

MASTER CLIENT AGREEMENT
GENERAL TERMS

This Master Client Agreement (the "**Agreement**" or "**MCA**") is entered into as of Feb 1, 2024 (the "**Effective Date**") between the Managed I.T. Department [VTC Tech d/b/a Mayskye Inc.] (S. Corporation) located at 390 N. Orange Ave, STE 2300 Orlando, FL 32801 ("**MID**") and City of Bay Lake and City of Lake Buena Vista FL a [City/Municipality] located at [PO Box 690956 Orlando, FL 32869] ("**Client**"). MID and Client are together referred to herein as the "**Parties**."

1. MASTER CLIENT AGREEMENT

- 1.1 **Scope of MCA:** This MCA, all statements of work, and orders either attached hereto as an exhibit or incorporated herein by reference, including any statement of work setting forth the work to be performed, goods, services and intellectual property to be sold or licensed, any related pricing and any other order for goods, licensing, services and any related agreement for services (for example, agreements for back-up disaster and recovery or cloud IT services, managing IT Services, IT Support etc) whether or not attached hereto or otherwise explicitly incorporated herein by reference (each of which may hereinafter be referred to as a "Statement of Work", "SOW", "Service Level Agreement", "SLA", "Infrastructure as a Service", "IaaS", or an "Order") shall contractually obligate Client, and any Client affiliate to the MID or any affiliates of MID, or any successors and assigns thereto, for all goods ("**Goods**") and services ("**Services**"), including for any licensing of intellectual property. Goods and Services may include, but are not limited to, software, licenses, subscriptions, back-up, disaster, and recovery services, cloud services, hardware, trouble support, Managing IT Solutions and ticketing services, call centre and maintenance services, combined software and services, identification verification processes, policies, and systems, cyber-security systems, applications, software, policies, and enhancements, voice over internet protocol ("VoIP"), telephone and internet services. Goods and Services shall be collectively referred to hereinafter as "**Product**", regardless of whether such Product is provided to Client by MID directly or through any third-party vendor, wholesaler, reseller, supplier, channel partners, trade partner, consultant, or trade group member, including but not limited to members of the independent contractor, agent, or distributor of MID, as the case may be, under the circumstances then appertaining.
- 1.2 **Affiliate:** For purposes of this Agreement, "**Affiliate**" means any entity that directly or indirectly, through one or more entities, controls and/or owns or is controlled and/or owned by Client or MID, or is under common control and/or ownership with Client or MID.
- 1.3 **Statements of Work, Orders, and SLA's:** Any Product provided pursuant to this MCA may require the acknowledgment by Client either in writing, electronic or other means acceptable to MID. Whenever reasonably practicable, an initial Statement of Work or Order may be, but is not required to be attached hereto as an exhibit upon execution of the MCA by the Parties' failure to attach any Order to the MCA shall not void Client's obligations (financial or otherwise) to MID. The Parties agree and acknowledge that the Parties may, in the course of their dealings, execute multiple Orders pursuant to this MCA. Such Orders need not be appended to this MCA but shall be deemed to be incorporated herein even if such Orders are not attached to this MCA. In the event of any conflict between the terms of any Order and the MCA, the terms of the Order shall prevail and be superior to the MCA, except as to the MCA's provisions concerning limitation of liability, set-off, waiver of claims, covenant not to sue, hold harmless, duty to defend, representations, warranties, indemnity, alternative dispute resolution, MID's intellectual property rights, termination of the MCA, the MCA Term (as that term is hereinafter defined), choice of law or forum, and the MCA Termination Rights (collectively, the "**MCA Dominant Terms**"). The MCA Dominant Terms (unless otherwise mutually agreed to by the Parties in writing) shall apply to all agreements, Orders, Statements of Work, rights, remedies, and obligations of the Parties.
- 1.4 **Backup, Disaster & Recovery ("BDR"):** Client has elected to:
- (a) (Client Initials) **Accept** the BDR service offered by MID subject to the terms of the MCA and the Statement of Work.
- (b) R.S (Client Initials) **Decline** any BDR service. Notwithstanding any other provision herein:

Wherefore, having declined any BDR service Client acknowledges that MID has no obligation to backup Client data and MID has no obligation to recover Client data under any circumstances. Client hereby agrees to waive and release all claims, suits, encumbrances, injunctions, damages, judgments, liabilities (the "Release" or the "Releases") against MID and any Affiliate of MID, the MID's employees, owners, members, shareholders, agents, assigns, independent contractors, trade partners, channel partners, vendors, resellers, wholesalers, trade group or coop members, successors in interest, third party service providers, or any other party acting on MID's behalf for the direct or indirect benefit of Client (collectively with

the MID, the "MID Release Parties") and Client exculpates, covenants not to sue, holds harmless, indemnify and defend MID and the MID Release Parties.;

Client further covenants to Release and not to sue, release, hold harmless, defend and indemnify the MID Release Parties in relation to all claims, damages, suits, demands, trials, tribunals, dispute resolution proceedings and causes of action arising from any consequences resulting from failure (including (but not limited to) inadvertence, mistake, negligence, gross negligence or wilful misconduct of Client and Affiliates of Client, owners, managers, employees, agents, contractors, members, shareholders, officers, directors, professionals, experts, vendors, successors and assigns) of Client to maintain an adequate BDR system for any of Client's data (including, but not limited to), personally identifiable information, medical data and personal health information), including data for Client's employees, Client's customers, employees of Client's customers and any data subject to Client's obligations under any applicable Federal, state, local law or regulation or any other contractual obligation Client may have with respect to the maintenance, security, confidentiality and privacy of any data, including (but not limited to) third party data, for which Client has a duty, or other legal, administrative, regulatory or contractual obligation.

1.5 Cyber security Enhancements: Client has elected to:

(a) (Client Initials) **Accept** the Cybersecurity Enhancements offered by MID as more particularly described in the Statement of Work and subject to the terms of the MCA.

(b) R.S. (Client Initials) **Decline** any Cybersecurity Enhancements. Notwithstanding any other provision herein:

Wherefore, having declined the Cybersecurity Enhancements Client acknowledges that MID will not be providing enhanced cybersecurity protections which may increase the risk of cyberattacks against Client's network security and any damages which may result therefrom. Client hereby Releases and waives all claims against MID and the MID Release Parties;

Client further covenants to Release and not to sue, release, hold harmless, defend and indemnify the MID Release Parties in relation to all claims, damages, suits, demands, trials, tribunals, dispute resolution proceedings and causes of action arising from any consequences resulting from failure (including (but not limited to) inadvertence, mistake, negligence, gross negligence or wilful misconduct of Client and Affiliates of Client, owners, managers, employees, agents, contractors, members, shareholders, officers, directors, professionals, experts, vendors, successors and assigns) of Client to accept cybersecurity enhancements in order to lower the risk of cyberattacks and all damages resulting therefrom.

2. TERM AND TERMINATION

2.1 Term. This MCA will begin on the Effective Date and will continue for **one (1) year** (the "**MCA Term**") or until each Order initiated within the MCA Term is fulfilled, expires or renews, except as otherwise set forth herein or as otherwise agreed by the Parties in writing. MID may unilaterally, subject to the terms of the MCA and in MID's sole discretion, terminate this MCA in whole or in part and/or reduce MID's obligation(s) under the MCA in whole or in part, including MID's obligation(s) under any Order, for (i) Client's breach of any provision of the MCA, (ii) Client's failure to meet its obligations to MID under the MCA, or (iii) for cause ("**MCA Termination Events**"). MCA Termination Events include, but shall not be limited to: (a) Client's failure to cure any payment that Client fails to pay when due under this MCA and/ or any Order within three (3) business days written notice being provided by MID to Client regarding said delinquent payment; or (b) failure of Client to comply with any applicable law and/or any material provision of the MCA and/or any Order upon three (3) business days written notice being provided MID to Client. At any time, if MID fails to fulfil its obligations as Managed Services Provider, it will ask for a letter and sixty days to resolve all issues to ensure client's satisfaction. After the expiry of resolution period of 60 days if MID fails to meet the covenants of this MCA and related SOW/SLA, the MCA or SOW or SLA shall stand terminated and no penalty shall be levied upon client and its affiliates. Upon any termination of the MCA and/or any Order in whole or in part, Client shall immediately uninstall or cease using any software designated by MID, return any of MID's hardware, and otherwise cease to use and return any Product to MID, together with all related documentation, hardware, intellectual property, and software, and any hard, cyber or digital copies thereof (collectively, the "**Ancillaries**") in a manner (and at a time and place) reasonably acceptable to MID in MID's sole discretion and at Client's sole expense. Upon written request of MID, Client will within three (3) business days certify in writing to MID that all Product and Ancillaries have been returned, or if so, directed by MID in writing to Client, have been destroyed in accordance with applicable law. Client agrees to assume liability to MID and the MID Release Parties for any unauthorized use of Product and Ancillaries and any destruction and disposal of same in accordance with applicable law. Client

shall Release, hold harmless, covenant not to sue, indemnify and defend MID and the MID Release Parties for any and all claims by Client and any third party or governmental entity arising from any failure of Client to use or dispose of any Product and Ancillaries in accordance with applicable law, regardless of whether MID has provided Client with advance written consent to maintain, use or destroy any Product and Ancillaries. Client acknowledges that the amounts due under the MCA and any applicable Order are amortized over the MCA Term. If the MCA or an Order is terminated in whole or in part prior to the expiration of the MCA Term, unless otherwise agreed to by Client and MID mutually in writing (the "**Early Termination Date**"), Client shall be liable to MID for the balance of payments under the MCA and applicable Statements of Work through the expiration of their respective terms. In addition, Client shall be liable to MID and reimburse MID for the costs of transition, including migration of data and recovery of hardware at MID's standard hourly rates, as full and complete liquidated damages. The Parties further stipulate that the agreed upon calculation for damages is not a penalty, but rather a reasonable measure and calculation of damages resulting from Client's breach, based upon the cost of labor and expense incurred by the MID during the onboarding process and amortization of the Client's obligations under the MCA and Statements of Work over the MCA Term.

2.2 **Client's Use And Access To Client Data and Services Post-Termination:** Client shall, for continued use and access of its data post-termination and for Services as necessary, pay to MID on the first day of each month following the month of termination of this MCA and/or any Order a monthly transition fee (the "**Post-Termination Transition Fee**") at prices no worse to Client than those for comparable Services provided to Client by MID prior to Termination, or if comparable services were not provided to Client by MID prior to Termination or expiration, then at prices no worse than the fair market value for such services in advance on the first day of each month for a period not to exceed three (3) months or as otherwise agreed (the "**Post-Termination Transition Period**"). Further, Client shall remit to MID any third-party vendor costs relating to the continued use and access of its data post-termination and for Services as necessary. Assuming actual timely payment by Client in advance, MID will reasonably make available to Client its data and perform such Services as necessary during the Post-Termination Transition Period. If the data is or includes protected health information, the storage, use, duplication, return or destruction of such data shall be governed by any applicable BAA (Business Associate Agreement) entered into and executed by the Parties and applicable law.

2.3 **Liability Relating to Client Data Post-Termination:** Subject to the Limitation of Liabilities set forth in Section 5.3, Client acknowledges that neither the MID nor the MID Release Parties have any liability to Client for breach, harm, ransom, storage, hacking, modification, duplication, destruction or loss of any data (including, but not limited to, Client data, data of any employees of Client, data of Client's customers, or any data of any employees of Client's customer's, or data of any other third parties) post-termination of this MCA and/or any Order (including the Post-Termination Transition Period), regardless of where or how the data is maintained, including off-site maintenance by third-party storage vendors, and regardless of whether MID or Client was or was not in direct privity or contract with such third-party vendor. Client hereby Releases, waives all claims against MID or any MID Release Parties, covenants not to sue MID, holds MID harmless, and agrees to indemnify and defend MID from and in relation to any and all claims, damages, suits, demands, trials, tribunals, dispute resolution proceedings and causes of action arising from any consequences resulting from data breaches of Client, Client's employees, Client's customers, employees of Client's customers, or any third parties post-termination (including during the Post-Termination Transition Period).

3 **PAYMENT AND DELIVERY**

Client shall be billed by MID on a monthly basis upon production of an invoice by the client, one-time network standardization fee may also be charged for network portability and consistency and same may be detailed in the SOW or SLA executed between the parties. Client shall pay to MID all fees and expenses incurred under this MCA and/or any Order (including any Post-Termination Transition Fee) in accordance with and upon receipt of an Invoice (as that term is hereinafter defined) generated by MID to Client specifying the amounts due for fees and reimbursable expenses (collectively, the "**Fees**"). The payment of any Fees shall occur by automatic ACH transfer, credit card, or other automatic electronic means designated by MID unless otherwise agreed to or required by MID in writing. All Fees payable under this MCA are exclusive of sales, use, VAT, customs duties, excise, and any other applicable transaction taxes, which Client will pay report and remit unless otherwise required by applicable law. If payment is not received on or before any invoice due date, interest shall begin to accrue and be payable at the lesser of the maximum rate permitted under applicable law or at the rate of one and one-half percent (1.5%) per month from the date due until paid in full. Client shall pay all expenses, including, but not limited to any accounting and expert fees incurred by MID, or its representatives in enforcing its rights under this MCA. Client's obligation to pay any Fees and MID's right to all such amounts are absolute and unconditional and not subject to set-off by Client. All Goods are FOB shipping point. Client agrees to pay or reimburse MID for all actual, necessary, and reasonable expenses incurred by MID for all Products. MID will submit invoices for Fees (each an "Invoice") to Client for remittance, and each Invoice will designate the terms of payment, including (but not limited to) payment in advance, payment immediately upon receipt of Invoice, payment upon completion, payment at designated intervals, etc. Resource quantities may be added or subtracted and per unit or per user charges will be added or subtracted accordingly. When charges are made invoices

will be adjusted in the month that any unit or user cost is added, or in the month after any unit or user cost is removed. Notwithstanding the options to add or subtract resource quantities, the Minimum Monthly Fee will be set forth in the applicable SOW. In the event emergent Services, Product and/or licenses is/are provided or commenced at Client's request and under the circumstances is commenced or provided prior to Order or Invoice, then payment for all such Product shall be due immediately upon completion or presentation of Order or Invoice, whichever is sooner. Absent statement of terms in any Order or Invoice, the default shall be immediate payment upon presentation of Order or Invoice unless otherwise agreed in writing.

4 **PROPRIETARY RIGHTS AND CONFIDENTIALITY**

- 4.1 **Proprietary Rights.** MID, any Affiliates of MID and/or their licensors shall retain all rights, title, and interest in any and all intellectual property, informational property, industrial property and any copies thereof. MID neither grants nor otherwise transfers any rights of ownership in the Product, licenses, or intellectual property to Client. By signing below, Client acknowledges that the Product and intellectual property may be protected by applicable copyright, confidentiality, non-disclosure, and trade secrets laws, as well as and other forms of intellectual property, informational property, and industrial property protections.
- 4.2 **Product.** Client may only use and disclose Product in accordance with the terms of this MCA and any applicable Orders. MID reserves all rights in and to the Product not expressly granted in this MCA. Client may not disassemble or reverse-engineer any software Product or decompile or otherwise attempt to derive any software Product's source code from executable code, except to the extent expressly permitted by applicable law, or provide a third party with the results of any functional evaluation of, benchmarking of, or performance tests on, the Products without MID's prior written approval. Client shall not license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the Product, programming, documentation, reports, or any other Product Services available to any third party. Except as expressly authorized in this MCA or an Order, Client may not (a) distribute the Product to any third party (whether by rental, lease, license, assignment, sublicense, or other transfer), or (b) operate the Product in an outsourcing or service provider business to process the data of third parties. Additional usage restrictions may apply to certain third-party files or programs embedded in the Product - applicable installation instructions or release notes will contain the relevant details.
- 4.3 **Product Offered/rendered Under This Agreement.**
- (a) **License.** Subject to the terms of this MCA and any applicable Orders thereunder, MID grants Client a non-exclusive, non-transferable license to use all programming, documentation, reports, and any other Product provided by MID pursuant to this MCA solely for its own internal use.
- (b) **Help-desk support and maintenance.** Subject to the terms of this MCA and any applicable orders thereunder, MID will provide pro-active support services and will provide a Help-Desk Team, Professional-Services Team and Network Operations Centres to provide a vast range of IT services including but not limited to Technology Business Reviews, Monitoring Services and Project and Consulting Services depending upon the subscriptions paid or agreed to be paid by other party in the applicable SOW or SLA as may be applicable. Subject to the provision of this MCA and applicable orders hereunder, MID will provide response and resolution to the Client's IT troubleshooting requirements on a set priority list and response time depending upon the client impact as listed under schedule of this MCA (refer to Attachment A).
- (c) **Pre-Existing License: Agreements.** Any software Product provided to Client by MID as a wholesaler, channel partner or reseller for a third party, which is licensed to Client under a separate software license agreement with such third party (such agreement, an "**SLA**"), will continue to be governed by the SLA. The fulfilment of the obligations under the MCA will not relieve or alter the obligations or responsibilities of either party (or of any third party) regarding the software product licensed under the SLA.
- (d) **Ownership.** MID owns all right, title and interest in the Product, including all intellectual property rights embodied therein. Nothing in this MCA is intended to (or will have the effect of) vesting in Client, or transferring to Client, rights of MID, its Affiliates, suppliers' or licensor's software, methods, know-how or other intellectual property, regardless of whether such intellectual property was created, used, or first reduced to practice or tangible form.

Confidentiality This Section sets out the terms for identification of information which is considered confidential and proprietary by MID, and restrictions against use and disclosure of such Confidential Information by the Client.

(a) **Definition.** The term "**Confidential Information**" means all proprietary or confidential information that is disclosed to the Client by MID or its affiliates, suppliers, and licensors, and includes, among other things (i) any and all information relating to Products provided by MID, any Client-related information and financial information, source and executable code, flow charts, drawings, techniques,

specifications, development and marketing plans, strategies, forecasts, and sales and marketing materials and (ii) the terms of this MCA.

(b) Disclosure Restrictions. Client may not disclose Confidential Information of MID to any third party without the prior written consent of MID.

(c) Proprietary Legends. Client may not remove, obscure, or alter any proprietary legend relating to MID's rights on or from any form of Confidential Information of MID without the prior written consent of the MID, except as expressly authorized in an Order.

(d) MID will make reasonable disclosures of Client's confidential information solely in pursuit of performance of its requirements in this MCA and any exhibits or schedules to this MCA.

5 ALLOCATION OF RISK

5.1 CONSEQUENTIAL DAMAGES. MID IS NOT LIABLE TO CLIENT, ITS AFFILIATES, THIRD PARTY VENDORS, OR ITS LICENSORS, FOR CONSEQUENTIAL DAMAGES, INCLUDING SPECIAL, INDIRECT, INCIDENTAL, OR PUNITIVE DAMAGES, ARISING OUT OF (OR RELATING TO) THIS MCA OR THE PRODUCT, EVEN IF MID HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND IRRESPECTIVE OF THE NEGLIGENCE OF EITHER PARTY OR WHETHER SUCH DAMAGES RESULT FROM A CLAIM ARISING UNDER TORT OR CONTRACT LAW. AS USED IN THIS AGREEMENT, "CONSEQUENTIAL DAMAGES" INCLUDES, WITHOUT LIMITATION, LOST PROFITS, LOST COMPUTER USAGE, INTERRUPTION OF BUSINESS OR LOSS OF USE OF CLIENT DATA.

5.2 THIRD PARTY SERVICES. IN ADDITION TO AND WITHOUT LIMITING SECTION 5.1, MID, ITS MEMBERS, EMPLOYEES, AGENTS, DIRECTORS, AND REPRESENTATIVES, MAKE NO WARRANTIES, EXPRESS OR IMPLIED, CONCERNING THE PRODUCTS AND SERVICES PROVIDED BY THIRD PARTY VENDORS TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. FURTHER, MID, ITS MEMBERS, EMPLOYEES, AGENTS, DIRECTORS, AND REPRESENTATIVES ARE NOT LIABLE FOR ANY LOSSES, INJURIES, OR DAMAGE OF WHATEVER KIND OR NATURE, RESULTING FROM OR ARISING OUT OF ANY MISTAKES, ERRORS, OMISSIONS, DELAYS, INTERRUPTIONS OR OTHERWISE RELATED TO, IN CONNECTION WITH OR ARISING FROM THIRD PARTY SERVER DATA STORAGE, DUPLICATION, ARCHIVING, FILTERING, FIREWALL, THIRD PARTY CO-LOCATION, EQUIPMENT, SOFTWARE, OR HARDWARE, OR OTHER SERVICE, SEEN OR UNFORESEEN, (COLLECTIVELY, "CLOUD SERVICES") AND WHETHER OR NOT CAUSED BY INTENTIONAL OR UNLAWFUL ACTIVITY INCLUDING HACKING, RANSOM, VIRUS OR SECURITY BREACHES, OR FOR THE ACTS OR OMISSIONS OF ANY THIRD PARTY VENDOR, CONTRACTOR, CHANNEL PARTNER, LICENSOR, LICENSEE, OR ANY OTHER PARTY.

5.3 LIMITATION OF LIABILITY. MID'S ENTIRE LIABILITY FOR ANY CLAIM, SERIES OF CLAIMS, OR FOR ANY DAMAGES RELATED IN ANY WAY TO ANY PRODUCT OR RIGHTS OF MID, AS WELL AS THOSE ARISING UNDER OR RELATED TO THIS MCA, INCLUDING MID'S PERFORMANCE OF THE SERVICES, OR MID'S PROVIDING OF ANY HARDWARE OR SOFTWARE UNDER ANY THEORY, WHETHER STRICT LIABILITY, NEGLIGENCE, ACTIVE OR OTHERWISE, IS LIMITED TO CLIENT'S AND ANY THIRD PARTIES' DIRECT DAMAGES AND IS FURTHER LIMITED TO THE COVERAGE ACTUALLY AFFORDED BY MID'S INSURANCE POLICIES. ALTERNATIVELY, IF INSURANCE COVERAGE IS NOT AVAILABLE UNDER ANY OF MID'S POLICIES, TOTAL LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT SHALL NOT EXCEED THE LESSER OF THE AMOUNT CLIENT PAID TO MID UNDER THIS AGREEMENT IN THE ONE MONTH IMMEDIATELY PRECEDING THE FACTS OR CIRCUMSTANCES GIVING RISE TO THE LAST CLAIM OF DAMAGE OR \$5,000.00. THIS PROVISION IS INDEPENDENT OF ANY OTHER LIMITATION OF LIABILITY AND REFLECTS A SEPARATE ALLOCATION OF RISK FROM PROVISIONS SPECIFYING OR LIMITING A PARTY'S REMEDIES.

5.4 Indemnification and Duties.

a. If Client, its Affiliates, or any of its respective employees, agents, vendors, or suppliers, is faced with a legal claim by a third party arising out of MID's actual or alleged gross negligence, negligence, wilful misconduct, violation of law, or failure to meet the security obligations required by the MCA, or a legal claim alleging patent, trade secret, or copyright infringement, then Client must forward notice of the legal claim to MID within three (3) business days of receipt of the claim.

b. If MID, its Affiliates, or any of its respective employees, agents, vendors, channel partners, contractors, licensee, licensor, or suppliers is faced with a legal claim by a

third party arising out of Client's actual or alleged gross negligence, negligence, wilful misconduct, violation of law, failure to meet the security obligations required by the Agreement, and/or violation of Client's agreement with its Clients or end users, then Client shall at all times indemnify and hold harmless MID, its successors and assigns and any of its officers, directors, employees representatives, and/or agents, and their heirs, executors, administrators, successors and assigns or each of them against and from any and all claims, damages, liabilities, costs and expenses, including the cost of defending the claim (including reasonable attorney's fees) and any damages award, fine or other amount that is imposed on MID as a result of the claim. Client's obligations under this subsection include claims arising out of the acts or omissions of Client's employees, any other person to whom Client has given access to the Product, and any person who gains access to the Product as a result of Client's failure to use reasonable security precautions, even if the acts or omissions of such persons were not authorized by Client, including unlawful acts of data intruders.

- c. Client shall pay attorneys' fees and other expenses that MID incurs in connection with any dispute between persons having a conflicting claim to control Client's account with MID, or any claim by Client's clients or end users arising from an actual or alleged breach of Client's obligations to them.
- d. If Client receives notice of a claim that is or may be covered by this Section 5.4, the notice must be promptly forwarded to the MID. Client will not settle any claim that encumbers MID with any liability, specific performance, injunctive relief that acknowledges only wrongdoing by MID, breach of the MCA by MID, violation of regulation or law by MID, or substantially similar burden without written approval and consent from MID.

5.5 **Injunctive Relief.** Client acknowledges that a violation of MID's confidentiality as described in Section 4 of this MCA will cause MID immediate and irreparable harm. In the event of a breach of Section 4 by Client or any third party, Client agrees that MID may seek, in addition to any and all other remedies available at law, an injunction, specific performance, or other appropriate relief, including liquidated damages, loss or profits, enterprise value, business disruption, or harm to reputation.

5.6 **Additional Protections.**

- a. MID SHALL NOT BE LIABLE FOR ANY UNLAWFUL OR UNAUTHORIZED ACCESS, DAMAGE, LOSS OR INTRUSION TO CLIENT DATA, NOR SHALL MID BE LIABLE FOR ANY UNLAWFUL OR UNAUTHORIZED ACCESS, DAMAGE, LOSS OR INTRUSION TO ANY DATA OF CLIENT'S CLIENT, ANY DATA OF ANY ENTITY OR PERSON SERVED BY CLIENT, AND/OR ANY ENTITY OR PERSON TO WHOM CLIENT OTHERWISE OWES A DUTY OF CARE, WHETHER SUCH DUTY OF CARE ARISES PURSUANT TO CONTRACT OR AS A MATTER OF APPLICABLE LAW. CLIENT SHALL BE SOLELY RESPONSIBLE FOR DETERMINING WHAT APPLICABLE COMPLIANCE STANDARDS, IF ANY, IT MUST OR SHOULD ADHERE TO OR MAINTAIN FOR ITSELF, ITS CLIENTS, CLIENTS OR OTHER THIRD PARTIES CONCERNING DATA COMPLIANCE, STORAGE, BACKUP, RETENTION AND RESTORATION FOR ANYONE TO WHOM CLIENT IS RESPONSIBLE AND/OR OTHERWISE OWES A DUTY OF CARE CONCERNING SUCH DATA COMPLIANCE, STORAGE, BACKUP, RETENTION AND RESTORATION.
- b. Client fully and forever Releases and discharges MID and all of its respective affiliates, directors, officers, shareholders, employees, agents, and insurers, from any and all injuries, losses, damages, claims (including negligence claims), demands, lawsuits, expenses, and any other liability of any kind, of or to Client, its property, Client's customers, employees, suppliers or any other person, directly or indirectly arising out of or in connection with services provided by third party vendors,
Further, Client will defend, indemnify, hold harmless, and reimburse MID from and for all damages, losses, costs, or expenses (including legal fees) incurred by the MID or paid by them to any person (including Client or its respective insurers) in respect of any liability resulting from services provided by third party vendors. In addition, Client will not initiate any claim, lawsuit, court action, or other legal proceeding or demand against MID, nor join or assist in the prosecution of any claim for money or other damages which anyone may have, on account of injuries, losses, or damages sustained by Client, its customers, employees or suppliers, other parties, or any such person's property in connection with any services provided by third party vendors.
- c. MID shall not be liable for any inability of the MID, Client or Client's Clients to access, maintain, recover or restore any of Client's data, including (but not limited to) any inability as a result of

force majeure, acts of God and nature, war, terrorism, bankruptcy, insolvency or shutdown of any business of Client, Client's Client, Client's vendors, or MID's vendor or vendors, channel partners, licensees or licensors, VOIP service providers, or agents, except as otherwise required by law. For purposes of this section, "vendor" or "vendors" includes, but is not limited to, vendors storing Client's Data or Client's Client data in the "cloud", such as offsite storage facilities.

- d. In the event of the insolvency, liquidation, or restructuring of the Client, Client agrees for any continuation of Product that the MID may provide in its sole discretion, that MID shall be considered, for purposes of applicable state and federal law, including federal bankruptcy law, as a "critical vendor," and Client shall be paid immediately for any outstanding pre-filing Invoices that are outstanding. Additionally, in the event of the insolvency, liquidation, or restructuring of the Client, Client shall waive any and all rights to bring any avoidance action, actions for clawback of amounts paid/transfers made, actions for preferential transfer/treatment, and actions for fraudulent transfer, whether such actions arise under state or federal law, including (but not limited to) federal bankruptcy law.
- e. Each and every payment under this MCA shall be considered (and is hereby acknowledged by the parties as) a contemporaneous exchange for new value.

6. SERVICE-SPECIFIC TERMS.

6.1 All Necessary Rights. If, as part of its Services, MID is required to use, copy or modify any third-party hardware, software or other technology provided or licensed to Client, then prior to MID's performance of such Services, Client will acquire all rights necessary for MID to perform such Services and shall indemnify MID for any claims arising therefrom.

6.2 Intellectual Property Indemnity.

(a) Infringement Claims. Subject to the disclaimer of damages and limitations of liability set forth in section 5, if a third party asserts against Client a claim that the Products and/or MID's performance of the Services in accordance with the terms of this MCA violates a patent, trade secret or copyright (an "Intellectual Property Right") owned by that third party ("Infringement Claim"), then MID may, at its own expense: (a) defend or settle the Infringement Claim; and (b) indemnify Client for any damages finally awarded against Client. For any claim, Client must promptly notify MID of any Infringement Claim, MID may retain sole control of the defense of any Infringement Claim and all negotiations for its settlement or compromise, and Client must provide all reasonable assistance requested by MID. MID will not be liable for any expenses or settlements incurred by Client without MID's prior written consent.

(b) Remedies. If an injunction or order is obtained against MID performing the Services for Client and/or Client using the Products by reason of the allegations of infringement, or if in MID's opinion the Services and/or Products may violate a third party's proprietary rights, then MID may, at its expense: (a) procure for Client the right to continue to receive the Services and/or use the Products; (b) modify or replace the Services and/or Products with a compatible, functionally-equivalent substitute; or (c) if neither (a) nor (b) are commercially practical, terminate this MCA or a specific order thereunder and release Client from its obligation to make future payments for the Services and/or Products. Sections 5.1, 5.2, and 5.3 contain Client's exclusive remedies and MID's limited liability for claims of infringement.

6.3 MID Insurance. MID will provide and maintain during its rendition of the Services and sale of Product, but only for losses arising out of MID's work for Client: (a) worker's compensation and related insurance as prescribed by the law of the state applicable to the employees performing such Services; (b) employer's liability insurance with limits statutorily required and at least one million dollars (\$1,000,000) for each occurrence; and (c) commercial general liability insurance (including products liability) with one million dollars (\$1,000,000) per occurrence combined single limit and one million dollars (\$1,000,000) in the aggregate, including coverage for the use of subcontractors, products liability and completed operations, and not containing an exclusion for explosion, collapse and underground coverage.

6.4 Client Insurance. Due to the complexity and severity of the exposures created by the use of computers, Client shall consult with a qualified risk manager to evaluate its exposures, unless otherwise agreed by the parties in writing. Client shall carry the following insurance policies, including:

- (a) **Commercial general liability insurance.** Client shall maintain coverage with limits no less than one million dollars (\$1,000,000) per occurrence combined single limit and one million dollars (\$1,000,000) in the aggregate, including coverage for contractually assumed liability as contained herein.
- (b) **Property insurance.** Client shall maintain property insurance with a coverage extension for electronic data. The computer equipment policy will pay for loss or damage caused by or resulting from an accident to computer equipment. Computer equipment means covered property that is electronic computer or other data processing equipment, including, 'media' and peripherals used in conjunction with such equipment, including loss of income.
- (c) **Cyber and privacy insurance.** Policy coverage at a minimum shall include the following:
- Cyber-extortion coverage
 - Data asset coverage
 - Computer fraud
 - Business interruption
 - Extra expense
 - Privacy notification and crisis management expenses
 - Information security and privacy liability
 - Website media content liability
 - Mechanical breakdown and electrical failure

6.4.1 Client's insurance: as to any insurance policies referenced above in this paragraph 6.4, if any, Client shall provide a certificate of insurance to MID upon written request.

- 6.5 **Mutual Waiver of Subrogation.** To the extent permitted by law, MID and Client mutually waive all rights against each other for recovery of damages to the extent such damages are covered by insurance, including but not limited to worker's compensation, and employer's general liability, auto liability, physical damage, property insurance, cyber insurance and/or commercial umbrella/excess liability insurance under their respective insurance coverage policies and limits.
- 6.6 **Independent Contractor.** Nothing in this MCA will be construed to make either party an employer, employee, agent, or partner of the other, and this MCA will not be construed to create rights, express or implied, on behalf of or for the use of any party other than MID and Client. All the Services performed by MID will be performed as an independent contractor. MID will perform such Services under the general direction of Client, but MID will have sole discretion to determine the manner, method and means of performing such Services subject to the provisions of this MCA and applicable Order. Neither party will have any authority to make any contract in the name of, or otherwise to bind, the other party. MID will be responsible for, and will pay, all unemployment, social security and other payroll taxes, and all worker's compensation claims, worker's compensation insurance premiums and other insurance premiums, with respect to MID and MID's employees.
- 6.7 **Non-Solicitation.** Client will not, either directly or indirectly (except through MID) solicit, hire, or contract with any MID employee during the term of this Agreement and for a one (1) year period following termination thereof (hereafter the "Non solicitation Period"). In the event that Client desires to directly hire any MID employee during the Non-Solicitation Period, Client must first seek MID's consent to directly hire the MID employee and to speak with the MID employee about the employment opportunity.

7. ALTERNATIVE DISPUTE RESOLUTION.

ANY SUIT CONTROVERSY OR CLAIM ARISING OUT OF (OR RELATING TO) THE PRODUCT AND/OR THIS MCA WILL BE REFERRED TO MANDATORY NONBINDING MEDIATION. THE PARTIES SHALL

SPLIT THE COSTS OF THE MEDIATOR. THE MEDIATION SHALL BE CONDUCTED IN THE STATE OF DELAWARE BY A MEDIATOR MUTUALLY AGREEABLE TO THE PARTIES SELECTED FROM THE LIST OF CERTIFIED MEDIATORS MAINTAINED BY THE DELAWARE SUPERIOR COURT. A REPRESENTATIVE OF THE PARTY WHO HAS AUTHORITY TO NEGOTIATE AND SETTLE THE MATTER MAY APPEAR TELEPHONICALLY.

8. MISCELLANEOUS/OTHER PROVISIONS.

- 8.1 Severability, No Recovery of Fees. Should any provision of this MCA be invalid, or unenforceable, the remainder of the provisions will remain in effect. In the event of a dispute, each party shall bear its own respective costs, expenses, and attorneys' fees.
- 8.2 Notices. Unless otherwise provided, notices to the Parties will be in writing to the address indicated above and deemed effective when received by U.S. mail by first class, express mail, or by electronic means.
- 8.3 Verification. Upon MID's written request, Client will provide MID with a certification signed by an officer of Client verifying that Product is being used pursuant to the terms of this MCA, including (without limitation) the licensed capacity of the Product. MID may, at its expense, audit Client's use of Product to confirm Client's compliance with this MCA. Any such audit will be conducted during regular business hours at Client's facilities and will not unreasonably interfere with Client's business activities. If an audit reveals that Client has underpaid Fees to MID, Client will pay such underpaid Fees. If the underpaid Fees exceed five percent (5%) of the Fees paid, then Client will also pay MID's reasonable costs of conducting the audit.
- 8.4 Assignment. Client may not assign this MCA, or any rights granted in this MCA to any third party, except with the prior written consent of MID. MID may assign, in its sole discretion, all or any portion of this MCA to provide more reasonable and competent equipment, software, or services to Client.
- 8.5 No Waivers. Failure of a party to require performance by the other party under this MCA will not affect the right of such party to require performance in the future. A waiver by a party of any breach of any term of this MCA will not be construed as a waiver of any continuing or succeeding breach.
- 8.6 Force Majeure. Any delay or failure of MID to perform any obligation under this MCA caused by federal, state or municipal government orders restricting mobility, setting curfews or requiring shelter in place, labor disputes, acts of terrorism, cyber-espionage or hacking, storms or natural disasters, emergency, diseases, epidemics, pandemics, quarantines, riots, protests, elector-magnetic pulses, biohazards, or other causes beyond the reasonable control of the MID will not be deemed a breach of this MCA (the "Force Majeure Event"). In the event of power failure or internet, satellite or loss of customer or utilities due to a Force Majeure or any other event beyond MID's control of either MID, Customer or a third-party vendor or of agent of either MID or Customer, MID shall not be liable for the loss of network connectivity, internet connectivity or primary internet service that results in the Client's inability to access data, third party services, VoIP, or satellite services. Further, the MID is not required to seek a writ of habeas corpus in the event of a government order restricting the MID's ability to perform.
- 8.7 Channel Partners. Client acknowledges that MID may utilize channel partners to market and sell its products, services, or technologies.
- 8.8. Entire Agreement. This MCA, together with each Statement of Work and Order, constitutes the entire agreement between Client and MID, and supersedes any prior or contemporaneous negotiations or agreements, whether oral or written, concerning this subject matter. This MCA, and each Statement of Work and Order, may be modified only by a mutually- signed writing between Client and MID.
- 8.9 Export Controls. Client will cooperate with MID as reasonably necessary to permit MID to comply with the laws and regulations of the United States and all other relevant countries relating to the control of exports ("**Export Laws**"). Client may not import, export or re-export, directly or indirectly, including via remote access, any part of the Product into or to any country for which a validated license is required for such import, export, or re-export under applicable Export Laws without first obtaining such validated license.
- 8.10 Referencing. Client agrees that MID and any Affiliates of MID may refer to Client as a Client of MID, both internally and in externally-published media, to include (but not be limited to) use of Client name, logo, and the fact of the relationship in promotional materials, although Client may cancel the above-described referencing rights on thirty (30) days-notice to MID. Client also agrees to instruct appropriate personnel within its organization that Client has agreed to receive and participate in calls, from time to time, with potential Clients of MID who wish to evaluate the technical specifications of Product.

8.11 GOVERNING FORUM AND LAW. THIS MCA IS GOVERNED BY DELAWARE LAW, EXCEPT AS TO CONFLICTS OF LAW, WHICH IN ALL CASES SHALL CAUSE TO BE SELECTED THE LAWS OF THE STATE OF DELAWARE. ALL DISPUTES UNDER THIS MCA SHALL BE RESOLVED IN ACCORDANCE WITH PARAGRAPH 7. SHOULD LITIGATION OCCUR, THE PARTIES AGREE THAT SUCH LITIGATION WILL BE RESOLVED IN THE COURTS OF THE STATE OF DELAWARE, INCLUDING THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF DELAWARE, AND THE PARTIES AGREE TO ACCEPT ALL SERVICE OF PROCESS RELATED TO SUITS AND CLAIMS COMMENCED IN THE STATE AND FEDERAL COURTS OF DELAWARE AND HEREBY WAIVE ANY SERVICE OF PROCESS OR VENUE DEFENSES OTHERWISE AVAILABLE TO IT. THE PARTIES RECOGNIZE THAT THE DELAWARE COURT SYSTEM IS A PREFERRED JURISDICTION FOR BUSINESS LITIGATION DUE TO ITS VAST BUSINESS ACUMEN, SPEED OF ACCESS TO THE ADJUDICATION PROCESS, AND POWER TO ISSUE EQUITABLE RELIEF AND ENSURE CONSISTENCY OF LAW PERTAINING TO EITHER PARTY WHEN DEALING WITH VENDORS, THIRD PARTIES, LICENSEES, LICENSORS, SAAS PROVIDERS AND OFFSITE CLOUD STORAGE FACILITIES WITH THE INHERENT INTERSTATE TRANSFER OF DATA, SERVICES AND GOODS ACROSS STATE LINES. IN THE EVENT OF A DISPUTE ARISING OUT OF THIS MCA, EACH PARTY SHALL OBSERVE THE "AMERICAN RULE" AND BEAR ITS OWN RESPECTIVE COSTS, EXPENSES, EXPERTS, AND ATTORNEYS' FEES, EXCEPT WITH RESPECT TO SECTION 5.4(C).

8.12 Litigation Holds. Any and all discovery, (including electronic data) that Client determines to voluntarily produce or is required or compelled to produce pursuant to process or court order in suits, claims, proceedings or disputes with third parties shall be at Client's sole expense and in a manner in form and substance compliant with applicable law, process or court order. MID's assistance with such discovery and the provision of products and services in connection therewith, shall be subject to a separate services agreement "discovery services agreement" mutually agreeable to MID and Client. In no event shall MID be required under any such discovery services agreement to advance costs, fees, or expenses- said costs fees and expenses to be disbursed by Client in advance unless otherwise agreed to in writing by the Parties.

8.13 Non-disparagement. Neither Party shall, directly or indirectly, make or authorize the making of any statement that disparages or creates any material negative inference with respect to the other Party's respective officers, directors, affiliates, personnel, products, or related companies, by words, actions, or other communications, or by any omission to speak, act or otherwise communicate.

8.14 Change of Control.

8.14.1 In the event of an acquisition or other change in control of Client, this MCA, all statements of work, and orders either attached hereto as an exhibit or incorporated herein by reference, shall remain in full force and effect. "Change in Control" means, for any person, either (a) any sale, exchange, transfer, conveyance or termination of any equity or ownership interests in Client, or any corporate, limited liability company or partnership reorganization, restructure, merger, acquisition, transfer of assets, consolidation or adjustment with respect to Client, in each case if the persons currently in control of Client would no longer have such control after such event or (b) any other change in the direct or indirect control of, or the ability or right to control, a majority of the voting shares of any class of securities or ownership rights in Client or in the right or the power to control the election of the board of directors or other managing body of Client, in each case if the persons currently in control of Client would no longer have such control after such event.

8.14.2 In the event of an acquisition or other change in control of MID, this MCA, all statements of work, and orders either attached hereto as an exhibit or incorporated herein by reference, shall remain in full force and effect, upon notice by MID with respect to this MCA. The Change in Control when effected by MID, this MCA shall be binding on the parties and their respective successors and permitted assigns as the case may be. Change in Control" means, for any person, either (a) any sale, exchange, transfer, conveyance or termination of any equity or ownership interests in MID, or any corporate, limited liability company or partnership reorganization, restructure, merger, acquisition, transfer of assets, consolidation or adjustment with respect to MID, in each case if the persons currently in control of MID would no longer have such control after such event or (b) any other change in the direct or indirect control of, or the ability or right to control, a majority of the voting shares of any class of securities or ownership rights in MID or in the right or the power to control the election of the board of directors or other managing body of MID, in each case if the persons currently in control of MID would no longer have such control after such event.

8.15 Litigation. In the event of litigation or threatened litigation between Client and a third party, the Scope of MCA referenced in Section 1.1 shall not include assistance by the MID to preserve documents, including electronically stored information ("ESI"), as may be requested by counsel, or as ordered by a court of competent jurisdiction.

8.16 MID makes no representations or warranties, express or implied, regarding compliance with the GDPR (General Data Protection Regulation) as enacted by the European Parliament and the Council of the European Union, Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016.

8.17 Survival. Sections 1, 2, 4, 5, 6, 7 and 8 will survive the termination or expiration of this MCA. Each party shall bear its own respective costs, expenses, and attorneys' fees in any litigation or arbitration proceeding between them arising out of this MCA, except with respect to section 5.4(c).

This MCA is effective only upon execution by MID and Client. Each party hereto warrants and represents that this MCA constitutes the legal, valid, and binding obligation of such party as of the Effective Date.

[MID]

Signature:



Name: David Mahoney

Title: President

Date: 01 / 29 / 2024

Client

Signature:



Name: Randy Singh

Title: City Manager

Date: 01 / 29 / 2024

ATTACHMENT

SCHEDULE A-1

RESPONSE TIME REFERENCE CHART

Trouble	Priority	Response time (in hours) *	Resolution time (in hours) *	Escalation threshold (in hours)
Service not available (all users and functions unavailable).	1	Within 1 hour	ASAP – Best Effort	2 hours
Significant degradation of service (large number of users or business critical functions affected)	2	Within 4 hours	ASAP – Best Effort	8 hours
Limited degradation of service (limited number of users or functions affected, business process can continue).	3	Within 24 hours	ASAP – Best Effort	36 hours
Small service degradation (business process can continue, one user affected).	4	Within 24 hours	ASAP – Best Effort	36 hours

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