



## Customer Service Agreement

This Customer Service Agreement (this “**CSA**”) is entered into by and between Utility Associates, Inc., with offices at 250 E. Ponce De Leon Avenue, Suite 700, Decatur, GA 30030 (“**UA**” or “**Supplier**”), and the entity purchasing, leasing and/or licensing the hardware, software and/or associated services identified in the dated and executed “**Offer Letter**” (the “**Customer**”) and shall go into effect as of the date Customer executes the Offer Letter (the “**Effective Date**”) and continue through the period of agreement (the “**Term**”) identified and agreed to by Customer and UA in the Offer Letter.

This CSA, available at [www.utility.com/customer-service-agreement-canada/](http://www.utility.com/customer-service-agreement-canada/), governs Customer’s purchase, lease and/or license of hardware, software and/or associated services from UA, and forms a part of the agreement between UA and Customer (together, the “**Parties**”).

### Purpose

The Customer depends on the hardware, software and/or associated services (the “**System**”) that are provided, maintained, and supported by the Supplier. The Parties acknowledge that the System may be of critical importance to the Customer’s operations. This CSA sets forth the terms and conditions of the Parties agreement and details the levels support the Customer may receive for specific parts of the System.

### SCOPE

#### Hardware, Software and Services Covered

This CSA applies only to the hardware, software and/or associated services identified in the Offer Letter. The scope of hardware, software and/or associated services included may be amended with the written agreement of the Parties.

### Exclusions

This CSA is written in a spirit of partnership. The Supplier will use reasonable business efforts to rectify and resolve Customer identified issues in a timely manner. However, this CSA does not apply to any hardware, software and/or associated services not specifically identified in the Offer Letter or an amendment to the Offer Letter.

Additionally, this CSA does not apply when:

- The issue identified by Customer is caused through Customer or Customer’s Licensed Users’ intentional neglect, misuse, or destruction of the System or a component of the System.
- The Customer or Customer’s Licensed Users’ has made “**Unauthorized Change**” to the configuration or set up of the System or a component of the System. (Unauthorized Change is defined as changes made by any party other than the Supplier to the System or a component of the System that alters the System’s or a component of the System’s ability to function.
- The Customer or Customer’s Licensed Users’ prevents the Supplier from performing required maintenance and updating tasks to the System or a component of the System.
- The issue is caused by the Customer or Customer’s Licensed Users’ use of non-UA hardware, software and/or associated services in conjunction with the System or a component of the System.

### RESPONSIBILITIES

#### Supplier Responsibilities

The Supplier will provide and maintain the System used by the Customer. This CSA between the Supplier and the Customer includes full details of these responsibilities. Additionally, the Supplier will do the following:

- Software included with the System will be maintained at 99% uptime/availability or greater 24/7/365;



- Ensure the hardware, software and/or associated services identified in the Offer Letter are available to the Customer, including an appropriate level of spares as determined by UA, during the Term;
- Respond to support requests within the timeframes set forth herein;
- Take steps to escalate and resolve issues in an appropriate, timely manner; and,
- Maintain good communication with the Customer during the Term.

**Customer Responsibilities**

The Customer and Customer’s Licensed Users will use the System as intended.

The Customer is responsible for maintaining power and internet connectivity at all data offload locations. For data offload via a Customer approved third party or Supplier provided access point, the Customer may (a) organize an independent internet connection via its local provider with a minimum upload speed of 50 Mbps, or, (b) connect an access point to its own network having a minimum internet upload speed of 50 Mbps. As part of the deployment process, a network assessment will be conducted to ensure Customer’s upload speed for the transmission of data to the Amazon Web Services (AWS) GovCloud is sufficient. In most cases, the Customer should budget for an increase in their upload speed with their local carrier. Additionally, the Customer will:

- Notify the Supplier of issues or problems with the System in a timely manner;
- Provide the Supplier with access to the System for the purposes of maintenance, updates, and fault prevention; and,
- Maintain good communication with the Supplier at all times.

**GUARANTEED RESPONSE TIMES**

The Supplier shall use reasonable efforts to respond to Customer in a timely manner and resolve any issue with the System, subject to the exclusions set forth herein.

**Response Times**

UA provides a 99% uptime/availability commitment on all software included in the System. Software and hardware components of the System may include status monitoring functionalities that enable UA to proactively ensure issues are addressed and resolved. In those instances when Customer notifies UA of an issue with the System, UA personnel shall generally, but not always, be able to address and resolve the issue before any impact to the performance of the System occurs. For support provided to the Customer directly, UA has a tiered support response structure that will escalate a System issue to the appropriate support level depending on the situation. Tier 1 is defined as on-site support performed by the Customer’s employees, staff, or team after they have been trained by UA and is meant to resolve most day-to-day issues that may pop up with the System. Problems unable to be resolved by Customer after UA training, are escalated to Tier 2. Tier 2 support is defined as phone-based support provided by UA or an authorized UA representative to the Customer. If the issue is unable to be resolved by UA’s phone-based support, the issue will be escalated to Tier 3. Tier 3 is defined as on-site technical support from a UA field engineer or third-party authorized by UA to perform the support activity(ies). Any cost associated with the response time is included in this CSA.

While most support calls are handled immediately, Tier 2 support have response times targets as shown below based on the System component’s priority classification and associated issue’s impact on the System:

Item Priority	Fatal	Severe	Medium	Minor
1	1 Hour	1 Hour	2 Hours	3 Hours
2	2 Hours	2 Hours	4 Hours	6 Hours
3	4 Hours	4 Hours	8 Hours	16 Hours



## Severity Levels

The severity levels shown in the table above are defined as follows:

- **Fatal:** Complete System degradation – **all users and critical functions affected.** Item or service completely unavailable.
- **Severe:** Significant System degradation – **large number of users or critical functions affected.**
- **Medium:** Limited System degradation – **limited number of users or functions affected.** Business processes can continue.
- **Minor:** Small System degradation – **few users or one user affected.** Business processes can continue.

## RESOLUTION TIMES

The Supplier shall endeavor to resolve Customer identified issues in a timely manner. The Supplier recognizes that the System is key to the Customer's daily operations and must be functional in the field. However, UA is unable to provide guaranteed resolution times due to the unknown nature and causes of System and System-related issues that may occur. In all cases, the Supplier will use best efforts to resolve problems as quickly as possible. It will also provide frequent progress reports to the Customer.

## SCOPE OF SERVICES

1.1.1 Access to Software. UA is the developer and owner of, or has rights to, certain enterprise mobile device tracking and messaging software known as "Polaris™", "Vehicle Diagnostics", and "RFID Tracking" and related content to be licensed to Customer; such software, its related content and any related documentation provided by UA, and the means used to provide the software to Customer and the services described herein are collectively referred to as the "**Service**". Subject to Customer's payment of the applicable fees and Customer's compliance with the terms of this CSA, Customer, its employees and other authorized representatives ("**Licensed Users**") shall have a limited, non-transferable, non-sublicensable, and non-exclusive license to use the Service solely for Customer's internal business purposes. UA will issue one Licensed User ("**Customer Administrator**") an individual login identifier and password ("**Administrator Login**") for purposes of administering and configuring the Service to comply with Customer's requirements. Using the Administrator Login, the Customer Administrator shall assign each Licensed User a unique login identifier and password ("**User Login**") and provide such information to the Licensed Users and UA via the Service. Customer shall not provide a User Login to any individual or entity that is not a Licensed User to use the Service. Customer shall be responsible for ensuring, by written agreement or otherwise, that each Licensed User will: (a) be responsible for the security and/or use of his or her User Login; (b) not disclose such User Login identifier or password to any person or entity; (c) not permit any other person or entity to use his or her User Login; (d) use the Service only in accordance with the terms and conditions of this CSA and on the workstation software from which the Service is accessed. UA shall have the right to deactivate, change and/or delete User Logins of Licensed Users who have violated this CSA and to deny or revoke access to the Service, in whole or in part, if UA reasonably believes Customer and/or its Licensed Users are in material breach of this CSA. Customer shall be solely responsible for ensuring access to the Service is terminated for any Licensed User who ceases to be an employee or authorized representative of Customer during the Term. UA shall have no responsibility for managing, monitoring, and/or overseeing Customer's and its Licensed Users' use of the Service. Customer acknowledges that the Service may contain devices to monitor Customer's compliance with the terms and restrictions contained herein and Customer's obligations hereunder.

1.1.2 Operating Environment. Customer is solely responsible for acquiring, installing, operating, and maintaining the System environment necessary to access and use the Service remotely via the Internet.

1.1.3 Changes to Service. UA may upgrade, modify, change or enhance ("**Change**") the Service and convert Customer to a new version thereof at any time in its sole discretion so long as such Change does not materially diminish the scope of the Service, in which event Customer shall have the right to terminate this CSA upon thirty (30) days written notice to UA. During the Term of this CSA, if UA upgrades the version of the Services Customer is using under this CSA, Customer will not be charged an upgrade fee. Should UA offer additional optional software modules in the future that complement the Service, Customer may elect to purchase the optional software modules for an additional fee; however, Customer has no obligation to do so.



1.1.4 Help Desk. UA shall provide 24/7 Customer support in the form of a Help Desk. Customer may report System issues by email and shall receive a confirmation of receipt from UA which may include a proposed time for resolving the issue. If practical, UA may directly respond to an issue report by contacting Customer by phone within 24 hours of receiving the notice. The Help Desk is always subject to the availability of our technical staff and clause 1.1.5 below.

1.1.5 Uptime Commitment.

a. Availability. The Service will be made available to Customer and its Licensed Users 24 hours a day, 7 days a week less the period during which the Service are not available due to one or more of the following events (collectively, the “**Excusable Downtime**”):

- (i) Scheduled network, hardware or service maintenance;
- (ii) A Licensed User’s failure to acquire, input or manage Licensed User’s User Login information;
- (iii) A failure of the Internet and/or the public switched telephone network;
- (iv) The occurrence of any event that is beyond UA’s reasonable control, or
- (v) At Customer’s direction, UA restricting Customer’s and its Licensed Users access to the Service.

b. Commitment. Customer is responsible for promptly notifying UA in the event of a suspected Service failure. For the purposes of establishing uptime herein, downtime begins upon such notification and ends upon restoration of Service. Subject to Customer satisfying its obligations herein, UA guarantees that the Service will be available to Customer and its Licensed Users at least 99% of the time during each calendar month, excluding Excusable Downtime (“**Uptime Commitment**”). If UA fails to satisfy the Uptime Commitment during a month, then UA will credit to Customer a prorated portion of the Fees in the first month of the next succeeding calendar quarter following the failure. For purposes of this Section, “**prorated portion of the Fees**” means the product obtained by multiplying the applicable Fees during the month of the failure by a fraction, the numerator of which will be the number of hours that the Service did not satisfy the Uptime Commitment, and the denominator of which will be the total number of hours during the month that such failure occurred less Excusable Downtime.

1.1.6 Uniforms. UA’s EOS™, which may be included among the hardware provided to Customer, is the only body camera system available to law enforcement that features direct integration of camera hardware into the officer’s/deputy’s uniform. As part of this CSA, UA will furnish the following allotments and services within 90 days of the Effective Date. Such allotments and services may no longer be available after the expiration of the 90-day period, subject to UA’s discretion.

a. Retrofits of existing uniforms. A quantity of five (5) standard uniform garments, per EOS™ provided, will be modified to EOS™ ready status, for the purpose of integrating EOS™ upon receipt. UA will provide Customer with both uniform retrofit vouchers and packing slip templates. Note, both uniform vouchers and accurately completed packing slips are required for all retrofit requests being sent to UA for processing. Failure to provide accurate uniform information may delay UA’s processing of Customer’s request.

b. Retrofits of Standard garment types. Acceptable garment installation types offered at no-additional charge, as part of the initial project launch with a multiyear CSA, include the following:

- (i) Duty shirts (long or short sleeve)
- (ii) Soft outer carrier vest
- (ii) Standard soft-shell jacket

c. Retrofits of Non-standard garment types. Excluded from the initial project launch retrofitting service, that may still be modified to EOS™ ready status at an additional charge, include the following: (please see table 1.2.1, for pricing details)

- (i) Polo shirts
- (ii) Commando style sweaters
- (ii) Tactical vest or outer plate carriers

(iv) Leather jackets

d. Certification of local uniform resellers. Following the recommendation and request by Customer, a local uniform reseller may be eligible to participate in UA’s uniform certification program. This program is designed to maximize the speed in which new recruits and/or existing Officers/Deputies receive EOS™ standard uniform garment retrofits, after initial deployment. Additionally, this program is designed to foster the support of local small businesses in your respective area.

- (i) Resellers may participate in the certification program, for the purposes of retrofitting standard duty shirts and soft outer carrier vests only. All other non-standard garment retrofits should be forwarded to UA, at the expense of Customer.
- (ii) As part of the certification offered, UA will supply one (1) grommet installation machine and training of up to 5 reseller personnel, per session. Sessions run for a dedicated 16-hour period, over the course of two days. The reseller will be responsible for furnishing uniforms for the purposes of training and certification.
- (iii) Certification fees. Certification of each local uniform reseller will be charged to Customer, at \$2,500 per session.
- (iv) Annual Warranty and Support Fee of \$300, per year, will be assessed of the certified uniform reseller. Failure to pay within 30 days of invoice will void any warranty claims against grommeting machine hardware provided for the purposes of EOS™ ready uniform retrofitting

1.2.1 Uniform Retrofit Pricing Schedule. Prices effective May 2023.

a. EOS™ - **standard** garment retrofit service table

Example Model	Description	Price (ea).
Blauer 8670, 8675, 8446	Duty Shirt, EOS™ Ready	\$13
Blauer 8780, 8370, 8375, 8470 (XP Series)	Carrier Vest Mount, EOS™ Ready	\$23
Blauer 343, 343R	Traffic Safety Vest, EOS™ Ready	\$23
Blauer 8780, 8370, 8375, 8470	Carrier Vest Zipper Mount, EOS™ Ready	\$23
Spiewak	Carrier Vest Mount, EOS™ Ready	\$33
Duty Jacket (Charge per Layer)	All Jackets (Except Leather – Estimate Only)	\$23
All Standard Uniform Types	Grommet Swap Out	\$10

b. EOS™ **non-standard** garment retrofit service table. Due to the complicated nature of retrofitting non-standard garments, all prices provided below are considered estimates. Final pricing will be assessed at the time of services rendered. For additional questions, comments or concerns please email UA at: [uniforms@utility.com](mailto:uniforms@utility.com).

Description	Price (ea).
Carrier Vest – Horizontal Mounting (Ex. Blauer 8340, 8375)	\$33
Tactical Vest or Load Bearing Vest (LBV) – All Styles	\$53



Polo Shirt	\$43
Polo Carrier – Horizontal Zipper	\$43
Leather Jacket / Coat.	Estimate Only
Patches	
Single	\$5
Pair	\$6
Name Tape - Includes Embroidery and Velcro	\$10

Motor unit jackets must be quoted via design consult, please contact uniforms@utility.com to schedule.

## USE OF THE SERVICE

2.1 Scope of Use. Subject to the terms and conditions of this CSA, including, without limitation, Section 2.2 and 2.3 hereof and Customer's payment of all applicable fees, UA hereby grants to Customer a limited, non-transferable, non-sublicensable, non-assignable and non-exclusive license (the “**License**”) to access and use the Service, during the Term, over the Internet for Customer’s internal business purposes, on a computer or a computer network operated by Customer, only by Licensed Users and only using the User Logins provided to UA for such Licensed Users for such use.

2.2 End User License Agreements. The Licensed software may incorporate software under license from a third party. If the third party requires Customer’s notification of such use through an End User License Agreement (“**EULA**”), UA will provide such notification to the Customer. In order to use the Service, the Customer agrees to be bound by all EULA(s) provided at the time of delivery whether by hardcopy or displayed upon installation or use of the Service. Customer’s use of the Service subsequent to such notice(s) shall constitute Customer’s acceptance of the EULA(s).

2.3 Restrictions. Customer and its Licensed Users shall not: (a) copy the Service or any portion thereof other than as required to use the Service remotely as intended by this CSA; (b) translate, decompile or create or attempt to create, by reverse engineering or otherwise, the source code from the object code of the Service; (c) modify, adapt, translate or create a derivative work from the Service; (d) use the Service to track more than the number of tracked asset units for which Fees have been paid pursuant Article 3 below; (e) sell, lease, loan, license, assign, sublicense, rent, transfer, publish, disclose, divulge, display, make available to third parties on a time-sharing or service bureau basis or otherwise make available for the benefit of third parties all or any part of the Service, including, without limitation, by transmitting or providing the Service, or any portion thereof, over the Internet, or otherwise, to any third party; (f) interfere or attempt to interfere with the operation of the Service in any way; (g) remove, obscure or alter any label, logo, mark, copyright notice, trademark or other proprietary rights notices affixed to or contained within the Service; (h) create any frames or other references at any other web sites pertaining to or using any of the information provided through the Service or links to the Service; or (i) engage in any action that constitutes a material breach of the terms and conditions of this CSA. All rights not expressly granted hereunder are reserved to UA.

2.4 Customer Data Ownership and Retention. The System captures, generates, and creates images, video, and other related media (“**Data**”). Except as otherwise stated herein, Customer shall retain all right, title, and interest in Data captured, generated or created by or through the Customer’s use of the System for its internal business purposes (“**Customer Data**”). Customer shall be solely responsible for the accuracy, quality, integrity, legality, reliability and appropriateness of all Customer Data. Customer shall implement a record retention and classification policy for managing and, as applicable, storing Customer Data. The default retention period for Data shall be twelve (12) months from the Data’s date of capture, generation or creation after which time it shall be deleted. UA reserves the right, in its sole discretion, to transfer Data and Customer Data into archival storage without notice to the Customer after three (3) or more months from the date of such Data’s or Customer Data’s capture, generation, or creation. Customer’s





access to Data and Customer Data in archival storage may be delayed up to 24 hours from the time of Customer's request for access. Any amendment or modification of this Section by the parties may result in the imposition of an additional fee or charge which shall be the responsibility of the Customer.

## **FEES AND PAYMENT TERMS**

3.1 Fees. As a condition to the License granted pursuant to Section 2.1 above, Customer shall pay System license fees in the amounts and on the dates set forth in the payment table included in the Offer Letter ("**Fees**"). Customer shall, in addition to the Fees required hereunder, pay all applicable sales, use, transfer or other taxes and all duties, whether international, national, provincial or local, however designated, which are levied or imposed by reason of the transaction(s) contemplated hereby, excluding, however, income taxes on income which may be levied against UA ("**Taxes**"). Customer shall reimburse UA for the amount of any such Taxes. If Customer fails to pay any undisputed Fees within thirty (30) calendar days of the date they are due, UA may bill Customer a 1.5% fee per month and the Service shall be suspended until all outstanding Fees have been paid. All Fees shall be non-refundable except as otherwise set forth herein. Should Customer have a billing dispute, Customer shall provide written notice to UA in writing within thirty (30) days of the invoice date with an explanation of the disputed invoiced amount or else Customer effectively waives Customer's right to dispute the amount set forth on the invoice. Customers are still obligated to pay undisputed amounts.

3.2 Time-and-Materials Service. If Customer requests and UA agrees to provide services that are outside the scope of the Service, such services shall be provided at UA's then-current hourly service rates or as established within a separate agreement addressing these specific requests.

## **REPRESENTATIONS AND WARRANTIES**

4.1 Expressed Warranty. Hardware manufactured by UA is warranted to be free from defects in material and workmanship under normal use and service. This warranty is applicable to any of UA's hardware that Customer returns to UA during the initial Term of this CSA that UA determines, in its sole discretion, is defective. All hardware issued, including EOS™ devices and peripherals, and Rocket IoT™ in-vehicle systems and peripherals, are warranted for the initial Term and will be repaired or replaced at UA's cost when Customer submits, and UA accepts, a Request to Merchant Authorization ("**RMA**") form. Customer must return any defective hardware to UA for review and determination as to whether such defect is covered under the warranty set forth herein. Customer's failure to return hardware to UA may result in UA either denying warranty coverage or imposing an additional fee and/or surcharge relating to the hardware's recovery and assessment. UA's obligations, with respect to such accepted warranty claims, are limited to repair, replacement, or refund of the purchase price actually paid for the hardware product, at UA's sole option. UA shall bear round-trip shipment costs of defective hardware found to be covered by this warranty. Defective hardware or parts thereof may be replaced with either new, factory refurbished, or remanufactured hardware parts. Defective hardware parts, which have been replaced, shall remain UA's property. This warranty does not extend to any hardware product provided by UA which has been damaged due to malicious intent, neglect, accident, improper installation by a non-authorized third party, or used for purposes not included or not in accordance with operational maintenance procedures and instructions furnished by UA, or which has been repaired or altered by persons other than UA or authorized by UA to perform such repair or alteration or which has been damaged by secondary causes, including but not limited to, improper voltages, adverse environment conditions, improper handling, or hardware products which have had their serial number or any part thereof altered, defaced, or removed. This warranty does not cover normal wear and tear or deterioration. Uniforms or modified uniforms provided with the service have a 1-year warranty effective from the date of delivery to Customer and is limited to defects in material workmanship that prevent the uniform wearer from effectively capturing video and/or using the Service. This uniform or modified uniform warranty does not include changes to the color or appearance of the uniform that result from normal wear and tear.

4.2 UA and Customer Responsibilities. Each party (the "**Representing Party**") represents and warrants to the other that: (a) it has the authority to enter this CSA and to perform its obligations under this CSA; (b) the performance of this CSA does not and will not violate any agreement to which the Representing Party is a party or by which it is otherwise bound; and (c) this CSA will constitute a legal, valid and binding obligation of the Representing Party, enforceable in accordance with its terms. In addition to the foregoing: UA warrants that the software provided as part of the Service will materially conform to the applicable then-current documentation relating to the Service when used in an operating environment that complies with the then-current documentation relating to the Service. Customer's sole and exclusive remedy for defects, errors or malfunctions of the System shall be a pro rata refund of the Fees paid



to UA hereunder for the unexpired portion of the current Term or Renewal Term, as defined herein. Customer represents and warrants to UA that Customer and its Licensed Users (i) will use the Service only for lawful purposes; (ii) will not interfere with or disrupt the operation of the Service or the servers or networks involved with the operation of the Service; (iii) attempt to gain unauthorized access to the Service, other accounts, computer systems or networks connected to the Service, through any other means; or (iv) interfere with another user's use and enjoyment of the Service.

4.3 Export Restrictions. Customer and its Licensed Users will not access or use the System in any jurisdiction in which the provision of such System is prohibited under applicable laws or regulations (a “**Prohibited Jurisdiction**”), and Customer will not provide access to the System to any government, entity, or individual located in a Prohibited Jurisdiction. Customer represents and warrants that (a) it and its Licensed Users are not named on any Canadian government list of persons prohibited from receiving Canadian exports, or transacting with any Canadian person; (b) it and its Licensed Users are not a national of, or a company registered in, any Prohibited Jurisdiction; (c) Customer will not permit its Licensed Users to access or use the System in violation of any Canadian or other applicable export embargoes, prohibitions or restrictions; and (d) Customer and its Licensed Users will comply with all applicable laws regarding the transmission of technical data exported from Canada and the country in which Customer and its Licensed Users are located.

4.4 Warranty Disclaimer. CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS PROVIDED HEREIN, THE SERVICE IS PROVIDED HEREUNDER WITH NO WARRANTY WHATSOEVER. CUSTOMER ACKNOWLEDGES THAT ITS USE OF THE SERVICE IS AT ITS OWN RISK. EXCEPT AS EXPRESSLY PROVIDED HEREIN, (a) THE SERVICE IS PROVIDED SOLELY ON AN “AS-IS” BASIS, AND (b) UA MAKES, AND CUSTOMER RECEIVES, NO WARRANTIES, EXPRESS, IMPLIED, OR OTHERWISE. UA EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR NON-INFRINGEMENT AND ALL DUTIES AND OBLIGATIONS IMPLIED IN LAW. UA DOES NOT WARRANT THAT THE SERVICE SHALL BE OPERABLE, SHALL PROPERLY STORE DATA, SHALL OPERATE UNINTERRUPTED OR ERROR FREE, SHALL BE SECURE, SHALL KEEP DATA CONFIDENTIAL, SHALL FUNCTION OR OPERATE IN CONJUNCTION WITH ANY OTHER PRODUCT OR SHALL MEET CUSTOMER'S NEEDS.

## CONFIDENTIAL INFORMATION

5.1 Confidential Information. As used herein, the term “**Confidential Information**” means all technical, business and other information relating to the System, which (i) is possessed or hereafter acquired by UA and disclosed to Customer and its Licensed Users, (ii) derives economic value from not being generally known to persons other than UA and its Customers, and (iii) is the subject of efforts by UA that are reasonable under the circumstances to maintain its secrecy or confidentiality. Confidential Information shall include, but shall not be limited to, oral or written (including, without limitation, storage in electronic or machine readable media) information with respect to UA's trade secrets, know-how, proprietary processes, operations, employees, contractors, prospects, business plans, product or service concepts, business methods, hardware, software, codes, designs, drawings, products, business models and marketing strategies, in each case relating to the System. Confidential Information shall not include any information which Customer can demonstrate (a) has become generally available to and known by the public (other than as a result of a disclosure directly or indirectly by Customer, any of its respective employees, contractors or agents), (b) has been made available to Customer on a non-confidential basis from a source other than UA, provided that such source is not and was not bound by a confidentiality agreement with UA or any other legal obligation of non-disclosure, or (c) has been independently acquired or developed by Customer without violating any of its obligations under this CSA.

5.2 Non-Disclosure of Confidential Information. Customer shall hold confidential all Confidential Information (as defined in Section 5.1) of UA and shall not disclose or use (except as expressly provided in this CSA) such Confidential Information without the express written consent of UA. Confidential Information of UA shall be protected by the Customer with the same degree of care as Customer uses for protection of its own confidential information, but no less than reasonable care. Customer may disclose Confidential Information only to those of its employees who have a need to know the Confidential Information for purposes of performing or exercising rights granted under this CSA and only to the extent necessary to do so. At any time upon the request of UA, Customer shall promptly, at the sole option of UA, either return or destroy all (or, if UA so requests, any part) of the Confidential Information previously disclosed and all copies thereof, and Customer shall certify in writing as to its compliance with





the foregoing. Customer agrees to secure and protect the Confidential Information in a manner consistent with the maintenance of UA's rights therein and to take appropriate action by instruction or agreement with its Licensed Users to satisfy its obligations hereunder. Customer shall use reasonable commercial efforts to assist UA in identifying and preventing any unauthorized access, use, copying or disclosure of the Confidential Information, or any component thereof. Without limitation of the foregoing, Customer shall advise UA immediately in the event Customer learns or has reason to believe that any person has violated or intends to violate these confidentiality obligations or the proprietary rights of UA. In the event Customer is required to disclose any Confidential Information by law or court order, it may do so, provided that UA is provided a reasonable opportunity to prevent such disclosure, and, in the event of a disclosure, that the Customer apply reasonable commercial efforts to ensure that available confidentiality protections are applied to such information. In such an event, Customer shall not be liable for such disclosure unless such disclosure was caused by, or resulted from, in whole or in part, a previous disclosure by Customer its respective employees, contractors or agents, not permitted by this CSA. UA Confidential Information shall not include information which can be demonstrated by Customer: (i) to have become part of the public domain except by an act or omission or breach of this CSA on the part of Customer, its employees, or agents; (ii) to have been supplied to Customer after the time of disclosure without restriction by a third party who is under no obligation to UA to maintain such information in confidence; or (iii) required to be disclosed by law or court order, provided that UA is provided a reasonable opportunity to prevent such disclosure, and, in the event of a disclosure, that Customer apply reasonable commercial efforts to ensure that available confidentiality protections are applied to such information. Notwithstanding the foregoing, UA may publish the fact of the existence of this CSA and/or the business relationship created hereby and may include reference to it in its marketing collateral.

5.3 Non-Disclosure of Customer Confidential Information. Notwithstanding any provision of this CSA to the contrary, UA shall hold confidential all information disclosed to UA (a) concerning the business affairs or proprietary and trade secret information of Customer, (b) any information that derives economic value from not being generally known to persons other than Customer and its employees, and (c) any information that is the subject of efforts by Customer that are reasonable under the circumstances to maintain its secrecy or confidentiality, whether disclosed to UA by Customer in oral, graphic, written, electronic or machine readable form ("**Customer Confidential Information**") and shall not disclose or use such Customer Confidential Information without the express written consent of Customer. Customer Confidential Information shall be protected by UA with the same degree of care as UA uses for its own confidential information, but no less than reasonable care. UA may disclose Customer Confidential Information only to those of its employees who have a need to know the Customer Confidential Information for purposes of performing or exercising rights granted under this CSA and only to the extent necessary to do so. At any time upon the request of Customer, UA shall promptly, at the option of Customer, either return or destroy all (or, if Customer so requests, any part) of the Customer Confidential Information previously disclosed and all copies thereof, and UA shall certify in writing as to its compliance with the foregoing. UA agrees to secure and protect the Customer Confidential Information in a manner consistent with the maintenance of Customer's rights therein and to take appropriate action by instruction or agreement with its employees to satisfy its obligations hereunder. UA shall use reasonable commercial efforts to assist Customer in identifying and preventing any unauthorized access, use, copying or disclosure of the Customer Confidential Information, or any component thereof. Without limitation of the foregoing, UA shall advise Customer immediately in the event UA learns or has reason to believe that any person has violated or intends to violate these confidentiality obligations or the proprietary rights of Customer, and UA will, at UA's expense, cooperate with Customer in seeking injunctive or other equitable relief in the name of UA or Customer against any such person. Customer Confidential Information shall not include information which can be demonstrated by UA: (i) to have become part of the public domain except by an act or omission or breach of this CSA on the part of UA, its employees, or agents; (ii) to have been supplied to UA after the time of disclosure without restriction by a third party who is under no obligation to Customer to maintain such information in confidence; or (iii) required to be disclosed by law or court order, provided that Customer is provided a reasonable opportunity to prevent such disclosure, and, in the event of a disclosure, that UA apply reasonable commercial efforts to ensure that available confidentiality protections are applied to such information.

5.4 Passwords. Any and all login identifiers and passwords provided hereunder are deemed Confidential Information of UA. Customer and Licensed Users are responsible for maintaining the confidentiality of such login identifiers and passwords. Customer agrees to (a) notify UA of any unauthorized use of such login identifiers or passwords or any other breach of security pertaining to the Service when it became known to the Customer, and (b) ensure that Licensed Users exit from their accounts at the end of each session. UA shall not be liable for any loss or damage arising from Customer's or any Licensed User's failure to comply with this Section 5.4.



5.5 Term. With regard to Confidential Information that constitutes trade secrets, the obligations of this Section shall continue for so long as such information constitutes a trade secret under applicable law. With regard to all other Confidential Information, the obligations of this Section shall continue for the Term of this CSA and for a period of five (5) years thereafter.

## INDEMNIFICATION AND LIABILITY

6.1 UA General Indemnity. UA will defend, indemnify, and hold Customer harmless from and against any and all damages, losses, liabilities, and expenses (including any reasonable fees and expenses of attorneys) arising from any actual third-party claim, demand, action, or proceeding (“**Claim**”) for personal injury, death, or direct damage to tangible property to the extent directly caused by UA’s negligence, gross negligence or willful misconduct while performing its duties under this CSA, except to the extent the claim arises from Customer’s negligence or willful misconduct. UA’s duties under this Section are conditioned upon: (a) Customer promptly notifying UA in writing of any Claim; (b) UA having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with UA and, if requested by UA, providing reasonable assistance in the defense of the Claim.

6.2 UA Intellectual Property Infringement. UA will defend Customer against any third-party claim alleging that a UA-developed or manufactured hardware or software included in the System (the “**Infringing Property**”) directly infringes a United States or Canadian patent or copyright (“**Infringement Claim**”), and UA will pay all damages finally awarded against Customer by a court of competent jurisdiction for an Infringement Claim, or agreed to in writing by UA in settlement of an Infringement Claim. UA’s duties under this Section are conditioned upon: (a) Customer promptly notifying UA in writing of the Infringement Claim; (b) UA having sole control of the defense of the suit and all negotiations for its settlement or compromise; and (c) Customer cooperating with UA and, if requested by UA, providing reasonable assistance in the defense of the Infringement Claim. If an Infringement Claim occurs, or in UA’s sole opinion is likely to occur, UA may at its option and expense: (a) procure for Customer the right to continue using the Infringing Product; (b) replace or modify the Infringing Product so that it becomes non-infringing; or (c) grant Customer, in UA’s sole discretion, either (i) a pro rata refund of the Fees paid to UA hereunder for the unexpired portion of the current Term directly associated with the Infringing Product (if the Infringing Product is a software), or (ii) a credit for the Infringing Product, less a reasonable charge for depreciation (if the Infringing Product is hardware, including hardware with embedded software). This Section provides Customer’s sole and exclusive remedies and UA’s entire liability in the event of an Infringement Claim. For clarity, the rights and remedies provided in this Section are subject to, and limited by, the limitation of liability restrictions set forth herein.

6.3 Customer Indemnity. Customer will defend, indemnify, and hold UA and its subcontractors, subsidiaries and other affiliates harmless from and against any and all damages, losses, liabilities, and expenses (including reasonable fees and expenses of attorneys) arising from any actual or threatened third-party claim, demand, action, or proceeding arising from or related to (a) Customer hardware or software, not provided or supplied by UA under the Offer Letter, or Customer Data, including any claim, demand, action, or proceeding alleging that any such Customer hardware or software, not provided or supplied by UA under the Offer Letter, or Customer Data (or the integration or use thereof with the System) infringes or misappropriates a third-party intellectual property or other right, violates applicable law, or breaches the CSA; (b) Customer hardware’s or software’s, not provided or supplied by UA under the Offer Letter, failure to effectively and efficiently function and operate in conjunction with the System; (c) Customer’s (or its service providers, agents, employees, or Licensed User’s) negligence or willful misconduct; and (d) Customer’s or its Licensed User’s breach of this CSA. This indemnity will not apply to the extent any such claim is caused by UA’s use of Customer hardware or software, not provided or supplied by UA under the Offer Letter, or Customer Data in violation of the CSA. UA will give Customer prompt, written notice of any claim subject to the foregoing indemnity. UA will, at its own expense, cooperate with Customer in its defense or settlement of the claim.

6.4 EXCEPT FOR BREACHES OF SECTIONS 2 OR 5 AND FOR PERSONAL INJURY OR DEATH, UA, ITS AFFILIATES AND SUBSIDIARIES, AND ITS AND THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SUBCONTRACTORS, AGENTS, SUCCESSORS, AND ASSIGNS (COLLECTIVELY, THE “**UA PARTIES**”) WILL NOT BE LIABLE IN CONNECTION WITH THIS CSA (WHETHER UNDER UA’S INDEMNITY OBLIGATIONS, A CAUSE OF ACTION FOR BREACH OF CONTRACT, UNDER TORT THEORY, OR OTHERWISE) FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE, OR CONSEQUENTIAL DAMAGES OR DAMAGES FOR LOST PROFITS OR REVENUES, EVEN IF UA HAS BEEN ADVISED BY CUSTOMER OR ANY THIRD PARTY OF THE POSSIBILITY OF SUCH DAMAGES OR



LOSSES AND WHETHER OR NOT SUCH DAMAGES OR LOSSES ARE FORESEEABLE. FURTHER, EXCEPT FOR PERSONAL INJURY OR DEATH, THE TOTAL AGGREGATE LIABILITY OF THE UA PARTIES, WHETHER BASED ON A CLAIM IN CONTRACT OR IN TORT, LAW OR EQUITY, RELATING TO OR ARISING OUT OF THE CSA WILL NOT EXCEED THE TOTAL AMOUNT OF FEES SET FORTH IN THE OFFER LETTER UNDER WHICH THE CLAIM AROSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CSA, UA WILL HAVE NO LIABILITY FOR DAMAGES ARISING OUT OF (A) CUSTOMER DATA, INCLUDING ITS TRANSMISSION TO UA OR A THIRD PARTY, OR ANY OTHER DATA AVAILABLE THROUGH THE SYSTEM; (B) CUSTOMER HARDWARE OR SOFTWARE, NOT PROVIDED OR SUPPLIED BY UA UNDER THE OFFER LETTER, OR THE COMBINATION OF THE SYSTEM WITH ANY OF THE FOREGOING; (C) LOSS OF DATA OR HACKING; (D) MODIFICATION OF SYSTEM BY ANY PERSON OTHER THAN UA OR A UA AUTHORIZED REPRESENTATIVE; (E) RECOMMENDATIONS PROVIDED IN CONNECTION WITH OR BY THE SYSTEM; OR (F) CUSTOMER'S OR ANY LICENSED USER'S BREACH OF THIS CSA OR MISUSE OF THE SYSTEM.

## **PROPRIETARY RIGHTS**

7.1 Proprietary Rights. No right (except for the License right granted in Article 2), title or interest in any intellectual property or other proprietary rights are granted or transferred to Customer hereunder. UA and its third-party licensors and service providers retain all right, title and interest, including, without limitation, all patent, copyright, trade secret and all other intellectual property and proprietary rights, inherent in and appurtenant to the System and all derivative works connected therewith.

## **TERM AND TERMINATION**

8.1 Term; Termination. The Term of this CSA shall be the period of agreement identified and agreed to by Customer and UA in the Offer Letter. The Term shall commence on the Effective Date and shall continue through the Term, unless terminated or renewed as set forth herein. The CSA shall automatically renew for a subsequent term (each a "**Renewal Term**"), which shall be the same length as the Term, unless Customer or UA provides prior written notice of termination at least ninety (90) days prior to the expiration of the Term or then current Renewal Term. Customer or UA may immediately terminate this CSA in the event that:

- (a) the other party breaches any material obligation, warranty, representation or covenant under this CSA and fails to remedy such failure within thirty (30) days of its receipt of written notice of such breach or,
- (b) the other party becomes insolvent or is unable to pay its debts as due, enters into or files (or has filed or commenced against it) a petition, arrangement, action or other proceeding seeking relief or protection under the bankruptcy laws of the United States or similar laws of any other jurisdiction or transfers all of its assets to another person or entity.

If timely payment of Fees is not received by the due date set forth in the Offer Letter, UA reserves the right to either suspend or terminate Customer's or Customer Licensed User's access to the Service. Upon termination or expiration of this CSA for any reason, the License and the Service shall terminate, Customer will be obligated to pay any and all Fees due hereunder up through the annual anniversary of the Effective Date of this CSA or expiration and UA shall have no further obligations to Customer. Sections 2.2, 2.3, and 4.3 and Articles 5, 6, 7, 8, and 9 hereof shall survive the expiration or termination of this CSA for any reason.

## **MISCELLANEOUS**

9.1 Notices. Any written notice required or permitted to be delivered pursuant to this CSA will be in writing and will be deemed delivered: (a) upon delivery if delivered in person; (b) three (3) business days after deposit in the United States or Canadian mail, registered or certified mail, return receipt requested, postage prepaid; (c) upon transmission if sent via telecopier/facsimile, with a confirmation copy sent via overnight mail; (d) one (1) business day after deposit with a national overnight courier;

9.2 Governing Law and Venue. This CSA, and all the rights and duties of the parties arising from or relating in any way to the subject matter of this CSA shall be governed by, construed and enforced in accordance with the laws of the State of Georgia, United States. Any suit or proceeding relating to this CSA shall be brought in the courts, state and federal, located in Dekalb County, Georgia, United States.



9.3 UCITA Disclaimer. AS APPLICABLE, THE PARTIES AGREE THAT THE UNIFORM COMPUTER TRANSACTIONS ACT OR ANY VERSION THEREOF, ADOPTED BY ANY STATE, IN ANY FORM ("UCITA"), SHALL NOT APPLY TO THIS CSA. TO THE EXTENT THAT UCITA IS APPLICABLE, THE PARTIES AGREE TO OPT OUT OF THE APPLICABILITY OF UCITA PURSUANT TO THE OPT-OUT PROVISION(S) CONTAINED THEREIN.

9.4 Assignment. Customer will not assign, sublicense or otherwise transfer this CSA, in whole or in part, nor delegate or subcontract any of its rights or obligations hereunder, without UA's prior written consent, except in the event of an assignment to an affiliate

9.5 Force Majeure. Neither party shall have any liability to the other or to third parties for any failure or delay in performing any obligation under this CSA due to circumstances beyond its reasonable control including, without limitation, acts of God or nature, actions of the government, fires, floods, strikes, civil disturbances or terrorism, or power, communications, satellite or network failures; provided, however, this Section 9.5 shall not apply to Customer's obligation to pay any of the Fees in accordance with Article 3 hereof.

9.6 Modifications. Except for Changes, as set forth in Section 1.1.3, which shall not require the mutual written authorization of the parties hereto, all amendments or modifications of this CSA shall be in writing signed by an authorized representative of UA and Customer. The parties expressly disclaim the right to claim the enforceability or effectiveness of: (a) any amendments to this CSA that are not executed by an authorized representative of UA and Customer; (b) any oral modifications to this CSA; and (c) any other amendments based on course of dealing, waiver, reliance, estoppel or similar legal theory. The parties expressly disclaim the right to enforce any rule of law that is contrary to the terms of this Section.

9.7 Waiver. The failure of either party to enforce, or the delay by either party in enforcing, any of its rights under this CSA will not be deemed to be a waiver or modification by such party of any of its rights under this CSA.

9.8 Severability. If any provision of this CSA is held by a court of competent jurisdiction to be invalid or unenforceable, in whole or in part, such holding shall not affect the validity or enforceability of the other provisions of this CSA.

9.9 Headings. The headings used herein are for reference and convenience only and shall not enter into the interpretation hereof.

9.10 Entire Agreement. This CSA (including the Schedules and any addenda hereto), the dated and executed Offer Letter and, if applicable, any dated Quote contain the entire agreement of the Parties with respect to the subject matter of this CSA and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter.