Carousel Industries of North America LLC AND _____

MASTER SERVICES AGREEMENT

Customer Information:

Customer Name:		
Street Address		
Street Address		Contact:	
City, State:		Contact Email:	
Zip Code:		Billing Email:	

Provider Information:

Provider Name:	Carousel Industries of North America LLC	
Street Address	659 South County Trail	
Attn: Legal Department		
City, State:	Exeter, RI	
Zip Code:	02822	Contact Email:compliance-legal@nwncarousel.com

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives with the intent to be legally bound as of the Effective Date, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged.

Customer

Signature:_____

Printed Name:_____

Title:_____

Date:_____

Carousel Industries of North America LLC

Signature:_____

Printed Name:_____

Title:_____

Date:_____

MASTER SERVICES AGREEMENT

This Master Service Agreement ("Agreement") is made effective as of ___, 20__ ("Effective Date") by and between Carousel Industries of North America LLC (hereinafter referred to as "Provider"), with a principal place of business at 659 South County Trail, Exeter, RI 02822, and _____ (hereinafter referred to as "Customer"), whose principal place of business is at _____. Each of Customer and Provider is referred to herein individually as a "Party" and collectively as the "Parties."

If the Effective Date above is not completed, this Agreement, this Agreement will become effective on the data that Provider countersigns the Agreement.

ARTICLE ONE – GENERAL

1.1 **General.** Provider and Customer desire to implement terms and conditions pursuant to which Customer may purchase and/or license from Provider for Customer's internal business use certain cloud infrastructure, hosted and managed service offerings, Software (as defined herein), Hardware (as defined herein) and professional consulting services during the term of this Agreement (collectively, the "Services").

1.2 **Agreement Structure.** This Agreement and Quotes/SOWs (as defined in Section 1.3 below) and any other attachments incorporated therein, along with any amendments thereto as agreed by the Parties in writing shall collectively be referred to as the "Agreement." This Agreement is non-exclusive. Nothing in this Agreement shall prevent Customer or Provider from entering into similar arrangements with, or otherwise providing services to, any other person or entity.

1.3 **Orders for Services.** The order process shall be initiated by Provider issuing a Quote or Scope of Work ("SOW"), as the case may be, to the Customer for review and acceptance. Quotes will set forth the specific Service type and location(s), terms, and fees related to the provision of Provider's Hardware and Software products. SOWs shall set forth the specific Service type and location(s), terms, and fees related to the provision of Provider's managed services and communications service offerings. In order to initiate the provision of the Services set forth in the Quote and/or SOW, Customer must execute and return the Quote and/or SOW to Provider within thirty (30) days of the issuance of the Quote/SOW. Otherwise, the Quote/SOW will automatically expire and become void. All Customer executed Quote/SOWs will deemed accepted by Provider after three (3) business days of receipt by Provider absent written notification from Provider of its rejection of such Quote/SOW. Provider may, in its sole discretion, cancel or amend all open Quotes/SOW prior to Customer acceptance. Customer may cancel Provider accepted Quote/SOWs subject to the restrictions and payment of Early Termination Charge (defined below) set forth in this Agreement or in the applicable Quote/SOW. Customer acknowledges and agrees that Customer is solely responsible for the accuracy of all Quotes/SOWs and other information that it provides to Provider. Each accepted Quote/SOW shall incorporate by reference, and shall be subject to, the terms and conditions of this Agreement. For the purposes of this Agreement, "Hardware" means the standard hardware products that Customer orders or Provider delivers under the Agreement. Hardware does not include

any customized deliverables that Provider creates specifically for Customer on a time & materials basis or on a milestone basis. If Customer requires additional Services under an existing Quote/SOW, the Customer is responsible for notifying Provider and Provider will issue an updated Quote/SOW with any applicable changes to Customer's owed Fees. If Customer seeks to remove Services from an existing Quote/SOW, the Customer is responsible for notifying Provider and Provider must agree in writing to such removal. In the event of a removal of Services, Provider will make any applicable changes to Customer's Fees in the next applicable billing period.

1.4   **Purchase Orders**. Customers may also provide customer-generated purchase orders to further document the acceptance of a Quote/SOW, but such purchase orders shall not replace or nullify the requirement that Customer fully execute and return accepted Quotes/SOWs to Provider. Further, customer-generated purchase orders shall not alter or supersede the terms of the Quote/SOW or this Agreement.

1.5   **Order of Precedence/Construction**. This Agreement shall be deemed to have been drafted by both Parties and, in the event of a dispute shall not be construed against either Party. The terms and conditions set forth in this Agreement shall apply to all attachments unless otherwise specifically stated. To the extent reasonably possible, the provisions of this main body of the Agreement and any Quote/SOW shall be interpreted so as to avoid any conflict between them. In the event of an express conflict between a term(s) of this Agreement and the term(s) of any Quote/SOW, precedence will be given first to this Agreement.

1.6   **Customer Obligations**. Customer agrees: (a) to cooperate with Provider in providing the Services and give Provider timely access to its premises for pre-installation site surveys, installation and provision of Services at its site(s) where the Services are installed (the "Site(s)"); (b) that the Site will be a suitable environment for the Services, in compliance with applicable law and regulations and will include a space for installation of the Services, to be made available prior to delivery thereof; (c) to provide at its own expense all supplemental equipment and environmental services required for the installation and support of the Services, including, but not limited to, air conditioning and commercial electrical power, wiring and outlets and all equipment and software necessary to effectuate an interface between Customer provided equipment and Provider provided Services and all appropriate access thereto; (d) to ensure that its networks and systems are adequately secured against unauthorized intrusion; (e) that in the event any networks to be monitored by Provider are owned, managed or hosted by a third party provider ("Host"), Customer will notify and obtain the Host's written consent for Provider to perform the Services on the Host's systems and provide Provider a copy of such Host consent upon request; and (f) that where a Service involves accessing a Customer's employees' or other individual's personal data, Customer has obtained the applicable consents from any impacted end users. Customer warrants and represents that, except as previously disclosed to Provider in writing, Customer has no knowledge of asbestos or other hazardous materials ("Hazards") at its Site and Customer agrees to promptly notify Provider in writing if Customer becomes aware of Hazards on its Site during the Term of this Agreement. Provider assumes no liability for any conditions or Hazards existing on the Customer's Site. In addition, Customers shall provide Provider with (a) full, free and safe access to

its facilities; (b) telephone numbers, network addresses and passwords necessary for remote access; and (c) interface information for supported Services and necessary third party consents and licenses to access them; (d) technical resource or onsite contact person who shall assist Provider in remotely troubleshooting issues, including, but not limited to providing data logs, or assisting in reboots/ resets of certain components. All such items will be provided by Customer at Customer's expense. If Provider provides an update or other new release of software as part of the Services, Customer will implement it promptly. Customer will reasonably use, safeguard and return to Provider any items that Provider loans to Customer ("Provider Tools") for the purpose of providing Services. Provider Tools shall not be considered Services.

ARTICLE TWO – PAYMENT TERMS

2.1 **Credit and Deposit**. If requested by Provider, Customer shall complete and submit Provider's standard credit application. Provider may from time to time conduct a review of Customer's credit rating and payment history. Provider may require Customer to pay a deposit before acceptance of a Quote/SOW. Additionally, for any existing Services, Provider may require (i) Customer to pay a deposit or (ii) an increase in the existing deposit, upon the failure of Customer to submit payment of any amount by the Due Date (as that term is defined in Article 2.3) as a condition to the continued provision of such existing Services. Provider shall refund any deposit paid pursuant to this Article, less any payments that Customer still owes to Provider, when Provider determines in good faith, based on Customer's credit rating and payment history, that such deposit is no longer necessary to ensure payment, but in no event later than after the termination of all Services and termination of this Agreement.

2.2 **Billing Commencement**. Provider may commence billing and Customer shall be liable for payment for Services upon the service activation or the billing commencement date, as the case may be as defined in the applicable SOW/Quote.

2.3 **Invoicing and Payment Terms**. Provider will invoice Customer all monthly recurring charges and non-recurring charges (collectively, "Fees") as provided in the applicable Quote/SOW. All undisputed Fees are payable in full thirty (30) days from the date of Provider's invoice ("Due Date"). 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. Unless otherwise states in the applicable Quote/SOW, Customer will pay for all travel and lodging related expenses incurred by Provider's employees in connection with the performance of Services, and such expenses shall be invoiced to Customers monthly for actual expenses incurred. Customer shall also be responsible for paying all shipping and handling charges invoiced by Provider, as well as Taxes and Impositions (as defined in Section 2.4 herein).

Customer may not decline to make payment based on claims of fraudulent or unbillable calls, unauthorized use, bad debts or other uncollectible amounts. Provider may invoice Customer by e-mail to the billing contact identified in this Agreement. Customer shall be responsible for updating its billing contact with Provider. The invoice shall be deemed to have been received by Customer on the day the e-mailed invoice is transmitted, provided

that Provider sends the invoice to the most recent billing contact provided by Customer and does not otherwise receive any notification that the e-mail transmission failed.

2.4 **Imposition of Taxes and Fees**. All charges for the Services are exclusive of any Taxes and Impositions (as defined below). Except for taxes based on Provider's net income or for taxes which Customer possesses an exemption certificate, Customer shall be responsible for payment of all applicable taxes that arise in any jurisdiction, including, without limitation, value added, consumption, sales, use, gross receipts, excise, access, bypass, or other taxes, duties, fees, charges or surcharges (including, but not limited to Universal Service Fund ("USF") and other regulatory fees), however designated, imposed or based upon the sale or use of the Services (collectively "Taxes"). Such Taxes will be individually identified on invoices. Customer shall also be responsible for payment of a proportionate share of any cost recovery fees, property taxes, franchise fees, rights of way fees or charges, license or permit fees incident to the provision of the Services (collectively, "Impositions"). For purposes of calculating Taxes and Imposition, Customer's location will be set to Customer's service address or billing address (if the service address is unknown) unless Customer specifically notifies Provider in writing that it intends to use the Services at another/additional valid physical location(s). Provider reserves the right to reject any request to treat an alternative physical location as Customer's service address if Provider discovers that the address is invalid or otherwise inaccurate. If Provider must pay for any additional Taxes, Imposition and associated interest and/or penalties arising from Customer's provision of erroneous location data, Customer shall promptly reimburse Provider for the same within fourteen (14) days of demand by Provider. Further, Customer shall be responsible for notifying Provider in the event of any change to service address(s).

2.5 **Tax and Fee Exemptions**. If Customer is entitled to an exemption from any Taxes or Impositions, Customer is responsible for presenting Provider with a valid exemption certificate (in a form reasonably acceptable to Provider). Provider will give effect to any valid exemption certificate provided in accordance with the foregoing sentence to the extent it applies to any Service billed by Provider to Customer following Provider's receipt of such exemption certificate. Provided that Provider timely identifies the Taxes and Impositions payable by Customer, Customer shall indemnify, defend and hold Provider harmless from payment and reporting of all such Taxes and Impositions, including costs, expenses, and penalties incurred by Provider in settling, defending or appealing any claims or actions brought against Provider related to, or arising from, Customer's non-payment of Taxes or Impositions

2.6 **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. Provider may suspend Services associated with orders for which payment is overdue until the overdue amounts are paid in full. Customer will reimburse Provider for reasonable attorneys' fees and any other costs associated with collecting delinquent payments.

2.7 **Invoice Disputes**. To the extent that Customer disputes any portion of an invoice, Customer shall notify Provider in writing and provide detailed documentation supporting

its dispute within thirty (30) days of the invoice date or the Customer's right to any billing adjustment shall be waived. In the event of a billing dispute, Customer shall timely pay all undisputed amounts. If a billing dispute is resolved in favor of Customer and Customer has withheld the disputed amount, no interest credits or penalties will apply. If the dispute is resolved against Customer, and Customer withheld the disputed amount, Customer shall pay such withheld amount due plus interest as set forth in Section 2.6 from the date the payment was originally due. A dispute may not be based upon a claim that all or a portion of the charges for the Services were incurred by unauthorized users. Customer remains solely responsible for all use of service ordered by it or billed to its account pursuant hereto, for determining who is authorized to use its service, and for promptly notifying Provider of any unauthorized use. In the event of nonpayment, Provider reserves the right to assign the late balance to a collection agency and Customer agrees to reimburse Provider for all expenses related to its collection efforts, including, but not limited to reasonable attorneys' fees.

ARTICLE THREE – TERM AND TERMINATION

3.1 **Term.** This Agreement shall be in effect for a period of three (3) years from the Effective Date ("Initial Term") unless terminated earlier as otherwise provided for in this Agreement, and shall automatically renew for one (1) year periods thereafter (each a "Renewal Term" and together with the Initial Term, shall be referred to as the "Term") until either Party notifies the other Party of its intent not to renew the Agreement at least ninety (90) days prior to the end of the Initial Term or any Renewal Term. Notwithstanding the foregoing, in the event that any Quote/SOW remains in effect following such termination, this Agreement shall govern and continue in effect with regard to such Quote/SOW until the termination of such Quote/SOW.

3.2 **Termination.** This Agreement may be terminated during the Initial Term only by written agreement of the Parties, pursuant to Article 4 (Default) or as otherwise specified in this Agreement. Termination of this Agreement by Customer for any other reason shall be subject to Section 3.3 herein. In the event of termination of this Agreement for any reason, all obligations hereunder shall immediately cease and be of no further effect, provided that all obligations to make payments for charges incurred prior to the termination of this Agreement hereunder shall survive termination of this Agreement and any and all amounts owed through the termination date shall be paid as per the terms of this Agreement. Termination of this Agreement shall not relieve either Party of any liability for breach of this Agreement or as may otherwise be established.

3.3 **Early Termination Fee.** If Customer terminates this Agreement, or any Quote/SOW created hereunder, for any reasons other than a Provider Default before the end of the applicable Initial Term or Renewal Term, as the case may be, the Customer shall pay an Early Termination Charge ("Early Termination Charge") as liquidated damages and a reasonable approximation of Provider's loss from early termination. With the exception of managed services provided hereunder, the amount of the Early Termination Charge will equate to 100% of the Fees for the remaining months in the Agreement and/or any applicable Quote/SOW. The early termination fee, if any, associated with managed services shall be set forth in the Quote/SOW specific to those services. In addition to the Early Termination Charge, Customer is responsible for paying any Fees still outstanding for the Agreement to the Date of Termination. This Section may be amended, modified,

or waived in a Quote/SOW with regard to the specific Services set forth therein. If so, such Quote/SOW will govern the termination of this Agreement for those Services to the extent expressly provided in the Quote/SOW. Any amendment, modification, or waiver of this Section shall not be construed as affecting any other provisions of this Agreement or affecting this Section further than the extent provided in a Quote/SOW.

3.4.   **Service Transition**.   If either party terminates this Agreement, Provider may assist Customer in the orderly termination of Services, including timely transfer of the Services to another designated provider. Customer agrees to pay the actual costs of rendering such assistance. Provider will not retain any data stored for Customer after termination of the Agreement, unless required to retain by law.

ARTICLE FOUR - DEFAULT; SUSPENSION OF SERVICE

4.1   **Customer Default**.

4.1.1   Customer is in default of this Agreement if Customer (a) fails to cure any monetary breach within five (5) business days of receiving notice of the breach from Provider; (b) fails to cure any non-monetary breach of any terms of the Agreement within thirty (30) days of receiving written notice of the breach from Provider; or (c) files or initiates proceedings or has proceedings filed or initiated against it, seeking liquidation, reorganization or other relief (such as the appointment of a trustee, receiver, liquidator, custodian or such other official) under any bankruptcy, insolvency or other similar law (each such event shall be a "Customer Default").

4.1.2   In the event of a Customer Default, Provider may suspend Services to Customer until Customer remedies the Customer Default, or Provider may terminate this Agreement, and/or any or all of the Services being provided hereunder. Provider is not responsible for damages that may result due to suspension or termination of Services by Provider pursuant to this Section and Section 4.3 herein. Provider may at its sole option and with prior notice to Customer, but without any obligation, cure a non-monetary breach at Customer's expense at any point and invoice Customer for the same. These remedies are in addition to and not a substitute for all other remedies contained in this Agreement or available to Provider at law or in equity.

4.2   **Provider Default**.

4.2.1   Provider is in default of this Agreement if Provider fails to cure any non-monetary breach of any material term of this Agreement within thirty (30) days of receiving written notice of the breach from Customer ("Provider Default"); provided, however, that Customer expressly acknowledges that Service-related failure or degradation in performance is not subject to a claim of a Provider Default. Customer's sole and exclusive remedy for any failure of Service is set forth in the applicable or Quote/SOW.

4.2.2   In the event of a Provider Default, Customer may terminate the Services and the Agreement upon thirty (30) days prior written notice to Provider. Any termination shall not relieve Customer of its obligations to pay all charges incurred hereunder prior to such termination.

4.3. **Discontinuation of Service**.

By Customer. In the event of a discontinuation by Customer, Customer shall be responsible for payment of all invoices for Services furnished until the disconnection date specified by Customer or until the date that the written disconnection notice is received by Provider, whichever is later, along with any applicable Early Termination Charge.

By Provider. In addition to any other rights of Provider hereunder (including for termination of the Agreement or a Quote/SOW), Provider may discontinue an affected Service promptly following written notice and without incurring any liability, in the event of a change in law or a decision by the Federal Communications Commission ("FCC") or other governing regulatory body, including by not limited to state public utility authorities, that results in a material change in this Agreement or impairs Provider's ability to perform its obligations hereunder.

In addition, Provider may discontinue services immediately and without notice to Customer, without incurring any liability therefor in the event of:

(a) A violation of Section 12.1;

(b) Using the Services in any way that is harmful to Provider's network, facilities or other customers;

(c) Using the Services in a way that violates applicable law.

4.4 **Restoration of Service**. If Service has been discontinued for nonpayment or as otherwise provided herein and Customer wishes it continued, Service shall, at Provider's discretion, be restored when all past due amounts are paid or the event giving rise to the discontinuance (if other than nonpayment) is corrected and Customer pays a deposit at Provider's discretion. Nonrecurring charges apply to restored services.

4.5 **End of Support/Extended Support.** Manufacturers may declare "end of life," "end of service," "end of support," "manufacture discontinue" or similar designation ("End of Support") for certain supported Services. For Services subject to End of Support, Provider will continue to provide the contracted service under a "reasonable effort" model. Products that reach end of support may no longer receive software updates, security patches, or vendor support. Therefore, certain complex faults or functionality issues may not be resolvable without the Customer upgrading the system to a version currently supported by the manufacturer. In addition, as replacement parts are manufacturer discontinued, some products or components may become increasingly scarce or require replacement with substitute parts. This may result in delays in response or repair intervals, or may require upgrades to other components at Customer's expense in order to ensure compatibility and preserve Service functionality.

ARTICLE FIVE – EQUIPMENT

5.1 **Equipment Sold by Provider**. Where Services include the sale of Hardware and other equipment to Customer, ownership and title to the same shall pass to Customer upon shipment of the Hardware and equipment by Provider and/or its supplier.

5.2 **Shipment of Equipment**. Provider shall not initiate the shipment of Hardware and equipment specified in a Quote/SOW until such time as Provider receives and approves the Customer-executed Quote/SOW.

5.3 **Return of Equipment**. Where Services include use of certain Hardware, Software and other equipment owned or leased by Provider or a third-party supplier that is located at the Customer's premises, the title to the Hardware, Software and other equipment will remain with Provider or a third-party financing company. In the event of a termination of a Service, any Hardware, Software and other equipment provided to the Customer hereunder shall be returned by the Customer to Provider as of the date of such termination in the same condition and working order as when delivered to the Customer, reasonable wear and tear excepted, at the Customer's expense. The Customer shall reimburse Provider or its successor or transferee in the event of any breach of the immediately preceding sentence. Any such Hardware, Software and other equipment furnished to the Customer by Provider shall (i) remain the property of, and shall be clearly marked or tagged as the property of, Provider or its successor, assignee or transferee; (ii) be kept free of liens and encumbrances; (iii) not be modified in any manner by the Customer; and (iv) be maintained by the Customer with the same degree of care as the Customer uses with respect to its own valuable equipment, but in no event less than a reasonable degree of care for similar equipment. The Customer shall bear the risk of loss or damage while any such Hardware, Software and other equipment is in the Customer's possession.

5.4 **Risk of Loss**. Unless otherwise set forth in the Quote/SOW, risk of loss will pass to Customer, (i) upon shipment of ordered Hardware from Provider or Provider's suppliers directly to Customer, (ii) when ordered Hardware is received by Provider if Customer has requested configuration services in the Quote/SOW, or (iii) when ordered Hardware is received by Provider if Customer has requested staging or temporary storage.

5.5 **Charges**. If Customer is not ready to accept Services or personnel at Customer's facility for any reason (including, but not limited to, a failure to fully comply with all Provider instructions and requirements as defined in the Quote/SOW) on the scheduled date set forth in the Quote/SOW and otherwise mutually agreed upon by the Parties and Provider is prepared and able to provide the Services to the Customer on that date, Provider may commence charging Customer for the Services as of the service activation/billing commencement date set forth in the Quote/SOW. Customer is solely responsible for ensuring that its premises are configured correctly to support Provider. If Provider is unable to perform scheduled on-site work that causes Provider to re-dispatch its personnel due to a Customer-caused delay reason, billing for the Services may commence on the service activation/billing commencement date set forth in the Quote/SOW. If prior to the commencement or during the performance of the Services, Customer (i) fails to deliver any required material or services, (ii) fails to provide access to computer systems or facilities, as specified in the original Quote/SOW, and/or (iii) if the Services are unable to be performed due to Customer delays for a period of over sixty (60) days, Provider may require Customer to sign a change order form setting forth the conditions and Fees, if any, under which Provider will continue providing Services and Customer's agreement to pay such additional Fees for Provider to continue to perform the Services. Further, if Customer's usage of the Services exceeds those set forth in the Quote/SOW, Provider

may require that Customer submit a change order that formalizes Customer's agreement and consent to the increase usage and any applicable adjustment of any Fees due.

ARTICLE SIX - Software

6.1.   **Software License**. Subject to Customer's payment of all applicable Fees and compliance with the terms of this Section 6 ("Software License Terms") and any other license terms and restrictions in the applicable Quote/SOW, Provider 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. Unless otherwise set forth in an Quote/SOW, Provider will provide Software support only for the unaltered current release of the Software and the prior release. For Software versions older than one (1) prior release of the then current release, such Software will be supported only if authorized by the manufacturer's end of support policies. For the purposes of this Agreement, Software and Documentation are defined as follows:

(a)   "Software" means the computer programs in object code form that Customer orders or Provider delivers under the Agreement, whether as stand-alone products or pre-installed on Hardware.

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

6.2.   **Time Limitations**. If the parties agree on any time limitations on the licenses in the applicable Quote/SOW, then Customer's licenses will automatically expire at the end of the specified license term.

6.3.   **All Rights Reserved**. Except for the limited license rights expressly granted in these Software License Terms, Provider 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.

6.4.   **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 Provider licenses as separate products without Provider's prior written consent, (vii) violate any obligations with regard to Provider's Confidential Information (as defined herein); 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 Provider twenty (20) days written notice of Customer's intent to exercise any such rights.

6.5. **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 Provider 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 Provider and its licenses on each copy of the Software and Documentation made by Customer.

6.6. **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.

6.7. **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 Provider 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.

6.8. **Third-Party Software**. Third-Party Software provided by Provider 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. For the purposes of this Agreement, "Third-Party" Products or Software means any products manufactured or software provided by a party other than Provider, and may include, without limitation, products ordered by Customer from third parties pursuant to Provider's recommendations. However, components of Provider-branded Services are not Third-Party Products if they are both (i) embedded in Services (*i.e.*, not recognizable as stand-alone items); and (ii) are not identified as separate Items on Provider's Quotes/SOWs.

6.9. **Termination of License**. Provider 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 Provider's request, all Copies of the Software in Customer's possession, and certify compliance with all of the obligations in this paragraph to Provider in writing.

6.10. **Support Limitations.** The following support Services for Software will only be included if specifically included in the Quote/SOW: (i) support of user-defined applications; (ii) support of Services that have been modified by a party other than Provider (except for installation of standard, self-installed updates provided by the manufacturer); (iii) making corrections to user-defined reports; (iv) data recovery services; (v) services associated with relocation of Services; (vi) correction of errors arising from causes external to the Services (such as power failures or surges); and (vii) support of Services that have been misused, used in breach of their license restrictions, improperly installed or configured, or that have had their serial numbers altered, defaced or deleted.

ARTICLE SEVEN - CONFIDENTIALITY

7.1 **Confidential Information**. Each party shall treat the information received from the other party that is designated as confidential or otherwise so identified, and/or any information that by its form, nature, content, or mode of transmission would to a reasonable recipient be deemed confidential or proprietary ("Confidential Information") as and not disclose or use such Confidential Information except in the performance of this Agreement. Each party agrees to use the same degree of care that it maintains with regard to its own information of similar or like importance. 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. Provider designates the Services, all information relating to the Services and the financial terms of this Agreement as Confidential Information. Both parties shall: (i) restrict disclosure of Confidential Information to employees and agents solely on a "need to know" basis; (ii) advise employees and agents of their confidentiality obligations; (iii) protect the confidential information of the disclosing party in the manner the disclosing party would protect such information; (iv) notify the other of any unauthorized possession or use of that party's Confidential Information as soon as practicable after receiving notice of same; and (v) if either party is legally compelled in any litigation, administrative, or similar proceeding to disclose the other Party's Confidential Information, such party shall immediately notify the other Party and reasonably cooperate with the other Party to seek a protective order for such Confidential Information, at the other Party's expense. Notwithstanding the foregoing, neither party shall be obligated to preserve the confidentiality of any information which: (i) was previously known; (ii) is a matter of public knowledge; (iii) was or is independently developed by the recipient; (iv) is released for disclosure with written consent; (v) is received from a third-party to whom the information was disclosed without restriction; or (vi) disclosed by the non-receiving party to other persons without similar restriction.

7.2 **Third-Party Products**. To the extent that Customer has ordered services or products provided by a third-party as part of the Services (*e.g.*, firewall), Customer acknowledges such Third-Party Products may require Customer to accept an End User License Agreement ("EULA") or other third-party services agreement and that such agreement is a binding agreement between such third-party provider and Customer.

7.3 **Title**. Provider retains all right, title, copyright, patent, trademark, trade secret and all other proprietary interests to all Services and any derivatives thereof. No title, copyright, patent, trademark, trade secret or other right of intellectual property not expressly granted under the Agreement is exchanged between the Parties.

ARTICLE 8 – WARRANTIES; LIMITATION OF LIABILITY

8.1 **Warranties and Limitations**. Provider warrants that all software and hardware is guaranteed to be as specified by the manufacturer's documentation, and is provided with the manufacturer's standard product warranty, and further, that any work provided by Provider shall have been done correctly, and in accordance with the recommended practices of the manufacturer of the hardware and software. If hardware or software does not operate in accordance with the manufacturer's documentation during the applicable warranty period, Customer must promptly notify Provider. Provider will then, at its option, either repair or replace such hardware or software, as the case may be. Purchased or replacement parts and hardware may be new, remanufactured or refurbished, and Provider shall use its best efforts to replace parts on a "like for like" basis (i.e. if a failed part is new, it shall be replaced with a new part whenever reasonably possible). Any removed parts and/or hardware will become the property of Provider, and any replaced parts shall become the property of the Customer with regard to all sold hardware. With respect to hardware purchased from Provider, Customer has the right, as its exclusive remedy, to return the hardware for a refund of the purchase price if Provider is unable to repair or replace the hardware after a commercially reasonable period of time. Expendable items such as headsets, paper, printer ribbons, diskettes, and other expendable items, are not warranted and will be replaced or repaired only if defective upon delivery.   Additional specific warranties for the Services are provided in the applicable Quote/SOW. These warranties are limited as provided in the Quote/SOW and generally as provided below. THE WARRANTIES OF PROVIDER HEREUNDER ARE SUBJECT TO OBSERVANCE BY CUSTOMER OF THE TERMS OF THE LICENSES, LICENSE AGREEMENTS, SUPPORT POLICIES AND WARRANTIES OF THE MANUFACTURERS OF THE HARDWARE/SOFTWARE. SOME PRODUCTS REQUIRE MANUFACTURER SOFTWARE SUPPORT AGREEMENTS, AND CUSTOMER AGREES TO MAINTAIN THIS COVERAGE IN ORDER TO OBTAIN AND FACILITATE WARRANTY SUPPORT FROM PROVIDER.

8.2 **Warranty Exclusions**. The warranties do not extend to any damages, malfunctions, or non-conformities caused by (i) Customer's use of the Services in violation of the license granted under the Agreement or in a manner inconsistent with the Documentation; (ii) use of non-Provider furnished equipment, software, or facilities with the Services (except to the extent provided in the Documentation), (iii) Customer's failure to follow Provider's installation, operation or maintenance instructions; (iv) Customer's failure to permit Provider timely access, remote or otherwise, to the Services; (v) failure to implement all new updates to Software provided under the Agreement; (vi) Services that have had their

original manufacturer's serial numbers altered, defaced or deleted, (vii) Services that have been serviced or modified by a party other than Provider, an authorized agent of Provider, or a subcontractor for Provider. In addition, Provider is not obligated to provide warranty support if Customer modifies the hardware/software, in a manner that voids our ability to receive support from the manufacturer, without Provider's written approval.

8.3 **Toll Fraud**. Provider does not warrant that the Services will prevent Toll Fraud. Toll Fraud prevention is the responsibility of Customer. "Toll Fraud" means unauthorized use of communications services or facilities accessed through or connected to the Services.

8.4 **Disclaimers.** EXCEPT AS STATED HEREIN OR AS OTHERWISE IN A QUOTE/SOW, SERVICES PROVIDED UNDER THIS AGREEMENT IS PROVIDED "AS-IS" WITH NO WARRANTIES OR INDEMNITIES OF ANY KIND. NEITHER PROVIDER NOR ITS LICENSORS OR SUPPLIERS MAKES ANY EXPRESS REPRESENTATIONS OR WARRANTIES WITH REGARD TO ANY SERVICES, OR OTHERWISE RELATED TO THE AGREEMENT.   PROVIDER DOES NOT WARRANT UNINTERRUPTED OR ERROR FREE OPERATION OF SERVICE TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PROVIDER DISCLAIMS ALL WARRANTIES IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. PROVIDER MAKES NO EXPRESS OR IMPLIED WARRANTY THAT SERVICES ARE IMMUNE FROM OR PREVENT FRAUDULENT INTRUSION, UNAUTHORIZED USE OR DISCLOSURE OR LOSS OF PROPRIETARY INFORMATION.   CERTAIN FEATURES, IF PURCHASED, SUCH AS CALL RECORDING, PASSWORD RESET, SKIP PASSWORD, MONITOR MAILBOX AND SILENT MONITORING WHEN ENABLED, COULD BE IMPROPERLY USED AND IN VIOLATION OF PRIVACY LAWS. BY PURCHASING SERVICES WITH THESE FEATURES, CUSTOMER ASSUMES ALL RESPONSIBILITY FOR ENSURING THEIR PROPER AND LAWFUL USE. IF THE SERVICES SUPPORT TELEPHONY OR TRANSMISSION CONTROL PROTOCOL/INTERNET PROTOCOL (TCP/IP) FACILITIES, CUSTOMER MAY EXPERIENCE CERTAIN COMPROMISES DUE TO CUSTOMER NETWORK FACILITIES IN PERFORMANCE, RELIABILITY AND SECURITY, EVEN WHEN THE SERVICES PERFORM AS WARRANTED. THESE COMPROMISES MAY BECOME MORE ACUTE IF CUSTOMER FAILS TO FOLLOW MANUFACTURER'S RECOMMENDATIONS FOR CONFIGURATION, OPERATION AND USE OF THE SERVICES. THE WARRANTY REMEDIES EXPRESSLY PROVIDED IN THE AGREEMENT WILL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES FOR VIOLATION OF ANY WARRANTIES SET FORTH HEREIN.

8.5 **Limitation of Liability**. In no event shall Provider be liable to Customer or any third-party for any indirect, incidental, special, consequential, exemplary, punitive damages or for any loss of profits revenue, even if advised of the possibility thereof, including any damages whatsoever resulting from loss of use, data, or profits, whether in an action based on contract or tort arising out of or in connection with this Agreement. Customer agrees that the total aggregate liability limit of Provider shall in no event exceed the total dollar amount which Customer paid during the previous six (6) month period for the Services that gave rise to the claim.

8.6 **Third-Party Products**. Unless otherwise stated in a Quote/SOW, all Third-Party Software and Products are nonrefundable once the applicable Quote/SOW is placed in Provider's queue for delivery. Provider will use reasonable efforts to assign, transfer and facilitate all warranties (if any) and service level commitments (if any) for the Third-Party Software and Products to Customer, but will have no liability whatsoever for the quality, functionality, or operability of any Third-Party Software and Products, and we will not be held liable as an insurer or guarantor of the performance, uptime, or usefulness of any Third-Party Software and Products.

8.7 **Authority/Compliance with Law**. Each Party represents and warrants to the other that (a) it has the full right and authority to enter into, execute, deliver and perform its obligations under this Agreement, (b) it will comply with all applicable federal, state and local laws, statutes, rules and regulations in connection with the provision and use of the Services, and (c) this Agreement constitutes a legal, valid and binding obligation of such Party enforceable against such Party in accordance with its terms. Each Party shall be responsible for obtaining at its own expense any necessary governmental or regulatory consents, permits, licenses, access rights, easements or approvals with respect to any services used or provided in connection with this Agreement.

8.8 **Recommendations**. During the agreement, Provider will make recommendations from time to time regarding security products and services for Customer, in line with reasonable best IT and security practices, including risks associated with various solutions. However, responsibility to accept, reject, or change such solutions ultimately resides with the Customer, not Provider. Customer understands and agrees that no security solution is 100% faultless or perfect in all situations, that failure to implement Provider recommendations could result in a less secure IT environment, and that implementation of the Services under this Agreement is not a guarantee that security incidents or breaches will not occur. Provider may, in its discretion, request that Customer sign a written document reflecting the recommendations that the Customer has or has not elected to implement, and such document will serve as express evidence of solutions not implemented by Provider.

ARTICLE NINE – INDEMNIFICATION

9.1 **Indemnification**. Each Party hereby agrees to indemnify, defend and hold the other Party, its affiliates, and their officers, directors, employees, consultants, contractors, sublicensees and agents (collectively, "Representatives") harmless from and against any and all damages or other amounts payable to a third-party claimant, as well as any reasonable attorneys' fees and costs of litigation (collectively, "Damages") arising out of or resulting from any claim, suit, proceeding or cause of action (each, a "Claim") brought by a third party against a Party or its Representatives based on: (a) breach of any applicable law by such indemnifying Party or (b) gross negligence or willful misconduct by such indemnifying Party or its Representatives.

ARTICLE TEN – INSURANCE

10.1 **Insurance**. Provider and Customer will each maintain, at its own expense, reasonable insurance necessary to cover the Party, its assets/property, and employees and contractors. This insurance shall include, at a minimum, the following: (1) general

commercial liability insurance with a limit of no less than $1,000,000.00 per occurrence and $3,000,000.00 in the aggregate; (2) workers' compensation and unemployment insurance coverages as required by any state and federal laws to which each Party is subject; and (3) Cyber Liability insurance with a limit of no less than $1,000,000 per occurrence. All of the insurance policies described herein will not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the other party.

ARTICLE ELEVEN – GOVERNING LAW AND DISPUTE RESOLUTION

11.1 **Choice of Law**. This Agreement shall be governed by the laws of the state of Rhode Island without reference to its conflicts of law. Any claim with respect to the Agreement must be brought within two (2) years after the cause of action arises. The parties hereto irrevocably: (a) agree that any suit, action, or other legal proceeding arising out of this 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.

11.2 **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.

ARTICLE TWELVE – RESTRICTIONS ON USE

12.1 **Restrictions on Use**. Customer and its users agree that they will not:

(a)   Use the Services in a manner that violates any applicable local, state, federal or international law, order, or regulation;

(b)   Take part in any fraudulent activities, including impersonating any person or entity or forging anyone else's digital or manual signature;

(c)   Invade another person's privacy, stalk, harass, or otherwise violate the rights of others;

(d)   Post, transmit, or distribute content that is illegal, threatening, abusive, libelous, slanderous, defamatory, promotes violence, or is otherwise offensive or objectionable in Company's sole discretion; or

(e)   Restrict, inhibit, or otherwise interfere with the ability of any other person to use or enjoy the Services, including, without limitation, by posting or transmitting any information or software which contains a virus, lock, key, bomb, worm, Trojan botnet, cancelbot, or other harmful feature.

ARTICLE THIRTEEN – ASSIGNMENT AND SUBSCONTRACTING

13.1 **Assignment**. Customer shall not assign, transfer, or delegate (including via merger, acquisition, reorganization, or transfer of 51% or more of the ownership interests or assets of a company or person) any interest, obligation, or right under this Agreement without the prior written consent of Provider. Provider may subcontract work to be performed under the Agreement but will retain responsibility for such work.

ARTICLE FOURTEEN – MISCELLANEOUS

14.1 **Compliance**. The Services 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 Services and work product of any Services. Customer will indemnify and hold Provider and its suppliers harmless from any and all costs, expenses, liabilities and claims based upon Customer's failure to comply with this Section.

14.2 **Force Majeure**. Neither Provider nor Customer shall be responsible for a failure to perform due to causes beyond its control, including strikes, riots, terrorism, earthquakes, epidemics, wars, theft, fires, floods, weather, acts of God, or strikes that make it impossible or commercially impractical to perform ("Force Majeure Event"). In the event of such an Force Majeure Event, performance (other than payment of fees) will be excused for the duration of the Force Majeure Event. In the event that a Force Majeure Event exceeds ninety (90) days and one or both parties is not performing its obligations hereunder, either party may, by written notice to the other party, terminate this Agreement.

14.3 **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 Provider and Customer indicated on the signature page of the Agreement. Notices to Provider will be to the attention of the Legal Department.

14.4 **Non-Solicitation**. Provider and Customer agree that at all times while Customer is employing the Services of and for twelve (12) months after the termination of this Agreement, Provider and Customer will not solicit, hire, retain (including as a consultant) any Provider or Customer employee or independent contractor or any former employee or independent contractor who has left employment or contract within twelve (12) months prior to such hiring. This Section does not prevent Provider or Customer from hiring or soliciting any employee, independent contractor, or former employee or independent contractor of the other Party who responds to a general solicitation that is a public solicitation of prospective employees and/or independent contractors and is not directed specifically to the employees or independent contractors of the other Party. This section may be amended, modified, or waived according to the terms of a written addendum agreed to and signed by Provider and Customer. Any amendment, modification, or waiver of this Section shall not be construed as affecting any other provisions of this Agreement.

14.5 **Provider Inventions**. All work products, deliverables, inventions, know-how, drawings, designs, techniques, computer code, software programs, and methodologies and all improvements thereto (whether patentable or unpatentable) made or conceived by

Provider or its agents or employees in the course of providing Services under this Agreement but excluding Customer's Confidential Information (collectively "Provider Inventions"), shall be Provider's property, and subject to payment of all applicable Fees hereunder, Customer shall have the right to use such Provider Inventions; provided, however, that: (i) Customer shall use such Provider Inventions only for its own internal business purposes and (ii) Customer shall not disclose to, or use for the benefit of any other person any such Provider Inventions without Provider's prior written consent.

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

14.7 **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.

14.8 **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.

14.9 **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.

14.10 **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.

14.11 **No Third Party Beneficiaries**. The representations, warranties, covenants and agreements of the Parties set forth herein are not intended for, nor shall they be for the benefit of or enforceable by, any third party or person not a Party hereto.

14.12 **Survival.** The provisions of the Agreement that naturally would survive termination of the Agreement shall survive termination.