend; and
3. information disclosed orally to Company by Nortel, if at the time of such oral disclosure Company is advised of its confidential nature.

The obligations of confidentiality shall not apply to Confidential Information which:

1. is already known to Company at the time that it is disclosed by Nortel, provided that such prior knowledge can be substantiated by written records and documents; or
2. has been independently developed by Company without reliance on the disclosed Confidential Information, provided that such independent development can be substantiated by written records and documents; or
3. has been disclosed pursuant to a requirement of a government agency or of law through no voluntary action or inaction by the Company.
4. is lawfully in the public domain, other than through a breach hereof

Company acknowledges that unauthorized disclosure or use of such Confidential Information could cause irreparable harm and significant injury that may be difficult to ascertain. Accordingly, Company agrees that Nortel shall have the right to seek an immediate injunction enjoining any breach of the confidentiality obligations above.

Company shall not duplicate the Confidential Information except as reasonably required in connection with its Open Developer membership. Upon the written request of Nortel, Company shall return all Confidential Information (and copies thereof ) to Nortel. Company acknowledges and agrees that: (a) the Confidential Information is and shall remain the property of Nortel; and (b) neither the disclosure of Confidential Information by Nortel nor anything contained in this Agreement shall be

construed as granting or conferring any rights by license or otherwise under any patent, copyright or other intellectual property right of Nortel.

If Company is bound by the terms of any other written non-disclosure agreement with Nortel, it is understood that this Agreement shall supercede and take precedence over such other non-disclosure agreement only with respect to Confidential Information relating to the Nortel Developer Program. Company acknowledges that the Confidential Information is subject to change at any time without notice.

## 8.0 GENERAL

To the extent not prohibited by local law, this document and Company's Open Developer membership shall be governed by the laws of the jurisdiction applicable to the Country specified in the Company Information section of Company's Open Developer Application Form as follows, excluding any rules concerning the conflict of laws:

Country	Laws
Canada	Province of Ontario, Canada
All other North, South and Central American countries	State of Texas, United States
All other countries not listed above	United Kingdom

These Terms and Conditions and Company's Open Developer Application Form constitute the entire understanding between Company and Nortel with respect to the subject matter hereof, supersede all previous communications, representations, understandings and agreements, and may be amended only in writing.

**Company Name**

**By**

**Printed Name**

**Title**

**Date**

## Developer Program Office

Nortel  
Developer Program  
220 Athens Way, Suite 300  
Nashville, TN 37228  
USA  
Fax: 615-432-4970