

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT APPLIES BETWEEN ONE CLOUD SERVICES, LLC., D.B.A. ZIMCOM, A MICHIGAN-BASED COMPANY, AND ITS AFFILIATES (“COMPANY”), AND THE PERSON, COMPANY OR OTHER ENTITY ENTERING INTO AN EXECUTED ORDER HEREUNDER (“CLIENT”). COMPANY AND CLIENT MAY BE REFERRED TO AS THE “PARTIES”, EACH A “PARTY”.

1. PERFORMANCE OF SERVICES.

1.1 **Executed Orders.** The Parties shall negotiate and execute one or more Statement(s) of Work and/or Service Exhibit(s) (an “**Executed Order**”) under this Agreement containing terms and conditions agreed to by the Parties. The Parties agree that this Agreement applies to each Executed Order agreed to by the Parties.

1.2 **Specifications and Requirements.** Company shall perform the Services in accordance with the terms and conditions as set forth herein and in the applicable Executed Orders, provided, however, that Company shall have the authority to determine the manner in which any such Services are to be provided, except to the extent otherwise set forth in an applicable Executed Order.

1.3 **Communications.** All communications, both written and verbal, in connection with this Agreement or the Services shall be communicated in the English language, unless otherwise agreed upon in a signed writing by the Parties.

1.4 **Nature of Relationship.** The Parties’ relationship is non-exclusive. Client may obtain similar services from any Third Party, and Company may perform any service for any Third Party without any restriction hereunder.

1.5 **Performance by Company’s Affiliates and Subcontractors.** Client agrees, acknowledges, and understands that actual performance of the Services may be made by Affiliates of Company and that Company has the right from time to time to subcontract certain of the Services to Third Party providers. For purposes of this Agreement, performance of the Services by any Affiliate of Company or by any Third Party provider engaged by Company shall be deemed performance by Company itself.

1.6 **Receipt of Services by Client’s Affiliates.** To the extent set forth in an applicable Executed Order, Company shall provide applicable Services to an identified Affiliate of Client. Client shall remain liable for the performance and obligations of any Affiliate receiving Services hereunder, and, in the event of any dispute, controversy, overdue payment or outstanding obligation due hereunder, Company may enforce such obligation or bring such claim against Client or the applicable Affiliate, in Company’s sole discretion.

1.7 **Service Level Agreement.** Company has established a written Service Level Agreement located at the Company website www.zimcom.net. Client acknowledges the Company may modify the Service Level Agreement from time to time at its sole discretion and that any such modification shall be effective upon publication of the new terms to the Company website.

2. **TERM.** The Term of this Agreement shall commence on the applicable commencement date set forth in each Executed Order hereunder, and shall expire in accordance with the terms therein. Executed Orders shall be subject to termination in accordance with Section 5.

3. CHANGE ORDER.

3.1 **Change Orders.** Either Party may request changes to the Services by submitting to the other Party a completed Change Order during the Term of this Agreement. No Change Order will be binding on the Parties unless agreed upon in writing by each Party.

3.2 **Pending Change Orders.** Except to the extent changed by the Change Order, the scope of Services and Service Fees, as provided herein and in the then-current Executed Order, shall remain in full force and effect.

4. SERVICE FEES.

4.1 **Fees.** Client shall pay for the Services invoiced under this Agreement in accordance with the “Fees” set forth in each applicable Executed Order.

4.2 **Taxes.** Client shall pay all sales, use, excise, and other taxes assessed as a result of the Services provided under this Agreement and in accordance with the laws of the State of Ohio. Notwithstanding the foregoing, Client shall not be responsible for paying any taxes upon the real, personal, or intangible property of Company, or upon the net income or profits of Company.

4.3 **Invoicing Address.** Invoices to Client shall be sent to the address set forth on the Executed Order, or otherwise specified electronic mail or standard mailing address.

4.4 **Due Date.** Except as set forth in an applicable Executed Order, Client shall pay undisputed invoice amounts for non-recurring fees and Services that are billed in arrears within ten (10) days of the date of invoice. For all other fees and Services that are not billed in arrears, Client shall pay undisputed invoice amounts within thirty (30) days of the date of invoice. It is the intention of the Parties that all Fees payable by Client under this Agreement shall be, and continue to be, payable throughout the term hereof. The Company reserves the right to terminate or suspend Services if a payment is past due. Whereas Client has multiple Services with Company, only the Service(s) for which payment is past due may be suspended.

4.5 **Late Payments.** Client's payment for Services shall be deemed late when Client fails to remit payment, which is not being disputed in good faith, by the applicable due date of invoice. Any late payment shall bear interest at the rate of one and one half percent (1½ %) per month or the maximum rate allowed under law, whichever is lower, or fraction thereof, from the due date until paid in full. Disputed amounts, if the dispute is resolved in favor of Company, shall bear interest from the due date until paid. Notwithstanding any other provision under this Agreement, any undisputed invoice, or undisputed portion thereof, not paid within sixty (60) days may result in an interruption of Services. Such interruption shall not relieve Client from its obligation to pay the undisputed amounts due and owing. Company also reserves the right to assert appropriate liens to ensure payment. Client agrees to reimburse Company its reasonable expenses, including attorney and other fees, incurred in collecting any amounts due and owing to Company.

4.6 **Expenses.** Client shall reimburse Company for reasonable, actual, documented expenses incurred by Company associated with the Services and identified in an applicable Executed Order.

4.7 **Audit Rights.** During the Term, Client will have the right, during normal business hours and upon at least ten (10) business days' prior notice, to cause a third-party professional auditing firm, subject to customary confidentiality obligations, to inspect and audit Company's records to the extent necessary to confirm the accuracy of the Fees charged to Client by Company. Any such audit will be conducted at Client's expense. Company will promptly credit to Client any amounts shown by any such audit to be owing. Such audits will be conducted no more than once in any period of twelve (12) consecutive months.

4.8 **Invoice Disputes.** If Client in good faith disputes any portion of a Zimcom invoice, Client shall remit to Zimcom full payment of the undisputed portion of the invoice by the applicable due date. If Client does not report a billing dispute within thirty (30) days following the invoice date, Client shall have waived its right to dispute that invoice. Zimcom and Client agree to use their respective commercially reasonable efforts to resolve any billing dispute within fifteen (15) days after Zimcom receives written notice of the dispute from Client. Any disputed amounts subsequently resolved in favor of Client shall be credited to Client's account on the next invoice following resolution of the dispute. Any disputed amounts determined to be payable to Zimcom shall be due within ten (10) days of the resolution of the dispute

5. **TERMINATION.**

5.1 **For Cause.** In the event either Party fails to perform any of its material obligations under an Executed Order, including paying any amount due under an Executed Order, and the defaulting Party fails to substantially cure such default within sixty (60) days after receiving written notice from the non-defaulting Party specifying the nature of the default, then the non-defaulting Party may, by giving written notice to the other Party, terminate the applicable Executed Order as of the date specified in such notice of termination. If Client is the defaulting Party, Company may, upon written notice to Client, terminate this Agreement and all outstanding Executed Orders as of the date specified in such notice of termination. Notwithstanding the foregoing, Client shall pay Company for Services already performed prior to the date of termination.

5.2 **For Insolvency.** Subject to the provisions of Title XI, United States Code, if either Party becomes or is declared insolvent or bankrupt, is subject to any proceedings relating to its liquidation, insolvency, or for the appointment of a receiver or similar officer for it, makes an assignment for the benefit of all or substantially all of its creditors, or enters into an agreement for the composition, renewal, or readjustment of all or substantially all of its

obligations, then the other Party, by giving written notice to such Party, may terminate this Agreement and all outstanding Executed Orders as of the date specified in such notice of termination.

6. **LIMITATION OF LIABILITY AND NATURE OF AVAILABLE DAMAGES.**

6.1 **LIMITATION OF LIABILITY.** EXCEPT WITH RESPECT TO AMOUNTS CLIENT IS OBLIGATED TO PAY UNDER AN EXECUTED ORDER IN ACCORDANCE WITH SECTION 4 OR AS ARISING OUT OF AN INTENTIONAL WRONGFUL ACT OF THE PARTY, OR INDEMNITY OBLIGATIONS UNDER SECTION 7, IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, BE LIABLE TO THE OTHER PARTY FOR ANY REASON, WHETHER IN CONTRACT OR IN TORT, FOR ANY DAMAGES ARISING OUT OF OR BASED UPON THIS AGREEMENT IN AN AMOUNT EXCEEDING THE FEES INVOICED BY COMPANY TO CLIENT DURING THE PRECEDING SIX MONTHS UNDER THE EXECUTED ORDER PURSUANT TO WHICH SUCH CLAIM AROSE, REGARDLESS OF THE FORM IN WHICH ANY LEGAL OR EQUITABLE ACTION MAY BE BROUGHT.

6.2 **NATURE OF AVAILABLE DAMAGES.** EXCEPT AS ARISING OUT OF AN INTENTIONAL WRONGFUL ACT OF THE PARTY, IN NO EVENT SHALL EITHER PARTY, ITS AFFILIATES, OR THEIR RESPECTIVE DIRECTORS, OFFICERS, AGENTS OR EMPLOYEES, BE LIABLE TO THE OTHER PARTY UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR EXEMPLARY, PUNITIVE, INDIRECT, SPECIAL, LOST PROFITS, CONSEQUENTIAL OR SIMILAR DAMAGES, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

7. **INDEMNITY.**

7.1 **Indemnity by Client.** Client shall defend, at its own expense, and indemnify and hold Company, Company's Affiliates, and Company's directors, officers, employees, and agents harmless from and against any claim by a Third Party to the extent based on: (i) a violation by Client or its Affiliates of Federal, state, or other laws or regulations; (ii) work-related injury or death caused by Client or its Affiliates, subcontractors or service providers or any of their employees or agents, while performing activities in connection with this Agreement; (iii) tangible personal or real property damage caused by Client or its Affiliates, subcontractors or service providers (other than Company and its subcontractors and service providers), or any of their employees or agents, while performing activities in connection with this Agreement; and (iv) any claims brought by Third Parties against Company for infringement that is alleged to be related to intellectual property other than claims for which Company provides indemnification under Section 7.2(i) below. Client shall be responsible for any costs and expenses incurred by Company in connection with the enforcement of this Section 7.1, including, but not limited to, reasonable attorneys' fees.

7.2 **Indemnity by Company.** Company shall defend, at its own expense, and indemnify and hold Client, Client's Affiliates, and their directors, officers, employees and agents harmless from and against any claim by a Third Party or any Affiliate of Company to the extent based on: (i) the Services or Company's software used to provide the Services are alleged to infringe upon any United States patent, copyright, United States trademark, or other proprietary right of a Third Party; provided, however, that Company shall not be obligated to indemnify Client, if such claim is caused by or arises out of (A) any intellectual property or materials provided by Client; (B) any designs, or directions provided by Client; (C) any software provided by an OEM or other Third Party; (D) Client's use of the Services or software other than in accordance with applicable documentation or instructions supplied by Company; (E) any combination, alteration, modification or revision of the Services or software not expressly authorized in writing by Company; or (F) Client's failure to use or implement corrections or enhancements to the Services or software made available free of charge to Client by Company; (ii) a violation by Company or its Affiliates of Federal, state, or other laws or regulations; (iii) work-related injury or death caused by Company or its Affiliates, subcontractors or service providers, or any of their employees or agents, while performing activities in connection with this Agreement; and (iv) tangible personal or real property damage caused by Company or its Affiliates, subcontractors or service providers, or any of their employees or agents, while performing activities in connection with this Agreement. Company shall be responsible for any costs and expenses incurred by Client in connection with the enforcement of this Section 7.2, including, but not limited to, reasonable attorneys' fees.

7.3 **Indemnity Procedures.** The indemnification obligations set forth in Sections 7.1 and 7.2 are

subject to the following conditions:

7.3.1 the indemnitee Party shall promptly notify the indemnifying Party in writing of the claim of which it has notice, provided that the failure or delay to so notify the indemnifying Party shall not relieve the indemnifying Party from any liability that it may have to the indemnitee Party hereunder so long as the failure or delay shall not have prejudiced the defense of such claim and then only to the extent that the indemnifying Party actually is prejudiced;

7.3.2 the indemnitee Party allows the indemnifying Party to have sole control of the defense of the claim and any settlement negotiations arising out of that claim provided, however, the indemnifying Party may not, without the indemnitee Party's prior written consent, settle or compromise any claim in a manner that: (A) does not unconditionally release the indemnitee Party and its directors, officers, employees or agents or (B) requires the indemnitee Party or any of its directors, officers, employees or agents to contribute to any settlement of the claim; and

7.3.3 the indemnitee Party shall, at the indemnifying Party's reasonable request and expense, cooperate with the indemnifying Party. The indemnitee Party may participate in the defense and retain counsel of its own choice and expense.

8. **DISPUTE RESOLUTION.**

8.1 **Equitable Relief.** Either Party may seek equitable remedies, including specific performance and injunctive relief, for a breach of the other Party's obligations under this Agreement. The Parties further agree that violation by one Party of the provisions contained in Section 10 would cause irreparable harm to the other Party not adequately compensable by monetary damages. Thus, in addition to other relief, the Parties agree that temporary and permanent injunctive relief is an appropriate remedy to prevent any actual or threatened violation of such provisions or to enforce such provisions according to their terms. The prevailing party in an action for injunctive relief under this Section shall be entitled to recover its costs of enforcement, including reasonable attorneys' fees.

8.2 **Party Representatives.** Except for certain emergency judicial relief authorized in accordance with applicable law, which may be brought at any time, the Parties agree that upon receipt of a written notice from either Party of the existence of a dispute between them, the Parties shall submit the dispute for informal resolution to their designated senior management who are not legal personnel. Any dispute remaining unresolved after a period of thirty (30) days after the receipt of such written notice of a dispute by the other Party may be submitted to any court having competent jurisdiction in accordance with Section 8.4.

8.3 **Choice of Law.** The validity, construction, and interpretation of this Agreement and the rights, duties, and obligations of the Parties hereto shall be governed by the laws of the state of Michigan.

8.4 **Venue and Jurisdiction.** The Parties hereby irrevocably consent to venue and the personal jurisdiction (to the fullest extent permitted by applicable law) of the state and federal courts located in Oakland County, Michigan.

9. **REPRESENTATIONS and WARRANTIES.**

9.1 **By Company.**

9.1.1 **Authority and Validity.** Company represents and warrants that: (A) it is an Entity existing and in good standing under applicable state law; (B) it has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement; (C) no approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Agreement; and (D) the entering into and performance of this Agreement will not violate any judgment, order, law, or regulation applicable to Company, or any provision of Company's organizational documents.

9.1.2 **Services.** Company represents and warrants that: (A) each of its employees or other personnel providing Services hereunder shall have commercially reasonable training, skill and background; (B) Company shall perform all Services hereunder in a professional and workmanlike manner consistent with industry standards and practices applicable to businesses rendering services of a similar nature to the Services; and (C) it shall comply with all applicable Federal, state and local laws and regulations applicable to the performance of the Services.

9.1.3 **Exception with Respect to Reliance on Data and Information Supplied by Client.**

Company will perform the Services set forth in this Agreement on the basis of data, information, and instructions furnished by Client. Company shall be entitled to rely upon any such data, information, or instructions provided by Client. If any error results from incorrect data, information, or instructions supplied by Client, Company shall not be liable for any damages or delays arising therefrom and Client shall be responsible for discovering and reporting such error and supplying the data, information, or instructions necessary to correct such error. Client is ultimately responsible for the adequacy and accuracy of all Client Data provided to Company by Client.

9.2 **By Client.** Client represents and warrants that: (i) Client is an Entity validly existing and in good standing under the laws applicable to it; (ii) Client has all requisite corporate power and authority to execute, deliver, and perform its obligations under this Agreement; (iii) no approval, authorization, or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Agreement; (iv) the entering into and performance of this Agreement will not violate any judgment, order, law, or regulation applicable to Client, or any provision of Client's Articles of Incorporation, by-laws or similar document; and (v) there are no actions, suits, or proceedings pending, or to the knowledge of Client, threatened, before any court or administrative agency, arbitrator or governmental body which will, if determined adversely to Client, materially adversely affect its ability to perform its obligations under this Agreement or any related agreement to which it is a party.

9.3 **Disclaimer of Warranties.** EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF COMPANY AND CLIENT, RESPECTIVELY, SET FORTH IN SECTIONS 9.1 AND 9.2 OF THIS AGREEMENT, COMPANY AND CLIENT HEREBY EXPRESSLY DISCLAIM ALL OTHER WARRANTIES, WHETHER WRITTEN, ORAL, EXPRESSED, OR IMPLIED INCLUDING, WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. IN ADDITION, COMPANY DOES NOT REPRESENT OR WARRANT THAT THE SERVICES WILL BE ENTIRELY FREE FROM ERROR OR DEFECT.

10. **CONFIDENTIALITY.**

10.1 **Nondisclosure of Confidential Information.** All Confidential Information supplied by a Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**") shall remain solely and exclusively the property of the Disclosing Party. Except as expressly authorized herein, as may reasonably be required to perform the Services or by prior written consent of the Disclosing Party, which consent may be withheld in the Disclosing Party's sole discretion, the Receiving Party shall not use or disclose to any Third Party any of the Disclosing Party's Confidential Information. The Receiving Party shall only disclose the Disclosing Party's Confidential Information to those of its Affiliates, employees and their respective contractors who have a need to know it for the purposes of this Agreement and who have executed a written non-disclosure agreement containing terms substantially similar to this Section 10 regarding such Confidential Information. Each Party shall be responsible for any unauthorized use or disclosure of any the other Party's Confidential Information received by it and its Affiliates and their respective employees, agents, representatives and consultants.

10.2 **Required Disclosures.** Notwithstanding the foregoing, the Receiving Party may disclose the Disclosing Party's Confidential Information to the extent that the Receiving Party is required by any applicable governmental authority to do so; provided, however, that in such event, to the extent permitted by applicable law, the Receiving Party shall notify the Disclosing Party and shall cooperate with the Disclosing Party in any attempt to contest or limit such required disclosure, at the Disclosing Party's sole expense.

10.3 **Explicitly-Included Information.** Without limiting the generality of Confidential Information, Company's information, including computer programs and software, documentation, methodologies, training aids and manuals, and procedures, belonging exclusively to Company shall be treated as Confidential Information and Client shall not disclose, sell, assign, lease, or otherwise make available any such information to any third party or entity, other than its employees who require such information to perform their duties, and shall remain the property of Company, eligible for reuse/resale.

10.4 **Ownership.** Confidential Information will remain the property of the Disclosing Party, eligible for reuse/resale by the Disclosing Party.

10.5 **Degree of Care.** Each Party shall use at least the same degree of care in safeguarding the other Party's Confidential Information as it uses in safeguarding its own Confidential Information, but in no event less than

reasonable due diligence and reasonable care shall be exercised.

11. **PROPRIETARY RIGHTS.**

11.1 **Client Data.** As between the Parties, Client shall remain the sole and exclusive owner of all Client Data and other Confidential Information (as herein above defined) including passwords provided to Client. Following the provision of the applicable Services, Client shall be and remain responsible for changing any password provided to or provided by Company. Upon any termination or expiration of this Agreement, or earlier upon Client's request, Company shall promptly, and at Client's expense, provide to Client copies of Client Data in its possession or control, on media designated by Client, in the format on which it resides on the Company systems. Company will have no right to use the Client Data after the termination or expiration of this Agreement.

11.2 **Use of Client Data.** Subject to Company's obligation in accordance with applicable law, Client Data shall not be: (i) used by Company other than in connection with providing the Services; (ii) disclosed, sold, assigned, leased, or otherwise provided to third parties by Company, Company's Affiliates or Company's subcontractors, except to the extent required to perform the Services in accordance with the terms hereof; or (iii) commercially exploited by or on behalf of Company, Company's Affiliates or Company's subcontractors. Company shall not obscure or remove any notices or labels identifying the Client Data as Client's property.

11.3 **Company Knowhow.** Client acknowledges that it has no rights in any software, hardware, systems, documentation, guidelines, procedures, methodologies, and similar related materials or processes, or any modifications thereof, provided by Company (the "**Knowhow**"), except with respect to Client's use of the same during the Term as part of Client's access and use of the Services. Any intellectual property developed by Company in the course of performance of this Agreement shall be the proprietary property of Company and shall be owned exclusively by Company, and Client shall receive a royalty-free, nonexclusive, irrevocable right and license to use such proprietary software during the term of this Agreement. Client shall have ownership of, but Company shall have an irrevocable, fully paid up license to use and exploit, any Company Knowhow included in any software or documentation developed by Company specifically for and at the request of Client and specifically noted as a deliverable in the applicable Executed Orders. Company shall own all scripts, methods, and processes developed for Client except to the extent the applicable Executed Order specifically identifies such script, process, or method to be specifically paid for by Client and owned by Client.

11.4 **Client Equipment.** Company acknowledges that it has no rights in any software, hardware, systems, documentation, guidelines, procedures, and similar related materials or processes, or any modifications thereof, provided by Client, except with respect to Company's use of the same in providing the Services during the Term. Client shall, at Client's sole cost, take whatever action is necessary for Company to be provided with nonexclusive rights and/or licenses to use software provided by Client for use by Company in providing the Services.

11.5 **Third Party Equipment.** As part of the Services, Company may resell to Client certain third party products, including hardware and software (collectively, the "**Third Party Equipment**"). Such Third Party Equipment is non-refundable, even upon termination of the Agreement. Client acknowledges and agrees that Company is reselling such Third Party Equipment and therefore neither provide any warranty related to nor assume any liability for such Third Party Equipment. To the extent permitted by the Third Party Equipment manufacturer, Company will pass through to Client the manufacturer's warranties related to the Third Party Equipment. Client's subscription, purchase, enabling or use of Third Party Equipment shall be deemed a conformation of consent to the terms and conditions set out by the third party supplier in relation hereto. Company shall not be liable for any claims or damages resulting from or caused by any unauthorized use of Third Party Equipment by Client, including but not limited to Microsoft Software. A copy of the Microsoft End User License Terms has been attached hereto for Client's benefit.

12. **BUSINESS CONTINUITY.**

12.1 **Disaster Recovery.** Except as set forth in an Executed Order, Client is responsible for all backup, nonstandard data protection, hot site, disaster recovery and other similar services designed to protect Client's systems, software or data.

12.2 **Force Majeure.** Notwithstanding any provision contained in this Agreement, neither Party shall be liable to the other to the extent fulfillment or performance of any terms or provisions of this Agreement is delayed or prevented by revolution or other civil disorders; wars; acts of enemies; strikes; labor disputes; electrical equipment or availability failure; fires; floods; acts of God; federal, state or municipal action; statute; ordinance or regulation; or, without limiting the foregoing, any other causes not within its control, and which by the exercise of reasonable diligence it is unable to prevent, whether of the class of causes hereinbefore enumerated or not (each, a "**Force**

Majeure Event”). This clause shall not apply to the payment of any sums due under this Agreement by either Party to the other.

13. **SECURITY AND PRIVACY.**

13.1 **Transmission of Data.** The expense and risk of loss associated with transportation and transmission of data and media between Company and Client shall be borne by Client. Client shall be responsible for submitting Client Data to Company and Company shall be responsible for transmitting the processed Client Data to Client.

13.2 **Security Procedures.** Company agrees that it shall establish and perform security procedures with respect to Client Data provided to Company by Client under the terms of this Agreement in accordance with accepted industry practices or processes, practices and procedures, which shall be no less comprehensive than those set forth in the security policies developed and enhanced by Company from time to time to maintain currency with technology security practices.

13.3 **Additional Requirements under Applicable Law.** If required by applicable law, Company shall implement additional procedures or other requirements, and the Parties agree that they will negotiate an equitable adjustment to the contract to compensate Company for additional costs it may incur thereby. Company further agrees that, if otherwise reasonably requested by Client or otherwise recommended by a third party auditor (but not required by law), that Company implement additional procedures or other security measures or requirements, then Company will implement, at Client’s cost and expense, and will assist Client and its third party contractors, as necessary, to implement, such additional procedures or other requirements.

13.4 **Physical and Logical Security.**

13.4.1 **At Company Site.** Company shall use commercially reasonable efforts to restrict logical access to equipment and/or media on Company’s site containing Client Data to authorized individuals as required in the applicable Executed Order. Company shall perform commercially reasonable measures to limit physical access to Client Data in its custody or control, which may include use of electronic access control, CCTV, and intrusion detection systems; implementing visitor entry control procedures; securing offices, rooms, and facilities; protecting against external and environmental threats; and controlling all access points including delivery and loading areas.

13.4.2 **At Client Site.** Except as stated in an Executed Order, Client shall be responsible for using commercially reasonable efforts to restrict physical and logical access to equipment and/or media on Client’s site.

13.5 **Software and Virus Protection.** Each Party shall regularly review and update, as necessary, all software, firmware, firewalls and hardware used on such Party’s systems in accordance with industry practice. Each Party shall notify the other Party promptly in the event of becoming aware of the actual or potential transmission of any identified computer virus by such Party to the other Party. Each Party shall install and maintain commercially reasonable anti-virus software on its systems and update such anti-virus software on a regular basis in accordance with relevant industry practice.

13.6 **Data Security Breaches.** Company shall, within twenty-four (24) hours of discovery, notify Client of any Data Security Breach or any other unauthorized access, disclosure, acquisition, or use of the Client Data provided to it by Client or Client’ customers. As soon as possible thereafter, Company shall provide Client full details of the unauthorized access, disclosure, acquisition, and/or use. Company will cooperate with Client in a commercially reasonable manner to investigate the incident and will exert commercially reasonable efforts to (i) terminate the unauthorized access, disclosure, acquisition, and/or use and (ii) prevent the reoccurrence thereof. Company shall provide reasonable assistance to Client to regain possession of and terminate any unauthorized access, disclosure, acquisition, and/or use of the Client Data. Company shall reasonably cooperate with Client in the conduct of any investigation of or litigation involving third parties related to said incident. Company shall assist and cooperate with Client concerning any disclosures to affected parties, government or regulatory bodies, and other remedial measures as reasonably requested by Client or as required under any applicable privacy or data protection law. If the Data Security Breach was caused by Company’s negligence or fault, Company shall discharge all responsibilities set forth herein at Company’s cost and expense.

14. **MISCELLANEOUS.**

14.1 **Entire Agreement.** This Agreement, together with the Executed Orders entered into hereunder and

Company's Acceptable Use Policy and Service Level Agreement (which may be amended by Company from time to time) located at www.zimcom.net and incorporated herein by reference, constitutes the entire agreement between the Parties with respect to the subject matter hereof. This Agreement supersedes all prior negotiations, agreements, and undertakings, whether written or oral, between the Parties with respect to such matter. This Agreement may be amended only by an instrument in writing referencing this Agreement and executed by the Parties or their permitted assignees. Notwithstanding anything to the contrary, any additional purchase orders provided by Client hereunder shall have no cause and effect other than for the price and quantity set forth therein.

14.2 **References.** In this Agreement, "include" and "including" shall mean respectively, "includes, without limitation" and "including, without limitation."

14.3 **Interpretation.** In the event of a conflict between this Agreement and the terms of any amendment or Executed Order, the terms shall be controlling in this order: (i) amendment(s) in reverse chronological order, but solely with respect to the subject matter of such amendments, (ii) this Agreement and (iii) each Executed Order, provided, however, that an Executed Order shall control to the extent the Parties explicitly reference this Section of the Agreement by title (i.e. "Interpretation" or "Section 14.3") in such Executed Order that the Executed Order shall control over this Agreement in such instance.

14.4 **Assignment.** Except as otherwise set forth by the applicable OEM terms or end user license agreements, neither Party may assign this Agreement or any rights, obligations, or benefits under this Agreement without the prior written consent of the other Party, which consent shall not be unreasonably withheld, provided, however, that either Party may freely assign this Agreement without the prior written consent of the other Party (i) in connection with a merger, corporate reorganization, or sale of all or substantially all of its assets, stock, or securities, or (ii) to any Entity which is a successor to all or substantially all of the assets or the business of the applicable Party. Any assignment in contravention of this Section 14.4 shall be void. This Agreement shall bind, benefit and be enforceable by and against the Parties and their respective successors and assigns. No third party shall be considered a beneficiary of this Agreement or entitled to any rights under this Agreement.

14.5 **Relationship of Parties.** The Parties intend to create an independent contractor relationship and nothing contained in this Agreement shall be construed to make either Client or Company joint venturers, principals, partners, agents, or employees of the other. No officer, director, employee, agent, affiliate, or contractor retained by Company to perform work on Client's behalf under this Agreement shall be deemed to be an employee, agent, or contractor of Client. Neither Party shall have any right, power or authority, express or implied, to bind the other. Each Party shall remain responsible, and shall indemnify and hold harmless the other Party, for the withholding and payment of all Federal, state, and local personal income, wage, earnings, occupation, social security, worker's compensation, unemployment, sickness and disability insurance taxes, payroll levies, or employee benefit requirements (under ERISA, state law or otherwise) now existing or hereafter enacted and attributable to themselves and their respective employees.

14.6 **Notices.** Except as otherwise specified in the Agreement, all notices, requests, approvals, consents, and other communications required or permitted under this Agreement shall be in writing and shall be personally delivered or sent by i) first class U.S. mail, registered or certified, return receipt requested, postage pre-paid; ii) U.S. express mail, or other, similar overnight courier service to the address of the other Party first written above; or iii) electronic mail to Company at info@zimcom.net and Client email address of record. Client is reminded that no computer network can ever be considered completely safe from intrusion. E-mail may pass through many computer systems, and should not be considered a secure means of communication unless encrypted – and even encrypted information is only as secure as the encryption method utilized. Notices shall be deemed given on the day actually received by the Party to whom the notice is addressed. Notices to Client shall be given to Client at the most recent address available to Company.

Notices to Company shall be given as follows:

One Cloud Services, LLC,
1080 Nimitzview Drive, Ste 400
Cincinnati, OH 45230
Attn: Legal Department

14.7 **Publicity.** Neither Party shall be entitled to use the other Party's name and/or tradename(s) in promotional or marketing materials, or on any listing of its customers, partners, vendors, and/or business affiliations, including but not limited to press releases or other public statements regarding the relationship between the Parties or this Agreement without the prior written consent of the other Party. Any such publicity shall not negatively impact or reflect upon such other Party or reveal any proprietary information of such other Party.

14.8 **Section Headings.** Section headings in this Agreement are for reference purposes only and shall not affect the interpretation or meaning of this Agreement nor be construed as part of this Agreement.

14.9 **Counterparts.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original document but all such counterparts together shall constitute one binding agreement.

14.10 **Waiver.** No delay or omission by either Party to exercise any right or power it has under this Agreement shall impair or be construed as a waiver of such right or power. A waiver by any Party of any breach or covenant shall not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing and signed by the Party waiving its rights.

14.11 **Severability.** If any provision of this Agreement is held for any reason by a court of competent jurisdiction to be contrary to law, the remaining provisions of this Agreement shall remain in full force and effect and the provision found to be contrary to law shall be deemed modified to the most limited extent required in order to cause such provision to be in accordance with applicable law while most fully carrying out the intent of the applicable provision as set forth herein.

14.12 **Survival.** Any Section of this Agreement shall survive to the extent required for the performance of such provision in accordance with the terms hereof.

14.13 **No Third Party Beneficiaries.** Each Party intends that this Agreement shall not benefit, or create any right or cause of action in or on behalf of, any person or entity other than the Client and Company.

14.14 **Construction.** Company and Client each acknowledge that the limitations and exclusions contained in this Agreement have been the subject of active and complete negotiation between the Parties and represent the Parties' agreement based upon the level of risk to Client and Company associated with their respective obligations under this Agreement and the payments to be made to Company and the charges to be incurred by Company pursuant to this Agreement. The Parties agree that the terms and conditions of this Agreement shall not be construed in favor of or against either Party by reason of the extent to which either Party or its professional advisors participated in the preparation of this document. For the avoidance of doubt, Client agrees that the terms set forth in this Agreement constitute reasonable terms applicable to each Executed Order entered into by the Parties.

14.15 **Insurance.** Each Party shall maintain a "Commercial General Liability Insurance" policy with limits of not less than \$1,000,000 each occurrence, \$2,000,000 general aggregate covering injuries or damage to any person or property which results from their operations or activities under this Agreement. Prior to accessing the facilities and at such times thereafter as Company may reasonably request, Client will furnish Company with certificates of insurance which evidence the minimum levels of insurance set forth herein. Failure by Client to timely provide Company with such certificate shall entitle Company to prohibit Client's access to the facilities until such certificate has been furnished to Company. Client shall maintain property/casualty insurance with limits not less than the replacement value of any Client equipment or assets in the facilities, or under the control, of Company, covering damage to any such equipment or assets. Company shall also maintain a "Professional Liability" insurance policy to cover its errors and omissions with limits of not less than \$1,000,000 each occurrence/claim, \$2,000,000 in the aggregate. If Company will be conducting any of its activities onsite at a Client location, Company shall also maintain the following coverage: (A) "Workers' Compensation Insurance" to fully comply with all applicable laws of the state(s) where such work or services is to be performed; (B) "Employer's Liability Insurance" with a limit of not less than \$1,000,000 each accident; and (C) "Automobile Liability Insurance" covering all owned, non-owned and hired automobiles with a combined single limit of not less than \$1,000,000 each accident. Insurance procured by Company shall be with an insurer with an AM Best rating of at least A- IX or AM Best equivalent in foreign jurisdictions.

15. **DEFINITIONS.** As used in this Agreement and the attachments hereto (collectively, the "Documents"),

the following terms shall have the following meanings with such definitions to be applicable to both the singular and plural use of the terms.

15.1 “**Affiliate**” shall mean, with respect to a Party, any entity at any time Controlling, Controlled by, or under common Control with, such Party, but only as long as such entity meets these requirements.

15.2 “**Change Order**” shall mean a written request by either Party, in a form mutually agreed by the Parties, seeking a change to the Services, in accordance with the procedures described in Section 3.

15.3 “**Client Data**” shall mean any and all data and information of any kind or nature submitted to Company by Client, or received by Company on behalf of Client, in connection with the Services or otherwise.

15.4 “**Confidential Information**” shall mean, with respect to either party, this Agreement, together with all confidential business or technical information or materials of such party; provided, however, that Confidential Information shall not include information or materials that the Receiving Party can demonstrate: (i) was known to the Receiving Party prior to the Effective Date free of any obligation of nondisclosure; (ii) was generally known or available to the public prior to the date of disclosure to the Receiving Party or subsequently became generally known or available to the public through no fault of the Receiving Party; (iii) was lawfully received by the Receiving Party from a third party free of any obligation of nondisclosure; or (iv) is or was independently developed by the Receiving Party without reference to any Confidential Information of the Disclosing Party.

15.5 “**Control**” shall mean the direct or indirect ownership of 50% or more of the capital stock, or other ownership interest if not a corporation, of any entity or the possession, directly or indirectly, of the power to direct the management and policies of such entity by ownership of voting securities, by contract, or otherwise. “**Controlling**” shall mean having Control of any entity and “**Controlled**” shall mean being the subject of Control by another entity.

15.6 “**Data Security Breach**” shall mean an unauthorized act or occurrence that bypasses or contravenes security policies, practices, or procedures and which could reasonably be expected to have a material impact on the Services.

15.7 “**Effective Date**” shall mean the date first set forth herein above.

15.8 “**Effective Date of Termination**” shall mean the last day on which Company provides Services to Client, pursuant to an applicable Executed Order.

15.9 “**Entity**” means a corporation, partnership, sole proprietorship, limited liability company, joint venture, or other form of organization, and includes the Parties hereto.

15.10 “**Executed Order**” means a written order, including by executed quote, Service Exhibit, purchase order, statement of work, email or by other written agreement as executed or agreed to by the Parties, for hardware, software, or other Services that references this Agreement and is executed by the Parties.

15.11 “**Monthly Base Fee**” shall mean the monthly fees payable by Client to Company as set forth in an applicable Executed Order.

15.12 “**Services**” shall mean the services, functions, and responsibilities described in this Agreement or in any Executed Order to be performed by Company during the Term hereof.

15.13 “**Third Party**” shall mean any entity other than the Parties or any Affiliates of the Parties and shall include any subcontractors of the Parties.

[signature page follows]

THE PARTIES HEREBY ACKNOWLEDGE that they have read and understand this Agreement, its Exhibits, and agree to be bound by all of the provisions, terms and conditions specified herein.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have caused this Agreement to be executed by their duly authorized representatives.

Client: _____

Company: One Cloud Services, LLC.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

END USER LICENSE TERMS

TERMS AND CONDITIONS REGARDING USE OF MICROSOFT SOFTWARE

This document governs the use of Microsoft software, which may include associated software, media, printed materials, and “online” or electronic documentation (individually and collectively, “Products”) provided by **One Cloud Services, LLC** (hereinafter referred to as “Customer”). Customer does not own the Products and the use thereof is subject to certain rights and limitations of which Customer must inform you. Your right to use the Products is subject to the terms of your agreement with Customer, and to your understanding of, compliance with, and consent to the following terms and conditions, which Customer does not have authority to vary, alter, or amend.

1. DEFINITIONS.

“Client Software” means software that is installed on a Device that allows the Device to access or utilize the Products.

“Device” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone,” server or any other hardware where software can be installed that would allow End User to interact with the Product.

“End User” means an individual or legal entity that obtains Software Services directly from Customer, or indirectly through a Software Services Reseller.

“Redistribution Software” means the software described in Paragraph 4 (“Use of Redistribution Software”) below.

“Software Services” means services that Customer provides to you that make available, display, run, access, or otherwise interact, directly or indirectly, with the Products. Customer must provide these services from data center(s) through the Internet, a telephone network or a private network, on a rental, subscription or services basis, whether or not Customer receives a fee. Software Services exclude any services involving installation of a Product directly on any End User device to permit an End User to interact with the Product.

2. **OWNERSHIP OF PRODUCTS.** The Products are licensed to Customer from an affiliate of the Microsoft Corporation (collectively “Microsoft”). Microsoft Products are protected by copyright and other intellectual property rights. Products and other Product elements including but not limited to any images, photographs, animations, video, audio, music, text and “applets” incorporated into the Products are owned by Microsoft or its suppliers. You may not remove, modify or obscure any copyright trademark or other proprietary rights notices that are contained in or on the Products. The Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Products does not transfer any ownership of the Products or any intellectual property rights to you.
3. **USE OF CLIENT SOFTWARE.** You may use the Client Software installed on your Devices only in accordance with your agreement with Customer and the terms under this document, and only in connection with the Software Services, provided to you by Customer. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during the installation and/or use of the Client Software.
4. **USE OF REDISTRIBUTION SOFTWARE.** In connection with the Software Services provided to you by Customer, you may have access to certain “sample,” “redistributable” and/or software development software code and tools (individually and collectively “Redistribution Software”). You may use, copy and/or install the Redistribution Software only in accordance with the terms of your agreement with Customer and this document and/or your agreement with Customer.

5. **COPIES.** You may not make any copies of the Products; provided, however, that you may (a) make one copy of Client Software on your Device as expressly authorized by Customer; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Customer, upon notice from Customer or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Products.

6. **LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the Products, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

7. **NO RENTAL.** You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Products to any third party, and may not permit any third party to have access to and/or use the functionality of the Products except for the sole purpose of accessing the functionality of the Products in the form of Software Services in accordance with the terms of this agreement and any agreement between you and Customer.

8. **TERMINATION.** Without prejudice to any other rights, Customer may terminate your rights to use the Products if you fail to comply with these terms and conditions. In the event of termination or cancellation of your agreement with Customer or Customer’s agreement with Microsoft under which the Products are licensed, you must stop using and/or accessing the Products, and destroy all copies of the Products and all of their component parts within thirty (30) days of the termination of your agreement with Customer.

9. **NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT.** Microsoft disclaims, to the extent permitted by applicable law, all warranties and liability for damages by Microsoft or its suppliers for any damages and remedies whether direct, indirect or consequential, arising from the Software Services. Any warranties and liabilities are provided solely by Customer and not by Microsoft, its affiliates or subsidiaries.

10. **PRODUCT SUPPORT.** Any support for the Software Services is provided to you by Customer or a third party on Customer’s behalf and is not provided by Microsoft, its suppliers, affiliates or subsidiaries.

11. **NOT FAULT TOLERANT.** The Products are not fault-tolerant and are not guaranteed to be error free or to operate uninterrupted. You must not use the Products in any application or situation where the Product(s) failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage (“High Risk Use”).

12. **EXPORT RESTRICTIONS.** The Products are subject to U.S. export jurisdiction. Customer must comply with all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as

well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <http://www.microsoft.com/exporting/>.

- 13. LIABILITY FOR BREACH.** In addition to any liability you may have to Customer, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.
- 14. INFORMATION DISCLOSURE.** You must permit Customer to disclose any information requested by Microsoft under the Customer's Agreement. Microsoft will be an intended third party beneficiary of your agreement with Customer, with the right to enforce provisions of your agreement with Customer and to verify your compliance.