



MASTER SERVICES AGREEMENT

This Master Services Agreement ("MSA") is entered into as of the date the quote, proposal or SOW is accepted by the Client ("Effective Date"). This MSA is between the Client and FLAGSHIP NETWORKS, INC., a corporation having its principal offices at 100 Beard Sawmill Road, Shelton CT 06484 ("Provider").

PURPOSE & TERM: Client hereby engages Provider to render certain managed and professional consulting services, as well as related purchasing, as described in proposals, quotes and Statements of Work ("SOW") submitted by Provider from time-to-time and accepted by Client, collectively referred to as the "Services." This MSA governs all Services and shall remain in full force for a period of three years from the Effective Date ("Initial Term"). At the expiration of the Initial Term this MSA will automatically renew for successive 1-year periods ("Renewal Term") unless one party provides the other party written notice of its intent to not renew the MSA, such notice to be provided no less than 90 days prior to the expiration of the Initial or Renewal term in effect at the time of notice, with the understanding that this MSA shall remain in effect as long as any Services are being provided to the Client. Please note that individual quotes, proposals and SOW's may specify a different expiration date from this MSA's Initial or Renewal term, but all other terms and conditions of this MSA shall apply to and govern such quotes, proposals and SOW's.

This MSA supersedes any other MSA between the parties whether verbal or in writing. This MSA shall be a master services agreement whose terms herein shall govern all Services performed by Provider for Client.

- I. **DUTIES OF PROVIDER:** During the term of this MSA, Provider shall use commercially reasonable best efforts to provide Client the "Services" as proposed to and accepted by Client. Services, as well as Hardware, Software and other equipment, are described in the proposals, quotes and/or Services Scope of Work ("SOW") provided to the Client by the Provider.

Provider may be engaged for Services by Client at any time, with such Services being bound by the terms and conditions herein. Any and all additions, deletions, or modifications to the Services as set forth in a SOW shall be set forth in writing as an Amendment to said SOW, and shall be substantially in a mutually-agreed upon form, and executed by both parties at which point they shall be incorporated into the SOW and be bound by the terms and conditions of this MSA.

Normal Business Hours under this MSA shall be defined as Monday to Friday 8:00 am to 6:00 pm Eastern Time. After Business Hours under this MSA shall be defined as Monday to Friday 6:00pm to 9:00pm Eastern time. 24x7 support is available upon request.

- II. **COMPENSATION:** In consideration for the Services rendered by Provider to Client pursuant to this MSA, Client shall pay Provider as specified in Client-accepted Services proposals and quotes.
- A. **Managed Services:** the fees and costs for the on-going Services shall be itemized in each proposal, quote and/or SOW. Fees and costs shall be invoiced on a monthly basis unless otherwise specified in writing.
- 1) Projects are not included in Managed Services support and are quoted separately. Projects are generally defined as:
 - Planned infrastructure replacements/upgrades (i.e., replacement not due to a specific device(s) issue) – workstation fleet, core infrastructure
 - Application upgrades/replacements/installation, e.g., Microsoft 365
 - Third party vendor (e.g., phone, alarm, sound, communications, construction, etc.) required upgrades, replacements or reconfiguration to infrastructure
 - 2) For managed services clients signed up under a Platinum ("pay one price") agreement, for which a monthly fee is quoted as inclusive of all managed services being provided, there will be an annual reconciliation of the underlying scope and usage originally quoted and accepted versus the then-current scope and usage by the client. Should the reconciliation reveal a difference in scope and usage of 10% or more, then the "pay one price" agreement will be renegotiated in good faith to by the Client and Provider to establish a new monthly fee or an alternative managed services agreement.
- B. **Project-based & Consulting Services:** the fees and costs for the Project-based Services shall be itemized for each proposal, quote and/or SOW. Fees and costs, except in the case of an agreed-upon retainer, shall be invoiced as incurred on a monthly basis.
- 1) A Services retainer may be agreed upon for an SOW. Retainers are prepaid consulting time blocks. Retainers can be used across multiple projects and give the customer priority level support. Retainers do not expire in any specified time period, nor do they automatically renew. Client is not required to renew their retainer and can cancel the existing retainer without any special conditions. However, any work performed outside of an active retainer will be billed at Flagship Networks' current regular

hourly rate.

- 2) Invoices for retainer-based Project-based Services shall be reviewed and charged against the funds previously provided to Provider as part of the agreed-upon retainer to the extent said funds are available. At the end of every calendar month Provider will present Client with a full accounting of time spent on the project, the individual consultant and/or engineer performing the work and a description of what Services were performed.
 - 3) Client may request a return of any credit balance that remains on an open retainer. However, work already performed will be recalculated and billed at Flagship Networks' current regular hourly rate and deducted from the credit balance. Credit balances may also be used to pay for other Client work as agreed to with Provider. Any remaining credit will be refunded by check to the Client if there are no other invoices or charges outstanding on their account.
- C. **Hardware/Software:** the fees and costs for Hardware and Software shall be itemized for each proposal and/or quote. Any purchase in excess of \$5,000 (Five Thousand dollars) requires a 50% deposit at the time of order unless other terms are mutually agreed upon by the Parties on a case-by-case basis.
- D. **Payment Terms:** Payment terms are net fifteen (15) days, unless otherwise specified in the proposals, quotes and/or SOWs. Invoices not paid within 15 days of the invoice due date may be assessed a finance charge of one percent (1%) per month.
- E. **Automatic ACH Payment:** Automatic monthly ACH payment is the preferred payment mechanism for Client to pay for monthly recurring fees or charges from the Provider.
- F. **Non-Business Hours:** Services performed as After Hour support (M-F 6:00pm-9:00pm Eastern) shall be at the rate of one and one half (1.5) times the normal hourly rate, unless otherwise specified in the proposals, quotes and/or SOWs. 24x7 Service Support is available upon request, as specified in a proposal, quote and/or SOW.
- G. **Pricing Change:** Provider may, upon the end of the Initial or Renewal Terms of Client's accepted quotes, proposals or statements of work for Services provided to the Client, increase the prices for said Services by a minimum of five percent (5%). In addition, any price increase by third parties for any product or services that are part of the Services provided by the Provider to the Client will be passed on to the Client. Pricing may also be modified by the Provider if the type, quantity or utilization of the underlying Services requirements as originally specified by the Client change, with such change to be documented by the Provider. A new price, if required, for such Services will be negotiated in good faith by Client and Provider.
- H. **Disclaimer:** The Client expressly acknowledges that unless otherwise specified on a Scope of Work document, Services are not fixed fee nor are the costs or compensation capped in any way. The Client acknowledges that any delay, in the ordering or payment for the hardware and software may have a material effect on the Services which delay shall be the sole responsibility of the Client, unless any such delay is caused by Provider.

III. TERMINATION

- A. **Non-Renewal:** If non-renewal notice is provided under Paragraph I of this MSA, then Provider shall continue to provide Services to Client per the terms of this MSA through the expiration date of the MSA or the SOW specifying the details of the Services being provided. Following the expiration date of the MSA or Services term, Provider will continue to provide Services to the Client at Provider's then-prevailing standard rates until Client has fully moved the Services, provided such date shall not exceed one year from the termination date unless mutually agreed by Provider and Client.
- B. **Client's right of early termination:** Provided Client is current in all of its obligations hereunder, including all payments invoiced or due under this MSA for Services rendered, and provided Client has fully paid for all outstanding purchase orders for software or hardware, and all expense incurred by Provider in performing the Services, Client may terminate this MSA or specific Services during the Initial or Renewal Term ("Early Termination") by providing written notice to Provider ninety (90) days prior to the requested early termination date ("Early Termination Date"). Client shall continue to remit full payment to Provider for charges and fees as per the existing quote, proposal or SOW for the period up to the Early Termination Date. The Client shall also remit a payment (the "Early Termination Payment") to Provider of an amount equal to fifty percent (50%) of the monthly fees remaining for the current Initial or Renewal Term following the Early Termination Date. In addition, if early termination is declared by the Client, the Client will pay a fee ("Unpaid Amortization Fee") which is calculated by the multiplying the fully waived Services Onboarding Fees times the percentage of months left in the Initial or Renewal Term.

The Early Termination notice must indicate an Early Termination Date which date shall not be less than 90 days from the date of the notice. Early Termination Payment shall be made in addition to any amounts invoiced by Provider or due under this MSA through the Early Termination Date, including any 3rd party licensing or other fees incurred by Provider to service the Client. Early termination of 3rd party subscription services, products or licenses is permitted only subject to the requirements and approval of such 3rd party manufacturer or distributor. Upon receipt of notice of Early Termination, Provider shall continue to provide Managed Services to Client per the terms of this MSA through the Early Termination Date. With regard to project SOWs, Provider, in consultation with the Client will determine how to proceed with regard to said project(s) and shall use its best efforts to continue work on projects which are already in process, and which can reasonably be completed in the ordinary course of business prior to the Early Termination Date.

IV. **EXPENSES:** It is mutually agreed upon that in addition to the compensation set forth herein Client shall pay Provider for all itemized out-of-pocket expenses incurred by Provider in its performance of the on-going Services on behalf of the Client and approved in advance in writing if such expenses will total more than \$250.00 in the aggregate including any licensing, software or materials needed for remediation, overnight deliveries and lodging (the "Itemized Expenses"). Any and all Itemized Expenses shall be supported by receipts or other written evidence of such expenditures maintained at Provider's office, unless otherwise requested by Client. All reimbursements shall be made by Client within thirty (30) business days of receipt of Provider's invoice. Out-of-pocket expenses will be billed to Client monthly

V. **PROVIDER RESPONSIBILITIES & REPRESENTATIONS:** Provider is responsible for using its commercially reasonable best efforts to provide the Services by qualified personnel in a timely and reasonably professional manner, as ordinarily provided by IT providers having similar experience on Services or projects of similar size, scope and complexity.

PROVIDER DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING THE WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

Provider has all rights, authorizations, and licenses necessary to provide any material furnished by Provider to Client, and that the material and Client's use thereof, as authorized by the MSA, shall not infringe, misappropriate, or otherwise violate the rights of any third party.

Each of Provider's employees, agents, or representatives assigned to perform under the MSA shall have the proper skill, training, and background so as to be able to perform in a professional and workmanlike manner and that all work will be so performed in a manner compatible with Client's business operations at its premises.

VI. **CLIENT RESPONSIBILITIES & REPRESENTATIONS:** Client agrees to use its best efforts to make available to Provider, upon reasonable notice, computer programs, data, physical and security access to hardware and software, documentation and all other information or access required by Provider to complete the Services.

To the extent that the Services are to be performed on Client's premises or at a third-party location, Client agrees to provide Provider with access to the equipment and office facilities necessary for performance of the Services.

Provider and Client agree to use their best efforts to provide consistent and active participation from the highest levels of the leadership to ensure that when decisions need to be made by Client and Provider that they will have access to the people who can make them and in order to mitigate delays in the implementation of those decisions.

While Provider may provide recommendations to Client about the use and implementation of the Services provided under this MSA, the Client acknowledges that ultimately Provider is performing said Services at the direction of the Client. The Client is responsible for the manner in which Client uses the Services, including the implementation, maintenance and security of Client data, the choice of equipment, software, and content and all other matters related to how Client uses the Services.

Client hereby acknowledges that Provider shall rely upon the accuracy of all information provided by Client. Client assumes full and complete responsibility and liability for the information furnished to Provider for use on Client's behalf.

Client will maintain cyber insurance policies for its operations. Should cyber insurance not be in place during the time of Provider Services, Client waives all liability claims against Provider for any failures in Services delivery as defined in the Client-accepted SOW, proposal or quote.

For clients with managed services: Client assures that all client equipment serviced under Provider's managed services, including SSL certificates, are under original or extended warranty and/or manufacturer/vendor support. For any equipment

not under current warranty, Provider will use commercially reasonable efforts to service such equipment at the Provider's current time and materials hourly rates. For any equipment, software, certificates or user-based licenses required for Client's operations but which are not in place at the time of servicing or expire during the Term, Provider will automatically order or renew, without a need for quotes or proposals, such licenses and certificates to assure compliance with vendor requirements. Such licenses and certifications will be documented and invoiced at the current prevailing prices. Provider will not be liable for any service disruptions or failures caused by such equipment not current in its warranty or maintenance coverage.

All Microsoft product versions must be currently supported by Microsoft. Third party application software upgrades and updates must be coordinated with Provider. Provider cannot be responsible for system errors or security breaches caused by network equipment installed by the Client themselves or third parties.

Security recommendations must be followed including firewall settings, password, and workstation security policies and cyber security products.

Client must have at least two forms of approved back-up solutions in place, including an offsite solution.

Workstations must have internet or network access to be considered managed. Any work performed on "unmanaged" systems is considered billable. Production data must not be stored locally on any workstations. All production data and databases must be kept on the server to prevent loss, in the event the workstation needs to be restored from image. Provider is not responsible for lost data from PC's, including PC's that need to be restored from image.

- VII. **LIMITATION OF LIABILITY:** NEITHER PARTY (NOR ITS EMPLOYEES, AGENTS, SUPPLIERS OR CUSTOMERS) SHALL BE LIABLE TO THE OTHER PARTY FOR PUNITIVE, SPECIAL, CONSEQUENTIAL, INCIDENTAL, OR INDIRECT DAMAGES INCLUDING WITHOUT LIMITATION, LOST PROFITS, PENALTIES OR LOSS OR DAMAGE TO DATA, OR DAMAGES RESULTING FROM PROVIDER'S DELAY IN COMPLETING SERVICES ARISING OUT OF THE USE OR INABILITY TO USE SERVICES EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- VIII. **LIMITATION OF DAMAGES:** PROVIDER'S AGGREGATE LIABILITY TO CLIENT RELATING TO OR ARISING OUT OF THIS MSA, WHETHER IN CONTRACT, TORT, OR OTHERWISE, SHALL NOT EXCEED THE AMOUNTS ACTUALLY PAID BY THE CLIENT PURSUANT TO SECTION II and III HEREOF, EXCLUDING THEREFROM THE AMOUNTS PAID FOR HARDWARE AND SOFTWARE.
- IX. **SERVICES TO OTHERS:** Client acknowledges that Provider is in the business of providing similar services to other businesses and entities. Provider's services hereunder are not exclusive to Client and Provider shall have the right to perform the same or similar services for others, as well as engage in other business activities. Notwithstanding the foregoing, in no event shall Provider use Client's intellectual property or its confidential information, including its PHI and PFI, in providing services to such other businesses and entities.
- X. **INDEMNIFICATION:** Client hereby acknowledges that Provider shall rely upon the accuracy of all information provided by Client. Client assumes full and complete responsibility and liability for the financial and other information furnished to Provider for use on Client's behalf. Client shall at all times defend, indemnify and hold harmless Provider and all its directors, officers, agents, employees, representatives and other affiliated entities ("Provider Indemnified Parties") from and against any and all damage, loss, claim, expense, deficiency or cost incurred as the result of any claim, suit or proceeding brought against any of the Provider Indemnified Parties, or in which any of the Provider Indemnified Parties are asked to participate, as a result of any information, representations, reports or data provided by Client to any of the Provider Indemnified Parties.
- Provider represents that it will treat Client's material nonpublic information as confidential, as more fully set forth in Article XVIII hereto. Provider shall at all times defend, indemnify and hold harmless Client and all its directors, officers, agents, employees, representatives and other affiliated entities ("Client Indemnified Parties") from and against any and all damage, loss, claim, expense, deficiency or cost incurred as the result of any claim, suit or proceeding brought against any of the Client Indemnified Parties, or in which any of the Client Indemnified Parties are asked to participate, as a result of Provider's breach of its confidentiality obligations under this MSA. The provisions of this Article X shall survive the expiration or termination of this MSA.
- XI. **PROVIDER AS INDEPENDENT CONTRACTOR:** Provider shall perform all Services under this MSA as an independent contractor and not as an employee or affiliate of Client.
- XII. **ASSIGNMENT:** Neither party may assign this MSA, by operation of law or otherwise, without the prior written consent of the other party, which consent shall not be unreasonably withheld.

XIII. **NOTICES:** Any notice, request, approval, or other communication about this Agreement to either party hereto shall, unless otherwise specifically permitted herein, be in writing, delivered (a) by hand (including by any private overnight delivery service) or (b) through the United States Postal Service, registered or certified mail with return receipt requested, or (c) by electronic mail or facsimile to the attention of the authorized individuals identified in the accepted quotes, proposals or SOW's at the parties' respective addresses shown (or to such other individuals and/or addresses as may be set forth in a written notice sent by either party hereto, as applicable):

XIV. **DEFAULT:** Either party may terminate this MSA if the other party is in material breach of any obligation hereunder or if either Party becomes insolvent, meaning they are unable to pay its debts as they mature in the ordinary course of business for a period of 60 days or more, or any proceedings are instituted by or against the other Party in bankruptcy or under any insolvency laws or for reorganization, receivership or dissolution. The non-breaching party must provide written notice of default, specifying the breach to the party in default. The party in default shall have sixty (60) days to cure the default ("Cure Period"). If the parties have agreed in writing upon an escalation process, such escalation shall be initiated if the default is not cured within thirty (30) days.

If the party in default is the Client, Provider shall continue to perform its obligations under this MSA during the Cure Period. If the party in default fails to cure the breach within the Cure Period, the non-breaching party can terminate the contract. Upon termination of this MSA, the Client shall pay to Provider all outstanding invoices for Services rendered and hardware and software outlined herein. Provider will return to Client any unused deposits less any amounts payable to Provider for Services rendered and for hardware and software.

If Provider is entitled to terminate this contract under the terms of this Paragraph, Provider, in their sole discretion, may continue to provide Services to Client for an additional 30-day period ("Transition Period.") During such Transition Period, and upon the request of the Client, Provider will use its best efforts to provide transition and migration services to Client's new provider at its standard commercial rates for such services. In the event this MSA is terminated due to Provider's insolvency or dissolution, Provider agrees to use its best efforts to negotiate the assignment of the Services contract to Client directly.

In addition to termination, Provider may also elect to seek to recover all sums due hereunder, together with interest at the then prevailing Connecticut statutory rate of interest, and together with reasonable attorney's fees and costs, including but not limited to court filing fees, service of process fees, travel and lodging expenses to attend proceedings and any other costs associated with enforcement of Client's obligations herein. Provider's rights hereunder shall be cumulative rather than exclusive and election of any remedy shall not serve to limit Provider from further pursuing any other remedy provided for under this MSA.

XV. **ENTIRETY:** This instrument and any Amendments or other attachments incorporated herein set forth the entire MSA between Provider and Client, and replaces and supersedes all oral or written MSAs, understandings, or arrangements between the parties with respect to the subject matter of this MSA. No promise, representation, warranty or inducement, except as herein set forth, has been made by either party to this MSA. This MSA may not be canceled, altered, or amended except as set forth herein.

XVI. **SEVERABILITY:** Any term or provision of this MSA which is invalid or unenforceable in any jurisdiction shall, as to such jurisdiction, shall be ineffective to the extent of such invalidity or unenforceability without rendering invalid or unenforceable the remaining terms and provisions of this MSA or affecting the validity or enforceability of any of the terms and provisions of this MSA in any other jurisdiction.

XVII. **GOVERNING LAW AND DISPUTES:** This MSA shall be governed by the laws of the State of Connecticut, without regard to its conflicts of law rules. Any controversy or claim arising out of or relating to this MSA, or the breach of this MSA, that cannot be resolved by the parties hereto, shall be tried accordingly in the County of Fairfield, Connecticut.

Any dispute regarding Services, invoices, payments, etc. should be resolved by the two parties within 30 days of one party notifying the other party of such a dispute or breach. If not resolved within that time frame, then said dispute or breach will be escalated to the highest levels of management within the two parties who will meet to resolve the issue within another 45 days. Should resolution still not be reached, then each party can take whatever remedial action it deems necessary under the laws of the State of Connecticut including termination of any Services affected by the dispute or breach.

XVIII. **CONFIDENTIALITY:** The parties acknowledge that in the course of performing Services, they may each become privy to confidential, proprietary and competitively sensitive information concerning the business of the other party including PHI and PFI ("Confidential Information"). The parties agree to receive and hold all Confidential Information in confidence and will not, without prior written consent of the affected party, make any use of Confidential Information for purposes unrelated to rendering the Services or disclose any of the Confidential Information to any person or entity except as may be necessary in the

course of rendering Services. The duty of confidentiality shall survive for a period of one (1) year after termination of this MSA but shall extend indefinitely with respect to PFI and PHI consistent with the terms of any executed Business Associate MSAs (“BAA”). Provider hereby agrees to use all material non-public information provided to it by Client solely for the purpose of rendering Services to Client pursuant to its engagement hereunder and to treat confidentially such information for so long as such information remains non-public. Except as contemplated by this MSA or as required by applicable law, the Parties will not disclose such confidential information to a third party (other than directors, officers, employees) without the prior consent of the other Party. This restriction shall not apply to any Confidential Information: (a) that becomes known generally to the public; (b) for which disclosure is required by applicable law, legal process, or any order or mandate of a court or other governmental authority to be disclosed; or (c) that is reasonably believed by the receiving party to be required to be disclosed in connection with a lawsuit or other legal or administrative action, provided, that in the case of clauses (b) or (c), the receiving party shall, unless otherwise prohibited from doing so, give the disclosing party reasonable advance written notice of the Confidential Information intended to be disclosed and the reasons and circumstances surrounding such disclosure, in order to permit the disclosing party to seek a protective order or other appropriate request for confidential treatment of the applicable Confidential Information.

- XIX. **NONSOLICITATION**: Client agrees and acknowledges that Provider has invested substantial time and resources into development of its employees and its model for providing Services to Client. Client agrees that Provider will be irreparably harmed should Client divert employees from Provider to any other employer or itself. Client further acknowledges that Provider shall have no adequate remedy at law for any such diversion and warrants that it will not divert nor encourage or enable any other person to divert any employee(s) of Provider in violation of this MSA. Client covenants and agrees not to solicit, hire or otherwise engage or employ, either as an employee, officer, independent contractor, consultant, advisor or in any other capacity or role, any person who was an employee of Provider at any time during this MSA. This covenant by Client shall survive termination of this MSA and shall expire on the 12 month anniversary of the date of termination or expiration of this MSA (the “Non-solicitation Period”), provided, however, that if Client is in default of any of its obligations hereunder at the termination of this MSA, this covenant shall continue uninterrupted until the twelve (12) month anniversary of the date upon which Client cures any and all such default(s) (the “Extended Non-solicitation Period”); provided further that routine job postings of open positions and solicitations of a generalized nature (e.g., newspaper advertisements, mass mailings, and job fairs) do not constitute breaches of this non-solicitation covenant.

The parties warrant and agree that the damage likely to be suffered as result of Client’s breach of this section is uncertain in amount or difficult to prove and that obtaining an adequate remedy may be impossible, inconvenient and/or impractical and therefore they intend to liquidate damages in advance. As a result of the foregoing, and including without limitation, the substantial damage likely to result as a consequence of a violation of this section, Client agrees to pay to Provider and Provider agrees to accept, as liquidated damages for each employee of Provider hired away by Client in violation of this Section, an amount equal to twelve (12) times the monthly compensation and benefits of that employee to Provider. The parties further agree that the sum set forth herein as liquidated damages is reasonable because it is not greatly disproportionate to the amount of the damage which the parties estimate to be the presumable loss that would be sustained in the event of such breach.

XX. **GENERAL**:

- A. **Injunctive Relief**: The parties agree that damages would be an inadequate remedy in the event of a breach of this MSA by either party. Therefore, the parties agree that either party is entitled, in addition to any other rights and remedies otherwise available to injunctive and other equitable relief in the event of a breach or threatened breach by a party.
- B. **Force Majeure**: Neither party shall be liable to the other for its failure to perform any of its obligations under this MSA, except for payment obligations other than for any period Provider cannot deliver Services, during any period in which such performance is delayed or rendered impracticable or impossible due to circumstances beyond its reasonable control, including, without limitation, an Act of God, fire, flood or other natural catastrophe, laws, orders, rules, regulations, directions or action of governmental authorities, national emergency, riot, act of terrorism or war, or third party power supply or network services outage or labor dispute (the “Force Majeure Event”) provided that the party experiencing the delay promptly notifies the other of the delay and was not grossly negligent in any manner. This provision shall apply for the duration of the Force Majeure Event and a reasonable time thereafter, so long as reasonable efforts are made to minimize the delay.
- C. **Waiver**: The failure of either party to enforce any provisions of this MSA is not a waiver of the provisions or of the right of that party to subsequently enforce that, or any other, provision of this MSA.

- D. **Amendment:** No provision or term of this MSA may be amended, modified, changed, altered, or waived except by written document executed by the parties hereto. In the event that any provision of this MSA is held by a court of competent jurisdiction to be unenforceable because it is invalid or in conflict with any law of any relevant jurisdiction, the validity of the remaining provisions shall not be affected, and the rights and obligations of the parties shall be construed and enforced as if the MSA did not contain the particular provision(s) held to be unenforceable and the unenforceable provision(s) shall be replaced by mutually acceptable provision(s) which, being valid, legal and enforceable, come closest to the intention of the parties underlying the invalid or unenforceable provision.

This MSA, and the obligations set forth herein, shall be binding on any and all successors and assigns of the parties, including, without limitation, any corporation or other entity with or into which Provider or Client is merged or consolidated, or any entity which acquires all or substantially all of the assets of Provider or Client. Notwithstanding the foregoing, should Provider be acquired by an outside Company, Provider shall provide notice to Client of such acquisition and the Client shall have the opportunity to renegotiate this MSA with the acquiring Company or terminate this MSA upon providing thirty (30) days written notice to Client.

- E. **Intellectual Property:** It is understood and agreed that Provider may use its proprietary intellectual property in providing the Services. If Provider uses any of its proprietary intellectual property and so notifies Client in writing, Client shall not acquire any proprietary rights to such intellectual property by virtue of this MSA. Ownership of all of Provider's proprietary intellectual property shall remain vested in Provider. Likewise, ownership of all of Client's proprietary intellectual property shall remain vested in the Client. This provision shall survive termination of this MSA.

* * * END OF MSA * * *