

MASTER CLIENT AGREEMENT

GENERAL TERMS

This Master Client Agreement is entered as of **January 1, 2016** ("Effective Date") by and between:

Managed Services Provider ("MSP")

Business System Solutions, Inc.
928 Robinson Street
West Lafayette, IN 47906

Managed Services Client ("Client")

Client signing Statement Of Work or other MSP Agreement

1. SCOPE OF AGREEMENT. This Master Client Agreement ("**Agreement**") serves as a master agreement and applies to Client's and its Affiliates' purchases from BSS, of services ("**Services**"), as well as licenses for software, hardware, support and maintenance services, and/or subscription services (collectively, "**Product**"). 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 BSS, as the case may be. No Product will be provided under this Agreement alone, but (a) with the exception of Services, will require the execution of one or more addenda relating to the Product ("**Addenda**"), and may require the execution of (b) a written or electronic order form, or other mutually acceptable order documentation (including, without limitation, Statements of Work "**SOW**" for Services, or order for materials "**Order**"), which contains terms relating to one or more Addenda and/or this Agreement, each of which must be executed by both parties. The Services to be rendered to Client must be further described in one or more SOW, which upon the signature by both parties is deemed incorporated in this Agreement for all purposes, and will be substantially in the form of Exhibit A. In the event of any conflict between the terms of the SOW, Addenda, Orders and those of this Agreement, the terms of the SOW, Addenda, and Orders will prevail.

2. TERM AND TERMINATION. This Agreement will begin on the Effective Date and will continue until each SOW, and Addenda expires or is terminated. BSS may: (a) terminate a specific Order if Client fails to pay any applicable fees due for that Order within 30 days after receipt of written notice from BSS of non-payment; and/or (b) terminate this Agreement or a SOW, or Addendum if Client commits any other material breach of this Agreement, SOW, or Addendum and fails to cure such breach within thirty (30) days after receipt of written notice from BSS. Upon any termination of the right to use a Product, Client will immediately uninstall (if the Product is software) and cease to use the terminated Product and, upon BSS' written request, immediately return such Product to BSS, together with all related documentation, and copies thereof. Upon written request of BSS, Client will promptly certify in writing to BSS that all copies of the Product have been returned, and that any copies not returned have been destroyed. If a SOW is terminated, Client will promptly pay BSS for Services rendered, and expenses incurred through the termination date. BSS may terminate any license granted for a Deliverable (as defined below) if (i) Client does not pay BSS for that Deliverable in accordance with this Agreement, or (ii) if Client materially breaches any part of Section 4 of this Agreement, SOW, or Addendum.

3. PAYMENT AND DELIVERY. Client will pay BSS all fees due upon receipt of an invoice specifying the amounts due ("**Fees**").

All Fees payable under this Agreement are exclusive of sales, use, VAT, customs duties, excise, and any other applicable transaction taxes, which Client will pay (excluding taxes based upon the net income of BSS). All Product is FOB shipping point. All Fees will be detailed in an Order. Unless otherwise stated in a SOW, Client agrees to pay or reimburse BSS for all actual, necessary, and reasonable expenses incurred by BSS in performance of such SOW. BSS 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 SOW.

4. PROPRIETARY RIGHTS AND CONFIDENTIALITY.

4.1. Proprietary Rights. BSS, 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, other than hardware, and copies thereof. BSS neither grants nor otherwise transfers any rights of ownership in such Product to Client. The Product may be protected by applicable copyright and trade secrets laws, and other forms of intellectual property, informational and industrial property protection.

4.2. Product. Client may only use and disclose Product in accordance with the terms of this Agreement and applicable Addenda. BSS reserves all rights in and to the Product not expressly granted in this Agreement.

4.3. Services Deliverables licensed under this Agreement.

(a) License. Subject to the terms of this Agreement, BSS grants Client a perpetual, non-exclusive, non-transferable license to use and modify all programming, documentation, reports, and any other deliverables provided as part of the Services ("**Deliverables**") solely for its own internal use.

(b) Pre-Existing License Agreements. Any software product provided to Client by BSS as a 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 fulfillment of the Services will not relieve or alter the obligations or responsibilities of either party or of any third party in regards to the software product licensed under the SLA.

(c) Ownership. BSS owns all right, title and interest in the Deliverables, *including* all intellectual property rights embodied therein. Nothing in this Agreement is intended to or will have the effect of vesting in or transferring to Client rights in BSS' or its affiliates' or its or their suppliers' 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 in the course of performance of the Services, whether solely by BSS or jointly with Client.

4.4 Mutual Confidentiality. This Section sets out the terms for identification of information which is considered confidential and proprietary by a party (the “**Discloser**”), and restrictions against use and disclosure of such Confidential Information after disclosure to the other party (the “**Recipient**”).

(a) Definition. The term “**Confidential Information**” means all proprietary or confidential information that is disclosed to the Recipient by the Discloser, and includes, among other things (i) any and all information relating to products or services provided by a Discloser, its Client-related and financial information, source and executable code, flow charts, drawings, techniques, specifications, development and marketing plans, strategies, forecasts, and sales and marketing materials; (ii) the Product, other than hardware; and (iii) the terms of this Agreement. Confidential Information does not include information that Recipient can show: (A) was rightfully in Recipient’s possession without any obligation of confidentiality before receipt from the Discloser; (B) is or becomes a matter of public knowledge through no fault of Recipient; (C) is rightfully received by Recipient from a third party without violation of a duty of confidentiality; or (D) is or was independently developed by or for Recipient.

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

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

5. **ALLOCATION OF RISK**

5.1. Disclaimer of Damages. EXCEPT FOR VIOLATIONS OF SECTION 4, NEITHER PARTY, NOR ITS AFFILIATES AND LICENSORS, ARE LIABLE TO THE OTHER PARTY, OR ITS AFFILIATES OR LICENSORS, FOR ANY SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE PRODUCT (INCLUDING WITHOUT LIMITATION LOST PROFITS, LOST COMPUTER USAGE, AND DAMAGE OR LOSS OF USE OF DATA), EVEN IF THAT PARTY 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.

5.2. Limitation of Liability. EXCEPT FOR VIOLATIONS OF SECTION 4, BSS’ LIABILITY FOR DIRECT DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT IS LIMITED TO THE AMOUNT PAID FOR THE APPLICABLE PRODUCT.

5.3. Injunctive Relief. Both parties acknowledge that their violation of Section 4 may cause the other party

immediate and irreparable harm. In the event of such breach, the breaching party agrees that the other party may seek, in addition to any and all other remedies available at law, an injunction, specific performance or other appropriate relief.

6. **SERVICES-SPECIFIC TERMS.**

6.1. All Necessary Rights. If, as part of BSS’ performance of Services, BSS is required to use, copy or modify any third party system (hardware, software or other technology) provided or licensed to Client, then prior to BSS’ performance of such Services, Client will acquire all rights necessary for BSS to perform such Services.

6.2. Limited Warranty. BSS warrants that the Services performed will be of a quality conforming to generally accepted practices that are standard within the software services industry for a period of ninety (90) days from completion of the Services under the applicable SOW. Client’s exclusive remedy and BSS’ entire liability under this warranty will be for BSS to re-perform any non-conforming portion of the Services within a reasonable period of time, or if BSS cannot remedy the breach during such time period then refund the portion of the fee attributable to such non-conforming portion of the Services. This warranty will not apply to the extent Client, its contractors or agents have modified any Deliverable, unless otherwise authorized by BSS in writing. **THIS WARRANTY AND CONDITION IS IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS, INCLUDING THE IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WHICH ARE SPECIFICALLY EXCLUDED.**

6.3. **Intellectual Property Indemnity**

(a) Infringement Claims. If a third party asserts a claim against Client asserting that the Deliverables and/or BSS’ performance of the Services in accordance with the terms of this Agreement violates a patent, trade secret or copyright (an “**Intellectual Property Right**”) owned by that third party (“**Infringement Claim**”), then BSS will, at its own expense: (a) defend or settle the Infringement Claim; and (b) indemnify Client for any damages finally awarded against Client, but only if Client promptly notifies BSS of any Infringement Claim, BSS retains sole control of the defense of any Infringement Claim and all negotiations for its settlement or compromise, and Client provides all reasonable assistance requested by BSS. BSS will not be liable for any expenses or settlements incurred by Client without BSS’ prior written consent.

(b) Remedies. If an injunction or order is obtained against BSS performing the Services for Client and/or Client using the Deliverables by reason of the allegations of infringement, or if in BSS’ opinion the Services and/or Deliverables may violate a third party’s proprietary rights, then BSS will, at its expense: (a) procure for Client the right to continue to receive the Services and/or use the Deliverables; (b) modify or replace the Services and/or Deliverables with a compatible, functionally equivalent substitute; or (c) if neither (a) nor (b) are commercially practical, as determined by BSS in

its sole discretion, terminate this Agreement and release Client from its obligation to make future payments for the Services and/or Deliverables. Sections 5.1 and 5.2 contain Client's exclusive remedies and BSS' sole liability for claims of infringement.

6.4. Independent Contractor. Nothing in this Agreement will be construed to make either party an employer, employee, agent or partner of the other, and this Agreement will not be construed to create rights, express or implied, on behalf of or for the use of any party other than BSS and Client. All of the Services performed by BSS will be performed as an independent contractor. BSS will perform such Services under the general direction of Client, but BSS will have sole discretion to determine the manner, method and means of performing such Services subject to the provisions of this Agreement and applicable SOW and Addendums. Neither party will have any authority to make any contract in the name of or otherwise to bind the other party. BSS 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 BSS and BSS' employees.

6.5. Mutual Non-Solicitation. During the term of this Agreement, and for a period of six (6) months thereafter, neither party will solicit for employment any employees of the other party or its affiliates who, within six (6) months prior to such solicitation: (a) directly performed under this Agreement, (b) had substantial contact with the hiring party in relation to this Agreement, or (c) the hiring party became aware of due to, or derived from information learned through the performance of, this Agreement. For this purpose, "solicitation" does not include contact resulting from indirect means such as public advertisement, placement firm searches or similar means not directed specifically at the employee to which the employee responds on his or her own initiative. Notwithstanding the foregoing, either party may at any time, directly or indirectly, solicit and hire any employee of the other party if such employee did not resign but was terminated by the other party. The parties acknowledge and agree that a breach of this "Non-Solicitation" clause will not give rise to a right of termination of this Agreement; the party not in breach will only have the right to seek and recover direct damages from the breaching party.

7. MISCELLANEOUS/OTHER PROVISIONS.

7.1. Severability. Should any provision of this Agreement be invalid, or unenforceable, the remainder of the provisions will remain in effect.

7.2. Notices. Unless otherwise provided, notices to either party will be in writing to the address indicated above, or as later amended, and deemed effective when received.

7.3. Verification. Upon BSS' written request, Client will provide BSS with a certification signed by Client, or an applicable agent of Client, verifying that Product is being used pursuant to the terms of this Agreement, including without limitation the licensed capacity of the Product. BSS may, at its expense, audit Client's use of Product to confirm Client's compliance with this Agreement. 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 BSS, Client will pay such underpaid Fees. If the underpaid Fees exceed five percent (5%) of the Fees paid, then Client will also pay BSS' reasonable costs of conducting the audit.

7.4. Assignment. Client may not assign this Agreement or any rights granted in this Agreement to any third party, except with the prior written consent of BSS.

7.5. No Waivers. Failure of a party to require performance by the other party under this Agreement 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 Agreement will not be construed as a waiver of any continuing or succeeding breach.

7.6. Force Majeure. Any delay or failure of any party to perform any obligation under this Agreement caused by governmental restrictions, labor disputes, storms or natural disasters, emergency, or other causes beyond the reasonable control of the party, will not be deemed a breach of this Agreement. This provision does not apply to the payment of monies or any breach of Section 4.

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

7.8. Entire Agreement. This Agreement, together with each Addendum and Order, constitutes the entire agreement between Client and BSS, and supersedes any prior or contemporaneous negotiations or agreements, whether oral or written, concerning this subject matter. This Agreement, and each SOW, Addendum and Order, may be modified only in a mutually signed writing between Client and BSS. In the event of a conflict between this Agreement, any Addendum or an Order, the terms of the Order will control, followed by the terms of the applicable Addendum and then this Agreement.

7.9. Referencing. Client agrees that BSS and its Affiliates may refer to Client as a Client of BSS, both internally and in externally published media. 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 BSS who wish to evaluate the technical specifications of Product.

7.10. Choice of Law and Forum. This Agreement, SOW, Addendums, and Orders and all Services and Products provided to Client by BSS will be governed by and interpreted by the laws of Indiana without giving effect to its choice of law rules. All litigation between the parties will be filed and litigated in a state or federal court located in Tippecanoe County, Indiana.

7.11. Survival. Sections 2, 4, 5, 6 and 7 will survive the termination or expiration of this Agreement. The prevailing party in any litigation or arbitration proceeding, to enforce the obligations under section 4 of this Agreement, is entitled to recover, from the other party, its reasonable attorneys' fees and necessary costs incurred in such proceeding.

7.12. Costs of Collection. In the event Client fails to pay BSS any amounts due BSS under this Agreement, SOW, Addendums, or Orders, then Client shall pay BSS its reasonable

costs of collection, including attorney's fees and legal expenses incurred by BSS as a result of the non-payment.

ADDENDA INCORPATED INTO MASTER CLIENT AGREEMENT
Exhibit A: SOW (Example) [Actual will be Signed SOW by Client]
Exhibit B: HARDWARE AND SOFTWARE ADDENDUM

By signing a Statement Of Work or any other Agreement with Business System Solutions, Inc., the Parties hereto agree to all terms, conditions and covenants contained herein and that they are authorized to make such decisions for their respective organizations. The Parties acknowledge that this is a legally binding Contract and the Parties fully acknowledge that they each have accepted this Contract of their own free will. This Contract is effective only upon execution by BSS and Client.

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EXHIBIT A

SOW (Example)

SOW No. -- SOW-XXX2011xx

1. **Services Description:**
The services to be performed by BSS on behalf of Client are

2. **Deliverables Description:**
The deliverables to be provided are

3. **Minumum Compliance Standards:**
Delivery terms are

4. **SOW Terms**
Implimentation, client requirements, services

5. **Supported Technologies and Personnel:**
Hardware / Software / Personnel supported are

6. **Service and Fee Schedule:**
Fees for Service will be

7. **Signatures**
....

EXAMPLE ONLY
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EXHIBIT B

**HARDWARE AND SOFTWARE ADDENDUM
TO MASTER CLIENT AGREEMENT**

- 1. SCOPE.** This Addendum, together with the Agreement and the applicable Orders, contains the terms applicable to Client's purchase from BSS of Hardware or Software ("**Product**") and related support services. Either party may terminate this Addendum prospectively for purposes of new Orders, for its convenience, upon thirty (30) days written notice to the other party.
- 2. LICENSE RIGHTS.** Client is acquiring the Product from BSS as a reseller for a third party. All restrictions, and other terms pertaining to the Product are found only in the applicable agreement provided with the Product by the original manufacturer of the Product (the "**OEM Agreement**"), and such OEM Agreement is only between Client and the third party vendor of the Product. Each Order for Product by Client shall only be effective upon written acknowledgment and acceptance of such Order by BSS. Further, any additional or conflicting terms of Client's purchase order with this Addendum or the Agreement are rejected by BSS.
- 3. NO WARRANTY. EXCEPT FOR WARRANTIES PROVIDED BY THE PRODUCT VENDOR IN THE OEM AGREEMENT, THE PRODUCT IS PROVIDED "AS IS", WITH ALL FAULTS. BSS SPECIFICALLY DISCLAIMS ALL WARRANTIES, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND QUIET ENJOYMENT. BSS DOES NOT WARRANT THAT THE OPERATION OF PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT ALL PRODUCT DEFECTS CAN BE CORRECTED.**
- 4. SUPPORT AND MAINTENANCE.** If the OEM Agreement provides for support and maintenance services, then support and maintenance will be provided by the third party vendor of the Product.

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