

This Elevate Master Services Agreement is by and between

Hilliard Office Solutions, Ltd  
("Company")

and

Customer

("You").

CAREFULLY READ THESE TERMS AND CONDITIONS, AS THEY FORM A LEGALLY BINDING AGREEMENT BETWEEN YOU AND COMPANY. ONLY AN AUTHORIZED REPRESENTATIVE OF YOUR COMPANY MAY EXECUTE THIS AGREEMENT. IF YOU DO NOT ACCEPT THESE TERMS AND CONDITIONS, YOU DO NOT HAVE PERMISSION TO USE COMPANY SERVICES AND DO NOT HAVE ANY OTHER OF THE RIGHTS SET FORTH BELOW.

This Company's Elevate Master Service Agreement (this "MSA") is entered into between Company ("Company") and customer ("You"). By ordering Service from Company's personnel by signing of a Schedule and/or providing them with Your credit card number and/or billing information or using Services you agree to be bound by and to comply with, the terms of this Agreement. You agree to be bound by all of the terms and conditions of this Master Service Agreement with Company including:

- Company's Elevate Master Service Agreement Schedule (the "Elevate Schedule"); and
- Company's product specific Schedules ("Schedule"), (collectively, this "Agreement").

Definitions. For the purposes of this MSA, the following definitions apply:

"Access Information" means information that alone or together with other information, can provide access to any portion of Your Account, including but not limited to, Your Account number, login names, passwords, credit card or other financial information, security questions and their respective answers, and any other similar information. For the avoidance of doubt, Your Access Information will include any similar information for each of Your Users.

"Account" means the account created with Company in connection with this Agreement that relates to Your purchase or subscription to and use of Services by You and Your Users.

"Applicable Law" means any applicable foreign, federal, state or other laws, rules, regulations or interpretations of relevant Governmental Authorities or self-regulatory bodies.

"Beta Offerings" means any portion of the Services offered on a "beta" basis, as designated by Company, including but not limited to products, plans, services, and platforms.

"Company Parties" means Company's affiliates (including parents and subsidiaries), vendors, licensors and partners, and it and their officers, employees, agents and representatives.

"Data" means all data submitted by Your Users to Company in connection with the Services, including all content, material, IP and similar addresses, recordings, messages, software, Account Information and Account-related settings.

"Governmental Authority" means a government, regulatory organization, self-regulatory organization, court of competent jurisdiction or similar body.

"PHI" means Protected Health Information which is individually identifiable health information.

"Services" means Company's hosting and/or other services, software and products, as such services, software and products that are offered by Company from time-to-time in its discretion and subscribed to, purchased by, or used by You as set forth in a Schedule.

"Third-Party Service" means any service or product offered by a party that is not Company.

"User" means any of Your employees, consultants or independent contractors to whom You grant permission to access the Services in accordance with Company's entitlements procedures and this Agreement.

"You" and "Your" means the individual or Entity on whose behalf this Agreement is accepted.

#### 1. SCOPE; ACCESS; SECURITY.

1.1. Access to Services. Subject to and in accordance with the terms of this Agreement, including any Schedules, Company grants You a non-exclusive, non-sublicensable, nontransferable, non-assignable, revocable license for the term of this Agreement to access and use the Services. Services may only be used by Your Users for internal business purposes only. You agree to comply with the terms and conditions of this Agreement, including any Schedules, and with all applicable Company procedures and

policies that further define use of the Services. You acknowledge and agree that the actions of any of Your Users with respect to the Services will be deemed to be actions by You and that any breach by any of Your Users of the terms of this Agreement or any Schedule will be deemed to be a breach by You.

1.2. Account Information and Ownership. You agree to maintain accurate Account information by providing updates to Company promptly, but no later than three (3) business days, when any of Your Account information requires change, including any relevant Account contact information. Failure by You, for any reason, to respond within three (3) business days to any inquiries made by Company to determine the validity of information provided by You will constitute a material breach of this Agreement. You acknowledge and agree, and expressly consent, that in the event of any dispute regarding access to or legal ownership of any Company account or any portion thereof, including Your Account, Company will resolve such dispute in its sole discretion. In addition, in the event of such a dispute, Company may immediately suspend, alter or terminate any relevant account, including Your Account, or any portion thereof. You will reimburse Company for any legal fees and other fees incurred with respect to any dispute regarding control or ownership of Your Account or Your Data or the same of another Company customer. You acknowledge and agree that (i) the legal owner of all Data on the Account is You, the counterparty to this Agreement, and not any individual User, including any Account contact registered with Company, regardless of any administrative designation (e.g., Administrator, Billing Contact, Owner, etc.) and (ii) Company may request any documentation it requires to establish ownership and rights to Your Account and any related Data; provided that any User with an administrative designation has the authority to bind You to any amendments, modifications or acknowledgements regarding this Agreement or otherwise relating to the Services.

1.3. Account Security and Activity. You acknowledge and agree that You are solely responsible for (i) maintaining the confidentiality and security of Your Access Information, and (ii) all activities that occur in connection with Your Account, whether initiated by You, by others on Your behalf or by any other means. You will notify Company immediately of any unauthorized use of Your Account, Access Information or any other actual or potential breach of security. You acknowledge and agree that Company will not be liable for any loss that You may incur as a result of any party using Your Access Information, either with or without Your knowledge and/or authorization. You further agree that You may be held liable for losses incurred by Company, any Company Party or another party due to any party using Your Access Information. Company strongly recommends that You keep Your Access Information in a secure location, take precautions to prevent others from accessing it and change it when necessary to maintain its confidentiality and security. Company specifically disclaims all liability for any activity in Your Account, whether authorized by You or not.

1.4. Failure of a Line Test . If a specific site fails a "line test" as part of the installation process, and the customer is unable or unwilling to upgrade the data circuit, router, switch, or faulty component responsible for the failure, Company reserves the right to cancel the order for such site.

#### 2. TERM AND TERMINATION.

2.1. Term. This Agreement shall be effective from Your acceptance of this Agreement and shall continue until the expiration or termination of all Schedules ("Agreement Term"). The term of each Schedule ("Schedule Term") shall be either the Initial Term listed on the Schedule or Renewal Term as defined herein. Each Schedule will renew (Renewal Term) automatically for annual periods at the end of the Initial Term unless terminated in accordance with this Agreement by either You or Company. 2.2. Termination by You.

You may terminate this Agreement by giving written notice to Company at least thirty (30) days prior to the expiration of either the Initial Term or any Renewal Term. If You default or voluntarily terminate, You agree to pay Company the product of the remaining months in the Initial or Renewal Term times the monthly charges.

### 2.3. Termination by Company.

(a) 30-Day Termination. Company may terminate this Agreement, including any Schedule, for any reason by providing thirty (30) calendar days' notice. If Company terminates this Agreement pursuant to this Section 2.3(a), then all Schedules will terminate at the end of the thirty (30) day notice period.

(b) Immediate Termination. Company may terminate this Agreement, including any Schedule (or suspend Your Account), immediately and without prior notice for any of the following reasons:

(i) Any material breach of this Agreement by You, as determined by Company in its sole discretion, including, but not limited to, failure to make any payment when due, violation of any other Company policy or procedure applicable to the Services as notified to You from time to time, which remains uncured beyond thirty (30) days' notice by Company; and

(ii) If Your use of the Services results in, or is the subject of, actual or potential legal action or threatened legal action, against Company or any of its affiliates, vendors, partners, representatives or customers, without consideration for whether such actual or potential legal action or threatened legal action is eventually determined to be with or without merit.

(c) Termination or Suspension of Users. In lieu of terminating or suspending Your entire Account, Company may suspend Your Account or terminate or suspend individual Users.

(d) No Refunds; Further Payment Due. If Company terminates this Agreement, including any Schedule pursuant to Section 2.3(b), (i) Company will not refund to You any paid fees and (ii) You will be liable for any payment that would have been due had You terminated pursuant to section 2.2.

2.4. Following Termination. Termination will not cancel or waive any fees owed to Company or incurred prior to or upon termination. You agree that Company may charge such unpaid balance to Your Account on file or otherwise bill You for such unpaid balance. Upon termination, You must promptly uninstall all software provided by Company in connection with the Services. All of Your Data may be irrevocably deleted within fourteen (14) calendar days of termination, including but not limited to, databases, contacts or any Data hosted by Company. It will be solely Your responsibility to secure all necessary Data from Your Account prior to termination. Company will not be responsible or otherwise liable for any loss of Your Data or any damages arising from the deletion of Your Data following termination of the Services.

### 3. FEES, BILLING, TAXES, CHARGES.

3.1. Fees. The fees initially charged upon ordering any Service will be effective for the Initial Term and each Renewal Term of a Schedule, provided, that Company will have the right to increase these fees at any time upon thirty (30) calendar days' notice to You. If You do not agree with such fee increase, You will have the right to terminate the applicable Schedule immediately upon notice received within thirty (30) calendar days of date of notice of the fee increase. All payments made to Company shall be in US Dollars. Your continued use of the services after the thirty (30) day notice date will be deemed acceptance thereof.

3.2. Billing and Payment Arrangements. Company will bill You monthly for all established and recurring fees, and any applicable one-time fees in that month, including but not limited to late payment penalties or interest, credit card paying program fees and returned check fees. Pro rata billing may occur throughout the course of a billing cycle for feature add-ons that You enable on your Account during any given month.

### 3.3. Payment by Automated Means.

(a) Automated payments are accepted. On or about the due date of each invoice, Company will apply the current monthly charges to Your automated payment method. Payment by automated means includes any form of automated payment accepted by Company from time-to-time, including credit card, debit card, ACH or other means.

(b) You must provide Company with valid automated payment information as a condition to receive or use the Services. You are responsible for and agree to update Company with any changes to Your billing and/or automated payment information (e.g. new or updated credit card, credit card expiration date or other payment account information). By providing Company with the automated payment information, You authorize Company to charge Your automated payment account for any amounts arising from or relating to the Services without further authorization from You. It is Your responsibility to keep Your automated payment information up-to-date. If charges to Your automated payment account fail, Company will email a warning to Your Account billing contacts.

(c) If Company is unable to successfully process Your payment by automated means by the seventh (7th) calendar day of the month for which the payment is due, Your payment will be considered late and not paid in full. Company may suspend or terminate Your Account in accordance with Section 2.3(b)(i) for failure to timely pay in full. Late payments are subject to a late-payment charge of the greater of (i) interest calculated at the lesser of (x) eighteen percent (18%) and (y) the maximum amount permitted by law and (ii) twenty-five dollars (\$25). Such interest will accrue daily from the due date until the date of actual payment of the overdue amount, whether before or after judgment. You will pay the interest immediately on demand. You will pay all collection costs incurred by Company (including, without limitation,

reasonable attorneys' fees).

### 3.4. Payment by Check.

(a) Payment by check must be received by the due date as indicated on Your invoice. Acceptance into and continued participation in Company's check paying program will be at Company's sole discretion.

(b) Should Your check not be honored, a check fee of the lesser of (i) fifty dollars (\$50) and (ii) the maximum amount permitted by law, will be charged to Your Account. In addition, Company may require You to pay by cashier's check, money order, or other means.

(c) If Company does not receive payment by the date for which the payment is due, You agree to pay a late fee equal to the greater of 10% of the unpaid amount or \$50.00, plus interest of 1.5% per month (or the maximum rate allowed by law, whichever is greater) on the unpaid amount from the due date to the date paid.

3.5. Taxes. In addition to Company's charges, You will be liable for all taxes, governmental fees and assessments related to fees and charges charged to You under this Agreement or otherwise in respect of Your use of the Services.

3.6. Fees for Additional Services. You agree to pay Company's then-current rates and expenses, including the cost of Company's vendors, for any requests related to information retrieval, subpoenas, consulting and advisory services or similar work.

3.7. Bill Disputes. You will notify Company of any dispute relating to charges billed to Your Account by submitting written notice to Company within fifteen (15) days of the date the disputed charges appeared on Your Account. The existence of a dispute will not relieve You from paying any and all amounts billed hereunder. You waive all rights to dispute any charges not disputed by written notice as required above.

3.8. Email Billing and Documentation. All billing and other documentation regarding the Services may be provided electronically ("Electronic Documentation") via email.

### 4. USE OF THE SERVICES.

4.1. Internal Use. You will use the Services for Your own internal business, non-residential and non-personal use. You acknowledge and agree that You will not allow any third party, including Your vendors and service providers, to access or use the Services.

4.2. Restricted Activities. You will not (A) use any Service for any purpose outside the Service's intended scope, features, and function set, (B) use any Service for third-party compensation, (C) use any Service as an application service provider or service bureau, (D) use any Service for timesharing or rental, (E) use any Service to design software or other materials or services with similar or competitive functionality for any purpose, including distribution to third parties, (F) except with respect to Your Data, duplicate any portion of the Services or display, distribute, publish, or otherwise disclose any Service; (G) use any of the Services to interface with any other service or application that is outside the scope of intended use; (H) decompile, disassemble, or otherwise reverse engineer any portion of the Services; (I) make any modification or interface to any Service that is not specifically authorized by Company without prior written consent of Company; (J) resell or sublicense any portion of the Services, and any purported resale or sublicense will be void; and (K) store, maintain, or use on or through the Service any "Protected Health Information" or "PHI" as those terms are defined in the Health Insurance Portability and Accountability Act of 1996 and the rules and regulations promulgated thereunder, as each may be amended from time to time. You may not access the Services for purposes of monitoring their performance, availability, or functionality, or for any other benchmarking or competitive purposes, without Company's prior written consent. You may not, without Company's prior written consent, access the Services if You are a direct competitor of Company.

4.3. Applicable Law. You acknowledge and agree that access and use of the Services may be restricted or limited as a result of Applicable Laws and that You will not use, or allow the use of the Services in contravention of, and will comply with, any Applicable Law. You represent that You and Your Users are not named on any Government Authority list of persons or entities prohibited from receiving exports, and (ii) You will not permit Users to access or use Services in violation of any export embargo, prohibition or restriction. You acknowledge and agree that that it is Your sole responsibility to use the Services in a lawful manner.

### 5. YOUR DATA; FEEDBACK.

5.1. Submission of Your Data. Any Data You provide to Company in connection with the Services must not be PHI. Attempting to place or transmit, or requesting placement or transmission, of Data that is PHI will be a material breach of this Agreement. Company may, in its sole discretion, reject or remove Data that You have used or attempted to use with respect to the Services. Any Data used with respect to the Services by or through You will be free of any and all malicious code, including without limitation, disabling devices, drop dead devices, time bombs, trap doors, trojan horses, worms, computer viruses and mechanisms that may disable or negatively impact the Services or Company's servers. You hereby represent and warrant to Company that You have the right to use any patented, copyrighted, trademarked, proprietary or other material in connection with Data that You use, post, or otherwise transfer or transmit with respect to the Services.

5.2. Public Disclosure of Data. You are solely responsible for ensuring that You do not accidentally make any private Data publicly available. Any Data made public may be publicly accessible through the internet and may be crawled and indexed by search

engines or other third parties. By making any Data publicly available on any of the Services You affirm that You have the consent, authorization or permission, as the case may be from every person who may claim any rights in such Data to make such Data available in such manner.

5.3. Data Takedown. By making any Data publicly available in the manner aforementioned, You expressly agree that Company will have the right to block access to or remove such Data made available by You, if Company receives complaints, inquiries or notices concerning any illegality or infringement of rights in such Data. You expressly consent to determination of questions of illegality or infringement of rights in such Data by the agent designated by Company for this purpose.

5.4. Filtering. Company may employ various filtering methods to reduce unwanted content, such as SPAM e-mail, from reaching Your Company Account. You acknowledge and agree that such methods may prevent legitimate content from reaching Your Account and that Company will not be liable therefor.

5.5. Control. Company is not obligated to exercise control over the content of information, including Your Data, passing through Company's network except any controls expressly provided in this Agreement.

5.6. Feedback. Any feedback, suggestions, testimonials, endorsements, information or materials conveyed to Company by You or Your Users in connection with the Services shall be collectively deemed "Feedback." You agree to grant and hereby grant to Company a non-exclusive, perpetual, irrevocable, royalty free, worldwide license (with the right to grant and authorize sublicenses) to make, have made, use, import, offer for sale, sell, reproduce, distribute, modify, adapt, prepare derivative works of, display, perform, and otherwise exploit such Feedback without restriction.

## 6. CONFIDENTIALITY AND PRIVACY.

6.1. Confidential Information. "Confidential Information" is all confidential information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information will include Your Data. Company's Confidential Information will include the Services (and any portion thereof), the terms and conditions of this Agreement and any Schedules, and all related Service order forms, as well as Company's business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by Company. Confidential Information will not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

6.2. Protection of Confidential Information. Except as otherwise permitted by this Agreement or in writing by the Disclosing Party, (i) the Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) the Receiving Party will limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who are bound by confidentiality obligations at least as protective of Disclosing Party and its Confidential Information as the provisions of this Agreement.

6.3. Use and Disclosure by Company. Notwithstanding the foregoing, Company may use or disclose Your Data (a) as expressly permitted in writing by You, (b) as expressly provided in this Agreement, including (i) in accordance with the Privacy Policy (as if such Data were "Information" as defined under the Privacy Policy), and (ii) to access Your Data to provide the Services or prevent or address service or technical problems, or at Your request in connection with customer support matters. You expressly consent to the foregoing use and disclosure.

## 7. LIMITED WARRANTY; LIMITATION ON LIABILITY; THIRD-PARTY SERVICES.

7.1. Limited Warranty; Limitation on Liability. Company provides the Services and any related products on an "as is" basis. You expressly agree that use of the Services is at Your sole risk. Company and Company Parties expressly disclaim all warranties of any kind, whether express, implied, statutory, or otherwise, oral or written, including, but not limited to the implied warranties of merchantability, fitness for a particular purpose and non-infringement. You hereby agree that the terms of this Agreement, including any Schedule, will not be altered due to custom or usage or due to the parties' course of dealing or course of performance under this Agreement, including any Schedule. Company and the Company Parties will not be liable for any direct, indirect, incidental, special, punitive or consequential damages (including but not limited to damages for lost profits, business interruption, loss of programs or information, and the like) that result from the use or inability to use the Services or from mistakes, the Services not meeting Your requirements or expectations, omissions, hardware failures, translations and system wordings, functionality of filters, migration issues, interruptions, deletion of files or directories, unavailability of backups, errors, defects, delays in operation, or transmission, regardless of whether Company or any

Company Party has been advised of such damages or their possibility. Company will not be liable for any harm that may be caused by Your access to application programming interfaces or the execution or transmission of malicious code or similar occurrences, including without limitation, disabling devices, drop dead devices, time bombs, trap doors, trojan horses, worms, viruses and similar mechanisms. You agree that the total liability of Company and any Company Party and Your sole remedy for any claims regarding the Services under this Agreement, including any Schedule, or otherwise is limited to the lesser of \$500.00 or one months monthly charges..

7.2. Other Liability. None of the Company Parties is responsible to You for any warranty provided by Company.

7.3. Third-Party Services. Company may link to or offer Third-Party Services on Company's website or otherwise through the Services. Any purchase, enabling, or engagement of Third-Party Services, including but not limited to implementation, customization, consulting services, and any exchange of Data between You and any Third-Party Service, is solely between You and the applicable Third-Party Service provider and is subject to the terms and conditions of such Third-Party Provider. Company does not warrant, endorse or support Third-Party Services and is not responsible or liable for such Services or any losses or issues that result as Your use of such services. If You purchase, enable or engage any Third-Party Service for use in connection with the Services, You acknowledge that Company may allow providers of those Third-Party Services to access Your Data used in connection with the Services as required for the interoperation of such Third-Party Services with the Services. You represent and warrant that Your use of any Third-Party Service signifies Your independent consent to the access and use of Your Data by the Third-Party Service provider, and that such consent, use and access is outside of Company's control. Company will not be responsible or liable for any disclosure, modification or deletion of Data resulting from any such access by Third-Party Service providers.

## 8. OWNERSHIP AND CONTROL.

8.1. No Transfer. Except for rights expressly granted in this Agreement, including any Schedules, Company does not transfer any intellectual or other property or proprietary right to You. All right, title, and interest in any Service provided to You, including without limitation any copyright, trade secret and vested or potential trademark and patent rights, is solely the property of Company and its vendors and licensors. As between You and Company, all materials distributed by Company in connection with the Services will at all times remain the property of Company, and upon the request of Company or upon termination of this Agreement or any Schedule, You will promptly return any and all such materials.

8.2. Control. Company will have sole and complete control over, and reserves the right at any time to make changes to, the configuration, appearance, content and functionality of the Services. In addition, Company reserves the right, at any time, without prior notice, to the exercise of its sole discretion to suspend or terminate any Service for the protection of the security and integrity of the Services or other business, technical or financial considerations as determined by Company.

8.3. Feedback License. Company will have a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by You and Your Users to Company or any Company Party.

## 9. HARDWARE, EQUIPMENT, AND SOFTWARE.

You are responsible for and must provide all hardware, software, services and other components necessary to access and use the Services. Company makes no representations, warranties, or assurances that Your hardware, software, services and other components will be compatible with any Service. Company reserves the right to change or upgrade any equipment or software that it uses to provide the Services without notice to You. Company will install security patches, updates, upgrades and service packs ("Updates") as it determines in its sole discretion, and reserves the right, but not the obligation, to roll back any Updates. Updates may change system behavior and functionality and as such may negatively affect the Services used by You. Company cannot foresee nor can it be responsible or liable for service disruption or changes in functionality or performance due to Updates. Company is not responsible or liable for issues that may arise from incompatibilities between Your Data and use of the Services and any Update or hardware or software change or configuration, regardless of whether discretionary or requested.

## 10. INDEMNIFICATION.

You agree to defend, indemnify, save, and hold Company and the Company Parties harmless from any and all demands, liabilities, losses, costs, and claims, including reasonable attorneys' fees, asserted against them that may arise or result from Your use of the Services, Your breach of this Agreement (or any Schedule), or Your negligence or willful misconduct.

## 11. MODIFICATION OF TERMS.

11.1. Company may update, amend, modify or supplement the terms and conditions of this Agreement, including any Schedules, from time to time by giving You notice. Such changes will take effect immediately. Any such modification may be made without the consent of any third party beneficiaries of this Agreement. You can review the most current version of this Agreement at any time at: [www.hilliardos.com](http://www.hilliardos.com). Your

continued use of Your Account or the Services after Company posts a new version of the Agreement will be conclusively deemed to be acceptance by You of any such new version.

## 12. MISCELLANEOUS.

12.1. Governing Law; Jurisdiction; Forum; Attorneys' Fees. This Agreement will be governed by and construed in accordance with the laws of the State of Texas without regard to its conflicts of laws or its principles. Any claim or suit arising out of or relating to this Agreement will be brought in any court of competent jurisdiction located in the Midland County, Texas. In any action to enforce this Agreement, including, without limitation, any action by Company for the recovery of fees due hereunder, You agree to pay Company reasonable attorneys' fees and costs in connection with such action if Company prevails in such action. You agree to waive the right to trial by jury with respect to any proceeding related to or arising out of this Agreement.

12.2. Written Communications and Notice. You accept that communication from Company may be electronic. Company may contact You by e-mail or provide You with information by posting notices on Company's website or to Your Account. You agree to this electronic means of communication and You acknowledge that all contracts, notices, information and other communications that Company provides to You electronically are acceptable and effective as notice. Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder will be in writing and will be deemed to have been given (i) immediately upon personal delivery, (ii) the second (2nd) business day after mailing, (iii) the second (2nd) business day after sending by confirmed facsimile, or (iv) the first (1st) business day after sending by email or, if from Company to You, online posting. Notices to You may be addressed by Company to any e-mail address, postal address or facsimile number registered with Company.

12.3. Age and Capacity. You hereby represent and warrant that each User has reached the older of (i) the age of eighteen (18) and (ii) the age of majority in the User's jurisdiction, and that You are not subject to a limitation on Your ability to enter into this Agreement.

12.4. Severability. If any one or more of the provisions contained herein will, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any of the other provisions of this Agreement, and this Agreement will be construed as if such provision(s) had never been contained herein, provided that such provision(s) will be curtailed, limited, or eliminated only to the extent necessary to remove the invalidity, illegality, or unenforceability.

12.5. Waiver. No waiver by either party of any breach by the other party of any of the provisions of this Agreement will be deemed a waiver of any preceding or succeeding breach of this Agreement. No such waiver will be effective unless it is in writing signed by the parties hereto, and then only to the extent expressly set forth in such writing.

12.6. No Assignment. No benefit or duty of You under this Agreement will, without the consent of Company, be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance or charge, and any attempt to do so will be void. Company may assign this Agreement without Your consent and without notice.

12.7. Force Majeure. Except for monetary obligations, neither party shall be liable to the other for failure or delay in the performance of a required obligation hereunder if such inability or delay is caused by reason of Force Majeure Event. "Force Majeure Event" is any cause beyond a party's reasonable control or anticipation, including, without limitation, acts of war, acts of god, terrorism, earthquake, hurricanes, flood, fire or other casualty, embargo, riot, sabotage, labor shortage or dispute, governmental act, insurrections, epidemics, quarantines, inability to procure materials or transportation facilities, failure of power, restrictive governmental laws or regulations, condemnation, acts of third parties, failure of the Internet or other reason that is beyond a party's reasonable control or anticipation.

12.8. Survival. The preamble, "Definitions" and Sections 2, 3, 4, 5, 6, 8, 9, 11, 12, and 13 of this MSA will survive termination.

12.9. Entire Agreement; Third Party Beneficiaries. This Agreement, including any Schedules, constitutes the entire agreement for provision of the Services to You and supersedes all other prior agreements and understandings, both written and oral, between You and Company with respect to the Services. You understand and agree that (a) Company and You may include, as the sole third party beneficiaries of this Agreement, the Company Parties, and (b) in the event of any breach of this Agreement, including any Schedule, such Company Parties shall have all rights and remedies available to them as if they were parties to this Agreement.