**Master Services Agreement**

Introduction

Red Level Group, LLC, ("Red Level") is pleased to provide services under this Master Services Agreement (the "Master Agreement"). The specific information technology services that Red Level will provide, applicable pricing, and payment terms, and other transaction-specific provisions will be agreed upon in a quote (“Quote(s)”). Any and all Quotes are incorporated into this "Master Agreement" by and between Client and Red Level (collectively, the "Parties" or each individually a "Party") for the information technology services specified on such Quotes ("Services"). As used herein, the words "we," "our" and "us" refer to Red Level and the word "Client" refers to the business entity or person (in the event there is no business entity) that has signed any Quote. Any mutually signed addenda, quotes, and statements of work ("SOWs") to this Master Agreement further describe the duties and obligations of the Parties and are hereby incorporated by reference to this Master Agreement. Unless expressly agreed to in writing by Red Level, Red Level rejects any terms and conditions contained in Client's documents. For Quotes that contain for software, hardware, or Resold Services (“Products”), Addendum A, attached hereto and incorporated herein by reference shall apply.

Definitions

Any capitalized term which is defined in this Master Agreement shall have the same meaning when used in any Order Document, unless the language or context requires otherwise. Order Document-specific definitions, if any, shall be included in the applicable Order Document, and shall apply only with respect to such Order Document.

As used in this Master Agreement:

**“Content”** means information, software, Client Data and other data including, without limitation, HTML files, scripts, programs, recordings, sound, music, graphics, and images that Client or any of its Users create, install, upload or transfer in or through a Client device or Client’s network.

**“Client Components”** means the hardware, software, other products, and other Content including, without limitation, those specified in a SOW as being provided by Client.

**“Client Data”** means all data and information about Client’s business(es), customers, employees, operations, facilities, products, markets, assets or finances that Red Level obtains, creates, generates, collects or processes in connection with its performance of Services and is stored in any Client device or on the Client network.

**“Effective Date”** means the date last signed below or upon acceptance of Order Documents by Client.

**“User”** means any entity or individual that receives or uses the Services, or the results or products of the Services, through Client.

Engagement Scope and Deliverables

Services and deliverables will be more specifically delineated in Quotes and statements of work (“SOW(s)”) . Each SOW shall be signed by both Parties and will be deemed to incorporate all of the provisions of this Master Agreement by reference. Each SOW will be a separate agreement between Red Level and Client. In the event of conflict between the Master Agreement and the SOW, the SOW shall control if the Parties specify that a particular provision of the SOW is to supersede a provision of this Master Agreement. In which case the superseding SOW provision(s) shall be applicable only to such SOW and shall be effective for such SOW only if such provision expressly references the applicable Section of this Master Agreement that is to be modified and clearly states that such provision supersedes the conflicting or inconsistent provision in this Master Agreement.

Additionally, Red Level offers various services through various service agreements, including Client Care, App Care, Red Alert, Red Care One and other agreements (collectively "Services Agreements") that may be developed during the term of this Master Agreement. The terms of this Master Agreement are incorporated in those agreements. In the event of conflict between the Master Agreement and the Services Agreement, the Services Agreement shall control if the Parties specify that a particular provision of the Services Agreement is to supersede a provision of this Master Agreement. In which case the superseding Services Agreement provision(s) shall be applicable only to such Services Agreement and shall be effective for such Services Agreement only if such provision expressly references the applicable Section of this Master Agreement that is to be modified and clearly states that such provision supersedes the conflicting or inconsistent provision in this Master Agreement.

Quote, SOW, Services Agreement and/or Addendum shall be referred to collectively as “Order Documents.”

In the event Client wishes to add additional programs, applications or data sources, systems servers, network devices of any kind (hubs, routers, switches), or otherwise requests an expansion in the scope of the Services, then Client shall present its request for such alterations of its network to Red Level for scoping. No alterations will be permitted under this Master Agreement without a signed document (each a “Change Order”).

Third-Party Cyber Attacks

Client acknowledges that Red Level is not an insurer or guarantor of internet security and does not bear responsibility for the criminal and or intentional acts of third parties that seek to compromise Client's internet technology, data, or information. Red Level is not responsible for such acts, including but not limited to actions to damage, disable or impair the operation of, or gain or attempt to gain unauthorized access, receipt, use, copying, alteration, or destruction of or to, any property, devices, software, services, networks, or data by any means, including but not limited to, by hacking, phishing, spoofing or seeking to circumvent or defeat any firewalls, password protection or other information security protections or controls of whatever nature.

Red Level and Client shall maintain insurance each deems necessary to protect their individual interests from such claims, liabilities, or damages which may arise throughout the term of this Master Agreement. Without limiting the generality of the foregoing, such insurance coverage should include, at a minimum, general liability, workers compensation, and cyber-liability coverage with a policy level of $1 million or higher to protect against third-party actions, particularly for data breaches, computer virus attacks, and cyber extortion threats. Client waives any right of subrogation for any claims covered by Client's insurers. The terms of this Section are not insurance advice and not intended to represent the amount of insurance Client needs for their business. Client should consult a licensed insurance agent for assistance.

Client's Responsibilities

The following is a list of responsibilities which Client understands and agrees to be a part of this Master Agreement.

1. Client will designate an individual to be the primary point of contact and an individual to be the secondary point of contact. Support will only be provided to the primary or secondary contacts unless the primary or secondary contact give us written notification. It is critical to the success of this engagement that Client maintains consistent contact with us and actively participate in the process.
2. Client is solely responsible for establishing, maintaining, and safeguarding security measures (including, without limitation, codes, passwords or other features) necessary to restrict access to Client's computers, servers or other equipment used in conjunction with the Services. Client agrees to notify Red Level of any unauthorized use or any other breach of security within twenty-four (24) hours of such unauthorized use being known to Client.
3. Client agrees that it is Client's sole responsibility to pay in accordance with the amount and payment terms of all Order Documents, and any and all invoices sent to Client for the services provided by Red Level.
4. As used in this Master Agreement, “Required Consents” means any consents, licenses, or approvals required to give Red Level, or any person or entity acting for Red Level under this Master Agreement, the right or license to access, use and/or modify in electronic form and in other forms, including, without limitation, derivative works, the Client Components and Content, without infringing the ownership or intellectual property rights of the providers, Red Level, or owners of such Client Components and Content. Client shall obtain and keep in effect all Required Consents necessary for Red Level to perform all of its obligations as set forth in this Master Agreement. Upon request, Client will provide to Red Level evidence of any Required Consent. Red Level will be relieved of its obligations to the extent that they are affected by Client’s failure to promptly obtain and provide to Red Level any Required Consents. Red Level will adhere to reasonable terms and conditions pertaining to Content as notified in writing to Red Level. Red Level agrees not to remove or alter any copyright or other proprietary notice on or in any Content without Client’s consent.
5. Client shall encrypt at the application level Confidential Information, Client Data, and all data that is considered sensitive data or that must be treated as confidential under state or federal law or under Client's contractual obligations to others. This includes, but is not limited to, Social Security Numbers, financial account numbers, driver's license numbers, state identification numbers, Protected Health Information (as that term is defined in Title II, Subtitle F of the Health Insurance Portability and Accountability Act, as amended (HIPAA) and regulations promulgated there under) and Nonpublic Personal Information (as that term is defined in Financial Services Modernization Act of 1999 (Gramm-Leach-Bliley) and regulations promulgated there under).

Payment Terms

Red Level's fees for Services will be billed from Red Level to the address on file. Unless otherwise agreed in writing, payments are due fifteen (15) days from the date of invoice, otherwise known as "net 15" terms, which will be maintained as long as the account is kept current. In the event of a billing dispute, Client will contact Red Level at 248-412-8200 to express concerns or ask questions regarding the charges within ten (10) business days of the invoice date. If Client fails to dispute any charges within ten (10) business days of the invoice date such charges shall be deemed accepted by Client as valid. Red Level, in its sole discretion, may require prepayment for any Services upon notice to Client. Balances in excess of 30 days past due will be subject to a finance charge of 1.5% per month or the maximum allowable by applicable law, whichever is lower. If Client's account becomes past due and Red Level has notified Client verbally or in writing of the past due balance, Red Level may, without advance notice, immediately cease providing any and all further Services and terminate any Product sales hereunder, without any liability for interruption of pending work or damages arising from a breach of this Master Agreement. If Client's account, after default, is referred to an attorney or collection agency for collection, Client is responsible to pay all of Red Level's expenses incurred in such collection efforts including, without limitation, court costs and reasonable attorney's fees.

There shall be added to the charges due an amount equal to all taxes for the Services and products that Client purchases through Red Level. This includes all state and local sales and use taxes based on gross revenue, and any taxes or amount in lieu thereof paid or payable by Red Level. This provision shall not apply to any taxes for which Client is exempt and for which Client has furnished Red Level with a valid tax exemption certificate authorized by the appropriate taxing authority.

If at any time Red Level provides service, labor, or expends time working for Client and there is not a previously agreed to rate; the standard list rate for the particular service being performed shall be the default rate for all service work and labor.

Red Level services are performed during Red Level's normal business hours of 8:00am to 6:00pm, M-F. Services provided outside of Red Level's normal business hours are considered to be on premium time and are rated at 1.5x for after hours and Saturdays and 2.0x for Sundays and the 10 observed Federal holidays.

Ownership and Intellectual Property Rights

Red Level retains all rights, title, and interest in the Services and in all improvements, enhancements, modifications, or derivative works thereof including, without limitation, all rights to patent, copyright, trade secret, and trademark. The Services contain proprietary and confidential information that is protected by applicable intellectual property and other laws, and Client agrees not to disclose such information to any third party without Red Level’s prior permission.

Red Level acknowledges and agrees that all Content, including copyrights, trademarks, database rights and other intellectual property contained in such Content are owned or licensed by Client. Client grants Red Level a license to store, record, transmit and display the Content solely to perform Red Level’s obligations under this Master Agreement.

Termination

This Master Agreement shall be in effect while Red Level performs Services or provides goods to Client. This Master Agreement will remain in force and effective until the natural expiration of all Order Documents. Either Party may terminate an Order Document for convenience if so allowed under the terms of such Order Document. . If terminated for convenience, both Parties shall mutually agree upon the effective date of the termination and Red Level will assist Client in the orderly termination of Services, including timely transfer of the Services to another designated provider. Client agrees to pay Red Level for the rendering of such assistance at Red Level's standard hourly time and materials rates in effect.

Either Party may terminate this Master Agreement and any Order Document if the other Party breaches any material provision of this Master Agreement or any Order Document and fails to cure such breach within thirty (30) days of receipt of notice of such breach from the non-breaching Party (“Cure Period”). The notice from the non-breaching Party shall specify the basis on which the Master Agreement or Order Document is being terminated, including a description of the breach and how the breach can be cured within the Cure Period. If the breaching Party fails to cure the breach within the Cure Period, then termination shall be effective on the thirty-first (31st) day following receipt of such notice by the breaching Party. If the breach is of a type or nature that is not capable of being cured within the Cure Period, termination shall be effective immediately upon receipt of such notice by the breaching Party.

Either Party may terminate this Master Agreement and all Order Documents upon written notice if the other Party ceases conducting business in the normal course, admits its insolvency, makes an assignment for the benefit of creditors, or becomes the subject of any judicial or administrative proceedings in bankruptcy, receivership, or reorganization. Termination shall be effective upon receipt of the written notice.

In the event of termination, Red Level shall invoice the Client for any amounts due and payable for Services rendered to Client prior to the effective date of termination and Client shall pay such invoice within fifteen (15) days of Client's receipt thereof. Upon payment of such invoice, Red Level shall deliver to Client all deliverables completed up to the effective date of such termination and neither Party shall have any further obligation or liability to the other, except as to those terms which are intended to survive this Master Agreement.

Notwithstanding the foregoing, if the Services provided are part of the Red Care, Client Care, or App Care group of services or Mi-Cloud services or for a specified term under an Order Document, Client shall pay the full Service Charges (as defined in the Order Document) remaining under the term as liquidated damages for the early termination, which is the parties' reasonable estimate of fair compensation for the foreseeable losses that might result from any early termination. The amount payable under this paragraph is to be construed as liquidated damages and not as a penalty. Payment of any amount owed pursuant to this paragraph shall be made by Client to Red Level within thirty (30) days from the date the amount is invoiced and becomes due and owing. If the Services provided are not part of the Red Care, Client Care or App Care group of services or Mi-Cloud services, the amount of liquidated damages shall be determined as fifty percent of the recurrent monthly payment fees times the number of months remaining until the end of the term as stated in the Order Documents.

Use of Client Name

Notwithstanding anything herein (or in any other agreement) to the contrary, Red Level shall have the right, upon Client's acceptance of the Order Documents, to reference Client and the general nature of the work on Red Level's web site and in presentations to prospects or clients. Red Level shall also have the right from time to time, to create case studies, presentations, articles, and the like related work ("Materials") and, upon Client's review and approval of the Material's content, to utilize the Materials in public speaking engagements, publications, and other similar uses. In no event will Red Level utilize the Materials or these rights in any way which: 1) misrepresents Red Level's contribution; 2) damages or disadvantages Client's competitive position; or 3) violates Red Level's obligations of confidentiality to Client here under or in any other document.

Warranties

Each Party represents and warrants to the other Party that: (a) it has full power and authority to enter into this Master Agreement; (b) it is in compliance, and will continue to comply during the term of this Master Agreement, with all laws and regulations governing its possession and use of Client Data and its provision or use of the Services; and c) it has the requisite corporate power and authority to execute, deliver and perform its obligations under this Master Agreement.

Client represents and warrants to Red Level that: (a) it owns, or is a licensee of, having the right to sublicense, the Content and that Client has the right to grant Red Level the rights that Client purports to grant in this Master Agreement; (b) Red Level’s possession or use of the Content or Client Data does not and will not infringe on, violate, or misappropriate any patent, trademark, or copyright, or misappropriate any trade secret or other proprietary right of any third party; and (c) it will not use, nor will it allow any third parties under its control to use, the Services for high risk activities, such as the operation of nuclear facilities, air traffic control, or life support systems, where the use or failure of the Services could lead to death, personal injury, or environmental damage.

Red Level represents and warrants to Client that the Services shall be performed in a good, workmanlike, professional, and conscientious manner by experienced and qualified employees of Red Level according to the generally accepted standards of the industry to which the Services pertain. For Services containing a deliverable, such Services will be deemed accepted by Client if not rejected in a reasonably detailed writing within five (5) days of submission to Client, or as otherwise identified in the applicable Order Document. In the event the Services provided by Red Level are not in conformance with this warranty, Client must provide written notice to Red Level within five (5) days after the performance of the Services and such notice will specify in reasonable detail the nature of the breach. Upon confirmation of the breach, Red Level will use commercially reasonable efforts to take the steps necessary to correct the deficiency at no charge to Client. This is Client’s sole and exclusive remedy for breach of this warranty.

**EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, NEITHER PARTY MAKES ANY OTHER REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, AND ANY WARRANTIES ARISING FROM THE USAGE OF TRADE OR COURSE OF PERFORMANCE. NO EMPLOYEE, AGENT OR REPRESENTATIVE OF RED LEVEL IS AUTHORIZED TO MAKE ANY ADDITIONAL OR OTHER REPRESENTATIONS OR WARRANTIES ON BEHALF OF RED LEVEL. CLIENT IS NOT RELYING ON ANY OTHER REPRESENTATIONS OR WARRANTIES. IN ADDITION, CLIENT UNDERSTANDS AND ACKNOWLEDGES THAT THE INTERNET IS NOT A SECURE MEDIUM, MAY BE INHERENTLY UNRELIABLE AND SUBJECT TO INTERRUPTION OR DISRUPTION AND MAY BE SUBJECT TO INADVERTENT OR DELIBERATE BREACHES OF SECURITY, FOR WHICH RED LEVEL CANNOT BE HELD LIABLE.**

Limitation of Liability

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL (AND RED LEVEL’S SUPPLIERS AND LICENSORS WILL NOT) BE LIABLE TO THE OTHER PARTY OR ANY OTHER THIRD PARTY CLAIMING THROUGH A PARTY FOR ANY INCIDENTAL, CONSEQUENTIAL, SPECIAL, INDIRECT, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, LOSS OF GOODWILL, LOST OR DAMAGED DATA, INVESTMENTS MADE, AND LOSS OF BUSINESS OPPORTUNITY OR INTERRUPTION) THAT THE OTHER PARTY MAY INCUR OR EXPERIENCE IN CONNECTION WITH THIS MASTER AGREEMENT, ANY ORDER DOCUMENT, OR THE SERVICES, HOWEVER CAUSED AND UNDER WHATEVER THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, BREACH OF CONTRACT, TORT, STRICT LIABILITY AND NEGLIGENCE), EVEN IF (A) SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, (B) DIRECT DAMAGES DO NOT SATISFY A REMEDY, OR (C) A LIMITED REMEDY SET FORTH IN THIS MASTER AGREEMENT OR ANY ORDER DOCUMENT FAILS OF ITS ESSENTIAL PURPOSE.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, RED LEVEL’S TOTAL CUMULATIVE LIABILITY UNDER OR RELATING TO THIS MASTER AGREEMENT AND THE SERVICES, REGARDLESS OF THE NATURE OF THE OBLIGATION, FORM OF ACTION OR THEORY OF LIABILITY (INCLUDING, WITHOUT LIMITATION, CONTRACT, TORT, STRICT LIABILITY, AND NEGLIGENCE), SHALL BE LIMITED IN ALL CASES TO AN AMOUNT WHICH SHALL NOT EXCEED, IN THE AGGREGATE, FEES PAID BY CLIENT TO RED LEVEL DURING THE ONE (1) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO LIABILITY FOR THE SERVICES THAT ARE THE BASIS OF THE PARTICULAR CLAIM AND UNDER THE APPLICABLE ORDER DOCUMENT.

EACH PARTY ACKNOWLEDGES THAT THE FOREGOING DAMAGES EXCLUSIONS AND LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION REFLECTS THE ALLOCATION OF RISK SET FORTH IN THIS MASTER AGREEMENT AND ACKNOWLEDGES THAT THE OTHER PARTY WOULD NOT HAVE ENTERED INTO THIS MASTER AGREEMENT ABSENT SUCH EXCLUSIONS AND LIMITATIONS OF LIABILITY OR THAT THE PRICES PAID BY CLIENT FOR THE SERVICES WOULD HAVE BEEN HIGHER.

Recruitment of Personnel

During the Term of the Parties' engagement and thereafter for a period of twelve (12) months, each Party acknowledges and agrees that it shall not solicit, entice, hire, seek to employ, request, advise or encourage any employee of the other to terminate his, her, or their employment. The Parties acknowledge and agree that any violation of this paragraph will be considered a material breach of this Master Agreement and, in addition to the other remedies that may be available, that the breaching Party will be required to immediately pay upon any such violation of this paragraph an amount equal to 100% of that employee’s current gross compensation in the last twelve (12) months. The Parties further acknowledge and agree that the non-breaching Party’s remedy at law will not be sufficient to protect it from irreparable harm suffered in the event of breach of this paragraph and, accordingly, the non-breaching Party shall be entitled to seek injunctive relief and/or specific performance. Finally, the Parties acknowledge and agree that no claim or cause of action arising out of this engagement or otherwise shall constitute a defense to the enforcement of the provisions of this paragraph.

Office Accommodations and Cooperation

When Red Level personnel perform services at Client's premises, Client shall provide a safe, non-threatening environment. Service may be denied if the environment is deemed unsafe by Red Level. Client shall also provide reasonable accommodations and services, including without limitation office space, reasonable use of computers, telephone facilities, documentation, and other related material and equipment as reasonably requested by Red Level. Client shall also furnish Red Level with all the data and information required by Red Level for the engagement, as well as reasonable access to required personnel. Client will provide the resources mutually agreed upon during the development of the detailed work plan.

Confidentiality

In the event the parties have signed a Confidential Disclosure Agreement ("CDA"), that agreement shall govern the relative rights of the Parties concerning confidential information, and the following paragraphs shall supplement the terms of the CDA.

Each Party acknowledges that it may learn or come into possession of confidential and/or proprietary information of the other, and thus will use the same care and discretion to avoid disclosure of any Confidential Information as it uses with its own similar information that it does not wish to disclose, publish or disseminate (but in no event less than a reasonable degree of care). A Receiving Party shall not disclose such confidential information to any non-company employee and/or persons not involved with this engagement.

As used in this Master Agreement, "Confidential Information" means nonpublic information that a Party (the “Disclosing Party”) designates as being confidential or which, under the circumstances surrounding disclosure ought to be treated as confidential. Without limiting the generality of the foregoing, Confidential Information shall include, without limitation, information relating to released or unreleased Disclosing Party software or hardware products, the marketing or promotion of any Disclosing Party product, Disclosing Party's business policies or practices, and information received from others that Disclosing Party is obligated to treat as confidential. Confidential Information disclosed to the other Party (the “Receiving Party”) by any Disclosing Party Subsidiary and/or agents is covered by this Master Agreement. Confidential Information also includes all tangible materials containing Confidential Information, including, without limitation, written or printed documents and computer disks or tapes, whether machine or user readable, and know-how acquired as a result of contractual relationships. Further, Confidential Information includes commercial secrets, personal secrets, artistic secrets, and state secrets. The terms Confidential Information and trade secrets are often used interchangeably but strictly speaking, trade secrets are a subset of Confidential Information in the context of business, commerce, or trade. Examples of trade secrets can include manufacturing processes, recipes, engineering and technical designs and drawings, product specifications, customer lists, business strategies and sales and marketing information. Confidential Information also includes technical information; methods; processes; formulae; compositions; inventions; machines; computer programs; research projects and business information as well such as customer lists; pricing data; sources of supply; and marketing, production, or merchandising systems or plans.

Confidential Information shall not include information or materials that (i) were, on the Effective Date, generally known to the public; or (ii) become generally known to the public after the Effective Date other than as a result of the act or omission of the Receiving Party; or (iii) were rightfully known to the Receiving Party prior to that party receiving same from the Disclosing Party; or

(iv) are or were disclosed by the Disclosing Party to a third party generally without restriction on disclosure; or (v) the Receiving Party lawfully received from a third party without that third party's breach of agreement or obligation of trust; or (vi) are independently developed by the Receiving Party.

Notwithstanding the foregoing, the Receiving Party may disclose the Disclosing Party's Confidential Information if such disclosure is in response to a valid order by a court or other governmental body or is otherwise required by law to do so. Upon receipt of the valid court order, the Receiving Party shall notify the Disclosing Party of the requirement promptly in writing so that the Disclosing Party may seek a protective order or other appropriate remedy. If a protective order or other remedy is not obtained, or if the Disclosing Party waives in writing compliance with the terms hereof, then Receiving Party shall furnish only that portion of the information which Receiving Party is advised by written opinion of counsel is legally required and to exercise reasonable efforts to obtain confidential treatment of such information. Further, the Receiving Party may disclose Confidential Information if necessary for to obtain the benefits of this Master Agreement and/or to analyze or to review or to establish the rights or obligations of either Party under this Master Agreement; provided the receiving person or entity is made subject to obligations that are sufficient to maintain the confidentiality of the Confidential Information.

Upon termination of this Master Agreement or upon Discloser’s request at any time, Recipient agrees to promptly return to Discloser all copies of Confidential Information. If return is impossible as to any portion of the Confidential Information, then Recipient shall certify to Discloser promptly that all such Confidential Information of Discloser, including all copies thereof, has been totally and permanently destroyed. Red Level will return to the Client, all Client Data in its possession at the date of termination in its then-existing format and on its Client-supplied media, however, Red Level may keep a copy in accordance with its record retention policy. Any conversion of format or media performed by Red Level in order to discharge its obligations under this Section shall be at Client’s expense.

The Parties acknowledge and agree that a breach of this Master Agreement by either Party will cause continuing and irreparable injury to the other’s business as a direct result of any such violation, for which the remedies at law will be inadequate, and that Discloser shall therefore be entitled, in the event of any actual or threatened violation of this Master Agreement by Recipient, and in addition to any other remedies available to it, to seek to obtain a temporary restraining order and to injunctive relief against the other Party to prevent any violations thereof, and to any other appropriate equitable relief.

The obligations set forth in this Section shall apply during the term of this Master Agreement and for a period of one (1) year thereafter.

Force Majeure

Except for Client’s payment obligations, neither Party shall be liable for failure to perform any of its obligations under this Master Agreement and accompanying Order Documents during any period in which such performance is delayed by accidents beyond its reasonable control, such as, but not limited to pandemics, fire, flood, or other natural disasters, or, embargo, court order, riot, or other intervention of any government authority, provided that the delayed Party notifies the other Party of such delay. If a Party’s performance is delayed for these reasons for a cumulative period of sixty (60) days or more from the date of such notice, either may terminate this Master Agreement by giving written notice.

Indemnity

Subject to the terms and conditions in this Master Agreement, Red Level will, at its cost, (i) defend Client and its officers, directors, shareholders, employees, agents, successors and assigns (collectively the “Client Indemnified Parties”) from and against any claim, suit, action, or proceeding (threatened or otherwise) (each a “Claim”) made or brought by a third party against Client Indemnified Parties to the extent based upon (a) any breach by Red Level of any of it representations and warranties; (b) real property damage or personal injury, including death, solely and directly caused by Red Level’s employees or contractors in the course of performance under this Master Agreement; (c) any breach of its obligations in the Confidentiality Section by Red Level but only with respect to the disclosure of Confidential Information and to the extent the disclosure is the result of actions predominantly attributable to Red Level; and (d) any allegation that Client’s receipt of the Services under this Master Agreement infringes any of such third party’s copyrights, or any such third party’s patents issued in the United States as of the Effective Date, or misappropriates any of such third party’s trade secrets (each an “IP Claim”); and (ii) Red Level shall pay any final award of damages (or settlement amount approved by Red Level in writing and) paid to the third party that brought any such Claim.

Client will indemnify, defend and hold harmless Red Level and its officers, directors, shareholders, employees, agents, successors and assigns from any and all liabilities, damages, costs and expenses, including reasonable attorney’s fees and expenses, arising out of any claim, suit or proceeding (threatened or otherwise) made or brought by a third party against Red Level or its officers, directors, shareholders, employees, agents, successors and assigns based upon (a) any breach by Client of any of it representations and warranties; (b) real property damage or personal injury, including death, directly caused by Client; (c) any breach by Client of its obligations in the Confidentiality Section but only with respect to the disclosure of Confidential Information and to the extent the disclosure is the result of actions predominantly attributable to Client; (d) any breach by Client of its obligations under the Client Responsibility Section; and (e) any claim that Red Level’s possession, storage, or transmission of the Content or possession or use of the Client Components, infringes on, violates, or misappropriates any patent, copyright, trademark, service mark, trade secret or other intellectual property or proprietary rights of such third party.

A Party (or other person) having a right to defense and indemnification under this Master Agreement (“Indemnified Party”) that desires such indemnification shall tender to the Party having an obligation to defend and indemnify under this Master Agreement (“Indemnifying Party”) sole control of the defense and settlement of the Claim for which indemnity is sought, provided that the Indemnified Party shall notify the Indemnifying Party promptly in writing of each Claim and the Indemnified Party shall give the Indemnifying Party information and assistance to defend and settle the Claim. The Indemnified Party, at its own expense, shall have the right to employ its own counsel and to participate in any manner in the defense against any claim for which indemnification is sought under this Section 10. The Indemnified Party shall cooperate in all reasonable respects with the Indemnifying Party and its attorneys in the investigation, trial and defense of any Claim. In no event shall either Party make any settlement of a Claim, including without limitation, any settlement that involves a remedy relating to admission of liability by, injunctive relief against, or other affirmative obligations by the Indemnified Party without the other Party’s prior written consent, which consent will not be unreasonably withheld, delayed, or conditioned.

At any time after notice of an IP Claim, or if Red Level believes there is a basis for an IP Claim, Red Level has the right, at Red Level’s sole option and expense, to either (a) procure the right for Client to continue receiving the Services as provided in this Master Agreement, or (b) replace or modify the applicable Service with a service that has substantially similar functionality and that Red Level believes would not be subject to the IP Claim. If Red Level deems (a) or (b) not feasible or not commercially reasonable, Red Level has the right to terminate the applicable ORDER DOCUMENT. In the event of any such termination, Red Level will refund to Client the unused portion of any amounts paid by Client for the affected Service. In addition, upon any such termination, Client shall cease the use of the applicable Service.

Notwithstanding anything to the contrary, Red Level shall have no obligations or liability under this Section if the IP Claim is based upon, arises out of, or is related to, in whole or in part, or if any of the following apply: (a) the combination of the applicable Service with any product, software, solution, or service not entirely developed and provided by Red Level, (b) use of the applicable Service outside the scope of the licenses or rights set forth in this Master Agreement or in violation of any law or any restriction or limitation set forth in this Master Agreement, (c) Client’s failure to comply with Red Level’s direction to cease any activity that in Red Level’s reasonable judgment may result in an IP Claim, (d) any allegation by a third party that does not specifically reference a Red Level Service, or that does not reference a feature of function of a Red Level Service, or (e) any IP Claim for which Client does not promptly tender control of the defense thereof to Red Level.

THE TERMS IN THIS SECTION 10 (INDEMNIFICATION) SHALL BE CLIENT’S SOLE AND EXCLUSIVE REMEDY AND RED LEVEL’S SOLE AND EXCLUSIVE LIABILITY AND OBLIGATION WITH RESPECT TO THIRD PARTY CLAIMS OF INFRINGEMENT OR MISAPPROPRIATION OF THIRD PARTY INTELLECTUAL PROPERTY RIGHTS. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, RED LEVEL SHALL NOT HAVE ANY OBLIGATION TO DEFEND OR INDEMNIFY CLIENT FOR THIRD PARTY CLAIMS.

Dispute Resolution

This paragraph shall not apply to any claims made by Red Level, its attorneys, agents, and representatives relating to collection of fees and charges, or other collection obligations owed by the client to Red Level.

Subject to the right of either Party to seek injunctive or equitable relief at any time, if a dispute arises out of or relates to this Master Agreement or its breach and the dispute cannot be settled through direct discussions among themselves within a reasonable period time, the Parties shall first endeavor to settle the dispute in an amicable manner by mediation under the Commercial Mediation Rules of the American Arbitration Association before resorting to arbitration. In the event that the Parties are unable to resolve the dispute, such dispute shall be resolved by binding arbitration under the then applicable arbitration rules of the American Arbitration Association. The arbitration proceedings shall take place in Detroit, Michigan. Requests for arbitration may be made by either Party by written notice to the other Party. If, within ten (10) days of issue of the request for arbitration, the Parties agree to determination of the matter by a named single arbitrator, it shall be determined by the arbitrator. If, within ten (10) days of issue of a request for arbitration, the Parties do not agree on a single arbitrator for determination of a specific dispute, such dispute shall be determined by a panel of three (3) arbitrators, one to be appointed by each Party, and such arbitrators appointed by each Party to appoint a third arbitrator to act as chairman of the panel. The costs of the chairman of the arbitration panel, or of a single arbitrator, shall be borne equally by the Parties. Each Party shall pay the costs of an arbitrator appointed by that Party whenever a panel of arbitrators is engaged. Each Party shall be responsible for their own attorneys' fees and related expenses, unless the arbitrator(s) award recovery of such fees and expenses to the prevailing Party. Each party agrees that he or she will not disclose the existence, content, or results of any mediation or arbitration without the prior written consent of all parties and that the proceedings of the arbitral tribunal shall be confidential.

Miscellaneous

This Master Agreement shall be governed and construed in accordance with the laws of the State of Michigan exclusively and without reference to principles of conflict of laws. Any action or claim to enforce this Master Agreement shall be held and resolved in the forum of the State of Michigan. In the event that any portion of this Master Agreement is held to be invalid or unenforceable, the invalid or unenforceable portion shall be construed in accordance with applicable law as nearly as possible to reflect the original intentions of the parties set forth herein and the remainder of this Master Agreement shall remain in full force and effect. No waiver of any breach or default here under shall be deemed to be a waiver of any preceding or subsequent breach or default. Red Level may assign or transfer this Master Agreement, any Quotes, SOW, Service Agreements and Addenda, and associated agreements freely without Client approval.

Excluding any third party claims, claims under this Master Agreement must be initiated not later than two (2) years after the claim

arose.

There are no third-party beneficiaries to this Master Agreement.

The Parties to this Master Agreement are independent contractors.

This Master Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

Red Level may amend, change, or alter this Master Agreement. Such amendment, change or alteration shall become effective upon delivery.

Any legal action or proceeding arising out of or related to this Master Agreement must be brought in Oakland County, Michigan. Each party consents to the personal jurisdiction of these courts and waives any claim or defense based on any alleged lack of jurisdiction, improper venue, forum non conveniens, or any similar basis. No provision of the Master Agreement shall be deemed waived, amended or modified by either party, unless such waiver, amendment or modification be in writing signed by the party against whom it is sought to enforce the waiver, amendment or modification. Should any provision of this Master Agreement be invalid, or unenforceable, the remainder of the provisions will remain in effect.

The parties are independent contractors of each other, and no partnership or joint venture is intended or created by this Master Agreement.

Unless otherwise provided, notices to either Party will be in writing to the address indicated on the Order Documents, or as later amended, and deemed effective when received.

Client agrees to comply with all export and re-export control laws and regulations as may be applicable to any transaction hereunder, including, without limitation, the Export Administration Regulations promulgated by the United States Department of Commerce, the International Traffic in Arms Regulations promulgated by the United States Department of State, and any of the regulations promulgated by the Office of Foreign Assets Control of the United States Department of the Treasury. Client shall be solely responsible for such compliance with respect to Client Data and the Content that it provides to Red Level.

This Master Agreement shall inure to the benefit of and be binding upon the successors and permitted assignees of the respective Parties.

Red Level may engage subcontractors to perform services under any Order Document. Except as provided herein, Red Level shall be fully responsible for the acts of all subcontractors to the same extent it is responsible for the acts of its own employees.

In the event that any of the provisions of this Master Agreement are declared or held by a court of competent jurisdiction invalid, illegal or unenforceable, the unaffected portions of this Master Agreement shall be unimpaired and remain in full force and effect. In the event of such a ruling, the Parties shall negotiate in good faith a substitute for the provision declared invalid, illegal or unenforceable.

Neither Party shall be held accountable nor incur any additional costs due to discrepancies, errors, omissions in documentation or other information supplied by the other Party.

Each Party acknowledges that this Master Agreement has been the subject of active and complete negotiations, and that this Master Agreement should not be construed in favor of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Master Agreement.

The descriptive headings of the Sections and subsections of this Master Agreement are for convenience only, do not constitute a part of this Master Agreement, and do not affect this Master Agreement’s construction or interpretation.

Those provisions that by their nature should survive termination of this Master Agreement, will survive termination. Without limiting the generality of the foregoing statement, the Sections: Ownership and Intellectual Property; Warranties; Indemnification); and Limitation of Liability shall survive any termination of this Master Agreement.

By executing and delivering this Master Agreement, Client and the person signing on behalf of Client agree and affirm that Client and the person signing on behalf of the Client are fully authorized to enter into this enforceable and binding contract on behalf of Client. The foregoing terms and conditions shall prevail notwithstanding any variance with the terms and conditions of any Addendum or Quote.

**Addendum A: Terms Specific to Product Sales Only**

This Addendum A: Terms Specific to Product Sales Only (“Addendum A”) applies to any order for software, hardware, or Resold Services (“Products”) made by Client, for its own internal use and not for resale, pursuant to a quotation issued by Red Level (“Quotation”). As used in this Addendum A, the term “Resold Services” refers to services, which although ordered from Red Level, are procured from and supplied by a third party (i.e., Red Level does not directly perform or control the work) and are therefore considered Product. Any such orders shall be subject to the terms and conditions of this Addendum A.

* **Product Returns and Warranty Assistance.**
  + Client acknowledges that Red Level is reselling all Products purchased by Client and that Products are manufactured and/or delivered by a third party.
  + To the extent available, Red Level shall pass through to Client the manufacturer’s warranties for each Product and agrees to facilitate the manufacturer’s return policies. In no event will Red Level provide return or warranty coverage beyond that provided by the manufacturer. Products that are accepted for return are subject to the manufacturer’s applicable restocking fee(s).
  + Client acknowledges that the terms and conditions governing the use of Products shall be solely between Client and the manufacturer of such Products.
* **Product Use and Product Warranty Disclaimer.** Client will not use the Products for use in life support, life sustaining, nuclear or other applications in which failure of such Products could reasonably be expected to result in personal injury, loss of life, or catastrophic property damage. Client agrees that Red Level is not liable for any claim or damage arising from such use.

**RED LEVEL MAKES NO WARRANTIES OF ANY KIND WITH REGARD TO THE PRODUCTS. RED LEVEL DISCLAIMS ALL REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, AS TO THE PRODUCTS, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT.**

* **Shipment and Risk of Loss for Product Sales**. All shipments of Products to Client will be FOB point of shipment. Insurance coverage, freight charges, transportation costs, and all other expenses applicable to shipment to Client’s identified point of delivery will be the responsibility of Client. Risk of loss will pass to Client upon delivery of the Products to the common carrier (regardless of who pays such common carrier) or Client’s representative at the point of shipment.
* **Product Security Interest.** Client grants Red Level a security interest in the Products detailed in each Quotation, as security for payment in full. Client authorizes Red Level to file and/or record any documents it deems necessary to perfect this security interest.
* **Permitting Compliance for Product Sales.** Client will obtain all licenses, permits, and approvals required by any governmental agency, foreign or domestic, having jurisdiction over the transaction.
* **Price and Payment.** The prices set forth in any Quotation are exclusive of all taxes, duties, licenses, and tariffs, payment of which shall be Client’s obligation. Prices quoted are firm until the expiration date listed on the quotation unless otherwise specified in the Quotation if approval and any required payments are received before the expiration date. You agree that Red Level may invoice for products prior to completion of delivery. Your company agrees to pay the balance within the credit terms stated on the invoice. When relevant, leasing option is subject to credit approval and is an approximate monthly payment for hardware, software and services based on contract type and term in months. Taxes, fees, and insurance are not included. Any change in the amount financed will change this information. If leasing option is not selected or is not available on products and if products are over $10,000 or are drop shipped directly to you, Red Level requires a 100% payment deposit prior to ordering equipment or materials. In the event Client chooses to finance its purchase using a third party, Client remains liable for payment to Red Level until Red Level receives complete payment from such third party. All payments will be made in US currency. Client will pay interest in the amount of one and one-half percent (1.5%) per month, or the maximum allowed by law whichever is lower, on any outstanding balance owed.
* **Export**. Client agrees to comply with all export and re-export control laws and regulations as may be applicable to any transaction hereunder, including, without limitation, the Export Administration Regulations promulgated by the United States Department of Commerce, the International Traffic in Arms Regulations promulgated by the United States Department of State, and any of the regulations promulgated by the Office of Foreign Assets Control of the United States Department of the Treasury. Client covenants that it will not, either directly or indirectly, sell, (re)export (including, without limitation, any deemed (re)export as defined by applicable law), transfer, divert, or otherwise dispose of any Product, or related software or technology, to: (i) any country or region of a country (or nationals thereof) subject to antiterrorism controls, or a U.S. embargo, (ii) any destination prohibited (without a valid export license or other authorization) by the laws or regulations of the United States, or (iii) any person, entity, vessel, or aircraft identified on the Consolidated Screening List, a downloadable file of which is accessible at http://export.gov/ecr/eg\_main\_023148.asp (or utilize any such person, entity, vessel, or aircraft in connection with the activities listed above), without obtaining prior authorization from the competent government authorities, as required by the above-mentioned laws and regulations. Client certifies, represents and warrants that no Product shall be used for any military or defense purpose, including, without limitation, being used to design, develop, engineer, manufacture, produce, assemble, test, repair, maintain, modify, operate, demilitarize, destroy, process, or use military or defense articles. Notwithstanding any sale of Products by Red Level, Client acknowledges that it is not relying on Red Level for any advice or counseling on export control requirements. Client agrees to indemnify, to the fullest extent permitted by law, Red Level from and against any fines, penalties and reasonable attorney fees that may arise as a result of Client’s breach of this Section.
* **Cancelation.** The purchase of Products may be canceled by Client only upon written approval of Red Level and upon terms that indemnify Red Level against all losses related to such cancelation.
* **Limitation of Liability. NO MONETARY RECOVERY IS AVAILABLE FROM RED LEVEL FOR WARRANTY CLAIMS. IN ADDITION, IN NO EVENT WILL RED LEVEL’S LIABILITY TO CLIENT EXCEED THE PURCHASE PRICE PAID FOR THE PRODUCT THAT IS THE BASIS FOR THE PARTICULAR CLAIM. RED LEVEL WILL NOT, IN ANY EVENT, BE LIABLE FOR ANY SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, OR PUNITIVE DAMAGES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, LOST OR DAMAGED DATA, AND LOSS OF BUSINESS OPPORTUNITY), HOWEVER CAUSED, ARISING OUT OF THE USE OF OR INABILITY TO USE THE PRODUCT, OR IN ANY WAY CONNECTED TO THIS ADDENDUM A, EVEN IF RED LEVEL HAS BEEN ADVISED OF SUCH DAMAGES AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY. THE FOREGOING LIMITATION OF LIABILITY WILL APPLY WHETHER ANY CLAIM IS BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE, INFRINGEMENT OR OTHER TORT, BREACH OF ANY STATUTORY DUTY, PRINCIPLES OF INDEMNITY, CONTRIBUTION, OR OTHERWISE.**
* **Survival.** Those provisions that by their nature should survive termination of this Addendum A, will survive termination. Without limiting the generality of the foregoing statement, Sections 1, 2, 6, 7, and 9 shall survive any termination of this Master Agreement

**For questions regarding this agreement, please email** [**legal@redlevelgroup.com**](mailto:legal@redlevelgroup.com)