**CAROUSEL INDUSTRIES OF NORTH AMERICA, INC.**

**Attachment A to Master Agreement**

**General Terms**

These General Terms (“General Terms”) are part of the Master Agreement for Products and Services between Carousel Industries of North America, Inc. (“Carousel”) and Customer, which incorporates these General Terms by reference (the "Agreement"). These General Terms apply to the entire Agreement as of the Effective Date. Capitalized terms used in these General Terms but not defined in the text are defined in Section 13.

1. **ORDERS**
	1. **Orders and Order Specifications Forms**. Customer may order Products and Services under the Agreement by placing written, signed orders (each, an "Order") in a format agreeable to both parties.
	2. **Submission and Acceptance of Orders**. All orders are subject to acceptance by Carousel. Carousel may accept an order by shipping Products or commencing to perform services. Orders will be governed by the terms of the Agreement even when they lack an express reference to the Agreement. When Carousel accepts an order, Carousel may notify Customer of Carousel's estimated shipping, delivery and installation dates or service commencement dates applicable to the order.
	3. **Cancellations**. Customer may cancel accepted orders subject to the restrictions and payment of the cancellation charges indicated in the applicable Attachment.
	4. **Customer Purchase Orders**. If Customer needs to generate a separate purchase order for its internal accounting or procurement purposes, then Customer will generate and submit to Carousel such a purchase order as evidence of compliance with its procedural requirements. Customer will deliver the purchase order either with the signed order or promptly after customer submits the signed order, however, only the Order Specifications form (or mutually agreed substitute) will be binding as an order for purposes of the Agreement. Other terms and conditions on Customer's purchase order will not apply.
2. **PAYMENT TERMS**
	1. **Invoicing and Payment**. Carousel will invoice Customer all Fees as provided in the applicable Order. All undisputed Fees are due within thirty (30) days from the date of Carousel's invoice. Customer will pay all bank charges, taxes, duties, levies and other costs and commissions associated with any bank wire transfer or other means of payment.
	2. **Late Charges**. Any overdue and unpaid portion of the Fees will bear interest, compounded at one and one-half percent (1.5%) per month or the maximum rate allowed by applicable law, whichever is less. Carousel may suspend licenses and performance of orders for which payment is overdue until the overdue amounts are paid in full. Customer will reimburse Carousel for reasonable attorneys' fees and any other costs associated with collecting delinquent payments.
	3. **Taxes**. All Fees quoted and payable under the Agreement exclude taxes. Customer will pay or reimburse Carousel for all applicable sales, services and other taxes (excluding taxes on Carousel's net income) levied upon the sale and/or license of Products and performance of Services under the Agreement unless Customer is exempt and provides Carousel with a valid tax exemption certificate prior to Carousel's invoice date.
3. **CUSTOMER COOPERATION**
	1. **Cooperation**. Customer will cooperate with Carousel as reasonably necessary for Carousel's delivery of Products and performance of Services in a timely manner. This cooperation may include things such as: (i) providing Carousel with access to all facilities, hardware, software, work space, and office support (telephone, internet access, etc), (ii) ensuring that the premises are safe, free of any hazardous materials that affect Carousel's performance and have installed necessary power and climate control facilities; (iii) ensuring that Customer has obtained connection to and all necessary permissions or consents from any public or private telephone network to which the Products are connected and any necessary permissions from government authorities and holders of real property rights; (iv) providing Carousel with designated points of contact, (v) providing necessary telephone numbers and passwords to enable remote access to the Products and notifying Carousel promptly of any changes made to such numbers or passwords; and (vi) Items that may be identified in an Attachment or statement of work. Customer is responsible for ensuring that its networks and systems are adequately secured against unauthorized intrusion or attack and regularly backing up its data and files in accordance with good computing practices. All items to be provided by Customer are at Customer's expense.
	2. **Third Party Products and Information**. Where Customer is to provide Carousel with information or access in relation to any third party products or the integration of Products in Customer's network (including without limitation specifications and interface information of interoperating hardware and software in Customer's network), then information or access will be supplied to Carousel in a timely manner at Customer's expense. It will be Customer's responsibility to obtain any consents and licenses of third parties that may be necessary for provision of such information or access to Carousel for Carousel's use in its performance of the Agreement. Upon delivery of the information or access, Customer represents and warrants to Carousel that it has obtained all such necessary consents and licenses.
	3. **Failure to Cooperate**. If Customer fails to meet its cooperation obligations under this Section or as otherwise provided in the Agreement, Carousel may delay or suspend its performance and charge Customer for resulting reasonable out-of-pocket expenses. If the failure continues for thirty (30) days following Carousel's written request to Customer to meet these obligations, in addition to the remedies above Carousel may treat the order as if Customer cancelled the order after delivery.
4. **CONFIDENTIALITY**
	1. **Confidential Information**. The term "Confidential Information" means Software (in object and source code form), Documentation, any technical information related to Products or Services, any work product and deliverables of Services, the terms (but not the existence) of the Agreement, and, if marked or otherwise expressly identified as confidential in writing, pricing and discounts and any other information or data, regardless of whether in tangible, electronic or other form. Information communicated verbally will qualify as Confidential Information if designated as confidential or proprietary at the time of disclosure and summarized in writing within thirty (30) days after verbal disclosure. Confidential Information does not include materials or information that (i) is generally known by third parties as a result of no act or omission of the receiving party; (ii) subsequent to its disclosure was lawfully received from a third party having the right to disseminate the information and without restriction on disclosure, (iii) was already known by the receiving party prior to receiving it from the other party and was not received from a third party in breach of that third party's obligations of confidentiality; (iv) was independently developed by the receiving party without use of Confidential Information of the disclosing party; or (v) is required to be disclosed by court order or other lawful government action, but only to the extent so ordered, and provided that the receiving party promptly notifies the disclosing party of the pending disclosure in writing so that the disclosing party may attempt to obtain a protective order. In the event of a potential disclosure in the case of subsection (v) above, the receiving party will provide reasonable assistance to the disclosing party where the disclosing party attempts to obtain a protective order.
	2. **Protection of Confidential Information**. Each party will protect the secrecy of all Confidential Information received from the other party with the same degree of care as it uses to protect its own Confidential Information, but in no event with less than a reasonable degree of care. Neither party will use or disclose the other party's Confidential Information, except as permitted in this Section or for the purpose of performing obligations under the Agreement. The confidentiality obligations of each party under the Agreement will survive any expiration or termination of the Agreement or of any order. Upon termination of the Agreement, each party will cease all use of the other party's Confidential Information (except for Software and Documentation in accordance with the applicable license granted under the Agreement) and will promptly return, or at the other party's request destroy, all Confidential Information in tangible form and all copies of Confidential Information in that party's possession or under its control, and will destroy all copies of Confidential Information on its computers, disks and other digital storage devices. Upon request, a party will certify in writing its compliance in this Section.
5. **SOFTWARE LICENSE TERMS**
	1. **License Grant**.
		1. **License**. Subject to Customer's payment of all applicable Fees and compliance with the terms of this Section 5 ("Software License Terms") and any other license terms and restrictions in the applicable Order, Carousel grants Customer a non-sublicenseable, non-exclusive, non-transferable license to use Software and Documentation provided under the Agreement for Customer's internal business purposes at the indicated capacity levels and locations in the United States, unless the manufacturer’s End User License Agreement allows for global use.
		2. **Time Limitations**. If the parties agree on any time limitations on the licenses in the applicable order, then Customer's licenses will automatically expire at the end of the specified license term.
		3. **All Rights Reserved**. Except for the limited license rights expressly granted in these Software License Terms, Carousel reserves all rights in and to the Software and Documentation and any modifications thereto, including title, ownership, intellectual property rights, and any other rights and interests. Customer will own only the Hardware or physical media on which the Software and Documentation are stored, if any.
	2. **License Restrictions**.
		1. **General Restrictions**. To the extent permissible under applicable law, Customer agrees not to: (i) decompile, disassemble, or reverse engineer the Software, (ii) modify or create any derivative works (including, without limitation, translations, transformations, adaptations or other recast or altered versions) based on the Software or Documentation, or alter the Software, (iii) merge the Software with any other software other than as expressly set forth in the Documentation; (iv) use, copy, sell, sublicense, lease, rent, loan, assign, convey or otherwise transfer the Software or Documentation except as expressly authorized by the Agreement; (v) distribute, disclose or allow use of the Software or Documentation, in any format, through any timesharing service, service bureau, network or by any other means, to or by any third parties, (vi) enable any Software features or capacity (e.g. additional storage hours, agents, ports or mailboxes) which Carousel licenses as separate products without Carousel's prior written consent, (vii) violate any obligations with regard to Carousel's Confidential Information; or (viii) permit or encourage any third party to do any of the foregoing. To the extent that Customer is expressly permitted by applicable mandatory law to undertake any of the activities listed in the preceding sentence, Customer will not exercise those rights until Customer has given Carousel twenty (20) days written notice of Customer's intent to exercise any such rights.
		2. **Backup Copies**. Customer may create a reasonable number of archival backup copies of the Software and Documentation on the condition that and as long as Customer (i) stores backup copies separately from any actively used computer programs; (ii) keeps a written record of all backup copies indicating the location of the storage; and (iii) provides such record to Carousel upon request. Customer will not remove any product identification, trademark, copyright or other proprietary rights notices from the Software or Documentation and will duplicate and display all names, logos and notices of Carousel and its licenses on each copy of the Software and Documentation made by Customer.
		3. **Compliance**. Customer will make the Software available only to employees, contractors, or consultants with a need to know, who are obligated to comply with all license restrictions contained in the Agreement and to maintain the secrecy of the Software and all other Confidential Information. Customer will be responsible for the compliance of all users with those obligations.
		4. **User-Defined Applications**. To the extent that any Software contains modules or development tools that permit Customer to create user-­defined applications, workflows or processes for use with the applicable Software ("User-Defined Applications"), Customer agrees to indemnify Carousel and its officers, directors, employees, agents and Affiliates against, and hold each of them harmless from any and all costs, expenses, liabilities and claims arising from Customer's use or distribution, either directly or indirectly, of any User-Defined Applications.
		5. **Third-Party Software**. Third-Party Software provided by Carousel to Customer shall be subject to the license terms and conditions of such Software. In the event of a conflict between the terms of this Agreement and the license terms and conditions of such Third-Party Software, the license terms and conditions of the Third-Party Software shall control.
	3. **Termination of License**. Carousel may terminate the Agreement and the Software licenses granted under it and exercise all available rights by giving written notice, effective immediately, if within thirty (30) days of Customer's receipt of a reasonably detailed written request to cure, Customer has not cured all breaches of license limitations or restrictions. Upon such termination, Customer will immediately pay all Fees outstanding (including applicable termination charges), cease use of all Software, return or delete, at Carousel's request, all Copies of the Software in Customer's possession, and certify compliance with all of the obligations in this paragraph to Carousel in writing.
6. **WARRANTY LIMITATIONS AND DISCLAIMERS**
	1. **Warranties and Limitations**. Specific warranties for Products and Services are provided in the applicable Attachments. These warranties are limited as provided in the Attachment and generally as provided below.
		1. **Warranty Exclusions**. The warranties do not extend to any damages, malfunctions, or non-conformities caused by (i) Customer's use of Products in violation of the license granted under the Agreement or in a manner inconsistent with the Documentation; (ii) use of non-Carousel furnished equipment, software, or facilities with Products (except to the extent provided in the Documentation), (iii) Customer's failure to follow Carousel's installation, operation or maintenance instructions; (iv) Customer's failure to permit Carousel timely access, remote or otherwise, to Products; (v) failure to implement all new Updates to Software provided under the Agreement; (vi) Products that have had their original manufacturer's serial numbers altered, defaced or deleted, (vii) Products that have been serviced or modified by a party other than Carousel or an authorized Carousel reseller.

6.1.2 **Products from Other Parties**. Customer's decision to acquire or use products from other parties is Customer's sole responsibility, even if Carousel helps Customer identify, evaluate or select them. CAROUSEL IS NOT RESPONSIBLE FOR, AND WILL NOT BE LIABLE FOR, THE QUALITY OR PERFORMANCE OF SUCH PRODUCTS OR THEIR SUPPLIERS.

6.1.3 **Toll Fraud**. Carousel does not warrant that Products or Services will prevent Toll Fraud. Prevention of Toll Fraud is the responsibility of Customer.

6.2 **Disclaimers**. SOFTWARE PROVIDED AS PART OF THE PROVISION OF TRAINING SERVICES IS PROVIDED "AS-IS" WITH NO WARRANTIES OR INDEMNITIES OF ANY KIND EXCEPT AS REFERENCED AND LIMITED IN SECTION 6.1 (WARRANTIES AND LIMITATIONS), NEITHER CAROUSEL NOR ITS LICENSORS OR SUPPLIERS MAKES ANY EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY PRODUCTS OR SERVICES, OR OTHERWISE RELATED TO THE AGREEMENT. CAROUSEL DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF PRODUCTS TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, CAROUSEL DISCLAIMS ALL WARRANTIES IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. THE WARRANTY REMEDIES EXPRESSLY PROVIDED IN THE AGREEMENT WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES.

1. **LIMITATION OF LIABILITY**

7.1 **Scope**. THE LIMITATIONS OF LIABILITY IN THIS SECTION WILL APPLY TO ANY DAMAGES, HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, WHETHER FOR BREACH OF CONTRACT, TORT (INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE), OR OTHERWISE, AND REGARDLESS OF WHETHER THE LIMITED REMEDIES AVAILABLE TO THE PARTIES FAIL OF THEIR ESSENTIAL PURPOSE. THE LIMITATIONS OF LIABILITY WILL NOT APPLY, HOWEVER, IN CASES OF WILFUL MISCONDUCT, PERSONAL INJURY OR BREACHES OF CAROUSEL’S LICENSE RESTRICTIONS.

7.2 **Excluded Types of Damages**. IN NO EVENT WILL EITHER PARTY OR ITS RESPECTIVE LICENSORS OR SUPPLIERS HAVE ANY LIABILITY FOR ANY INCIDENTAL, SPECIAL, STATUTORY, INDIRECT OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS OF PROFITS, REVENUE, DATA, TOLL FRAUD, OR COST OF COVER.

7.3 **Aggregate Liability**. THE LIABILITY OF EITHER PARTY FOR ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH ANY PRODUCTS OR SERVICES PROVIDED UNDER THIS AGREEMENT WILL NOT EXCEED AN AMOUNT EQUAL TO THE AMOUNT OF THE FEES PAYABLE FOR THE PRODUCTS OR SERVICES MOST DIRECTLY RELATED TO THE CLAIM. THE LIABILITY OF EITHER PARTY FOR ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH ANY ORDER WILL NOT EXCEED AN AMOUNT EQUAL TO THE AMOUNT OF THE FEES PAYABLE UNDER SUCH ORDER. THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY FOR EACH AND ALL CLAIMS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT WILL NOT EXCEED THE AMOUNT EQUAL TO THE AGGREGATE TOTAL AMOUNT OF ALL FEES PAID OR PAYABLE UNDER THE AGREEMENT IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO THE CLAIM.

7.4 **Limitation of Liability for Representatives**. The limitations of liability in this Section also will apply to any liability of directors, officers, employees, agents and suppliers. Directors, officers, employees, agents and suppliers will be third party beneficiaries of this contractual limitation of liability and will be entitled to enforce this limitation directly against the other party.

**8. GOVERNING LAW AND DISPUTE RESOLUTION**

8.1 **Choice of Law** Any controversy or claim, whether based on contract, tort, strict liability, fraud, misrepresentation, or any other legal theory, related directly or indirectly to the Master Agreement (“Dispute”) shall be resolved solely in accordance with the terms of this Section 8. Any Dispute Customer has against Carousel with respect to the Master Agreement must be brought in accordance with this Section 8 within two (2) years after the cause of action arises. The Master Agreement shall be governed by the laws of the State of Rhode Island and interpreted and determined in accordance with the laws of the State of Rhode Island. The parties hereto irrevocably: (a) agree that any suit, action, or other legal proceeding arising out of the Master Agreement shall be brought exclusively in the courts of record of either the State of Rhode Island or the courts of the United States located in the State of Rhode Island; (b) consent to the jurisdiction of each such court in any such suit, action or proceeding; and (c) waive any objection which it may have to the laying of venue of such suit, action or proceeding in any of such courts.

8.2 **Injunctive Relief**. Either party may, at its option and at any time during the dispute resolution process, seek injunctive relief in any court of competent jurisdiction (including but not limited to preliminary injunctive relief). The parties acknowledge that each of them has a vital interest in enjoining any violation of confidentiality obligations, including unauthorized use of the Software, because damages would not adequately compensate a party for any infringements of that party's intellectual property rights.

8.3 **No Withholding of Undisputed Amounts**. Disputes will not be a basis for withholding payment of any undisputed amounts due under the Agreement or offsetting other amounts due whether or not the disputed Item is on the same order or invoice, nor will any amount be retained in anticipation of a Dispute for which notice has not been received.

**9. FORCE MAJEURE**

Neither party will have liability for delays, failure in performance or damages due to fire, explosion, power failures, pest damage, lighting or power surges, strikes or labor disputes, water, acts of God, war, civil disturbances, terrorism, acts of civil or military authorities, inability to secure raw materials, transportation facilities, fuel or energy shortages, performance or availability of communications services or network facilities, or other causes beyond the party's reasonable control. The foregoing will not apply to payments of Fees for Products delivered or installed, as applicable, or for Services performed.

**10. ASSIGNMENT AND SUBCONTRACTING**

Neither party may assign the Agreement or any rights or obligations hereunder, and any assignment without the express written consent of the other party will be invalid. However, Carousel will have the right to assign the Agreement and its rights or obligations under it, in whole or in part, to any present or future affiliate or to any entity which acquired from Carousel the operating assets utilized by Carousel to fulfill its obligations under the Agreement. Carousel may subcontract work to be performed under the Agreement, but will retain responsibility for such work.

**11. TERM AND TERMINATION**

11.1 **Term**. The Agreement will continue in effect for the term indicated on the Master Agreement unless terminated earlier in accordance with Section 11.2.

11.2 **Termination**. At any time, either party may terminate the Agreement or any applicable order by written notice to the other party, effective immediately upon receipt, if the other party fails to cure any material breach of the Agreement within a thirty (30) day period after having received a written notice from the non-breaching party detailing the breach and requesting the breach be cured. Except as expressly provided otherwise in the Agreement and termination for uncured breach, any termination of the Agreement will not affect any rights or obligations of the parties under any order accepted before the termination of the Agreement became effective. Additional termination rights and consequences may be available under an Attachment to this Agreement.

11.3 **Survival**. The provisions of these General Terms will survive any termination or expiration of the Agreement and any order, except that after the termination or expiration of the Agreement becomes effective, Customer may no longer order Products or Services under the Agreement.

12. **MISCELLANEOUS**

12.1 **Compliance**. Products and any technical information provided under the Agreement are subject to the export laws and regulations of the United States by executing the Agreement, Customer represents that it is not a resident or citizen of any country currently embargoed by the United States (a list of embargoed countries, denied persons and other restrictions is available from the US Department of Commerce). Customer will observe all applicable laws when using the Products and work product of any Services. Customer will indemnify and hold Carousel and its suppliers harmless from any and all costs, expenses, liabilities and claims based upon Customer's failure to comply with this Section.

12.2 **Notices and Amendments in Writing**. All notices under the Agreement and any modifications or amendments to the Agreement or any order must be in writing. Modifications or amendments to the Agreement or any order also must be signed by both parties. Notices will be sent to the addresses of Carousel and Customer indicated on the signature page of the Agreement. Notices to Carousel will be to the attention of the Corporate Contracts Department.

12.3 **Independent Contractors**. The Agreement does not create any agency, employment, partnership, joint venture, or other joint relationship. Customer and Carousel are independent contractors. Neither party has any authority to bind the other.

12.4 **Severability**. If any provision of this Agreement is determined to be unenforceable or invalid under any applicable law or is so held by applicable court decision, such unenforceability or invalidation shall not render this Agreement unenforceable or invalid as a whole, and such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision within the limits of applicable law or applicable court decisions.

12.5 **No Waiver**. The failure of either party to assert any of its rights under the Agreement, including, but not limited to, the right to terminate the Agreement in the event of breach or default by the other party, will not be deemed to constitute a waiver by that party of its right thereafter to enforce each and every provision of the Agreement in accordance with their terms.

12.6 **Non-exclusivity**. Nothing in the Agreement will prevent or restrict either party from entering into agreements for the provision of products and services of the same or similar nature as those provided under the Agreement with any third party.

12.7 **Entire Agreement**. The Agreement, including all Attachments, constitutes the entire understanding of the parties with respect to the subject matter thereof and will supersede all previous and contemporaneous communications, representations or understandings, either oral or written, between the parties relating to that subject matter and will not be contradicted or supplemented by any prior course of dealing between the parties.

**13. DEFINITIONS**

“Attachments” means the applicable Attachments expressly designated in the Agreement.

“Confidential Information” is defined in Section 4.1 of these General Terms.

“Documentation” means Carousel's information manuals in printed or electronic form containing operating instructions and performance specifications that Carousel generally makes available to users of its products and Carousel delivers to Customer with the Products. Documentation includes statements of work delivered by Carousel to Customer with respect to Services. Documentation does not include marketing materials.

“Fees” means the purchase price, license and service fees and other charges owed by Customer to Carousel according to the applicable Order Specifications Form and the terms of the Agreement.

“Hardware” means the standard hardware products that Customer orders or Carousel delivers under the Agreement. Hardware does not include any customized deliverables that Carousel creates specifically for Customer on a Time & Materials Basis or on a Milestone Basis.

“Order” is defined as the signed Order Specifications form or a mutually agreed substitute either of which will be binding as an Order for purposes of the Agreement.

“Personnel” is defined as employees, independent contractors and/or subcontractors of Carousel.

“Products” means any combination of Hardware, Software and Documentation.

“Services” means any services ordered by Customer under the Agreement.

“Software” means the computer programs in object code form that Customer orders or Carousel delivers under the Agreement, whether as stand-alone products or pre-installed on Hardware.

“Third-Party” Products or Software means any products manufactured or software provided by a party other than Carousel, and may include, without limitation, products ordered by Customer from third parties pursuant to Carousel's recommendations. However, components of Carousel-branded Products are not Third Party Products if they are both (i) embedded in Products (i.e., not recognizable as stand-alone items); and (ii) are not identified as separate Items on Carousel's price list, quotes, Order Specifications Form or Documentation.

“'Toll Fraud” means unauthorized use of telecommunications services or facilities accessed through or connected to Products.