**MASTER SERVICE**
**AGREEMENT**

This MASTER SERVICE AGREEMENT (the "Agreement") is entered into between ACM COMPUTERS., a California Managed Service Provider ("Provider") and the party that executed the associated Order ("Client"). The date on which Client signed the Quote shall be the "Effective Date" of this Agreement.

1. **SCOPE OF AGREEMENT**. This Agreement serves as a master agreement and applies to Client's and its Affiliates' purchases from Provider, or any of its Affiliates, of services, as well as licenses for software, hardware, website design and hosting, support and maintenance services, labor services and/or subscription services (collectively, "Services").

    1.1. For purposes of this Agreement, "Affiliate" means any entity that, directly or indirectly through one or more intermediaries, controls or is controlled by or under common control with Client or Provider, as the case may be.

    1.2. Subject to the terms and conditions of this Agreement, Provider will provide you with Product(s) pursuant to any Order accepted by Provider during the Term. Provider will use commercially reasonable efforts to provide you with the Product for which you have Ordered. Client shall request Services hereunder by issuing to Provider a proposed order ("Quote") (in the form provided or approved by Provider). Upon Provider's acceptance of a Quote, such Quote shall be deemed an "Order" hereunder and shall be deemed incorporated into this Agreement.

    1.3. A Quote shall be deemed accepted upon the earlier of

        1.3.1. Provider's acceptance of such Quote in writing;

        1.3.2. Provider's commencement of delivery of the Product(s) set forth in such Quote;

        1.3.3. Provider's acceptance of payment for the Products stated in the Quote; or

        1.3.4. Client's verbal confirmation on a recorded call.

    1.4. By accepting the Quote, Provider agrees to provide Products in conformance with the respective Order. Client accepts this Agreement by execution of any Quote or Order. In the event Client cancels an Order prior to Provider delivering the Product(s), and in the event that Provider incurs costs related to same, then Client shall reimburse Provider for such costs actually incurred. Client understands and agrees that certain Products may not be available in all areas and that Provider, upon entering into an Order with Client may, at its own discretion, utilize an Affiliate to deliver the applicable Product. The Products to be rendered to Client may be further described in one or more Addendums, which will be deemed incorporated into this Agreement. In the event of any conflict between the terms of any applicable Addendum and those of this Agreement, the terms of this Addendum will prevail.

2. **TERM AND TERMINATION**. This Agreement will begin on the date that a Quote is

accepted by Provider and becomes an Order, as defined above, and will continue to remain in full force and effect for Products provided. If the Product is for an ongoing service, the Term for that service may more specifically be stated in the applicable Addendum. Nonetheless, if the Product is an ongoing service, Client may terminate this Agreement and the applicable Addendum, if any, with thirty (30) days' written notice to Provider stating the reason for terminating and providing Provider the right to cure the concern within the thirty (30) day notice.

**2.1.** Provider may:

2.1.1. Terminate a specific Order if Client fails to pay any applicable fees due for that Order within thirty (30) days; and/or

2.1.2. Terminate this Agreement or an Addendum if Client commits any other breach of this Agreement and fails to cure such breach within ten (10) days after receipt of written notice from Provider.

**2.2.** Upon any termination of this Agreement, Addendum, or the right to use a Product, Client will immediately uninstall (if the Product is software) and cease to use the terminated Product and, upon Provider's written request, immediately return such Product to Provider, together with all related documentation, and copies thereof.

**2.3.** Upon written request of Provider, Client will promptly certify in writing to Provider that all copies of the Product have been returned, and that any copies not returned have been destroyed.

**2.4.** If an Order is terminated, Client will promptly pay Provider for Services rendered, any and all hardware ordered for Client, and expenses incurred through the termination date.

**2.5.** Provider may terminate any license granted for a Deliverable (as defined below) if (i) Client does not pay Provider for that Deliverable in accordance with this Agreement, or (ii) if Client materially breaches any part of Section 4 of this Agreement.

3. **PAYMENT AND DELIVERY**. Client will pay Provider all recurring and non-recurring charges, fees, and taxes due upon receipt of an invoice specifying the amounts due ("Fees").

**3.1.** All Fees payable under this Agreement are exclusive of sales, use, customs duties, excise, and any other applicable transaction taxes, which Client will pay (excluding taxes based upon the net income of Provider).

**3.2.** All Fees will be detailed in an Order. Unless otherwise stated in an Order, Client agrees to pay or reimburse Provider for all actual, necessary, and reasonable expenses incurred by Provider in performance of such Services to deliver on the Services and Products.

**3.3.** Provider will submit invoices to Client for such fees and expenses either upon completion of the Services, or at stated intervals, in accordance with the applicable Order.

**3.4.** If Client payment information is not accurate, current, and complete and Client does not notify Provider promptly when such information changes, Provider may suspend or terminate Services with notice, and only after thirty (30) days of non-payment.

**3.5.** Provider charges twenty-five dollars ($35) for returned or NSF checks, including ACH payments.

**3.6.** Provider will not defer any charges while Client awaits reimbursement, subsidy, discount, or credit from Provider or any third party, and Client shall have the

obligation to pay all Fees regardless of the status of any such reimbursement, subsidy, discount or credit.

**3.7.** Upon thirty (30) days' written notice to Client, Provider shall have the right to increase Fees for any Service.

**3.8.** Provider may charge a late fee for any amounts which are not paid when due. The late fee will be the greater of i) twenty-five dollars ($25); or ii) five percent (5%) of the Order or recurring Fee amount.

**3.9.** Client shall be responsible for all costs of collection (including reasonable attorneys' fees, expenses, and costs) to collect overdue or past due amounts.

**3.10.** If Provider fails to present a charge in a timely manner, such failure shall not constitute a waiver of the charges for the Fees to which it relates, and Client shall pay such invoice in accordance with these payment terms.

**3.11.** Unless Client disputes an overcharge within 30 days from the original invoice or bill, Client understands and agrees that Fees are considered accurate.

## 4. LIABILITY

**4.1.** The Client and Provider each agree to indemnify and hold harmless the other party, its Commissioners, committee members, officers, agents, employees, and volunteers from and against any and all claims, lawsuits, judgments, debts, demands, liabilities, damages, losses, costs, and expenses for injury or death of any officer, agent, employee or volunteers of the other party, arising out of or in connection with the Services to be provided under this Agreement.

**4.2.** The Client and Provider each agree to release and waive any liability of any claim against the other party, its officers, agents, employees, and volunteers, for loss of or damage to its property, including loss of use arising directly or indirectly out of or in connection with the other's performance under this Agreement, save and except claims or litigation arising through the sole negligence or wrongdoing, or the sole willful misconduct of the Provider or Client.

## 5. PROPRIETARY RIGHTS AND CONFIDENTIALITY

**5.1.** Provider, or its Affiliates or licensors, retains all right, title and interest in any and all intellectual property, informational, industrial property and moral rights in the Product, and copies thereof. Provider neither grants nor otherwise transfers any rights of ownership in the Product to Client. The Product is protected by applicable copyright and trade secrets laws, and other forms of intellectual property, informational and industrial property protection.

**5.2.** Provider acknowledges that in the course of providing Services to Client, it may learn certain non-public personal and otherwise confidential information relating to Client, including customers, consumers or employees. Provider shall regard any and all information it receives, which in any way relates or pertains to Client, including customers, consumers or employees, as confidential.

**5.3.** CPRA: It is understood that if You are a governmental entity subject to the California Public Records Act ("CPRA"); that certain records within Your possession or control, including without limitation, the Agreement, are subject to public disclosure; and that Your confidentiality obligations shall be subject in all respects to compliance with CPRA.

**5.4.** HIPAA: It is understood and agreed that if Client is a "covered entity" as defined by the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and the federal "Standards for Privacy of Individually Identifiable Health Information" promulgated thereunder at 45 CFR Parts 160 and 164, and Provider is defined as a Business Associate of Client, the use or disclosure of any person's protected health information is governed by the Business Associate Agreement. Further, client agrees that Provider has provided Client with information regarding certain requirements of HIPAA for covered entities, including but not limited to, the need for a compliance officer, performance of a risk analysis, implementation of policy and procedures, login monitoring and password protocols, protection from malicious software, data backup plan, disaster recovery plan, proper data disposal procedures, and security updates to software and hardware. Client releases and indemnifies Provider for any claims against Provider as a result of not implementing and executing on HIPAA compliance matter.