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MASTER SERVICES AGREEMENT

GENERAL TERMS

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This **MASTER SERVICES AGREEMENT** (the "**Agreement**") is entered into as of [TypedParent.TypedParent.ContractStartDate!MM/dd/yyyy] ("**Effective Date**") between Schilling IT, LLC ("**SIT**"), an Indiana limited liability company, located at 3207 Cascade Drive, Suite B, Valparaiso, IN 46383 and [QuoteToCustomer.AccountName] ("**Client**") located at [QuoteToCustomer.Address1] [QuoteToCustomer.Address2], [QuoteToCustomer.City], [QuoteToCustomer.State] [QuoteToCustomer.PostalCode].

1. SCOPE OF AGREEMENT. This Agreement serves as a master agreement and applies to Client's and its Affiliates' purchases from SIT, or any of its Affiliates, of services, including, but not limited to, support and maintenance services (individually and collectively, "**Services**"), as well as licenses and sub-licenses for software, hardware, and product subscriptions, and together with documentation, reports, and such other materials, products, and information pertaining to such licenses and sub-licenses (individually, a "**Product**" and, collectively, "**Products**"). For purposes of this Agreement, "**Affiliate**" means any entity that, directly or indirectly through one or more intermediaries, controls or is controlled by or under common control with Client or SIT, as the case may be. No Product or Services will be provided under this Agreement alone, but will require the execution of one or more addenda relating to the Services and Product ("**Addenda**"), and requires the execution of a written or electronic order form, or other mutually acceptable order documentation, executed by both Client and SIT (including, without limitation, **Statements of Work** ("**SOW**"), as set forth in Addendum A) (each, an "**Order**"), which contains terms relating to this Agreement, including any prior Addenda. The Services or Products to be rendered to Client must be further described in one or more Orders which, upon the full execution by both Client and SIT, shall become a part of this Agreement. In the event of any conflict between the terms of any Order and those of this Agreement, the terms of this Agreement will prevail.

2. TERM AND TERMINATION.

> **2.1 Term.** This Agreement will begin on the Effective Date and will continue until each Order expires or is terminated in accordance with this Agreement. SIT may: (a) terminate a specific Order if Client fails to pay any applicable fees due for that Order within fifteen (15) days after receipt of written notice from SIT of non-payment; or (b) terminate this Agreement or an Order if Client commits any other material breach of this Agreement and fails to cure such material breach within fifteen (15) days after receipt of written notice from SIT. Client may terminate this Agreement due to the material breach of SIT, provided (i) SIT is given written notice of such breach and has thirty (30) days after receipt of written notice to cure and does not cure the breach; (ii) termination is subject to the provisions of paragraph 7.8; (iii) all undisputed payments are made to, and received by, SIT prior to such termination.

> **2.2 Return of Product.**

>> **(a) Return.** Upon any termination of this Agreement or termination of the right to use any Product, Client will, at its expense, immediately uninstall (if the Product is software) and cease to use the terminated Product and, immediately, but in no event later than five (5) days following such termination, return such Product to SIT, together with all related documentation, and copies of such Product and related documentation.

>> **(b) Condition of Equipment Upon Return.** Client shall cause any Product returned under this Agreement to: (a) be free and clear of all liens (other than SIT Liens) and rights of third parties; (b) be in the same condition as when delivered to Client, ordinary wear and tear excepted; (c) have all Client insignia or markings removed; and (d) be in compliance with all applicable laws, rules, and regulations.

> **2.3 Certification.** Upon written request of SIT, Client will promptly certify in writing to SIT that all copies of the Product have been returned, and that any copies not returned have been destroyed in such manner acceptable to SIT.

> **2.4 Payment.** If an Order is terminated, Client will promptly pay SIT for Products delivered, and Services rendered, including expenses incurred through the termination date. SIT may terminate any license granted for a Deliverable (as defined in the **SOW**) if (i) Client does not pay SIT for that Deliverable in accordance with this Agreement, or (ii) if Client materially breaches any part of Section 4 of this Agreement. All past due amounts will be assessed at a rate equal to the maximum rate allowed by law per month on the amounts due. SIT shall be entitled to recover all costs of collection for any outstanding balances including but not limited to expenses, damages and attorney fees which shall be paid by Client.

> **2.5 Holdover.** If following the expiration or termination of this Agreement, Client does not return any Product in accordance with Section 2.2(a) and in the condition required in Section 2.2(b), Client shall continue to comply with all the terms and conditions of this Agreement with respect to such Product, including the obligation to pay one hundred twenty percent (120%) of the prorated daily Fee, as defined below, for each day from the expiration of the Term until the date on which

Client returns such Product in the manner required under this Agreement ("**Holdover Fee**"). Client shall not construe anything contained in this Section 2.5, including Client's payment of any Holdover Fee, as SIT's (a) waiver of Client's failure to perform any obligation under this Agreement; or (b) assent to the commencement of a renewal of this Agreement.

3. UCC TRUE LEASE.

3.1 UCC True Lease. The parties intend that, except for Products listed specifically in Addendum D, this Agreement constitutes a Lease as such term is defined in Ind. Code § 26-1-2.1-103(1)(j) and not a sale subject to a security interest.. SIT has, and shall retain, title to all Products at all times during and following the term of this Agreement. Client acquires no ownership, title, property right, or legal interest in the Products other than its right to use such Products in accordance with, and subject to, all the terms and conditions of this Agreement.

4. PAYMENT AND DELIVERY. SIT shall invoice Client (each "**Invoice**", and collectively "**Invoices**") specifying the amounts due for all Services and Products under any Order (the "**Fees**") Client shall pay SIT within fifteen (15) days of an Invoice specifying such Fees. All Fees payable under this Agreement are exclusive of sales, use, VAT, customs duties, excise, and any other applicable transaction taxes, which Client will pay (excluding taxes based upon the net income of SIT). All Products are FOB shipping point. All Fees will be detailed in an Order. Unless otherwise stated in an Order, Client agrees to pay or reimburse SIT for all actual, necessary, and reasonable expenses incurred by SIT in performance of such Order ("**Expenses**"). SIT will submit invoices to Client for such Expenses in an Invoice delivered to Client either (a) upon completion of the Services, or (b) at stated intervals, in accordance with the applicable Order.

5. PROPRIETARY RIGHTS AND CONFIDENTIALITY.

5.1 Proprietary Rights. SIT, or its Affiliates or licensors, owns and retains all right, title and interest in any and all intellectual property in or related to all Products, including trade secrets, patents, and copyrights. SIT neither grants nor otherwise transfers any rights of ownership in the Products to Client. Nothing in this Agreement is intended to or will have the effect of vesting in or transferring to Client rights in SIT's or its Affiliates' or its or their suppliers' software, methods, know-how or other intellectual property, regardless of whether such intellectual property was created, used or first reduced to practice or tangible form in the course of performance of the Services, whether solely by SIT or jointly with Client. The Products are protected by applicable copyright and trade secrets laws, and other forms of intellectual property, informational and industrial property protection.

5.2 Product. In addition to Section 5.1, and not in limitation thereof, Client acknowledges and agrees that Client may only use and disclose Product in accordance with the terms of this Agreement and applicable Addenda. SIT reserves any and all rights in and to the Product not expressly granted in this Agreement. Client may not disassemble or reverse engineer any Product, or decompile or otherwise attempt to derive any software Product's source code 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 Products, without SIT's prior written approval. Additional usage restrictions that may apply to certain third-party files or programs embedded in the Product together with applicable installation instructions or release notes that contain the relevant details shall be identified in any applicable Addenda or Order.

5.3 Deliverables Licensed Under This Agreement.

(a) License. Subject to the terms of this Agreement, SIT grants Client a non-exclusive, non-transferable license to use such programming, documentation, reports, and any other deliverables provided as part of the Products solely for Client's own internal use.

(b) License Restrictions. Except as expressly authorized in this Agreement, Client shall not: (a) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make the Product available (each an "**Assignment**") to any third party, except as expressly permitted by this Agreement or in any Order; (b) operate the Product in an outsourcing or service provider business to process the data of third parties; or (c) use or authorize the use of the Product in any manner or for any purpose that is unlawful under applicable Law. Any purported Assignment, delegation or transfer in violation of this Section 5 is void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

(c) Pre-Existing License Agreements. Any software product provided to Client by SIT as a reseller for a third party, on the effective date of this Agreement, which is licensed to Client under a separate software license agreement with such third party (such agreement, an "**SLA**"), will continue to be governed by such SLA. The fulfillment of the Product delivery will not relieve or alter the obligations or responsibilities of either party or of any third party in regards to the software product licensed under the SLA.

5.4 Mutual Confidentiality. This Section sets out the terms for identification of information which is considered confidential and proprietary by a party and restrictions against use and disclosure of such Confidential Information after disclosure to the other party.

    (a) "Confidential Information" means any information that is treated as confidential by either party ("**Disclosing Party**"), including trade secrets, technology, including, but not limited to, source and executable code, Product, and information pertaining to business operations and strategies, and information pertaining to Clients, pricing and marketing, regardless of whether such information was intentionally or unintentionally disclosed or marked as "confidential" or "proprietary" by the Disclosing Party or otherwise obtained (including by visual inspection) by the other party or any of its Representatives ("**Receiving Party**"). All notes, analyses, summaries, interpretations and other embodiments, expressions and derivative works of, containing, based on, derived from or otherwise reflecting any Confidential Information, in whole or in part, and prepared by any Person, shall themselves constitute the Confidential Information of the Disclosing Party on whose Confidential Information they are based. Without limiting the foregoing, (a) all Client Data (including all Personal Information) is and will remain the Confidential Information of Client, (b) the Products and documentation are and will remain the Confidential Information of SIT, and (c) the terms and existence of this Agreement are and will remain the Confidential Information of each of the parties.

    (b) Confidential Information does not include any information or material that the Receiving Party can demonstrate by written or other documentary records: (a) is or becomes generally known other than through a breach of this Agreement or another confidentiality or non-disclosure agreement, obligation or duty, or other wrongful act, of or on behalf of the Receiving Party or any of its Representatives; (b) was already rightfully known to the Receiving Party, without restriction on use or disclosure, prior to being directly or indirectly disclosed by or on behalf of the Disclosing Party, or obtained by or on behalf of the Receiving Party; (c) has been or hereafter is rightfully received by or on behalf of the Receiving Party from a third party without restriction on use or disclosure and without breach of any agreement or obligation or duty of confidentiality to the Disclosing Party or any other Person; or (d) was or is independently developed by the Receiving Party without access or reference to or use of any Confidential Information of the Disclosing Party.

5.5 Confidentiality and Use. Each Receiving Party recognizes and agrees that the Confidential Information of the Disclosing Party is critical to the Disclosing Party's business and that neither party would enter into this Agreement without assurance that such information and its value will be protected as provided in this Section 5.4 and elsewhere in this Agreement. The Receiving Party shall use, and ensure that its representatives and Affiliates use, reasonable care that is at least as protective as the efforts it uses with respect to its own confidential information to safeguard the Disclosing Party's Confidential Information from use or disclosure other than as permitted under this Agreement. Without limiting the foregoing, the Receiving Party shall maintain in effect and enforce rules and policies to protect against access to or use or disclosure of Confidential Information other than in accordance with this Agreement. As a condition to being provided with such Confidential Information, the Receiving Party agrees that, during the Term and for five (5) years thereafter, it will

    (a) not use or permit the use of the Disclosing Party's Confidential Information other than as strictly necessary to exercise its rights or perform its obligations under this Agreement;

    (b) not use or permit the use of any of the Disclosing Party's Confidential Information, directly or indirectly, in any manner to the detriment of the Disclosing Party or to obtain any competitive advantage over the Disclosing Party;

    (c) maintain the Disclosing Party's Confidential Information in strict confidence and, subject to Section 5.6, not disclose or make available the Disclosing Party's Confidential Information to any Person without the Disclosing Party's prior written consent, provided, however, that the Receiving Party may disclose the Confidential Information to its representatives and Affiliates who: (i) have a "need to know" for purposes of any performance, or exercise of any rights with respect to such Confidential Information, under this Agreement; (ii) have been informed in writing of the highly confidential nature of the Confidential Information and the limitations, procedures and obligations that apply to the access, use and disclosure of Confidential Information under this Section 5.4; and (iii) are themselves bound by written restricted use and nondisclosure agreements or obligations at least as restrictive as those set forth in this Agreement, provided, further, that the Receiving Party shall be responsible for ensuring its Representatives' compliance with, and shall be liable for any breach by its Representatives, of this Section 5.4; and

    (d) notify the Disclosing Party in writing within three (3) Business Days of any unauthorized disclosure or use of the Disclosing Party's Confidential Information and cooperate with the Disclosing Party to protect the confidentiality and ownership of all Intellectual Property Rights, privacy rights and other rights therein.

5.6 Compelled Disclosures. If the Receiving Party becomes compelled by applicable Law to disclose any Confidential Information, the Receiving Party shall, to the extent permissible by applicable Law:

    (a) as soon as possible after becoming aware of such requirement and prior to disclosing Confidential Information pursuant thereto, notify the Disclosing Party in writing of such required disclosure so that the Disclosing Party may seek a protective order or other appropriate remedy or waive its rights under this Section 5.4;

(b) use reasonable efforts not to release such Confidential Information pending the outcome of any measures taken by the Disclosing Party to contest, oppose or limit such compelled disclosure or any further disclosure or use of Confidential Information that may result therefrom;

(c) cooperate with and provide assistance to the Disclosing Party in connection with any measures taken by the Disclosing Party as described in Section 5.4 and, if a protective order or other remedy is not obtained or the Disclosing Party waives compliance with this Section 5.4, use reasonable efforts, at the Disclosing Party's expense, to obtain assurance that the Confidential Information will be accorded confidential treatment; and

(d) disclose only the portion of Confidential Information that it is legally required to produce to the minimum extent required by applicable Law.

(e) No such compelled disclosure by the Receiving Party will otherwise affect the Receiving Party's obligations hereunder with respect to the Confidential Information so disclosed.

5.7 Proprietary Legends. Recipient may not remove, obscure, or alter any proprietary legend relating to the Discloser's rights on or from any form of Confidential Information of the Discloser, without the prior written consent of the Discloser, except as expressly authorized in an Addendum.

5.8 Return or Destruction of Client's Confidential Information. Within thirty (30) Days of the termination of this Agreement or Client's written request at any time and subject to any contrary obligations under applicable Law, SIT shall at Client's direction return or destroy and erase from all systems it directly or indirectly uses or controls (a) all originals and copies of all documents, materials and other embodiments and expressions in any form or medium that contain, reflect, incorporate or are based on Client's Confidential Information, in whole or in part, or (b) solely such specific Client Data, databases or other collections or articles of Client's Confidential Information as Client may request.

Injunctive Relief. Both parties acknowledge that their violation of this Section 5 may cause the other party immediate and irreparable harm. In the event of such breach, the breaching party agrees that the other party may seek, in addition to any and all other remedies available at law, an injunction, specific performance or other appropriate relief, including a temporary restraining order, an injunction, specific performance and any other relief that may be available from a court of competent jurisdiction, without any requirement to post a bond or other security, and without any requirement to prove actual damages or that monetary damages will not afford an adequate remedy.

6. ALLOCATION OF RISK.

6.1 Disclaimer of Damages. EXCEPT FOR VIOLATIONS OF SECTION 5, NEITHER PARTY, NOR ITS AFFILIATES AND LICENSORS, ARE LIABLE TO THE OTHER PARTY, OR ITS AFFILIATES OR LICENSORS, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE SERVICES OR THE PRODUCT (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST COMPUTER USAGE, AND DAMAGE OR LOSS OF USE OF DATA), EVEN IF THAT PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND IRRESPECTIVE OF THE NEGLIGENCE OF EITHER PARTY OR WHETHER SUCH DAMAGES RESULT FROM A CLAIM ARISING UNDER TORT OR CONTRACT LAW.

6.2 Cap On Monetary Liability. REGARDLESS OF THE FORM OF LEGAL ACTION (AGREEMENT OR TORT CLAIMS) EXCEPT AS OTHERWISE PROVIDED IN SECTION 7.3, IN NO EVENT SHALL SIT'S LIABILITY UNDER THIS AGREEMENT EXCEED THE AMOUNT OF AGGREGATE FEES AND REIMBURSABLE EXPENSES UNDER THIS AGREEMENT (INCLUDING AMOUNTS ALREADY PAID AND AMOUNTS THAT HAVE ACCRUED BUT NOT YET BEEN PAID) IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

7. SPECIFIC TERMS.

7.1 All Necessary Rights. If, as part of SIT's provision of Services and delivery of Products to Client, SIT is required to use, copy or modify any third party system (hardware, software or other technology) provided or licensed to Client, then prior to SIT's provision of such Services and delivery of Products, Client will acquire any and all rights, consents, and authorizations necessary for SIT to perform such Services (each a "**Third Party Authorization**"). Client shall deliver to SIT a written confirmation, in form acceptable to SIT, stating that Client has obtained such Third Party Authorization. Client shall defend, indemnify and hold harmless SIT and each of SIT's Affiliates, and each of the respective officers, directors, employees, agents, contractors, successors and assigns of SIT or SIT Affiliate from and against all losses, including all expenses, arising out of or resulting from any third party claim, suit, action or proceeding related to any work performed under this Section 6.1.

7.2 Limited Warranty And Liability. SIT WARRANTS THAT THE SERVICES PERFORMED AND PRODUCT PROVIDED WILL BE OF A QUALITY CONFORMING TO GENERALLY ACCEPTED PRACTICES THAT ARE STANDARD WITHIN THE SOFTWARE SERVICES INDUSTRY FOR A PERIOD OF NINETY (90) DAYS FROM COMPLETION OF THE DELIVERY OF PRODUCT OR THE SERVICES PROVIDED. CLIENT'S EXCLUSIVE REMEDY AND SIT'S ENTIRE LIABILITY UNDER THIS WARRANTY WILL BE FOR SIT TO RE-PERFORM ANY NON-CONFORMING PORTION OF THE SERVICES (OR PROVIDE PRODUCT) WITHIN A REASONABLE PERIOD OF TIME, OR IF SIT CANNOT REMEDY THE BREACH DURING SUCH TIME PERIOD, THEN REFUND THE PORTION OF THE FEE ATTRIBUTABLE TO SUCH NON-CONFORMING PORTION OF THE SERVICES OR PRODUCT. THIS WARRANTY WILL NOT APPLY TO THE EXTENT CLIENT, ITS CONTRACTORS OR AGENTS HAVE MODIFIED ANY PRODUCT, UNLESS OTHERWISE AUTHORIZED BY SIT IN WRITING. THIS WARRANTY AND CONDITION IS IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

7.3 Intellectual Property Indemnity.

(a) Infringement Claims. If a third party asserts a claim against Client asserting that the Deliverables and/or SIT's performance of the Services or delivery of Product in accordance with the terms of this Agreement, except for services provided in accordance with Section 7.1 hereof, violates a patent, trade secret or copyright (an "**Intellectual Property Right**") owned by that third party ("**Infringement Claim**"), then SIT will, at its own expense: (a) defend or settle the Infringement Claim; and (b) indemnify Client for any damages finally awarded against Client, but only if Client promptly notifies SIT of any Infringement Claim. SIT retains sole control of the defense of any Infringement Claim and all negotiations for its settlement or compromise, and Client shall provide all reasonable assistance requested by SIT. SIT will not be liable for any expenses or settlements incurred by Client without SIT's prior written consent.

(b) Remedies. If an injunction or order is obtained against SIT performing the Services or providing the Product for Client and/or Client using the Products by reason of the allegations of infringement, or if in SIT's opinion the Products may violate a third party's proprietary rights, then SIT will, at its expense: (a) procure for Client the right to continue to receive the Product; (b) modify or replace the Product with a compatible, functionally equivalent substitute; or (c) if neither (a) nor (b) are commercially practical, terminate this Agreement and any applicable Addenda and release Client from its obligation to make future payments for the Product. Sections 6 and 7.2 contain Client's exclusive remedies and SIT's sole liability for claims of infringement.

7.4 SIT Employee Insurance. SIT will provide and maintain the following insurance during its delivery of Product to cover losses arising out of SIT's work for Client: (a) Worker's Compensation and related insurance as prescribed by the law of the state applicable to the employees performing such Services; (b) employer's liability insurance;
(c) comprehensive/commercial general liability insurance; (d) comprehensive motor vehicle liability insurance.

7.5 Independent Contractor. Nothing in this Agreement will be construed to make either party an employer, employee, agent or partner of the other, and this Agreement will not be construed to create rights, express or implied, on behalf of or for the use of any party other than SIT and Client. All of the Product delivered by SIT will be performed as an independent contractor. SIT will perform such delivery of Product under the general direction of Client, but SIT will have sole discretion to determine the manner, method and means of performing such delivery of Product subject to the provisions of this Agreement and any applicable Order. Neither party will have any authority to make any contract in the name of, or otherwise bind, the other party, beyond what is contemplated in this Agreement, any applicable Order or Statement of Work. SIT will be responsible for and will pay all unemployment, social security and other payroll taxes, and all worker's compensation claims, worker's compensation insurance premiums and other insurance premiums, with respect to SIT and SIT's employees that perform any work under or pursuant to the terms of this Agreement.

7.6 Non-solicitation. Except as may be provided in any definitive written agreement between the parties entered into after the date hereof, each party agrees that during the term of this Agreement and for a period of six (6) months after the expiration or earlier termination of this Agreement, without obtaining the prior written consent of the other party, neither such party nor any of its Affiliates or representatives (each, a "**Restricted Person**") shall directly or indirectly, for itself or on behalf of another person or entity solicit for employment or otherwise induce, influence or encourage to terminate employment with the other party or any of its Affiliates, or employ, or engage as an independent contractor, any current or former employee of the other party or any of its Affiliates, with whom the Restricted Person had contact or who became known to the Restricted Person in connection with the this Agreement, the proposed transactions hereunder, or the evaluation thereof (each, a "**Covered Employee**"), except (i) pursuant to a general solicitation through the media that is not directed specifically to any employees of the other party, unless such solicitation is undertaken as a means to circumvent the restrictions contained in or conceal a violation of this Section 7.6. The parties acknowledge and agree that a breach of this "Non-Solicitation" clause will not give rise to a right of termination of this Agreement; the party not in breach will only have the right to seek and recover direct damages from the breaching party in an amount as liquidated damages and not as a penalty in an amount equal to the compensation including but not limited to salary, bonuses, commissions and benefits paid to such employee during twelve (12) month period preceding the event constituting such breach.

7.7 General Indemnification. Each party (the "**Indemnifying Party**") shall defend, indemnify and hold harmless the other party and each of the other party's Affiliates, and each of the foregoing Persons' respective officers, directors, employees, agents, contractors, successors and assigns, (each of the foregoing Persons, an "**Indemnitee**") from and against all direct losses arising out of or resulting from a claim, suit, action or proceeding (each, an "Action") that does or is alleged to arise out of or result from any physical damage to real property or tangible personal property and bodily injury, including death, based on (a) the Indemnifying Party's breach of any representation, warranty, covenant or obligation of such Indemnifying Party under this Agreement; or (b) any gross negligence or more culpable act or omission (including recklessness or willful misconduct). Notwithstanding anything to the contrary herein, Client shall indemnify SIT for all losses for any violation of Section 8.9 of this Agreement .

7.8 Actions By Termination.

(a) Termination by Client. If Client terminates this Agreement or any particular Order for any reason, then the remaining balance for the remaining term of the Order(s) being terminated must be paid in full within fifteen (15) days of the requested termination date. If in the case of material breach of this agreement by SIT that has not been cured within thirty (30) days of receipt of written notice of said breach with intention to terminate by Client then any future remaining payments after the current billing cycle of said termination date are waived by SIT.

(b) Termination by SIT. In the event of termination by SIT for material breach on the part of the Client not cured within fifteen (15) days of receipt of written notice, SIT may suspend, terminate, or both, any or all Order(s) to Client. Client must pay SIT in full within fifteen (15) days any unpaid Order balance(s) left on the remaining term of the Order(s).

8. MISCELLANEOUS/OTHER PROVISIONS.

8.1 Severability. The laws of the State of Indiana shall govern this agreement. Should any provision of this Agreement be invalid, or unenforceable, the remainder of the provisions will remain in full effect. In the event of a dispute, the prevailing party in any litigation or arbitration will be entitled to recover its attorneys' fees and costs incurred from the other party. Client consents and agrees that any claims or actions brought pursuant to this Agreement will be subject to the jurisdiction of the courts within Porter County located in Valparaiso, Indiana and agrees to submit to the jurisdiction of the courts within Porter County, Indiana.

8.2 Notices. Unless otherwise provided, notices to either party will be in writing to the address indicated above or via email to the email address identified on the signature page of this Agreement (receipt of notices required), or as later amended, and deemed effective when received.

8.3 Verification. Upon SIT's written request, Client will provide SIT with a certification signed by an officer of Client verifying that Product is being used pursuant to the terms of this Agreement, including without limitation the licensed capacity of the Product.

8.4 Audit. SIT or its Representatives may, in SIT's sole discretion, audit Client's use of the Products delivered under this Agreement at any time during the term and for two (2) years following the expiration or termination of this Agreement, provided, *however*, that no more than two (2) audits may be conducted in any six (6) month period. Client shall fully cooperate with Licensor's audit and provide access to records, equipment, information and personnel requested by SIT. SIT may conduct audits only during Client's normal business hours and in a manner that does not unreasonably interfere with Client's business operations. If the audit determines that Client's usage of the Product(s) exceeded the usage permitted by this Agreement, Client shall pay to SIT all fees due for such excess usage of the Product(s), plus any costs incurred by SIT in conducting the audit, within fifteen (15) days of the date of written notification of the audit results.

8.5 Successors and Assigns. Client may not assign this Agreement or any rights granted in this Agreement to any third party, except with the prior written consent of SIT. Any purported Assignment, assumption, delegation or transfer in violation of this Section 8.5 is void. In the event Client authorizes a name change, sells all or any portion thereof including but not limited to a stock, asset or any other form of sale, transfers the entity or operations/management of in full or in part this Agreement remains binding and in full effect. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

8.6 No Waivers. Failure of a party to require performance by the other party under this Agreement will not affect the right of such party to require performance in the future. A waiver by a party of any breach of any term of this Agreement will not be construed as a waiver of any continuing or succeeding breach.

8.7 Force Majeure. Any delay or failure of any party to perform any obligation under this Agreement caused by governmental restrictions, labor disputes, storms or natural disasters, emergency, or other causes beyond the reasonable control of the party, will not be deemed a breach of this Agreement. This provision does not apply to the payment of monies or any breach of Section 5.

8.8 Entire Agreement. This Agreement, together with each Addenda and Order, constitutes the entire agreement between Client and SIT, and supersedes any prior or contemporaneous negotiations or agreements, whether oral or written, concerning this subject matter. This Agreement, and each Addendum and Order, may be modified only in a mutually signed writing between Client and SIT. In the event of a conflict between this Agreements, any Addendum or an Order, the terms of the Order will control, followed by the terms of the applicable Addendum and then this Agreement.

8.9 Export Controls. Client will cooperate with SIT as reasonably necessary to permit SIT to comply with the laws and regulations of the United States and all other relevant countries, relating to the control of exports ("**Export Laws**"). Client may not import, nor export or re-export directly or indirectly, including via remote access, any part of the Product into or to any country for which a validated license is required for such import, export or re-export under applicable Export Laws, without first obtaining such a validated license. Any violation of this Section 7.9 shall be not be subject to any limitations set forth in Sections 5.1 or 6.7 of this Agreement.

8.10 Referencing. Client agrees that SIT and its Affiliates may refer to Client as a Client of SIT, both internally and in externally published media. Client also agrees to instruct appropriate personnel within its organization that Client has agreed to receive and participate in calls, from time to time, with potential Clients of SIT who wish to evaluate the technical specifications of Product.

8.11 Dispute Resolution and Governing Law. ANY CONTROVERSY OR CLAIM IN EXCESS OF $10,000.00 ARISING OUT OF OR RELATING TO THE SERVICES AND PRODUCT AND/OR THIS AGREEMENT WILL BE SUBJECT TO ARBITRATION ADMINISTERED BY THE AMERICAN ARBITRATION ASSOCIATION UNDER ITS COMMERCIAL ARBITRATION RULES WITH SUCH ARBITRATION TAKING PLACE IN VALPARAISO, INDIANA. THE AWARD AND ANY FINDINGS OF THE ARBITRATOR MUST BE FILED WITHIN THIRTY (30) DAYS OF THE FINAL ARBITRATION HEARING. JUDGMENT ON ANY AWARD RENDERED BY THE ARBITRATOR MAY BE ENTERED IN ANY COURT LOCATED IN PORTER COUNTY, INDIANA HAVING JURISDICTION THEREOF. NOTHING CONTAINED IN THIS SECTION WILL LIMIT EITHER PARTY'S ABILITY TO SEEK INJUNCTIVE RELIEF IN ANY COURT LOCATED IN PORTER COUNTY, INDIANA. THE PARTIES WILL ARBITRATE DISPUTES IN CONFIDENCE. THIS AGREEMENT WILL BE GOVERNED BY THE SUBSTANTIVE LAWS OF THE STATE OF INDIANA THE CHOICE OF LAW RULES OF ANY JURISDICTION AND THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS WILL NOT APPLY. NOTWITHSTANDING THE FOREGOING TO THE CONTRARY, SIT SHALL HAVE THE RIGHT TO ELECT TO FILE IN ANY COURT IN COURT OF THE STATE OF INDIANA IN EACH CASE LOCATED IN THE CITY OF VALPARAISO AND COUNTY OF PORTER A CLAIM AGAINST THE CLIENT FOR ANY DISPUTE CONTROVERSY OR CLAIM OF $10,000.00 OR LESS OR WHERE CLIENT HAS REFUSED TO COMPLY WITH THE ARBITRATION PROVISION SET FORTH HEREIN. EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION, OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE, OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION, OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION THAT IT MAY NOR OR HEREAFTER HAVE TO THE LAYING OF VENUE OF ANY ACTION OR PROCEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT. EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE DEFENSE OF INCONVENIENT FORUM TO THE MAINTENANCE OF SUCH ACTION OR PROCEEDING IN ANY SUCH COURT. IF SUCH A COURT PROCEEDING IS BROUGHT BY SIT OR COUNTERCLAIM AND THE DISPUTE CONTROVERSY CLAIM IS LATER DETERMINED TO BE IN EXCESS OF $10,000.00 THEN IN THAT EVENT THE DISPUTE CLAIM OR CONTROVERSY SHALL BE SUBJECT TO THE ARBITRATION PROVISIONS AS HEREIN PROVIDED.

8.12 Security Interest. Client hereby acknowledges and agrees that, for all items listed in Addendum D and for any other Product that a Court of competent jurisdiction determines has been sold, and not leased, Client hereby grants to SIT, as collateral security for the payment of the purchase price of any Product and performance in full of all the obligations of the Client under this Agreement, a lien on and security interest in and to all of the right, title and interest of the Buyer in, to and under such Products, wherever located, and whether now existing or hereafter arising or acquired from time to time, and in all accessions thereto and replacements or modifications thereof, as well as all proceeds (including insurance proceeds) of the foregoing. The security interest granted under this provision constitutes a purchase money security interest under the Indiana Uniform Commercial Code.

8.13 Property Insurance. For any Product provided to Client under this Agreement, Client, at its own expense, shall provide and maintain for each such Product, insurance against loss, theft, and damage (**"Property Insurance"**) in an insured amount the greater of (a) the outstanding balance owed to SIT on such Product, or (b) the full replacement value of such Product and in a form, and with companies, satisfactory to SIT, including, without limitation, the insurer's agreement to give SIT thirty (30) days prior written notice before cancellation or material change thereof. Client shall name SIT (or shall cause SIT to be named) as loss payee on such Property Insurance. At such times as SIT may reasonably request, Client shall provide SIT with a certificate of insurance evidencing the maintenance of the Property Insurance.

8.14 Survival. Sections 2, 5, 6, 7 and 8 will survive the termination or expiration of this Agreement. The prevailing party in any litigation or arbitration proceeding is entitled to recover, from the other party, its reasonable attorneys' fees and necessary costs incurred in such proceeding.

8.15 Authority. If either party is a corporation or limited liability company, each person executing this Agreement including any Addenda and Order(s) on behalf of such party hereby covenants, represents, and warrants that such party is duly formed or duly qualified and that each person executing this Agreement including any Addenda and Order(s) on behalf of such party is an officer or member of such party and/or is duly authorized to execute, acknowledge, and deliver the Agreement including any Addenda and Order(s) to the other party.

8.16 Loaned or SIT Provided Hardware. Any hardware loaned or provided as needed by SIT is strictly owned entirely by SIT and not Client. Client is provided such hardware only on loan or in conjunction with other services being provided. SIT hardware will be labeled as such and also stated as such on provided documentation. In no way id Client allowed to lien, sell, tamper or use any such provided hardware outside the scope of use set forth by SIT. In the event client becomes insolvent or bankrupt Client acknowledges such hardware is a non-asset and solely owned by SIT. Client agrees to turn over immediately all such hardware upon contract termination or replacement of such hardware by SIT.

8.17 Hardware and Software Purchases. All non-proprietary computer and network hardware and software must be purchased through SIT (unless approved otherwise by SIT) thus ensuring network integrity and uniformity. SIT offers many options and competitive pricing on all hardware and software. As your IT professionals, we can best advise what will compliment and work properly on the entire network in addition to any proper preparation which may be needed.

This Agreement is effective only upon execution by SIT and Client. IN WITNESS WHEREOF, each party hereto warrants and represents that this Agreement constitutes the legal, valid and binding obligation of such party executed by its duly authorized representative as of the Agreement Effective Date.