

These Terms and Conditions ("Agreement") are made effective as of the date set forth in the monthly service agreement or invoice by and between Technijian, Inc. ("Technijian") which address is at 18 Technology Drive, #141, Irvine, California 92618 and the entity and/or individual whose name and address are set forth on the monthly service agreement or invoice or other applicable document ("Client").

RECITALS

WHEREAS, Technijian provides technology, support, equipment, cloud based services, and related goods and services including, but are not limited to, the 'My Archive', 'My Audit', 'My Backup', 'My Developer', 'My Disk', 'My Hosing/Cloud', 'My Phone/IVR', 'My Public Cloud', 'Virtual Tech AMC', and 'My Virtual Tech Pay-as-you-Go' (the "Services"). Technijian reserves the right to make any additional services available which shall be "Services" as defined herein and will be subject to this Agreement; and

WHEREAS, Technijian wishes to provide Services to Client so that Client may utilize Services.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

SECTION ONE – SERVICES PROVIDED BY TECHNIJIAN

1.01. Services. Technijian will provide the portions of the Services as set forth on the monthly service agreement or invoice pursuant to the attached service level agreement. Technijian and Client shall agree upon the Services to initially be provided under this Agreement and may update, amend and changes the Services provided to the Client upon the mutual consent of Technijian and Client. The Services may be provided by Technijian or a company as designated by Technijian. Under no circumstances shall Technijian be liable for the actions of any such company or other vendors of Technijian as designated by Technijian.

1.02. Limited License. Technijian hereby grants to Client a perpetual, revocable (but only as provided herein), worldwide, nonexclusive, non-sublicensable, and non-transferable license, under intellectual property rights owned or licensed by Technijian, to use any Services software provided hereunder however that:

- (a)** such license is subject to all obligations and restrictions imposed on Client in this Agreement;
- (b)** such license extends only to Client's employees and contractors, but only to the extent that such employees and contractors use Services as set forth under this Agreement;
- (c)** such license extends only to Client use of Services solely to perform the functions specified herein, and in compliance therewith, and
- (d)** while exercising such license, Client shall treat Services as Technijian's Confidential Information under this Agreement.

1.03. Limitations on Rights Granted. Except as expressly provided to the contrary in this Agreement, Client shall not, and shall not knowingly cause or permit any non-party, to use or reproduce Services. Client shall not, and shall not knowingly cause or permit any non-party, to disassemble, decompile, decrypt, extract, reverse engineer, prepare a derivative work based upon, distribute, or time share Services, or otherwise apply any procedure or process to Services in order to ascertain, derive, and/or appropriate for any reason or purpose, the source code or source listings for Services or any algorithm, process, procedure or other information contained in Services. Except as expressly authorized herein, Client may not rent, lease, assign, sublicense, transfer, modify, alter, or time share the Services.

1.04. Independent Contractors. The relationship of Technijian and Client is that of independent contractors. Neither Client nor its employees, consultants, contractors or agents are agents, employees, partners or joint ventures of Technijian, nor do they have any authority to bind Technijian by contract or otherwise to any obligation. They will not represent to the contrary, either expressly, implicitly, by appearance or otherwise.

1.05. Compliance With Laws. Client will comply with all applicable international, national, state, regional and local laws and regulations in performing its duties hereunder and in any of its dealings with respect to Services

1.06. Modification. This Agreement may be changed, amended, and or modified at the sole discretion of Technijian. Any change, amendment, and/or modification of this Agreement shall apply to future Services provided by Technijian to Client regardless of when the Client first contracted and/or agreed to the Services. Upon any change, modification, and/or amendment to this Agreement, Technijian shall notify each Client by e-mail that there has been a

change, amendment, and/or modification to the Agreement. Each Client may choose to terminate their Services subject to the termination terms below including, but not limited, section 4.05 in the event they do not agree/accept the change, amendment, and/or modification of the Agreement. Should Client wish to terminate its Services with Technijian due to not agreeing and/or accepting a change, amendment, and/or modification to the Agreement Client shall be obligated to pay Technijian for all Services provided to Client under the Agreement applicable to Client. Should Client not object to any change, amendment, and/or modification to the Agreement in writing to Technijian within thirty (30) days from the date of the change, amendment, and/or modification to the Agreement, Client agrees that all past, present, and future Services provided by Technijian to Client will be governed by and Client will be legally bound to the changed, amended, and/or modified Agreement to all past, present, and future Services that Technijian provides to Client. Additionally, all past, present, and future contracts Client may have with Technijian whether oral, written, and/or implied shall be governed by the changed, amended, and/or modified Agreement.

SECTION TWO – THE SERVICES

2.01. Providing Services. (a) During the term of this Agreement, Technijian shall provide the Services and use its commercially reasonable efforts to provide the Services and maintain them in an uninterrupted and error-free fashion consistent with its practices in effect as of the date of this Agreement. However, the parties acknowledge that the Services are computer network based services which may be subject to outages and delay occurrences. In such an event, Technijian shall use its reasonable commercial efforts to diligently and promptly remedy any and all material interruptions. Technijian will not be liable in any manner for any interruptions, outages, or other delay occurrences relating to the Services. Technijian will provide customer support and training as determined by Technijian in its reasonable discretion.

(b) Client's duties:

(i) Client shall be solely responsible for managing the confidentiality and security of Client access to any Services including but not limited to passwords and account credentials which Client chooses or is assigned. In addition, Client shall be solely responsible for all activities that may occur under such accounts, passwords and other account credentials.

(ii) Client agrees that Technijian's responsibilities and liability do not include the internal management or administration of Client's electronic mail, file, SharePoint or other data systems.

(iii) Client agrees that they are solely responsible for the security of their data on their computers and/or servers. Technijian shall have no liability whatsoever to any breaches, loss, and/or corruption of data on Client's computer and/or servers.

(iv) Certain Services have allotments for storage capacity of data, data transfer amounts, and bandwidth limits based on the Agreement Client has with Technijian. Client understands that it is their sole responsibility to monitor their allotments for storage capacity, data transfer, and bandwidth to determine if their current allotments conform to the Client's need. Client in most cases can increase their allotments for storage capacity, data transfers, and bandwidth. Technijian will charge an additional amount at their prevailing rates for such increase. Client understands that should they reach the limit of their storage capacity, new data may be unable to be saved or older data will be deleted in order to allow the new data to be stored. Client understands that bandwidth amounts are an estimate by Technijian and are in no way a guarantee that Client will always be able to have set bandwidth amount.

(c) Client Data Ownership

(i) Client has the sole property ownership of all data archived and/or placed with Technijian ("Data"), no legal or equitable right, title, or interest in these archived emails, attachments or files shall be conveyed to Technijian. The Data shall be stored and/or archived during the term of the Agreement only. Upon termination of the Agreement or failure to renew the applicable Agreement, shall end Technijian's obligation to archive and/or store any Data.

(ii) Client hereby gives all necessary permission to Technijian to perform the Services under any Agreement Client may have with Technijian. These permissions include but are not limited to access to all Client data, files, folders, password, etc.

(d) Implementation

(i) Implementation of any of the applicable Services may include but are not limited to activating the archiving services to Client's email server(s), populate Client's end users in the archiving system and activate archiving and data replicating process.

(ii) The implementation process does not include professional engineering services needed to assist Client's legacy email or file archiving, indexing, and file migration processes that will require the legacy data to be imported or migrated into the archive from Client's email server(s), individual users' desktops, or other locations in the network, which is invoiced as the Data ingestion process; nor does the process include email restoration, file conversion or un-stubbing the emails, attachments or files back to the email or file servers, the processes will require Technijian to support with a fee.

2.02. Title. Title to the equipment shipped or delivered to Client pursuant to this Agreement shall remain vested in the Technijian always until paid for in full. Client shall provide Technijian with a UCC-1 financing statement and all other documents reasonably necessary to allow Technijian to secure its interest in any equipment provided under this Agreement.

2.03. Right of Access. Technijian shall have the right, at any reasonable time that shall be limited to standard business days and working hours, no weekends or holidays, to enter onto any of the property of Client to regain possession of any equipment provided under this Agreement, to make an inventory of the equipment, and/or to examine the condition of the equipment as well as the manner in which the equipment is stored and kept. Pursuant to this provision, Client hereby grants the Technijian express access to the property of Client for the limited purposes set forth herein, and hereby agrees that in the event the Technijian enters onto the property of Client pursuant to this provision, such access shall not constitute trespass for criminal or civil purposes. Technijian further reserves the right to obtain the cooperation of any governmental agency, legal enforcement agency, or other administrative agency in obtaining access to Client's property as provided herein.

2.04. Client's Insurance Requirements. At all times during this Agreement, Client shall keep the equipment provided to Client by Technijian under this Agreement insured against loss by fire, theft and other causes in an amount and under a form of policy sufficient to cover all equipment of Technijian then in the possession of the Client. The insurance shall be taken in the name of and for the benefit of the Technijian, and the policy or policies of insurance shall be delivered to Technijian upon delivery of the equipment or within twenty-four (24) hours thereafter. Client shall pay all premiums or other expenses of the insurance.

2.05. Preservation of Equipment. Client shall use any and all means necessary to ensure that any equipment entrusted to Client pursuant to this Agreement is preserved, safeguarded, and kept in its original condition free of defects and/or malfunctions. Client further agrees that it shall not, in any event, remove the equipment from the premises or property to which the equipment was originally delivered by Technijian, for any purpose whatsoever.

2.06. Responsibility for Damaged Equipment. Technijian will replace any hardware component of the Services which fails in normal use to operate due to a defect in materials or workmanship at no fault of Client at no charge (however a trip charge will apply). For all other loss or malfunction, Technijian will repair or replace the defective part or equipment upon Client's payment of the then current applicable hardware replacement fee. Client acknowledges and agrees that whether the equipment was damaged due to Client's negligence will be determined by Technijian. Technijian may, at its expense, provide replacement equipment while the Services equipment is being repaired. Technijian may replace a defective component of the Services using new parts or parts manufactured from new, refurbished, or serviceable used parts that are functionally equivalent to new. The parts and products that are replaced become Technijian's property. Charges may apply for additional services provided at the time of repair or replacement.

2.07. Support Limitations. Support service provided under this Agreement does not include:

(a) Excluded Repairs and Materials. Except as provided in Section 2.06 above, Client assumes and will bear all risk of failure, loss or damage to the equipment from any and every other cause whatsoever including, and Technijian is under no obligation to replace, failure caused by the failure or interruption of any third party software or hardware, including all internet, communications or other related device. No loss or damage to the equipment or any part of the equipment will reduce or terminate any obligation of Client under this Agreement which will continue in full force and effect through the term.

(b) Data Loss. This Agreement does not cover any defects or damage to any software or data residing in the Services equipment under any circumstance and regardless of whether replaced or repaired by Technijian. When providing repair or replacement service, Technijian will use reasonable efforts to reinstall the equipment's prior Services software configuration but will not provide any recovery or transfer of software or data not originally included with and as part of the Services equipment. Client agrees that Technijian may install newer versions, updates or fixes of the Services equipment software than were installed on Client's Services equipment prior to any repair or replacement.

(c) Consumables and Other Materials. This plan does not cover, and Technijian is not responsible for, replacement or repair of materials such as paper, ink, batteries or other consumables, any hardware or software not provided by Technijian with and as part of the Services equipment or cosmetic damage;

(d) Other equipment. Replacement and repair under this Plan does not cover installation, removal, repair, maintenance or reinstallation of equipment that is not part of the Services including any accessories, attachments, or other devices working in conjunction with or near the Services such as internet modems, routers or wireless radio units, music service equipment or electrical service external to the Services;

(e) Internet. This Agreement does not provide or include the cost of broadband internet service;

(f) Support Availability. Technijian does not represent, warrant or guarantee in any way that service personnel will be available at all or on-site or that they may respond to a service request other than on an as-available basis.

(g) Changes to support services. Technijian may change the terms and condition of the support plan upon thirty (30) days written notice to Client. The client will have the right to reject the changes and cancel the agreement within the same (30) days notice period. Technijian reserves the right to change its services and to determine the service to provide, including but not limited to whether it provides on-site service. This includes charging Client for labor incurred when, in Technijian's sole judgment, a repair is requested but the problem is not caused by a malfunction or failure of the Services equipment; or

(h) Preventative maintenance. This Agreement does not provide preventive maintenance for Services equipment.

2.08. In the event Client returns any equipment which is damaged, defective, malfunctioning, or is not in good working order, and Client is responsible for such damage under the terms set forth above, Client shall, at the Technijian's sole option, either repair the equipment or purchase the equipment for the full retail price.

2.09. Software Updates. (a) Should any of the Services provided to Client under any Agreement Client may have with Technijian require any software and applicable updates, Technijian hereby grants Client a limited, nonexclusive, nontransferable, revocable license to use any software and applicable updates solely for use of the Services. Client's license to use any software and applicable updates shall be automatically revoked if Client is in breach of their Agreement with Technijian or are in violation of any of terms of the Agreement and these standard terms and conditions.

(b) For any applicable Services used by Client, Technijian will use industry standard practices to ensure that all pre-installed software is correctly configured. In case there is more than one way to configure any software, Technijian will choose the configuration it determines, in its sole discretion, to be the most appropriate. Technijian will install security patches, updates, and service packs as soon as practical. Software updates may change system behavior and functionality and as such may negatively affect Client's applications. Technijian cannot foresee nor can it be responsible for service disruption or changes in functionality or performance due to implementation of software patches and upgrades. If such disruption or changes occur, Technijian will provide its best efforts to remedy the situation as soon as possible after being notified of such problem by Client.

(c) Technijian may be required by its software licensors to upgrade to the latest versions of the software. Licensor required upgrades will be performed free of charge and upon reasonable notice to Client. Software upgrades on Technijian's servers will occur at Technijian's discretion upon reasonable notice to Client. Technijian is not responsible for problems that may arise from incompatibilities between new versions of any software they may need to install and Client's systems, web application, and/or database regardless of whether it was a requested, required or a discretionary upgrade.

Technijian shall not be liable/responsible for any bugs in software they may use.

2.10. Maintenance /Downtime. (a) Client hereby acknowledges and understands that from time to time the systems of Technijian may be down due to routine maintenance, outages, emergency maintenance, and repairs. Client acknowledges that the Services provided by Technijian will not be available during these periods. Client understands that maintenance, outages, and repairs are normal and customary as does not give rise to a breach of the Agreement by Technijian. Technijian will use industry standard practices for to perform and/or fix any maintenance, outages, emergency maintenance, and repairs and use their best efforts to minimize any downtime and/or outage. Client further acknowledges that they will not be entitled to a refund, credit and/or cancellation of any Agreement due to any maintenance, outages, and downtime.

(b) Client acknowledges that they have been informed by Technijian that routine maintenance on the system of Technijian are scheduled for Tuesday evenings and Saturdays each week (hereinafter referred to as "Routine Maintenance") and that Technijian systems will be off line and Technijian is not able to provide Services to the Client during Routine Maintenance. Client hereby acknowledges that Technijian shall not be in breach of any Agreement due to Routine Maintenance. Client further acknowledges that they will not be entitled to a refund, credit and/or cancellation of any Agreement due to Routine Maintenance.

(c) On occasion, Technijian may have to replace certain hardware including but not limited to computers, servers, routers, network switches etc. Technijian will use industry standard practices to determine any hardware malfunction and use their best efforts to repair/replace any malfunctioning hardware to minimize any downtime and/or outage.

SECTION THREE – PAYMENT OF FEES

3.01. Fees in General. Client shall pay fees for the Services as set forth on the monthly service agreement or invoice. The fee schedule set forth in the monthly service agreement or invoice shall be held in strict confidence by Client. Technijian shall have the right to change the fee schedule as set forth in the application at any time in its sole discretion by providing thirty (30) days notice to Client. The client will have the right to reject the changes and cancel the agreement within the same (30) days notice period. Client hereby understands and acknowledges that they will not be entitled to any credit and/or refund (partial or in whole) for any of the Services being "down" due to outages, routine maintenance, upgrades, and down time of Technijian systems, computers, and servers. Client shall have sixty (60) days from the receipt of any invoice or

bill to notify Technijian of any errors in any invoice or bill. If Client does not notify Technijian within the sixty (60) day time period, Client shall be deemed to have accepted without question such invoice or bill and may not in the future contest the amount it paid or seek reimbursement for any discrepancies. Upon receipt of notice, Technijian shall have thirty (30) days to correct any errors.

SECTION FOUR – TERM AND TERMINATION

4.01. Term. The initial term of this Agreement shall be as set forth on the monthly service agreement or invoice.

4.02. Default. Either party shall have the right to terminate this Agreement at any time if:

(a) the other party breaches any of the provisions of this Agreement and fails to cure such breach within thirty (30) days of its receipt of written notice thereof from the non-breaching party; or

(b) the other party (i) fails to pay its debts or perform its obligations in the ordinary course of business as they mature; (ii) becomes the subject of any voluntary or involuntary proceeding in bankruptcy, liquidation, dissolution, receivership, attachment or assignment or composition for the benefit of creditors.

4.03. Cancellation by Technijian. In the event that Client fails to pay Technijian undisputed amounts in any invoice within 30 calendar days after the date of such invoice, Technijian shall send written notice of its intention to cancel this Agreement due to non-payment. If Client fails to pay within 10-days from receipt of such notice, Technijian may cancel its services. Technijian at any time may cancel this Agreement, in its sole discretion and with thirty (30) days written notice to Client.

4.04. If Client violates any of the terms and conditions of this Agreement or its merchant agreement, including, but not limited to, by ceasing processing payments with Technijian or not making payments as required under this Agreement, then Technijian may (i) turn off Client's Services, (ii) turn off and disable the equipment, (iii) seize or cause Client to return any equipment provided under this Agreement and (iv) accelerate all the payments due for the balance of the current term of this Agreement.

4.05. Client hereby agrees to provide thirty (30) days' written notice to Technijian if Client desires to terminate the Services with Technijian during the term of this Agreement. Client shall be liable to pay Technijian for all services and labor costs owed to Technijian up to and including the thirty (30) days' notice period. The thirty (30) days' notice period for all non-labor services provided by Technijian to Client shall start on the 1st day of the following month when Client gave notice. Upon any termination of this Agreement, Client shall be liable to pay Technijian for all services and labor costs owed to Technijian up to and including any outstanding invoices as of the date notice of termination is provided.

4.06. If Client is not in breach of the terms of this Agreement, Technijian shall provide Client any Client data and/or software archived and/or placed with Technijian. Should this Agreement terminate, Client understands that Technijian shall provide Client with ten (10) days' notice that any Client data and/or software archived and/or placed with Technijian shall be deleted from Technijian servers. Technijian shall not delete any Client data and/or software archived and/or placed with Technijian within ten (10) days from the date of any termination pursuant to this section 4.06. Client agrees to and understands that Technijian, Inc. shall have no obligation to hold/store any Client data and/or software on behalf of Client upon termination of this Agreement for any reason whatsoever beyond ten (10) days from the date of any termination pursuant to this section 4.06.

SECTION FIVE - OBLIGATIONS.

5.01. Confidential Information. The parties acknowledge that in their performance of their duties hereunder either party may communicate to the other (or its designees) certain confidential and proprietary information, including without limitation information concerning the Services and the know-how, technology, techniques, or business or marketing plans related thereto (collectively, the "Confidential Information") all of which are confidential and proprietary to, and trade secrets of, the disclosing party. Confidential Information does not include information that: (i) is public knowledge at the time of disclosure by the disclosing party; (ii) becomes public knowledge or known to the receiving party after disclosure by the disclosing party other than by breach of the receiving party's obligations under this section or by breach of a third party's confidentiality obligations; (iii) was known by the receiving party prior to disclosure by the disclosing party other than by breach of a third party's confidentiality obligations; or (iv) is independently developed by the receiving party. As a condition to the receipt of the Confidential Information from the disclosing party, the receiving party shall: (i) not disclose in any manner, directly or indirectly, to any third party any portion of the disclosing party's Confidential Information; (ii) not use the disclosing party's Confidential Information in any fashion except to perform its duties hereunder or with the disclosing party's express prior written consent; (iii) disclose the disclosing party's Confidential Information, in whole or in part, only to employees and agents who need to have access thereto for the receiving party's internal business purposes; (iv) take all necessary steps to ensure that its employees and agents are informed of and comply with the confidentiality restrictions contained in this Agreement; and (v) take all necessary precautions to protect the confidentiality of the Confidential Information received

hereunder and exercise at least the same degree of care in safeguarding the Confidential Information as it would with its own confidential information, and in no event shall apply less than a reasonable standard of care to prevent disclosure. The receiving party shall promptly notify the disclosing party of any unauthorized disclosure or use of the Confidential Information. The receiving party shall cooperate and assist the disclosing party in preventing or remedying any such unauthorized use or disclosure.

5.02. Indemnification. Client agrees to indemnify, defend, and hold harmless Technijian, its employees or agents from and against any loss, liability, damage, penalty or expense (including attorneys' fees, expert witness fees and cost of defense) they may suffer or incur as a result of (i) any failure by Client or any employee, agent or affiliate of Client to comply with the terms of this Agreement; (ii) any warranty or representation made by Client being false or misleading; (iii) any representation or warranty made by Client or any employee or agent of Client to any third person other than as specifically authorized by this Agreement; (iv) negligence of Client or its subcontractors, agents or employees, or (v) any alleged or actual violations by Client or its subcontractors, employees or agents of any card association rules, governmental laws, regulations or rules.

5.03. Disclaimer of All Warranties. CERTAIN VENDORS OF TECHNIJIAN PROVIDE WARRANTIES ON THE SERVICES THAT WILL BE PASSED THROUGH TO CLIENT EXACTLY AS PROVIDED BY THE VENDORS. OTHER THAN AS SET FORTH IN THE PREVIOUS SENTENCE, THE SERVICES ARE PROVIDED "AS IS" WITHOUT ANY WARRANTY WHATSOEVER. TECHNIJIAN DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, TO CLIENT AS TO ANY MATTER WHATSOEVER, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS. NO ORAL OR WRITTEN INFORMATION OR ADVICE GIVEN BY TECHNIJIAN OR ITS EMPLOYEES OR REPRESENTATIVES SHALL CREATE A WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF TECHNIJIAN'S OBLIGATIONS. Technijian shall be in no way responsible for any loss or corruption of software used pursuant to the Services and loss or corruption of Client data archived and/or placed with Technijian in any event. Client understands that Technijian has informed them that loss or corruption of software and data may occur that is beyond the control of Technijian and Technijian has informed Client that they strongly recommend that Client maintain a complete data backup and software backup which is independent from Technijian and a disaster recovery plan.

5.04. LIMITATION OF LIABILITY. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, SPECIAL, INCIDENTAL, RELIANCE, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE SERVICES, WHETHER FORESEEABLE OR UNFORESEEABLE, AND WHETHER BASED ON BREACH OF ANY EXPRESS OR IMPLIED WARRANTY, BREACH OF CONTRACT, MISREPRESENTATION, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER CAUSE OF ACTION (INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF DATA, GOODWILL, PROFITS, INVESTMENTS, USE OF MONEY, OR USE OF FACILITIES; INTERRUPTION IN USE OR AVAILABILITY OF DATA; STOPPAGE OF OTHER WORK OR IMPAIRMENT OF OTHER ASSETS; OR LABOR CLAIMS), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR (A) BREACH OF CONFIDENTIALITY, DATA SECURITY OR PRIVACY OBLIGATIONS, (B) INDEMNIFICATION OBLIGATIONS, (C) GROSS NEGLIGENCE, RECKLESSNESS OR WILLFUL MISCONDUCT, OR (D) FRAUD OR VIOLATION OF LEGAL REQUIREMENTS (BUT ONLY TO THE EXTENT THAT SECTIONS (A) THROUGH (D) ARE FULLY COVERED BY TECHNIJIAN'S INSURANCE), UNDER NO CIRCUMSTANCES SHALL TECHNIJIAN'S TOTAL LIABILITY TO CLIENT OR ANY THIRD PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE GREATER OF (I) THE AMOUNTS PAID BY CLIENT UNDER THIS AGREEMENT ON THE APPLICABLE INVOICE FOR THE SERVICE IN QUESTION OR (II) ONE THOUSAND DOLLARS (\$1,000.00) REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON WARRANTY, CONTRACT, TORT OR OTHERWISE. Neither Technijian and/or Client shall be liable to the other for any failure to perform or delay in performance of any Agreement where such failure or delay is occasioned by Force Majeure or an Act of God (including but not limited to fire, embargo, labor strike or interruption of electrical services), or circumstances beyond such party's control.

5.05. Taxes. Client shall pay, indemnify and hold Technijian harmless from (i) any sales, use, excise, import or export, value-added, or similar tax or duty, and any other tax or duty not based on Technijian's income, and (ii) all government permit fees, customs fees and similar fees which Technijian may incur with respect to this Agreement. Such taxes, fees and duties paid by Client shall not be considered a part of, a deduction from, or an offset against, payments due to Technijian hereunder.

5.06. Client represents and warrants to Technijian as follows:

(a) Client has the full power and authority to execute, deliver and perform this Agreement. This Agreement is valid, binding and enforceable against Client in accordance with its terms and no provision requiring Client's performance is in conflict with its obligations under any charter or any other agreement (of whatever form or subject) to which Client is a party or by which it is bound.

(b) Client is duly organized, authorized and in good standing under the laws of the state of its organization and is duly authorized to do business in all other states in which Client's business make such authorization necessary or required.

5.07. Trademarks. Subject to the limitations in this Agreement, Technijian grants Client the nonexclusive right and license to use Technijian's trademarks (the "Trademarks") during the term of this Agreement solely in conjunction with the use of the Services. Technijian grants no rights in the Trademarks or in any other trademark, trade name, service mark, business name or goodwill of Technijian except as licensed hereunder or by separate written agreement of the parties. Client agrees that it will not at any time during or after this Agreement assert or claim any interest in or do anything that may adversely affect the validity of any Trademark or any other trademark, trade name or product designation belonging to or licensed to Technijian (including, without limitation registering or attempting to register any Trademark or any such other trademark, trade name or product designation). During the term of this Agreement, Client agrees not to use any trademark, trade name or product name confusingly similar to a trademark, trade name or product name of Technijian, except for the Trademarks expressly licensed hereunder. Upon expiration or termination of this Agreement, Client will immediately cease all display, advertising and use of all of the Trademarks and will not thereafter use, advertise or display any trademark, trade name or product designation which is, or any part of which is, similar to or confusing with any Trademark or with any trademark, trade name or product designation associated with Technijian or any of Technijian's products and services.

5.08. Intellectual Property. "Intellectual Property" means all of the following owned by a party: (i) trademarks and service marks (registered and unregistered) and trade names, and goodwill associated therewith; (ii) patents, patentable inventions, computer programs, and software; (iii) databases; (iv) trade secrets and the right to limit the use or disclosure thereof; (v) copyrights in all works, including software programs; and (vi) domain names. The rights owned by a party in its Intellectual Property shall be defined, collectively, as "Intellectual Property Rights." Other than the express licenses granted by this Agreement, Technijian grants no right or license to Client by implication, estoppel or otherwise to the Services or any Intellectual Property Rights of Technijian. Each party shall retain all ownership rights, title, and interest in and to its own products and services (including in the case of Technijian, in the Services) and all intellectual property rights therein, subject only to the rights and licenses specifically granted herein. Technijian (and not Client) shall have the sole right, but not the obligation, to pursue copyright and patent protection, in its sole discretion, for the Services and any Intellectual Property Rights incorporated therein. Client will cooperate with Technijian in pursuing such protection, including without limitation executing and delivering to Technijian such instruments as may be required to register or perfect Technijian's interests in any Intellectual Property Rights and any assignments thereof. Client shall not remove or destroy any proprietary, confidentiality, trademark, service mark, or copyright markings or notices placed upon or contained in any materials or documentation received from Technijian in connection with this Agreement.

SECTION SIX - GENERAL PROVISIONS

6.01. Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable for any reason, the remaining provisions not so declared shall nevertheless continue in full force and effect, but shall be construed in a manner so as to effectuate the intent of this Agreement as a whole, notwithstanding such stricken provision or provisions.

6.02. Drafting. No provision of this Agreement shall be construed against any party merely because that party or counsel drafted or revised the provision in question. All parties have been advised and have had an opportunity to consult with legal counsel of their choosing regarding the force and effect of the terms set forth herein. This Agreement shall be deemed to be jointly prepared by the parties and therefore any ambiguity or uncertainty shall be interpreted accordingly.

6.03 Waiver. No term or provision of this Agreement shall be deemed waived and no breach excused, unless such waiver or consent shall be in writing and signed by the party claimed to have waived or consented. Any consent by any party to, or waiver of, a breach by the other party, whether express or implied, shall not constitute a consent to, waiver of, or excuse for any different or subsequent breach.

6.04. Assignment. Neither party shall assign, delegate, subcontract, license, franchise, or in any manner attempt to extend to any third party any right or obligation under this Agreement except as otherwise permitted herein without the prior written consent of the other party, such consent not to be unreasonably withheld or delayed; provided, however, Technijian may assign this Agreement and its rights hereunder to a purchaser of all or substantially all of its assets or stock.

6.05. Amendments. Except as otherwise provided in this Agreement, no provision of this Agreement may be amended, modified or waived except by a written agreement signed by both parties.

6.06. Section Headings: The section headings contained in this Agreement are for convenient reference only, and shall not in any way affect the meaning or interpretation of this Agreement.

6.07. Counterparts/Facsimile Signatures. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument. The signatures to this Agreement may be evidenced by facsimile copies reflecting the party's signature hereto, and any such facsimile copy shall be sufficient to evidence the signature of such party as if it were an original signature.

6.08. Entire Agreement; Binding Effect. This Agreement, including all schedules, exhibits and attachments thereto, sets forth the entire agreement and understanding of the parties hereto in respect of the subject matter contained herein,

and supersedes all prior agreements, promises, covenants, arrangements, communications, representations or warranties, whether oral or written, by any officer, partner, employee or representative of any party hereto. This Agreement shall be binding upon and shall inure only to the benefit of the parties hereto and their respective successors and assigns. Nothing in this Agreement, express or implied, is intended to confer or shall be deemed to confer upon any persons or entities not parties to this Agreement, any rights or remedies under or by reason of this Agreement.

6.10. Governing Law; Waiver of Jury Trial; Arbitration. This Agreement will be governed by and construed in accordance with the laws of the State of California without reference to conflict of law provisions. Any action, proceeding, arbitration or mediation relating to or arising from this Agreement must be brought, held, or otherwise occur in the federal judicial district that includes Orange County, California. PLEASE READ THIS PROVISION CAREFULLY. IT PROVIDES THAT ANY DISPUTE MAY BE RESOLVED BY BINDING ARBITRATION. ARBITRATION REPLACES THE RIGHT TO GO TO COURT, INCLUDING THE RIGHT TO A JURY AND THE RIGHT TO PARTICIPATE IN A CLASS ACTION OR SIMILAR PROCEEDING. Any claim, dispute or controversy ("Claim") by either Client or Technijian against the other, or against the employees, agents, parents, subsidiaries, affiliates, beneficiaries, agents or assigns of the other, arising from or relating in any way to this Agreement or to our relationship, including Claims regarding the applicability of this arbitration clause or the validity of the entire Agreement, shall be resolved exclusively and finally by binding arbitration administered by the American Arbitration Association, under its Commercial Arbitration Rules in effect at the time the Claim is filed, except as otherwise provided below. All Claims are subject to arbitration, no matter what theory they are based on or what remedy they seek. This includes Claims based on contract, tort (including intentional tort), fraud, agency, Client's or Technijian's negligence, statutory or regulatory provisions, or any other sources of law. Claims and remedies sought as part of a class action, private attorney general or other representative action are subject to arbitration on an individual (non-class, non-representative) basis, and the arbitrator may award relief only on an individual (non-class, non-representative) basis. The arbitration will be conducted before a single arbitrator and will be limited solely to the Claim between Client and Technijian. The arbitration, or any portion of it, will not be consolidated with any other arbitration and will not be conducted on a class-wide or class action basis. Any decision rendered in such arbitration proceedings will be final and binding on the parties, and judgment may be entered in a court of competent jurisdiction. Any arbitration hearing at which Client appear will take place at a location within the federal judicial district that includes California. This arbitration agreement applies to all Claims now in existence or that may arise in the future. Nothing in this Agreement shall be construed to prevent any party's use of (or advancement of any Claims, defenses or offsets in) bankruptcy or repossession, replevin, judicial foreclosure or any other prejudgment or provisional remedy relating to any collateral, security or other property interests for contractual debts now or hereafter owed by either party to the other. IN THE ABSENCE OF THIS ARBITRATION AGREEMENT, CLIENT AND TECHNIJIAN MAY OTHERWISE HAVE HAD A RIGHT OR OPPORTUNITY TO LITIGATE CLAIMS THROUGH A COURT BEFORE A JUDGE OR A JURY, AND/OR TO PARTICIPATE OR BE REPRESENTED IN LITIGATION FILED IN COURT BY OTHERS (INCLUDING CLASS ACTIONS), BUT EXCEPT AS OTHERWISE PROVIDED ABOVE, THOSE RIGHTS, INCLUDING ANY RIGHT TO A JURY TRIAL, ARE WAIVED AND ALL CLAIMS MUST NOW BE RESOLVED THROUGH ARBITRATION. CLIENT AND TECHNIJIAN AGREE THAT ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THIS AGREEMENT MUST COMMENCE WITHIN ONE (1) YEAR AFTER THE CAUSE OF ACTION ACCRUES. OTHERWISE, SUCH CAUSE OF ACTION IS PERMANENTLY BARRED.

6.11. Survival. All representations, covenants and warranties shall survive the execution of this Agreement, and sections 1.05, 2.02, 2.06, 2.05, 2.06, 2.07, 2.08, 3.01, 3.02, 4.04, 5.01, 5.02, 5.03, 5.04, 5.05, 5.06, 5.07, 5.08, 6.01, 6.02., 6.03, 6.04, 6.05, 6.06, 6.07, 6.08, 6.09, 6.10 and 6.11 shall survive termination of this Agreement.