

MANAGED BACKUP AND DISASTER RECOVERY SERVICES AGREEMENT

This Managed Backup and Disaster Recovery Services Agreement (the “**Agreement**”) is entered into as of _____ (the “**Effective Date**”), by and between Freeit Data Solutions, Inc. (“**Freeit**”), having a principal place of business at PO Box 1572, Austin, TX 78767, and _____ (“**Client**”), having a principal place of business at _____. In consideration of the mutual covenants made and for other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, Freeit and Client hereby agree as follows:

1. Definitions.

- 1.1 “**Affiliate**” means any person or entity that directly or indirectly controls, is controlled by or is under common control with, the party.
- 1.2 “**Acceptable Use Policy**” (AUP) means the rules, terms and conditions established by Freeit for the Services set forth at www.freeitdata.com/policies as such terms may be modified from time to time at Freeit’s discretion.
- 1.3 “**Business Hours**” means 8:00 a.m to 6:00 p.m. CST in the U.S. Monday through Friday.
- 1.4 “**Client Data**” means the data owned by Client, in computer-readable electronic or legible form (including all translations, conversions, extracts and outputs of such data) that is processed, transmitted or stored on equipment or media that is made available by Freeit or otherwise accessed or managed by Freeit in the course of providing the Services.
- 1.5 “**Client Materials**” means the Client Data and the specifications, plans, software, hardware, equipment, drawings, interfaces, documentation, and other materials provided or made available by Client to Freeit for Freeit’s use to provide the Services.
- 1.6 “**Client Responsibilities**” means those Client covenants and obligations described herein and in any Order Form.
- 1.7 “**Government Controls**” means economic and other sanctions instituted by any government agency such as those based on the U.S. Foreign Corrupt Practices Act, the U.S. Export Administration Act, the U.S. Arms Export Control Act, and other regulations or executive orders.
- 1.8 “**IP Rights**” means any and all tangible and intangible: (i) rights associated with works of authorship, including copyrights, moral rights, neighboring rights, and derivative works thereof, (ii) trademark and trade name rights, (iii) trade secret rights, (iv) patents, design rights, and other industrial property rights, and, (v) all other intellectual property rights (of every kind and nature however designated) whether arising by operation of law, treaty, contract, license, or otherwise, together with all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof.
- 1.9 “**Managed Application(s)**” means the Client software application(s) listed in an Order Form, if any, that will be hosted and operated for use in providing Services to Client.
- 1.10 “**Order Form**” means any written document referencing this Agreement and executed by the authorized representatives of both parties, including its attached schedules, exhibits, etc., which describe the Services and related Fees.
- 1.11 “**Freeit Materials**” means, collectively, all of the components of the infrastructure and computing environment used by Freeit to perform the Services, whether owned by Freeit or its suppliers, including the Managed Application(s), Freeit or third party facilities, hardware, operating systems, software applications and associated databases, tables, data and documentation and training materials. “Freeit Material”

excludes Managed Application(s) to the extent the Managed Application is a third party product provided to Freeit by Client.

- 1.12 “**Personally Identifiable Information**” (PII) means information about an individual that can be linked to an individual from just the data provided and/or by accessing other data that is readily available. PII includes Protected Health Information as defined in the Health Insurance Portability and Accountability Act (“HIPAA”) and non-public personal information as defined in the Gramm-Leach-Bliley Act and any other non-public information concerning an individual.
- 1.13 “**Services**” means those activities described as obligations of Freeit in an Order Form and in any applicable Service Description and any incidental follow-on or related services provided by Freeit to Client.
- 1.14 “**Service Description**” means the detailed service description identifying the relevant Services at www.freeitdata.com/policies as revised or amended from time to time by Freeit.
- 1.15 “**Service Level Agreement**” or “**SLA**” means service level goals (including uptime targets, downtime, credits, maintenance, availability, exclusions, trouble tickets and credit limitations) applicable to the Services; the SLA is posted at www.freeitdata.com/policies as revised or amended from time to time by Freeit.
- 1.16 “**Taxes**” means sales, use, value-added or similar taxes, duties, imposts, customs, levies or other withholding, but does not include taxes based on Freeit’s net income.
- 1.17 “**Terms of Service**” means the rules, terms and conditions established by Freeit for the Services as set forth at www.freeitdata.com/terms as such terms may be modified from time to time at Freeit’s discretion.
- 1.18 “**Third Party Products**” means goods and services, including software, hardware and equipment, supplied by third parties.
- 1.19 “**Work Product**” means any deliverable or any custom software and/or designs, analysis codes, techniques, methods, concepts, engineering and manufacturing information, procedures, processes, specifications, diagrams, drawings, schematics, reports, studies, testing information, and related documentation, whether developed by Freeit or jointly with Client
- 2 **Structure of Agreement.** This Agreement states the terms and conditions by which Freeit will deliver and Client will receive any or all of the Services. Each Order Form is hereby incorporated by reference herein. Capitalized terms used in an Order Form shall have the meanings assigned to them herein unless specifically provided otherwise in the Order Form. Terms and conditions contained in Client purchase orders or other Client documents will have no effect. An Order Form may include additional terms and conditions that are specific to those Services, and all such terms and

conditions shall supplement these terms and conditions with respect to those Services. In the event of a conflict between the terms and conditions of this Agreement and an Order Form, the terms of the Order Form shall prevail.

3 Term. This Agreement is effective as of the Effective Date and shall remain in effect until all Order Forms have expired or terminated unless earlier terminated as provided herein.

4 Scope of Services.

4.1 Generally. Freeit will provide to Client the Services according to the time and manner as described herein and set forth in the applicable Order Form. As a condition to Freeit's performance of the Services, Client will timely pay the Fees and perform the Client Responsibilities. Freeit reserves the right to engage subcontractors to perform any or all of the Services, provided that Freeit shall remain directly and solely responsible to Client for performance of the Services.

4.2 Change Orders. Either party may propose changes in the scope of an Order Form, but neither party will be bound by any proposed change until both parties have agreed to that change in writing (a "**Change Order**"). With respect to any follow-on or additional work not set forth in an Order Form, a reply email from Client's personnel agreeing to the Fees (or hourly rate, as applicable) quoted by Freeit for such additional work shall be deemed a Change Order and binding on Client.

4.3 Place of Work. The Services will be performed remotely from Freeit's or its subcontractor's facilities unless specified otherwise in the applicable Order Form.

4.4 SLAs. Should Client experience any Service performance issues or failures, the Service Level Agreement shall apply.

4.5 Terms of Service and AUP. By executing this Agreement Client agrees to be bound by, and comply with, all of the terms and conditions of this Agreement, the Terms of Service, and the Acceptable Use Policy. Client should review the Terms of Service and Acceptable Use Policy often as Freeit reserves the right to update those policies at its discretion and Client's continued use of the Service after any such update shall be deemed acceptance of any updates.

4.6 Suspension of Service. Freeit may disable or terminate Client's accounts and access to the Service in the event (a) Client is not in compliance with its payment or other obligations under this Agreement, (b) Client is in violation of any Government Controls, applicable law, rules, regulation, or (c) Client is in violation of the Terms of Service or Acceptable Use Policy.

4.7 Limited Scope. Client agrees that Freeit provides an infrastructure as a Service ("IaaS"), container of virtual server capacity only. Client agrees and understands that Freeit does not provide support for third-party applications, software, or data (including Client Data), loaded or used in connection with the Services.

4.8 Prohibited Uses. The Services may not be used in connection with aircraft or other modes of human mass transportation, nuclear or chemical facilities, life support devices, Class III medical devices regulated by the FDA, or any other situation where the failure or fault of the Services could lead to death or serious bodily injury to any person or environmental damage.

4.9 Availability. Initiation of Services is subject to availability, and availability will be determined at the time of each

specific order. Each request for Services is subject to Freeit's acceptance which it can grant or withhold in its reasonable discretion.

4.10 Microsoft Software. To the extent the Services include Microsoft Software you agree to be bound by the license terms included with such Microsoft Software or if none are included with the Microsoft License terms located at www.freeitdata.com/policies.

5 Payment.

5.1 Fees. Freeit bills in advance for the Services. The fees applicable to the Services and the payment terms are set forth in the applicable Order Form (the "**Fees**"). All Fees are due and payable as set forth in the Order Form or, if no payment terms are provided, within thirty (30) days of the date of invoice by Freeit. Additionally, Client will reimburse Freeit for reasonable expenses incurred by Freeit in connection with the Services.

5.2 Taxes. The Fees do not include any Taxes, and Client is responsible for, and will reimburse Freeit for all Taxes applicable to Client's purchase of the Services.

5.3 Late Payments. Amounts not paid when due are subject to interest at the rate of 1.5% per month or the maximum amount permitted by applicable law, whichever is lower. Client further agrees to pay all costs of collection, including reasonable attorneys' fees, incurred by Freeit under this Agreement. Freeit may suspend or terminate the Services if Client fails to make payment on a timely basis of all amounts due.

6 Client Responsibilities.

6.1 Client Participation. Freeit is entitled to rely on Client's decisions and approvals in connection with the Services. Client understands that Freeit is relying upon the information that Client provides and Client represents that such information is true, accurate and complete. Because of the importance of such information to this project, Client agrees to release Freeit and its personnel from any liability and costs relating to the Services attributable to any false, inaccurate or incomplete information provided by Client. Client shall not use the Services in connection with any infringement or misappropriation of any intellectual property rights.

6.2 Client Data and Information. Freeit's performance of the Services is dependent upon Client's furnishing Freeit with the Managed Application, Client interfaces, connectivity, data, documents, information, materials or approvals necessary for Freeit to provide the Service, and Client shall furnish such items in a timely fashion in a reasonable format specified by Freeit, or such other format as mutually agreed by the parties in writing. Client is also responsible for the adequacy and accuracy of all data and information that Client furnishes to Freeit and the results obtained therefrom. Client acknowledges and agrees that Client Data may be transmitted outside of Freeit's systems and network. Client acknowledges and agrees that all Client Data will be deleted after termination or expiration of the Services under the applicable Order Form, this Agreement, or the suspension or termination of Services. Client is solely responsible for copying or downloading any Client Data prior to the termination of Services. Freeit and its subcontractors are not responsible for the oversight, management, review, or performance of any Client Data.

6.3 Security Obligations. Client shall use reasonable security precautions in its use of the Service, including encrypting any Personally Identifiable Information transmitted via, or stored on, the Service. Client shall immediately notify Freeit of any unauthorized use of Client's account or any breach of security involving the Service that Client discovers. Client shall reasonably cooperate with Freeit or its subcontractors in the investigation of any such unauthorized use or security breach. Client is responsible for the confidentiality and strength of its passwords. Client acknowledges and agrees that Freeit and its subcontractors shall have no liability for damages or losses of any kind incurred by Client as a result of Client failing to meet its obligations under this section.

6.4 Access to and Use of Freeit Material. If it is necessary for Client to access and use the Freeit Material in receiving the Services, such access and use by Client shall be (i) in compliance with the terms of the Agreement and applicable laws and regulations, (ii) solely for Client's own internal use in receiving the Services, and (iii) for proper business purposes. Client will not disclose, download, decompile or re-engineer any Managed Application or Freeit Material provided by Freeit or its licensors and used in the performance of Services. As part of Freeit's security measures, it may assign to Client one or more user or identification codes and associated passwords that will enable Client and its users to access the Freeit Material. Client agrees to maintain the security of its user or identification codes and associated passwords and agrees to be responsible for their proper use by its employees and, where permitted, its contractors. Client will comply, and will cause its employees and permitted contractors to comply, with any rules of operation and security procedures established by Freeit for access to and use of the Freeit Material. Client will not, and will not allow or direct any third party to, attempt to gain access to any data, files or programs of Freeit to which Client is not entitled under the Agreement. If such unauthorized access is obtained Client will immediately report such access to Freeit, cease all unauthorized access, return all Freeit, third party, or Freeit customer information obtained as a result of such unauthorized access, and safeguard any Freeit, third party, or Freeit customer information obtained as a result of unauthorized access to Freeit Confidential Information.

6.5 Client Representation. Client represents and warrants that it is a duly formed business entity or if acting in an individual capacity, Client represents and warrants that he or she is eighteen years of age or older. Client further represents that Client's use of the Service shall be lawful and will comply with the terms of this Agreement, the Terms of Service, the AUP, and all applicable laws and regulations. Client represents that Client Data provided to Freeit will comply with all laws and will not violate the privacy rights or intellectual property rights of any third party.

7 License Grant and Proprietary Rights.

7.1 License Grant. During the term, and conditioned upon Client's compliance with this Agreement, Freeit grants to Client a limited, non-exclusive, non-transferable, revocable and non-sub licensable right (the "License Grant") to access the Services solely for its own internal use and for no other purpose.

7.2 Ownership of IP Rights. For any Work Product to which Client is expressly assigned ownership in an Order Form, Freeit agrees that the copyright in any portions of such Work Product that are developed specifically for Client under such Order Form ("Custom Portions") shall be owned by Client and shall be deemed to have been assigned to Client upon delivery of the Work Product. If such ownership is not specified in the Order Form, Freeit shall own all right, title, and interest in such Work Product, subject to any limitations associated with intellectual property rights of third parties. The ideas, concepts, know-how, techniques, inventions, discoveries and improvements developed or obtained prior to or during the course of this Agreement by Freeit's personnel, alone or in conjunction with Client personnel (collectively, the "**Freeit IP**"), may be used by Freeit in any way it deems appropriate, including without limitation by or for its other clients, notwithstanding any provision in this Agreement to the contrary. Nothing in this Agreement shall be construed to transfer any right, title or interest, including any IP Rights, in the Freeit IP to Client or any other party, nor preclude or limit Freeit from providing consulting services and/or developing software or materials for itself or others.

7.3 Ownership and Use of the Freeit Materials and Client Materials. In addition to the foregoing, Freeit (or its licensors or suppliers, as the case may be) will retain ownership of the Freeit IP and all components of the Freeit Material, excluding any Client-provided Managed Application, and all IP Rights in and to the Freeit IP and the Freeit Material, and to all other proprietary rights, materials, work products or assets that are employed in providing the Services, including any successors, updates, extensions, derivatives, translations or enhancements of any of the foregoing (in whole or in part, collectively referred to as the "**Freeit Materials**"). Except as permitted by the Agreement or as Freeit may agree in writing in advance, Client will not copy or use any Freeit Materials in any way that is not authorized by the Agreement. Any permitted copies of the Freeit Materials (including derivative works to the extent they incorporate or are based on any Freeit Materials) made by or for Client are and will remain the property of Freeit (or its licensors). Client will reproduce and include on any permitted copies of the Freeit Materials all copyright or other proprietary rights notices or legends that appear on or are otherwise included in the Freeit Materials. Client and its licensors own all right, title and interest in the Client Materials, including all IP Rights therein. Nothing in this Agreement shall be deemed to transfer to Freeit any such ownership in the Client Materials. Furthermore, notwithstanding anything to the contrary in the Agreement or in an Order Form, Client hereby grants to Freeit a worldwide, nonexclusive, perpetual, irrevocable, royalty-free, transferable, sub-licensable license to (i) modify and otherwise create derivative works based on Generic Components and (ii) reproduce, distribute, perform and display (publicly or otherwise), and otherwise use and exploit the Generic Components and derivative works thereof. "Generic Components" shall mean any code, algorithm, materials, process or other items of Work Product that have been developed or created by Freeit that are owned by Client and do not include or disclose any Client Confidential Information.

7.4 Limited License to Freeit. Client hereby grants to Freeit a non-exclusive, non-transferable, worldwide, royalty-free license to use, reproduce, modify and create derivative works of the Client Materials solely for the purpose of performing the Services in accordance with the terms and conditions of this Agreement. Freeit will adhere to the third party license restrictions applicable to any Client Materials that are provided in writing to Freeit and attached to the applicable Order Form.

7.5 Reservation of Rights. Freeit reserves all rights not expressly granted herein.

8 Third Party Products. Client shall not (i) remove, modify or obscure any copyright, trademark or other proprietary rights notices that appear on any Third Party Product or that appear during use of any Third Party Product; or (ii) reverse engineer, decompile, or disassemble any Third Party Product, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. Except as agreed in writing between Client and Freeit, Third Party Products shall be exclusively subject to terms and conditions between the third party and Client, and Client shall look exclusively to the third party for any damages or liability with respect to the provision of such Third Party Products. To the extent that the Client Materials include Third Party Products, Client warrants to Freeit that it has obtained any licenses, consents, regulatory certifications or approvals required to give Freeit and its subcontractors or employees such rights or licenses to access, copy, distribute, use and/or modify (including creating derivative works) or install such Third Party Products as necessary for Freeit's performance of the Services, without infringing the ownership or license rights (including patent and copyright) of the suppliers or owners of such products. Some manufacturers' warranties or service contract terms and conditions for Third Party Products may become void if Freeit or anyone else, other than the manufacturer or its authorized representative, provides services for or works on the hardware or software (such as providing maintenance and repair services). WITH RESPECT TO THIRD PARTY PRODUCTS INCLUDED IN THE CLIENT MATERIALS OR WORK PRODUCT, FREEIT DOES NOT TAKE RESPONSIBILITY FOR THIRD PARTY WARRANTIES OR FOR ANY EFFECT THAT THE SERVICES MAY HAVE ON THOSE WARRANTIES.

9 Confidentiality.

9.1 Confidential Information. "Confidential Information" means all information provided by one party ("Discloser") to the other party ("Recipient") which the Discloser has identified as being proprietary or confidential, except information which (i) is public knowledge at the time of disclosure; (ii) becomes public knowledge through no act or omission of Recipient; (iii) has been rightfully furnished to the Recipient by a third party without any restriction on disclosure or any obligation of confidentiality prior to obtaining the Confidential Information from the disclosing party; (iv) was in Recipient's possession, as evidenced by written or computerized records, prior to the date of this Agreement and which was not acquired under obligations of confidentiality from the Discloser; or (v) was independently developed by the Recipient, without use of the Discloser's Confidential

Information, as evidenced by written or computerized records. Without limiting the generality of the foregoing, Freeit's Confidential Information includes the Freeit IP and the Freeit Material, and Client's Confidential Information includes the Client Materials.

9.2 Nondisclosure. Each party shall protect as proprietary and confidential all Confidential Information disclosed to the other under this Agreement using at least as great a degree of care as used to maintain the confidentiality of its own Confidential Information, but in no event less than a reasonable degree of care. Except with specific prior written authorization from the Disclosing Party, each party shall not use, either directly or indirectly, any of the other party's Confidential Information other than for the purpose for which it has been disclosed in connection with the performance of the Services. Each of the parties agrees that it will disclose the other party's Confidential Information only to its employees and contractors who need to know such information, provided that such individuals are bound by terms and conditions protecting such Confidential Information no less restrictive than those of this Agreement. Recipient will promptly advise Discloser if Recipient becomes aware of any misuse or unauthorized disclosure of the Discloser Confidential Information.

9.3 Government Disclosures. If a Recipient is required by a government body or court of law to disclose Confidential Information, the Recipient agrees to give the Discloser reasonable advance notice so that Discloser may contest the disclosure or seek a protective order. Recipient, upon Discloser's written request or upon termination of this Agreement, will promptly return all Confidential Information received from the Discloser, together with all copies, or certify in writing that all such Confidential Information and copies thereof have been destroyed.

9.4 Equitable Remedies. If a court of competent jurisdiction determines that the Recipient has breached, or attempted or threatened to breach, any of its confidentiality obligations to the Discloser or the Discloser's proprietary rights, Freeit and Client agree that money damages will not provide an adequate remedy, that Recipient's disclosure of the Discloser's Confidential Information will cause imminent harm and irreparable injury to the Discloser, and the Discloser may seek appropriate injunctive relief and other measures restraining further attempted or threatened breaches of such obligations.

9.5 Know-How. Nothing in this Agreement shall preclude Freeit from using in any manner or for any purpose it deems necessary, the know-how, techniques, or procedures acquired or used by Freeit in the performance of Services hereunder.

10 Warranty.

10.1 Services Warranty. Freeit warrants that for a period of thirty (30) days from delivery, the Services will materially conform to the applicable specifications in the Order Form, and Freeit will use commercially reasonable efforts to remedy any non-compliance with this warranty that is brought to Freeit's attention. However, if Freeit is unable to correct a breach of this warranty, Client's sole remedy for the breach will be an equitable adjustment in the Fees paid by Client (up to but not to exceed the total amount of Fees under the applicable Order Form) for the Services or work in question in an amount

sufficient to reflect any reduction in the value of the Services as a result of the uncorrected breach of warranty.

10.2 Authorized Representative. Client and Freeit warrant that each has the right to enter into this Agreement and that the Agreement and all Order Forms executed hereunder shall be executed by an authorized representative of each entity.

10.3 DISCLAIMER. THE PRECEDING IS FREEIT'S ONLY WARRANTY CONCERNING THE SERVICES AND ANY WORK PRODUCT AND IS MADE EXPRESSLY IN LIEU OF ALL OTHER WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING ANY IMPLIED WARRANTIES OF ERROR FREE PERFORMANCE, UNINTERRUPTION, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, NONINFRINGEMENT, OR OTHERWISE. CLIENT AGREES AND ACKNOWLEDGES THAT ALL OTHER WARRANTIES ARE DISCLAIMED AND EXCLUDED. FREEIT DISCLAIMS ANY REPRESENTATIONS OR WARRANTIES THAT THE SERVICES WILL SATISFY ANY STATUTORY OR REGULATORY OBLIGATIONS INCLUDING BUT NOT LIMITED TO THE U.S. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 ("HIPAA") OR THE U.S. GRAMM-LEACH-BLILEY ACT OF 1999.

10.4 Indemnification. Client covenants and agrees to assume entire responsibility and liability for, and to defend, indemnify and hold harmless Freeit, its subcontractors, and their affiliates, employees, officers, and equity holders ("Indemnitees") from and against all liabilities, demands, losses, penalties, costs to mitigate, expenses, fines, amounts paid in settlements or judgments, and all other reasonable expenses and costs incident thereto including, without limitation, court costs and reasonable attorneys' fees (collectively, "Damages") to the extent arising out of or resulting from Client's use of the Services including but not limited to Client's failure to copy or download Client Data prior to the termination of Services.

10.5 Enjoinder. If the Services are enjoined, or are likely to be enjoined, Freeit may at its sole option or expense either (a) obtain the right for Client to continue using the Services; or (b) replace or modify the Services so they are non-infringing and substantially equivalent in function to the enjoined Services. If the options above cannot be accomplished despite Freeit's commercially reasonable efforts, then Freeit may terminate the relevant Service and refund to Client any unearned portion of fees paid by Client to Freeit.

11 Termination.

11.1 By Either Party. Either party may terminate this Agreement or any Order Form for cause upon notice to the other party if the other party is in material breach of any provision of this Agreement and such breach has not been cured within ninety (90) days following written notice reasonably describing such breach.

11.2 Effect of Termination. On termination of an Order Form or this Agreement, Freeit will present Client with a schedule showing Services performed to date and the amount of Fees, if any, owed to Freeit by Client. Each party will return to the other all Confidential Information provided by that party.

Sections 1, 2, 5, 7, 9, 10.3, 10.4, 11.2, 12, and 13 shall survive termination.

12 LIMITATION OF LIABILITY. FREEIT, ITS SUBCONTRACTORS, AND SUPPLIERS SHALL NOT BE LIABLE TO ANY PARTY FOR INCIDENTAL, INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, OR EXEMPLARY DAMAGES OF ANY KIND (INCLUDING LOST REVENUES OR PROFITS, LOSS OF BUSINESS OR LOSS OF DATA) IN ANY WAY RELATED TO THIS AGREEMENT WHETHER IN CONTRACT OR IN TORT, REGARDLESS OF WHETHER SUCH PARTY WAS ADVISED, HAD OTHER REASON TO KNOW, OR IN FACT KNEW OF THE POSSIBILITY THEREOF. FREEIT'S LIABILITY UNDER THIS AGREEMENT, WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT OR OTHERWISE, WILL NOT EXCEED THE TOTAL FEES ACTUALLY PAID TO FREEIT UNDER THE APPLICABLE ORDER FORM THAT GAVE RISE TO THE DAMAGES DURING THE 6 MONTH PERIOD PRECEDING THE DATE ON WHICH THE CLAIM AROSE AND NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY.

13 Miscellaneous

13.1 Non-assignment. Client shall not assign this Agreement via operation of law or otherwise without Freeit's prior written consent. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors and permitted assigns of the parties.

13.2 Relationship of the Parties. The parties are independent contractors. Neither party will have any rights, power or authority to act or create an obligation, express or implied, on behalf of another party except as specified in this Agreement.

13.3 Export Assurance. Client agrees to comply with all applicable export laws and regulations, including those administered by the U.S. Department of Commerce (U.S. Export Administration Regulations 15 CFR 730 *et seq.*), and shall not export, re-export, resell, transfer, or disclose, directly or indirectly, any Work Product, or the direct product thereof, to any proscribed person, entity, or country, or foreign national thereof, unless properly authorized by the U.S. government.

13.4 Controlling Law, Venue. THIS AGREEMENT SHALL BE GOVERNED AND CONSTRUED IN ALL RESPECTS IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT APPLICATION OF THE CONFLICTS OF LAWS PRINCIPLES OF ANY STATE OR JURISDICTION. Venue for any claim or demand arising out of or related in any way to this Agreement, an Order Form, or the relationship between Freeit and Client shall be exclusively in the State or Federal courts located in Austin, Texas, and the parties hereto irrevocably consent to the exclusive personal jurisdiction of such courts for such claims.

13.5 Limitation Period. Neither party may institute any action in any form arising out of this Agreement more than two (2) years after the cause of action has arisen, or in the case of nonpayment, more than two (2) years from the date of last payment.

13.6 Notice. Notices and communications required by this Agreement shall be in writing and are deemed given on the

day received when delivered in person or by courier with receipt confirmed, or on the third business day following the date of mailing when mailed prepaid first class, return receipt required, in each case to the respective parties at the address listed herein or other address most recently designated by notice.

13.7 Publicity. During the term of this Agreement, Client grants to Freeit a non-transferrable, non-exclusive, license to reproduce and display Client’s logos, trademarks, trade names and similar identifying material so that Freeit may refer to Client as a client of Freeit, such as on the Freeit website, in press releases and in other marketing materials. Client shall review such reproduction or materials prior to any publication or distribution for compliance purposes.

13.8 Nonsolicitation. During the term of this Agreement and for a period of two (2) years thereafter, Client agrees not to hire, solicit, nor attempt to solicit, the services of any employee or consultant of Freeit without the prior written consent of Freeit. Client further agrees not to hire, solicit, nor attempt to solicit, the services of any former employee or consultant of Freeit for a period of one (1) year from such former employee's or consultant’s last date of service with Freeit. Violation of this provision shall entitle Freeit to assert liquidated damages against Client equal to two hundred percent (200%) of the solicited person's gross annual compensation.

13.9 Force Majeure. Except for Client’s payment obligations, neither party shall be liable to the other party for any failure to perform any of its obligations (except payment obligations) under this Agreement during any period in which such performance is delayed by circumstances beyond its reasonable control including, but not limited to, internet outages or disruptions, fire, flood, war, embargo, strike, riot or the intervention of any governmental authority (a “**Force Majeure**”). In such event, however, the delayed party must

promptly provide the other party with written notice of the Force Majeure. The delayed party’s time for performance will be excused for the duration of the Force Majeure, but if the Force Majeure events lasts longer than thirty (30) days, the other party may immediately terminate the applicable Order Form by giving written notice to the delayed party.

13.10 General. No addition or modification to this Agreement is valid unless made in writing and signed by both parties. No waiver will be implied from conduct or failure to enforce rights, nor be effective, unless in writing signed on behalf of the party against whom the waiver is asserted. Any part of this Agreement found to be unenforceable shall be enforced to the maximum extent permitted by law and the remainder of this Agreement will remain in full force. This Agreement contains the entire agreement between the parties relating to its subject matter and supersedes all prior representations, discussions and agreements, whether written or oral. Client and Freeit agree that the other party has not expressed, represented, or stated any facts, representations, or statements, either express or implied, except as expressly contained in this Agreement. No party has induced any other party to enter this Agreement except by making the agreements and representations expressly set forth in writing in this Agreement. In making the decision to sign this document, neither Client nor Freeit is relying on any facts, representations or statements, either express or implied, except those expressly set forth in writing herein. To the extent allowed by applicable law, Freeit’s suppliers and subcontractors shall be third-party beneficiaries of this Agreement. Client and Freeit specifically acknowledge that they enter into this Agreement of their own free will and accord and that no party has exerted any duress or influence over any other in connection with the execution of this Agreement.

Agreed and Acknowledged:

Freeit Data Solutions, Inc.

By: _____

Name: _____

Title: _____

Date: _____

CLIENT: _____

By: _____

Name: _____

Title: _____

Date: _____