

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (the "Agreement") is made as of July 5, 2016 ("Effective Date") by and between Virtual Citadel Inc, a Georgia corporation with a principal place of business at 2380 Godby Road, Atlanta, GA 30349 ("Virtual Citadel") and _____ with a principal place of business at _____ ("Customer").

1. GENERAL.

1.1 *Service.* This Agreement is intended to cover any and all Services ordered by Customer and provided by Virtual Citadel hereunder. The Services to be provided hereunder are specified in the Pricing Terms Sheet attached hereto and incorporated herein by this reference.

1.2 *Non-Scheduled Services.* In addition to the Services set forth on the attached Pricing Terms Sheet, Virtual Citadel may, but is not obligated to, provide certain limited services and/or equipment on an emergency basis (i.e., replacement of malfunctioning Customer Equipment with Virtual Citadel equipment for a temporary period of time) ("Emergency Service"). Upon request of Customer, Virtual Citadel will notify Customer if Virtual Citadel is willing and capable of providing the Emergency Service, and notify Customer of the fees for such Emergency Service requested by Customer and obtain Customer's approval prior to providing such services. Virtual Citadel will bill Customer for Emergency Services following the delivery of the Emergency Services. Virtual Citadel will use commercially reasonable efforts to provide Emergency Services; provided, however, that Customer acknowledges and agrees that all Emergency Services are provided on an "AS-IS" basis WITHOUT WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, OR NONINFRINGEMENT OF THIRD PARTY RIGHTS.

1.3 *SLA.* The parties may choose to execute a Service Level Agreement. The parties agree that such Service Level Agreement is expressly subject to the terms contained in this Agreement. If any terms and conditions of a particular SLA conflict with the terms and conditions of this Agreement, the terms and conditions of this Agreement will govern and control.

1.4 Definitions.

(a) "AUP" means Virtual Citadel's Acceptable Use Policy which is posted on Virtual Citadel's web site at <http://VCitadel.com/resources/documents>.

(b) "Virtual Citadel Data Center" means any facilities used by Virtual Citadel to provide the Service(s).

(c) "Virtual Citadel Network" means any facilities, circuits, hardware, or cabling within the Virtual Citadel Network that is used to provide the Service(s). The Virtual Citadel Network ends at the upstream carriers' router that is directly connected to Virtual Citadel equipment

(d) "Virtual Citadel Supplied Equipment" means the computer hardware, software and other tangible and intangible equipment and computer code contained therein to be provided by Virtual Citadel for use by Customer as set forth on the Pricing Terms Sheet(s).

(e) "Virtual Citadel Technology" means Virtual Citadels' proprietary technology, including Virtual Citadel Services, software tools, hardware designs, algorithms, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), network designs, know-how, trade secrets and any related intellectual property rights throughout the world (whether owned by Virtual Citadel or licensed to

Virtual Citadel from a third party) and also including any derivatives, improvements, enhancements or extensions of Virtual Citadel Technology conceived, reduced to practice, or developed during the term of this Agreement by or on behalf of Virtual Citadel or Customer (except for Customer Technology).

(f) "Customer Area" means that area within the Virtual Citadel Data Center made available to Customer for Customer Equipment and any Virtual Citadel Supplied Equipment.

(g) "Customer Equipment" means Customer's, computer hardware (excluding any stored data) and other tangible equipment placed by Customer in the Customer Area. All Customer Equipment will be identified in writing to Virtual Citadel prior to being installed in the Customer Area. The list of Customer Equipment will be amended in writing by Customer as necessary to ensure the list is current at all times during this Agreement.

(h) "Customer Technology" means Customer's proprietary technology, including Customer's Internet operations design, content, software tools, hardware designs, algorithms, software (in source and object forms), user interface designs, architecture, class libraries, objects and documentation (both printed and electronic), know-how, trade secrets and any related intellectual property rights throughout the world (whether owned by Customer or licensed to Customer from a third party) and also including any derivatives, improvements, enhancements or extensions of Customer Technology conceived, reduced to practice, or developed during the term of this Agreement by Customer.

(i) "Pricing Terms Sheet" means the listing, description, and pricing of all services, hardware, and software that Virtual Citadel will be providing under the Agreement and the SLA, if applicable.

(j) "Professional Services" means any non-standard professional or consulting service provided by Virtual Citadel to Customer hereunder as more fully described in a Statement of Work.

(k) "Service(s)" means the specific service(s) provided by Virtual Citadel hereunder as described in the applicable Pricing Terms Sheet(s).

(l) "Service Level Agreement" or "SLA" means the descriptions of service guarantees and responsibilities which have been posted on Virtual Citadel's web site at <http://VCitadel.com/resources/documents>, are hereby incorporated into this Agreement.

(m) "Specification Sheet" means the detailed description for each Service, other than Professional Services, requested by Customer attached to the applicable Pricing Terms Sheet.

(n) "Statement of Work" means the description of the Professional Services and managed services to be provided under a particular Pricing Terms Sheet.

(o) "Start Date" means the date Virtual Citadel will begin providing the Service(s) to Customer, as indicated in the applicable Pricing Terms Sheet(s) attached hereto and incorporated herein.

(p) "Work" means any deliverable provided by Virtual Citadel to Customer as described in the applicable Statement of Work for any Professional Services.

2. CUSTOMER OBLIGATIONS

2.1 *Acceptable Use Policy.* All use of the Services and the Virtual Citadel Network shall comply with the AUP, which is incorporated by this reference as part of this Agreement subject to the provisions set forth below in this Section 2. Virtual Citadel

reserves the right to amend the AUP effective upon posting to the web site or other notice to Customer, but such amendment shall not be effective to the extent that it contradicts or alters this Section 2. Customer agrees to defend, indemnify and hold harmless Virtual Citadel, its shareholders, directors, officers, employees, agent, representatives, affiliates and contractors from any and all third party claims, liabilities, costs and expenses, including reasonable attorneys' fees, arising from or related to use, resale or modification of the Services by Customer or end users, including, without limitation, any violation of the AUP. Notwithstanding anything to the contrary in the AUP, to achieve our objectives, Virtual Citadel may in its sole discretion decide whether a use of the Virtual Citadel IP Network is a violation of this AUP. The Customer shall maintain the sole responsibility of monitoring all software and hardware on their servers or other CPE. If Virtual Citadel becomes aware of a possible violation of this AUP, Virtual Citadel may terminate this Agreement, as set forth in Section 3.2(b) below.

2.2 *Intellectual Property/Software Licensing.* Customer acknowledges and agrees that it will ensure and be solely responsible for ensuring that it owns or maintains a valid license for all software installed on the Customer's Equipment. In no event shall Virtual Citadel be held liable for any violation of a third-party software licensing agreement that relates to software that has been installed on Customer Equipment unless otherwise provided in the Pricing Terms Sheet that Virtual Citadel will provide such license. Customer also agrees to defend, indemnify and hold harmless Virtual Citadel, its shareholders, directors, officers, employees, agent, representatives, affiliates and contractors from any and all third party claims, liabilities, costs and expenses, including reasonable attorneys' fees, arising from any violation of a software licensing agreement by Customer relating to the Customer Equipment.

2.3 *Unauthorized Use.* Unless specifically set forth in the Pricing Terms Sheet that Virtual Citadel will be providing managed firewall Services, the Customer is responsible and agrees to pay for any additional bandwidth utilization or damage that is caused by or results from the security of their equipment being compromised. This includes but is not limited to open mail relays, viruses, worms, trojan horses, spamming, and mail bombing. It is the sole responsibility of the customer to ensure that their equipment is protected against unauthorized use by other parties.

3. TERM AND TERMINATION.

3.1 *Term.* The term of this Agreement ("Term") shall begin on the Effective Date and continue unless terminated as provided herein. The term for each Service will be specified in the applicable Pricing Terms Sheet. Except as otherwise provided, Customer is obligated to pay for each Service through the end of its term and for any renewal term.

3.2 *Termination.*

(a) *Non-Renewal.* Either party may terminate a Service at the end of its term by providing not less than ninety (90) days' prior written notice to the other party of its intent not to renew the Service. Upon notice of non-renewal, the Service will terminate at the end of the then-current term. Termination of any Service will not affect Customer's obligations to pay for any other Service(s). This Agreement will terminate automatically without notice upon termination of all Services provided hereunder.

(b) *For Cause.*

(i) If Customer materially breaches any non-monetary term of the Agreement or is found to be in violation of the AUP as described in Section 2, Virtual Citadel shall be entitled to terminate the Agreement

if the Customer does not remedy such breach within 48 hours after receiving notice from Virtual Citadel;

(ii) If Virtual Citadel materially breaches the Agreement or is found to be in violation of the AUP as described in Section 2, Customer shall be entitled to terminate the Agreement if Virtual Citadel does not remedy such breach within 30 days after receiving notice from Customer, provided however, if Virtual Citadel is proceeding in good faith to cure such breach and such breach cannot be cured in the 30 day period, Virtual Citadel shall have a reasonable amount of time to cure such breach not to exceed 90 days; and

(iii) If Customer fails to pay fees when due, Virtual Citadel may terminate the Agreement where such failure to pay fees is not cured within five (5) days after receipt of written notice from Virtual Citadel to Customer that such fees have not been paid when due.

3.3 *Effect of Termination.* Upon the effective date of termination of a Service or this Agreement (as applicable):

(a) Virtual Citadel will immediately cease providing the terminated Service(s) and any and all payment obligations of Customer for terminated Service(s) provided through the date of termination will immediately become due;

(b) within five (5) days of termination, each party will return all Confidential Information of the other party in its possession applicable to the Services being terminated and will not make or retain any copies of such Confidential Information except as required to comply with any applicable legal or accounting record keeping requirements; and

(c) if applicable, within five (5) days of the effective date of termination Customer will (i) remove from the Virtual Citadel Data Center in a neat and orderly manner all Customer Equipment (excluding any Virtual Citadel Supplied Equipment) and any other Customer property and repair all damage caused by such removal; (ii) deliver or make available all Virtual Citadel Supplied Equipment to an authorized representative of Virtual Citadel; (iii) return the Customer Area to Virtual Citadel in the same condition (normal wear and tear excepted) that it was prior to the Start Date; and (iv) return to Virtual Citadel all Virtual Citadel-supplied security and/or access cards/keys/devices. If Customer does not remove the Customer Equipment and its other property within such five-day period, Virtual Citadel may, in its sole option, move any and all Customer Equipment and other property to secure storage and charge Customer for the cost of such removal and storage. Any Customer property not picked-up by Customer within thirty (30) days of termination will be considered abandoned by Customer and Virtual Citadel may liquidate the property in any reasonable manner and retain any proceeds thereof.

(d) Virtual Citadel will only issue refunds for prepayments for an entire month of service and not for a partial month of service and will be entitled to offset such prepayments against fees for Services Virtual Citadel rendered at or prior to the termination of the Agreement.

3.4 *Customer Equipment as Security.* If Customer fails to pay Virtual Citadel all undisputed amounts owed Virtual Citadel under this Agreement when due, Customer agrees that Virtual Citadel may, without being liable for damages and upon written notice to Customer, (i) restrict Customer's physical access to the Customer Area and Customer Equipment; and/or (ii) take possession of any Customer Equipment and store it, at Customer's expense, until full payment of amounts owed hereunder has been received.

4. EQUIPMENT PURCHASED FROM VIRTUAL CITADEL.

4.1 *Selection of Equipment.* Customer acknowledges and agrees that it has selected the equipment and supplies, if any, purchased from Virtual Citadel and disclaims any statements made by Virtual Citadel not expressly set forth herein. Customer acknowledges and agrees that its use and possession of Virtual Citadel Supplied Equipment and any other equipment

or supplies purchased from Virtual Citadel will be subject to, and controlled by, the terms of any manufacturer's/supplier's warranty, and Customer agrees to look solely to the manufacturer/supplier with respect to all mechanical, service and other claims. To the extent Virtual Citadel has the right, Virtual Citadel hereby assigns its right to enforce all warranties made by such manufacturer/supplier to Customer.

4.2 *Shipping and Handling.* All equipment purchased by Customer from Virtual Citadel is provided FOB origin. Shipment will be made as specified by Customer. Equipment will be deemed accepted by Customer upon shipment. Customer will assume the risk of loss as of the date of shipment. The purchase price is due and payable within fifteen (15) days of shipment of the equipment. Customer shall pay all taxes and other governmental charges assessed in connection with the sale, use or possession of the equipment including, without limitation, any and all sales and/or use taxes and personal property taxes, other than tax on Virtual Citadel' net income. Customer hereby grants and Virtual Citadel reserves a purchase money security interest in the equipment, and the proceeds thereof, as security for Customer's obligations hereunder until payment of the full purchase price for the equipment to Virtual Citadel.

5. FEES AND PAYMENT.

5.1 *Fees.* Customer will pay all fees due according to the prices and terms listed herein and in the Pricing Terms Sheet(s). The prices listed in the Pricing Terms Sheet(s) will remain in effect during the initial term indicated in the Pricing Terms Sheet(s) and will continue thereafter, unless modified by Virtual Citadel upon not less than 30 days' prior notice to Customer.

5.2 *Payment.* On the Pricing Terms Sheet Effective Date for each Service ordered by Customer, Virtual Citadel will bill Customer for all non-recurring charges indicated in the Pricing Terms Sheet and the monthly recurring charges for the first month of the term. Thereafter, monthly recurring charges for all other months will be billed in advance. All other charges will be billed at the end of the month in which the charges were incurred. Payment for all fees is due upon receipt of each Virtual Citadel invoice. All payments will be made in the United States in U.S. dollars. New accounts are required to pay all setup charges and the pro-rated service fees for the current month before service will be activated. The billing cycle is from the 1st of the month to the end of the month. Virtual Citadel will send out an invoice [or notification of credit card charge] by the fifth of the month for that month's service [no later than June 5th you receive a bill for the June service]. Invoices are due on receipt and payment should be sent within 20 days to ensure that we receive your payment within 30 days. Accounts paying by automatic credit card deduction are charged before the 5th of the month [for the month of service in question].

5.3 *Late Payment.* Any payment not received within thirty (30) days of the invoice date will accrue interest at a rate of one and one-half percent (1½%) per month, or the highest rate allowed by law, whichever is lower. A late fee in the amount of 5% of the invoice total will be charged on accounts that aren't paid within 45 days of the invoice date. On the 15th of each month, accounts with outstanding balances past 40 days will be temporarily disconnected until payment arrangements have been made with our billing department. Disconnected accounts will be reactivated when the account is paid in full. A \$50.00 service charge may be applied to accounts that are disconnected for chronic late payment, before those accounts will be reactivated. Virtual Citadel may, at its discretion, require a deposit equal to the amount of one billing invoice for customers that have a chronic late payment history.

5.4 *Taxes.* All fees charged under this Agreement are exclusive of all taxes and fees imposed on the transaction and/or the delivery of Services, all of which Customer will be responsible for except for taxes based upon the net income of Virtual Citadel.

6. CONFIDENTIAL INFORMATION.

6.1 *Definition.* "Confidential Information" means and includes but is not limited to, and whether disclosed prior to or after the date of this Agreement, the terms of this Agreement, Trade Secrets (as defined below)

and information in any form (tangible or intangible) concerning a party's financial or business practices, procedures and fees; technical, business and marketing plans; existing or prospective customers; customer or employee lists; background technology; computer systems; markets; developments; inventions; processes; formulas; technology; designs; drawings; engineering; hardware configuration information; and capabilities, including, but not limited to, computer software, data formats, maps and statistical information; and any other information identified as confidential by a party, whether acquired directly or indirectly (including as a result of any inspection of a party's facilities, licensees, licensors or customers). Trade Secrets means Disclosing Party's trade secrets (as defined in O.C.G.A. §10-1-761), as the same may be amended from time to time, or in other applicable Georgia law.

6.2 Exceptions.

(a) Confidential Information does not include information: (i) publicly available, by means other than wrongful disclosure, or lawfully obtained from third parties without any confidentiality restrictions; (ii) which recipient can establish as having been lawfully developed by it without relying upon or in any way using the disclosing party's Confidential Information; or (iii) provided to recipient with the expressly stated intention of the disclosing party that it be published, disseminated, released, or distributed by such party to designated persons or to the general public.

(b) A party receiving Confidential Information ("Receiving Party") may disclose Confidential Information of the party who provided the Confidential Information ("Disclosing Party") as required to comply with binding orders of governmental entities that have jurisdiction over it or as otherwise required by law, provided that the Receiving Party (i) gives the Disclosing Party reasonable written notice to allow it to seek a protective order or other appropriate remedy (except to the extent compliance with the foregoing would cause the Receiving Party to violate a court order or other legal requirement), (ii) discloses only such information as is required by the governmental entity or otherwise required by law, and (iii) and uses its best efforts to obtain confidential treatment for any Confidential Information so disclosed.

6.3 *Limited Use.* Each party agrees that it will not use in any way, for its own account or the account of any third party, except as expressly permitted by, or required to achieve the purposes of, this Agreement, nor disclose to any third party (except as required by law, regulation or court order upon notice to the party to whom such Confidential Information pertains or to that party's attorneys, accountants and other advisors as reasonably necessary), any of the other party's Confidential Information and will take reasonable precautions to protect the confidentiality of such information, at least as stringent as it takes to protect its own Confidential Information.

6.4 *Return of Confidential Information.* Upon expiration or termination of this Agreement, each party will promptly return, destroy or erase all of the other party's Confidential Information in its possession as directed by the party owning the Confidential Information. Upon request, each party will promptly provide a certification, in a form satisfactory to the requesting party, that all Confidential Information has been destroyed or erased.

6.5 *Remedies.* Each party acknowledges that a breach of the confidentiality provisions of this Agreement may result in serious and irreparable harm to the Disclosing Party for which there is no adequate remedy at law; therefore, each party is entitled to seek any temporary or permanent injunctive or other equitable relief in addition to any other remedies to which such party is otherwise entitled. Such temporary or permanent injunctive relief may be granted without bond, the requirement of which both parties do hereby waive.

7. INTELLECTUAL PROPERTY OWNERSHIP; LICENSE GRANTS.

7.1 *Intellectual Property Ownership.* Except for the rights expressly granted herein, this Agreement does not transfer any right, title or interest in or to Virtual Citadel Technology or Customer Technology between the

parties or to any third party. Virtual Citadel and Customer each agrees that it will not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from the other party's technology.

7.2 *General Skills and Knowledge.* Notwithstanding anything to the contrary in this Agreement, Virtual Citadel will not be prohibited or enjoined at any time by Customer from utilizing any skills or knowledge of a general nature acquired by Virtual Citadel during the course of providing Services, including, without limitation, information publicly known or available or that could reasonably be acquired in similar work performed for another customer of Virtual Citadel.

7.3 *Grant of License.*

(a) *By Virtual Citadel.* Virtual Citadel hereby grants to Customer a nonexclusive, royalty-free license during the Term of this Agreement to use Virtual Citadel Technology solely for Customer's use of the Service(s) as permitted hereunder. Customer shall have no right to use Virtual Citadel Technology for any purpose other than using the Service(s). Effective upon full and final payment for a Professional Service, Virtual Citadel assigns to Customer all right, title and interest, including all intellectual property rights, in the Work, except for any right, title or interest in Virtual Citadel Technology; provided, however, Virtual Citadel grants to Customer a non-exclusive, non-transferable, royalty free, perpetual license to use the Virtual Citadel Technology incorporated into the Work solely in connection with the use of the Work as a whole.

(b) *By Customer.* Customer acknowledges and agrees that if, in the course of performing the Service(s), it is necessary for Virtual Citadel to access Customer Equipment and use Customer Technology, Virtual Citadel is hereby granted a nonexclusive, royalty-free license during the term of this Agreement to use Customer Technology solely for the purposes of fulfilling its obligations hereunder. Virtual Citadel shall have no right to use Customer Technology for any purpose other than providing the Service(s). To the extent that Customer or its employees or contractors participate in the creation or development of Virtual Citadel Technology, Customer, on behalf of itself and its employees and contractors, hereby assigns to Virtual Citadel all right, title and interest, including all intellectual property rights in, Virtual Citadel Technology.

8. REPRESENTATIONS AND WARRANTIES.

8.1 *Authority and Performance.* Each party represents and warrants that (i) it has the legal right to enter into this Agreement and perform its obligations hereunder, (ii) it will comply at all times with all applicable laws and regulations, and (iii) the performance of its obligations will not violate any applicable U.S. laws or regulations, or cause a breach of any agreements with any third parties.

8.2 *Customer Equipment.* Customer represents and warrants that during the Term of this Agreement it will maintain the legal right and authority use any Customer Equipment as contemplated under this Agreement, including placement of such Customer Equipment in the Virtual Citadel Data Center, and all Customer Equipment (and other tangible items) placed by Customer in the Virtual Citadel Data Center will be used in compliance with all applicable manufacturer specifications.

8.3 *Equipment Purchased From Virtual Citadel.* EXCEPT AS EXPRESSLY SET FORTH HEREIN, ALL EQUIPMENT PURCHASED FROM Virtual Citadel IS PURCHASED "AS IS" WITHOUT WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, TITLE, OR NONINFRINGEMENT OF THIRD PARTY RIGHTS. THE FOREGOING WARRANTIES ARE CUSTOMER'S EXCLUSIVE WARRANTIES AND ARE IN LIEU OF ANY ORAL REPRESENTATION AND ALL OTHER WARRANTIES. CUSTOMER ACKNOWLEDGES AND AGREES THAT THE FOREGOING WARRANTIES ARE THE EXCLUSIVE WARRANTIES

RELATED TO EQUIPMENT PURCHASED FROM VIRTUAL CITADEL AND THAT VIRTUAL CITADEL SHALL NOT BE LIABLE FOR ANY DAMAGES, WHETHER EXPRESSED, IMPLIED OR STATUTORY, IN CONNECTION WITH SUCH EQUIPMENT EXCEPT AS EXPRESSLY SET FORTH HEREIN.

8.4 *No Other Warranties.* EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION OR IN THE APPLICABLE SLA(S), IF ANY, THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. VIRTUAL CITADEL DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OR TRADE PRACTICE. VIRTUAL CITADEL DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE.

8.5 *Actions by Third Parties.* CUSTOMER ACKNOWLEDGES AND AGREES THAT VIRTUAL CITADEL DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM VIRTUAL CITADEL' NETWORK AND/OR THE INTERNET WHICH ARE PROVIDED OR CONTROLLED BY THIRD PARTIES, AND THAT ACTIONS OR INACTIONS OF THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF) INCLUDING, WITHOUT LIMITATION, INTERRUPTIONS IN SERVICE CAUSED BY GOVERNMENT REGULATIONS OR ORDERS, SYSTEM CAPACITY LIMITATIONS OR LIMITATIONS IMPOSED BY, OR FAILURES OF, AN UNDERLYING COMMUNICATIONS CARRIER. VIRTUAL CITADEL WILL ENDEAVOR TO USE COMMERCIALY REASONABLE EFFORTS TO TAKE ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, HOWEVER, VIRTUAL CITADEL CANNOT AND DOES NOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR, AND VIRTUAL CITADEL DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS.

8.6 *Remedies.* If Virtual Citadel breaches any of the warranties set forth in this Section, Customer's sole remedy is termination of the affected Service(s) as provided herein. If Customer breaches any of the warranties in this Section, in addition to any other remedies available at law or in equity, Virtual Citadel will have the right, in its sole discretion, to immediately suspend any Services if deemed reasonably necessary by Virtual Citadel to prevent harm to Virtual Citadel, its business or other customers. If practicable, Virtual Citadel will provide notice of the breach and an opportunity to cure. If the breach is cured as provided hereunder, Virtual Citadel will promptly restore the Service(s).

9. VIRTUAL CITADEL SUPPLIED EQUIPMENT.

9.1 *Delivery and Term.* On or prior to the Start Date, Virtual Citadel shall deliver to Customer, at the designated Customer Area, the Virtual Citadel Supplied Equipment. Customer shall have the right to use the Virtual Citadel Supplied Equipment for the period set forth in the Pricing Terms Sheet and any additional period agreed to in writing by Virtual Citadel. Customer shall not remove any Virtual Citadel Supplied Equipment from the Customer Area(s) without the prior written consent of Virtual Citadel.

9.2 *Title.* The Virtual Citadel Supplied Equipment shall always remain the personal property of Virtual Citadel. Customer shall have no right or interest in or to the Virtual Citadel Supplied Equipment except as provided in this Agreement and the applicable Pricing Terms Sheet and shall hold the Virtual Citadel Supplied Equipment subject and subordinate to the rights of Virtual Citadel. Customer agrees to execute UCC financing statements as and when requested by Virtual Citadel and hereby appoints Virtual Citadel as its attorney-in-fact to execute such financing statements on behalf of Customer. Customer will, at its own expense, keep the Virtual Citadel Supplied Equipment free and clear from any liens or encumbrances of any kind (except any caused by Virtual Citadel) and will indemnify, defend and hold Virtual Citadel harmless from and against any loss or expense, including reasonable attorney's fees, caused by Customer's failure to do so. Customer shall give Virtual Citadel immediate written notice of any attachment or judicial process affecting the Virtual Citadel Supplied Equipment or Virtual Citadel ownership. Customer will not remove, alter or destroy any labels on the Virtual Citadel Supplied Equipment stating that it is the property of Virtual Citadel and shall allow the inspection of the Virtual Citadel Supplied Equipment at any time.

9.3 *Use, Maintenance and Repair.* Customer will, at its own expense, keep the Virtual Citadel Supplied Equipment in good repair, appearance and condition, other than normal wear and tear, and, if not included in the Services, shall obtain, pay for and keep in effect through the period of Customer's use thereof, a hardware and software maintenance agreement with the manufacturer or other party acceptable to Virtual Citadel. All parts furnished in connection with such repair and maintenance shall be manufacturer authorized parts and shall immediately become components of the Virtual Citadel Supplied Equipment and the property of Virtual Citadel. Customer shall use the Virtual Citadel Supplied Equipment in compliance with the manufacturer's or supplier's guidelines.

9.4 *Upgrades and Additions.* Customer may affix or install any accessory, addition, upgrade, equipment or device to the Virtual Citadel Supplied Equipment (other than electronic data) ("Additions") provided that such Additions (i) can be removed without causing material damage to the Virtual Citadel Supplied Equipment; (ii) do not reduce the value of the Virtual Citadel Supplied Equipment and (iii) are obtained from or approved in writing by Virtual Citadel and are not subject to the interest of any third party other than Virtual Citadel. Any other Additions may not be installed without Virtual Citadel's prior written consent. Prior to its return to Virtual Citadel, Customer shall remove any Additions to Virtual Citadel Supplied Equipment which (i) were not provided by Virtual Citadel and (ii) are readily removable without causing material damage or impairment of the intended function, use, or value of the Virtual Citadel Supplied Equipment, and restore the Virtual Citadel Supplied Equipment to its original configuration. Any Additions, which are not so removable, will become the property of Virtual Citadel free of any lien or encumbrance.

10. INSURANCE.

10.1 *Minimum Amounts.* Each party agrees to keep in full force and effect during the Term of this Agreement: (i) comprehensive general liability insurance in an amount not less than \$2 million per occurrence for property damage and personal injury, including death to anyone that may arise from Customer's acts or omissions, including without limitation, the installation, operations, maintenance or repair services, in or around the Virtual Citadel Data Center by Customer or by anyone directly or indirectly engaged or employed by Customer and (ii) insurance covering any and all claims by employees of Customer under any applicable Workers' Compensation Act or employer's liability laws, including any employers' disability insurance and sexual harassment laws in an amount not less than that required by applicable law.

10.2 *Responsibility.* Each party agrees that it will ensure and be solely responsible for ensuring that its agents, contractors and subcontractors maintain insurance coverage at levels no less than those required by applicable law and customary in that party's and its agents' industries.

10.3 *Certificates; Additional Insured.* Prior to installation of any Customer Equipment in the Customer Area, Customer will (i) deliver to

Virtual Citadel certificates of insurance which evidence the minimum levels of insurance set forth above; and (ii) cause its insurance provider(s) to name Virtual Citadel as an additional insured and to notify Virtual Citadel not less than sixty (60) days prior to any cancellation or material change in any coverage.

10.4 *Duration of Coverage.* Insurance required under this Section 9 shall be maintained by Customer throughout the term of this Agreement and any period during which any claims arising from this Agreement are or may be outstanding. Upon Customer's default in obtaining or delivering any such policy or certificate of insurance or Customer's failure to pay the premiums therefor, Virtual Citadel may (but shall not be obligated to) secure or pay the premium for any such policy and charge Customer the cost of such premium, or Virtual Citadel may terminate this Agreement without liability to Customer.

11. LIMITATIONS OF LIABILITY.

11.1 *Personal Injury.* Customer acknowledges and agrees that each of its representatives and any other person visiting the Virtual Citadel Data Center does so at their own risk. Virtual Citadel assumes no liability whatsoever for any harm to such persons resulting from any cause other than the gross negligence or willful misconduct of Virtual Citadel.

11.2 *Damage to Customer Equipment.* IN NO EVENT WILL VIRTUAL CITADEL BE LIABLE TO CUSTOMER FOR ANY DAMAGES, DIRECT OR INDIRECT, TO CUSTOMER EQUIPMENT ARISING OUT OF CUSTOMER'S USE OF THE VIRTUAL CITADEL DATA CENTER OR ANY SERVICES PROVIDED HEREUNDER, UNLESS SUCH DAMAGES ARE SOLELY THE RESULT OF VIRTUAL CITADEL'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. TO THE EXTENT VIRTUAL CITADEL IS LIABLE FOR ANY DAMAGE TO, OR LOSS OF, CUSTOMER EQUIPMENT FOR ANY REASON, SUCH LIABILITY WILL BE LIMITED SOLELY TO THE THEN-CURRENT REPLACEMENT VALUE OF THE CUSTOMER EQUIPMENT, EXCLUDING LOST DATA, SOFTWARE AND FIRMWARE.

11.3 *Damages Limitation.* IN NO EVENT SHALL VIRTUAL CITADEL BE LIABLE TO CUSTOMER, ITS CUSTOMERS, OR ANY OTHER THIRD PARTIES FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, ANY LOST PROFITS OR SAVINGS; LOSS OF GOODWILL; LOSS OF BUSINESS OR PROSPECTIVE BUSINESS OPPORTUNITIES; LOSS OF INFORMATION USE; OR OTHER COMMERCIAL OR ECONOMIC LOSS, WHETHER ARISING UNDER OR AS A RESULT OF THIS AGREEMENT, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY, WHETHER IN BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, OR ANY OTHER TORTS EVEN IF VIRTUAL CITADEL HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT WILL VIRTUAL CITADEL'S TOTAL LIABILITY UNDER THIS AGREEMENT TO CUSTOMER FOR ANY REASON AND UPON ANY CAUSE OF ACTION INCLUDING WITHOUT LIMITATION, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, MISREPRESENTATIONS, AND OTHER TORTS, EXCEED THE TOTAL FEES PAID TO VIRTUAL CITADEL FOR THE SERVICE IN THE THREE MONTHS IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO SUCH LIABILITY.

11.4 *Failure of Essential Purpose.* The parties acknowledge that the prices and other duties and obligations in this Agreement reflect the reliance upon the limitations of liability and the disclaimers of warranties and damages set forth herein, and that such limitations of liability and disclaimers have formed an essential basis of the bargain between the parties. The parties agree that the limitations and exclusions of liability and disclaimers specified in this Agreement will survive and apply even if found to have failed of their essential purpose.

12. INDEMNIFICATION.

12.1 Except for damages arising from a data breach that are covered by insurance and not subject to indemnification under this Agreement, each party agrees that it will indemnify, defend and hold the other harmless from and against any and all costs, liabilities, losses, and expenses whatsoever (including reasonable attorneys' fees) resulting from any claim brought by any third party against the other for personal injury or property damage caused by the gross negligence or willful misconduct of the other party, provided the party seeking indemnification provides prompt written notice of any such claim, the indemnifying party controls the defense of such claim (except the indemnified party must consent to the indemnifying party's choice of counsel, such consent not to be unreasonably withheld) and receives the full cooperation of the indemnified party in the defense. In no event shall the indemnifying party settle the claim without the consent of the indemnified party.

13. MISCELLANEOUS PROVISIONS.

13.1 *Force Majeure.* Except for the obligation to make payments, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, terrorism, acts of God, earthquake, flood, embargo, riot, telecommunications failures, unusually severe weather, power failures, sabotage, labor shortage or dispute, governmental act, or failure of the Internet, provided that the delayed party: (a) gives the other party prompt notice of such cause, and (b) uses its reasonable commercial efforts to promptly correct such failure or delay in performance. If Virtual Citadel is unable to provide Service(s) for a period of thirty (30) consecutive days as a result of a continuing Force Majeure event, Customer may cancel the Service(s).

13.2 *No Lease; Agreement Subordinate to Master Lease.* This Agreement is a services agreement and is not intended to and will not constitute a lease of any real property. Customer acknowledges and agrees that (i) it has been granted only a license to occupy the Customer Area and use the Virtual Citadel Data Center and any equipment provided by Virtual Citadel in accordance with this Agreement; (ii) Customer has not been granted any real property interest in the Customer Area or Virtual Citadel Data Center; (iii) Customer has no rights as a tenant or otherwise under any real property or landlord/tenant laws, regulations, or ordinances; (iv) this Agreement, to the extent it involves the use of space leased by Virtual Citadel, shall be subordinate to any lease between Virtual Citadel and its landlord(s); and (v) the expiration or termination of any such lease shall terminate this Agreement as to such property subject to Customer retaining any rights or claims it may have against Virtual Citadel arising from the expiration or termination of such lease. Customer hereby waives and releases any claims or rights to make a claim that it may have against the landlord(s) under any lease by Virtual Citadel with respect to any equipment or property of Customers' located in the premises demised to Virtual Citadel by such landlord(s).

13.3 *Marketing.* Customer agrees that during the term of this Agreement, Virtual Citadel may publicly refer to Customer, orally and in writing, as a customer of Virtual Citadel. Any other reference to Customer by Virtual Citadel requires the written consent of Customer.

13.4 *Government Regulations.* Customer will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this Agreement or the Services without first complying with all export control laws and regulations which may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Customer operates or does business.

13.5 *Non-Solicitation.* Customer shall not, during the term and for 2 years after the termination or expiration of this Agreement, regardless of reason, hire or attempt to hire, directly or indirectly, any person who, during the previous twelve months, was an employee of Virtual Citadel unless such employee has ceased to work at Virtual Citadel for at least 6 months. If Customer breaches this paragraph, Customer shall pay Virtual Citadel, at its option, a referral fee in the amount of thirty percent (30%) of the employee's gross compensation (including the cost of benefits) at Virtual Citadel for the immediately preceding calendar year. The parties agree this is a reasonable

pre estimate of damages to Virtual Citadel and is not intended as a penalty. The referral fee is in addition to, and not in lieu of, any other remedy that Virtual Citadel may have in law or in equity, including, without limitation the remedy contained in Section 6.5. Such referral fee is due and payable within 10 days after Virtual Citadel elects such remedy in writing to Customer.

13.6 *No Third Party Beneficiaries.* Virtual Citadel and Customer agree that, except as otherwise expressly provided in this Agreement, there shall be no third party beneficiaries to this Agreement, including but not limited to the insurance providers for either party or the customers of Customer.

13.7 *Governing Law.* This Agreement is made under and will be governed by and construed in accordance with the laws of the State of Georgia without regard to the principles of conflicts of law, and specifically excluding from application to this Agreement that law known as the United Nations Convention on the International Sale of Goods. Notwithstanding the foregoing, claims for injunctive relief may be brought in a state or federal court in the United States with jurisdiction over the subject matter and parties. Any claims or actions regarding or arising out of this Agreement must be brought exclusively in a court of competent jurisdiction sitting in Fulton County, Georgia, and each party to this Agreement submits to the jurisdiction of such courts for the purposes of all legal actions and proceedings arising out of or relating to this Agreement. Virtual Citadel and Customer hereby waive, to the full extent permitted by law, any objection that it may now or hereafter have to the laying of venue of any such action in such court and any claim that any such action, suit or proceeding has been brought in an inconvenient forum.

13.8 *Severability; Waiver.* In the event any provision of this Agreement is held by a tribunal of competent jurisdiction to be contrary to the law, the remaining provisions of this Agreement will remain in full force and effect. The waiver of any breach or default of this Agreement will not constitute a waiver of any subsequent breach or default, and will not act to amend or negate the rights of the waiving party.

13.9 *Assignment.* Customer may not assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of Virtual Citadel, and any attempted assignment or delegation without such consent will be void. Virtual Citadel may assign this Agreement in whole or part. Virtual Citadel also may delegate the performance of certain Services to third parties, provided Virtual Citadel controls the delivery of such Services to Customer and remains responsible to Customer for the delivery of such Services. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns.

13.10 *Notice.* All communications or notices required or permitted by this Agreement shall be in writing and shall be deemed to have been given (i) on the date of personal delivery to an officer of or personally to the other party, or (ii) the day following deposit when properly deposited for overnight delivery with a nationally-recognized commercial overnight delivery service, prepaid, and addressed as listed to the party at the address on the initial paragraph of this Agreement unless and until either of such parties notifies the other in accordance with this Section of a change of address.

13.11 *Relationship of Parties.* Virtual Citadel and Customer are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between Virtual Citadel and Customer. Neither Virtual Citadel nor Customer will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided herein.

13.12 *Entire Agreement; Counterparts; Originals.* This Agreement, including all documents incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings and agreements, written and oral, regarding such subject matter. Any additional or different terms in any purchase order or other response by Customer shall be deemed objected to by Virtual Citadel without need of further notice of objection,

and shall be of no effect or in any way binding upon Virtual Citadel. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which together shall constitute one and the same instrument. This Agreement may be changed only by a written document signed by authorized representatives of Virtual Citadel and Customer.

13.13 *Survival.* Sections 2.1, 2.2, 3.3, 6, 7, 8.3, 8.4, 8.5, 10, 11 and 12 will survive any expiration or termination of the Agreement.

13.14 *Mediation.* Except for breach of the covenants contained in Section 6 or 13.5 to which the remedies contained in those sections shall apply, all disputes and controversies of every kind and nature between the parties to this Agreement arising out of or in connection with the existence, construction, validity, interpretation or meaning, performance, nonperformance, enforcement, operation, breach, continuance, or termination of the Agreement shall first be submitted to mediation pursuant to the procedure set forth in this Section 13.14. Virtual Citadel and Customer may demand such mediation in writing within fourteen (14) days after the controversy arises. The parties agree that the mediator shall be appointed by the Atlanta office of the Henning Mediation and Arbitration Services. (Henning). The mediation shall be held at Henning's Atlanta office and concluded within thirty (30) days of the selection of the mediator. The parties shall equally bear the cost of the mediator but otherwise bear their own costs in connection with the mediation.

13.15 *Remedies.* Except as otherwise provided for herein, no remedy conferred by any of the specific provisions of the Agreement is intended to be exclusive of any other remedy. Each and every remedy shall be cumulative and shall be in addition to every other remedy given hereunder, now or hereafter existing at law or in equity or by statute or otherwise. The election of any one or more remedies by either party shall not constitute a waiver of the right to pursue other available remedies.

IN WITNESS WHEREOF, the undersigned authorized representatives of Customer and Virtual Citadel have read the foregoing and all documents incorporated therein and agree and accept such terms effective as of the date first above written.

CUSTOMER

Signature: _____
Print Name: _____
Title: _____
Date: _____

Virtual Citadel Inc

Signature: _____
Print Name: _____
Title: _____
Date: _____