



## **BOLT Terms & Conditions**

**IMPORTANT NOTICE: PLEASE READ THROUGH THESE TERMS AND CONDITIONS CAREFULLY.** The following (the “**Agreement**”) describes the terms and conditions pursuant to which ECI Software Solutions, Inc. or its affiliates (“**ECI**” “**us**”, “**we**”, or “**our**”) agrees to provide the individual or entity (“**You**”) access to this software program (the “**Software**”) hosted the site specified to You by ECI (the “**Site**”). BY CLICKING “I AGREE” OR BY ACCESSING THE SOFTWARE, THE SITE OR ANY CONTENT FOUND ON THE SITE, YOU AGREE TO COMPLY WITH AND BE BOUND BY THIS AGREEMENT, INCLUDING ANY POLICIES AND GUIDELINES LINKED TO (BY WAY OF PROVIDED URLS) THIS AGREEMENT. IF YOU DO NOT UNDERSTAND OR AGREE TO BE BOUND BY THIS AGREEMENT, YOU SHOULD NOT CLICK “I AGREE” OR USE THE SITE OR THE SOFTWARE. ECI RESERVES THE RIGHT TO MODIFY THIS AGREEMENT FROM TIME TO TIME IN ITS SOLE DISCRETION BY POSTING AN UPDATED VERSION OF THIS AGREEMENT ONLINE. YOUR CONTINUED USE OF THE SOFTWARE FOLLOWING SUCH POSTING CONSTITUTES ACCEPTANCE OF SUCH MODIFICATIONS.

### **Definitions**

#### **Data**

Anonymous data compiled from You and/or other users of the Software and the Services (including without limitation transaction data derived from Your use of the Software and the Services) that does not specifically identify You or any of Your customers.

#### **Confidential Information**

All information disclosed by a party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. ECI’s Confidential Information includes without limitation the Software; and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

#### **Content**

Material used and/or displayed by You in connection with the Software and the Services, including without limitation, information, artwork, graphics, images, text, software and data.

## **Documentation**

The print, electronic, or online user instructions, manuals or other materials regarding the use of the Service provided to You by ECI.

## **Export Control Laws**

United States export control laws and United States laws governing exports of controlled commodities, software or technology, embargoes, sanctions and boycotts, including, but not limited to, the Arms Export Controls Act (22 U.S.C. § 2778 and 2779), the International Emergency Economic Powers Act (50 U.S.C. § 1701 et. seq.), the Trading With the Enemy Act (50 U.S.C. app. § 1 et. seq.), the Export Administration Act of 1979 (50 U.S.C. app. § 2401-2420), and all rules, regulations and executive orders relating to any of the foregoing, including, but not limited to, the International Traffic in Arms Regulations (22 C.F.R. § 120 et. seq.), the Export Administration Regulations (15 C.F.R. § 730 et. seq.), and the regulations administered by the Office of Foreign Assets Control of the United States Department of the Treasury. Export Control Laws also include all similar applicable laws, statutes and regulations in countries where You conduct business.

## **Intellectual Property Rights**

Any U.S., international or foreign patent or any application therefor and any and all reissues, divisions, continuations, renewals, extensions and continuations-in-part thereof; (ii) inventions (whether patentable or not in any country), invention disclosures, improvements, trade secrets, proprietary information, know-how, technology and technical data; (iii) copyrights, copyright registrations, mask works, mask work registrations, and applications therefor in the U.S. or any foreign country, and all other rights corresponding thereto throughout the world; and (iv) any other proprietary rights anywhere in the world.

## **Order Form**

Any quotation, proposal, or transactional document issued by ECI and accepted by You regarding the Software and Services, which shall be deemed incorporated into this Agreement.

## **Services**

ECI's hosting of the Software licensed to You by ECI hereunder.

## **Term**

The Initial Term plus any renewals thereof in accordance with this Agreement.

## **Users**

Individuals who are authorized by You to use the Software and Services, for whom subscriptions to the Software have been purchased, and who have been supplied user identifications and passwords by You (or by ECI at Your request).

## **License Grant**

ECI hereby grants You a nonexclusive, nontransferable (except as expressly provided herein), license to access and use the Software for internal business purposes according to the terms of this Agreement during the Term. You shall also have the right during the Term to provide links to the Site.

ECI shall host the Software at locations as may be designated by ECI from time to time and allow You to access and use the Software according to the terms of this Agreement during the Term. The Software consists of the application software and any third party products and services specified on the applicable Order Form that are made available to You. You agree that Your purchase and use of the Services and the Software license(s) specified on the applicable Order Form are neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by ECI with respect to future functionality or features. The Services and the Documentation are subject to change at any time with or without notice.

User subscriptions for the Software are for designated Users and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Software.

You shall use the Software solely for Your internal business purposes as contemplated by this Agreement and shall not: (i) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Software available to any third party or disclose your password to any third party; (ii) send spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (iii) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (iv) interfere with or disrupt the integrity or performance of the Software or the data contained therein; or (v) attempt to gain unauthorized access to the Software or its related systems or networks.

## **Restrictions**

You shall not (i) modify, copy or create derivative works based on the Software; (ii) frame or mirror any content forming part of the Software, other than on Your own intranets or otherwise for its own internal business purposes; (iii) reverse engineer the Software; (iv) take any action that may impose an unreasonable or disproportionately large load on the Services or any ECI infrastructure or environment, as determined by ECI from time to time; (v) use the Software in any way that threatens the integrity, performance, or reliability of the Services or any ECI infrastructure or environment (vi) access the Software in order to (A) build a competitive product or service, or (B) copy any ideas, features, functions or graphics of the Software; (vii) use the Software for any purposes except as expressly provided in this Agreement; (viii) allow any third party to access or use the Software for any reason; (ix) relicense the Software or use or display the Software for third-party training, commercial time-sharing, rental, or service bureau use; or (x) use the Software or the Services in violation of any applicable laws.

## **Intellectual Property Rights and Data Rights**

All right, title and interest in and to the Software and the Services and any Confidential Information made available by ECI to You pursuant to this Agreement, including without limitation, all Intellectual Property

Rights therein, shall remain exclusively with ECI and its licensors, as applicable. Any and all suggestions, ideas, feature requests, feedback, recommendations or other information relating to the Software transmitted to ECI in any form or manner will be the exclusive property of ECI.

You retain ownership to any of Your Content and Your data. You hereby grant ECI a non-exclusive, fully transferable, royalty-free worldwide right and license to: (i) collect Data during the Term solely in an anonymous format that would not permit any recipient of such Data to identify You or Your customer as the subjects of such Data, (ii) aggregate that Data with other data from other users of the Software (in a manner which does not permit identification or segregation of Data applicable to You), and (iii) use, disclose, market, sell and/or license Data (only when it remains anonymous and when aggregated with other data) to third parties during the Term and after any expiration or termination of this Agreement.

You hereby grant ECI a non-exclusive, fully transferable, royalty-free worldwide right and license during the term of this Agreement to (i) use and modify all data belonging to You in order to make such data accessible to You in the Software and perform the Services under this Agreement, and (ii) monitor your data and use of the Software for purposes of ensuring compliance with this Agreement.

ECI is free to create and use meta-data, statistics and such other information derived from any data it receives from You that cannot be identified as originating or deriving directly from such data, and cannot be reverse-engineered by a third party such that it can be so identified, for any purpose whatsoever (whether during or after the Term of this Agreement).

## **Use of the Software**

You acknowledge and agree that You may be required to install certain software components on Your own system and within Your network in order to properly use the Software. You agree to install such components on Your own system and within Your network and to allow ECI to remotely access such software within its network to the extent necessary to assist You in trouble shooting and resolving support related issues.

To the extent You require an Internet connection for proper use of the Service, You shall be solely responsible for such Internet connection, including without limitation all hardware, software and other equipment necessary to access the Internet. THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. ECI SHALL NOT BE RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS.

You represent and warrant to ECI that You shall perform Your obligations under this Agreement in compliance with all applicable Export Control Laws. You agree to obtain all necessary licenses, approvals, or authorizations from relevant governmental authorities prior to exporting or re-exporting any products, including hardware, software, technology, or technical data, acquired or to be provided under this Agreement, or the direct product of any such hardware, software, technology, or technical data (collectively, the “**Items**”). You agree that You (i) shall not export, re-export, or transfer any Items to any country that is designated a supporter of international terrorism, or that is subject to an embargo by the U.S. Government (currently Cuba, Iran, North Korea, Sudan, and Syria); (ii) shall not engage in any transactions or dealings with any person identified on the List of Specially Designated Nationals and

Blocked Persons (“SDNs”), which is maintained by the Office of Foreign Assets Control of the U.S. Treasury Department, or the Entity List, Denied Persons List, or Unverified List, which are maintained by the Bureau of Industry and Security of the U.S. Commerce Department; and (iii) shall immediately notify ECI if You have any information or suspicion that there may be a violation of Export Control Laws.

When You create an account with us, You must provide us information that is accurate, complete, and current at all times. Failure to do so constitutes a breach of this Agreement, which may result in immediate termination of Your access to the Software and the Services. You are responsible for safeguarding the password that You use to access the Software and the Services and for any activities or actions under Your password.

You shall notify ECI immediately to the extent You become aware of any unauthorized use, or access to the Software or the Services or any other Confidential Information made available to You under this Agreement, by any person or entity not authorized by this Agreement to have such possession, use or access. You will promptly furnish full details of such possession, use or access, and will cooperate with ECI in any litigation against third parties deemed necessary by ECI to protect its proprietary and contractual rights.

## **Confidentiality**

The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its affiliates, legal counsel and accountants without the other party’s prior written consent, provided that a party that makes any such disclosure to its affiliate, legal counsel or accountants will remain responsible for such affiliate’s, legal counsel’s or accountant’s compliance with this “Confidentiality” section. Notwithstanding the foregoing, ECI may disclose the terms of this Agreement and any applicable Order Form to a subcontractor to the extent necessary to perform its obligations under this Agreement, under terms of confidentiality materially as protective as set forth herein. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information. Each party’s obligations under this Section (Confidentiality) shall survive expiration or termination of the Agreement for a period of three (3) years.

## **Audit Rights and License Management**

At any time during the Term of this Agreement, ECI may audit Your use of the Software and the Services in order to verify compliance with the terms of this Agreement, including without limitation electronic auditing means. If ECI elects to conduct a physical audit, such audit shall occur no more frequently than once annually at ECI's expense. All physical audits shall be conducted during regular business hours at Your site and shall not unreasonably interfere with Your business activities. ECI shall schedule any such audits at least ten (10) business days in advance. If any audit by ECI yields any deficiency in the amounts paid to ECI, You shall promptly remit payment to ECI of such amounts plus interest calculated at the maximum rate allowed under applicable law. In addition, if an audit by ECI yields a deficiency of 5% or more between the amounts actually paid to ECI versus the amounts that should have been paid for actual usage of the Software, You will promptly reimburse ECI for all reasonable costs incurred in connection with the audit.

THE SOFTWARE AND THE SERVICES (AND/OR FUTURE UPDATES OR UPGRADES THERETO) INCORPORATE LICENSE MANAGEMENT TOOLS AND TECHNOLOGY TO ENSURE YOU COMPLY WITH THIS AGREEMENT AND TO ALLOW ECI TO EXERCISE SELF-HELP REMEDIES IN THE EVENT THAT YOU BREACH THIS AGREEMENT, INCLUDING WITHOUT LIMITATION THE ABILITY OF ECI TO TEMPORARILY OR PERMANENTLY SUSPEND YOUR USE OF THE SOFTWARE AND THE SERVICES. YOU CONSENT TO SUCH LICENSE MANAGEMENT TOOLS AND TECHNOLOGY AND AUTHORIZE ECI TO EXERCISE ANY OR ALL OF THE CAPABILITIES THEREOF IN THE EVENT YOU BREACH ANY PROVISION OF THIS AGREEMENT. YOU CONSENT TO THE INCLUSION OF LICENSE MANAGEMENT TOOLS AND TECHNOLOGY IN FUTURE UPDATES AND VERSIONS OF THE SOFTWARE AND THE SERVICES THAT MAY BE SUPPLIED BY ECI TO YOU UNDER THIS AGREEMENT.

## **Warranties and Disclaimers**

You represent and warrant to ECI that (a) You are the lawful owner of any Content or You have the necessary license rights from the applicable owner of the Content to use the Content in connection with its use of the Software, and (b) the posting of Your Content through the Software and the Services does not violate the privacy rights, publicity rights, copyrights, contract rights or any other rights of any person. You further represent and warrant to ECI that: (i) before entering into this Agreement, You have had the opportunity to conduct a thorough review and analysis of the Software and its features and functionality; (ii) You have determined, without reliance on any representation, warranty, promise or commitment on the part of ECI, that the Software and Services meet Your own particular needs and requirements; and (iii) ECI has not and does not make any representation, warranty, promise or commitment that the Software or Services will meet Your particular needs or requirements.

The Software and Services may contain links to third-party web sites or services that are not owned or controlled by ECI. ECI has no control over, and assumes no responsibility for, the content, privacy policies, or practices of any third-party web sites, products or services. You acknowledge and agree that ECI shall not be responsible or liable, directly or indirectly, for any damage or loss caused or alleged to be caused by or in connection with (a) use of the Software or Services in connection with any third-party web sites, products or services, or (b) reliance on any content, goods or services available on or through any such

third-party web sites, products or services. We strongly advise You to read the terms and conditions and privacy policies of any third-party web sites, products or services that You use.

ECI PROVIDES THE SOFTWARE AND THE SERVICES “AS IS” AND “AS AVAILABLE”. ECI MAKES NO WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, REGARDING OR RELATING TO THE SOFTWARE OR THE SERVICES, INCLUDING BUT NOT LIMITED TO ANY WARRANTY THAT THE SOFTWARE OR THE SERVICES WILL MEET YOUR REQUIREMENTS, ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE OPERATION THEREOF OR ACCESS THERETO WILL BE UNINTERRUPTED OR ERROR FREE. TO THE GREATEST EXTENT ALLOWED BY LAW, ECI SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OF THIRD PARTY RIGHTS OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, EXCEPT TO THE EXTENT THAT ANY WARRANTIES IMPLIED BY LAW CANNOT BE VALIDLY WAIVED.

## **Support and Setup Services**

Support and maintenance services are included in Your subscription fees. You are required to pay such fees in order to use the Software and the Services and to receive technical support and maintenance services. If You fail to pay such fees, ECI may terminate Your right to use the Software and the Services.

As long as You have paid all applicable fees, support and maintenance will be provided by contacting ECI’s customer support services.

ECI is not obligated to provide any technical support or maintenance for third party products or services (regardless of whether obtained from ECI or another source), including without limitation Your networks or installation of networks.

If Your Order Form includes any setup services related to the Software and the Services, then ECI will use commercially reasonable efforts to perform such setup services as provided in the Order Form. ECI will notify You of completion of such setup services, and You will have five (5) business days to either accept the completion of the setup services or reject them by providing ECI with a written notice of exceptions specifying in detail any deficiencies in the setup services (“**Notice of Exceptions**”). If You fail to provide ECI with a Notice of Exceptions within such period, the setup services will be deemed accepted by You without any further act required by either party. Promptly following receipt of a Notice of Exceptions from You, ECI will submit a plan to correct any deficiencies in the setup services and shall use commercially reasonable efforts to correct and re-perform the setup services for acceptance in a timetable agreed to by the parties. Re-performed setup services shall be subject to the same acceptance procedures set forth in this section. You acknowledge that payment of all fees and failure to deliver any Notice of Exceptions following completion of the setup services constitutes final acceptance.

If You desire to receive any services outside of the services described in this Agreement, such services may be arranged according to terms and conditions separately agreed between ECI and You.

## **Indemnification**

You shall indemnify, defend and hold ECI, its affiliates and each of their respective officers, directors, employees, contractors and agents (the “**ECI Indemnitees**”) harmless from and against any and all losses, damages, costs and expenses (including reasonable attorneys' fees) incurred by any of them in connection with claims made or brought against any of them involving: (i) breach of this Agreement by You or Your employees, agents or contractors; (ii) any wrongful act or omission by You or any person for whom You are responsible; (iii) any violation of applicable law by You; or (iv) any claim that the Data (or ECI or Your use thereof) violates the rights of or has caused harm to a third party. ECI shall (a) promptly give written notice of the claim to You; (b) give You sole control of the defense and settlement of the claim (provided that You may not settle or defend any claim unless You unconditionally release the ECI Indemnitees of all liability); and (c) provide to You, at Your cost, all reasonable assistance.

## **Fees**

Your use of the Software and the Services are billed on a subscription basis. Unless ECI elects to change its invoicing policy (which it may do from time to time during the Term in its sole discretion), You will be billed on a recurring and periodic basis in advance of the month in which Your fees are due (the “**Billing Cycle**”) based on the Term of Your Agreement. You will pay ECI all fees for the Software and the Services, including any fees set forth in any Order Forms accompanying this Agreement.

Payment obligations are non-cancelable, any fees paid are non-refundable, and the number of Users purchased cannot be decreased during the Term below ECI’s minimum User requirements then in effect. Unless otherwise provided in the applicable Order Form, all fees are due and payable within ten (10) days from date of invoice. Any payment not made when due will bear interest following a thirty (30) day grace period from the date payment was first due until paid, at the maximum rate allowed under applicable law and, if not paid when due, will be subject to a late fee equal to 5% of the amount due. You will also be liable for all reasonable costs incurred by ECI to collect any past due payments, including attorneys’ fees.

You will pay and be responsible for any excise, privilege, sales, use, customs, value added, and any other tax (except taxes imposed with respect to ECI’s net income) imposed by or under the authority of any foreign, United States, state, or local law with respect to the license of Software and the Services as contemplated by this Agreement.

If Your account is past due (except with respect to charges then under reasonable and good faith dispute), in addition to any of its other rights or remedies, ECI reserves the right to suspend the right to access and use the Software and Services, without liability to You, until such amounts are paid in full.

ECI, in its sole discretion and at any time, may modify the fees for the Software and the Services. Any change in the fees will become effective at the end of the then-current Billing Cycle. ECI will provide You with a reasonable prior notice of any change in the fees. Your continued use of the Software and the Services after any change in the fees becomes effective constitutes Your agreement to pay the modified fees.

A valid payment method, including credit card or PayPal, is required to process the payment for Your subscription to the Software and the Services. You shall provide ECI with accurate and complete billing information including full name, address, state, zip code, telephone number, and a valid payment method



information. By submitting such payment information, You automatically authorize ECI to charge all fees incurred through Your account to any such payment instruments. You shall reimburse ECI for any fees charged by ECI's bank for any returned checks.

Should automatic billing fail to occur for any reason, ECI may issue an electronic invoice indicating that You must proceed manually, within a certain deadline date, with the full payment corresponding to the billing period as indicated on the invoice.

## **LIMITATION OF LIABILITY**

ECI SHALL NOT BE LIABLE TO YOU FOR ANY INCIDENTAL, CONSEQUENTIAL, INDIRECT, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION ANY LOSS OF REVENUE, PROFITS, OR DATA, ARISING IN CONNECTION WITH THE SOFTWARE OR ANY SERVICES PROVIDED UNDER THIS AGREEMENT, EVEN IF ECI HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ECI'S MAXIMUM CUMULATIVE LIABILITY FOR ANY AND ALL DAMAGES, COSTS, LOSSES, LIABILITIES AND EXPENSES OF ANY KIND AND NATURE ARISING OUT OF OR RELATED TO THIS AGREEMENT SHALL NOT EXCEED THE TOTAL FEES PAID BY YOU UNDER THIS AGREEMENT IN THE ONE (1) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE THE CLAIM AROSE.

## **Term and Termination**

This Agreement becomes effective upon your acceptance of this Agreement and lasts for the duration of the subscription You initially purchase (the "**Initial Term**"). Thereafter, this Agreement and any Order Forms then in effect shall automatically renew under the same conditions as the prior term unless either party provides the other party with written notice of its intent not to renew this Agreement at least thirty (30) days prior to the end of the then-current term.

ECI may terminate this Agreement in any of the following cases: (i) immediately upon written notice if You directly or indirectly disclose or provide the Software or the Services to any third party not authorized under the terms of this Agreement; (ii) upon thirty (30) days prior written notice if You breach this Agreement and fail to cure such breach within such thirty (30) day notice period; (iii) immediately if You permanently cease to operate Your business; or (iv) immediately upon an assignment for the benefit of creditors; a petition of bankruptcy filed by or against You; a receiver, trustee in bankruptcy, or similar officer is appointed to take control of all or part of Your business; or You are adjudicated bankrupt.

Upon termination or expiration of this Agreement, You shall immediately cease using the Software and the Services and return all of the copies of Confidential Information to ECI, and upon request by ECI, also certify to ECI that You have retained no copies thereof and acknowledge that You may no longer use the Software or the Services. In the event of any termination, all fees due and to become due over the remaining period of the then-current Term shall immediately become due and payable. Upon termination of this Agreement, ECI's obligations hereunder shall cease.

Upon written request by You made not later than thirty (30) days after the effective date of the termination of this Agreement and payment of ECI's then current fee for historical access, provided that

You have paid ECI all fees due and owing under this Agreement at the time of the request, You shall have the right to access Your data residing in the Software solely for the purpose of reviewing, downloading and/or printing such data. After such 30-day period, ECI shall have no obligation to maintain or provide any of Your data and shall have the right, unless prohibited by applicable law, to delete all of Your data in the Software and/or the Services or otherwise in its possession or under its control.

## **Survival**

The following sections of this Agreement shall survive any termination or expiration of this Agreement: Definitions; Restrictions; Intellectual Property and Data Rights; Confidentiality; Indemnification; Fees; LIMITATION OF LIABILITY; Survival; Other Terms.

## **Other Terms**

This Agreement, including the applicable Order Form(s), constitutes the entire agreement between the parties, superseding all prior oral or written representations, agreements or understandings with respect to the subject matter hereof and thereof. There are no representations, warranties, conditions, guarantees or agreements relating to such subject matter except those expressly stated in this Agreement. To the extent there is any conflict between the terms of this Agreement and the applicable Order Form(s) or any Addendum, the terms of this Agreement shall prevail.

You shall not sell, transfer, assign or otherwise convey this Agreement, or any of Your rights or obligations hereunder without the prior written consent of ECI (which consent shall not be unreasonably withheld, conditioned or delayed), including without limitation by operation of law to a successor in interest in connection with a merger, consolidation, sale of shares or assets or other change of control transaction. The purported transferee shall first be required to agree in writing with ECI to assume and perform all of Your obligations under this Agreement. Any attempt to assign this Agreement without ECI's prior written consent shall be void. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns.

Any notices required or permitted hereunder shall be deemed to have been given if in writing and delivered personally, sent by overnight delivery or by first class, registered, or certified mail, postage prepaid and addressed to the receiving party at its address set forth in the most recent Order Form (or to such other address as may be notified from one party to the other following the same notice procedures), or delivered via email with acknowledgement of receipt. You must send a copy of all such notices to the following: ECI Software Solutions, Inc., Attn: General Counsel, 4400 Alliance Gateway Fwy., #154, Fort Worth, Texas 76177.

This Agreement shall be governed and construed in accordance with the laws of the State of Texas, without regard to its conflict of laws provisions. The parties agree that exclusive jurisdiction for any dispute arising under or related to this Agreement shall be with the appropriate state or federal court in Dallas, Texas and each party consents to the jurisdiction of such court in any action or proceeding and waives any objection to such venue. TO THE FULLEST EXTENT PERMITTED BY LAW, AND AS SEPARATELY BARGAINED-FOR CONSIDERATION, EACH PARTY HEREBY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY

ACTION, SUIT, PROCEEDING, OR COUNTERCLAIM OF ANY KIND ARISING OUT OF OR RELATING TO THIS AGREEMENT.

ECI will not be in breach of this Agreement if its performance is prevented or delayed for circumstances beyond its control, including but not limited to acts of God, inclement weather, flood, lightning or fire, strikes or other labor disputes or industrial action, act or omission of government or other competent authority, terrorism, war, riot, or civil commotion, unavailability of supply or power outage, hackers, viruses, pandemics, disruption in transmission, or disruption in telecommunications services.

You agree that certain breaches of this Agreement by it may result in irreparable harm to ECI, the extent of which would be difficult and/or impracticable to assess, and where money damages would not be an adequate remedy for such breach. Accordingly, ECI shall be entitled to seek any and all remedies available at law or in equity, including without limitation injunctive relief or specific performance.

No waiver of any rights under this Agreement will constitute a subsequent waiver unless otherwise stated in writing.

If any provision of this Agreement is ruled invalid or unenforceable, the provision shall be severable from this Agreement so that the remaining provisions are unaffected.

You agree that ECI may include Your name and logo on ECI's customer lists posted on its website and in other marketing materials.