



TULSACONNECT
MASTER SERVICES AGREEMENT

This Master Services Agreement (“MSA”), effective as of the date of the last signature below (the “Effective Date”), is between MBO Data LLC, d/b/a TulsaConnect (“TC”), and the customer identified in the signature block below (“Customer”).

1. Definitions.

- (a) “Affiliate” means any entity controlled by, controlling, or under common control with a party.
- (b) “Compliance Standards” means regulations and standards with which Customer is obligated to comply, including, without limitation, HIPAA (Health Insurance Portability & Accountability Act), SOX (Sarbanes Oxley Act), (GLBA) Gramm Leach Bliley Act, HITECH (Health Information Technology for Economic & Clinical Health), and PCI DSS (Payment Card Industry Data Security Standard), depending upon what industry Customer is operating within or what type of data Customer processes or handles (e.g., medical or financial).
- (c) “Confidential Information” means any confidential, proprietary or non-public information disclosed by either party to the other party, either directly or indirectly, in writing, orally or by inspection of tangible objects (including without limitation business information, technical information, concepts, designs, documents, MSAs, agreements, Service Addendums, Order Forms, pricing, invoices, bills, prototypes or samples), which is received from the other party for the purpose of providing or receiving Services or Products, which is marked confidential, is noted as being confidential or is manifestly confidential, as it fits into a category contemplated above.. Confidential Information may also include third party confidential information. Confidential Information shall not include any information which (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party’s files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party’s obligations of confidentiality; or (v) is independently developed by the receiving party without use of or reference to the disclosing party’s Confidential Information, as shown by documents and other competent evidence in the receiving party’s possession.
- (d) “Control” means ownership, either direct or indirect, of more than 50% of the equity interest entitled to vote for the election of directors or equivalent governing body.
- (e) “Customer Provided Equipment” means any server, switch, or other equipment provided by Customer, including equipment owned by Customer or owned by a third party and leased to Customer.
- (f) “Documentation” means the specifications, user manuals, and other written materials, including on-line materials, for the Products provided or made available to Customer.
- (g) “Hardware” means all tangible products, servers, circuit boards, components, and equipment provided to Customer by TC under this MSA or Service Addendum, Order Form, or previously provided to Customer by TC.
- (h) “High Risk Use” means use of Software in any application or situation where the Software’s failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage.

- (i) "NDA" means a confidentiality, non-disclosure, or similar agreement.
- (j) "Products" means Hardware or Software as applicable and includes any Third-Party Products.
- (k) "Order Form" means the quoted list of Products and Services available to Customer under a Service Addendum and their applicable prices.
- (l) "Services" means any services provided by TC to Customer, including training, on-site engineering (e.g., installation or configuration), or other professional services, and any support services.
- (m) "Service Addendum" means TC's standard service or purchase addendum forms, a valid TC Service or purchase proposal, or other such documents (each a "Service Addendum").
- (n) "Service Addendum Effective Date" means the effective date of the Service or purchase.
- (o) "Software" means all computer programs, including Software Apps, together with all ISUs, Releases, and any other new features, functionality, or enhancements of the computer programs, provided to Customer by TC under this MSA or a Service Addendum, Order Form, or previously licensed to Customer by TC. Software may be provided on a standalone basis or as part of a bundle, or as embedded, or for embedding, in the Hardware. Software may be provided via shipment or download or made available via a hosted service. Unless otherwise agreed, Software is licensed and not sold to Customer.
- (p) "Software App" means a discrete, loadable software module made available by TC that provides additional features or functionality.
- (q) "Storage Devices" means hard drives, USB drives, or other storage devices.
- (r) "TC Provided Equipment" means equipment provided by TC.
- (s) "Technical Services" means technical support services provided in connection with a Service including, but not limited to, remote or on-site technical support and phone or email support to upgrade software or troubleshoot local network or equipment issues.
- (t) "Third Party Product" means any third-party hardware or software provided to Customer by TC and which is designated by TC as a third-party product.
- (u) "Third Party Services" means services provided by one or more third parties.
- (v) "Transition Period" means the thirty (30) day period immediately following the effective date of termination in which Customer may elect to access and export its data.
- (w) "Vendors" means software vendors.

2. Service.

- (a) TC will provide Service to Customer subject to the terms and conditions of this MSA. Customer may opt to purchase additional Services, Hardware or Software from TC, each of which is subject to terms and conditions in addition to the Services set forth herein (each a "Service Addendum"). Each Service Addendum subscribed to by Customer for a Service shall incorporate and be subject to the terms and conditions of this MSA:
- Technical Support Services Addendum
 - Private Cloud Hosting Service Addendum
 - Office 365 Service Addendum
 - Co-Location Service Addendum
 - Short-Term Equipment Storage & Drop Ship Addendum
 - Master Purchase Addendum

If not provided with the MSA, these Service Addendums can be found on the TC website at: <https://www.tulsaconnect.com/caa.php>

- (b) Customer will not use any Service in violation of any community standards, accepted Internet policy, applicable terms of use, privacy policies, laws, or regulations of local, state, or federal governments or agencies, or international treaties. Actions such as, but not limited to, misuse of copyrighted, patented, licensed, or protected materials, use of the Service for defamatory, threatening or obscene purposes, mishandling of sensitive or personal information, and the mass distribution of any message on an intrusive basis to users of the Internet are prohibited. This prohibition extends to the sending of unsolicited mass mailings from another service, which in any way implicates the use of the Service, TC equipment, or any TC provided e-mail or IP addresses. Violations of this section are grounds for termination of the Service. Additional terms may apply based on the Service type as outlined in the Acceptable Use Policy (AUP) available on the TC website and which is incorporated herein by reference.
- (c) Should Customer subscribe to Technical Services, Customer is subject to the Technical Support Services Addendum.
- (d) Should Customer subscribe to Private Cloud services, Customer is subject the Private Cloud Hosting Service Addendum.
- (e) Should Customer subscribe to Office 365 services, Customer is subject to the Office 365 Service Addendum.
- (f) Should Customer subscribe to co-location services, Customer is subject to the Co-Location Service Addendum.
- (g) Should Customer subscribe to short-term equipment storage and drop ship service, Customer is subject to the Short-Term Equipment Storage and Drop Ship Addendum.
- (h) Should Customer purchase Hardware or Software from TC, Customer is subject to the Master Purchase Addendum.

3. Term.

- (a) This MSA commences on the Effective Date and continues until the expiration or termination of the last remaining Service Addendum between the parties. Any provisions of this MSA that, in order to fulfill the purposes of such provisions, need to survive the termination or expiration of this MSA, shall be deemed to survive for as long as necessary to fulfill such purposes.

4. Security.

- (a) The Internet is not a secure network. Confidential or sensitive information should not be transmitted over the Internet unprotected. TC is not responsible for loss or theft of information transmitted over the Internet. TC encourages Customer to employ VPN, SSL, SSH, or other data encryption technologies when conducting business over the Internet.
- (b) TC may employ reasonable security measures in connection with Service and on TC equipment (routers, switches, servers, and other equipment), including, in its discretion, security patches, IP access lists, antivirus software, multifactor authentication, and other measures. TC will not be responsible for security on Customer Provided Equipment or equipment rented to Customer by TC unless TC is specifically contracted to do so by the Customer as part of a Service Addendum. If at any time TC determines that security measures, including, without limitation, patches, are necessary to protect the integrity of the Service, TC may implement such security measures without communicating in advance with the Customer and without liability to Customer. TC will use reasonable commercial efforts to inform Customer of such security measures.
- (c) TC performs scanning of inbound e-mail messages destined for TC owned e-mail servers for spam, viruses, other malware, and may scan mail destined for Customer Provided Equipment or servers rented to Customer by TC if specifically contracted to do so. TC may implement scanning of outbound e-mail messages upon notice to Customer via TC's standard notification procedures. TC makes no warranties as to the effectiveness of inbound or outbound scanning and accepts no liability should Customer devices become infected.
- (d) Customer is responsible for employing reasonable security measures on Customer Provided Equipment, including antivirus software, anti-malware and intrusion prevention software, multi-factor authentication, and other measures.
- (e) TC provides reasonable physical security measures for TC data center facilities, including electronic security measures, biometric access controls, and locked enclosed racks. Access to our facilities is limited to those who have a TC escort. When possible, access to TC data center facilities outside of business hours will be scheduled with TC personnel in advance.
- (f) Customer shall provide updated contact information for approved technical personnel any time there is a modification of such information. TC shall be entitled to rely on information provided by Customer without the obligation of further investigation. Before providing access to TC's data center facilities, TC will use reasonable efforts to verify the identity of any person purporting to be an authorized representative of Customer and verify that the Customer has designated such person as an authorized representative.
- (g) While TC may provide certain Services designed to assist Customer with compliance with certain Compliance Standards, actual compliance with Compliance Standards is solely Customer's responsibility and TC is not responsible for ensuring that Customer's systems operating in conjunction with the Services or TC equipment are compliant with the Compliance Standards. Additionally, the Compliance Standards include many features that are out of TC's control including, without limitation, Customer's network and business processes. ACCORDINGLY, TC DISCLAIMS ANY AND ALL WARRANTIES AND REPRESENTATIONS THAT THE SERVICES, EQUIPMENT, SYSTEMS, NETWORK OR PROCESSES ARE COMPLIANT WITH ANY COMPLIANCE STANDARD AND TC DOES NOT REPRESENT THAT TC WILL UNDERTAKE ANY EFFORTS TO ACHIEVE SUCH COMPLIANCE IN THE FUTURE. [TC will use its reasonable commercial efforts to cooperate with Customer in Customer's efforts to meet its obligations under the Compliance Standards, but without any further obligation.] Determinations of TC compliance or verification of TC compliance with any applicable rule, law, or standard requires a separate agreement.
- (h) Customer is responsible for compliance, compliance costs and legal costs associated with

unauthorized access, breaches, suspected or detected security compromises related to this MSA and the relevant Service Addendums, including without limitation, notification to regulators, consumers, consumer credit card companies, media, and law enforcement.

- (i) If a security compromise is either suspected or detected, Customer must contact TC support immediately for threat assessment. Customer must provide TC support with all requested information about the potential or actual security compromise, including without limitation, the number of individuals whose information was impacted, organized by state of residency, how and when the Customer became aware of the security compromise, and the steps taken to remediate the issue.

5. Backup and Data Recovery

- (a) Customer is solely responsible for performing nightly backup of all critical Customer data. **Backups are not the responsibility of TC, unless explicitly stated in an Order Form and/or Service Addendum.** If backups are performed by TC as part of a Service Addendum and a restore is necessary, TC will make commercially reasonable efforts to restore Customer data from the latest **full** backup but does not warrant that any such restoration will be successful, complete or accurate. Customer assumes all liability associated with backup and data recovery and acknowledges that it is not relying on TC for providing redundancy nor does TC have the obligation to do so. As with all data processes, TC cannot guarantee the viability or availability of any backup performed via automated or manual processes.

6. IP Address and Domain Name Services.

- (a) All IP addresses that may be required for the Service shall be provided solely by TC. If Customer leaves Service, all IP addresses must be returned to TC for reallocation to other Customers within 48 hours and will not be available for continued use by departing Customers.
- (b) TC will host Customer domain name(s) on its servers when contracted to do so by Customer. In the event Customer also elects to have TC register a domain name on behalf of Customer with an approved domain name registrar, TC may do so but TC will not be responsible for the ownership, control, and use of the domain name. If a Customer is no longer using any other Service, Customer will be responsible for moving the domain name to a new registrar or establishing a "domain registration" only account with TC. TC shall have no liability for Customer's failure to maintain registration of any domain name.

7. Software Installation, Licensing, and Usage Compliance.

- (a) With the exception of Software provided by TC to Customer under a Order Form or Service Addendum, Customer is responsible for the procurement and installation of all Software installed on Customer Provided Equipment or equipment rented to Customer by TC unless otherwise specified in an Order Form or Service Addendum.
- (b) Customer is responsible for complying with the software licensing and usage agreements for all Software installed on Customer Provided Equipment or equipment rented to Customer by TC as set forth by the Vendors. **Customer is liable for payment of all fines and/or penalties assessed against it or against TC for violation of any software licensing or usage agreements with respect to Software installed on Customer Provided Equipment or equipment rented to Customer by TC.**
 - (i) Customer must not remove, modify, or obscure any copyright, trademark, or patent notice, or any other notice of proprietary rights from any Software. Customer must not reverse engineer, decompile, disassemble, or modify any Software. Customer must not make any copies of or distribute the Software.
 - (ii) Any Customer that obtains a user license from TC that is procured under a Service

Addendum must notify TC of any changes to, additions, or removals of active user licenses related to Service, active user accounts or this MSA. An “active user” is a user that has the ability to log into a system. Licenses based on active user accounts include, but are not limited to, Microsoft Remote Desktop SAL, Microsoft Office, and Microsoft SQL Server Per User SAL. **Notifications must be made via email to support@tulsaconnect.com within 24 hours of the change, addition, or removal.**

- (iii) Any Customer that obtains a processor license from TC that is procured under a Service Addendum, must notify TC of any changes in quantity to licenses that are physical processor or virtual processor based related to this MSA and Service. Licenses based on physical processor or virtual processor include, but are not limited to Microsoft Windows Server and Microsoft SQL Server. **Notifications must be made via email to support@tulsaconnect.com within 24 hours of the change, addition, or removal.**
- (iv) Without limiting any of the foregoing, Customer shall provide to TC satisfactory proof of a current, valid and enforceable license for any software (e.g. Customer's own Office 365 or other service providers) that Customer intends to run concurrently with TC's SPLA licenses within twenty-four hours after Customer begins running such licensed software.
- (v) Customer must keep records relating to all use and distribution of products by Microsoft affiliated with TC Service, and Microsoft has the right, at its expense, to verify compliance with their products' license terms.
- (vi) Customer is required to report Customer's usage of or compliance with Software licenses.
- (vii) If verification or self-audit reveals any unlicensed use of Microsoft products, then within 30 days (1) Customer must order sufficient licenses to cover its use, and (2) if unlicensed use is 5% or more, Customer must reimburse TC for the costs incurred in verification and acquire the necessary additional licenses at 125% of the price, based on the then-current price list and customer price level. The unlicensed use percentage is based on the total number of licenses purchased for current use compared to the actual installed base.
- (viii) The Software is not fault-tolerant and is not guaranteed to be error-free or to operate uninterrupted. Customer must not use the Software in any application or situation where the Software's failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage (“High Risk Use”). High Risk Use does not include utilization of the Software for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage. These non- controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function. In addition to the indemnification obligations set forth elsewhere in this MSA, Customer agrees to indemnify and hold harmless TC and the Vendors from any third-party claim arising out of Customer's use of the Software in connection with any High Risk Use.

8. Compliance.

- (a) Customer is responsible for notifying TC if Customer is a “covered entity” or “business associate” of a covered entity under HIPAA or HITECH. Customer may not use a Service to create, receive, maintain, or transmit protected health information on behalf of itself or any covered entity unless and until Customer has notified TC and the parties have entered into a business associate agreement. Customer is responsible for notifying TC if Customer

intends to process any cardholder data as that term is defined in the PCI-DSS or is required to be PCI-DSS-compliant or to meet any other Compliance Standards related to the use or processing of cardholder data. Customer may not use a Service to create, receive, maintain, or transmit cardholder data on behalf of itself or any other person unless and until Customer has notified TC and the parties have entered into a separate agreement regarding such Compliance Standards.

- (b) Customer represents and warrants that Customer is not a resident of any country or affiliated with any organization prohibited to do business within the United States.
- (c) Customer further represents and warrants that Customer will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this MSA without first complying with all export control laws and regulations that may be imposed by the U.S. government and any country or organization of nations within whose jurisdiction Customer operates or does business, including the United States Export Administration Act and the regulations adopted thereunder.
- (d) Without limiting the foregoing, Customer agrees to comply with all applicable U.S. and non-U.S. laws, rules, regulations and orders, including, but not limited to, tax, export and import, embargo and trade sanctions, intellectual property, including copyright, content, sales, mail-order, commerce, and e-commerce laws and regulations. Customer shall be responsible for determining what laws or regulations are applicable to Customer's use of the Services. Customer shall, upon the request of TC, provide TC assurance of Customer's compliance with those laws.
- (e) TC is headquartered in the United States and currently our services are only intended for individuals located in the United States. If you are located outside of the United States, be advised that any information you provide to TC will be transferred to and stored in the United States and that, by submitting information to TC, you explicitly authorize its transfer and storage within the United States. We will protect the privacy and security of personal information according to TC policies. If Customer is providing information that is subject other security and privacy laws that require specific measures by TC, Customer will notify TC, and Customer will be responsible for obtaining any necessary separate agreements.

9. Service Addendums.

- (a) If Customer opts for a particular Service, TC will provide the Service to Customer upon the rates, terms, and conditions specified herein and in the applicable Order Form and Service Addendum. Each Order Form accepted by Customer for a Service shall incorporate and be subject to the terms and conditions of this MSA and any applicable Service Addendums. To the extent that the terms contained herein vary from or conflict with the terms of any Service Addendum, the terms of the Service Addendum shall control. A Service Addendum shall be binding on Customer if Customer has indicated acceptance of the Order Form.
- (b) Certain services may be provided by Third Party Services, as indicated on the applicable Service Order Form or Addendum. TC's right to provide or resell Third Party Services remains subject to its agreements with the third-party provider. Customer's use of Third Party Services may be subject to the third party's terms and conditions. Such third-party terms and conditions will apply solely with respect to Third Party Services. Links to third-party terms and conditions can be found on TC's website. Unless directed otherwise by TC, Customer shall interface and communicate directly with TC with respect to Third Party Services.
- (c) The Service Addendum Effective Date shall be set forth in the Service Addendum. Notwithstanding the above, the Service Addendum Effective Date shall not be later than 30 days from the date of the Service Addendum unless otherwise agreed to by TC. If Customer cancels a Service Addendum, or any component of a Service Addendum, before

the Service Addendum Effective Date, Customer shall pay TC all reasonable, directly associated, documented and otherwise unrecoverable costs and expenses incurred by TC in connection with cancellation.

- (d) Unless otherwise specified in a Service Addendum, if Customer terminates a Service Addendum after the Service Addendum Effective Date other than by reason of TC's default, Customer shall (A) provide at least 30 days' written notice to TC of its intent to terminate and (B) be liable for 100% of the remaining contract value. Specific early termination fees may be contained within a Service Addendum.
- (e) TC reserves the right to add, delete, or otherwise change its list of service offerings during the term hereof. TC may cancel a Service provided to Customer under a Service Addendum if (i) TC no longer has the legal or contractual right to provide the TC Service (including, but not limited to, software license rights), (ii) TC ceases for any reason to provide such Service, or its services generally, to the general public, or (iii) Customer breaches the terms of this MSA. TC may increase its software license or rental rates so long as TC has provided 30 days advance written notice. If TC raises the rate for a particular Service, Customer may terminate any affected component of a Service Addendum, without liability, by giving written notice at least 10 days before the effective date of the rate increase. Customer's continued use of a Service after notice of a rate increase shall constitute Customer's acceptance of the new rate.
- (f) Upon expiration of the term of a Service Addendum, the Service Addendum terms, conditions, and rates shall continue on a month to month basis until Customer or TC terminates the Service Addendum, unless otherwise stated in the Service Addendum.
- (g) Notwithstanding Sections 9(e) and (f), and solely with respect to licenses for firewalls managed by TC pursuant to a Service Addendum, Customer understands that upon expiration of a license term, the license will convert automatically to a monthly license charge at the Manufacturer Suggested Price. TC will use commercially reasonable efforts to notify Customer of the new rates before the renewal date.
- (h) In addition to Services identified in a Service Addendum, TC may provide, upon Customer's request, Technical Services in connection with Services provided to Customer.
- (i) To be eligible for Technical Services, Customer must adhere to TC's security requirements as made in this MSA, Service Addendums and our security requirements in our other policies. This includes, but not limited to, restricting open TCP/UDP ports by IP address or VPN access, the use of complex passwords, appropriate user access level (least privileged concept), established maintenance schedules, installing patches deemed urgent by TC in a timely manner, etc. Failure to do so may result in the termination of Technical Services, the removal of after-hours availability for technical services, and other chargeable items.
- (j) During the Term of this MSA and the duration of any other TC Service subscribed to by Customer, Customer shall designate in writing an individual or individuals to serve as:
 - (i) Customer's MSA Contact to be authorized to act on behalf of and to bind Customer as to all such matters pertaining to the MSA and for the purpose of pre-approval of additional services, as outlined in the Service Addendums.
 - (ii) Customer's Billing Contact for invoicing and billing related matters.
 - (iii) Customer's Technical Contact to serve as Customer's representative during the course of the Technical Support Services Addendum and to be authorized to act on behalf of and to bind Customer as set forth in the Technical Support Services Addendum, should Customer subscribe to that service.
- (k) Customer shall be obligated to update contact information for Customer's MSA, Billing and Technical Contacts, to ensure no interruption in service. TC is not responsible for any notice failure resulting from inaccurate contact information.

10. Equipment and Installation.

(a) TC Provided Equipment

- (i) TC, or its agent, shall provide, install, maintain, repair, operate and control TC's equipment based on the terms in the Service Addendum. Unless specifically provided for herein, or in any Service Addendum, TC shall pay the cost of purchasing and installing TC's equipment and TC's equipment shall be and remain the sole property of TC.
- (ii) Customer shall make TC's equipment located on Customer's premises available for maintenance in a timely manner. Except as otherwise provided herein or in a Service Addendum, TC shall provide reasonable notice before entering Customer's premises to install, maintain or repair any of the equipment. Customer shall provide power, heating, cooling, security, and other environmental considerations to TC's equipment located on Customer's premises in accordance with this MSA, the applicable Service Addendum, and equipment documentation. TC is not responsible for any malfunction or interruption of service attributable to Customer's failure to maintain the environmental considerations.
- (iii) Customer shall be liable for any loss or damage, including theft, to TC's equipment arising from Customer's or a Customer authorized third party's negligence, intentional act, willful misconduct, unauthorized maintenance or other cause. In the event of any loss or damage to TC's equipment pursuant to this paragraph, Customer shall reimburse TC for the reasonable cost of repair of TC's equipment, or the replacement thereof, in TC's sole discretion, within 30 days after receipt by Customer of a written request for reimbursement. If TC does not receive reimbursement of the cost of repair of TC's equipment, or the replacement cost, TC may, at its option, without liability, suspend TC Services until such amounts are paid in full, or terminate this MSA or any Service Addendum and avail itself of its remedies hereunder, at law or in equity.
- (iv) TC's equipment shall remain the sole and exclusive property of TC, and nothing contained herein shall give or convey to Customer, or any other person, any right, title or interest whatsoever in TC's equipment unless otherwise specified in the Service Addendum. TC's equipment shall at all times be and remain personal property, notwithstanding that it may be, or become, attached to, or embedded in, realty. Customer shall not tamper with, remove or conceal any identifying plates, tags or labels identifying TC's ownership interest in TC's equipment. Customer shall not permit or cause any lien or encumbrance to be placed on TC's equipment, and Customer shall immediately cause any such lien or encumbrance to be removed upon TC's demand.

(b) Customer Provided Equipment

- (i) TC shall have no obligation to install, maintain or repair Customer Provided Equipment unless otherwise specified in a Service Addendum. If, on responding to a Customer-initiated support request, TC determines that the cause of the service deficiency was a failure, malfunction or the inadequacy of equipment other than TC's equipment, Customer shall compensate TC for services performed at its standard hourly rate, plus the cost of any materials expended.
- (ii) In some cases, TC may allow Customer to arrange for Customer Provided Equipment to be shipped directly to TC's facility for temporary storage until the equipment is installed in the data center. In these cases, the delivery and storage of the equipment will be governed by the Short-Term Equipment Storage & Drop Ship Addendum. Customers may request that contract from their TC account

representative.

- (iii) Customer is solely responsible for Customer Provided Equipment that is located in a TC facility. Upon TC's request, Customer agrees to provide a certificate of insurance, evidencing insurance that TC deems adequate in its discretion to protect Customer Provided Equipment from any and all events, which may damage Customer Provided Equipment whether caused by Customer representative, TC employee, any other party or an event who (which) may cause damage to Customer Provided Equipment. Except as provided in subparagraph (iv) of this Section 10(b), in no case shall TC be liable for any damages, including, without limitation, consequential, indirect or incidental damages, suffered by Customer due to failure of Customer Provided Equipment for any reason. Customer agrees to indemnify TC for any claims that may arise as a result of Customer Provided Equipment being located in a TC facility.
 - (iv) TC shall be liable for only such loss or damage, including theft, to Customer Provided Equipment that arises from TC's gross negligence, willful misconduct, or unauthorized maintenance. In the event of any loss or damage to any Customer Provided Equipment pursuant to this paragraph, TC shall reimburse Customer for the reasonable cost of repair of the equipment, or the replacement thereof, in TC's discretion, within 30 days after receipt by TC of a written request for reimbursement.
- (c) Customer Storage Devices. Customers may arrange for Storage Devices to be shipped directly to TC's facility. Upon notice from Customer, TC personnel will accept delivery of Storage Devices at the building delivery entrance. Customer is solely responsible for arranging, insuring and paying for shipment and for encryption of data on Storage Devices. TC is not responsible for (i) any mistake, error, or omission in inspecting the shipment and (ii) any damage to or loss of the shipment, any Storage Device, or data during shipment. Customer accepts all risk of loss during shipment. TC's only obligations with respect to delivery are to accept delivery and notify Customer of the delivery. Upon delivery, TC personnel will connect the Storage Device to Customer's Service environment for Customer to transfer data.
- (d) Loose Customer Provided Equipment or Storage Devices, including but not limited to tapes, non-connected hard drives, documentation or boxes, will not be stored by TC in its facility unless such is in a TC approved rack mount enclosure. If TC finds a Customer storing loose items on its racks, TC reserves the right to remove the loose items from its storage facility and ship them back to the Customer, at Customer's expense.

11. **Payment Terms and Services Suspension / Termination.**

- (a) Payment Terms
- (i) Customer shall pay TC all recurring and non-recurring charges for the Service at the rates set forth in each Order Form, or for Technical Services at TC's then-current hourly rates, plus all Taxes and Additional Charges (such as bandwidth overage or other usage / consumption charges). Billing for the Service will commence on the Effective Date, regardless of acceptance by Customer. TC reserves the right to adjust fees annually, by no more than 5%, based on market conditions and operational costs, with prior written notice provided to Customer before any changes take effect.
 - (ii) TC will provide Customer with a monthly invoice for the Service and Customer shall pay TC in full upon Customer's receipt of invoice. If TC does not receive full payment within 30 days after Customer received the invoice, TC may charge Customer interest on the unpaid balance at the rate of 1.5% per month or the highest lawful rate, whichever is lower. Property of Customer that is in TC's possession may not be retrieved or removed by Customer until any and all

amounts due and owing to TC have been paid in full. Customer will continue to accrue charges in accordance with this MSA and applicable Service Addendum(s) until its property is removed. Customer shall pay all costs and expenses, including reasonable attorneys' fees, incurred by TC in collecting past due balances.

- (iii) Unless written notice of a dispute as to the charges for the Service is received by TC within 30 days after the statement date, such statement shall be deemed correct and payable in full by Customer. In the event of a billing dispute, Customer shall timely pay the undisputed amounts and shall provide detailed information regarding any such disputed amounts to TC.
- (iv) If applicable, Customer shall keep on file with TC copies of its current tax exemption certificates.

(b) Suspension of Service; Termination of Master Service Agreement

- (i) TC may suspend or terminate a Service if Customer:
 - (A) is more than ten (10) days past due in paying any TC invoice pursuant to its terms, excluding those amounts which Customer has notified TC as reasonably being in dispute; or
 - (B) is past due in paying two (2) or more consecutive monthly invoices that are not in dispute;
 - (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; or
 - (D) is otherwise in breach of this MSA or a Service Addendum.
- (ii) If TC terminates a Service Addendum pursuant to this section, TC shall have the right to (i) full payment for any amounts due TC for the Service rendered before the date of termination, (ii) 100% of the remaining contract value, plus (iii) any specific early-termination charges contained in the Service Addendum.
- (iii) Upon thirty (30) days written notice following defaults other than those described above, the non-defaulting party may terminate a Service Addendum upon the other party's failure to cure the alleged default within such thirty (30) day period. In addition to the remedies set forth above, upon the default of a party, the other party may pursue all remedies available to it under the terms hereof and under any applicable law.
- (iv) Unless otherwise specified in a Service Addendum, if Customer terminates a Service Addendum after the Service Addendum Effective Date other than by reason of TC's default, Customer shall (A) provide at least thirty (30) days' written notice to TC of its intent to terminate and (B) be liable for 100% of the remaining contract value. Specific early termination fees may be contained within a Service Addendum.
- (v) Upon termination of this MSA or a Service Addendum, Customer may elect to access and export its data within the Transition Period. Customer must notify TC thirty (30) days before the termination effective date of its intent to utilize the Transition Period. If TC has received such a timely notice, TC will provide Customer access to, and the ability to export, Customer data during the Transition Period at TC's then-current rates for the applicable TC Service. TC may require a deposit to secure payment for TC Services during a Transition Period. This MSA

and the applicable Service Addendum will govern the TC Services during the Transition Period. Customer may request transition assistance from TC personnel at TC's then-current hourly rates for Technical Services. TC may require a deposit before providing transition assistance. Upon termination, TC may without liability whatsoever delete or overwrite Customer data (1) on the termination date if Customer has not provided notice of its intent to use the Transition Period or (2) at the conclusion of the Transition Period if Customer has elected to use the Transition Period. Customer is solely responsible for retrieving its data before the termination date or expiration of the Transition Period, as applicable.

- (c) Lien for Nonpayment. So long as any fees or other monies are due to TC and unpaid by Customer, TC retains a lien on property of Customer in TC's possession. Customer hereby grants to TC a security interest in and to all property of Customer that is in TC's possession and shall execute all documents, instruments and agreements and do all things necessary and appropriate to perfect TC's security interest in such property. Even though this MSA provides for a lien by TC for the performance of services and materials contemplated by this MSA, this MSA shall not be construed as a waiver by TC of the right to assert any statutory lien that may be available under applicable law. To the extent permitted by applicable law, Customer hereby waives any rights, statutory or otherwise, to retrieve or take possession of its property, though self-help or otherwise, that is subject to the lien and security interest provided herein on such property until any and all amounts due and owing to TC have been paid in full.

12. Taxes and Additional Charges. Any applicable federal, state or local use, excise, sales or privilege taxes, duties, franchise fees, right of way fees, and right of entry fees or similar liabilities charged to or against TC or Customer because of Service furnished by TC (collectively, Taxes and Additional Charges), shall be paid by Customer in addition to the regular charges under each Order Form. Charges shall not include any taxes for which Customer has furnished a valid exemption certificate.

13. Disclaimers; Limitation of Liability.

- (a) TC DOES NOT WARRANT THAT THE TC SERVICES OR TECHNICAL SERVICES WILL BE FREE OF ERRORS, BE UNINTERRUPTED, OR WILL MEET CUSTOMER'S REQUIREMENTS. THE TC SERVICES AND TECHNICAL SERVICES ARE PROVIDED ON AN "AS IS" BASIS AND TC EXPRESSLY DISCLAIMS ALL WARRANTIES, CONDITIONS, AND INDEMNITIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT OR ANY OTHER WARRANTY ARISING FROM THE COURSE OF PERFORMANCE OR COURSE OF DEALING. CUSTOMER UNDERSTANDS AND AGREES THAT TC WILL NOT BE LIABLE FOR ANY TEMPORARY DELAY, OUTAGE, OR INTERRUPTION OF THE TC SERVICES, OR THE UNAUTHORIZED ACCESS ("HACKING") BY ANY THIRD PARTY INTO TC'S SERVERS OR SYSTEMS, AND CUSTOMER HAS NOT ENTERED INTO THIS MSA IN RELIANCE UPON ANY WARRANTY OR REPRESENTATION EXCEPT THOSE SPECIFICALLY SET FORTH HEREIN.
- (b) TO THE EXTENT PERMITTED BY LAW, TC DISCLAIMS FOR ITS VENDORS ALL WARRANTIES AND ANY LIABILITY TO CUSTOMER FOR ANY DAMAGES, WHETHER DIRECT, INDIRECT, OR CONSEQUENTIAL, ARISING FROM THE TC SERVICES.
- (c) UNLESS OTHERWISE PROVIDED UNDER AN ORDER FORM OR SERVICE ADDENDUM, IT IS SOLELY CUSTOMER'S DUTY AND RESPONSIBILITY TO BACKUP CUSTOMER'S FILES AND DATA. UNDER NO CIRCUMSTANCES WILL TC BE LIABLE TO CUSTOMER OR TO ANY PARTY CLAIMING BY OR THROUGH CUSTOMER FOR DAMAGES OF ANY KIND UNDER ANY LEGAL THEORY FOR LOSS OF CUSTOMER FILES AND/OR DATA.

- (d) TC IS NOT LIABLE FOR: DELAYS IN INSTALLATION OR RESTORATION OF THE TC SERVICE HEREUNDER; MISTAKES, ACCIDENTS, OMISSIONS, INTERRUPTIONS, ERRORS OR DEFECTS IN THE ORDERING, PROCESSING, PROVISIONING, OR TRANSMISSION OF THE TC SERVICE; LOSS OR DAMAGE OCCASIONED BY ACTS OF GOD, FIRE, ELEMENTS, LABOR DISPUTES, SHORTAGES, UTILITY CURTAILMENTS, POWER FAILURES, EXPLOSIONS, CABLE CUT AND OTHER CAUSES BEYOND TC'S REASONABLE CONTROL; INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING BUT NOT LIMITED TO LOST PROFITS OR REVENUES, ANY LOSS OF DATA, LOSS OF USE, OR INTERRUPTION OF BUSINESS); PUNITIVE DAMAGES ARISING FROM A BREACH OF THIS MSA, AND TO THE EXTENT ALLOWED BY LAW, FOR INJURY TO OR DEATH OF ANY PERSON AND FOR DAMAGE TO OR LOSS OF ANY PROPERTY ARISING OUT OF OR ATTRIBUTABLE TO ITS OPERATIONS AND PERFORMANCE UNDER THIS MSA. TC'S LIABILITY FOR ANY AND ALL CAUSES AND CLAIMS WHETHER BASED IN CONTRACT, WARRANTY, NEGLIGENCE OR OTHERWISE SHALL IN NO EVENT EXCEED THE GREATER OF 1) AN AMOUNT EQUIVALENT TO THE PROPORTIONATE CHARGE BY TC TO CUSTOMER FOR THE PERIOD OF SERVICE AFFECTED (NOT TO EXCEED 3 MONTHS), OR 2) IF APPLICABLE, THE REPLACEMENT VALUE OF ANY CUSTOMER PROVIDED EQUIPMENT WHICH IS LOST OR DAMAGED AS A RESULT OF TC'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT IN PROVIDING TC SERVICES OR PERFORMING TECHNICAL SERVICES. CUSTOMER ACKNOWLEDGES THAT THESE LIMITATIONS ARE AN ESSENTIAL ELEMENT OF THIS MSA AND WITHOUT SUCH LIMITATIONS TC WOULD NOT ENTER INTO THIS MSA.

14. Indemnification.

- (a) Customer shall indemnify, defend and hold harmless TC, its affiliates and their respective directors, officers, employees, agents, successors, and assigns (the "TC Indemnified Parties") from and against any and all claims, actions, proceedings, damages, costs, expenses and liabilities, including reasonable attorney's fees and disbursements, arising from or related to Customer's use of any TC Service, Technical Services or the performance of its obligations and duties under this MSA except to the extent those damages, costs, expenses, and liabilities arise from the gross negligence or willful misconduct of TC. TC shall promptly notify Customer in writing of any such suit or claim.
- (b) In addition to and not in limitation of the Customer's obligations under subparagraph (i) above, Customer shall indemnify, defend and hold harmless the TC Indemnified Parties from and against any and all claims, actions, proceedings, damages, costs, expenses and liabilities, including reasonable attorney's fees and disbursements, incurred or likely to be incurred by any TC Indemnified Party arising from or related to Customer's failure to comply with the terms of any third party software license or usage guidelines.
- (c) Customer shall (a) promptly notify TC of the claim, (b) give TC exclusive control and authority over the defense or settlement of the claim, and (c) not enter into any settlement or compromise of any claim without TC's prior consent.

- 15. Subject to Laws.** This MSA, and each Service Addendum, is subject to all applicable federal, state, and local laws, and regulations, rulings, and orders of governmental agencies, and the obtaining and continuance of any required approval or authorization of any governmental body. TC may terminate its obligations under this MSA without liability if ordered to do so by the final order or ruling of a court or other governmental agency or if such order or ruling would make it impossible or commercially infeasible for either party to carry out its obligations under this MSA. In addition, if at any time during the Term of this MSA, or any Service Addendum, the action of a governmental agency requires modification of the TC Service provided hereunder so as to impair service to Customer, Customer may terminate such TC Service upon 30 days written notice to TC.

- 16. Confidential Information.** Each party agrees not to use any Confidential Information of the other

party for any purpose except to perform its obligations or exercise its rights under this MSA. Each party agrees not to disclose any Confidential Information of the other party to third parties or to such party's employees, except to those employees or consultants of the receiving party who are required to have the information. Nothing in this section precludes either party from disclosing the other party's Confidential Information as required by law or a valid court order or other government body, provided that the party under a legal obligation to disclose such Confidential Information provides the party whose Confidential Information is subject to disclosure reasonable prior written notice of disclosure (to the extent legally permitted) so that such party may seek confidential treatment of such Confidential Information, and must also cooperate with the disclosing party to contest or limit the disclosure. Without limiting any of the foregoing, if the parties have signed a separate NDA, then such NDA is expressly incorporated herein by reference and is specifically amended to provide that confidential information is able to be used by the parties for the purposes contemplated in this MSA and the term of the NDA is extended to be coterminous with the term of this MSA. The parties acknowledge and agree that any breach of this section will cause irreparable harm to TC for which monetary damages may be an inadequate remedy or difficult to ascertain. TC shall have the right to obtain an immediate injunction enjoining any breach of this section, as well as the right to pursue any and all other rights and remedies available at law or in equity for such a breach. To the extent the terms of a separate NDA conflict with this section, the terms of this section control.

17. **Assignment.** Customer may not assign or otherwise transfer this MSA or any portion of its rights or obligations without TC's prior written consent, which will not be unreasonably withheld. Any assignment in violation of this section is void.
18. **Notice.** Any demand, notice, request, approval, or other communication to be given to a party under this MSA must be in writing and will be deemed given when delivered to the appropriate address on the Summary Page of this MSA by (i) personal delivery, (ii) registered or certified mail, return receipt requested, or (iii) commercial overnight delivery service. A party may change its address for notice purposes by providing notice under this section.
19. **Governing Law.** This MSA shall be construed and enforced in accordance with, and the validity and performance hereof shall be governed by the laws of the State of Oklahoma. Any action under this MSA shall be brought in the appropriate federal or state court located Tulsa County, Oklahoma, and each party hereby waives any objection to such jurisdiction.
20. **Prevailing Party.** If Suit is brought or an attorney is retained by either party to enforce the terms of this MSA or to collect any money as due hereunder or to collect any money damages for breach hereof, the prevailing party shall be entitled to recover, in addition to any other remedy, the reimbursement for reasonable attorneys' fees, court costs, costs of investigation and other related expenses incurred in connection therewith.
21. **Relationship of Parties.** Nothing in this MSA will be deemed or construed to create any relationship of principal and agent, partnership or joint venture between the parties. Solely to the extent Customer licenses any Microsoft or other third-party Software from or through TC, Microsoft and other third-parties are an intended third-party beneficiaries of the Service Addendum that applies to such licenses, and Microsoft or other third-parties may enforce the provisions of that Service Addendum and verify Customer's compliance with it.
22. **Further Assurances.** Customer acknowledges and agrees that TC may amend this MSA at any time for purposes of compliance with applicable law, regulations, and requirements from intended third-party beneficiaries including but not limited to Microsoft. Customer and TC agree to cooperate in good faith to make any such amendments to this MSA.
23. **Binding Effect.** This MSA shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Customer shall not assign, delegate, or transfer any of its rights or obligations hereunder without the prior written consent of TC, which shall not be unreasonably withheld. TC may assign this MSA to an affiliate or to a purchaser of substantially all of the assets or equity of the business unit of TC responsible for the performance of this MSA.

24. Additional Provisions.

- (a) Entire Agreement; Amendment. This MSA (including all Order Forms, Service Addendums, appendices, exhibits, attachments and/or schedules attached hereto) constitutes the entire understanding between the parties relating to the rights herein granted and the obligations herein assumed and correctly sets forth the rights, duties, and obligations of each party to the other as of the date of this MSA. Any prior agreements, promises, negotiations or representations regarding the subject matter of this MSA are of no force or effect. This MSA shall not, however, affect or modify the terms or applicability of any other agreement regarding other subject matters to which TC and Customer are parties. No alteration or variation of the terms of any provision shall be valid unless made in writing and signed by duly authorized representatives of TC and the Customer.
- (b) No Third-Party Beneficiaries. This MSA does not provide any third party with any remedy, claim, liability, reimbursement, cause of action, or other privilege.
- (c) Relationship of the Parties. The parties intend this MSA to establish an independent contractual relationship between them and do not intend this MSA, or its performance, to create any form of partnership or joint venture.
- (d) Severability. If any one or more of the provisions of this MSA shall for any reason be held to be invalid or unenforceable, the remaining provisions of this MSA shall be unimpaired, and shall remain in effect and be binding upon the parties. Service provided by TC is subject to the condition that it will not be used for any unlawful purpose.
- (e) Non-Waiver. No waiver of a breach of any provision of this MSA shall constitute a waiver of any other breach or of the future performance of such provision.
- (f) Counterparts and Execution. This MSA may be executed by digital or electronic means through commercially-available electronic software, which results in confirmed signatures delivered electronically to each of the Parties. This MSA may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed an original, and all of which taken together shall constitute one and the same MSA. Delivery of an executed counterpart of this MSA by .pdf, or other electronic means, shall be equally as effective as delivery of a manually-executed counterpart. The Parties represent that the respective persons executing this MSA (including all Order Forms, Service Addendums, appendices, exhibits, attachments and/or schedules attached hereto) on their behalf are fully authorized to execute this MSA.

[Remainder of Page Intentionally Left Blank]

