



RETROFIT MASTER SERVICES AGREEMENT TERMS AND CONDITIONS

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RETROFIT MASTER SERVICES AGREEMENT TERMS AND CONDITIONS

1. Introduction. Under the terms of this Agreement, RetroFit will use commercially reasonable efforts to provide Client with Managed Services and/or consulting, professional, training and support services ("Services") as described in one or more mutually agreed upon schedules (the "Schedules"). "Managed Services" means those Services provided to Client by RetroFit to monitor, manage and/or maintain certain IT components or services (such as servers, workstations, backup services, e-mail services, hosting services, etc.). "Managed Devices" means the servers, workstations, laptops, and other intelligent network devices and equipment that have been specifically identified and documented by RetroFit as being covered by Managed Services.

2. Services

- Schedules. RetroFit shall provide the Services as described in a Schedule that details the obligations of the parties with regard to specific Services. Each Schedule shall (i) be signed by the parties; and (ii) state the pertinent business parameters, including pricing, payment, expense reimbursement, and a description of the Services to be provided. Such business parameters shall control as to the Services described in a Schedule. Schedules include documents titled as a "Proposal", "Statement of Work", and "Quotation", so long as they meet the foregoing requirements. In the event of any conflict between the terms of this Agreement and the terms in a Schedule, the terms of this Agreement shall control unless the Schedule specifically identifies its intent to modify the terms of this Agreement and the Section of this Agreement being modified.
- Start Date. RetroFit may specify in a Schedule an estimated date for beginning the Services. Any estimated date is made for project planning purposes only and is not a guarantee; RetroFit may revise an estimated start date at any time if the assumptions upon which RetroFit relied in determining its initial estimate change the scope or magnitude of the Services, or if Client fails to provide required information, assistance, and/or decisions.
- Restrictions. Client shall not: (1) use or allow use of the Services to provide time-sharing, outsourcing, service bureau, or other IT services to third parties; or (2) reverse engineer, decompile, disassemble, modify or change any portion of software provided to Client by RetroFit in connection with the Services ("Software"), or attempt to do any of the foregoing.
- Client Obligations. Client agrees to: (1) cooperate with and assist RetroFit in the performance of the Services, and interact with RetroFit in a professional and courteous manner; (2) remain solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Client data, information, and materials; and (3) furnish full and safe access to Client's office, network and systems as needed for RetroFit's performance of Services.

3. Invoicing and Payment Terms

- Invoicing and Payment. RetroFit shall submit invoices for fees and reimbursable costs and expenses and Client shall pay each invoice. Initial invoice will be issued at time of signature. All amounts are due in the currency stated on the invoice and within ten (10) days after the date of RetroFit's invoice. Past due invoices are subject to an 18% per annum finance charge, or the greatest amount allowed by applicable law, whichever is less.
- Taxes. Client agrees to pay all federal, state, local and other taxes based on this Agreement, the Services or its use. If Client claims tax-exempt status for any purpose in connection with this Agreement, Client represents

and warrants that it is a tax-exempt entity and will provide Client upon request with a correct copy of Client's tax-exempt certification.

- **Changes.** Due to the nature of business, any change order that either increases or decreases to a maximum dollar value of \$500 will be automatically invoiced without both parties acknowledgement. The increase or decrease will be reflected on the 1st of the following month invoice. Any increase that exceeds \$500 will require an acknowledgement change order by both parties prior to additional invoicing.
- **Expenses.** Client shall reimburse RetroFit for all reasonable out-of-pocket expenses incurred by RetroFit in connection with this Agreement, including but not limited to travel, lodging, meals, and shipping expenses. All travel must be pre-approved by Client.

4. Term; Termination

- The term of this Agreement commences on the Effective Date and shall remain in effect until terminated as set forth herein. Each Schedule will specify its own initial term. Except for Schedules applying to one-time Professional Services only, and unless otherwise specified in the Schedule, each Schedule automatically renews for subsequent one-year terms immediately following the end of the initial term specified in the Schedule and each renewal term. Should client wish to terminate the agreement prior to the end of the term for any reason, they must do so in writing. Client will be responsible for payment of the remainder of the current year's term at the date of termination.
- **Termination for Convenience.** Except as set forth in a Schedule, either party may terminate this Agreement or any Schedule for convenience. If Client terminates the agreement prior to the end of the term for any reason, they must do so in writing. Client will be responsible for payment of the remainder of the current years term at that time.
- **Termination for Breach.** In the event either party fails to cure a breach of a Schedule or this Agreement within thirty (30) days after receiving written notice thereof, then the non-breaching party may terminate the applicable Schedule or this Agreement upon written notice. Termination of this Agreement or any Schedule shall not limit either party from pursuing other remedies available to it, including injunctive relief, not shall such termination relieve Client of its obligation to pay all fees and expenses for all Services performed, including any deliverables associated with such Services, as of the date of termination.
- RetroFit shall have the right, in RetroFit's discretion and upon notice to Client, to suspend performance of all or any part of the Services under a Schedule or this Agreement if Client fails to pay any amount due or is otherwise in material breach of this Agreement, and Client fails to cure such breach within 10 days after receipt of notice. Client agrees that RetroFit will not be liable in any way to Client for suspension of Services due to Client's failure to pay or other material breach of this Agreement.
- **Fixed-Term Schedule.** If the applicable Schedule contains a fixed term and specifically excludes the right to terminate for convenience (a "Fixed-Term Schedule"), the terms of this Section shall apply. If Client terminates a Fixed-Term Schedule without cause, or if RetroFit terminates a Fixed-Term Schedule due to Client's material breach, then: (i) all fees that would have come due under the such Schedule for the remainder of its then-current term shall become immediately due and payable by Client to RetroFit as liquidated damages, without any further demand by RetroFit, and (ii) Client shall pay to RetroFit all pre-paid, documented out of pocket expenses incurred by RetroFit in reliance on the terminated Services for such Schedule. The parties acknowledge that RetroFit's actual damages arising from such termination would be difficult to determine with accuracy and, accordingly, have agreed to the foregoing liquidated damages, which the parties acknowledge is a reasonable estimate of RetroFit's potential losses.
- Sections 3, 5, 6, 7(b), and 9 through 11 hereof shall survive termination or expiration of this Agreement in accordance with their terms. Termination of this Agreement will not affect any accrued rights or liabilities of either party or any Schedule currently in effect.

5. Intellectual Property

- **Ownership.** Client agrees that RetroFit and its third party licensors and suppliers own all right, title and interest, including but not limited to copyright, patent, trade secret, and all other intellectual property rights, in the Services delivered and/or provided to Client and any software (including but not limited to the look and feel, algorithms, documentation format, database structures, methodologies, and know-how associated with the Services, but excluding Client Data).
- **License Grant.** Subject to the terms and conditions of this Agreement, RetroFit grants Client the worldwide, non-exclusive, non-transferable, non-sub-licensable, limited right to use, copy, and create derivatives of any materials provided by RetroFit in the course of performing Services solely for Client's internal business

operations as contemplated by the applicable Schedule.

- **Reservation of Rights.** RetroFit reserves all rights not expressly granted to Client in this Agreement. Except as expressly stated, nothing herein shall be construed to (1) directly or indirectly grant to a receiving party any title to or ownership of a providing party's intellectual property rights in services or materials furnished by such providing party hereunder, or (2) preclude such providing party from developing, marketing, using, licensing, modifying or otherwise freely exploiting services or materials that are similar to or related to the Services or materials provided hereunder. Notwithstanding anything to the contrary herein, Client acknowledges that RetroFit has the right to use any Client-provided materials solely for the benefit of Client in connection with the Services performed hereunder for Client.

6. Confidentiality

- **Confidential Information.** "Confidential Information" means the terms of this Agreement (including the terms of each Schedule) and all confidential and proprietary information of the parties, including without limitation all business plans, product plans, financial information, software, designs, formulas, methods, know-how, processes, materials, Software and technical, business and financial data of any nature whatsoever (including, without limitation, any marketing, pricing and other information regarding the Services), provided that such information is marked or designated in writing as "confidential," "proprietary," or any other similar term or designation, or would reasonably be understood to be confidential by the recipient. Confidential Information does not include information that is (i) rightfully in the receiving party's possession without obligation of confidentiality prior to receipt from the disclosing party; (ii) a matter of public knowledge through no fault of the receiving party; (iii) rightfully furnished to the receiving party by a third party without restriction on disclosure or use; or (iv) independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information. Each party shall (i) use Confidential Information of the other party only for the purposes of exercising rights or performing obligations in connection with this Agreement or any Schedule hereunder, and (ii) use at least reasonable care to protect from disclosure to any third parties any Confidential Information disclosed by the other party for a period from the date hereof until three (3) years following the later of (i) the termination date of this Agreement or (ii) the last date of the completion or other termination of Services under each Schedule; provided, however, that Confidential Information that constitutes, contains or reveals, in whole or in part, RetroFit proprietary rights shall not be disclosed by the receiving party at any time. Notwithstanding the foregoing, a receiving party may disclose Confidential Information pursuant to a valid order of a court or authorized government agency provided that the receiving party has given the disclosing party prompt notice, to the extent legally permissible, so that the disclosing party will have an opportunity to defend, limit or protect against such disclosure.
- **Publicity.** Each party shall not, and shall not authorize or assist another to, originate, produce, issue or release any written publicity, news release, marketing collateral or other publication or public announcement, relating in any way to this Agreement or any Schedule entered into hereunder, without the prior written approval of the other, which approval shall not be unreasonably withheld; provided, however, that RetroFit may identify Client for reference purposes.

7. Warranty

- **Warranty.** RetroFit shall perform Services in a workmanlike manner in accordance with generally accepted industry standards. Client must notify RetroFit of any failure to so perform within ten (10) business days after the performance of the Services. RetroFit's entire liability, and Client's sole remedy, for RetroFit's failure to so perform shall be for RetroFit to, at its option, (i) use reasonable efforts to correct such failure, and/or (ii) terminate the applicable Schedule and refund that portion of any fees received that correspond to such failure to perform along with a pro-rated portion of any prepaid fees corresponding to Services not performed at the time of termination.
- **Disclaimer and Exclusions.** Except as expressly stated in Section 9(a) above, RetroFit (including its suppliers, subcontractors, employees and agents) provides Services "AS IS" and makes no other express or implied warranties, written or oral, and all other warranties are specifically excluded, including but not limited to, the implied warranties of merchantability, fitness for a particular purpose, title and non-infringement, and any warranty arising by statute, operation of law, course of dealing or performance, or usage of trade. RetroFit does not warrant that the Services will be provided uninterruptedly or error-free. Except to the extent expressly set forth in a Schedule, Client agrees that it has the sole responsibility for securing and backing up its data. Client further agrees that: (i) RetroFit makes no promises or guarantees that it will be able to resolve all issues or "bugs" in in third-party software, systems and technology ("Third-Party Systems"), and (ii) a failure by RetroFit to

resolve any issue or series of issues in any Third-Party System is not a breach of this Agreement. RetroFit is in no way liable for defects or "bugs" in any Third-Party Systems, or for correcting errors introduced into data or software due to Third-Party Systems.

8. Intellectual Property Indemnification.

- RetroFit shall (i) defend Client against any third party claim that the Services and the related materials provided by RetroFit to Client infringe a patent, or a copyright enforceable in a country that is a signatory to the Berne Convention, and (ii) pay the resulting costs and damages finally awarded against Client by a court of competent jurisdiction or the amounts stated in a written settlement signed by RetroFit. Client shall (i) defend RetroFit against any third party claim that the materials provided by Client or its agents for use by RetroFit infringe a patent, or a copyright enforceable in a country that is a signatory to the Berne Convention, and (ii) pay the resulting costs and damages finally awarded against RetroFit by a court of competent jurisdiction or the amounts stated in a written settlement signed by Client. The foregoing obligations are subject to the following: the indemnitee (a) notifies the indemnitor promptly in writing of such claim, (b) grants the indemnitor sole control over the defense and settlement thereof, (c) reasonably cooperates in response to an indemnitor request for assistance, and (d) is not in material breach of this Agreement. Should such a claim be made, or in the indemnitor's opinion be likely to be made, the indemnitor may, at its option and expense, (1) procure for the indemnitee the right to make continued use thereof, (2) replace or modify such so that it becomes non-infringing, (3) request return of the subject material, or (4) discontinue the Service and refund the portion of any prepaid Service fee that corresponds to the period of Service discontinuation. The indemnitor shall have no liability under this Section 10 to the extent that the alleged infringement arises out of or relates to: (A) the use or combination of the subject Services and/or materials with third party products or services, (B) use for a purpose or in a manner for which the subject Services and/or materials were not designed, (C) any modification to the subject Services and/or materials made by anyone other than the indemnitor or its authorized representatives, (D) any modifications to the subject Services and/or materials made by the indemnitor pursuant to the indemnitee's specific instructions, or (E) any technology owned or licensed by the indemnitee from third parties. This section states the indemnitee's sole and exclusive remedy and the indemnitor's entire liability for third party infringement claims.

9. Limitation of Liability.

- Limitation on Direct Damages. Except as otherwise provided in Section 10 above, RetroFit's total liability (including the liability of any supplier, subcontractor, employee or agent of RetroFit), and Client's sole and exclusive remedy for any claim of any type whatsoever arising out of or in connection with any Services provided hereunder, shall be limited to proven actual direct damages in an amount not to exceed the amount paid by Client to RetroFit for the Services in the immediately preceding 6-month period for the specific Services from which such claim arises.
- No Indirect Damages. Except with respect to claims regarding violation of RetroFit's Proprietary rights (including any license granted thereunder), claims arising under Section 6 (TERM; TERMINATION), or claims for indemnity arising under section 10 (INTELLECTUAL PROPERTY INDEMNIFICATION), neither Client nor RetroFit (including, RetroFit's suppliers, subcontractors, employees and agents) shall (i) have liability to the other for any special, consequential, exemplary, incidental, or indirect damages (including, but not limited to, loss of profits, revenues, data and/or use), even if advised of the possibility thereof; and (ii) bring any claim based on any Service provided hereunder more than eighteen (18) months after the cause of action accrues.

10. Assignment.

- Neither party may assign this Agreement without the prior written consent of the other party, except that such consent shall not be necessary for an assignment made to a party's successor in connection with the sale of all or substantially all of such party's business or portion of such party's business to which this Agreement relates, so long as such successor agrees in writing to the terms of this Agreement, unless the surviving entity of the merger, acquisition, or sale of assets is a direct competitor of the other party. Nothing herein shall limit RetroFit's right to assign its right to receive and collect payments hereunder.

11. General.

- RetroFit has the right, at its sole cost and expense, to conduct during normal business hours (but not more than twice in any 12-month period) an audit of Customer's records and systems to verify compliance with the terms of this Agreement and any Schedule. If such an audit finds that Client has breached its obligations under this

Agreement or any Schedule, then, in addition to any other remedies available to RetroFit for such breach, Client shall pay the reasonable expenses associated with such audit.

- **Security Interest.** Client hereby grants to RetroFit a security interest in any and all hardware and other items purchased by Client from RetroFit ("Deliverables"), until such time as those Deliverables are paid in full by the Client, in order to secure Client's obligations to RetroFit. Client agrees that in the event of default in any payment, RetroFit shall have, in addition to its rights under applicable law, the right to immediately repossess any and all Deliverables previously sold to Client, but not fully paid for by Client, without further operation of law and without notice to Client. Client further agrees to pay for any and all costs, including reasonable attorney's fees, and other applicable costs which RetroFit incurs as a result of said repossession. Client further agrees to execute any additional documents, at Client's expense, to perfect or continue the security interest created by this Agreement.
- **Independent Contractors.** The parties are independent contractors, and nothing in this Agreement shall be construed as creating a joint venture, partnership, agent or employment relationship between RetroFit and Client.
- **Non-Solicitation.** Client shall not, directly or indirectly, solicit, hire or retain, nor cause to be solicited, hired or retained as an employee or independent contractor, any RetroFit employee or former employee employed by RetroFit in a technical or sales position at any time during the term of this Agreement and for a period of one (1) year following termination of this Agreement. Client agrees that if Client wishes to hire any employee of RetroFit employed by RetroFit in a technical or sales position while bound by this section, Client will pay to RetroFit a fee equal to the greater of: (1) \$75,000, (2) such employee's most recent annual salary and bonus; or (3) the salary and bonus offered to such employee by Client. Client agrees that this fee is fair and not excessive.
- **Compliance with Laws.** Each party agrees to comply with all applicable laws, rules and regulations in connection with this Agreement.
- **Notices.** Any notice or other communication required or permitted in this Agreement shall be in writing and delivered to the addresses listed on the Contact section of the Cover Page of this Agreement either: (i) by personal delivery; (ii) by certified mail; or (iii) by nationally recognized overnight courier, and shall be effective upon receipt.
- **Integration.** This Agreement (including the Cover Page and any Schedules) constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior proposals, negotiations, conversations, discussions and agreements between the parties concerning the subject matter hereof. Client specifically acknowledges and agrees that, in entering into this Agreement, Client has not relied on any information or promises that are not specifically set forth in this Agreement. RetroFit will have no obligation to provide any services, software, networking, or hardware except as specifically set forth in this Agreement. Any additional or conflicting terms on any purchase order for any products or services covered by this Agreement shall be void and without effect unless agreed to in a separate writing signed by both parties.
- **Agreement Updates.** RetroFit may from time to time update the terms of this Agreement, and deliver an updated Agreement to Client by email or by mail to Client's principal business contact. If Client does not provide written notice to RetroFit of an objection to the updated Agreement terms within 30 days of receipt, then the terms of the updated Agreement shall be deemed agreed to by Client and shall replace the terms of this Agreement (as may have been previously modified). Other than the foregoing, this Agreement may not be modified or waived except in a written document, signed by both parties.
- **Informal Dispute Resolution.** Each party shall attempt in good faith to resolve any controversy, claim or dispute of whatever nature arising out of or relating to this Agreement ("Dispute") promptly by negotiation between executives or managers who have authority to settle the Dispute and who are at a higher level of management within each of the parties' organizations than the parties' appointed project managers. Each party shall provide the other with all information and documentation relied upon by the party to substantiate its position with respect to the Dispute. If the Dispute has not been resolved through negotiation within thirty (30) business days of the initiation thereof, the parties may make a good faith attempt to settle the Dispute by mediation conducted by a mutually agreed mediator.
- **Applicable Law and Jurisdiction.** This Agreement shall be construed and enforced in accordance with, and the rights of the parties shall be governed by, the laws of the Commonwealth of Massachusetts, without regard to conflict of laws principles. Each of the parties to this Agreement irrevocably consent to the exclusive jurisdiction of the courts of the Commonwealth of Massachusetts and the United States District Court for the District of Massachusetts, as well as to the jurisdiction of all courts to which an appeal may be taken from such courts, for the purpose of any suit, action or other proceeding arising out of any of their obligations hereunder or with respect to the transactions contemplated hereby. Each of the parties to this Agreement expressly

agree to submit to the jurisdiction of such courts for the purposes of resolving any dispute between the parties and waive any and all objections they may have to venue in such courts.

- Force Majeure. Except for Client's payment obligations, each party shall be excused from performance and shall not be liable for any delay or failure to perform caused by the occurrence of, war, terrorism, sabotage, insurrection, riot or other act of civil disobedience, labor disturbance or shortage, act of public enemy, failure of the Internet, act of any government affecting the terms hereof, explosion, hurricane, earthquake, flood or other act of God.
- Third-party Beneficiaries. There are no intended third-party beneficiaries of this Agreement, and nothing in this Agreement may be relied upon by, or shall benefit, any party other than RetroFit and Client.
- Severability. If any provision of this Agreement is found by any court or administrative body of competent jurisdiction to be invalid or unenforceable, then the invalidity or unenforceability shall not affect the other provisions of the Agreement and all provisions not affected shall remain in full force and effect. Both parties will attempt to substitute with a valid or enforceable provision, which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.
- Headings and Counterparts. Headings to clauses are for ease of reference only and will not affect the interpretation of this Agreement. This Agreement may be executed in any number of counterparts and by the parties upon different counterparts, each of which shall be deemed to be an original, but which together shall constitute one and the same agreement.
- Electronic Signatures. The parties agree that this Agreement and all Schedules may be submitted and signed electronically by digital signatures or other electronic manifestation of acceptance. Such signatures will be fully binding on the parties, in the same manner as if physically signed and submitted by a party. Each party waives any objection that its digital signatures and acceptances are not valid.

MANAGED IT SERVICES

Supplemental Schedule

Introduction. This Supplemental Schedule includes terms applicable to the Managed IT Services Proposal accepted by Client. Together, the Managed IT Services Proposal and this Supplemental Schedule constitute a Schedule under the Master Services Agreement ("Agreement") between RetroFit and Client. Capitalized terms used in this Supplemental Schedule and not defined have the meaning given to them in the Agreement.

Client Obligations. Client agrees to:

- Reboot servers and/or monitoring agents upon request of RetroFit.
- Define a weekly off-hours reboot schedule to aid in patching.
- Provide all passwords necessary for RetroFit's employees to perform requested tasks. Upon request, Client will provide RetroFit with a unique administrative password for providing ongoing maintenance and support of Client's Managed Devices.
- Maintain hardware warranty or RetroFit service contract on all critical customer equipment (servers, core switches, etc.)
- Have an approved version of Anti-Virus and Anti-malware installed and running on all systems. These components can be supplied by RetroFit.
- Use hardware and software that is business grade and considered task efficient.
- Maintain third-party/OEM support and maintenance agreements for all systems and software.
- Provide all necessary information when requesting technical support. This information includes, but is not limited to:
 - Name of end user experiencing the issue
 - Location of end user and computer
 - Contact information for the end user
 - Detailed description of the issue
- Notify RetroFit upon the removal of a Managed Device from the network so the RetroFit's remote management and monitoring systems can be updated.
- Be responsible for designating one or more authorized contacts responsible for screening service requests and to determine level of service needed and assignment of requests to RetroFit.
- Instruct all users to leave workstations, servers and other computer and network equipment during mutually agreed upon maintenance periods. Users shall also leave any remote agents active and running at all times unless otherwise instructed by RetroFit. Users may be

- Use only current licensed software.
- Maintain a business class and stable broadband internet connection.
- Provide RetroFit a designated point of contact with authority to make decisions.
- Not attempt to repair or modify any Managed Devices.
- Maintain Client site conditions in a reasonable and clean manner and as specified by applicable system manufacturers.
- Maintain records of valid licenses, warranties and/or support contracts for hardware, operating software and application software used in its network and systems with respective third-party vendors.
- logged off during this maintenance period.
- Keep RetroFit updated with all information required to enlist third-party vendor's technical support including e-mail and phone contact information along with any customer codes or access information that may be required. All vendor and third-party technical support fees are the responsibility of Client.
- Ensure that all necessary materials received or available from third-party vendors are available, including manufacturer recovery media for software and other software to be reloaded.

Managed Services Terms

- Pricing Updates. The fees in the Managed Services Proposal are based on the number of Managed Devices and/or users, as well as the number of supported locations. RetroFit will review changes to the above quantities as well as additional information learned regarding Client's environment and the other aspects of the Proposal as needed, and may update fees under the Proposal to reflect any changes. If the number of Managed Devices and/or users are reduced, the benefit of volume discounts may be removed from the pricing metrics.
- Monitoring. Monitoring capabilities vary depending on the manufacturer of the Managed Device and supported management protocols. RetroFit can work with a variety of common management protocols including SNMP, Syslog, Microsoft Windows Event Log and Microsoft Windows Management Interface (WMI). Managed Devices must support one or more of these management protocols to be effectively monitored. RetroFit will use commercially reasonable efforts to detect and avoid the malfunction of Managed Devices. Monitoring services do NOT include the provisions of any intrusion detection services nor do they address any other security concerns.
- Patches. Client acknowledges that some OEM (Original Equipment Manufacturer) patches may cause operating difficulties or "break" other software, and agrees that RetroFit will not be responsible for the potential adverse effects of applying such a patch created by the OEM.
- Anti-Malware. Client acknowledges that the preferred anti-virus/anti-malware software may be incompatible with other anti-virus/anti-malware and security software. Anti-virus and anti-malware software and services are provided on a reasonable efforts basis, and Client acknowledges that no solution is capable of blocking all viruses and malware.
- Manufacturer Items. RetroFit reserves the right to utilize the services of manufacturer's representatives for repairs guaranteed by those manufacturers under separate service contracts. RetroFit shall have no obligation with respect to components that are identified by its manufacturer as a consumable or expendable item including, but not limited to, printer cartridges, fuser assemblies, batteries, print heads, magnetic media, paper supplies and similar items; handling all such items are the Client's responsibility.

RetroFit Equipment

(a) Client agrees that RetroFit may, in connection with the Services, deliver and install appliances and other equipment, excluding items sold by RetroFit to Client ("RetroFit Equipment")

(b) The RetroFit Equipment is the exclusive property of RetroFit. Client does not become an owner of any RetroFit Equipment because of the payments made under this Agreement. Client will keep RetroFit Equipment free and clear from liens or encumbrances of any kind.

(c) Client agrees to provide RetroFit and its authorized agents access to Client premises on a 24 x 7 basis upon reasonable notice during the term of a Schedule and after its termination to install, connect, inspect, maintain, replace, or disconnect or remove the RetroFit Equipment, to install associated software, and to conduct an

audit of the RetroFit Equipment.

(d) Client agrees that, if a Schedule is terminated, Client has no right to possess or use the RetroFit Equipment. Client agrees to arrange for the return of RetroFit Equipment to RetroFit, in the same condition as when received (excepting ordinary wear and tear), upon termination of the Agreement. RetroFit may retrieve any associated RetroFit Equipment not returned by Client.

(e) Client agrees to pay RetroFit for the replacement cost of the RetroFit Equipment as reasonably determined by RetroFit if (i) Client tampers with, or permit others to tamper with, RetroFit Equipment, (ii) the RetroFit Equipment is destroyed, lost, or stolen, whether or not due to circumstances beyond Client's reasonable control, or (iii) the RetroFit Equipment is damaged (excluding equipment malfunction through no fault of Client) while in Client possession, whether or not due to circumstances beyond Client's reasonable control. Client agrees to return any damaged RetroFit Equipment to RetroFit. Notwithstanding the above, Client shall not be required to pay RetroFit if the damage or destruction of the RetroFit Equipment arises out of the acts or omissions of RetroFit or its agents, employees or subcontractors.

(f) Client will not (and will not allow others to): (i) open, alter, misuse, tamper with or remove the RetroFit Equipment as and where installed by RetroFit, or (ii) use RetroFit Equipment in any manner contrary to this Agreement, or (iii) remove any markings or labels from the RetroFit Equipment indicating RetroFit ownership or serial or identity numbers. Client will reasonably safeguard the RetroFit Equipment from loss or damage. Nothing in the Schedule shall prevent RetroFit from enforcing any rights it has with respect to theft or unauthorized tampering of RetroFit Equipment under applicable law.

Out of Scope Items. All items not identified as in-scope Services under the Proposal will be out-of-scope and are separately billable, including without limitation the following:

- Projects (e.g., implementation of new servers and server upgrades).
- Relocation services, including any moves, adds, changes.
- Services required due to attempts to install, repair, maintain, or modify any Managed Devices or related software or peripherals by a non-RetroFit authorized person or entity, including but not limited to negligent acts, improper configuration changes, new application installations, and upgrade installations.
- Managed Devices which cannot be properly serviced due to end of life conditions, other withdrawal or termination of warranty or support by the manufacturer, unavailability of documentation or parts, or that exhibit excessive damage. RetroFit will use commercially reasonable efforts to provide thirty (30) days' notice to Client of any such issues.
- Provision of supplies or accessories for any Managed Devices or electrical work external to Managed Devices.
- Maintenance of accessories, alterations, attachments, upgrades or other devices; or services related to any relocation of Managed Devices unless listed in the Schedule.
- Third-party hard drive recovery fees.
- Third-party software license fees, renewal fees, or upgrade fees of any kind (except in connection with software provided by RetroFit in support of the Services).
- The cost to bring Client's environment up to minimum standards required for Services.
- Programming (modification of software code) and program (software) maintenance.
- Training services of any kind unless otherwise agreed in writing by RetroFit.
- Other than maintenance and support of the network connection of network enabled, shared printers/copiers, and the printer connection and printer drivers of locally attached printers, printer maintenance is not covered.
- Any peripheral attached to a workstation/laptop including, but not limited to USB hard drives, scanners, docking devices, cameras, and VoIP phones are not covered unless specifically listed on the Schedule.
- Support coordination for third-party software vendors not specified in the Schedule.
- Phone systems support.
- Cabling services and telecommunications support.
- Support for home PC's and home-based equipment.
- Support required to restore data integrity or to make any system function, such as, but not

- The cost of any parts, equipment, or shipping charges of any kind.
- The cost of any third-party vendor or manufacturer support or incident fees of any kind.

limited to, rebuilding corrupted records, examining files, re-installation of operating systems or other software, or rebuilding databases.

BACKUP & DISASTER RECOVERY SERVICES

Supplemental Schedule

Introduction. This Supplemental Schedule includes terms applicable to the Backup and Disaster Recovery proposal accepted by Client. Together, the Managed IT Services Proposal and this Supplemental Schedule constitute a Schedule under the Master Services Agreement (‐Agreement‐) between RetroFit and Client. Capitalized terms used in this Supplemental Schedule and not defined have the meaning given to them in the Agreement.

Client Obligations. Client agrees to:

BACKUP AND DISASTER RECOVERY SOLUTIONS PROPOSAL

RetroFit is pleased to provide this Backup and Disaster Recovery proposal to outline the scope of services and deliverables that RetroFit Technologies will perform for Company Name as specifically defined in Attachment B ("Schedule").

RetroFit will configure and install an appliance to backup up Company Name server environment as described in the service agreement Schedule included as Attachment B. In summary:

- Appliance will be preconfigured at RetroFit's location.
- Appliance will be installed by an engineer.
- Configuration of backup environment will be managed remotely by RetroFit's Network Operation Center (NOC).
- NOC will execute, monitor and confirm local backups of servers.
- Nightly collapsed backups will be pushed off-site.
- RetroFit's NOC will monitor all aspects of the backup solution 24 hours a day to include:
- Successful and Failed backups.
- Cloud transfers.
- Backup schedules and policy configurations.
- Requests for changes to existing services (adds, deletes and modifies).
- File/Email Restores.
- Appliance and software maintenance.
- Appliance hardware support.
- Backup reporting.
- RetroFit will promptly mitigate any backup or off-site transfer issues.

ATTACHMENT B: SCHEDULE 1

Any changes to this environment will be addressed by completing and mutually approving a Change Request per Attachment C.

Security:

- Data is encrypted as it is copied from Client's servers with an encryption key that is stored in a secured data

vault for the Recovery Response Team only.

- The data transfer uses SSL encryption for its transit over the Internet. Files are then stored, in encrypted form, on secure storage and geo-replicated to a second datacenter.
- Each file is encrypted using 256-bit AES encryption technology. Ownership of Data:
- The Backup data being stored on the onsite Appliance and in the cloud remain the sole property of BDR Client.

Backup and Retention Frequency:

- The standard Backup configuration is a set number of Incremental backups scheduled to run daily on the BACKUP APPLIANCE.
- Off-site transfers of daily incremental backups are set to occur once per day in order to conserve internet/network bandwidth. The amount of time to transfer this data is based on BDR Client's available Internet bandwidth.
- The standard retention policy on the local appliance is 30 days.
- Cloud Storage, Smart Data Transport and Backup Image Creation.
- RetroFit will utilize its Cloud with Geo Redundancy. RetroFit reserves the right to change these locations to reasonably equivalent facilities and will provide notice to BDR Client of any such change.
- The BASE IMAGE will be transferred using a USB drive to the primary remote storage facility. The time that it takes to perform this remote transfer will vary depending on the amount and types of files being backed up. These factors determine the time it takes to build the base backup image.
- Cloud storage has no minimum storage requirement tied to this Agreement.

Recovery Time Objective (RTO):

- RetroFit will log all restoration requests from the client into our ticketing system prior to executing a restore.
- RetroFit's response time SLG for restores is 4 hours from receipt of the Client's Service Request.
- In the extreme case of an Appliance hardware failure, where the Onsite Appliance cannot be utilized, RetroFit will have a new BACKUP APPLIANCE shipped out via next-business day air transportation to the specified location. Upon installation new base images will be created and the backup schedule will resume.
- Response time SLG for Bare metal restores and Server Virtualization are 4 hours and resolution time is best effort/commercially reasonable.
- Disaster Recovery - RetroFit will ensure that your data is available for recovery in case of a disaster with the most recent incremental or, if the primary site is unavailable, the most recent offsite nightly backup.

Supplemental Services include:

* Bare metal restores are provided on a T&M Basis at a client rate of \$225.00 per hour.

** Any Disaster Recovery services will be on a request and T&M basis at a rate noted in the agreement. RetroFit can work with the client to develop a DR plan that will be executed in the event of a major disaster. This plan may include on premise and Cloud or a combination of these services and will be based on a separate cost and scope Schedule.

- Loaned Equipment.

In the event of a disaster, or if the Onsite Appliance is lost, stolen, or damaged, RetroFit will provide a loaner BACKUP APPLIANCE for an approximate two (2) week period to BDR Client. Client will be charged for cost of replacement appliance and software. BDR Client agrees that the Onsite Appliance unit utilized by RetroFit in the execution of this service shall remain the property of RetroFit and must be returned when requested. BDR Client further agrees to cease the use of any technology that remains the property of RetroFit upon termination of this agreement.

- Equipment & Facilities.

BDR Client agrees that RetroFit may utilize certain items of BDR Client's equipment and may gain access to certain BDR Client facilities. BDR Client retains title and ownership in all of BDR Client's equipment owned by BDR Client and utilized by RetroFit, and must grant authority for RetroFit to access BDR Client's facility.

Facility access may be denied for any reason at any time, however if access to facilities is denied, BDR Client understands that RetroFit may be unable to perform their duties adequately and if such a situation should exist, RetroFit will be held harmless.

- Passwords.

BDR Client acknowledges that RetroFit must have access to any and all systems and resources that are required for backups to perform RetroFit's duties under this Agreement.

NOTE: For BDR clients only, the customer is responsible for the full management of their infrastructure to ensure backups can be successfully completed. If for any reason this environment is deemed as unstable, RetroFit has the right to place a hold on the service and/or cannot be held responsible for service levels.

Backup and Disaster Recovery Terms

- Pricing Updates. The fees in the Backup and Disaster Recovery Proposal are based on the number of Servers, Data & Mailboxes. RetroFit will review changes to the above quantities as well as additional information learned regarding Client's environment and the other aspects of the Proposal as needed, and may update fees under the Proposal to reflect any changes.

RetroFit Equipment.

(a) Client agrees that RetroFit may, in connection with the Services, deliver and install appliances and other equipment, excluding items sold by RetroFit to Client ("RetroFit Equipment").

(b) The RetroFit Equipment is the exclusive property of RetroFit. Client does not become an owner of any RetroFit Equipment because of the payments made under this Agreement. Client will keep RetroFit Equipment free and clear from liens or encumbrances of any kind.

(c) Client agrees to provide RetroFit and its authorized agents access to Client premises on a 24 x 7 basis upon reasonable notice during the term of a Schedule and after its termination to install, connect, inspect, maintain, replace, or disconnect or remove the RetroFit Equipment, to install associated software, and to conduct an audit of the RetroFit Equipment.

(d) Client agrees that, if a Schedule is terminated, Client has no right to possess or use the RetroFit Equipment. Client agrees to arrange for the return of RetroFit Equipment to RetroFit, in the same condition as when received (excepting ordinary wear and tear), upon termination of the Agreement. RetroFit may retrieve any associated RetroFit Equipment not returned by Client.

(e) Client agrees to pay RetroFit for the replacement cost of the RetroFit Equipment as reasonably determined by RetroFit if (i) Client tampers with, or permit others to tamper with, RetroFit Equipment, (ii) the RetroFit Equipment is destroyed, lost, or stolen, whether or not due to circumstances beyond Client's reasonable control, or (iii) the RetroFit Equipment is damaged (excluding equipment malfunction through no fault of Client) while in Client possession, whether or not due to circumstances beyond Client's reasonable control. Client agrees to return any damaged RetroFit Equipment to RetroFit. Notwithstanding the above, Client shall not be required to pay RetroFit if the damage or destruction of the RetroFit Equipment arises out of the acts or omissions of RetroFit or its agents, employees or subcontractors.

(f) Client will not (and will not allow others to): (i) open, alter, misuse, tamper with or remove the RetroFit Equipment as and where installed by RetroFit, or (ii) use RetroFit Equipment in any manner contrary to this Agreement, or (iii) remove any markings or labels from the RetroFit Equipment indicating RetroFit ownership or serial or identity numbers. Client will reasonably safeguard the RetroFit Equipment from loss or damage. Nothing in the Schedule shall prevent RetroFit from enforcing any rights it has with respect to theft or unauthorized tampering of RetroFit Equipment under applicable law.

Client Acceptance

By signing below, Client accepts the terms of this Master Services Agreement and agrees that it replaces any prior agreement relating to its subject matter.

Signed by:

First Name: DDD

Last Name: DDD

Company Name: DDD

Email: DDD

Phone Number: DDD

**Director of Sales
RetroFit Technologies, Inc.:**

Andy Bettencourt