

# Master Services Agreement

This Agreement is entered into by SAM IT Solutions, LLC, with a principal place of business at 2511 E NC-54 Hwy, Ste. 201, Durham, NC 27713 ("MSP") and the client identified in a Quote ("Client"). MSP and Client may be referred to individually as a "Party" and collectively as the "Parties". The "Effective Date" of this Agreement will be the date of Client's electronic acceptance or signature on the Quote or, if earlier, the date on which Client first uses the Services and shall continue in effect for as long as MSP provides Services to Client (the "Term").

## Services

MSP may offer and facilitate various services to Client as detailed in a Quote ("Services"). The scope of Services, deliverables, and service levels, if applicable, will be as described in the Quote. Services offered by MSP may include, but are not limited to:

1. Helpdesk support, which may include remote troubleshooting, issue resolution, and end-user assistance for supported products.
2. Structured cabling services, which involve the design and installation of standardized cabling infrastructure to support multiple network services such as voice, data, and video.
3. Hosting services in a colocation datacenter, providing secure and reliable infrastructure for storing and managing Client's data and applications.
4. Reselling of third-party services, including but not limited to backup, security, email, voice, etc.

The specific Services to be provided to Client will be explicitly outlined in the Quote. MSP does not guarantee the provision of all services listed above to every Client.

For services provided directly by MSP (such as helpdesk support, structured cabling, and hosting), MSP will be responsible for the delivery and quality of these services as outlined in the Quote and any applicable service level agreements.

For third-party services resold by MSP, MSP is not responsible for the performance, reliability, or availability of these services or products. Any service levels, warranties, or guarantees for third-party services are provided solely by the applicable vendor, not MSP. Client acknowledges that MSP's role in relation to these third-party services is limited to reselling and basic support, and that MSP shall not be held liable for any issues, damages, or losses arising from the use of these third-party services or products.

The Services provided under this Agreement are strictly limited to those explicitly outlined in the Quote. Any service not expressly agreed to in writing by MSP is excluded from the scope of this Agreement. MSP shall not be held responsible or liable for any consequences, damages, or losses resulting from services not included in the scope of this Agreement. Client acknowledges that it is their responsibility to request and contract for any additional services they deem necessary for their operations. If Client

requires services beyond the scope of this Agreement, such services must be agreed upon in writing and may be subject to additional fees.

## Structured Cabling Services

When MSP provides structured cabling services to Client, the following terms shall apply in addition to the general terms of this Agreement:

1. **Work Warranty:** MSP warrants its work on structured cabling installations and aftersales service work to be free from material defects in workmanship for a period of 12 months after completion. This warranty is limited to the workmanship provided by MSP and does not cover issues caused by Client's actions, third-party interventions, normal wear and tear, or force majeure events.
2. **Warranty Limitations:** a) For service work needed within 12 months of the completion of the initial installation, if the issue is solely caused by defects in workmanship provided by MSP, the affected work will be repaired at no additional cost to the Client. b) The Client agrees to pay MSP for all necessary service calls, diagnostics, and remediation if: i) The issue is not caused by defects in workmanship provided by MSP; ii) The issue results from Client's actions, third-party interventions, or normal wear and tear; iii) The service is needed more than 12 months after completion of the initial installation. c) MSP's total liability for any warranty claim shall not exceed the original cost of the affected portion of the work. d) This warranty is void if the Client or any third-party modifies, repairs, or attempts to repair the installed cabling system without MSP's prior written consent.
3. **Payment Terms for New Equipment Sales and Installations:** a) For new structured cabling equipment sales and installations, Client agrees to pay 100% of all hardware costs in advance or with a valid purchase order. b) For the remaining balance of the project (excluding hardware costs), Client agrees to pay a non-refundable deposit of 50% upon signing the Quote. c) The final balance, plus any additional costs for labor charges based on approved Change Orders, is due within 15 days of project completion as defined in the Quote. d) MSP reserves the right to suspend or terminate services if payments are not received according to the agreed-upon schedule. e) Any outstanding balance not paid within 30 days of the invoice date will be subject to a late payment fee of 1.5% per month or the maximum rate permitted by law, whichever is lower. f) Title to all equipment and materials shall remain with MSP until full payment is received.
4. **Restocking Fee:** a) In the event any structured cabling products or equipment are returned for any reason other than a defect in the product, Client agrees to pay a restocking fee of 20% of the purchase price. b) Returns must be made within 30 days of purchase and items must be in new, unused condition with original packaging and all accessories intact. c) Custom-ordered or specially manufactured items are not eligible for return unless defective. d) MSP reserves the right to refuse any return or to adjust the restocking fee based on the condition of the returned items. e) Client is responsible for all shipping costs associated with returns.
5. **Access to Job Site:** For structured cabling services, the Client agrees to provide reasonable access to the Client's location during normal business hours. If work is required on holidays or outside normal business hours, additional charges will apply as agreed upon in advance.
6. **Equipment Warranties:** MSP will pass through to the Client any manufacturer's warranties on equipment sold to the Client as part of the structured cabling services. Client acknowledges that these warranties are provided by the manufacturer and not by MSP.
7. **Disclaimer of Other Warranties:** THE WARRANTIES PROVIDED IN THIS SECTION ARE THE ONLY WARRANTIES THAT APPLY TO STRUCTURED CABLING SERVICES. ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMITTED BY LAW.

# Commercially Reasonable Efforts and Service Limitations

"Commercially Reasonable Efforts" means the level of effort, expertise, and resources that a skilled and experienced managed service provider would use in similar circumstances to accomplish the objective as expeditiously as practicable, considering factors such as available resources, technical feasibility, and industry standards, but only to the extent of the services specified in the Quote.

The Parties agree to the following terms regarding the application of commercially reasonable efforts and the limitations of services:

1. The MSP commits to using commercially reasonable efforts to meet the Client's service requests and requirements. However, the Parties acknowledge that certain requests may not be feasible due to technical limitations, time constraints, or other factors beyond the MSP's control.
2. In situations where the Client's request cannot be fulfilled within the specified timeframe or under the given circumstances, the MSP will: a) Promptly inform the Client of the limitations or constraints b) Provide an estimated timeline for completion based on realistic assessments c) Offer alternative solutions or workarounds where possible
3. The Client agrees that the MSP shall not be held liable for failure to meet unreasonable or technically infeasible requests. Examples of such situations include, but are not limited to: a) Requests for data restoration or system recovery that exceed practical time limits b) Demands for services that conflict with legal, ethical, or security best practices c) Requirements that surpass the technological capabilities of current systems
4. In cases where urgent action is required, the MSP will prioritize critical business functions and data security, even if it means partial fulfillment of the Client's request within the given timeframe.
5. The Client acknowledges that some requests may require additional time, resources, or costs to fulfill properly and safely. In such cases, the MSP will provide a change order or addendum to the existing Quote and seek the Client's approval before proceeding.
6. The Parties agree to work collaboratively and in good faith to find mutually acceptable solutions when faced with challenging or time-sensitive requests.

## Client Covenants and Obligations

The Client acknowledges and agrees to the following covenants and obligations:

1. **Cooperation and Access:** The Client shall assist the MSP in service delivery by providing adequate and timely access to facilities and equipment, and a suitable work environment for MSP personnel. The Client shall assign a dedicated point person or project manager as the primary interface. The Client agrees to perform simple diagnostic procedures as requested by the MSP, including reboots and power cycles.
2. **Remote Access and Environment:** The Client shall provide secure remote access to the MSP to covered equipment. The Client shall maintain an environment suitable for the equipment, including adequate cooling, electrical service, air circulation, and power surge protection.
3. **Incident Reporting:** The Client agrees to promptly report any suspected security incidents or breaches to MSP, including but not limited to unauthorized access, data loss, or system compromise.
4. **Software and Hardware Maintenance:** The Client shall maintain proper licensing on all software in use and refrain from using software no longer supported by the manufacturer. The Client shall maintain warranties and maintenance agreements on all hardware. The Client holds the MSP

harmless for any damages caused by the use of unsupported software. The MSP may designate equipment as obsolete when it reaches end-of-life as specified by the manufacturer.

5. **Network Security:** While the MSP may implement security features, the Client is ultimately responsible for ensuring network security. The Client agrees to maintain a firewall, encrypt wireless networks, train employees on security awareness, and maintain physical security. The MSP is not responsible for unauthorized access to the Client's network. If security services are included in the MSP's package, the MSP will make commercially reasonable efforts to secure the network, but the Client acknowledges that no security system can guarantee complete protection. The Client agrees to hold the MSP harmless from loss, injury, or damage caused by malicious activities.
6. **Data Backup:** The Client is responsible for maintaining an independent off-site backup of data stored on their network and verifying that backups are made regularly. The MSP is not liable for any data loss due to backup failure, even if backup services are offered as part of the service package.
7. **Malicious Activity and Viruses:** MSP is not responsible for criminal activity by hackers, phishers, crypto-lockers, or others. However, if the Quote includes applicable security or data recovery services, MSP agrees to make commercially reasonable efforts, as defined in this Agreement, to restore Client's data and systems in the event of such activity. For situations not covered by MSP's services, the Client agrees to either pay any ransom demands or hold the MSP harmless for any activity affecting network security, except in cases of MSP's gross negligence or willful misconduct. The Client shall ensure that an anti-virus solution approved or recommended by MSP is in place, updated, and properly licensed. The Client agrees to pay any reasonable fees associated with MSP's efforts to service or rebuild systems due to malicious activity or virus infection, beyond those covered under the services specified in the Quote. If the Quote does not include applicable security or data recovery services, MSP may offer such services at additional cost, subject to mutual agreement at the time of the incident.
8. **Password Management:** If the MSP provides password management services, the Client is responsible for the proper use of the password management system. The Client holds the MSP harmless from any loss or damage due to unauthorized access or misuse of the password management system.

## Data Protection, Privacy, and Device Handling

MSP is not responsible for the deletion, loss, or alteration of data on any device sent out for repair or replacement, unless explicitly agreed upon in writing. If Client requires data preservation on devices sent for repair, Client must notify MSP in writing before sending the device. In such cases, MSP will take reasonable precautions to preserve data, but cannot guarantee complete data retention. For devices containing Protected Health Information (PHI), MSP acknowledges its obligations under HIPAA and will handle such data in accordance with applicable regulations. Client is solely responsible for ensuring proper data backup and protection measures are in place before sending any device for repair or replacement. Specifically:

1. Before sending any device to MSP or before MSP picks up any device for repair or replacement, Client must: a) Perform a full backup of all data on the device. b) Verify the integrity and completeness of the backup. c) Delete all sensitive or confidential data from the device, including but not limited to personal information, financial data, and Protected Health Information (PHI).
2. Client acknowledges that failure to perform these steps may result in data loss, unauthorized access to sensitive information, or other security risks, for which MSP cannot be held responsible.
3. If Client is unable to perform these steps due to device malfunction or other issues, Client must explicitly inform MSP in writing before transferring the device, so that appropriate measures can

be taken.

MSP strongly recommends that Client maintain current backups of all important data at all times, not just when sending devices for repair. Client acknowledges that MSP's ability to assist with data recovery or protection is limited once a device has been received for repair or replacement.

MSP acknowledges the importance of data protection and privacy when handling Client data, whether stored on MSP's systems or the Client's systems. Both Parties agree to comply with all applicable data protection and privacy laws, including but not limited to HIPAA, GDPR, and CCPA, as relevant to the services provided and the Client's industry. MSP will assist Client in meeting these obligations to the extent that they relate to the Services provided under this Agreement.

In furtherance of these data protection and privacy commitments, the Parties agree to the following specific terms and conditions:

1. **Data Processing and Confidentiality:** MSP shall process Client data only for the purpose of providing the Services outlined in the Quote and in accordance with Client's written instructions. Client acknowledges that MSP may need to access, view, or alter Client Data stored on devices covered by the Quote to perform the Services. MSP shall ensure that its personnel who have access to Client data are subject to appropriate confidentiality obligations.
2. **Subprocessors:** MSP shall not engage any subprocessors to process Client data without prior written authorization from Client. When authorized, MSP shall ensure that subprocessors are bound by similar data protection obligations.
3. **Data Breach Notification:** In the event of a data breach affecting Client data on systems managed by MSP, MSP shall notify Client without undue delay and no later than 72 hours after becoming aware of the breach.
4. **Data Return/Deletion:** Upon termination of this Agreement, MSP shall return or delete all Client data from MSP's systems as instructed by Client, except where retention is required by law.
5. **Client Responsibilities:** Client is responsible for: a) Ensuring that its use of the Services complies with applicable data protection laws. b) Obtaining any necessary consents from data subjects. c) Maintaining appropriate security measures for systems and data not directly managed by MSP as part of the Services. d) Promptly notifying MSP of any suspected data breaches or security incidents on Client's systems that may affect the Services or data processed by MSP.
6. **Additional Security Services:** Any security services beyond those specified in the Quote, including but not limited to additional licensing, setup, audits, or enhanced security measures, will require separate agreement and may incur additional fees. MSP will provide a quote for such services upon Client's request.
7. **Limitations:** MSP's data protection and privacy obligations extend only to the systems and services explicitly covered by the Quote. Client acknowledges that MSP is not responsible for data protection or privacy issues arising from Client's internal practices, third-party services not provided by MSP, or any systems or data outside the scope of the Services.

## Distributed Workplace

For the purposes of this Agreement, a "Distributed Workplace Model" refers to a flexible work arrangement where employees or contractors are permitted to work from various locations outside of a traditional centralized office environment. This model may include, but is not limited to, remote work from home offices, co-working spaces, or other non-traditional work settings. It emphasizes the use of digital technologies and communication tools to facilitate collaboration, task management, and service

delivery across geographically dispersed team members.

Client acknowledges that MSP's services are designed primarily for centralized workplace environments. In the event that Client adopts a Distributed Workplace Model, the following conditions apply:

1. **Home Network Coverage:** MSP's responsibility for network support and troubleshooting is limited to the equipment and services directly provided or managed by MSP. Client acknowledges that MSP is not responsible for the performance, security, or reliability of employees' home internet connections, personal networking equipment, or any other aspects of home office setups not explicitly covered in the Services outlined in the Quote.
2. **Recentralization:** In the event that Client decides to recentralize its workforce after adopting a distributed model, the process of relocating employees and their devices back to a central location is not included in the Services covered by this Agreement. Such recentralization efforts, if requested, will be treated as a separate project and may incur additional fees.
3. **Remote Support:** While MSP will make reasonable efforts to provide remote support for distributed employees, Client acknowledges that certain issues may require on-site intervention, which may not be feasible for home-based workers. In such cases, MSP will work with Client to find alternative solutions, but cannot guarantee the same level of service as provided in a centralized workplace environment.
4. **Security Considerations:** Client is responsible for ensuring that distributed employees follow all security protocols and best practices as advised by MSP. This includes, but is not limited to, using VPNs, maintaining up-to-date antivirus software, and adhering to data protection policies.
5. **Additional Services:** Any additional services required to support a Distributed Workplace Model beyond those specified in the Quote may incur additional fees and will be subject to a separate agreement or amendment to this Agreement.

## Fees and Payment Terms

For the purposes of this Agreement, "Service Fees" means all fees and charges payable by the Client to the MSP for the provision of Services, as specified in the Quote or any subsequent written agreement between the Parties. These may include, but are not limited to, recurring monthly fees for managed services, one-time setup or installation fees, hosting fees, software license fees, hardware costs, consulting fees, project-based fees, and any other charges for additional services or products provided by the MSP to the Client in connection with this Agreement.

The Client shall pay the fees as outlined in the Quote provided for the Services under this Agreement. The fees shall be payable according to the terms specified in the Quote (e.g., "monthly in advance on the first day of each month").

If the Client fails to pay any fees within 30 days of the due date, the MSP reserves the right to suspend services until payment is made in full. The MSP will provide written notice of the suspension and an opportunity for the Client to rectify the non-payment within 15 days. In the event that services are suspended due to non-payment, the Client remains responsible for any fees and charges incurred during the period of suspension. For critical services, such as those provided to medical facilities, the MSP will work with the Client to ensure continuity of essential services while resolving payment issues.

The MSP reserves the right to pass through any increases in third-party service fees (e.g., licensing fees, subscription costs) to the Client. The MSP will provide at least 30 days' notice of any such increases, and the Client agrees to pay the adjusted fees from the effective date of the increase.

Regarding the adjustment of Service Fees, the Parties agree to the following terms:

1. Service Fees will increase by a minimum of five percent (5%) at least once per year on, including but not limited to, the annual anniversary of this Agreement.
2. If the MSP determines that an increase of more than five percent (5%) is necessary, the MSP will provide written notice to the Client at least sixty (60) days prior to the effective date of the increase.
3. Upon receiving notice of an increase greater than five percent (5%), the Client shall have the option to terminate this Agreement by providing written notice to the MSP within thirty (30) days of receiving the price increase notification. In such case, while no early termination fee will apply, the Client shall be responsible for Service Fees up to the termination date and reimburse the MSP for any remaining balance of pre-paid, non-refundable licenses or vendor-provided services, including any remaining financial commitments related to discounted products or services that the MSP has contractually secured on the Client's behalf. The MSP will provide an invoice detailing the items from this provision, which the Client agrees to pay within thirty (30) days of receipt.
4. If the Client does not provide written notice of termination within the thirty (30) day period, the Client will be deemed to have accepted the price increase, and it will go into effect on the date specified in the notice.
5. Service Fees may be adjusted at any time due to changes in the number of users, devices, or licenses covered under this Agreement. This includes, but is not limited to, increases or decreases in user accounts, endpoint devices, software licenses, or any other quantifiable service units. The MSP will provide written notice of such adjustments, which will take effect immediately upon notification.
6. The MSP reserves the right to apply surcharges for additional services or resources required beyond the scope of the standard service offering. These surcharges will be communicated to the Client in advance and itemized on invoices.
7. Passthrough fees, including but not limited to software licenses, hardware costs, or third-party service fees, may be adjusted by the MSP at any time to reflect changes in the MSP's costs. The MSP will provide notice of such adjustments, and they will be reflected in the next billing cycle.
8. The Client acknowledges that passthrough fees are subject to change based on the pricing policies of third-party vendors and agrees to pay such fees as they are adjusted.

The Client agrees to pay a minimum monthly fee as specified in the Quote, regardless of usage. This minimum fee ensures that the MSP can cover baseline costs and maintain a high level of service.

Any payments not received within 7 days of the due date shall be subject to a late payment fee of 1% per month on the outstanding balance until paid in full.

The Client must notify the MSP of any disputed charges within 15 days of receiving the invoice. The MSP will investigate and resolve any disputes promptly. The Client agrees to pay any undisputed amounts in accordance with the payment terms.

## **Price Adjustment for External Factors**

The pricing provided in the Quote is based on current market conditions, including applicable international tariffs, taxes, and duties as of the date specified in the Quote. MSP reserves the right to adjust pricing in the event of unforeseen changes in tariffs, duties, taxes, or other governmental regulations that directly impact the cost of goods, materials, or services provided under this Agreement.

Any such adjustments will be communicated to Client in writing as soon as reasonably practicable, and the Parties agree to negotiate in good faith to address the impact of such changes. Should an agreement not be reached within ten (10) business days of notification, either Party may terminate this Agreement without incurring an early termination fee by providing written notice to the other Party, provided that Client remains responsible for all fees incurred up to the date of termination, any remaining balance of pre-paid, non-refundable licenses or vendor-provided services, and any remaining financial commitments related to discounted products or services that MSP has contractually secured on Client's behalf.

This Price Adjustment for External Factors is separate from and in addition to the annual Service Fee increases described in the Fees and Payment Terms section of this Agreement.

## **Indemnification**

Each Party (the "Indemnifying Party") agrees to indemnify, defend, and hold harmless the other Party (the "Indemnified Party") from and against any third-party claims, damages, losses, and expenses, including reasonable attorney's fees, arising out of or related to the Indemnifying Party's breach of this Agreement or negligence in performing its obligations under this Agreement. The Indemnified Party must promptly notify the Indemnifying Party in writing of any claim and allow the Indemnifying Party to control the defense and settlement of the claim. The Indemnified Party will provide reasonable cooperation in the defense at the Indemnifying Party's expense. Neither Party's indemnification obligations shall exceed the total amount paid or payable by Client to MSP under this Agreement in the twelve (12) months preceding the claim. This indemnification obligation will not apply to the extent that any claim results from the Indemnified Party's own breach, negligence, or failure to promptly notify the Indemnifying Party of the claim.

## **Limitation of Liability**

To the maximum extent permitted by applicable law, each Party's total liability arising out of or related to this Agreement will not exceed the greater of (i) the proceeds available from its professional liability insurance policies, or (ii) the total payments actually made by Client to MSP under this Agreement in the 12 months preceding the event giving rise to the claim. Neither Party will be liable for any consequential, indirect, special, punitive, or incidental damages, including but not limited to loss of profits, data, use, or goodwill, except in connection with arbitration proceedings as outlined in the Dispute Resolution section of this Agreement. These limitations of liability do not apply to damages resulting from gross negligence, willful misconduct, or violations of intellectual property rights. The Parties agree that these limitations reflect a reasonable allocation of risk and that the fees charged for the Services are based on this allocation. MSP is not required to dispute insurance coverage determinations or file declaratory judgment actions against its insurers. The remedies provided in this Agreement are the sole and exclusive remedies available to the Parties.

## **Force Majeure**

Neither Party shall be held liable for any delay or failure in performance of any part of this Agreement because of cause or circumstances beyond its control such as acts of God, acts of civil or military authorities, legislative, executive or judicial acts of any government entity, cable cuts, government regulations, embargoes, epidemics, pandemics, public health emergencies, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, or other major environmental

disturbances, power blackouts, strikes, or from any other similar cause (Force Majeure Condition). In the event of a Force Majeure Condition, performance by the affected Party shall be excused while the Force Majeure Condition exists, and the Parties shall cooperate to minimize the adverse impact of any such nonperformance.

## Dispute Resolution

Any disputes arising out of or relating to this Agreement shall be resolved through arbitration in accordance with the rules of the American Arbitration Association (AAA). The following specifics shall apply:

1. **Number of Arbitrators:** The arbitration shall be conducted by one arbitrator, unless the Parties agree otherwise.
2. **Qualifications of Arbitrator:** The arbitrator must have reasonable experience in the field of information technology services. The Parties shall mutually agree on the selection of the arbitrator. If the Parties cannot agree on an arbitrator within 10 days of initiating the arbitration process, the American Arbitration Association (AAA) shall appoint an arbitrator with reasonable IT experience.
3. **Location of Arbitration:** The arbitration shall take place in Durham County, State of North Carolina, unless otherwise agreed by the Parties.
4. **Costs and Fees:** The costs of the arbitration, including the fees of the arbitrator, shall be shared equally by the Parties, unless the arbitrator determines that the allocation of costs and fees should be otherwise. The prevailing Party, as determined by the arbitrator, shall be entitled to reimbursement of its reasonable attorneys' fees and costs from the non-prevailing Party.
5. **Scope of Arbitration:** Disputes involving claims less than \$5,000 may be resolved in small claims court, and arbitration shall not be required for these matters. The right to pursue collections through standard legal processes is not waived by this arbitration clause.
6. **Final and Binding:** The decision of the arbitrator shall be final and binding on both Parties and may be entered as a judgment in any court of competent jurisdiction.

## Termination for Cause

This Agreement may be terminated for cause by either Party under the conditions specified herein. For the purposes of this clause and any calculations related to termination, the "Term End Date" shall be considered the later of: (a) the next annual anniversary of the Agreement's effective date, or (b) the end date specified in a pre-existing written agreement or Quote for the relevant Services. In the absence of a specified end date in a pre-existing written agreement or Quote, the Term End Date shall be the next annual anniversary of the Agreement's effective date. The following provisions govern termination for cause:

1. **Material Breach:** Termination for cause may occur due to an uncured material breach by either Party. For the purposes of this Agreement, a "material breach" is a significant violation of the Agreement that substantially defeats the purpose of the contract or deprives the non-breaching Party of the benefit they reasonably expected. Examples of material breaches may include, but are not limited to, failure to pay fees when due, substantial failure to perform services as outlined in the Agreement, or significant violation of confidentiality or data protection obligations.
2. **Notice and Cure Period:** In case of a material breach, the non-breaching Party must provide written notice to the breaching Party, detailing the specific nature of the breach. The breaching Party shall have thirty (30) days from the receipt of such notice to cure the breach. If the breach

remains uncured after the thirty (30) day period, the non-breaching Party may terminate this Agreement immediately by providing written notice of termination to the breaching Party.

3. **Termination by Client for MSP's Breach:** If this Agreement is terminated by the Client due to a material breach by the MSP, the Client shall only be responsible for fees incurred up to the date of termination. The MSP shall promptly refund any prepaid fees for services not rendered.
4. **Termination by MSP for Client's Breach:** If the Agreement is terminated by the MSP due to Client's material breach, the Client agrees to pay: a) All fees incurred up to the date of termination; b) The remaining balance of any pre-paid, non-refundable licenses or vendor-provided services; c) Any remaining Service Fees calculated from the termination date to the Term End Date; d) Any remaining financial commitments related to discounted products or services that the MSP has contractually secured on the Client's behalf.
5. **Material Changes to MSA:** If the MSP makes material changes to this MSA, the following process shall apply: a) MSP will provide written notice to the Client of any material changes at least thirty (30) days before such changes take effect. b) If the Client does not agree with the material changes, they may terminate this Agreement without incurring an early termination fee by providing written notice within thirty (30) days of receiving notice of such changes. c) In case of termination due to material changes: i. The Client remains responsible for all fees incurred up to the date of termination. ii. The Client must pay for any remaining balance of pre-paid, non-refundable licenses or vendor-provided services. iii. The Client is obligated to fulfill any remaining financial commitments related to discounted products or services that the MSP has contractually secured on the Client's behalf. d) If the Client does not terminate the Agreement within this period and continues to use the services, it will be deemed to have accepted the modified MSA.
6. **Invoice for Remaining Balance:** Upon termination, the MSP will provide the Client with a detailed invoice outlining all fees due as per this clause, including any calculations based on the Term End Date as defined in the introductory statement of this clause.
7. **Payment of Remaining Balance:** The Client shall pay the remaining balance within thirty (30) days of receiving the invoice. The Client authorizes the MSP to charge the Client's payment method on file for this amount, or the Client may choose to provide a different payment method within the thirty (30) day period.
8. **Transition Assistance:** The MSP will provide reasonable assistance to transition services to the Client or a new service provider, subject to the terms outlined in the "Offboarding" clause of this Agreement.
9. **Survival:** The obligations under this clause shall survive the termination of this Agreement.

## Termination for Convenience

The Client may terminate this Agreement for convenience by providing sixty (60) days written notice to the MSP. In the event of termination for convenience, the following conditions shall apply:

1. **Early Termination Fee:** The Client agrees to pay an early termination fee equal to 50% of the remaining fees calculated from the termination date to the Term End Date.
2. **Payment of Outstanding Balances:** The Client shall pay all outstanding balances for services rendered up to the date of termination, including any unpaid invoices and pro-rated fees for the month in which termination occurs.
3. **Vendor Services and Licenses:** The Client shall reimburse the MSP for any remaining balance of pre-paid, non-refundable licenses or vendor-provided services, including any remaining financial commitments related to discounted products or services that the MSP has contractually secured on the Client's behalf.
4. **Transition Assistance:** The MSP will provide reasonable assistance to transition services to the Client or a new service provider, subject to the terms outlined in the "Offboarding" clause of this

Agreement.

5. **Calculation of Remaining Fees:** The remaining fees shall be calculated as follows: a) The MSP will determine the average monthly fee based on the total fees charged for the three full calendar months immediately preceding the termination notice date. b) This average monthly fee will be multiplied by the number of full and partial months remaining from the termination date until the Term End Date. c) For any partial month, the fee will be prorated based on the number of days remaining in that month. d) The total remaining fees will be the sum of the fees for all full and partial months calculated as described above.
6. **Invoice for Termination Fees:** Within 15 days of receiving the termination notice, the MSP will provide the Client with a detailed invoice outlining all fees due under this clause

The Client acknowledges that termination for convenience may result in additional costs and agrees to fulfill all financial obligations as outlined in this clause.

## Offboarding

Upon termination of this Agreement, Client agrees to cooperate with MSP to ensure a smooth transition of services. Client acknowledges that certain offboarding procedures are necessary and agrees to the following:

1. **Device Access:** Client will ensure that all devices remain active and online for a reasonable period after termination to allow MSP to remove any installed agents or management software. MSP will provide a timeline for this process.
2. **Hardware Return:** Any hardware owned by MSP and in Client's possession must be returned within 15 business days of termination. Client is responsible for the cost of shipping. If equipment is not returned, or is returned in a damaged or non-functional state (beyond normal wear and tear), Client agrees to pay the full replacement cost as determined by MSP.
3. **Offboarding Services:** Client acknowledges that offboarding services, including but not limited to retrieval of passwords, documentation, and removal of equipment, are billable at MSP's then-current rates. MSP will provide an estimate for these services upon request.
4. **Default:** If Client is in default of any payment obligations under this Agreement, including any upfront fees or reasonable retainer required for offboarding services, MSP reserves the right to withhold offboarding services until such default is cured and all required payments, including upfront fees or reasonable retainer, are received.
5. **Data Preservation:** MSP will make commercially reasonable efforts to preserve Client's data during the offboarding process, but Client is ultimately responsible for ensuring all necessary data is backed up prior to termination.

Client understands that failure to comply with these offboarding procedures may result in additional fees or delays in service transition.

## Intellectual Property

Each Party retains exclusive ownership of its pre-existing intellectual property and proprietary information. Any intellectual property developed by MSP in the course of providing Services, except for Work Product as defined below, will be owned exclusively by MSP.

Notwithstanding the above, certain intellectual property created by MSP specifically for Client in the course of providing the Services may be designated as "Work Product" and owned by Client. Work Product shall be limited to items explicitly agreed upon in writing by both Parties, which may include specific websites, branding guidelines, and other marketing materials created exclusively for Client.

Client grants MSP a fully-paid, non-exclusive license to use Client's intellectual property solely as necessary to provide the Services. MSP grants Client a non-exclusive, non-transferable license to use any MSP-owned intellectual property incorporated into the Work Product or necessary for the use of the Work Product, solely for Client's internal business purposes.

The Work Product explicitly excludes any of MSP's pre-existing intellectual property, proprietary information, methodologies, processes, technologies, algorithms, software, or tools used to create the Work Product.

MSP acknowledges that all agreed-upon Work Product shall be owned by and belong exclusively to Client. MSP shall (1) assign to Client, upon request and without additional compensation, the entire rights to the Work Product, and (2) sign all papers necessary to carry out the foregoing.

## **Confidentiality**

Each Party agrees to maintain the confidentiality of the other Party's Confidential Information.

"Confidential Information" means any non-public business, technical, or financial information disclosed by one Party to the other which is marked as confidential at the time of disclosure or which, under the circumstances, should reasonably be understood to be confidential. The receiving Party shall keep the Confidential Information confidential and use it solely for the purposes of this Agreement.

The confidentiality obligations shall remain in effect for as long as the Confidential Information exists, subject to the terms set forth in any separate confidentiality agreements between the Parties. In the event of any conflict or inconsistency between the terms of such separate confidentiality agreements, the most stringent terms shall prevail and be adhered to.

Confidentiality obligations shall not apply to information which is publicly available through no fault of the receiving Party.

## **Non-Solicitation of Employees**

The Parties agree to the following terms regarding the non-solicitation of employees:

1. During the term of this Agreement and for one (1) year following its termination or expiration, neither Party shall directly or indirectly solicit, hire, or engage any employee of the other Party.
2. For the purposes of this provision, "employee" includes any person employed by either Party or its affiliates with whom the other Party has worked or had direct business-related communications during the term of this Agreement.
3. In the event that either Party breaches this non-solicitation provision, the breaching Party agrees to pay the non-breaching Party compensation for damages. The amount of compensation shall be limited to the greater of: a) the total amount paid to the employee by the non-breaching Party in the past year, or b) \$100,000.
4. Both Parties acknowledge that this provision is reasonable and necessary to protect each Party's legitimate business interests and that the compensation for damages represent a fair and

reasonable estimate of the potential harm resulting from such a breach.

5. This provision shall survive the termination or expiration of this Agreement.

## **Governing Law**

This Agreement will be governed by and construed in accordance with the laws of the State of North Carolina, without regard to its conflict of law principles. For any non-arbitrable claims or matters not subject to arbitration under this Agreement, any legal action or proceeding will be brought exclusively in the federal or state courts located in Durham County, North Carolina, and the Parties hereby irrevocably consent to the personal jurisdiction and venue therein for such matters. All other disputes shall be resolved through arbitration as specified in the Dispute Resolution section of this Agreement.

## **Assignment**

Neither Party may assign, transfer, or delegate any of its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld. Notwithstanding the foregoing, either Party may assign this Agreement in its entirety, without consent of the other Party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Any attempted assignment in violation of this section shall be null and void. This Agreement shall be binding upon and shall inure to the benefit of the Parties and their respective successors and permitted assigns.

## **Severability**

If any provision of this Agreement is held to be invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the Parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

## **Non-Disparagement**

The Parties mutually agree to refrain from making any disparaging, defamatory, or negative statements, whether verbal or written, about each other. This includes, but is not limited to:

1. Public criticism or disparagement of the other Party's business, services, products, or personnel.
2. Making statements that could harm the reputation or business interests of the other Party.
3. Posting negative comments on social media, online review platforms, or other public forums.

This clause applies to the Parties, their officers, directors, employees, and authorized representatives. The Parties agree to take reasonable steps to ensure their representatives comply with this non-disparagement obligation. This mutual non-disparagement clause does not prohibit either Party from:

1. Providing truthful information in response to a valid subpoena, court order, or legal process.
2. Making statements protected as "Protected Activity" under applicable laws.

3. Reporting any unlawful conduct to appropriate governmental authorities.

The Parties acknowledge that a breach of this non-disparagement clause may result in irreparable harm and that monetary damages alone may be an inadequate remedy. Therefore, the Parties agree that injunctive relief may be sought in addition to any other available legal remedies in the event of a breach.

This mutual non-disparagement obligation shall survive the termination or expiration of this Agreement.

## **Entire Agreement**

The Quote and this MSA constitute the entire agreement between the Parties and supersede any prior or contemporaneous communications or agreements, whether oral or written. In the event of a conflict between the terms of the Quote and this MSA, the terms of the Quote will prevail.

MSP reserves the right to modify this MSA from time to time and will provide notice to the Client of any material changes at least thirty (30) days prior to the modified MSA going into effect. The Client's continued use of the Services following this thirty (30) day notice period constitutes acceptance of the modified MSA.

Except for modifications made by MSP as described above, and unless otherwise specified in the Quote, this Agreement may only be modified by a written amendment signed by authorized representatives of both Parties.