

GENERAL TERMS AND CONDITIONS

These General Terms and Conditions ("General Terms"), shall be included in, and form a part of the Service Contract & Terms of Engagement between Sandbox and Client (the "Service Contract"). Reference to the term "Agreement" means the Service Contract and the General Terms (collectively), and each of the defined terms that are not otherwise defined in the General Terms shall have the meaning ascribed to such term in the Service Contract.

1. **Term of Agreement.** The term of this Agreement shall commence (the "commencement date") as of the earlier of the date set forth opposite the signatures in the Service Contract or the date when Sandbox first provided services to Client. The initial term of this Agreement shall commence on the commencement date and continue until the end of the first complete calendar month after the date set forth opposite the signatures in the Service Contract. Provided that as of such time no termination notice has been given by either party to the other, at the end of each complete calendar month the term shall automatically be extended for an additional month so that as of such extension, the then remaining term of this Agreement shall be one month. In the event that any party desires to terminate this Agreement, such party shall deliver written notice of termination to the other party, via certified or registered mail, with a postmark 30 days prior to the termination date. This Agreement shall not terminate on any date other than the first day of a calendar month, and if written notice is given providing for termination on any other date, termination shall be effective as of the first day of the calendar month occurring after the later of the termination date set forth in the notice or the thirtieth day after the date that the notice was given.

2. **Notification of Problem.** Client acknowledges that Client has not engaged Sandbox to continuously monitor the System, or any part thereof. Therefore, it is the primary responsibility of Client (and not that of Sandbox) to identify the existence of a problem with the System (or any part thereof) and to report the existence of such problem to Sandbox. After Client notifies Sandbox of the existence of a problem with the System (or any part thereof), then (subject to Sandbox's regular service procedures, the nature of the Client request and the availability of an engineer) Sandbox will schedule a site visit to the Service Location for the purpose of determining the nature of the problem. Upon arrival at the Service Location, Sandbox shall exercise reasonable, diligent professional efforts to detect, analyze and resolve the reported problem. The foregoing notwithstanding, Client acknowledges that due to the nature of computer hardware configurations, defects and bugs in computer software and conflicts and inconsistent coding that exists between various software programs, despite Sandbox's diligent efforts, a complete resolution of the reported problem may not exist in all cases. In such cases, Sandbox will inform Client of the problem and its nature and make recommendations to the Client as to available alternatives to resolve the problem to the extent practicable. As used in this Agreement, site visits and service calls are used interchangeably, and are all chargeable pursuant to the then current billing rates schedule (see section 12 of the Service Contract).

3. **System Back-up.** With the exception of the installation of a back-up system (as required by Client), Sandbox shall not perform services in connection with, or otherwise be responsible for, data back-up. Client shall be solely responsible for any loss of or damage to data occurring because of Client's failure to back-up data. In furtherance (and not in limitation) of the foregoing, Client will be solely responsible for (i) inserting tapes into the back-up system, (ii) swapping, rotating, and archiving back-up tapes, (iii) reviewing back-up tapes to assure media and data integrity, and to assess whether the back-up system in fact creates a back-up on back-up tapes, and (iv) causing back-up tapes to be moved to locations other than the Service Location to reduce the likelihood of loss of back-up tapes from casualties at the Service Location.

4. **Cessation of Service.** In the event that Client does not pay an invoice for services presented to it by Sandbox within 45 days after its due date, then (without notice of any kind or character) Sandbox shall have the sole and absolute right to cease performance, pending receipt of all such past-due balances. In the event Services are ceased because of the failure to pay a past-due balance, Sandbox shall not be held liable for any losses, costs, damages, or expenses of any kind or character incurred by Client related to or arising from any failure of, or other problem with, the System (or any portion thereof).

5. **Indemnification.** Client shall indemnify, defend (with counsel of Sandbox's choice) and hold Sandbox harmless from and against any and all claims, losses, liabilities, costs, expenses damages, and attorneys fees and costs arising from or related to any act omission, breach of duty, intentional act, or malfeasance by Client or any of its directors, officers, partners, owners, members, agents, contractors, servants, employees, licensees, parents, or subsidiaries in connection with this Agreement. Subject to Sandbox's consent, in each case, Client shall defend and/or settle all such claims or proceedings at its own expense.

6. **DISCLAIMERS AND LIMITATION OF LIABILITY.** THE WARRANTIES, IF ANY, IN THIS SECTION AND SECTION 6 OF THE SERVICE CONTRACT, ARE THE ONLY WARRANTIES MADE WITH RESPECT TO THE USE AND OPERATION OF ANY SOFTWARE, HARDWARE, AND OTHER PRODUCTS, GOODS, AND SERVICES THAT MAY BE PROVIDED UNDER THIS AGREEMENT AND CONSTITUTE A LIMITED WARRANTY. SANDBOX EXPRESSLY DOES NOT WARRANT THE USE OR OPERATION OF ANY SOFTWARE, HARDWARE, OR OTHER PRODUCT MANUFACTURED, DEVELOPED, OR PROVIDED BY ANY THIRD PARTY. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL THE LIABILITY OF SANDBOX OR ANY OF ITS DIRECTORS, OFFICERS, PARTNERS, MANAGERS, OWNERS, MEMBERS, AGENTS, CONTRACTORS, SERVANTS, EMPLOYEES LICENSEES, PARENTS, OR SUBSIDIARIES TO CLIENT ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER BASED ON AN ACTION OR CLAIM IN CONTRACT, TORT OR OTHERWISE (INCLUDING WITHOUT LIMITATION NEGLIGENCE, STRICT LIABILITY, OR WARRANTY) EXCEED THE TOTAL AMOUNT OF COMPENSATION PAID TO SANDBOX FOR SERVICES RENDERED (I.E. EXCLUDING CHARGES FOR THE SALE OF SOFTWARE PRODUCTS AND HARDWARE) DURING THE THREE MONTH PERIOD IMMEDIATELY PRIOR TO THE EARLIER OF THE DATE OF THE CLAIM OR THE EXPIRATION OR TERMINATION OF THE TERM OF THIS AGREEMENT. THE PARTIES HERETO EXPRESSLY DISCLAIM ANY AND ALL OTHER WARRANTIES EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL SANDBOX BE LIABLE TO CLIENT FOR ANY CONSEQUENTIAL, SPECIAL, PUNITIVE, OR INCIDENTAL DAMAGES INCLUDING, BUT NOT LIMITED TO, BUSINESS INTERRUPTION, LOST PROFITS, OR OTHER ECONOMIC LOSS (WHETHER ARISING FROM BREACH OF CONTRACT, TORT, OR OTHERWISE). SUBJECT TO AND EXPRESSLY LIMITED BY THE FORGOING, ANY AND ALL CLAIMS, DEMANDS, LIABILITIES, LOSS COSTS, OR DEFICIENCIES, ARISING OUT OF, RESULTING FROM, OR RELATING TO ANY SOFTWARE, HARDWARE, OR OTHER PRODUCT, GOOD, OR SERVICE PROVIDED UNDER THIS AGREEMENT (INCLUDING WITHOUT LIMITATION ANY INJURY OR DAMAGE TO PERSON OR PROPERTY CAUSED BY ANY SUCH ITEM) SHALL NOT BE BORNE BY SANDBOX. IN THE EVENT ANY OF THE ABOVE LIMITATIONS OF LIABILITY ARE NOT ALLOWED BY LAW, THE LIABILITY OF SANDBOX AND THAT OF ITS DIRECTORS, OFFICERS, PARTNERS, MANAGERS, OWNERS, MEMBERS, AGENTS, CONTRACTORS, SERVANTS, EMPLOYEES, LICENSEES, PARENTS, OR SUBSIDIARIES ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW.

7. **FORCE MAJEURE.** SANDBOX SHALL NOT BE RESPONSIBLE FOR ANY LOSSES, COSTS, DAMAGES, OR EXPENSES INCURRED BY CLIENT BECAUSE OF ANY FLOOD, FIRE, EARTHQUAKE, POWER OUTAGE, ACCESS DELAYS, ACCESS INTERRUPTIONS, NON-DELIVERY OR MIS-DELIVERY OF DATA, DATA LOSS, THEFT, ACTS OF GOD, OR ANY OTHER ACCIDENT OR INCIDENT.

8. **"Y2K" DISCLAIMER AND LIMITATION OF LIABILITY.** SANDBOX EXPRESSLY DOES NOT REPRESENT OR WARRANT THAT ANY HARDWARE, SOFTWARE, OR OTHER PRODUCT, GOOD OR SERVICE PROVIDED UNDER THIS AGREEMENT IS "Y2K" OR "YEAR 2000" COMPLIANT OR IS ABLE TO ACCURATELY PROCESS DATE/TIME DATA (INCLUDING, BUT NOT LIMITED TO, CALCULATING, COMPARING, AND SEQUENCING) FROM, INTO, AND BETWEEN THE TWENTIETH AND TWENTY-FIRST CENTURIES OR THE YEARS 1999 AND 2000 OR LEAP YEAR CALCULATIONS, OR THAT OTHER HARDWARE, SOFTWARE, OR PRODUCTS WILL PROPERLY EXCHANGE DATE/TIME DATA WITH HARDWARE, SOFTWARE OR PRODUCTS PROVIDED HEREUNDER. IT IS THE CLIENT'S SOLE OBLIGATION AND RESPONSIBILITY TO VERIFY WITH ANY AND ALL MANUFACTURERS, DEVELOPERS, AND PROVIDERS OF HARDWARE, SOFTWARE, AND OTHER PRODUCTS USED BY THE CLIENT THAT SUCH HARDWARE, SOFTWARE, AND OTHER PRODUCTS ARE "Y2K" OR "YEAR 2000" COMPLIANT AND ABLE TO ACCURATELY PROCESS DATE/TIME DATA (INCLUDING, BUT NOT LIMITED TO, CALCULATING, COMPARING, AND SEQUENCING) FROM, INTO, AND BETWEEN THE TWENTIETH AND TWENTY FIRST CENTURIES OR THE YEARS 1999 AND 2000 LEAP YEAR CALCULATIONS AND THAT OTHER HARDWARE, SOFTWARE, AND OTHER PRODUCTS WILL PROPERLY EXCHANGE DATE/TIME DATA WITH SUCH HARDWARE, SOFTWARE, AND OTHER PRODUCTS.

9. Miscellaneous Provisions.

a. **Binding Effect.** This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, estates, personal representatives, successors, and assigns. The rights granted to Client hereunder are personal to Client and its affiliated entities located at the Service Location, and Client may not assign this Agreement or any rights hereunder to an unaffiliated entity, whether in conjunction with a change in ownership, merger, acquisition, the sale or transfer of all, or substantially all or any part of Client's business or assets or otherwise, either voluntarily, by operation of law, or otherwise, without the prior written consent of Sandbox, which Sandbox may give or withhold in its sole discretion. Any such purported assignment or transfer shall be null and void.

b. **Governing Law.** This Agreement is made in, and shall be governed, enforced and construed under the internal laws of, the State of California, without regard to conflict of law principals. Any dispute arising under this Agreement that is not adjudicated by arbitration as provided for herein shall be adjudicated by the appropriate state or federal court in the County of Los Angeles, State of California. Client and Sandbox consent to submit to jurisdiction and venue of such court for the purposes of resolving any such dispute under this Agreement, and acknowledge that such court shall have exclusive jurisdiction and venue for such adjudication.

c. **Entire Agreement.** This Agreement constitutes the entire understanding and agreement of the parties with respect to the subject matter hereof, and shall supersede and replace all prior understandings and agreements, whether verbal or in writing. The parties confirm and acknowledge that there are no other promises,

covenants, understandings, agreements, representations, or warranties with respect to the subject matter of this Agreement except as expressly set forth herein, or in any instrument executed concurrently herewith.

d. **Modification.** This Agreement may not be modified, terminated, or amended in any respect, except pursuant to an instrument in writing duly executed by all of the parties hereto. The foregoing notwithstanding, (i) Sandbox may update or modify these General Terms, from time to time, which modifications shall become effective and binding upon Client 30 days after a copy of the modified General Terms have been given to Client, unless Client terminates this Agreement during such period of time or other arrangements are made, and (ii) "Current Rates" (provided for in Section 12 of the Service Contract) may be changed and modified, from time to time, in the manner provided for in the Service Contract.

e. **Litigation.** In the event that any party hereto shall bring any legal action or other proceeding with respect to the breach, interpretation, or enforcement of this Agreement, or with respect to any dispute relating to any transaction covered by this Agreement, the losing party or parties in such action or proceeding shall reimburse the prevailing party or parties therein for all reasonable costs of litigation, including reasonable attorneys' fees, in such amount as may be determined by the court or other tribunal having jurisdiction, including matters on appeal.

f. **Arbitration.** Any controversy or claim between or among the parties, including those arising out of or relating to this Agreement, or any document executed pursuant to this Agreement and any claim based on or arising from an alleged tort, shall at the request of any party be determined by binding arbitration by a single arbitrator, who shall be a retired judge that is mutually agreed upon by the parties. The arbitration shall be conducted in accordance with the rules contained in California Rules of Court at Section 1600, et. sec., and the compatible provisions of the California Code of Civil Procedure. The arbitrator shall give effect to statutes of limitation in determining any claim. Any controversy concerning whether an issue is arbitrable shall be determined by the arbitrator. Judgment upon the arbitration award may be entered in any court having jurisdiction. The institution and maintenance of an action for judicial relief or pursuit of a provisional or ancillary remedy shall not constitute a waiver of the right of any party, including the plaintiff, to submit the controversy or claim to arbitration if any other party contests such action for judicial relief. Provided that Client shall have no right of setoff against fees owed to Sandbox pursuant to this Agreement (which right is hereby waived), no provision of this section shall limit the right of any party to this Agreement to exercise self-help remedies such as setoff, foreclosure against or sale of any real or personal property collateral or security, or to obtain provisional or ancillary remedies from a court of competent jurisdiction before, after, or during the pendency of any arbitration or other proceeding. The exercise of a remedy does not waive the right of either party to resort to arbitration or reference.

g. **Captions.** All captions and headings herein are for convenience and ease of reference only, and shall not be used or referred to in any way in connection with the interpretation or enforcement of this Agreement.

h. **Illegality.** If any provision of this Agreement is held by a court of competent jurisdiction to be void, illegal, invalid, or unenforceable, such provisions shall be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law and the remaining provisions of this Agreement shall remain in full force and effect.

i. **Waivers.** No delay or omission by any party hereto in exercising any right or power hereunder shall impair any such right or power or be construed to be a waiver thereof, unless this Agreement specifies a time limit for the exercise of such right or power or unless such waiver is set forth in a written instrument duly executed by the party granting such waiver. A waiver by any party hereto of any of the covenants, conditions, or agreements hereof to be performed by any other party shall not be construed as a waiver of any succeeding breach of the same or any other covenants, agreements, restrictions or conditions hereof.

j. **Further Documents.** The parties agree to execute any further documents, and take any further actions, as may be reasonable and appropriate in order to carry out the purpose and intent of this Agreement.

k. **Notices.** All notices, demands or other communications required or permitted to be given in connection with this Agreement, or the transactions contemplated hereby, shall be in writing, and shall be deemed delivered when personally delivered to a party (by personal delivery to an officer or authorized representative of a corporate party) or, if mailed, 3 business days after deposit in the United States mail, postage prepaid, certified or registered mail, return receipt requested, addressed to the parties at the address set forth in Exhibit A of the Service Contract. Any party may change its address for notice by written notice given in accordance with the foregoing provisions.

l. **No Agency or Partnership.** The parties hereby confirm that their relationship pursuant to this Agreement is that of independent contractors, and that the parties do not intend by this Agreement to create any agency, partnership, or joint venture relationship. Neither party is in any way authorized or empowered to incur any obligation or commitment on behalf of the other party.

m. **Gender, Number and Interpretation.** As used herein, the masculine, feminine or neuter gender, and the singular and plural numbers, shall each be deemed to include the others, whenever and wherever the context so indicates. The language of this Agreement shall be construed as a whole according to its fair meaning, and not strictly for or against any party.

n. **Counterparts.** This Agreement may be executed in one or more counterpart copies, and each of which so executed, irrespective of the date of execution and delivery, shall be deemed to be an original, and all such counterparts together shall constitute one and the same instrument. The signature pages of one or more of the counterpart copies may be removed from such counterpart copies and all attached to the same copy of this Agreement which, with all attached signature pages, shall be deemed to be an original Agreement.

o. **Beneficiaries.** This Agreement is made and entered into for the sole benefit and protection of the parties hereto, and the parties do not intend to create any rights or benefits under this Agreement for any person who is not a party to this Agreement.

p. **No Endorsement.** Client acknowledges that Sandbox makes no claims on behalf of Client as to the quality of the products or services that Client offers. Client shall make no claims that Sandbox endorses Client's products or services.

q. **Retrospective Effect; Conditional Performance.** Notwithstanding Client's execution or non-execution of this Agreement, from and after the date that this Agreement is delivered to Client, all Services provided to Client by Sandbox are being provided under the explicit condition that such Services are being provided subject to and conditioned upon the terms and conditions of this Agreement. Upon execution of this Agreement by Client, the terms and conditions of this Agreement shall apply to all services provided to Client by Sandbox from and following the commencement date.

r. **Survival.** Notwithstanding any provision of this Agreement to the contrary, and without limiting any general survival rights, all provisions concerning limitation of any party's liability (including without limitation those provided for in Sections 6, 7 and 8 above, and Section 6 of the Service Contract) shall survive any expiration, cancellation, or termination of this Agreement.