

MASTER SERVICES AGREEMENT

This Master Services Agreement (“Agreement”) by and between _____ (“Client”) located at _____ and BlackHawk Data LLC (“BlackHawk”) located at 505 8th Avenue, Suite 12A-03, New York, NY 10018, is effective as of the date specified below (the “Effective Date”). The parties agree as follows:

1. Performance of Services:

BlackHawk shall provide information technology related infrastructure design, build, implementation and support services (collectively the “Services”) set forth in all future Statements of Work (hereinafter “SOW”) executed by both parties. Each SOW shall set forth the type of Services to be performed and the related fees. Fees shall be negotiated for each project by and between BlackHawk and Client. Any fee estimates provided for Services to be billed on an hourly or daily basis will be agreed in writing by both parties. Client shall pay for the actual Services provided by BlackHawk at the agreed fees.

2. Price

Pricing of quotes are in US Dollars and valid up to thirty (30) days of issuance unless otherwise noted. Any hardware or third-party services purchased shall be governed by the terms and conditions within that order. Any and/or all manufacturer list prices contained in a quote are subject to revision based on the current published pricing. Pricing within each SOW reflects rates for work during normal business hours (8:30 a.m. – 5:30 p.m.). All pricing provided is exclusive of federal, state, and or local taxes, freight, handling, and insurance. Client must provide a valid tax-exemption/resale certificate if a tax exemption is being claimed (if applicable).

3. Fees & Payment:

Client agrees to pay all fees associated with an approved SOW. All payments shall be made in U.S. dollars and will be due on (i) Client’s approved NET terms of invoicing, or (ii) if no NET terms are approved by Blackhawk, Client shall pay NET 30 of the invoice date. BlackHawk may bill in advance for any recurring Services if prior agreement in the SOW is met. Client shall be responsible for all taxes, withholdings, duties, and levies arising from the Services. Rush delivery fees may apply if expedited delivery or service is required. Monthly warehousing fees will apply if storage of product is longer than the normal storage period of thirty (30) days (“Normal Storage Period”). Fees for international delivery are determined at time of shipment and will only be estimated upon time of sale. All fees associated with travel, lodging, and meals which are not identified within a SOW will be invoiced as actuals to the client. If paying with a credit card, the Client will be charged a 3.0% transaction fee associated to the quote. Any returned check fees charged to BlackHawk Data will be invoiced to the Client.

BlackHawk shall have the right to suspend Service(s) if Client fails to pay any invoice within thirty (30) days of receipt.

4. Freight, Shipping & Handling:

BlackHawk prepays all freight charges associated to the Client. For staging orders, freight charges will apply to both incoming to the warehouse and then to the end destination for each site as outlined within the SOW. The Client shall pay all freight associated with the SOW and invoiced by BlackHawk Data. International fees are not included and are subject to current pricing based on product and shipping requirements.

5. Product, Warehousing & Staging:

In the event BlackHawk enters into a “Staging” SOW the following will apply:

(a) Product – BlackHawk shall notify the Client as equipment arrives at the site where the equipment will be warehoused (hereinafter “Staging Facility”). The Client will have five (5) business days from notification of the

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arrival of the equipment at the Staging Facility to validate the equipment that is onsite. BlackHawk will invoice the Client for all equipment that is at the Staging Facility on the sixth (6) business day. **Note: Product invoices will generate as product arrives to the Staging Facility abiding by the business days listed above. Invoices will be generated for partial deliveries.**

- (b) Warehousing – BlackHawk shall provide warehousing for the equipment set forth in the product quote. Additional monthly fees may apply if product is stored for longer than the Normal Storage Period post staging.
- (c) Staging – Client understands and agrees that in addition to the terms set forth herein in this Agreement, the agreed upon SOW shall govern the staging process.

6. Time and Material Engagement:

All Time and Material (T&M) engagements do not provide defined deliverables. To the extent that documentation or other task-related materials or deliverables are required, time to prepare, deliver, and review those deliverables will accrue against the hours indicated within the Service Request. Hours for T&M service requests are best effort estimates and may require additional hours in order to satisfy the request. If at the end of the allotted hours, the customer's objectives are not met, a new purchase order and service request must be submitted. For hourly service, a 2-hour minimum applies within 75 miles of a BlackHawk Data office. A 4-hour minimum applies outside a 75-mile radius. All T&M engagements provide basic task scheduling and resource coordination and is not a substitute for professional project management which can be provided as an option under a separate SOW.

7. Terms of Agreement:

(a) Unless terminated earlier in accordance with Paragraph 6(b) below, the term of this Agreement shall commence on the Effective Date and continue thereafter for twelve (12) months ("Term"). Termination of this Agreement may be affected by either party at any time upon thirty (30) days written notice. This Agreement shall automatically renew for successive one (1) year terms unless either party provides the other with written notification of termination at least thirty (30) days prior to expiration of the then-current term.

(b) Either party may terminate this Agreement (including any and all Schedules and SOWs) immediately if the other party: (i) fails to cure any material breach of this Agreement within thirty (30) days after written notice of such breach or (ii) ceases operation without a successor. Termination is not an exclusive remedy and the exercise by either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise. Sections 7(b) (Warranty Disclaimer), 9 (Liquidated Damages), 9 (Limitation of Liability), 10 (Confidential and Proprietary Information) and 11-18 (general terms) shall survive any expiration or termination of this Agreement.

8. Limited Warranty:

(a) BlackHawk warrants for a period of thirty (30) days following delivery (the "Warranty Period") that all Services will be performed in a professional, workmanlike manner in accordance with generally applicable industry standards ("Warranty"). In order to effectuate the Warranty, Client must provide written notice to BlackHawk of the claimed warranty issue within the Warranty Period. BlackHawk's sole liability (and Client's exclusive remedy) for any breach of this Warranty shall be for BlackHawk to re-perform any deficient Services, or, if BlackHawk is unable to remedy such deficiency within thirty (30) days, to void the invoice for the deficient Services (and refund any fees paid to BlackHawk). BlackHawk shall have no obligation with respect to a warranty claim: (i) if notified of such claim after the Warranty Period or (ii) if the claim is the result of third-party hardware or software, the actions of Client or some other party or is otherwise caused by factors outside the reasonable control of BlackHawk.

(b) THIS SECTION 7 IS A LIMITED WARRANTY AND SETS FORTH THE ONLY WARRANTIES MADE BY BLACKHAWK. BLACKHAWK MAKES NO OTHER WARRANTIES, CONDITIONS OR UNDERTAKINGS, EXPRESS

OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OR ANY WARRANTIES REGARDING THE PERFORMANCE OF ANY SOFTWARE OR HARDWARE PROVIDED OR INSTALLED BY BLACKHAWK. WHILE CLIENT MAY HAVE OTHER STATUTORY RIGHTS, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, FOR PURPOSES OF THE SERVICES, SHALL BE LIMITED TO THE WARRANTY PERIOD.

9. Non-Solicitation of Employees:

During the Term of the Agreement and for a period of twelve (12) months thereafter, neither party will solicit for employment any employee or contractor of the other who was directly involved in the performance of any Services. A general advertisement by Client or BlackHawk or a request for employment initiated exclusively by the employee is not considered a solicitation. In the event either party violates this provision and subsequently retains an employee of the other, the party in breach will pay to the other a fee equal to fifty (50%) percent of the salary provided to that employee by the party in breach of this provision.

10. LIMITATION OF LIABILITY: BLACKHAWK WILL NOT BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR INTERRUPTION OF SERVICES, LOSS OF BUSINESS, LOSS OF PROFITS, LOSS OF REVENUE, LOSS OF DATA, OR LOSS OR INCREASED EXPENSE OF USE BY CLIENT OR ANY THIRD PARTY INCURS), WHETHER IN AN ACTION IN CONTRACT, WARRANTY, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR STRICT LIABILITY, EVEN IF BLACKHAWK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LIABILITIES. BLACKHAWK IS NOT RESPONSIBLE FOR PROBLEMS THAT OCCUR AS A RESULT OF THE USE OF ANY THIRD-PARTY SOFTWARE OR HARDWARE. IN NO EVENT WILL THE AMOUNT CLIENT MAY RECOVER UNDER THIS AGREEMENT EXCEED THE TOTAL PAYMENTS MADE TO BLACKHAWK BY CLIENT PURSUANT TO THIS AGREEMENT IN THE IMMEDIATELY PRECEDING TWELVE (12) MONTHS. THE LIMITATIONS SET FORTH IN THIS SECTION 9 SHALL NOT APPLY TO PERSONAL INJURY OR DAMAGE TO TANGIBLE PROPERTY CAUSED BY THE WILLFUL MISCONDUCT OR GROSS NEGLIGENCE OF BLACKHAWK.

11. Confidential and Proprietary Information: Each party agrees that all know-how, business, technical and financial information it obtains ("Receiving Party") from the disclosing party ("Disclosing Party"), regarding either party and its management, operations, products, personnel and/or services constitutes the confidential property of the Disclosing Party ("Confidential Information"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. Except as may be necessary to perform its obligations under this Agreement, the Receiving Party will hold in confidence and not use or disclose any Confidential Information to any third party without the express written permission of the Disclosing Party. The Receiving Party's nondisclosure obligation shall not apply to information that: (i) was known to it prior to receipt of the Confidential Information as established by contemporaneous written documentation; (ii) is publicly available; (iii) is rightfully obtained by the Receiving Party from a third party without a confidentiality obligation to the Disclosing Party; (iv) is independently developed by employees of the Receiving Party without reference to or use of Confidential Information; or (v) is required to be disclosed pursuant to a regulation, law or court order (provided, however, that if disclosure is required under Paragraph 11(v), the Disclosing Party shall be afforded not less than ten (10) business days to seek relief from a court of competent jurisdiction regarding the compelled disclosure).

Any templates, schematics, processes or technical documentation provided by BlackHawk shall be deemed Confidential Information and proprietary information of BlackHawk without any marking or further designation. Client may use such information solely for its own internal business purposes and in furtherance of the obligations of this Paragraph 11.

BlackHawk shall maintain the confidentiality of information in its possession regarding individual protected health information in accordance with applicable law, and shall not release such information, to any other person or entity, except as required by law.

12. Independent Contractor: The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

13. Assignment: This Agreement may not be assigned by Client without the prior written consent of BlackHawk but may be assigned by BlackHawk (i) pursuant to a merger or change of control or (ii) to an assignee of all or substantially all BlackHawk's assets. Any purported assignment in violation of this section shall be void and of no force or effect.

14. Disputes; Governing Law; Arbitration: New York law will govern and enforce this Agreement. Any litigation or arbitration between Client and BlackHawk will take place in any state court located within New York State limits. Client and BlackHawk waive any objection to personal jurisdiction or venue in any forum located in those jurisdictions. Except for a claim of payments of amounts due, no action, regardless of form, arising out of this Agreement may be brought by either party against the other more than one (1) year after the cause of action has arisen. At the option of either Client or BlackHawk, any dispute arising from or with respect to this Agreement will be decided by arbitration by the American Arbitration Association in accordance with its Commercial rules. At the request of either party, proceedings may be conducted in secrecy.

15. Complete Understanding; Modification: This Agreement, including any and all future Attachments and Schedules and SOWs constitutes the full and complete understanding and agreement between Client and BlackHawk and supersedes any prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by both Client and BlackHawk.

16. Waiver and Severability: Waiver or failure by either party to exercise in any respect any right provided for in the Agreement will not be deemed a waiver of any further right under this Agreement. If any provision of this Agreement is found by a court of competent jurisdiction to be unenforceable for any reason, the remainder of this Agreement will continue in full force and effect.

17. Force Majeure: Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events which are beyond the reasonable control of such party, such as strikes, blockade, war, terrorism, riots, pandemic, epidemic, natural disasters, and/or refusal of license by the government, insofar as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost. In the event of a force majeure event that lasts more than sixty (60) days, either party may terminate this Agreement without any further notice or action required.

18. Notices and Reports: Any notice or report hereunder shall be in writing to the notice address set forth below and shall be deemed given: (i) upon receipt if by personal delivery; (ii) upon receipt if sent by certified or registered U.S. mail (return receipt requested); or (iii) one day after it is sent if by next day delivery by a major commercial delivery service.

19. Attorneys' Fee. In any action or proceeding commenced to enforce or interpret the terms of this Agreement, the prevailing party shall recover its reasonable costs and attorneys fees from the non-prevailing party.

Name of Customer: _____

BlackHawk Data LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

BlackHawkData

Signature Date: _____

Signature Date: _____

Effective Date as per customer signature date.

Please sign upon acceptance of this agreement. Thank you for your business!