

THE TERMS AND CONDITIONS OF SERVICES AGREEMENT (THE “**MDMA**”) CONSTITUTE A LEGAL AGREEMENT BETWEEN YOU AND IBUSINESS TECHNOLOGIES, LLC (“**IBUSINESS TECHNOLOGIES**”) WITH RESPECT TO USE OF THE PROPRIETARY IBUSINESS TECHNOLOGIES™ SERVICES (THE “**SERVICES**”). BY (1) EXECUTING A QUOTE, (2) INSTALLING, COPYING, DOWNLOADING OR OTHERWISE ACCESSING THE SERVICES, OR (3) CLICKING TO ACCEPT, YOU COMPLETELY AND UNEQUIVOCALLY AGREE TO BE BOUND BY THE TERMS OF THIS MDMA WITHOUT MODIFICATION. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS “**YOU**,” “**YOUR**,” OR “**USER**” SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS MDMA, YOU MAY NOT USE THE SERVICES, OR SOFTWARE. IF YOU DO NOT INTEND TO BE LEGALLY BOUND TO THE TERMS AND CONDITIONS OF THIS MDMA, DO NOT ACCESS OR OTHERWISE USE THE SERVICES/SOFTWARE AND DO NOT CLICK “ACCEPT” OR OTHERWISE ASSENT TO THIS MDMA. IN THE EVENT THAT EITHER OF THE FOREGOING TWO SENTENCES APPLIES, YOU SHOULD PROMPTLY UNINSTALL THE SOFTWARE.

In consideration of the mutual covenants herein expressed, and other true and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereby agree as follows:

1. **DEFINITIONS.** The following capitalized terms shall have the meanings set forth below:

“**Delivery Date**” means the date on which User first has access to the Services provided by IBUSINESS TECHNOLOGIES.

“**Device**” or “**Devices**” is a type of Licensed Unit and means User’s mobile device(s), mobile phone(s), smartphone(s), tablet computer and computing device(s) (including laptop computers), personal digital assistant(s) (PDAs), enterprise digital assistant(s) (EDAs), ruggedized devices, and any similar or similarly functioning electronic devices, which may be monitored and managed by the Services, whether such device is owned by Client or by Client’s Users, all as reflected on the Order.

“**Effective Date**” means the date on which User accepts or is deemed to accept this MDMA in the manner described in Section 16.1.

“**Force Majeure**” means any failure of performance or equipment due to causes beyond the reasonable control of a Party, including but not limited to: acts of God, fire, flood, explosions or other catastrophes; accidents; storms; national emergencies, insurrections, riots, wars; governmental legislation, acts, orders or regulations; unavailability of rights-of-way or materials; strikes, lock-outs, work stoppages, or other labor difficulties; or other similar occurrences.

“**iOS**” means Apple’s mobile operating system that supports Apple’s Devices including iPhones, iPads, and iPod

“**Order**” means a Quote, any Addendum to Quote, any purchase order, and/or any other form or writing that is physically or electronically executed by both User and IBUSINESS TECHNOLOGIES and references the original Order by date and Order number or otherwise seeks to purchase the offerings subject to this MDMA, as the case may be.

“**Party**” means either IBUSINESS TECHNOLOGIES or User and “**Parties**” means both IBUSINESS TECHNOLOGIES and User.

“**Professional Services**” means professional services provided by IBUSINESS TECHNOLOGIES to User including without limitation to installation, activation, training, configuration, modification, customization, reconfiguration, support, or other professional services.

“**Professional Service Fees**” mean the fees for Professional Services, if any, as set forth on an Order or in an SOW.

“**Software**” means IBUSINESS TECHNOLOGIES’s software resources, or software owned by third-parties, that it uses to effectuate the Services.

“**Third Party Software**” means any software or other product that is (i) owned by one or more third parties; (ii) used or licensed by IBUSINESS TECHNOLOGIES from such third parties; (iii) not included in the Software as Embedded Software; and (iv) subsequently provided by IBUSINESS TECHNOLOGIES “AS IS” to User.

2. **GENERAL RIGHTS.** Unless otherwise stated herein or on an Order, the Services are licensed on a per Device basis, in which case the Services may only be used or accessed by User on no more than the number of Devices specified on each Order.

User shall use the Software solely for User’s internal use with User’s ordinary business operations, only in accordance with all applicable laws and regulations, and in a manner consistent with this MDMA or any supplemental limitations specified or referenced in the relevant Order, if any.

USER SHALL NOT USE THE SERVICES, AND WILL ENSURE THAT THE SERVICES ARE NOT USED, IN OR IN CONJUNCTION WITH ANY APPLICATIONS WHERE SERVICE DISRUPTION OR FAILURE COULD LEAD TO INJURY TO PERSONS, LOSS OF LIFE, PROPERTY DAMAGE OR ENVIRONMENTAL DAMAGE (“**CRITICAL APPLICATIONS**”). USER SHALL MONITOR SERVICES TO ENSURE COMPLETENESS AND PROPER FULFILLMENT OF REQUESTS. USER SHALL NOT PERMIT ANY PERSON, WHETHER ACTING DIRECTLY OR ON BEHALF OF CLIENT, TO BREACH OR VIOLATE ANY OF THE RESTRICTIONS SET FORTH IN THIS SECTION 2.

3. **THIRD PARTY SOFTWARE.** Third Party Software is used to provide Services and provided “AS IS”, with no warranties of any kind. Any Third Party Software sublicense will terminate when this MDMA terminates, when the User License terminates, or when the Services are no longer being used by User.

4. **HOSTED SERVICES.** Hosted Services are provided by a third-party, “AS IS” with no warranties of any kind and are beyond the control of IBUSINESS TECHNOLOGIES.

5. **MAINTENANCE AND SUPPORT.**

Support shall be provided by IBUSINESS TECHNOLOGIES on an availability basis. IBUSINESS TECHNOLOGIES does not maintain full-time support resources.

Additional Work. To the extent that IBUSINESS TECHNOLOGIES is requested to provide additional services to User, the resulting services shall be provided to User as Professional Services under an Order or SOW, billed at IBUSINESS TECHNOLOGIES's then-current rates for Professional Services, and invoiced to User.

**6. AVAILABILITY.** IBUSINESS TECHNOLOGIES shall use commercially reasonable efforts to maintain the availability of the Services on which IBUSINESS TECHNOLOGIES or its third-party supplier(s) provide services on behalf of User, excluding any period of time designated by IBUSINESS TECHNOLOGIES during which IBUSINESS TECHNOLOGIES may limit or suspend Access to the IBUSINESS TECHNOLOGIES Services so that IBUSINESS TECHNOLOGIES may perform required maintenance.

**7. OTHER PARTIES.** If an Outage occurs as a result of action or inaction by any party other than IBUSINESS TECHNOLOGIES, IBUSINESS TECHNOLOGIES shall use commercially reasonable efforts to restore Availability. In the event such Outage occurs as a result of action or inaction by User, then the restoration of Availability will be for User's account at IBUSINESS TECHNOLOGIES's then-current time and expense rates.

**8. USER PAYMENT OBLIGATIONS.** Unless otherwise indicated, all fees payable hereunder are due and payable within thirty (30) days of the date of invoice. Any amounts not subject to a good faith dispute that are not paid within forty-five (45) days of the date of invoice will incur interest at a rate equal to the lower of one percent (1.0%) per month or the highest rate then permitted by law. IBUSINESS TECHNOLOGIES may, without notice, suspend Services until the undisputed portion of User's account is brought current. All fees and charges referred to herein (including those shown on an Order or any invoice) are exclusive of taxes. Taxes imposed by government agencies, with the exception of taxes based upon the net income of IBUSINESS TECHNOLOGIES, whether based upon the Services, their use, or this MDMA (including sales and use taxes) are an additional obligation of User.

**9. PRICE INCREASES.** For any future period, IBUSINESS TECHNOLOGIES may increase the Service Fees, or Other Fees; *provided, however*, that IBUSINESS TECHNOLOGIES notifies User in writing of such fee increase at least thirty (30) days in advance of the fee increase.

**10. CONFIDENTIALITY AND PROPRIETARY RIGHTS.**

**Confidential Information.** In the course of performance of this MDMA, either Party ("**Discloser**") may find it necessary to disclose to the other Party ("**Recipient**"), or Recipient may otherwise obtain from Discloser, certain information which is confidential ("**Confidential Information**"). "**Confidential Information**" means non-public information concerning a Discloser's operations, methods of doing business, technologies, technical designs, research and development, know how, trade secrets, software source code, software, software documentation, computer programs, algorithms, technical specifications and data, testing and bench-marking procedures and results, customers, personnel, vendors, financial information, and other information which (i) has been the subject of reasonable efforts by Discloser to be kept secret and (ii) is information that would reasonably be considered proprietary or confidential. Confidential Information does not include information that: (a) becomes part of the public domain prior to or after the time of disclosure, through no improper action of Recipient; (b) was already in the possession of Recipient at the time of disclosure; (c) is received by Recipient from a third party, provided that such Confidential Information was not, to Recipient's knowledge, obtained by such third party, directly or indirectly, from Discloser; (d) is developed independently by Recipient without the benefit of any Confidential Information disclosed by Discloser hereunder; (e) is not treated as confidential by Discloser; or (f) is approved for release by Discloser, in its sole discretion, in writing and in advance. Recipient shall use any Confidential Information received (or Derivatives thereof) solely for the purpose of performing its obligations under this MDMA. Recipient shall not disclose or permit any Person access to any Confidential Information, except to Recipient's officers, directors, employees, contractors, representatives, or agents on a need to know basis and where all such officers, directors, employees, contractors, representatives, or agents have confidentiality obligations at least as restrictive as those set forth in this Section 10. Recipient agrees to use reasonable efforts to protect the confidential or proprietary nature of such Confidential Information (and any Derivatives thereof), using at least the same degree of care it utilizes for the protection of its own strictly confidential and proprietary information. If Recipient is required by a governmental agency, law, or court of law to disclose any Confidential Information of Discloser, Recipient shall fully comply with such requirements. All Confidential Information and Derivatives thereof will be returned to Discloser within ten (10) days following the termination of this MDMA. Client shall not disclose any IBUSINESS TECHNOLOGIES Confidential Information, including the Software, to any competitor of IBUSINESS TECHNOLOGIES.

**11. LIMITED WARRANTY, REMEDIES, DISCLAIMERS; LIMITATIONS OF LIABILITY**

**Limited Warranty and Remedies.** IBUSINESS TECHNOLOGIES warrants that the Services delivered by IBUSINESS TECHNOLOGIES to Client will substantially perform as set forth in the Quote. If, in IBUSINESS TECHNOLOGIES's discretion, IBUSINESS TECHNOLOGIES is unable to correct any performance issues within a reasonable period, IBUSINESS TECHNOLOGIES may terminate this MDMA and the relevant Services upon written notice to Client and refund prepaid funds equal to unused Services period. The Warranty does not cover any Service(s): (i) that have been altered in any way by User or any third party not under the control of IBUSINESS TECHNOLOGIES, or their employees or agents; (ii) that are used in an atypical operating environment; (iii) where such nonconformity is due to abuse, neglect, or other improper use by Client; or (iv) where reported errors or nonconformities cannot be reproduced by IBUSINESS TECHNOLOGIES, working, in good faith, with User's assistance.

**Termination of Services.** If IBUSINESS TECHNOLOGIES terminates this MDMA, (i) IBUSINESS TECHNOLOGIES shall refund to Client any unused Fees that have been prepaid to IBUSINESS TECHNOLOGIES by Client.

**Disclaimers.** SERVICES ARE PROVIDED "AS IS" AND IBUSINESS TECHNOLOGIES AND ITS LICENSORS, DEVELOPERS, OFFICERS AND THEIR SUPPLIERS (THE "**IBUSINESS TECHNOLOGIES PARTIES**") FURTHER DISCLAIM THAT THE FUNCTIONS CONTAINED IN THE WARRANTY SUBJECT MATTER WILL MEET THE REQUIREMENTS OF USER OR THAT THE OPERATION OF THE WARRANTY SUBJECT MATTER WILL BE ERROR FREE. TO THE MAXIMUM EXTENT PERMITTED BY LAW, THE LIMITED WARRANTIES SET FORTH IN THIS SECTION 11 ARE THE ONLY WARRANTIES PROVIDED FOR THE WARRANTY SUBJECT MATTER, AND THE REMEDIES FOR BREACHES OF SUCH LIMITED WARRANTIES ARE EXCLUSIVE. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 11, THERE ARE NO OTHER WARRANTIES, CONDITIONS, OR TERMS, WHETHER EXPRESS OR IMPLIED BY STATUTE, OPERATION OF LAW, TRADE USAGE, COURSE OF PERFORMANCE OR DEALING OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, FITNESS FOR A PARTICULAR USE, NONINFRINGEMENT, TITLE, ACCURACY, OR COMPLETENESS; ALL SUCH WARRANTIES BEING SPECIFICALLY AND FULLY DISCLAIMED BY THE IBUSINESS TECHNOLOGIES PARTIES. OTHER WRITTEN OR ORAL REPRESENTATIONS OR AFFIRMATIONS OF FACT, INCLUDING BUT NOT LIMITED

TO, STATEMENTS FROM IBUSINESS TECHNOLOGIES OR ANY OTHER SOURCE REGARDING THE PERFORMANCE OF THE WARRANTY SUBJECT MATTER THAT ARE NOT CONTAINED IN THIS MDMA, SHALL NOT BE BINDING ON THE IBUSINESS TECHNOLOGIES PARTIES AND ARE HEREBY EXPRESSLY DISCLAIMED.

IN NO EVENT WILL IBUSINESS TECHNOLOGIES BE LIABLE FOR THIRD PARTY SOFTWARE (INCLUDING ANY APPURTENANT MAINTENANCE AND/OR SUPPORT) AND IBUSINESS TECHNOLOGIES SPECIFICALLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES (INCLUDING ANY WARRANTY OF NON-INFRINGEMENT) AND DISCLAIMS LIABILITY INCLUDING ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL LOSS OR DAMAGE, INCLUDING WITHOUT LIMITATION, ANY LOST PROFITS OR SAVINGS, AND ANY LOSS OR DAMAGE CAUSED BY ANY THIRD PARTY SOFTWARE.

**Limitation of Liability.** (A) NEITHER PARTY SHALL BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES, OR ANY LOST PROFITS, REVENUE, DATA, OR DATA USE AND (B) EITHER PARTY'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS MDMA OR ANY ORDER, WHETHER SUCH ACTION IS BROUGHT IN LAW, EQUITY, CONTRACT OR TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR OTHERWISE, SHALL BE LIMITED TO THE SERVICE FEES PAID BY USER IN THE LAST TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM, LESS ALL PAYMENTS MADE IN RESPECT OF OTHER CLAIMS SUBJECT TO THIS LIMITATION UNDER THIS MDMA.

#### 12. INDEMNITY.

**User Indemnification.** User shall indemnify and hold harmless, and, at the respective option of IBUSINESS TECHNOLOGIES, defend IBUSINESS TECHNOLOGIES and its Affiliates, officers, directors, employees, contractors, agents, successors and assigns (the "IBUSINESS TECHNOLOGIES Indemnitees") from and against any and all claims, losses, damages, judgments, costs and expenses, including attorneys' fees ("Claims"), incurred directly or indirectly by the IBUSINESS TECHNOLOGIES Indemnitees arising out of or relating to User's violation of Section 3 of this MDMA.

#### 13. TERM AND TERMINATION.

**Term and General Termination Rights.** This MDMA will commence on the Effective Date and will continue until the date it is terminated in accordance with the terms in the Order, or as set forth herein. User shall have the right to terminate this MDMA at any time, effective upon sixty (60) days written notice of termination to IBUSINESS TECHNOLOGIES and remove the Services from User's devices.

**User Termination.** User may terminate this MDMA: (i) in the event of a material breach by IBUSINESS TECHNOLOGIES of this MDMA that is unremedied for a period of thirty (30) days after receipt of written notice by IBUSINESS TECHNOLOGIES. User shall be entitled to the unused remainder of any Other Fees that have been prepaid to IBUSINESS TECHNOLOGIES.

**IBUSINESS TECHNOLOGIES Termination.** IBUSINESS TECHNOLOGIES may terminate this MDMA and Services hereunder: (i) if User ceases or is delinquent in making payments of any applicable Fees for a period of thirty (30) days after notification of such delinquency; (ii) in the event of a material breach of this MDMA by User that is unremedied for a period of thirty (30) days after receipt of written notice by User; (iii) if User violates or breaches Sections 3 (License Restrictions).

**User Obligations.** Upon the termination or expiration of this MDMA and any related Services for any reason whatsoever (i) User will immediately cease and desist from all use of the Software in any way, (ii) User shall immediately remove the related software from any and all Central Processing Units (CPUs), hard drives, storage media, servers, and/or Licensed Units on which it is installed. User shall pay any fees then owing under this MDMA as of the date of termination within thirty (30) days.

**Survival.** The provisions of this MDMA that by their sense and context are intended to survive termination of this MDMA, will so survive the termination of this MDMA.

14. **NOTICES.** Except as otherwise provided herein, all notices, consents, requests, instructions, approvals, and other communications made, required, or permitted under this MDMA will be given to the parties at the addresses listed on the Order by: (i) personal service, deemed effective on reported delivery date; or (ii) email transmission, deemed effective on delivery date confirmation.

15. **AUDITS.** User shall maintain records regarding the number of Licensed Units monitored by the Software and shall make such information available to IBUSINESS TECHNOLOGIES upon request. In addition to accessing the foregoing records, for the purposes of (i) determining the number of Licensed Units in use by User and (ii) verifying compliance with Section 2 and the terms and conditions of this MDMA, IBUSINESS TECHNOLOGIES may, at its expense, conduct audits and query User's employees or users.

#### 16. GENERAL PROVISIONS.

**Acceptance of the MDMA.** User's acceptance of this MDMA and agreement to its terms and conditions shall be indicated by: A) Executing and returning to IBUSINESS TECHNOLOGIES, by physical or electronic means, the Quote; or B) clicking to accept or agree to the MDMA by electronic means; or using the Services.

**Governing Law.** This MDMA, and all disputes arising hereunder or related hereto, will be governed by and construed in accordance with the laws of the Commonwealth of Pennsylvania, excluding its principles of conflicts of law. The venue and exclusive jurisdiction for any litigation will be in Montgomery County, Pennsylvania.

**Disputes.** The Parties acknowledge and agree that any breaches of Sections 2 or 10 may give rise to irreparable harm to the non-breaching Party for which the granting of monetary damages would be an inadequate remedy, accordingly, the non-breaching Party may, in addition to all other available remedies, seek temporary restraining orders or interlocutory, interim, and permanent injunctions or other appropriate orders to restrain any continued breach of Sections 2 or 10 by the breaching Party, as the case may be, without having to prove that actual damage has been sustained by the non-breaching Party.

**Assignment.** This MDMA, including any rights, licenses or obligations under this MDMA, may not be assigned or otherwise transferred (whether by operation of law, merger, reorganization, or otherwise) by User to any other Person without the prior written consent of IBUSINESS TECHNOLOGIES and any attempt to do so in violation of the terms hereof shall be null and void.

**Force Majeure.** A Party is not liable under this MDMA for non-performance caused by a Force Majeure, if the Party makes reasonable efforts to perform. This provision does not relieve either Party of its obligation to make payments then owing.

**Publicity.** IBUSINESS TECHNOLOGIES may use the name and/or logo of User in a list of customers used in marketing materials until requested to cease this use by User.

**Independent Contractor.** IBUSINESS TECHNOLOGIES shall at all times be considered an independent contractor under this MDMA. Nothing contained herein will be construed to create the relationship between the Parties of principal and agent, employer and employee, partners or joint venturers.

**No Third Party Beneficiaries.** This MDMA is for the benefit of User and IBUSINESS TECHNOLOGIES and does not provide any third party the right to enforce it or to bring an action for any remedy, claim, liability, reimbursement or cause of action or any other right or privilege.

**Non-Waiver.** The failure of either Party to require the performance by the other Party of any provision hereof will not constitute a waiver of that provision or the required performance. The waiver by either Party of any breach of any provision of this MDMA will only be valid if given in an executed written instrument and any such waiver will not constitute a waiver as to any subsequent breach or continuation of the same breach.

**Headings.** Headings are used in this MDMA for convenience only and shall not affect any construction or interpretation of this MDMA.

**Entire Agreement.** This MDMA constitutes the entire agreement between the Parties with respect to the subject matter hereof. This MDMA and any related Order supersede and replace all prior understandings, negotiations, commitments, representations, and agreements of the Parties relating to the Software and the subject matter hereof. IBUSINESS TECHNOLOGIES's agreement to provide the Services to User is expressly conditioned upon the unequivocal application of all terms and conditions included in this MDMA to such transaction and any additional or different terms or conditions proposed by User (whether by purchase order, counter-offer, acknowledgement, electronic data interchange, or otherwise) are hereby expressly objected to and will not be in any way binding upon IBUSINESS TECHNOLOGIES. Any modification or amendment to this MDMA will be effective only upon execution by an officer of each Party.