

MASTER SERVICE AGREEMENT

This Master Service Agreement (referred to herein as the “**Terms**”) is by and between Client (as such definition of Client is set forth in the SOW between the Parties) and All In Technology LLC, a Colorado limited liability company (“**MSP**”), related to the Client’s purchase of services (“**Services**”), as well as licenses for software, hardware, support and maintenance services, and/or subscription services (“**Products**”) from MSP. Client hereby engages and retains MSP to render certain Services or provide certain Products, as specifically set forth in the “Statement of Work” or any subsequent Statements of Work (each, a “**SOW**”), or any work order as agreed among by the Parties (such Services and Products purchased from and rendered by MSP shall be referred to herein each individually as a “**Requested Service**” and collectively as, the “**Requested Services**”). Except as otherwise stated in a SOW, any subsequent SOW or Requested Services shall be made a part of and subject to these Terms. No Product or Service will be provided under these Terms alone but will require the execution of a written or electronic SOW between the Parties, each of which is deemed incorporated in these Terms for all purposes. In the event of any conflict between a SOW and these Terms, the terms of the SOW will prevail over these Terms. Client and MSP may be referred to herein each individually as a “**Party**” and collectively as the “**Parties**”. The Terms, this SOW, and any subsequently executed SOW or other work order or agreement between the Parties shall be collectively referred to herein as the “**Agreement**”.

The Terms may be modified or amended by MSP from time to time without Client’s consent by providing Client with written notice of any modification or amendment. By using the Requested Services after the changes to these Terms become effective, Client agrees to be bound by and accepts the new Terms. If Client does not agree to the new Terms, Client must notify MSP in writing of its objection to the new Terms, and MSP has the right to immediately terminate the Services, any SOW, and these Terms.

1. GENERAL REQUIREMENTS & CONDITIONS.

- 1.1. **SYSTEM.** For the purposes of these Terms, “**System**” means, collectively, any computer network, computer system, peripheral or device that is enrolled in and/or tracked using MSP’s Remote Monitoring Management (“**RMM**”) platform. To avoid a delay or negative impact on MSP’s provision of the Requested Services, during the term of each Requested Service, Client agrees to refrain from modifying or moving the System, or installing software on the System, unless MSP expressly authorizes such activity in writing in advance. MSP will not be held responsible or liable for any modification or change made to the System by Client without authorization.
- 1.2. **MAINTENANCE; UPDATES.** If patches and other software-related maintenance updates (“**Updates**”) are provided under the Requested Services, MSP will install the Updates only if MSP has determined, in its reasonable discretion, that the Updates will be compatible with the configuration of the System and materially beneficial to the features or functionality of the affected software or hardware. MSP will not be responsible for any downtime or losses arising from or related to the installation or use of any Update, provided that the Update was installed in accordance with the applicable manufacturer’s or vendor’s instructions.
- 1.3. **THIRD-PARTY SERVICE PROVIDERS.** “**Third-Party Services**” means Services provided by an entity or a Party other than MSP in fulfillment of the Requested Services requirements by whose terms and conditions MSP and/or Client may be legally bound. “**Third-Party Service Provider**” means a provider of Third-Party Services, including, without limitation, Third-Party Product Vendors.

Client’s right to use the Third-Party Services is subject to Client’s understanding of, compliance with and consent to these Terms and of any Third-Party Contracts, which MSP does not have authority to vary, alter or amend.

MSP may utilize one or more Third-Party Service Providers in its discretion to provide the Requested Services in accordance with these Terms. The Third-Party Service Provider may require MSP to sign a contract with the Third-Party Service Provider for the Third-Party Services (such contract, a “**Third-Party Contract**”) and the terms of the Third-Party Contract may impose conditions and requirements upon Client. Access to the terms and conditions of any such Third-Party Contract will be provided to Client or appear on MSP’s website ([https://docs.ourterms.live/ templates/Third-Party-Services.pdf](https://docs.ourterms.live/templates/Third-Party-Services.pdf)) which identifies the Third-Party Service Provider and includes a link to its terms and conditions or EULA. Client hereby agrees to review all Third-Party Contracts, and shall consent to and be bound by the terms and conditions of those Third-Party Contracts for the Third-Party Service Providers which Client has consented MSP to contract upon its behalf. Client acknowledges and agrees that (a) it will monitor any terms and conditions of Third-Party Service Providers and/or Third-Party Product Vendors, as applicable, to confirm Client has reviewed the current terms and conditions, and will abide by such terms and conditions; and (b) MSP shall not be responsible under any circumstance to inform Client of any changes, modifications, or amendments to any Third-Party Service Provider’s or Third-Party Product Vendor’s terms and conditions. The links are being provided as a courtesy, and Client should monitor the links for the Third-Party Service Providers to confirm that the Client has reviewed the most current Third-Party Contracts.

- 1.4. **THIRD-PARTY PRODUCT VENDORS.** “**Third-Party Products**” means hardware, software, machinery, equipment, services, and/or products inclusive of component parts purchased in fulfillment of the Requested Services. “**Third-Party Product Vendor**” means a vendor of Third-Party Products.

MSP will use reasonable efforts to assign, transfer and facilitate all warranties (if any) from any Third-Party Product Vendors to Client, but will have no liability whatsoever for the quality, functionality or operability of any Third-Party Products, and MSP will not be held liable as an insurer or guarantor of the performance, downtime or usefulness of any Third-Party Product. Where applicable, a Third-Party Product Vendor may require the MSP to sign a Third-Party Contract with respect to the Third-Party Products, and the terms of the Third-Party Contract may impose certain conditions and requirements upon Client. Client acknowledges that MSP engages with both Third-Party Service Providers (governed by their respective End-User License Agreements or “EULAs”) and Third-Party Product Vendors (governed by their respective purchase terms and conditions). Client agrees to review and be bound by the applicable terms of any Third-Party Contract that MSP procures or facilitates on Client’s behalf. For clarity, MSP’s facilitation of Third-Party Product Vendor purchases shall not be construed as acceptance of any EULA terms applicable to Third-Party Service Providers. A current list of Third-Party Product Vendors and links to their applicable terms and conditions is available on MSP’s website.

([https://docs.ourterms.live/ templates/Third-Party-Services.pdf](https://docs.ourterms.live/templates/Third-Party-Services.pdf)).

- 1.5. **THIRD-PARTY PRODUCTS.** Unless otherwise stated in the SOW with respect to the Requested Services, all Third-Party Products purchased through MSP or by MSP on Client’s behalf are nonrefundable once the applicable order is placed in MSP’s queue for delivery. Unless otherwise expressly stated in the applicable Third-Party Product Vendor’s terms and conditions of the Third-Party Products, all Third-Party Products are provided “as is” and without any warranty whatsoever as between MSP and Client (including but not limited to implied warranties). If, in MSP’s sole discretion, a hardware or software issue requires vendor or original equipment manufacturer (“OEM”) support, MSP may contact the vendor or OEM (as applicable) on Client’s behalf and pass through to Client all fees and costs incurred in connection therewith, and Client shall be responsible for all such fees. If such fees or costs are anticipated to exceed \$100, MSP will obtain Client’s permission before incurring such expenses on behalf of Client, unless exigent circumstances require MSP, in MSP’s sole discretion, to proceed otherwise without Client’s prior permission. Notwithstanding the foregoing, Client acknowledges and agrees that, in order for the MSP to provide uninterrupted services and support under these Terms and any SOW, it is Client’s sole

responsibility to maintain valid and current maintenance agreements with all software vendors providing software covered under these Terms or any SOW. The Client must renew and pay for these maintenance agreements to ensure uninterrupted support. The MSP is not liable for service disruptions or delays caused by Client's failure to maintain such agreements. If a maintenance agreement lapses or a vendor discontinues support, Client must notify the MSP, and the MSP is not obligated to continue support until a valid agreement is reinstated. Client will cooperate with the MSP to resolve any issues arising from lapsing agreements.

- 1.6. **CUSTOMER ACKNOWLEDGMENTS.** Client acknowledges that the MSP engages both Third-Party Service Providers (governed by their respective End-User License Agreement of "EULAs") and Third-Party Product Vendors (governed by their respective purchase or sales terms and conditions). As the beneficiary and/or user of any such Third-Party Service or Third-Party Products, Client agrees to review and be legally bound by the applicable terms of the relevant Third-Party Contract. This includes responsibility for all associated fees (including, without limitation, license or subscription fees).

Client further acknowledges that each Third-Party Service Providers EULA and each Third-Party Product Vendors purchase terms may be amended from time to time by such provider or vendor without MSP's prior knowledge or consent. MSP shall not be responsible for the content, modification, or enforcement of such Third-Party terms. The MSP may, at its sole discretion, change or replace Third-Party Service Providers and/or Third-Party Product Vendors during the service period. MSP will inform Client via e-mail of the change and may advise Client of any terms and conditions of the new Third-Party Service Providers and/or Third-Party Product Vendors.

The Client acknowledges and agrees that Third-Party Services or Third-Party Products provided by Third-Party Service Providers and/or Third-Party Product Vendors are contingent upon timely payment of such Third-Party Services or Third-Party Products by Client. Client further agrees that Client is liable for all ongoing fees and costs for Third-Party Services or Third-Party Products provided by Third-Party Service Providers and/or Third-Party Product Vendors, even if the Agreement or any SOW is terminated in accordance with the Agreement.

- 1.7. **SUBCONTRACTORS.** "Subcontractor" means any third party with which MSP contracts to provide specified services to complete the Requested Services.

- 1.8. **CONDITIONS OF SERVICE.** Client's System is eligible for provision of MSP's Services as outlined in the Requested Services of the SOW, provided the System is in good condition and MSP's serviceability requirements and site environmental conditions are met:

- (a) Client shall provide adequate workspace, heat, light, air conditioning, ventilation, electric current and outlets, internet and remote access for use by MSP's representatives.
- (b) MSP's representatives shall have, and Client shall provide, full access to the System in order to effect the necessary monitoring and/or supplemental services.
- (c) MSP reserves the right to suspend or terminate these Terms, any SOW, or any Requested Services in its sole discretion, if conditions at the service site pose a health or safety threat to any of MSP's representatives.

It is the responsibility of Client to promptly notify MSP of any events or incidents that may impact the services defined within these Terms and/or any supplemental service needs.

MSP shall provide the Requested Services during MSP's regular business hours, unless otherwise specified in any subsequent SOW, or other contract documents, and in accordance with MSP's information technology service policies then in effect.

Client agrees that Client will inform MSP prior to making any modification, installation, or service performed on the System by individuals not employed or contracted by MSP in order to assist MSP in providing an efficient and effective System support response. Client will be billed the full cost, at MSP's hourly rate, to remediate and restore the Systems and/or Requested Services to a state prior to change.

Only authorized contacts will be eligible to access and service Client's System. Any unauthorized access or service conducted on the System without the explicit consent of MSP, which results in negative System performance, will not be covered by the monthly plan fee as documented in the applicable SOW and will be billed according to MSP's labor rates as outlined therein.

MSP shall be obligated to provide the Requested Services (a) only at the service site(s) as identified in the SOW; and (b) for Client's Systems covered in the RMM. If Client desires to relocate, add or remove locations, Client shall give appropriate notice to MSP of Client's intention to relocate at least sixty (60) days in advance. MSP reserves the right to renegotiate the terms of any SOW with respect to any relocation and/or addition of locations by Client. Such right includes the right to refuse service at the relocation and/or new site.

1.9. **SERVICE LIMITATIONS.** In addition to other limitations and conditions set forth in these Terms and subsequent SOWs, the following service and support limitations are expressed:

- (a) Cost of consumables, replacement parts, hardware, software, network upgrades and associated services are outside the scope of these Terms. MSP will provide consultative specification, sourcing guidance, and/or time and material/project offerings.
- (b) MSP shall not be liable for any unauthorized modification or change made to the System by Client or any third party without MSP's prior written consent. To the extent such unauthorized modification or change causes issues or failures to the System, Client will be billed the full cost to restore the System to its original state.

1.10. **NOTICE OF CRITICAL DEFICIENCIES OF CLIENT'S SYSTEM.** During the course of the provision of the Requested Services, MSP may identify critical deficiencies or vulnerabilities in the Client's System(s) and make recommendations (such as additional services or products) to correct such critical deficiencies ("Critical Recommendations") in order for MSP to provide the Requested Services in accordance with a SOW. To the extent Client refuses to implement Critical Recommendations, or elects to terminate any Requested Services related to critical deficiencies or vulnerabilities and/or Critical Recommendations, Client acknowledges and agrees that the critical deficiencies and vulnerabilities, failure to promptly implement or maintain the Critical Recommendations, and/or termination of any Requested Services related to critical deficiencies or vulnerabilities and/or Critical Recommendations may (a) expose the Client's System(s) to significant risk, including, without limitation, security breaches, data loss, system outages, or non-compliance with applicable laws and regulations; (b) adversely affect Client's System and/or MSP's ability to provide the Requested Services; (c) warrant MSP to terminate, suspend, or modify some or all of the Requested Services in its sole discretion; or (d) cause other adverse consequences, costs, and/or damages to Client, MSP, or other third parties. MSP may require Client to execute a written waiver letter of such Critical Recommendations to the extent Client fails or refuses to implement such Critical Recommendations. In the event that Client fails or refuses to implement the Critical Recommendations or terminates Requested Services related to critical deficiencies or vulnerabilities and/or Critical Recommendations, or if any critical deficiencies result in an adverse consequence prior to the implementation of Critical Recommendations, Client acknowledges and agrees to the following: MSP shall

not be responsible for (i) damage to or compromise of Client's System; (ii) MSP's ability (or lack thereof) to provide the Requested Services in accordance with any SOW or these Terms; or (iii) any losses, damages, claims, or costs that directly or indirectly arise out of or result from such critical deficiencies and/or Client's failure to promptly implement Critical Recommendations or otherwise comply with this Section 1.10. Client agrees to protect, defend, indemnify, release, and hold harmless MSP, its Subcontractors, and its affiliates, and each of their respective employees, directors, managers, shareholders, members, affiliates, agents, representatives, attorneys, insurers, successors and assigns, and other related parties (collectively, the "**MSP Indemnified Parties**") from and against any and all claims, lawsuits, damages, costs, fees, losses, or liabilities (including reasonable attorneys' fees), including with respect to third-party claims, lawsuits, damages, costs, fees, losses, or liabilities (including reasonable attorneys' fees) (collectively, "**Damages**"), which relate in any way to Client's failure to comply with this Section 1.10.

- 1.11. **ONBOARDING PROCESS.** Client acknowledges and agrees that MSP shall have no responsibility for any deficiencies in the current operating systems and infrastructure unless and until MSP has had a reasonable opportunity to conduct a thorough review of the current system and to provide Client with its recommendations, and Client has accepted and implemented such recommendations.
- 1.12. **OFFBOARDING PROCESS.** In the event of termination of the Requested Services, any SOW, and/or these Terms by either Party, MSP will make reasonable accommodations to transfer Client's account to Client or Client's new managed service provider or other authorized agent (the "**Onboarding Provider**"). Client shall protect, defend, indemnify, release, and hold harmless the MSP Indemnified Parties for any Damages resulting from the activities of Client or the Onboarding Provider during the transition period from MSP to the Onboarding Provider, inclusive of when Client obtains access to all super administrator accounts of their infrastructure. Transfer will require that Client's account be fully paid at time of transfer inclusive of any offboarding charges. MSP will have no obligation to store or maintain Client's data in MSP's possession or control beyond thirty (30) calendar days following the termination of the applicable Requested Services.
- 1.13. **NETWORK DEVICES, HARDWARE AND SYSTEMS:** MSP shall only be responsible for providing Services to the Systems identified by the Client and MSP and set forth in the latest SOW and covered by the RMM. MSP may, in its sole discretion, deny requests to add devices, hardware or systems. Client shall bear the responsibility to isolate and protect the System by not allowing additional devices, hardware or system on the System unless approved by MSP. MSP shall have no responsibility for any devices, hardware or systems or damage resulting therefrom that are added to the System without MSP's approval. MSP shall have the right to immediately terminate these Terms or any SOW if devices, hardware or systems are added without MSP's approval. If Client obtains new devices, hardware or systems and wishes to request MSP's services to extend to new devices, hardware or systems, such extension shall not take effect unless and until each Party agrees in writing to a new SOW and the device is added to the RMM. The new SOW shall then become an addendum to these Terms or any SOW and incorporated herein. MSP reserves the right to deny any requests for additional services and/or additional hardware/systems for any reason in its sole discretion.
- 1.14. **AUTHORIZED CONTACT(S).** Client understands and agrees that MSP will be entitled to rely on any directions or consent provided to MSP by any of the Client's authorized contacts ("**Client Authorized Contacts**"), as indicated in an applicable SOW. If no Client Authorized Contact is identified in an applicable SOW, then the Client Authorized Contact(s) will be the person(s) who signed the applicable SOW. If Client desires to change the Authorized Contact(s), Client may notify MSP of such changes in writing which, unless exigent circumstances are stated in the notice, will take effect three (3) business days following receipt thereof.
- 1.15. **SHARED ADMINISTRATOR CREDENTIALS.** If Client shares server, network, or software application administrative credentials, MSP will not be held liable or responsible for any outages, errors,

breaches, data loss and misconfiguration resulting therefrom. Client acknowledges that multiple administrators from different companies jeopardizes the integrity of the support outlined in these Terms.

- 1.16. **SCHEDULED EQUIPMENT/PRODUCTS INCLUDED (HARDWARE AND/OR SOFTWARE).** “Scheduled Equipment Hardware” shall mean and be limited to the hardware under MSP’s RMM. It is agreed that the Scheduled Equipment Hardware covered under any SOW may change from time to time during the duration of the Agreement as the Client’s needs dictate and either new machines are added or old machines are decommissioned from the Client’s System. The monthly invoice will reflect the total number of in-production servers and/or desktops with MSP’s RMM software installed on it. Any System ADDED must be on-boarded by MSP by installing the RMM software onto it, and any System REMOVED must be off-boarded by MSP by uninstalling the RMM software, provided that such additions and removals are approved by MSP in advance. These dynamic changes will be detailed on the monthly invoice, and the Client will have the opportunity to dispute the count upon reviewing the applicable invoice.
- 1.17. **RESPONSE.** MSP warrants and represents that MSP will provide the Requested Services, and reasonably respond to any notification received by MSP of any error, outage, alarm or alert pertaining to the System, in the manner defined in the applicable Terms or subsequent SOW except for (a) periods of delay caused by Client Downtime (as defined below) or Vendor-Side Downtime (as defined below), (b) periods in which MSP is required to suspend the Requested Services to protect the security or integrity of Client’s System or MSP’s equipment or network, or (c) periods of delay caused by a force majeure event. Specific service-level agreements (if offered by MSP) with targeted response times will only be as stated in an SOW. Client acknowledges that any response times provided by MSP to Client in these Terms or under any SOW are targeted estimates only, and are not guaranteed, and are subject to factors and circumstances outside of MSP’s control.
- 1.18. **SCHEDULED DOWNTIME.** For the purposes of the Agreement, “Scheduled Downtime” will mean those hours, as determined by MSP, which will not occur between the MSP’s normal business hours of 9:00 AM and 5:00 PM Monday through Friday without Client authorization or unless exigent circumstances exist, during which time MSP will perform scheduled maintenance or adjustments to Client’s System. MSP will use its commercially reasonable efforts to provide Client with at least twenty-four (24) hours of notice prior to scheduling Scheduled Downtime.
- 1.19. **CLIENT DOWNTIME.** MSP will not be responsible under any circumstances for any delays or deficiencies in the provision of, or access to, the Requested Services to the extent that such delays or deficiencies are caused in whole or in part by Client’s acts or omissions (“**Client Downtime**”).
- 1.20. **VENDOR-SIDE DOWNTIME.** MSP will not be responsible under any circumstances for any delays or deficiencies in the provision of, or access to, the Requested Services to the extent that such delays or deficiencies are caused by Third-Party Service Providers, Third-Party Product Vendors, third-party licensors, or “upstream” service or Product vendors (“**Vendor-Side Downtime**”). Client and MSP expressly agree that this Section 1.20 is intended to be interpreted as broadly as possible under applicable law.

1.21. **AVAILABILITY & HOURS OF OPERATION.**

Day	Time	Availability	Rate
Monday – Friday	8:00 AM – 5:00 P.M.	Remote support and onsite support will be available during normal business hours.	Base Rate (based on project geography and complexity)

Monday – Friday	5:01 PM – 7:59 A.M.	After-Hours remote support will be available. Onsite support is deducted from monthly allotted hours or as per SOW.	1.5× Base Rate
Saturday – Sunday	All Day	After-Hours remote support will be available. Onsite support is deducted from monthly allotted hours as per SOW.	2× Base Rate
Holidays	Closed	After-Hours remote / onsite support billed at Holiday Labor Rate as per SOW.	3× Base Rate

Business Hours are Based on our offices in the Central & Mountain Time Zones

All rates referenced above are based on the applicable pricing and terms established in the relevant Statement of Work (SOW). Actual billing rates, including Base Rate and applicable multipliers, shall be as defined in the corresponding SOW for the specific project or engagement.

2. **BILLING; FEES.**

- 2.1. **BILLING.** Client may remit payment for Requested Services by credit card, check, automatic payment, or automatic withdrawal from a checking account, as approved by MSP. All payments shall be made on or before the due date specified in the applicable invoice, which shall be deemed the invoice date unless otherwise stated. If Client elects to receive invoicing for Requested Services, MSP **may require** a deposit or an amount equal to one (1) month of the invoiced amount for the Requested Services to be paid in advance, in addition to the first month’s payment, upon execution of the applicable SOW. In the event of early termination in accordance with the Agreement, any such advance payment shall be credited toward the final month of Requested Services. MSP reserves the right to assess a late charge of up to fifteen percent (15%) per month (or, if less, the maximum rate permitted by applicable law) on any outstanding balance not received by the invoice due date. Non-payment may result in temporary stoppage of Requested Services in MSP’s sole discretion. MSP further reserves the right, in its sole discretion, to suspend or discontinue Requested Services in the event of continued non-payment; however, MSP will make reasonable efforts to provide notice and an opportunity to cure prior to taking such action. In the event payment is not received within sixty (60) days, the Client’s advance payment may be applied to any unpaid balance, and MSP may permanently remove or disable access to the Requested Services from the Client’s systems. All outstanding invoices shall then become immediately due and payable. In the event MSP engages an attorney, collection agency, or other third party to collect past-due amounts, Client shall be responsible for all reasonable costs of collection incurred by MSP, including attorney’s fees.
- 2.2. **FEES.** Fees, as stated in the applicable SOW and these Terms, will be invoiced to Client on a monthly basis and shall be due and payable on the date of the invoice, unless otherwise specified in the SOW. All Fees are exclusive of applicable taxes, which will be added to each invoice as required by law. In MSP’s sole discretion, the Requested Services may be suspended if payment is not received within ten (10) days following the date due. Continued non-payment may result in temporary stoppage or discontinuation of Requested Services, and MSP will make reasonable efforts to provide notice and an opportunity to cure prior to taking such action.
- 2.3. **FEE INCREASES.** All SOW’s are subject to an automatic 5% increase yearly, and MSP reserves the right to modify fees at any time in its sole discretion upon providing written notice to Client. MSP will provide notice of the modified fees to the Client, other than the automatic yearly increase, at least fifteen (15) days prior to the next month’s invoice.

- 2.4. **TAXES.** Client is responsible for all local, state, or federal sales, use, value-added or other taxes, tariffs, or other charges based on work or the Requested Services provided under this Agreement. Client will pay all such taxes or tariffs as may be imposed upon MSP or Client; provided, however, that MSP shall be responsible to pay for its income withholding taxes. Client is liable for any new or altered taxes, duties, tariffs, or charges imposed after the Effective Date in respect of the supply of Products or Requested Services.

3. CONFIDENTIALITY AND NON-DISCLOSURE.

- 3.1. **DEFINITION OF CONFIDENTIAL INFORMATION.** As used herein, “**Confidential Information**” means all confidential information disclosed by a Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”), in any format whether oral, written, electronic, or other, that is designated as confidential.
- 3.2. Client’s Confidential Information shall include any personally identifiable information or protected health information of Client’s employees, Client’s customers, and Client’s data. Client acknowledges and agrees that these Terms do not constitute a Business Associates Agreement (“**BAA**”) as that term is defined in the Health Insurance Portability and Accountability Act (HIPAA; Pub.L. 104–191, 110 Stat. 1936, enacted August 21, 1996 and as amended), and that the requirement for any such agreement in addition to these Terms may be necessary to provide the Requested Services hereunder. Client acknowledges and agrees that Third-Party Service Providers (defined in Section 1.3 above) and Third-Party Product Vendors (defined in Section 1.4 above) are not parties to any SOW, these Terms or other agreement with MSP unless specifically agreed in writing, and Client must obtain a separate BAA with the Third-Party Service Provider or Third-Party Product Vendor, as applicable. Client shall be solely responsible for the consequences, if any, of moving forward with the Requested Services hereunder without such BAA and shall be the sole judge of the necessity for a BAA in addition to these Terms. Furthermore, Client hereby agrees to protect, defend, indemnify, release, and hold harmless the MSP Indemnified Parties, from and against any and all Damages, as they occur, that are brought against, imposed upon, or incurred or suffered by, the MSP Indemnified Parties which in any way relate to (a) the failure of Client to comply with these Terms or any SOW in proper handling of protected health information, (b) the absence of any necessary BAA, or (c) failure to notify MSP of the necessity of a BAA.
- 3.3. Confidential Information of each Party shall include the terms and conditions of these Terms, any SOW, and all Requested Services as well as business and marketing plans, technology and technical information, products, services, product plans and designs, trade secrets, and business processes disclosed by such Party.
- 3.4. Confidential Information shall not include any information that:
- (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party,
 - (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party,
 - (c) is received from a third-party without breach of any obligation owed to the Disclosing Party, or
 - (d) was independently developed by the Receiving Party without use of any Confidential Information.
- 3.5. **PROTECTION OF CONFIDENTIAL INFORMATION.** The Receiving Party shall:
- (a) protect and safeguard the confidentiality of all Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care,

- (b) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of these Terms or any SOW or otherwise in any manner to the Disclosing Party's detriment, and
- (c) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its affiliates' employees, subcontractors and agents who need such access for purposes consistent with these Terms.

3.6. **NON-DISCLOSURE**. Neither Party shall disclose these Terms or any Requested Services to any third party other than its affiliates, legal counsel, and accountants without the other Party's prior written consent.

3.7. **COMPELLED DISCLOSURE**. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

3.8. **RETURN OR DESTRUCTION OF CONFIDENTIAL INFORMATION**. Upon request, each Party agrees to promptly return the other Party's Confidential Information in its possession, custody or control, or to certify the deletion or destruction of Confidential Information; provided, however, that the Receiving Party may retain a copy of any Confidential Information to the extent (a) required by applicable law or (b) it would be unreasonably burdensome to destroy. In the event that return, or destruction of Confidential Information is unduly burdensome, or not feasible, the Parties shall extend the protections of these Terms to the retained Confidential Information.

4. **PROVISION OF MATERIALS AND SERVICES TO MSP**. Client agrees to timely furnish, at Client's own expense, all personnel, all necessary computer hardware, software and related materials and appropriate and safe workspaces for purposes of MSP or its Subcontractors performing the Requested Services. Client will also provide MSP and its Subcontractors with access to all information, passwords and facilities requested by MSP that are necessary for MSP or its Subcontractors to perform the Requested Services. Access may be denied for any reason at any time. If access to information, passwords or facilities is denied, Client understands that MSP or its Subcontractors may be unable to perform their duties adequately, and if such a situation should exist, Client will protect, defend, indemnify, release, and hold harmless the MSP Indemnified Parties, from and against any and all Damages resulting from such denial.

5. **RESPONSIBILITY FOR EQUIPMENT**. Client acknowledges that from time to time (a) MSP may identify additional items that need to be purchased by Client, and (b) changes in Client's System may be required in order for MSP to meet Client's requirements. In connection therewith, Client agrees to work in good faith with MSP to effectuate such purchases or changes, and such changes shall be set forth in a new SOW for Requested Services. If MSP is required to purchase any assets, including computer hardware and/or software, in connection with MSP providing the Services, all such assets will remain the sole property of MSP, except those assets sold by MSP to Client or procured by MSP on Client's behalf shall be the sole property of Client. Client will take such reasonable precautions to ensure the quality, completeness and workmanship of any item or equipment or hardware furnished by Client, and for ensuring that the materials provided to MSP or its Subcontractors, do not infringe or violate the

rights of any third party. Except as otherwise provided in any SOW, MSP will not provide any type of backup of Client's data. Client will maintain adequate backup for all data and other items furnished to MSP.

Client shall be responsible for any failure or malfunctioning of electrical or telecommunications infrastructure or services that causes damage to MSP's products or services, and MSP disclaims all responsibility for any loss, including without limitation loss of Client's data.

6. **CLIENT DATA OWNERSHIP AND RESPONSIBILITY.** Client shall bear sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of any data, information or material proprietary submitted by Client to MSP.

7. **INTELLECTUAL PROPERTY.** MSP retains all intellectual property rights in and to any property invented or composed in the course of or incident to MSP's performance of these Terms, and SOW, or the Requested Services, as well as any software, materials, or methods created prior to or after conclusion of the Requested Services ("**Intellectual Property**"). Client acquires no right or interest in or to any such Intellectual Property, by virtue of these Terms, any SOW, or any Requested Services performed by MSP, other than the limited license granted in Section 8.

7.1. Client may only use and disclose Intellectual Property in accordance with these Terms, any SOW, and the Requested Services. MSP reserves all rights in and to the Intellectual Property not expressly granted in these Terms. Client may not disassemble or reverse engineer any Intellectual Property or decompile or otherwise attempt to derive any software source code within the Intellectual Property from executable code, except to the extent expressly permitted by applicable law despite this limitation or provide a third party with the results of any functional evaluation, or benchmarking or performance tests on the Intellectual Property, without MSP's prior written approval. Except as expressly authorized in these Terms or any SOW, Client may not (a) distribute the Intellectual Property to any third party (whether by rental, lease, sublicense or other transfer), or (b) operate the Intellectual Property in an outsourcing or other business to process the data of third parties. Additional usage restrictions may apply to certain third party files or programs embedded in the Intellectual Property.

8. **LICENSE AGREEMENTS.**

8.1. **LICENSE.** Subject to these Terms, MSP grants Client a revocable, non-exclusive, non-transferable license to use all programming, documentation, reports, and any other product provided as part of the Requested Services solely for Client's own internal use and no other purpose with MSP's prior written consent. At all times, all software on the System must be genuine and licensed, and Client agrees to provide MSP with proof of such licensing upon its request. If MSP requires Client to implement certain minimum hardware or software requirements, Client agrees to do so as an ongoing requirement of MSP's provision of the Requested Services to Client.

8.2. **SOFTWARE INSTALLATION OR REPLICATION.** If MSP is required to install or replicate Client's software as part of the Requested Services, Client will independently verify that all such software is properly licensed. Client's act of providing any software to MSP will be deemed Client's affirmative acknowledgment to MSP that Client has a valid license that permits MSP to perform the Requested Services related thereto. In addition, Client is solely responsible for monitoring Client's equipment for the installation of unlicensed software. Client will protect, defend, indemnify, release, and hold harmless the MSP Indemnified Parties from and against any and all Damages the MSP Indemnified Parties may incur related to any Client materials that infringe upon any intellectual property rights of third parties, or any breach of this Section 8.2 by Client.

8.3. PRE-EXISTING LICENSE AGREEMENTS. Any Third-Party Product provided to Client by MSP as a reseller for a Third-Party Product Vendor, which is licensed to Client under a separate software license agreement with such Third-Party Product Vendor, will continue to be governed by the applicable third-party license agreement.

8.4. EULA. Portions of the Requested Services may require Client to accept the terms of one or more third-party end user license agreements (“**EULAs**”). If the acceptance of a EULA is required to provide the Requested Services to Client, then Client hereby grants MSP permission to accept the EULA on Client’s behalf. EULAs may contain service levels, warranties and/or liability limitations that are different than those contained in these Terms or any SOW. Client agrees to be bound by the terms of such EULAs and will look only to the applicable Third-Party Product Vendor for the enforcement of the terms of such EULAs. If, while providing the Requested Services, MSP is required to comply with a third-party EULA and the third-party EULA is modified or amended, MSP reserves the right to modify or amend any applicable Requested Services with Client to ensure its continued compliance with the terms of the third-party EULA. Client agrees to protect, defend, indemnify, release, and hold harmless the MSP Indemnified Parties from and against any Damages resulting from Client’s violation of any of the terms and conditions included in the subject EULA.

9. NON-SOLICITATION OF MSP’S EMPLOYEE’S, AGENTS OR SUBCONTRACTORS. Client acknowledges that MSP has incurred substantial recruitment, screening, training, and administrative expenses with respect to its agents, including its employees, vendors and independent subcontractors. To the extent permitted by law, during the term of these Terms and any SOW and for a period of one (1) year following the termination of all Requested Services, Client shall not hire or contract, directly or indirectly, with any of the MSP’s employees, agents or subcontractors who have communicated with and/or worked on any Requested Service for Client. Client and MSP mutually acknowledge and agree that it would be impractical and extremely difficult to ascertain the amount of monetary damages that would be caused by a breach by Client of this provision. Therefore, Client and MSP mutually agree that, in the event of a breach by Client in any way of this Section 9, Client shall pay to MSP as liquidated damages (and not as a penalty), an amount equal to One Hundred Fifty Thousand Dollars (\$150,000.00). This amount is an effort by both Parties to properly and reasonably assess the damages that MSP would suffer as a direct result of a breach by Client, taking into account the following facts and circumstances: (a) an average employee working for MSP will generate significant net revenue for MSP and remain employed by MSP for an extended period of time; (b) MSP will lose significant revenue and incur significant costs in connection with attempting to replace such employee; (c) there is no guarantee that such employee can be replaced; and (d) accurately assessing the value of such employee to MSP upon such breach is virtually impossible. In light of these circumstances, Client and MSP mutually agree that the amount of liquidated damages contemplated by this Section 9 represents reasonable compensation to MSP for the losses that it would incur due to any such breach. Client and MSP further acknowledge and agree that nothing in this Section 9 shall limit MSP’s rights to obtain injunctive relief or any other damages including, but not limited to, punitive, consequential, special, or any other damages, as may be appropriate in connection with Client’s breach of this Section 9.

10. WARRANTY. MSP warrants that the Requested Services will be performed by qualified personnel and in a manner consistent with commercial industry standards for similar services. MSP does not make any warranty with respect to any Third-Party Services or Third-Party Products, and Client must look to warranties (if any) from the Third-Party Service Provider or Third-Party Product Vendor, as applicable, with respect to such Third-Party Services or Third-Party Products. The warranties described in this Section 10 shall be deemed null and void to the extent an applicable Requested Service is (a) altered, modified or repaired by persons other than MSP, including, without limitation, the installation of any attachments, features, or devices not supplied or approved by MSP; (b) misused, abused, or not operated in accordance with the specifications of MSP or the applicable manufacturer or creator of the hardware or product; or (c) subjected to improper site preparation or maintenance by persons other than MSP or

persons approved or designated by MSP. MSP does not guarantee or promise any cost savings, profits, or returns on investment, delay in delivery or performance, including those delays caused by supply-chain delays or disruptions.

11. **SOFTWARE HARDWARE & SECURITY.** Client understands and agrees that data loss or network failures may occur, whether or not foreseeable. Therefore, Client must maintain proper security for Client's System including but not limited to software and hardware updates that are made available by the manufacturer. Client agrees to promptly apply all necessary software and hardware updates and, at all times, comply with all applicable national, industry, regulatory, and security standards, policies, and procedures to which Client is or may be subject ("**Applicable Standards**").
12. **CLIENT CYBER SECURITY.** It is understood that within the Requested Services provided, it is not the intent to provide, nor does MSP provide, any type of internet security monitoring, cyber security monitoring, cyber terrorism monitoring, or other cyber threat monitoring for Client unless otherwise specified in any SOW. As cyber threats are always evolving, it is strongly recommended that Client engage the services of a cyber protection third-party vendor to independently monitor the cyber controls and cyber activities in Client's System.
13. **REGULATORY COMPLIANCE.** Client shall disclose to MSP all Applicable Standards. Client acknowledges and agrees that the Requested Services alone will not achieve compliance with Applicable Standards without the Client's taking additional action to ensure compliance therewith. Client is solely responsible for reviewing its operations with qualified legal counsel or advisors to determine its Applicable Standards. Client acknowledges that MSP does not provide any legal, regulatory, or similar compliance services or solutions, and the Requested Services provided by MSP are solely limited to those indicated in the SOW or any subsequent SOWs. MSP will review the Applicable Standards identified and supplied by Client to MSP and will expressly accept or deny MSP's ability to comply with such Applicable Standards in the applicable SOW. Client acknowledges that compliance with such Applicable Standards may be subject to additional fees and charges not included in the Terms or the applicable SOW. Client is solely responsible for ensuring that its materials or other information do not constitute or contain any prohibited data.
14. **UNAUTHORIZED INFORMATION TRANSFER.** In no event shall MSP or its Subcontractors, whether under these Terms or any SOW, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, or with respect to any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach or other form of cyberattack, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if Client's data or Systems are breached because of the distribution of or Client's response to, unsolicited email, direct mail, facsimiles, unsolicited text messages, voice calls, telemarketing or because of the collection of information by means of any form of electronic malware, wiretapping, bugging, video cameras or identification tags.
15. **EXTRAORDINARY EVENTS.** In no event shall MSP or its Subcontractors, whether under these Terms or any SOW or in the performance of the Requested Services or other work in connection with any of them, be liable in contract, tort, third-party liability, breach of statutory duty or otherwise, in respect of any direct, indirect or consequential losses or expenses, including without limitation loss of anticipated profits, company shut-down, third-party loss or injury, any loss because of data breach, any loss of personally identifiable or protected information, goodwill, use, market reputation, business receipts or contracts or commercial opportunities, whether or not foreseeable, if such loss was the result of a cyberattack or any other event not contemplated by these Terms or any SOW.
16. **LIMITATION OF LIABILITY. THIS PARAGRAPH LIMITS THE LIABILITIES ARISING UNDER THESE TERMS OR ANY SOW OR IN THE PERFORMANCE OF ANY REQUESTED SERVICES. THE**

PARTIES ACKNOWLEDGE AND AGREE MSP WOULD NOT ENTER INTO THESE TERMS OR ANY SOW WITHOUT THE LIMITATIONS DESCRIBED IN THIS SECTION 16. IN NO EVENT OR CIRCUMSTANCE SHALL MSP OR ANY OF MSP'S AFFILIATES FOR THEMSELVES AND EACH OF THEIR RESPECTIVE AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, EMPLOYEES, SHAREHOLDERS, NOMINEES, CONSULTANTS, SUBCONTRACTORS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS BE LIABLE TO CLIENT OR ANY OF CLIENT'S AFFILIATES AND EACH OF THEIR RESPECTIVE AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, MEMBERS, SHAREHOLDERS, NOMINEES, CONSULTANTS, REPRESENTATIVES, SUCCESSORS AND ASSIGNS OR ANY OTHER THIRD PARTY FOR ANY SPECIAL, INCIDENTAL, SPECULATIVE, SPECIAL, CONSEQUENTIAL, PUNITIVE, EXEMPLARY, OR INDIRECT LOSSES OR DAMAGES; LOSS OF GOOD WILL; LOST PROFITS; LOSS OF BUSINESS; WORK STOPPAGE; DATA LOSS; LOSS OF INTELLECTUAL PROPERTY; COMPUTER FAILURE OR MALFUNCTION; OR ANY AND ALL OTHER COMMERCIAL DAMAGES OR LOSS DAMAGES ATTRIBUTABLE OR RELATED TO MSP'S PERFORMANCE OF THE REQUESTED SERVICES OR OBLIGATIONS UNDER THIS AGREEMENT. MSP'S AGGREGATE LIABILITY ARISING FROM, OUT OF, OR RELATING TO (A) THE REQUESTED SERVICES RENDERED BY MSP UNDER THIS AGREEMENT OR ANY SUBSEQUENT SOW, OR (B) THIS AGREEMENT OR ANY SOW, SHALL BE LIMITED TO THE FEES PAID BY CLIENT TO MSP DURING THE [THREE (3)] MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY.

EACH PARTY SHALL HAVE ONE (1) YEAR FROM THE ACCRUAL OF A CAUSE OF ACTION TO BRING SUCH ACTION. IF EITHER PARTY FAILS TO BRING SUCH ACTION WITHIN ONE (1) YEAR OF ITS ACCRUAL, THEN SUCH PARTY SHALL BE DEEMED TO HAVE WAIVED WHATEVER RIGHTS SUCH PARTY MAY HAVE HAD IN RELATION TO SUCH CAUSE OF ACTION INCLUDING ALL LEGAL AND EQUITABLE REMEDIES.

- 17. MUTUAL INDEMNIFICATION AND HOLD HARMLESS.** Subject to Section 16 above, each Party agrees to indemnify, defend and hold the other Party (and such Party's affiliates, agents, employees, officers, directors, members, shareholders, nominees, consultants, subcontractors, representatives, successors, and assigns) harmless from and against any and all Damages that arise from, or are related to, (i) the breach of these Terms or any SOW by such Party against whom indemnification is claimed or sought; (ii) any fraud, willful misconduct, or gross negligence solely undertaken or caused by the Party against whom indemnification is claimed or sought; or (iii) any alleged infringement of copyrights, patent rights and/or the unauthorized or unlicensed use of any material, property or other work solely undertaken or caused by the Party against whom indemnification is claimed or sought in connection with the performance of such Party's duties or obligations under the Terms or any SOW; provided, however, that the indemnification obligations set forth in (i) and (ii) shall not apply in the event of any joint, concurring, comparative, or contributory fraud, willful misconduct, or gross negligence. The preceding indemnification obligations are conditioned on any indemnified Party: (i) notifying the indemnifying Party promptly in writing of such action; (ii) reasonably cooperating and assisting in such defense; and (iii) giving sole control of the defense and any related settlement negotiations to the indemnifying Party with the understanding that the indemnifying Party may not settle any claim in a manner that admits guilt or otherwise prejudices the indemnified Party, without consent.
- 18. MSP INSURANCE.** MSP agrees to maintain insurance coverage that is reasonably required in connection with these Terms or any SOW, including but not limited to, workers compensation and general liability. MSP agrees to maintain a general liability and cyber liability errors and omissions insurance policy with a limit not less than \$1,000,000 per occurrence. Upon request by Client, MSP shall provide certificates of insurance evidencing such insurance signed by an authorized representative of the insurer.

19. **CLIENT INSURANCE.** Client agrees to maintain, at its sole cost and expense, insurance coverage that is reasonably required by MSP in connection with these Terms or any SOW, including, without limitation, workers compensation, general liability, and cyber and privacy liability. Upon request by MSP, Client shall provide certificates of insurance evidencing such insurance signed by an authorized representative of the insurer, including proof of payment of any applicable premiums or amounts due thereunder. In the event Client fails to maintain the required insurance coverage, MSP may, at its sole discretion, suspend the Requested Services until Client provides evidence of the required insurance or may terminate the Terms or any SOW for a material breach. If Client is supplied with any MSP equipment, Client agrees to acquire and maintain, at its sole cost, insurance for the full replacement value of that equipment.

19.1. **CYBER AND PRIVACY INSURANCE.** Client acknowledges that Client is solely responsible for obtaining and maintaining, for the duration of these Terms, its own cyber and privacy liability insurance to adequately insure its cyber exposures. Client acknowledges that MSP does not provide Client with any form of cyber and privacy liability or other insurance coverage in connection with the Requested Services or an executed SOW and that Client's use of the Requested Services does not, in any way: (a) replace a cyber and privacy liability insurance policy, (b) mitigate Client's need for cyber and privacy liability insurance coverage or (c) relieve Client's responsibility for obtaining its own cyber and privacy liability insurance coverage.

19.2. **COMMERCIAL PROPERTY INSURANCE.** Client shall secure at Client's own cost and expense property insurance for the full replacement value of Client's System(s) and equipment that may be applicable to these Terms or any SOW.

19.3. **MUTUAL WAIVER OF SUBROGATION.** TO THE EXTENT PERMITTED BY LAW, EACH PARTY WAIVES ALL RIGHTS AGAINST THE OTHER PARTY FOR RECOVERY OF DAMAGES TO THE EXTENT THESE DAMAGES ARE COVERED BY THE WORKERS COMPENSATION AND EMPLOYERS LIABILITY, PROFESSIONAL LIABILITY, GENERAL LIABILITY, PROPERTY INSURANCE, COMMERCIAL UMBRELLA/EXCESS, CYBER AND PRIVACY OR OTHER COMMERCIAL LIABILITY INSURANCE OBTAINED BY EITHER PARTY. CLIENT WILL NOT HOLD MSP, ITS SUBCONTRACTORS AND/OR THIRD-PARTY SERVICE PROVIDERS RESPONSIBLE FOR SUCH LOSSES AND WILL CONFIRM THAT CLIENT INSURANCE POLICIES REFERENCED ABOVE PROVIDE FOR THE WAIVER OF SUBROGATION INCLUDED IN THE TERMS OF SERVICE.

20. **DISCLAIMERS.** The express remedies set forth in these Terms will constitute Client's exclusive remedies, and MSP's sole obligation and liability, for any claim (a) that a Requested Service or deliverable provided hereunder does not conform to specifications or is otherwise defective, or (b) that the Requested Services were performed improperly.

EXCEPT FOR THE WARRANTIES MADE BY MSP IN SECTION 9, WHICH ARE LIMITED WARRANTIES AND THE ONLY WARRANTIES PROVIDED TO CLIENT, THE REQUESTED SERVICES AND DELIVERABLES PROVIDED THEREUNDER ARE PROVIDED STRICTLY "AS-IS." MSP DOES NOT MAKE ANY ADDITIONAL WARRANTIES, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, OR STATUTORY, AS TO THE REQUESTED SERVICES OR DELIVERABLES PROVIDED THEREUNDER, OR ANY MATTER WHATSOEVER. THE PARTIES DISCLAIM ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE AND NON-INFRINGEMENT.

MSP PROVIDES NO WARRANTY THAT THE REQUESTED SERVICES OR ANY DELIVERABLES THEREUNDER WILL MEET ANY OF CLIENT'S REQUIREMENTS EXCEPT AS SET FORTH HEREIN, THAT ANY DELIVERABLES

WILL OPERATE IN THE COMBINATIONS THAT CLIENT MAY SELECT FOR USE, THAT THE OPERATION OF ANY DELIVERABLES WILL BE UNINTERRUPTED, SECURE OR ERROR-FREE, OR THAT ALL ERRORS WILL BE CORRECTED. IF PRE-PRODUCTION (E.G., “ALPHA” OR “BETA”) RELEASES OF SOFTWARE ARE PROVIDED TO CLIENT, SUCH COPIES ARE PROVIDED “AS-IS” WITHOUT WARRANTY OF ANY KIND.

No statement by any employee or agent of MSP, orally or in writing, will serve to create any warranty or obligation not set forth herein or to otherwise modify these Terms or any SOW in any way whatsoever.

21. RENEWAL TERM; TERMINATION; EFFECT OF TERMINATION.

21.1. **RENEWAL TERM.** The Initial Term of an SOW will be as defined in the applicable SOW. The Terms and any SOW will, without any further act or formality on the part of either Party, on the expiration of the Initial Term or any Renewal Term, be automatically renewed for a further term of twelve (12) months (each a “**Renewal Term**”) unless a written notice of termination of this Agreement is provided by a Party to the other Party at least ninety (90) days prior to the expiration of the Initial Term or any Renewal Term, as applicable.

21.2. **TERMINATION FOR CONVENIENCE.** Notwithstanding the Initial Term or any Renewal Term, as applicable, Client may terminate the Agreement or any SOW without cause upon ninety (90) days’ prior written notice to MSP. Upon termination of the Agreement or any SOW in accordance with this Section, then Client shall remain responsible to pay 100% of the remaining contract value of the Initial Term or such Renewal Term, as applicable

21.3. **TERMINATION FOR CAUSE.** MSP may terminate the Agreement or any SOW if Client fails to pay any applicable fees as and when due pursuant to the Agreement. Either Party may terminate the Agreement or any applicable SOW, if : (a) the other Party commits any material breach of the Agreement and fails to cure such breach within thirty (30) days after receipt of written notice from the non-breaching Party; or (b) any proceedings in bankruptcy or in reorganization or for the appointment of a receiver or trustee or any other proceedings under any law for the relief of debtors shall be instituted by or against the other Party, or if such other Party shall make an assignment for the benefit of creditors. Upon termination of the Agreement or any SOW in accordance with this Section, Client shall remain responsible to pay the fees and costs owed to MSP through the date of termination under the Agreement or any such SOW.

21.4. **EFFECT OF TERMINATION.** Client shall remain responsible for full payment of any and all non-cancellable fees of MSP and/or other non-cancellable fees required by Third-Party Service Provider or Third-Party Product Vendor that may extend beyond the termination of this Agreement. The Client acknowledges that once a license fee is paid in full, Client will be permitted to use the applicable applications until the expiration of the term of the license, even if Client moves to a different technology services provider. Unless otherwise expressly stated in an SOW or any subsequent SOW, MSP will have no obligation to store or maintain any Client data in MSP’s possession or control beyond thirty (30) calendar days following the termination of the Agreement, even if Client requests MSP to do so.

22. SEVERABILITY. If any provision hereof or any SOW is declared invalid by a court of competent jurisdiction, such provision will be ineffective only to the extent of such invalidity, illegibility or unenforceability so that the remainder of that provision and all remaining provisions of this Agreement or any SOW will be valid and enforceable to the fullest extent permitted by applicable law. The invalidity of any part of these Terms shall not render invalid the remainder of the Terms.

23. **AMENDMENT.** No amendment or modification of this Agreement or any SOW will be valid or binding upon the Parties unless such amendment or modification is expressly agreed to in a signed writing by an authorized individual of MSP.
24. **RELATIONSHIP.** Each Party is an independent contractor, and these Terms do not make the Parties principal and agent, partners, employer and employee; nor do these Terms create a joint venture. It is further understood that there is no relationship, including but not limited to a partnership, joint venture, subcontractor or other commission-based relationship, between any third party that referred MSP or Client to the other Party.
25. **LAW.** These Terms shall be governed by and construed in accordance with the laws of the State of Colorado without reference to principles of conflicts of laws. The Parties irrevocably submit to the exclusive jurisdiction of the courts of the State of Colorado.
26. **WAIVER.** Failure by either Party to insist upon strict performance of any provision herein shall not be deemed a waiver by such Party of its rights or remedies, or a waiver by it of any subsequent default by the other Party.
27. **FORCE MAJEURE.** Neither Party will be liable to the other Party for delays or failures to perform its obligations under these Terms, any SOW, or any Requested Services because of circumstances beyond such Party's reasonable control. Such circumstances include, but will not be limited to, any acts or omissions of any governmental authority, natural disaster, act of a public enemy, acts of terrorism, riot, sabotage, pandemic, disputes or differences with workmen, power failure, communications delays/outages, delays in transportation or deliveries of supplies or materials, cyberwarfare, cyberterrorism, or hacking, malware or virus-related incidents that circumvent then-current anti-virus or anti-malware solution, or if such loss, delay or failure to perform was the result of or arose from any act of terrorism, strike or similar labor action, war, invasion, act of foreign enemy, hostilities or warlike operations, civil war, rebellion, revolution, insurrection, malfunction of electrical, mechanical or telecommunications infrastructure and equipment or services, any satellite failure, or from any fire, flood, earthquake, volcanic eruption, explosion, lighting, wind, hail, tidal wave, landslide, act of God, national or global pandemic, or other physical event and civil commotion assuming the proportions of or amounting to an uprising, or any action taken in controlling, preventing or suppressing any of these things, including any such act or series of acts of any person or group(s) or persons, whether acting alone or on behalf of or in connection with any organization(s), committed for political, religious or ideological purposes including but not limited to the intention to influence any government and/or to put the public in fear for such purposes by using activities perpetrated electronically that are directed towards the destruction, disruption or subversion of communication and information systems, infrastructure, computers, telecommunications or electronic networks and/or its content thereof or sabotage and or threat therefrom.
28. **DATA ACCESS/STORAGE.** Depending on the Requested Services provided, a portion of Client's data may occasionally be accessed or stored on secure servers located outside of the United States. Client agrees to notify MSP if Client requires MSP to modify its standard access or storage procedures.
29. **ASSIGNMENT.** Client shall not assign, transfer, subcontract, or delegate any of its rights, duties, and/or obligations under these Terms or any SOW without the prior written consent of the MSP, and any assignment in violation hereof shall be void. Client shall not effectuate a change of control of its business, including but not limited to, any merger, acquisition, consolidation, or sale of all or substantially all of its assets, without the prior written consent of MSP. For purposes of this Agreement, "change of control" shall mean any transaction or series of transactions in which the ownership or control of Client is transferred or altered such that the persons or entities that control Client, directly or indirectly, are changed. These Terms and any SOW will be binding upon and inure to the benefit of the Parties hereto and their successors and permitted assigns. MSP may assign, transfer, subcontract, or delegate any of its rights, duties, and/or obligations under these Terms or any SOW to a successor in ownership in connection with any

merger, consolidation, or sale of substantially all of the assets of its business, or any other transaction in which ownership of more than fifty percent (50%) of its voting equity is transferred.

30. **SURVIVAL**. The provisions contained in these Terms or any SOW that by their context are intended to survive termination or expiration will survive.