DATAPATH

MASTER SERVICE AGREEMENT
Revised 9/3/3020

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This Master Service Agreement ("MSA") is between Data Path, Inc., a California corporation ("Datapath"), and the customer ("Customer") named on a Service Quote (each, a "Quote") that incorporates this MSA by reference and is signed by Datapath and Customer. This MSA does not by itself obligate Datapath or Customer to provide or purchase services or products, and such obligation will arise only on the execution by the parties of a Quote. Each Quote, the terms set forth in this MSA, and the terms set forth in a service agreement ("Service Agreement") or any other writing that by its terms is intended to be made a part of any such Quote (collectively, the "Agreement") collectively shall constitute an independent and separate contract between the parties for the services or products specified therein.

Datapath reserves the right to modify the terms of this MSA or any Service Agreement at any time by posting such changes on its website at mydatapath.com/agreements Customer is responsible for reviewing the terms regularly, and such terms, as modified, are the MSA and Service Agreement terms. Datapath will notify Customer of any material modifications to the published MSA and Service Agreement terms as soon as they are modified. Changes will not apply retroactively but will become effective on posting. If Customer does not agree to the modified terms, Customer should discontinue use of Services and contact Datapath.

Customer requested modifications to the MSA or any Service Agreement require the approval of a Datapath Owner or Founder above the Management level ("Data Path, Inc. Officer"). Any modifications to the MSA or any Service Agreement must be made by a written Agreement Addendum and executed by an authorized representative of Customer and a Datapath Officer.

I.   DEFINITIONS

A Table of Defined Terms used in this Agreement is set forth in Schedule 1 attached hereto.
Capitalized terms shall have the meanings set forth in this Agreement.

A. Effective Date

The "Effective Date" of an Agreement is the date on which the relevant Quote is signed by both parties.

B. Contacts

Customer shall name an employee to act as the "Primary Customer Contact" with Datapath. This Primary Customer Contact will be the direct contact to Datapath as it relates to all Services provided under an Agreement. For each Quote, Customer shall name a "Primary Technical Contact" who will be the primary contact with respect to technical issues and an "Authorized Contact" who will be authorized to request or approve any Services required by Customer outside the scope of a current Quote.

Datapath's "Technical Support" is provided through personnel who provide the Datapath Help Desk which is accessible at Support@mydatapath.com

C. Services; Services Fees

Datapath provides an innovative approach to the monitoring and management of Information Technology ("IT") for small, medium and large businesses and organizations. The services provided may include managed services, remote or on site back up, hosting, infrastructure supply and support, consulting services, among others, all such services being designed for Datapath's customers to proactively keep IT resources running efficiently. The specific services to be provided ("Services"), and the fees for such services ("Service Fees"), are described in the applicable Quote and Service Agreement, if applicable. Except for Supplemental Services (as defined below), and unless otherwise agreed to in writing by both parties, the Services to be rendered, including any Third-Party Products to be provided

by Datapath to Customer, are limited to those Services specifically described in the Quote.

D. Service Agreement Terms

Terms and conditions applicable to particular Services (as opposed to those generally applicable to all Services) will be identified in the Quote and in the applicable Service Agreement for the Service to be provided under a Quote. Datapath Service Agreements are found at mydatapath.com/agreements

E. Supplemental Services

"Supplemental Services" are limited services and Third Party Products that Customer requests in writing from Datapath on a "one-off" or emergency basis and are not included within the scope of the Services described in Quote. Customer's Primary Technical Contact shall notify Datapath of any need for Supplemental Services. Customer shall pay additional Service Fees for Supplemental Services at Datapath's then current standard hourly rate and shall pay for Third Party Products as agreed by the parties in charge. Datapath shall notify Customer of any such additional Service Fees and Third Party Products fees for any Supplemental Services and shall obtain Customer's approval prior to providing any such Supplemental Services. Datapath shall charge Customer for Supplemental Services in the invoice issued the month following delivery of the Supplemental Services, unless Datapath requires payment for Third Party Products in advance. Datapath will use commercially reasonable efforts to provide Supplemental Services; however, Datapath has no obligation to determine the need for, to suggest or to provide any Supplemental Services.

F. Third Party Products

"Third Party Products" are Third Party Software, Third Party Equipment or other products manufactured or developed by parties other than Datapath that are provided by Datapath as a reseller and are described in a Quote executed by both parties. Software developed by a party other than Datapath or in which any third party has any intellectual property or other ownership rights is referred to herein as "Third Party Software." Equipment developed or manufactured by a party other than Datapath or in which any third party has any intellectual property or other ownership rights is referred to herein as "Third Party Equipment."

II. REQUESTS FOR SERVICES

A. Services

Customer may request Services and Third Party Products from time to time, and if Datapath desires to offer the same, Datapath will prepare and provide to Customer a Quote for such Services or Third Party Products. Each Quote shall, at a minimum, contain the following:

1. The incorporation by reference of this MSA;
2. A description of the Services, the Service Agreement, any applicable service level agreement ("SLA"), the Datapath Products and Services and/or the Third Party Products, as applicable, to be provided under the Agreement;
3. The Term (as defined in Section IV.A) of the Services to be rendered under the Agreement, if applicable;
4. An implementation project plan and a mutually agreed upon statement of work ("SOW") with delivery schedules, if applicable;
5. The estimated delivery schedule for Third Party Products, if applicable;
6. The signatures of both parties' authorized representatives; and
7. The Effective Date of the Agreement.

Customer will engage Datapath, and Datapath will agree to provide Services, by execution of the mutually agreed upon Quote.

8. **Service Conditions**

    <u>Outside Conditions</u>.

    Customer acknowledges that certain conditions outside of Datapath's
    control may adversely impact the ability of Datapath to perform functions of certain Services. Examples of such conditions include, without limitation:

    - Customer task, software, scheduled job or other human intervention, intentional or otherwise, renders portions, complete files, or complete file systems unavailable through the Service.
    - Failure of Customer software, operating systems or equipment.
    - Network connectivity issues between Customer Devices and backup devices, software, or services used by Datapath.
    - Customer acknowledges that in the event of a support issue, Customer is responsible for on-site cooperative testing with Datapath Technical Support to assist in the diagnosis of the trouble.

9. <u>Non-Exclusive, Non-Transferable Right.</u>

    Subject to the terms of this Agreement including payment by Customer of all amounts due to Datapath, Customer shall have a non-exclusive, non-transferable right to use the Service solely for Customer's own internal business purposes for the Term and number of Users or other applicable Service metric specified in a Quote.

10. <u>Restrictions on Use.</u>

    Customer will not use, and will not permit others to use, Customer's account to: (1) copy, distribute, rent, lease, transfer or sublicense all or any portion of the Service to any third party; (2) modify or prepare derivative works relating to the Service; (3) use the Service (other than for Customer's internal use) in any commercial context or for any commercial purpose or in any commercial product including reselling the Service; (4) use the Service in any manner that threatens the integrity, performance or availability of the Service; (5) reverse engineer, decompile, or disassemble the Service; or (6) use the Service to help design a competing or similar service.

11. <u>Eligibility.</u>

    Datapath requires that any individual User of the Services be at least 18 years of age. By using the Service, Customer represents and warrants that Customer, if an individual, is at least 18 years of age and that Customer's use of the Service does not violate any applicable law or regulation.

B. **Service Limitations**

    Customer acknowledges that certain activities are excluded from the terms of Service unless expressly included in a Quote and may subject Customer to additional Service Fees. Examples of such activities include, without limitation:

    - Any major change in network or physical infrastructure
    - Activities related to any lawsuit, legal inquiry, e-discovery or other unforeseen requests
    - Changes in Service necessitated by any 3rd party attempt, successful or otherwise, to fix hardware issues on Devices under management by Datapath

III. REQUESTS FOR SERVICE CHANGES

If Customer wishes to implement changes in the scope of Services or Third-Party Products to be provided under an Agreement, Customer must request such changes in writing and deliver the request to Datapath. Datapath shall review and return the request to Customer with a written evaluation of the changes, including the cost of the changes (if any) and the impact the changes will have on the completion of the Services or delivery of the Third Party Products. Following its review of Datapath's evaluation, Customer may then choose to approve the changes by signing and returning to Datapath a copy of Datapath's written evaluation, which will then be subject to the terms and conditions of the Agreement. No changes in the scope of an Agreement will be effective until Datapath and Customer mutually agree upon and sign the evaluation of the written change request.

IV. TERM; TERMINATION

A. Quotes; MSA

The initial term of each Agreement (the "Term") shall begin on the Effective Date of the Quote and shall continue for the duration of the term set forth in the Quote. If no term is specified, a standard term of 36 months is assumed. This MSA shall be effective as of the Effective Date of a Quote executed by the parties which incorporates the terms hereof. After the Initial Term, this Agreement will automatically renew for successive periods of one year each at our rates then in effect for your Services unless either party notifies the other in writing within the last thirty (30) days of the then-current Term of the intent not to allow this Agreement to renew for a successive Term.

B. Termination for Cause

Either party (the "Terminating Party") may terminate this Agreement effective upon the delivery of written notice to the other party (the "Defaulting Party") if any of the following occur (each, an "Event of Default") (i) the Defaulting Party is insolvent or has a petition in bankruptcy filed against it; (ii) the Defaulting Party is adjudicated as bankrupt; (iii) the Defaulting Party makes a general assignment for the benefit of its creditors; (iv) the Defaulting Party has a receiver, trustee or agent appointed with respect to its business or any significant portion thereof; (v) the Defaulting Party otherwise ceases to do business in any manner which would affect the Terminating Party's performance under this Agreement; (vi) the Defaulting Party has failed to comply with any applicable laws in connection with its activities under this Agreement; or (vii) the Defaulting Party is in breach of any other provision of this Agreement and fails to correct and cure such breach within thirty (30) days after the Terminating Party provides written notice of such default. Datapath also shall have the rights set forth in Section X, Billing and Payment Terms, if Customer fails to pay any Fees when due under this Agreement, and such failure is an Event of Default. The election of said option to terminate by a party shall in no manner diminish any other rights it may have against the defaulting party pursuant to this Agreement or by law.

C. Other Termination Rights

Additional termination rights may be provided in a Quote or Service Agreement.

D. Transition After Termination

If a Service is terminated, and Customer is not in breach of the terms of this Agreement, upon request of Customer, Datapath will use commercially reasonable efforts to provide no less than two (2) weeks of interim Service in order to facilitate a transition of Customer's Service to another provider or in-house implementation. Datapath may charge a commercially reasonable amount for such transition services.

V. INTELLECTUAL PROPERTY RIGHTS

A. Ownership

Except for any rights expressly granted herein, this Agreement does not transfer from Datapath to Customer any right, title or interest in or to any process, system, software, service or device in which Datapath has an intellectual property or other ownership or use rights ("Datapath Technology"). Customer acknowledges that the Service is the exclusive property of Datapath. Datapath and its suppliers retain all rights, title and interest in and to all patents, copyrights, trade secrets, trademarks and other intellectual property rights in and to all and any part of the Service and the Datapath Technology used to provide the Service. Customer shall not acquire hereunder any right, title, or interest in the Service, except the right to use it in accordance with this Agreement.

Except for any rights expressly granted herein, this Agreement does not transfer from Customer to Datapath any right, title or interest in or to any software in which Customer has any intellectual property or other ownership or use rights ("Customer Software").

Except for any rights expressly granted herein, this Agreement does not transfer to Customer any right, title, or interest in or to any Third Party Software, and all right, title and interest in and to any Third Party Software remains with the party providing same, or with the third party owner, as appropriate.

B. Services Software

Where applicable, Datapath may install certain Third-Party Software and Datapath Technology on Devices in Customer's network for the purpose of delivering Services ("Services Software"). Datapath hereby grants to Customer a limited, non-exclusive, non-transferable, personal license to use the Services Software on the Device for the Term of any applicable Quote, subject to all applicable third-party license terms and requirements. Upon the termination of an applicable Quote, Customer shall return or allow Datapath to remove the Services Software from Customer's Device, servers and equipment. Customer shall not copy or move any Services Software and shall not use the Services Software in any way other than as provided in this Agreement.

C. General Skills and Knowledge

Subject to Datapath's obligations of confidentiality under this Agreement, Datapath may utilize any skills, knowledge or general ideas acquired during the course of providing the Services, and may independently develop for other customers deliverables that are the same or similar to deliverables developed for Customer based on skills, knowledge or general ideas acquired during the course of providing the Services to Customer, including, without limitation, information publicly known or available or that could reasonably be acquired in similar work performed for another customer of Datapath.

This Agreement is not an exclusive agreement. Customer may obtain services and products from third parties, and Datapath may provide services, products and Datapath Technology to third parties, without restriction or accounting to the other party.

D. Feedback; Derivative Works

If Customer, at any time during the Term, provides Datapath with comments, suggestions or other feedback (collectively, "Feedback") regarding the Datapath Services or Datapath Technology, Datapath will own such Feedback as derivative works of Datapath Services or Datapath Technology. Customer agrees that all Feedback is and shall be given entirely voluntarily. Datapath's use of Feedback will not cause any Datapath product, technology, service or documentation incorporating or derived from such Feedback, or any Datapath intellectual property rights therein, to be licensed to or otherwise shared with Customer or any third party. Furthermore, except as otherwise provided herein or in a separate subsequent written agreement between the parties, Datapath shall be free to use, disclose, modify, reproduce, license, distribute, practice, commercialize, further develop and otherwise freely exploit the Feedback as it determines in its sole discretion without obligation to Customer or restriction of any kind. If despite the express agreement of the parties to the contrary, Customer is deemed to own any Feedback, Customer hereby grants to Datapath a non-exclusive, royalty-free, fully paid up, perpetual, irrevocable, worldwide license to use, disclose, modify, reproduce, license, distribute, practice, commercialize, further develop and otherwise freely exploit without restriction or payment of any kind all such Feedback.

VI. CUSTOMER RESPONSIBILITIES

A. Compatibility

Datapath controls the version of hardware and software running on its infrastructure and does not guarantee that it is compatible with any version changes made by Customer on its network, server, operating system, or application infrastructure. It is Customer's responsibility to ensure that any version change planned on its infrastructure is compatible with Datapath hardware and software. Datapath can make available a testing schedule to test interoperability (additional charges may apply). Datapath retains the right to change the version of software and hardware of its infrastructure and will provide Customer a notification of this change no less than fourteen (14) days in advance. Customer shall be fully responsible for providing to Datapath at Customer's own expense and in a timely manner (i) all security credentials necessary for Datapath to use and access Customer's services and systems in connection with Service. Customer is responsible for notifying Datapath of all access changes, terminations, or related events. Datapath is not responsible for the unexpected use of Services on the part of the Customer and its agents; and (ii) cooperative testing of all Customer-provided hardware, software, and services for compatibility with Service.

B. Software Rights

Customer has title to, or a license or other rights to use, access and modify, and has or will obtain for Datapath a right or license to use, access or modify, any Customer Software or Third-Party Software that Customer has requested Datapath to use, access or modify as part of the Services. Customer shall indemnify Datapath and shall hold Datapath harmless from and against any loss, claim, damage, expense, cause of action or lawsuit (including reasonable attorneys' fees, expenses and court costs) (collectively, "Losses"), arising out of resulting from any claim or allegation that Customer does not have such rights, has not obtained such rights for Datapath, or that Datapath's provision of Services hereunder using the Customer Software or Third Party Software infringes any party's right, title to or interest in or to the same.

C. Software Licensing

Where applicable, Datapath offers licensed Third Party Software for use by Customer through Service Provider License Agreements ("SPLA") as part of certified reseller programs with third party vendors ("Vendors"). Datapath will license such Third-Party Software on the terms set forth in the applicable SPLA. If Customer opts to obtain a direct license for such Third Party Software with the Vendor and hires Datapath to provide Services for the management of devices upon with the Third Party Software will run, Customer agrees to provide to Datapath evidence of a current license agreement, including the software edition/version and any use limitations, or a separate Third Party Software assurance agreement whereby the Vendor certifies to Datapath the terms and scope of the applicable license and Datapath's right to provide Services related thereto ("Software Assurance Agreement"), within thirty (30) days after Datapath's request for the same. Datapath reserves the right to terminate Services if a SPLA or other license agreement is expired, if Customer's use violates the terms of the applicable SPLA or other license agreement, or if Customer fails to provide a Software Assurance Agreement when requested by Datapath. Further, Datapath reserves the right to audit Customer's use of Third Party Software to ensure that Customer is in compliance with the terms of the SPLA. Customer will provide to Datapath evidence or confirmation of use upon request. Customer agrees to comply with Vendor's licensing terms of use set forth in the SPLA. If an audit reveals that Customer has underpaid license fees to Datapath or Vendor, Datapath will invoice Customer for such underpaid fees, and Customer shall pay the same on receipt of the invoice. If the underpaid fees exceed 5% of the license fees previously paid by Customer, then Customer also shall pay Datapath's reasonable cost of conducting the audit.

D. Access to Resources

Customer shall supply Datapath with access to appropriate personnel, documentation, records, and facilities as requested by Datapath from time to time in order for Datapath to perform the Services. Customer shall supply to Datapath vendor support contract, contact information or any other such service required to access patches, support information, manuals, or other information related to Customer's operating system and applications. Customer shall designate an Authorized Contact(s) to be the point of contact to interface with Datapath Technical Support. Datapath shall be excused from its obligation to provide Services or shall be granted additional time to provide Services to the extent Customer's failure to provide the foregoing causes delays in Datapath's provision of Services.

E. Internet and E-Mail Use

Where Datapath's Services include Internet access, Customer is responsible for providing and maintaining all computer equipment, software, cabling and telecommunications services necessary to access Internet Services. Customer shall be solely responsible for its connection to the Internet and shall maintain a valid IP address to enable Customer to use the Service. Customer shall be solely responsible for its activities (and the activities of anyone who obtains access to the Services using Customer's password) in using the Service including the activities of its employees, agents, and contractors. Customer shall conform to the protocols and standards published on the Internet from time to time and adopted by the majority of Internet users. Customer may access the Internet system for lawful purposes only, and Customer shall comply with rules and regulations established by Datapath's and other networks through which Datapath provides the Services.

Customer shall not use Datapath's Internet system to transmit any material or to publish any web page (1) that incorporates or otherwise uses without permission any copyrighted works, trademarks, or trade secrets of any other person or entity; (2) that incorporates or otherwise uses any material legally determined to be threatening or obscene; or (3) that otherwise violates any state or federal law, statute or regulation. If Datapath reasonably believes that its Internet Services are being utilized for any of the above or other unlawful purposes by the Customer, or otherwise in contravention of the terms and conditions

under which the Internet Services are offered, Datapath, in its discretion, unless otherwise obligated by applicable law or court order, may immediately discontinue such Services to the Customer without liability and/or report all violations under the Digital Millennium Copyright Act.

Similarly, usage by Customer that could possibly result in damage to the hardware, software, or security of Datapath, its network, subscribers or the Internet system may result in immediate cancellation of Internet Services. In such event, all past due amounts owed by Customer plus a termination fee in the amount that would otherwise have been due for the Internet Services will become due. Expressly prohibited activities include, but are not limited to: (i) downloading software on the Internet system via Services supplied by Datapath that interferes with operations of the Internet system or Datapath's network system; (ii) manipulation of the Internet system to allow operation of programs accessed via the Internet while not actively online; (iii) the use of Datapath's servers, its customers' servers, or any other network devices and/or network services associated with Datapath, to be used to relay mail (defined as using any mail server at Datapath for the purpose of having the email appear to come from any Datapath managed email gateway), or used in any illegal manner whatsoever which includes, without limitation, items such as SPAM, UCE (unsolicited commercial email), UBE (unsolicited bulk email).

F. Datapath Equipment

Customer is responsible for the reasonable care of any Datapath Equipment ("Datapath Equipment") located at any Customer location. Datapath shall always remain the owner of all Datapath Equipment, and Customer shall not acquire any right, title or interest therein other than the limited right to use the same in connection with the Services. Customer agrees to maintain all Datapath Equipment located at Customer's location in a reasonable operational environment, including without limitation the provision of reasonable lighting, HVAC, security, custodial services, and all minimum requirements set forth in any applicable Quote. Customer shall provide Datapath with ready access to all such Datapath Equipment as requested by Datapath from time to time. Customer shall not allow any lien or encumbrance to be placed on any Datapath Equipment at any time. In the event any Datapath Equipment is damaged or defaced while at Customer's location or is returned damaged or defaced to Datapath, Customer will be responsible for repair or replacement fees for the damaged or defaced Datapath Equipment. For purposes of this section, damage does not include hardware failure that occurs due to normal wear and tear during normal use.

Upon termination of expiration of any applicable Quote, Customer, at its expense, is responsible for uninstalling and returning to Datapath any Service Software previously installed on Customer's system for use with the Service and for returning to Datapath any Datapath Equipment located at Customer's location. If requested by Datapath, Customer shall provide Datapath with access to Customer's location to repossess all Datapath Equipment. Payments owed by Customer to Datapath for Datapath Equipment shall continue under the applicable Quote until such time as all Datapath Equipment has been returned to or repossessed by Datapath.

G. Compliance with Applicable Laws

Customer's and its User's use of the Service will at all times comply with all applicable local, state, national and foreign laws and regulations.

H. Compliance and Control Requirements

Customer is responsible for providing Datapath with a documented list of

compliance and control requirements which are expected to be outsourced to Datapath as part of this Agreement (collectively, "Controls"). In cases where all Controls cannot be covered, Datapath will notify Customer in writing. Customer is responsible for notifying Datapath of any Control evidence or audit assistance requirements. All such requests should be submitted in writing via our web site https://www.mydatapath.com/contact-us at Information or assistance will be provided by Datapath within seventy-two (72) hours of Customer's request.

I. Complaints

Customer shall be responsible for promptly notifying Datapath of any Complaints regarding Services or Datapath Equipment provided. A "Complaint" is defined as any communication received from Customer specifically addressing a currently provided Service or Datapath Equipment that is not satisfactory to Customer. All Complaints should be submitted via telephone with a follow up in writing, including by email, to the Datapath Account Lead at http://www.mydatapath.com/contact-us. The Complaint will be recorded, and Datapath shall use commercially reasonable efforts to resolve the deficiencies in Services or Datapath Equipment to Customer's reasonable satisfaction and in accordance with any applicable SLA set forth in the applicable Services Agreement.

VII. NON-DISCLOSURE AND CONFIDENTIALITY

A. Confidential Information

Each party acknowledges that it and its employees or agents may be exposed to or acquire information that is proprietary or confidential to the other party relating to performance of this Agreement. Each party shall hold such information in strict confidence and shall not use or disclose any such information to any third party other than is required to perform this Agreement. Such "Confidential Information" includes: (a) any technical information, design, process, procedure, formula, or improvement, as well as any formulae, specifications, business or work processes and procedures, instructions, and other data relating to a party's business, services or products, the development, production of any work done specifically for the Customer; (b) the business plans and financial information of a party, regardless of whether such information would be protected at common law; and (c) such other information that, due to its nature, the receiving party knows or should have known the same was the proprietary or confidential information of the disclosing party. Customer's Feedback relating to Datapath Services and Datapath Technology, even if designated as confidential by Customer, shall not, absent a separate written agreement, create any confidentiality obligation for or upon Datapath, and Datapath will own and may utilize the same as set forth in Section V.D.

No copy of this Agreement, discussions, negotiations, terms or conditions relating to the Agreement, or any other information relating to this Agreement may be disclosed to any third party, except to a party's legal or accounting firms or as required by regulators with jurisdiction over Customer's or Datapath businesses, without the prior written consent of the disclosing party.

B. Non-Confidential Information

Notwithstanding the preceding Section VII.A, Confidential Information does not include: (a) information that at the time of disclosure is, without fault of the recipient, available to the public by publication or otherwise; (b) information that either party can show was in its possession at the time of disclosure and was not acquired, directly or indirectly, from the other; (c) information received from a third party with the right to transmit same without violation of any confidentiality agreement; and (d) information that must be disclosed pursuant to court order or by legal process; provided, however, that if information must be disclosed pursuant to court order or by legal process, the recipient shall inform the disclosing party of such requirement (unless prohibited by law) and shall cooperate with the disclosing party in seeking a protective order or other limitation on disclosure.

C. Nonpublic Personal Information

To the extent that any Confidential Information obtained by Datapath is Nonpublic Personal Information (as that term is defined by the Gramm-Leach-Bliley Act) and Datapath is a service provider, Datapath covenants and agrees that it will implement or has implemented security measures designed to: (a) ensure the security and confidentiality of Nonpublic Personal Information about Customer's customers; (b) protect against any anticipated threats or hazards to the security or integrity of such Nonpublic Personal Information; (c) protect against unauthorized access to or use of such Nonpublic Personal Information that could result in substantial harm or inconvenience to any consumer; and (d) ensure proper disposal of such Nonpublic Personal Information.

Datapath will implement written security and disaster recovery plans consistent with industry standards. Datapath will comply with all applicable laws and regulations regarding the security, handling, use and disclosure of such Nonpublic Personal Information in its role as a service provider. Upon termination of an Agreement pursuant to which Datapath obtains Nonpublic Personal Information, Datapath shall delete and erase from Datapath systems all such Nonpublic Personal Information relating to the Agreement and shall certify in writing to Customer that all such Nonpublic Personal Information has been deleted and erased in accordance with applicable laws.

D. HIPAA

The parties shall comply with all federal and state regulations regarding the use and disclosure of protected health information, as that term is defined at 45 C.F.R. § 160.103 ("PHI"), including, but not limited to the privacy and security regulations promulgated under the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"). If Datapath will have access to the PHI of Customer's patients or employees, Datapath will execute its form Business Associate Agreement in favor of Customer, as a covered entity under HIPAA. All obligations of Datapath to perform services, functions or activities pursuant to Business Associate Agreement on behalf of Customer shall cease upon Customer cancellation or termination of services with Datapath.

E. Press Releases

Datapath may publicly refer to Customer, orally and in writing, as a customer of Datapath and may refer to the publicly releasable titles of any Quote with Customer. Any other reference to Customer by Datapath may be made only in accordance with this section. The parties shall consult with each other in preparing any press release, public announcement, case study or other form of release of information concerning this Agreement or the transactions contemplated hereby that is intended to provide such information to the news media or the public (a "Press Release"). Neither party may issue or cause the publication of any such Press Release without the prior written consent of the other party. However, nothing herein prohibits either party from issuing or causing publication of any such Press Release to the extent that such action is required by applicable law or the rules of any national stock exchange applicable to such party or its affiliates, in which case the party wishing to make such disclosure will, if practicable under the circumstances, notify the other party of the proposed time of issuance of such Press Release and shall consult with and allow the other party reasonable time to comment on such Press Release in advance of its issuance.

VIII. INDEPENDENT CONTRACTOR

Datapath will perform all Services solely in Datapath capacity as an independent contractor and not as an employee, agent or representative of Customer. Datapath will not be entitled to any privileges or benefits that Customer may provide to its employees, and Datapath will remain responsible for payment of all unemployment, social security, federal income (state and local income where applicable) and other payroll taxes or mandatory assessments imposed by any governmental body on employers in regard to those of its employees engaged in the performance of the Services.

IX. SUBCONTRACTORS

Datapath may utilize subcontractors or suppliers to perform all or any portion of the Services or to provide any products under this Agreement, but Datapath shall always remain primarily liable to Customer for the Services and products. If Customer requests Datapath to utilize a Customer designated subcontractor for any of the Services or products to be provided by Datapath, Customer shall provide to Datapath a written request for the same including any information reasonably required by Datapath and evidence of the insurance coverage required under this Agreement. Datapath shall have the right to accept or reject such Customer designated subcontractor or supplier in its sole discretion. Consent by Datapath to use a Customer designated subcontractor or supplier shall not constitute a waiver of any right of Datapath to reject defective subcontractor Services or products, and Datapath shall retain all such rights under its subcontract.

X. BILLING AND PAYMENT TERMS

Specific Services Fees and fees for Third Party Products (collectively, "Fees") are set forth in the Quote, and Customer's obligation to pay the same will commence as set forth in the Quote. Any services performed outside the scope of the Quote will be handled in accordance with Section III, Requests for Changes. Datapath will provide Customer with invoices for Fees, Expenses (as hereinafter defined) and charges due under an Agreement, and Customer shall pay the same within thirty (30) days after the date of the invoice. All Invoices and payments will be in U.S. Dollars.

A. Pass-Through Expenses

Unless a Quote provides for a fixed cost, in addition to the Fees provided in the Quote, Customer shall reimburse Datapath for its reasonable out-of-pocket expenses, including without limitation, travel expenses, lodging, meals, or other similar expenses, incurred by Datapath in performing the Services ("Expenses"). Any such Expenses will be billed at cost, invoiced monthly and paid as provided herein.

B. Payment Methods

Datapath will accept payments from Customer using any of the following forms of payment:

1. Checks
2. Electronic Funds Transfer (EFT)
3. All Major Credit Cards (VISA, MasterCard, American Express)

C. Non Payment; Late Payment

Datapath reserves the right to add a finance charge of 1.5% per month (18% per annum) to late invoices for every month or part of the month a payment is past due. The finance charge will be billed on a separate "Finance Charge" invoice, showing the past due invoices. For questions regarding billing, Customer must contact its Account Lead or Datapath's accounts receivable department by phone at (209) 312-9806 or via email at billing@mydatapath.com. Datapath reserves the right to place Customer's account which remains unpaid beyond credit terms on "Credit Hold" until payment is received. If Customer's account is placed on Credit Hold, Customer will not be permitted to place new Service or product orders, obtain Services under existing Quotes, or renew annual or other Service agreements until payment is received. Accounts which remain unpaid sixty (60) days past payment terms may be reported to Credit Reporting Agencies and/or turned over to Collection Agencies for collection.

D. Suspension of Service

If Customer fails to pay all undisputed amounts owed to Datapath under this Agreement when due, then upon at least ten (10) business days prior written notice to Customer, and in addition to any other remedies available at law or in equity, Datapath may suspend Services under this Agreement until full payment is made. Customer shall pay a reasonable reactivation fee for Service restoration, to be determined by Datapath.
Datapath's right to suspend Services under this section is in addition to Datapath's right to terminate this Agreement for non- payment.

Taxes

All charges and fees to be paid by Customer are exclusive of any applicable sales, use, excise or services taxes ("Taxes") that may be assessed on the provision of the Services or products. In the event that any Taxes are assessed on the provision of any of the Services or products, Customer shall pay the Taxes directly to the taxing authority or shall reimburse Datapath for their payment. The parties shall cooperate with each other in determining the extent to which any Taxes are owed, and shall provide and make available to each other any resale certificates, information regarding out-of-state use of materials, Services or sale, and other exemption certificates or information reasonably requested by either party.

XI. NO SOLICITATION

During the Term of this Agreement and for a one year period immediately following the termination or expiration of this Agreement, Customer shall not, directly or indirectly, for itself, or on behalf of any other person, firm, corporation or other entity, whether as principal, agent, employee, stockholder, partner, member, officer, director, sole proprietor, or otherwise, solicit, participate in or promote the solicitation of any of Datapath's employees to leave the employment of Datapath, or hire or engage such employee to provide the same or similar services for Customer as Datapath has provided under this Agreement; provided, however, that nothing in this Agreement shall prohibit Customer from offering employment to or hiring any Datapath employee in response to notices of employment which are addressed to the general public and not to Datapath employees in particular. If Customer violates this non-solicitation agreement, Customer shall pay to Datapath, as reasonable liquidated damages, an amount equal to 150% of the employee's annualized salary at Datapath, including bonuses.

XII. WARRANTIES

A. Service Warranty

Datapath warrants that the Services will be performed in a workmanlike manner and in accordance with this Agreement and applicable Quote. In the event of a breach of this warranty, as Customer's exclusive remedy, Datapath will re-perform the defective Services at no charge to Customer within a reasonable time or within the limits of an applicable Service Level Agreement under a Quote.

B. Disclaimer of Warranties

Customer acknowledges and agrees that Datapath is not the developer or manufacturer of Third Party Products provided under this Agreement. CUSTOMER ACKNOWLEDGES AND AGREES THAT ALL PRODUCTS ARE BEING MADE AVAILABLE AND PROVIDED TO CUSTOMER ON AN "AS IS" BASIS AND WITHOUT ANY EXPRESS OR IMPLIED WARRANTY WHATSOEVER. DATAPATH MAKES NO WARRANTIES WHATSOEVER WITH RESPECT TO THE PRODUCTS, INCLUDING THE ADEQUACY, AVAILABILITY, STABILITY, UTILITY, INTEGRITY OR QUALITY OF THE PRODUCTS, WHICH BOTH PARTIES ACKNOWLEDGE ARE THE PROPERTY OF OR ARE MANUFACTURED OR DEVELOPED BY THIRD PARTY VENDORS, LICENSORS OR SUPPLIERS. DATAPATH EXPRESSLY DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY AND NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AND THOSE ARISING FROM TRADE USAGE OR COURSE OF DEALING. DATAPATH DOES NOT WARRANT THAT THIRD-PARTY SOFTWARE OR SERVICE SOFTWARE WILL PERFORM UNINTERRUPTED, ERROR FREE OR VIRUS FREE, NOR DOES DATAPATH WARRANT THAT THE SAME WILL MEET CUSTOMER'S REQUIREMENTS OR RESULT IN INCREASED REVENUES OR PROFITS OF CUSTOMER. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY DATAPATH, ITS AGENTS OR EMPLOYEES WILL IN ANY WAY INCREASE THE SCOPE OF THIS WARRANTY. DATAPATH HAS NO LIABILITY FOR VIOLATION OF LAWS BY CUSTOMER OR OTHER USERS OF THIRD-PARTY PRODUCTS. CUSTOMER HEREBY RELEASES DATAPATH FROM ANY AND ALL CLAIMS FOR BREACH OF WARRANTY ARISING OUT OF ITS OR ITS AUTHORIZED USERS' USE OF

THIRD PARTY PRODUCTS. To the extent allowed by the developer or manufacturer of the products, Datapath shall pass through to Customer all third party end- user warranties, indemnities and guarantees relating to the products, if any, including without limitation any indemnities or warranties regarding infringement claims related to Third Party Software. To the extent Datapath is not permitted to pass such warranties or indemnities through to Customer, Datapath agrees to enforce such warranties and indemnities, if any, on behalf of Customer.

XIII. LIMITATION OF LIABILITY

Datapath's liability under this Agreement is limited to the actual, direct damages incurred by Customer arising out of or related to Datapath's performance of this Agreement and shall in no event exceed the amount paid for the Services giving rise to the claim of loss. In no event shall Datapath be liable for any incidental, consequential, special, indirect, punitive or third-party damages or claims, including but not limited to lost profits or revenue, lost savings, lost productivity, loss of data, loss of use of equipment and loss from interruption of business, even if previously advised of their possibility and regardless of whether the form of action is based upon breach of warranty, breach of contract, negligence, strict liability in tort or any other legal theory even if Datapath has been advised of the possibility of such damages.

XIV. INSURANCE

A. General

Datapath and Customer each shall maintain reasonable insurance coverage through their respective carriers. Such insurance must include, at a minimum, general liability coverage in amounts of at least $1 million per occurrence, $2 million annual aggregate, and workers compensation coverage in amounts required by law. Each party shall provide the other with evidence of the insurance required hereunder within thirty (30) days of request.

B. Insurance on Equipment

For any Datapath Equipment located at a Customer location, Customer shall maintain special form insurance against loss, theft or damage, in an amount not less than the new replacement value of the Datapath Equipment. Customer shall name Datapath as an additional insured/loss payee by policy endorsement. Customer shall deliver written evidence of such insurance satisfactory to Datapath prior to delivery of Datapath Equipment to Customer's location and thereafter within thirty (30) days of request. If Customer fails to obtain or maintain such insurance, Datapath will have the right, but not the obligation, to obtain insurance in such forms and amounts as Datapath deems reasonable to protect Datapath's interests, and the expense for said insurance shall be paid by Customer on demand by Datapath. Datapath will discontinue such insurance (and refund to Customer any premiums refunded to Datapath) when Customer provides satisfactory evidence of the insurance required hereunder.

For any Customer-owned equipment located at any Datapath location, Customer shall maintain special form insurance against loss, theft, or damage, in an amount not less than such equipment's new replacement value. Customer shall assume all risk of loss to Customer-owned equipment at any Datapath location.

XV. FORCE MAJEURE

Neither party will be liable for any delay or failure in performance under this Agreement or any Quote due to any cause that is beyond its reasonable control and for which it is without fault or negligence, including, but not limited to, acts of God, acts of civil or military authority, government regulations, embargoes, epidemics, war, terrorist acts, riots, insurrections, fires, explosions, earthquakes, nuclear accidents, floods, cable cuts, power blackouts affecting facilities other than facilities of a kind commonly protected by redundant power systems, unless such redundant power systems are also affected by such condition, unusually severe weather conditions, fuel or energy shortages, inability to secure products or services of other persons or transportation facilities, acts or omissions of transportation common carriers, other causes beyond a party' reasonable control, whether or not similar to the foregoing (collectively, "Force Majeure Events"). Upon the occurrence of a Force Majeure Event, the party whose performance is affected shall give written notice to the other party describing the Force Majeure Event, and the parties shall promptly confer, in good faith, to agree upon equitable, reasonable action to minimize the impact, on both parties, of such condition, including, without limitation and if applicable, implementing disaster recovery services. The parties agree that the party whose performance is affected shall use commercially reasonable efforts to minimize the delay caused by the Force Majeure Events.

In the event the delay caused by a Force Majeure Event lasts for a period of more than thirty (30) days, the parties shall negotiate an equitable modification to the affected Quotes. If the parties are unable to agree upon an equitable modification within fifteen (15) days after such thirty (30) day period has expired, then either party will be entitled to serve thirty (30) days' notice of termination on the other party with respect to the affected Quotes. If the Force Majeure Event is

continuing upon the expiration of such thirty (30) day notice period, the applicable Quote, or the portion thereof impacted by the Force Majeure Event, automatically will terminate. The remaining portions of the Agreement and Quotes not impacted by the Force Majeure Event will continue in full force and effect. Customer shall pay Datapath for Services through the date on which the applicable Quote is terminated due to a Force Majeure Event. Financial problems or an inability to pay amounts due hereunder are not Force Majeure Events.

XVI. DISPUTE RESOLUTION

A. Arbitration Procedures

The parties shall attempt to settle amicably by mutual discussions any disputes, differences, or claims related to this Agreement within sixty (60) days after the date on which one party notifies the other in writing of a dispute. Each party agrees to involve personnel with decision making authority in such discussions. Failing such amicable settlement, any controversy, claim, or dispute arising under or relating to this Agreement, including the existence, validity, interpretation, performance, termination or breach thereof, shall be settled by binding arbitration in accordance with the Commercial Arbitration Rules (and if Customer is a non-U.S. entity, the International Arbitration Rules) of the American Arbitration Association ("AAA"). The arbitration shall be conducted by a single arbitrator selected by mutual agreement of the parties, provided that if the parties are unable to agree on an arbitrator, one shall be selected by the AAA. The Arbitrator will not have the authority to award punitive damages to either party. Each party will be responsible its own expenses, but the parties shall share equally the expenses of the Arbitrator and the AAA.

The parties shall arbitrate disputes in confidence. The arbitration will be binding and judgment upon any award rendered by any arbitrator may be entered in any court having jurisdiction. The written award and any findings of the arbitrator must be filed within thirty (30) days of the final arbitration hearing.

The arbitration will be held in Stanislaus County, California, or another location as is mutually agreed by the parties. Notwithstanding the foregoing, claims for preliminary injunctive relief, other pre- judgment remedies, and claims for Customer's failure to pay amounts due to Datapath in accordance with this Agreement may be brought in a state or federal court in the United States with jurisdiction over the subject matter and parties.

B. Attorneys' Fees

If any action is necessary to enforce or interpret the terms of this Agreement, the substantially prevailing party will be entitled to reasonable attorneys' fees and costs in addition to any other relief to which such party may be entitled.

C. Period for Bringing Claim

Demand for arbitration under this Agreement must be made within six (6) months after the date by which the dispute or default should reasonably have been discovered, and in any event before the date on which any judicial action upon the same dispute would be barred under any applicable statute of limitations; otherwise, the claim on the dispute is forever barred.

D. Continued Service

Unless Datapath is bringing an action for failure to make payments by Customer for Services not otherwise in dispute, Datapath shall continue to provide Services under this Agreement, and Customer shall continue to make payments to Datapath, in accordance with this Agreement, during the period in which the parties seek resolution of the dispute.

E. JURY WAIVER

NOTWITHSTANDING ANYTHING HEREIN TO THE CONTRARY, IF ANY MATTER IS SUBJECT TO LITIGATION, EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT, ANY QUOTE, THE SERVICES OR ANY PRODUCTS (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). THE CHOICE OF LAW RULES OF ANY JURISDICTION AND THE UNITED NATIONS CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS DO NOT APPLY.

XVII. GENERAL

A. Notices

Except as otherwise provided under this Agreement, all notices, demands or requests to be given by any party to the other party shall be in writing and shall be deemed to have been duly given on the date delivered (or the date of written refusal to accept delivery) in person, by courier service, by postage prepaid United States certified mail, return receipt requested, or electronic mail or fax with follow up copy by one of the other methods, and addressed to Customer at the address and contact specified in the Quote, and if to Datapath, addressed as follows:

Datapath

1415 J Street

Modesto, CA 95354

The address to which such notices, demands, requests, elections or other communications are to be given by either party may be changed by written notice given by such party to the other party pursuant to this section.

B. Waiver

No delay in exercising, no course of dealing with respect to, and no partial exercise of, any right or remedy hereunder will constitute a waiver of any right or remedy, or future exercise thereof. Any waiver must be in writing and signed by the party against whom the waiver is enforced.

C. Assignment

Unless otherwise agreed in writing, neither this Agreement and associated documents nor any of the rights or obligations hereunder may be assigned, delegated or otherwise transferred by Customer without the prior written consent of Datapath. Services are for the Customer's internal use only and may not be transferred or assigned to third parties without Datapath's prior written consent, and any transfer or assignment to the contrary is void. Datapath will not deny any reasonable request for Customer's transfer or assignment upon satisfactory credit and documentation approval for Customer's proposed assignee. Under no circumstances shall Customer resell or redistribute the Services or products provided under this. Customer acknowledges and agrees that Datapath may transfer or assign or collaterally assign, in whole or in part, its rights, interests and obligations hereunder without limitation to any of its affiliates, any party providing financing to Datapath ("Financing Party") and any successor or assign of Datapath or such Financing Party without the consent of Customer; provided, however, that Datapath or its successors shall remain obligated to Customer under this Agreement. Customer agrees that any Financing Party holding a security interest shall not be prevented or impeded by Customer from enforcing such security interest, and as long as Datapath is performing its obligations hereunder, such action by a Financing Party shall not effect Customer's obligations under this Agreement. Customer shall execute all consents to assignment and/or acknowledgements of any security interest as are requested by Datapath to give effect to the foregoing.

Such acknowledgements may contain an agreement to allow a Financing Party to cure defaults by Datapath under this Agreement and consent to allow the further assignment to a successors- in-interest of the holder of such security interest. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.

D. Third Party Beneficiary

Nothing in this Agreement will confer any rights upon any person or entity other than the parties hereto and each of their respective successors and permitted assigns. The obligations of Datapath under this Agreement run only to Customer and not to its affiliates, users, customers, or any other persons.

E. Survival

The duties and obligations of the parties with respect to proprietary rights, intellectual property rights, and non-disclosure and confidentiality will survive and remain in effect, notwithstanding the termination or expiration of this Agreement.

F. Amendment

This Agreement may be amended or modified only by a written addendum signed by authorized representatives of both Datapath and Customer.

G. Governing Law

This Agreement is to be governed by and construed in accordance with the laws of the State of California. Jurisdiction and venue for any action arising under or relating to this Agreement is exclusively in the state or federal courts located in Stanislaus County, California. The parties waive any other choice of venue. Any action arising under or relating to this Agreement must be brought within six (6) months after its accrual or it is barred.

H. Severability

If any term or provision of this Agreement is declared invalid by a court of competent jurisdiction, the remaining terms and provisions will remain unimpaired, and the invalid terms or provisions are to be replaced by such valid terms and provisions that most nearly fulfill the parties' intention underlying the invalid term or provision.

I. Counterparts

This Agreement may be executed and delivered by facsimile or e-mail execution and in counterparts, each of which shall be deemed an original, and all of which together shall constitute one instrument. The parties agree that facsimile or electronic mail execution and delivery will have the same force and effect as delivery of an original document with original signatures, and that each party may use the same as evidence of the execution and delivery of this Agreement by all parties to the same extent that an original signature could be used.

J. Entire Agreement

This Agreement, including the Quote, this MSA, the Service Agreement and Service Level Agreement specified in the Quote, if applicable, sets forth the entire understanding of the parties with respect to the subject matter hereof and is binding upon both parties in accordance with its terms. There are no understandings, representations, or agreements other than those set forth in this Agreement. Each party, along with its respective legal counsel, has had the opportunity to review and amend this Agreement. Accordingly, in the event of any ambiguity, such ambiguity will not be construed in favor of or against either party.

K. Interpretation of Conflicting Terms

In the event of a conflict between or among the terms of the components of an Agreement, the following order or precedence shall control: the MSA, the Service Agreement, the Service Level Agreement, the Quote, the statement of work, and the any other document made a part of the Agreement.

L. Due Authorization

The persons executing this Agreement on behalf of the parties hereto represent that they are duly authorized to execute and deliver this Agreement pursuant to their respective by-laws, operating agreement, resolution, or other legally sufficient authority. Further, each party and the persons executing this Agreement on their behalf represent to the other party that (a) it has been validly formed or incorporated, (b) it is duly qualified to do business in the state in which the Agreement is to be performed, and (iii) this Agreement is being executed on its behalf and for its benefit.

SCHEDULE 1 <u>TABLE OF DEFINED TERMS</u>

Defined Term	Section
AAA	XVI.A.
Account Lead	I.B.
Agreement	Preamble
Authorized Contact	I.B.
Complaint	VI.I.
Confidential Information	VII.A.
Controls	VI.H.
Corporate Account Manager	I.B.
Credit Hold	X.C.
Customer	Preamble
Customer Software	V.A.
Defaulting Party	IV.B.
Effective Date	I.A.
Event of Default	IV.B.
Expenses	X.A.
Feedback	V.D.
Fees	X
Finance Charge	X.C.
Financing Party	XVII.C.
Force Majeure Events	XV.
Information Technology	I.C.
Losses	VI.B.
Master Service Agreement	Preamble
Press Release	VII.E.
Primary Customer Contact	I.B.
Primary Technical Contact	I.B.
SOW	II.A.4.
Quote	Preamble
Service Agreement	Preamble
Service Fees	I.C.
Service Level Agreement	II.A.2.
Service Provider License Agreements	VI.C.
Services	I.C.
Services Software	V.B.
Software Assurance Agreement	VI.C.
Supplemental Services	I.E.
Taxes	X.E.
Technical Support	I.B.
Datapath Equipment	VI.F.
Datapath Officer	Preamble
Datapath Technology	V.A.
Datapath	Preamble
Term	IV.A.
Terminating Party	IV.B.
Third Party Equipment	I.F.
Third Party Products	I.F.
Third Party Software	I.F.
Vendors	VI.C.

(End of Master Service Agreement)