GenerAl TERMS AND CONDITIONS

The general terms and conditions stated herein are incorporated into the accompanying statement of work and/or consulting, services, design, or programming proposal and/or agreement (hereinafter, “Statement of Work” and referred to collectively with these Terms and Conditions as the “Agreement”) Provided, however, the contents of any Statement of Work shall take precedence over any conflicting provision to the extent necessary to resolve any such conflict. “Services” as used herein shall include any and all products, goods and services provided by BCT Consulting, Inc. (“BCT”) for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“Client”).

***Fees and Payments***. Client agrees to pay the fees for Services in accordance with the fee schedule as stated in the Statement of Work. Unless otherwise specified in the applicable Statement of Work. Client shall reimburse BCT for all actual expenses incurred in the course of performing the Services hereunder (“Expenses”). BCT may modify its fee schedule from time to time. Any such modified fee schedule shall be effective thirty (30) days following written or email notice to Client. In the performance of Services, it may be necessary for BCT to replace existing hardware, provide software, and/or provide new hardware for installation and/or use by Client. Client agrees to pay the purchase price for all such hardware.

Unless otherwise specified in the applicable Statement of Work, BCT will invoice Client on a monthly basis (“Invoice Period”) for the Services furnished, expenses incurred, and hardware furnished during the immediately preceding Invoice Period. Invoices for Services rendered on a time-and-materials basis will indicate a breakdown and distribution of charges. Statements of Work for Services rendered on a fixed-fee basis will indicate the basis upon which the fees are due and payable (e.g., milestones achieved or date passing). All invoices shall be due and payable to BCT within thirty (30) calendar days after the invoice date. All unpaid amounts shall thereafter accrue interest at the lesser of 1.5% per month or the maximum interest rate permitted under applicable law. Following any lack of payment hereunder, BCT may condition provision of any Services under this Agreement to COD or other payment terms acceptable to BCT.

In addition to any Services contained in any Statement of Work, Client agrees to pay the following: (a) travel time for BCT to provide technical resources to Client; (b) phone and remote support tracked in fifteen (15) minute increments, rounded to the nearest fifteen (15) minute mark with a fifteen (15) minute minimum time per support request; (c) for services requested by the Client on an emergency basis and/or outside of normal business hours will be billed at the lesser of one and one-half (1.5) times the normal business hours hourly rate, or $175 per hour; and (d) for on-site services to be tracked in thirty (30) minute increments, rounded to the nearest thirty (30) minute mark with a one (1) hour minimum charge per visit. BCT may, at its sole discretion, offer Client the opportunity to purchase blocks of prepaid hours at a reduced hourly rate (see Fee Schedule). Services can be charged against any prepaid hours under this Agreement until the total number of hours has been used for services. For services outside normal business hours and emergency services, prepaid hours shall be applied at 1.5 times the number of hours of service.

***Early Termination Fee***. In the event this Agreement is terminated by Client without cause prior to the expiration of the agreed upon term, Client shall pay to BCT the amount contracted for through any remaining term of the Agreement, or, if the contracted for amount is not stated in, or quantifiable by, the terms of the Agreement, the reasonable value of the Services that would have been performed had the Agreement not been terminated prior to the expiration of its term.

***General Client Responsibilities and Indemnity***. Client is solely responsible for all required software licenses and ensuring that all software is properly registered and licensed with the manufacturer or other applicable third parties, and otherwise complies with all applicable laws. BCT takes no responsibility for and will not track, verify or otherwise independently determine if any software used by the Client complies with licensing, registration or other legal requirements. Client represents that it is the owner of any equipment for which Client requests service.

Client agrees to defend, indemnify, and hold harmless BCT against any and all liability, claims, actions, judgments or demands, including those arising from: (a) any and all claims, losses, liabilities, costs and expenses (including, but not limited to, attorneys’ fees and costs) which arise from or relate to any breach of this Agreement by Client (b) any acts or omissions, negligence, contributory negligence, or willful misconduct of Client, whether active or passive; or (c) third-party claims arising from any acts or omissions, negligence, contributory negligence, or willful misconduct of Client, whether active or passive. Client will reimburse BCT for any and all costs, expenses, and damages, including reasonable attorney’s fees and court costs (including expert witness fees) that BCT may incur by reason of such matters, and, if requested by BCT, will defend any resulting claims, disputes, actions or suits at the sole cost and expense of Client with counsel agreeable to BCT.

***Representations and Warranties***. Client represents and warrants that it has and for the duration of this Agreement shall have all rights, titles, and interests in the pre-existing Client properties required for the performance of its obligations hereunder and has and for the duration of the Agreement shall have the authority and the legal right to enter into the Agreement. BCT warrants only that the Services provided under this Agreement will be of commercially reasonable quality in accordance with any specifications or requirements set forth in a Statement of Work and will be performed in a good and workmanlike manner and in accordance with industry standards. Any representation or warranties provided herein or in the Statement of Work are for the sole benefit of Client. BCT shall have sixty (60) days written notice and opportunity to cure any alleged breach of BCT’s warranties. Any alleged breach shall be deemed to be cured so long as BCT commences the cure within the thirty (30) day period and diligently proceeds to completion.

***Warranties, Remedies, and Limitation of Liability***. CLIENT’S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE REPRESENTATIONS AND WARRANTIES PROVIDED HEREIN WILL BE, AT BCT’S SOLE OPTION, RE-PERFORMANCE OF THE DEFICIENT SERVICES OR TERMINATION OF THE APPLICABLE STATEMENT OF WORK AND RETURN OF THE PORTION OF THE FEES AND CHARGES PAID TO BCT BY CLIENT FOR THE NON-CONFORMING PORTION OF THE SERVICES AND/OR GOODS (AS DEFINED BELOW), IF ANY. BCT’S AGGREGATE LIABILITY ARISING OUT OF THIS AGREEMENT OR OTHERWISE IN CONNECTION WITH ANY SERVICES OR GOODS, SHALL IN NO EVENT EXCEED THE FEES ACTUALLY PAID BY CLIENT TO BCT DURING THE PRECEDING TWELVE MONTHS. To the extent BCT provides any materials, goods, or products (“Goods”) to Client, they are provided on an “AS IS” basis, without warranty, express or implied, with the exception of any manufacturer warranty, to the extent transferrable to Client.

**EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, BCT EXPRESSLY DISCLAIMS TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW ALL OTHER REPRESENTATIONS AND WARRANTIES REGARDING THE SERVICES AND/OR GOODS, IF ANY, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OR CONDITIONS OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, NON- SATISFACTORY QUALITY, NON-INFRINGEMENT OF THIRD PARTY RIGHTS AND TITLE, OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, AND ALL SUCH REPRESENTATIONS AND WARRANTIES ARE HEREBY EXCLUDED TO THE FULLEST EXTENT ALLOWED BY APPLICABLE LAW. BCT MAKES NO GUARANTEES WITH REGARD TO THE RESULTS OBTAINED FROM THE OPERATION OR USE OF THE CLIENT PROPERTIES OR BCT PROPERTIES. THIS DISCLAIMER AND EXCLUSION WILL APPLY EVEN IF THE EXPRESS WARRANTY AND LIMITED REMEDY SET FORTH HEREIN FAILS OF ITS ESSENTIAL PURPOSE.**

UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) WILL EITHER PARTY TO THIS AGREEMENT, OR THEIR AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, DELAY, SPECIAL, EXEMPLARY, CONSEQUENTIAL, PUNITIVE OR OTHER SIMILAR DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, LOST SALES OR BUSINESS, BUSINESS INTERRUPTION OR ANY OTHER LOSS INCURRED BY THE OTHER PARTY OR SUCH THIRD PARTY IN CONNECTION WITH THIS AGREEMENT, THE SERVICES, OR GOODS, REGARDLESS OF WHETHER A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

IN NO EVENT WILL BCT BE LIABLE FOR ANY DATA LOSS. BACKUP AND DISASTER RECOVERY ARE THE RESPONSIBILITY OF THE CLIENT. BCT’S SERVICES UNDER THIS CONTRACT MAY BE AVAILABLE TO HELP CLIENT DESIGN AND SET UP DISASTER RECOVERY SCHEMES. HOWEVER, THE PERFORMANCE OF ACTUAL BACKUPS AND THE CONFIRMATION OF THE APPROPRIATENESS AND EFFICIENCY OF SUCH SCHEMES SHALL REMAIN THE TOTAL AND UNIQUE RESPONSIBILITY OF THE CLIENT.

***Employee Solicitation***. During the period beginning with the date of this Agreement and ending six (6) months after termination of the Agreement, Client and any individuals, corporations, partnerships, limited liability companies, trusts, or legal entities which control, are controlled by, or are under common control of Client, agree not to solicit for employment, any BCT employee, including but not limited to technical, sales, or managerial employees of BCT.

***Confidentiality***. In connection with the Services provided by BCT hereunder, Client may disclose to BCT and BCT may disclose to Client, certain confidential and proprietary written and oral business and technical information and other proprietary data including, without limitation, all technical and non-technical information provided by either party to the other, including but not limited to, trade secrets, business processes, manufacturing processes, business plans, inventions, patents, patent applications, copyrighted information, proprietary information of any kind, including but not limited to, ideas, techniques, sketches, drawings, works of authorship, models, inventions, know-how, processes, apparatuses, equipment, algorithms, software programs, software source documents, and formulae related to the current, future, and proposed products and services of each of the parties, and including, without limitation, their respective information concerning research, experimental work, development, design details, specifications, engineering and proprietary business information of any sort, including but not limited to, pricing and cost data, pricing schedules and fee amounts, pricing and billing policies, quoting procedures, invoices of any kind, service agreements, internal personnel, vendor names, and other vendor information (including vendor characteristics, services, and agreements), purchasing and internal cost information, internal services and operational manuals, timesheets, computer files (including, but not limited to, emails, Microsoft Word files, and Excel files), and the manner and methods of conducting company business (including, but not limited to, all company-generated forms and manuals), product descriptions, requests for proposals and supporting documentation, estimates, security documentation, disaster recovery plans, SAS-70 and audit documentation, financial information and statements, tax returns and the type, procurement requirements, purchasing, manufacturing, names of customers and their representatives, the type, quantity, specifications, and history of products and services purchased, leased, licensed, or received by customers, customer services, customer billing records, customer work-in-progress reports, data provided by customers, customer work papers, customer lists, investors, employees, business and contractual relationships, business forecasts, future plans and potential strategies which have been or are being discussed, sales and merchandising, marketing and development plans, sales data, research or development projects or results, tests, and any non-public information which concerns the business, operations, ideas or plans of a party to this Agreement conveyed to the other party by any format or means including, but not limited to written, typed, magnetic, or oral transmission (collectively “Confidential Information”).

Each party, for itself and its affiliates and the officers, directors, employees, and agents of each, shall maintain Confidential Information in strict confidence from the time the party receives Confidential Information and for so long as the receiving party possesses the disclosing party’s Confidential Information. Each party and its affiliates shall not, without the prior written consent of the disclosing party, share or disclose any Confidential Information except as permitted herein; provided, however, that there shall be no obligation on the part of either party to maintain in confidence any Confidential Information disclosed to it: (a) which is generally known to the trade or the public at the time of such disclosure; (b) which becomes generally known to the trade or the public subsequent to the time of such disclosure, but not as a result of disclosure by the receiving party; (c) which is legally received from a third party without restriction; (d) which is independently developed by the receiving party, without reference to or in connection with the Services contemplated in this Agreement; (e) which is approved for release in writing by the disclosing party prior to any release by the recipient party; or, (f) demanded by a lawful order from any court or governmental body empowered to issue a legally binding order. The receiving party shall provide the disclosing party with a copy of such order promptly following receipt. If either party is required to disclose Confidential Information in response to a valid order by a court or other governmental body, as required by law, said party may disclose such Confidential Information only to the extent legally compelled. The disclosing party will be given an opportunity to oppose any such order or to seek a protective order that protects the Confidential Information at issue before the recipient party complies with any such court or governmental order provided, however, that both parties will stipulate to any orders necessary to protect said information from public disclosure.

Neither party shall share or disclose Confidential Information with any individual(s) or entities except as expressly provided for under the terms of this Agreement, or as necessary to perform the Services contemplated under the terms of this Agreement. The parties and their affiliates shall not disclose Confidential Information to their respective employees, officers, directors, consultants, subcontractors, vendors, advisors or any other agent, except on a need-to-know basis. In no case may Confidential Information be shared with or disclosed to any third party not a party to this Agreement in such a manner as to violate the Gramm Leach Bliley Act, the California Financial Information Privacy Act, the Fair Credit Reporting Act and its amendments, NCUA Regulation 716, NCUA Regulation 748, Appendix A, Safeguarding Member Information, or any other state or federal protection for personal and financial information privacy and confidentiality.

All documentation and other information shall remain the disclosing party’s property and shall be immediately returned to the disclosing party or destroyed upon request. Neither party shall make copies of Confidential Information supplied by the other party except as required for back-up or redundancy and shall erase, destroy, return, or otherwise render useless, any information that is no longer necessary to fulfill its obligations hereunder. Data destruction shall conform to the FTC’s Final Regulation on Consumer Information and Records Disposal 16 CFR 682.

BCT shall take adequate steps necessary to maintain the confidentiality of Client’s Confidential Information through implementation of a comprehensive information security program, written in one or more readily accessible parts, containing administrative, technical and physical safeguards designed to (a) ensure security and confidentiality of Client’s Confidential Information, (b) protect against any anticipated threats or hazards to the security or integrity of such information, and (c) protect against unauthorized access to or use of such information that could result in substantial harm or inconvenience to Client or any Client member. Such safeguards are appropriate to BCT’s size and complexity, the nature and scope of its activities, and the sensitivity of the information it handles. They include, but are not limited to, VPN technology, minimum 256 bit encryption, video surveillance, electronic badge entry/exit systems, attack and intrusion detection monitoring systems and the elements set forth in California Civil Code Section 1798.81.5, 16 C.F.R. Section 14, the Gramm Leach Bliley Act and other applicable state and federal laws.

Client shall take adequate steps necessary to prevent disclosure of BCT’s Confidential Information (including, but not limited to, pricing schedules, invoicing, BCT policies and procedures, SAS-70 documentation and security related documentation) to third parties including, but not limited to, Client’s consultants and independent contractors, without the express written consent of a BCT officer.

The parties agree that breach of these confidentiality provisions will cause immediate irreparable harm to the other party for which money damages would be inadequate and extremely difficult to measure and for which there is no adequate remedy at law. Accordingly, either party shall be entitled to seek immediate and permanent injunctive relief, without bond, from a court of competent jurisdiction in the event of any such breach or threatened breach.

***Binding Dispute Resolution***. The parties shall submit all disputes, claims or demands of any kind relating to or arising out of this Agreement (“Controversy”) to a three-step dispute resolution process. The three-step process shall (i) begin with informal negotiation conducted in good faith, (ii) be followed, if necessary, by mediation, initiated by written demand of one party served on the other, and if the mediator determines that the Controversy cannot be resolved by mediation, then (iii) the Controversy shall be submitted to binding arbitration in accordance with the rules and regulations of the American Arbitration Association, except that the provisions of Section 1283.05 of the California Code of Civil Procedure shall be adopted and used with respect to the conduct of discovery prior to any such arbitration. The arbitration award shall include attorney’s fees and costs as provided in this Agreement and be supported by written conclusions of law and fact. Application may be had by any party to any court of general jurisdiction for entry and enforcement of judgment based on the arbitration award. The foregoing notwithstanding, either party may maintain, for the purpose of obtaining a provisional remedy or provisional relief, any underlying action or claim on which such affirmative relief may be based. The court, pending mediation or arbitration of claims, shall stay the prosecution of such party’s underlying claims on which any provisional remedies or relief are based.

***General Terms.***

Complete Agreement. This Agreement, including any Statements of Work hereunder, is the complete and exclusive statement of the agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior proposals, understandings, and agreements (including confidentiality agreements), whether oral or written, between the parties with respect to the subject matter hereof. This Agreement may not be modified except by a written instrument executed by authorized representatives of the parties.

No Waiver. No failure to exercise, and no delay in exercising, on the part of either party, any right, power or privilege hereunder will operate as a waiver thereof, nor will any party’s exercise of any right, power or privilege hereunder preclude further exercise of the same right or the exercise of any other right hereunder.

Enforceability. If any part of this Agreement shall be adjudged by any court of competent jurisdiction to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not be affected or impaired thereby and shall be enforced to the maximum extent permitted by applicable Law.

Force Majeure. Either party shall be excused from performance and shall not be liable for any delay in whole or in part, to the extent caused by the occurrence of any Force Majeure Event beyond the reasonable control either of the excused party or its subcontractors or suppliers, for as long as the Force Majeure Event continues and the excused party continues to use its best efforts to recommence performance whenever and to whatever extent possible without delay, including through the use of alternate sources, workaround plans or other means. “Force Majeure Events” shall be limited to the following: fire, flood, earthquake, elements of nature or acts of God, acts of war, terrorism, riots, civil disorders, rebellions or revolutions, or any other similar cause beyond the reasonable control of the excused party.

Notices. Any notice required or permitted hereunder to the parties hereto will be deemed to have been duly given only if in writing to the address of the receiving party as set forth in the Statement of Work or such other address as may be specified in writing by such party. Any notice shall be deemed delivered: (a) on the fifth (5th) business day following deposit of such notice with the U.S. Postal Service; or (b) on the second (2nd) business day following deposit of such notice with the courier.

Governing Law, Jurisdiction and Venue. This Agreement shall be deemed to have been made in, and shall be construed pursuant to the laws of the State of California with venue in Fresno County, California.

Headings; Subsections; Interpretation. Section headings are provided for convenience of reference and do not constitute part of this Agreement. Any references to a particular section of this Agreement shall be deemed to include reference to any and all subsections thereof. References to the words “including, “includes” or “include” or the abbreviation “e.g.” in this Agreement (including any Statement of Work) shall mean “including, without limitation.”

References to Client. References in this Agreement (including a Statement of Work) to Client as the recipient of Services shall include such entity, and references to Services being performed for or received by Client shall include the performance of such Services for and receipt of such Services by such entity.

Assignment. Neither party may assign or delegate any or all of its rights (other than the right to receive payments) or its duties or obligations hereunder without the consent of the other party, which consent shall not be unreasonably withheld; provided, however, that either party may assign this Agreement, without the need to obtain consent of the other party, to an Affiliate of such party or to a successor in interest to substantially all of the business of that party to which this Agreement relates. If any assignee shall fail to agree to be bound by all of the terms and obligations of this Agreement, then such assignment shall be deemed null and void and of no force or effect.

Attorneys’ Fees. In the event any action, suit, proceeding, or arbitration is brought to enforce or interpret any part of this Agreement, the prevailing party shall be entitled to recover as an element of its costs of suit, and not as damages, reasonable attorneys’ and consultants’ fees and costs to be fixed by the court or arbitrator.

No Third-Party Benefit. The provisions of this Agreement are for the sole benefit of the parties hereto. This Agreement confers no rights, benefits, or claims upon any person or entity not a party hereto.

Service Agreement and VOIP Addendum

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To the extent the Services proved by BCT involve international VoIP service, the following terms and conditions apply:

**Toll Fraud.** Toll Fraud is the theft of long distance and international phone service. It typically occurs when a party gains remote access to the Client's phone, phone system, mobile phone, or mobile application and uses it to place calls.

**Compliance.** Clients should immediately notify BCT of suspected Toll Fraud by opening a support ticket. Client should be prepared to identify the means of which the fraud occurred, if known, and any changes made in attempt to stop the fraud. Upon notice, BCT will investigate any suspected fraud and may block, suspend, or otherwise limit the Client’s ability to dial international numbers to prevent continued fraud. Client agrees to cooperate with BCT in the investigation of suspected fraud and agrees to provide BCT with any such information and documentation as BCT may request.

**Liability.** BCT is dedicated to providing quality and reliable phone service. As part of that commitment, BCT respects the right of its Clients to choose the BCT services and equipment that meet particular Client needs, so long as the use is lawful and does not violate policies and procedures. The freedom of the Client to choose among BCT’s diverse VoIP offerings means that the Client, and not BCT, is capable of addressing and preventing fraudulent calls. IT IS THE SOLE RESPONSIBILITY OF THE CLIENT TO PREVENT THE OCCURRENCE OF FRAUD and as such Client is responsible for payment of any and all charges incurred from fraud (including Toll Fraud), abuse, or misuse of the Services. Client is responsible whether the fraud was known or unknown to Client and regardless of BCT’s actions to prevent the fraud after being notified. BCT is not liable for any minute charges, surcharges, taxes, or fees incurred by fraudulent international calling. In the event fraud is detected and BCT disables Client’s international calling ability, BCT is not liable for any charges from the Client’s other vendors or roaming charges from cellphone providers.

By initialing this document below, Client agrees to release BCT of all liability for fraudulent international toll charges and associated fees.