

RDN TERMS OF SERVICE

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e-Version 1.0

Thank you for selecting the services offered by **RECOVERY DATABASE NETWORK, INC.** and/or its subsidiaries and affiliates (referred to as "RDN", "we", "our", or "us"). RDN provides you with access to RDN's proprietary recovery management database software system (via the website <https://www.recoverydatabase.net>) and any related features, applications, documentation, products or services (collectively, the "Site" or the "RMDS System") **subject to these** Terms of Service ("Agreement" or "Terms of Service"). This Agreement is a binding legal agreement between **RDN** and your company on behalf of itself and its authorized users ("**LICENSEE**," "**you**," "**your**," or "**yourself**"). By accepting electronically (for example, clicking "I Agree" or "I Accept") and/or by installing, accessing or using the RMDS System, you accept this Agreement. If you do not agree with the terms and conditions set forth in this Agreement, you must not use or access the RMDS System

YOU AGREE ON BEHALF OF YOURSELF, THE AUTHORIZED ENTITY AND ALL AUTHORIZED USERS TO ADHERE TO THIS AGREEMENT. PLEASE READ THE AGREEMENT CAREFULLY AND IN ITS ENTIRETY. You acknowledge and agree that this Agreement replaces and supersedes any previous agreement(s) between you and RDN.

1. DEFINITIONS

Terms not otherwise defined elsewhere in the Agreement will have the meanings set out below:

- 1.1 "**Authorized User**" means one or more individuals you authorize to act on behalf of yourself and the authorized entity licensee as documented by LICENSEE in the registration process.
- 1.2 "**Deactivation**" means the conversion of user level access from full to limited and/or removal of the ability to accept new orders.
- 1.3 "**Documentation**" means any technical documentation, materials, documentation or information provided by RDN to LICENSEE related to the RMDS System.
- 1.4 "**Forwarder**" means a representative of a Lien Holder who assigns Orders on behalf of the Lien Holder. A Forwarder is also a Recovery-related Service Provider (or RSP) for purposes of this Agreement.
- 1.5 "**Full User License**" means a license that allows Authorized Users to access and use the RMDS System containing the features and functionality described in Section 2.2(b) and which Fees are set out in Schedule A to this Agreement.
- 1.6 "**Global Client**" means a Lien Holder (or its agent, representative or Forwarder) that has access to the RMDS System pursuant to the terms of an agreement with RDN.
- 1.7 "**Global Client Order**" means an Order from a Global Client that is entered in the RMDS System and is sometimes referred to in the RMDS System is a "*New Web Global Client Order*" or a "*New Web*".
- 1.8 "**Intellectual Property Right**" means all copyright rights, patent rights, trademark rights, trade secret rights, moral rights, rights of publicity, authors' rights, contract and licensing rights, goodwill and all other intellectual property rights as may exist now and/or hereafter come into existence and all applications therefor and registrations, renewals and extensions thereof, regardless of whether such rights arise under the law of the United States or any other state, country, jurisdiction or international treaty.

- 1.9 **"Lien Holder"** means a creditor (or creditor's agent or representative) that has the right to take, hold or sell the property of a debtor as security for payment of a debt.
- 1.10 **"LICENSEE"** or **"you"** is the authorized entity receiving a license to the RMDS System under this Agreement.
- 1.11 **"Limited User License"** means a license that allows Authorized Users to access and use the RMDS System containing the features and functionality described in Section 2.2(c) and which is subject to the Fees set out in Schedule A attached to this Agreement.
- 1.12 **"Local Client"** or **"Company Client"** is a Lien Holder (or its agent, representative or Forwarder) who is not a Global Client and is authorized by LICENSEE to enter Orders for acceptance by LICENSEE through the RMDS System.
- 1.13 **"Local Client Order"** is an Order from a Local Client that is entered in the RMDS System.
- 1.14 **"Marks"** means a party's trademarks, trade names, service marks, logos, symbols and other distinctive marks.
- 1.15 **"Network Data"** means any data or information related to the RMDS System (other than information input into the RMDS System by LICENSEE, its clients, or repossession vendors/contractors).
- 1.16 **"Order"** means a work order for repossession or recovery related services assigned by a Lien Holder to an RSP.
- 1.17 **"RDN Marks"** means the Marks that are used by RDN to promote, advertise and market RDN and its products and services or otherwise protect RDN's Intellectual Property Rights.
- 1.18 **"Repossessed"** or **"Repossession"** means that an asset has been recovered on behalf of a Lien Holder through the services of the RSP that accepted the Order, and is therefore subject to the Transaction Fees set forth in this Agreement.
- 1.19 **"RMDS System"** means RDN's proprietary recovery management database software system and all materials and products accompanying this Agreement, including the accompanying software, associated media, databases, and any "online" or web-based applications provided by RDN for use by RSPs and Lien Holders.
- 1.20 **"RSP"** or **"Recovery-related Service Provider"** means a recovery and/or repossession service provider and includes the LICENSEE.
- 1.21 **"Territory"** means the United States of America.
- 1.22 **"User Level Access"** means the type of license purchased by LICENSEE which is either a Full User License or a Limited User License.

2. **USER LEVEL ACCESS**

2.1 User Level Access Selection. RDN offers its customers three licensing options: Forwarder Full User License and Limited User License. The features of each license type are described in Section 2.2 below. The fees vary by the type of license selected and are described in Schedule A of this Agreement. By marking (or clicking) the check box next to the applicable license type in Sections (a) or (b) below, LICENSEE hereby selects the User Level Access indicated:

- (a) Forwarder License
- (b) Full User License
- (c) Limited User License

2.2 Below are descriptions of each license type to help you choose the best option for your business:

	Features	Fees
<i>(a) Forwarder License</i>	<ul style="list-style-type: none"> • 5 users per license plus the ability to add additional users at the rates specified in Schedule A. • Full access to all of the features and functionality of the RMDS System, including: <ul style="list-style-type: none"> ○ Access for multiple users ○ Ability to add or import an Order on behalf of a client (i.e. client does not have to have access) ○ Greater multi-search capabilities ○ More reporting capabilities ○ Access to Accounting Capabilities (creating Invoices, managing payments) ○ QuickBooks Integration ○ Additional functionality for vendor management ○ Access to Network data 	See Schedule A
<i>(b) Full User License</i>	<ul style="list-style-type: none"> • 5 users per license plus the ability to add additional users at the rates specified in Schedule A. • Full access to all of the features and functionality of the RMDS System, including: <ul style="list-style-type: none"> ○ Access for multiple users ○ Ability to add or import an Order on behalf of a client (i.e. client does not have to have access) ○ Greater multi-search capabilities ○ More reporting capabilities ○ Access to Accounting Capabilities (creating Invoices, managing payments) ○ QuickBooks Integration ○ Access to Field Agent portal ○ Ability to manage user profiles 	See Schedule A
<i>(c) Limited User License</i>	<ul style="list-style-type: none"> • One user per license • Additional users may be added by RDN at LICENSEE's request at the rates specified in Schedule A (no user management functionality) • Access to a limited number of features and functionality to the RMDS System • Access to Global Client orders • Ability to create Local Clients, who can then add Orders • No field agent access 	See Schedule A

3. RDN SERVICES

- a. *License Grant.* During the term of this Agreement, RDN grants LICENSEE a limited, non-exclusive, non-assignable, non-transferrable, non-sublicenseable, revocable license to utilize the RMDS System within the Territory pursuant to the User Level Access LICENSEE has selected as set forth herein.
- b. *License to Documentation.* Subject to all terms and conditions of this Agreement, RDN grants LICENSEE a limited, non-exclusive, non-assignable, non-transferable, non-sublicenseable, revocable license to use the Documentation within the Territory during the term of this Agreement solely for LICENSEE's internal business use in connection with its proper access to and use of the RMDS System pursuant to the terms of this Agreement. LICENSEE agrees not to use, reproduce, prepare derivative works based upon, distribute copies of, or otherwise share, perform, display, make, use, or sell the Documentation related thereto except as expressly authorized in this Agreement.
- c. *Ownership.* Subject to the limited rights expressly granted hereunder, RDN reserves all rights, title and interest in and to the RMDS System, Documentation, RDN Marks, and Network Data, including all Intellectual Property Rights related to any of the foregoing (collectively, "**RDN IP**"). No rights are granted to LICENSEE hereunder other than the limited rights expressly set forth herein. LICENSEE acknowledges and agrees that it does not own, and shall not acquire, any right, title or interest in RDN IP (other than the limited rights expressly set forth herein) and that, if necessary, LICENSEE agrees (and agrees to cause its employees) to perform any acts that may be reasonably necessary to transfer or confirm ownership of any right, title, and interest in or to the RDN IP. Notwithstanding any of the foregoing, it is agreed that each party shall retain rights in its own Intellectual Property. LICENSEE's Intellectual Property includes, but is not limited to, proprietary and/or confidential data and information that LICENSEE and its client and repossession contractors place into the RMDS System relating to or arising out of assignments that LICENSEE handles for its clients.

LICENSEE'S OBLIGATIONS

4.1 *General Obligations.* LICENSEE agrees and will comply with the following:

- (a) It shall only utilize the RMDS System to transfer information within the Territory and shall not transfer information outside the Territory using the RMDS System;
- (b) It shall acquire, provide and maintain, as applicable and at its sole expense, licenses for all other software, hardware, equipment, connections, facilities, services and other supplies necessary for its access to and use of the RMDS System;
- (c) It shall be responsible for confirming the accuracy, quality, integrity, legality, reliability, and appropriateness of all data and information supplied or received by it when accessing or using the RMDS System, and shall maintain as current a list of representative(s) with signing authority on behalf of the LICENSEE, a list of Authorized User(s) and a corporate certificate of good standing, articles of organization, certificate of organization or certificate of formation together with the operating agreement, as applicable;
- (d) It shall use the RMDS System solely for its 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 RMDS System available to any third party, other than to its Authorized Users or as otherwise contemplated by this Agreement; (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) send or store malicious code or viruses; (v) interfere with or disrupt the integrity or performance of the RMDS System or the data contained therein; or (vi) attempt to gain unauthorized access to the RMDS System or its related systems or networks;

- (e) It agrees to not violate the Intellectual Property Rights of RDN and RDN agrees to not violate the Intellectual Property Rights of LICENSEE;
- (f) It shall not (i) modify, copy or create derivative works based on the RMDS System; (ii) frame or mirror any content forming part of the RMDS System, other than on LICENSEE'S own intranets or otherwise for its own internal business purposes; (iii) reverse engineer or decompile the RMDS System; (iv) access the RMDS System in order to (A) build a competitive product or service related to fee-based assignments of repossessions, or (B) scrape data from the RMDS System by automated means such as robots or spiders; or (v) permit or authorize any third party to do any of the foregoing;
- (g) Its access to and use of the RMDS System shall at all times comply with the Documentation and with all applicable local, state and federal laws;
- (h) Prior to accepting any Order from a Lien Holder, it shall have a written agreement with such Lien Holder that, among other items, authorizes the LICENSEE to perform the applicable services and receive the applicable confidential information related thereto from such Lien Holder;
- (i) It will promptly notify RDN in writing in the event that (i) an agreement with any Lien Holder for the performance of services related to this Agreement is terminated or expires; and/or (ii) LICENSEE undergoes a change in ownership; and thereafter shall not utilize the RMDS System

to accept Orders by such Lien Holder following the expiration or termination of such agreements; and

- (j) Upon expiration or other termination of this Agreement, neither LICENSEE nor any of its Authorized Users shall have the right to receive Orders through the RMDS System.

4.2 *Authorized Users; Access to LICENSEE Customers.* LICENSEE acknowledges and agrees that the access or use of the RMDS System and all Orders processed through the RMDS System are conducted on LICENSEE'S behalf by Authorized User(s). Accordingly, LICENSEE is liable and responsible for all the actions, omissions (including resulting fees) and any failure to act of its Authorized Users. LICENSEE is responsible for maintaining the security of all usernames and passwords that are issued to Authorized Users. LICENSEE is responsible for all actions, including but not limited to acceptance of Orders, carried out by anyone using a user identification code and password issued to an Authorized User registered by LICENSEE. Authorized User usernames and passwords are for designated Authorized Users and cannot be shared or used by more than one Authorized User.

4.3 *Local Client Access.* LICENSEE may enable a Local Client to access the RMDS System solely for the purpose of creating and sending Orders to LICENSEE. Local Clients are not granted any other rights to the RMDS System and shall abide by the terms and conditions set forth in this Agreement. LICENSEE shall be liable and responsible for all the actions, omissions and any failure to act of Local Clients that access the RMDS System. LICENSEE hereby releases and agrees to indemnify and hold harmless RDN and its affiliates from any and all claims of and/or damages caused by Local Clients or any other third party in connection with or relating in any way to the Local Client's use of or access to the RMDS System. LICENSEE understands and agrees that RDN may contact the Local Client for purposes of ensuring compliance with this Agreement.

4.4 *User Level Access and Deactivation.* LICENSEE acknowledges that pricing and other terms and conditions of this Agreement are directly related to LICENSEE's User Level Access. If LICENSEE breaches the requirements of this Agreement, in addition to all other remedies available in law and equity, LICENSEE's User Level Access is subject to Deactivation.

5. FEES AND PAYMENT

5.1 *Fees.* LICENSEE shall pay the fees and charges set out in Schedule A as applicable to LICENSEE's User Level Access under this Agreement (the "**Fees**"). Note that RDN may increase (or change or add) Fees once per calendar year with any such increases not to exceed 5% annually.

5.2 *Payment.* Payment is due as provided in the applicable Schedule. LICENSEE shall pay interest on overdue amounts at the lesser of the maximum legal rate of interest or the rate of 18% per year (1.38% per month) and will reimburse RDN for reasonable costs of collections including reasonable attorney fees. RDN shall have the right to suspend or terminate LICENSEE's access to the RMDS System if LICENSEE fails to make payments in accordance with this Agreement.

5.3 *Taxes.* The Fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "**Taxes**"). LICENSEE is responsible for paying all Taxes associated with transactions contemplated hereunder, excluding taxes based on RDN's net income. If RDN has the legal obligation to pay or collect Taxes for which LICENSEE is responsible under this Agreement, the appropriate amount shall be invoiced to and paid by LICENSEE, unless LICENSEE provides RDN with a valid tax exemption certificate authorized by the appropriate taxing authority.

6. TERM AND TERMINATION

- 6.1 *Term.* Unless sooner terminated as permitted hereunder, the term of this Agreement becomes effective beginning on the date of your acceptance and shall remain in effect until terminated as set forth herein.
- 6.2 *Termination for Cause.* A party may terminate this Agreement immediately, without notice, if the other party commits a material breach of the Agreement. A material breach includes the following: (i) failure to pay any amounts owing under this Agreement when due; or (ii) failing to perform or observe any material obligations under this Agreement; or (iii) making an assignment for the benefit of creditors, or suffering a receiver or trustee to be appointed, or filing or suffering to be filed any petition or plan or commencing any proceeding under any bankruptcy or insolvency law of any jurisdiction; or (v) delivering or making any representation or warranty in this Agreement, or in any document delivered in connection herewith, which shall prove to be false or misleading in any material respect.
- 6.3 *Termination Without Cause.* Either party shall have the right to terminate the Agreement, without cause and for any reason, at any time upon thirty (30) days prior written notice to the other party. RDN shall also have the right as warranted under the circumstances to suspend or deactivate a license, and delete data in accordance with this Agreement.
- 6.4 *Effect of Expiration or Termination.* Termination shall not relieve either party of any obligations or liabilities incurred prior to the effective date of termination or expiration, including without limitation, the obligation to pay any Fees or amounts accrued or payable to RDN prior to the effective date of termination. The following sections will survive any expiration or termination of this Agreement: 3.3, 6.4, 7, 8, 9, 10, 11, 12, 13, and 14. In addition, upon any expiration or termination of this Agreement, (i) all licenses granted hereunder by RDN to LICENSEE shall immediately terminate, (ii) LICENSEE shall immediately discontinue use of the RMDS System and all Documentation, (iii) LICENSEE shall deliver to RDN or permanently destroy all physical copies of all Documentation, including, without limitation, any Confidential Information of RDN that is in LICENSEE's possession or control; and (iv) upon request of RDN, LICENSEE shall certify in writing to RDN that LICENSEE has complied with this Section. This requirement applies to copies in all forms, partial and complete, in all types of media and computer memory, and whether or not modified or merged into other materials. Subject to the terms of this Agreement, at termination, RDN will return to LICENSEE the intellectual property of LICENSEE, and return or delete, as applicable, the data and information that LICENSEE placed into the RMDS System relating to assignments that LICENSEE handles for its clients. RDN will also work in good faith with LICENSEE to return to the requesting authorized party the data and information of its client and repossession contractors in a mutually agreeable format.
- 6.5 *Suspension of Access to RMDS System.* RDN may immediately suspend LICENSEE's (and its Authorized Users') access to the RMDS System if RDN reasonably believes that LICENSEE has used the RMDS System in a manner that violates this Agreement or is causing, or is likely to cause, material harm to RDN. RDN shall *not* be responsible for any direct, indirect, special, or consequential damages to LICENSEE as a result of such suspension and LICENSEE hereby releases RDN from any such claim.

7. WARRANTIES AND DISCLAIMERS

7.1 **General Disclaimer.** EXCEPT AS OTHERWISE PROVIDED IN SECTION 7.4, RDN AND ITS AFFILIATES PROVIDE THE RMDS SYSTEM, DOCUMENTATION AND ALL RELATED SERVICES TO LICENSEE ON AN "AS IS" AND "AS AVAILABLE" BASIS, AND HEREBY DISCLAIM ALL EXPRESS AND IMPLIED WARRANTIES RELATED TO LICENSEE'S USE OF AND ACCESS TO THE RMDS SYSTEM, DOCUMENTATION AND ANY RELATED SERVICES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR ANY WARRANTIES WHICH MAY BE CREATED THROUGH COURSE OF DEALING OR USAGE OF TRADE. LICENSEE UNDERSTANDS THAT THERE MAY BE

INTERRUPTIONS, DELAYS, INACCURACIES, OMISSIONS, AND/OR OTHER PROBLEMS WITH THE RMDS SYSTEM, DOCUMENTATION, INFORMATION, PRODUCTS, AND SERVICES PUBLISHED OR OFFERED ON THE RMDS SYSTEM, AND THAT RDN WILL NOT BE LIABLE TO LICENSEE OR TO ANY THIRD PARTY THEREFOR. RDN DOES NOT WARRANT THAT THE RMDS SYSTEM WILL BE ERROR FREE, CONTINUOUSLY AVAILABLE, FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR MEET LICENSEE'S OR ANY THIRD PARTY'S REQUIREMENTS. LICENSEE UNDERSTANDS AND AGREES THAT IT SHOULD IMPLEMENT ITS OWN BUSINESS CONTINUITY PROCESSES(S) NECESSARY TO IDENTIFY AND PRIORITIZE CRITICAL BUSINESS FUNCTIONS.

- 7.2 *Disclaimer of Third Party Services.* RDN provides access to various third party services through the Site, including but not limited to license plate recognition services. RDN provides access to these services as a convenience only and does not warrant or otherwise endorse the services provided by any third party. RDN does not warrant any third party information, goods, or services that are referred to, advertised, promoted or sold on its website or through links to third party websites. The General Disclaimer in subsection 7.1 also applies to these third party services and LICENSEE hereby releases RDN from any and all claims that LICENSEE may have as a result of its use of or access to any such third party services.
- 7.3 *Disclaimer of LICENSEE Services.* RDN provides access to various lenders and repossession companies through the RMDS System and does not warrant or otherwise endorse the businesses or services provided by any of these companies. LICENSEE hereby releases and agrees to defend, indemnify and hold harmless RDN (and its officers, directors, agents, employees, parent, subsidiaries and affiliates) from any and all claims related to the operation of LICENSEE'S business(es), including without limitation, any claims of unlawful activity by LICENSEE.
- 7.4 *RDN Warranties.* Notwithstanding any other terms of this Agreement, RDN represents and warrants the following to the best of its knowledge: (1) RDN will perform the services under this Agreement according to all applicable state, federal, and local laws, rules, regulations, and ordinances, including, without limitation, the Gramm-Leach-Bliley Act ("GLBA") and other data privacy laws; (2) the software being provided under this Agreement does not infringe upon the Intellectual Property Rights of any third party; (3) RDN will make the software available continuously as measured over the course of each calendar month, an average of 99.99% of the time; (4) RDN's software or other deliverables will not contain any malware, virus or Trojan horse; (5) RDN will maintain sufficient data security processes and protections to prevent a data breach; (6) RDN will carry cyber insurance coverage with limits of at least \$10 million per occurrence; (7) RDN will maintain sufficient processes and protections to preserve the data being stored for LICENSEE; and (8) RDN's production and disaster recovery data centers that it uses to receive, store or transmit data under this Agreement will be located within the Territory of this Agreement.

8. **CONFIDENTIALITY; PRIVACY**

- 8.1 *Confidential Information.* By virtue of this Agreement, the parties may have access to information that is confidential to one another. "Confidential Information" shall mean all information clearly identified by either party as confidential at the time of disclosure or which by its nature should be deemed to be confidential. In addition, notwithstanding any failure to so identify, Confidential Information of RDN shall also include proprietary information related to the RMDS System ("RDN Confidential Information"). A party's Confidential information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) is lawfully disclosed to receiving party by a third party without an obligation of nondisclosure to the disclosing party; (c) is independently developed by the other party without reference to the Confidential Information; (d) was already in the receiving party's possession prior to the time of disclosure; or (e)

is disclosed pursuant to a legal requirement or that of a governmental agency provided that, if lawful, (i) the disclosing party receives thirty (30) days prior written notice of such requirement or such shorter notice as may be reasonable in the circumstances and the receiving party cooperates with the disclosing party in seeking confidential treatment for any such disclosure; and (ii) the receiving party furnishes only that portion of the Confidential Information which is mandatory and legally required to be disclosed.

8.2 *Global Clients.* LICENSEE acknowledges and agrees that, notwithstanding anything contrary in this Agreement, as between LICENSEE and Global Client, all data associated with a Global Client regardless of the data entry source (including, without limitation, case data entered by LICENSEE), and all rights, title and interest in and to all data applicable to the Global Client and Orders pertaining to the Global Client in the RMDS System, shall be treated in accordance with the agreement between LICENSEE and Global Client. LICENSEE understands and agrees that data is shared between the parties and RDN is not responsible or liable for any dispute or conflict between LICENSEE and Global Client as to data ownership. LICENSEE further understands and agrees that such data may be shared with third parties pursuant to the third party services as described in Section 7.2.

- 8.3 *Obligations of Non-Disclosure.* During the term of this Agreement, the parties are authorized to use the Confidential Information of the other party solely for the purposes of exercising their rights and performing their obligations hereunder and to disclose such Confidential Information to its employees (and RDN's contractors with whom RDN has written agreements sufficient to satisfy its obligations under this Agreement) on a need to know basis only or as otherwise expressly authorized herein. The parties agree to use the same care and discretion to avoid the unauthorized disclosure, publication or dissemination of the other party's Confidential Information received pursuant to this Agreement as it uses to protect its own confidential information of a similar nature (but in no event less than a reasonable standard of care). Each party's obligations of confidentiality hereunder for Confidential Information disclosed during the term of this Agreement shall survive termination of this Agreement. For the avoidance of doubt, RDN understands and agrees that it shall not disclose LICENSEE's Confidential Information including any data and information that LICENSEE places into the RMDS System relating to assignments that LICENSEE handles for its clients to any unauthorized third party.
- 8.4 *Transmittal of Confidential Information.* LICENSEE understands that RDN cannot guarantee the security of information when transmitted through the Internet or other third party communication providers. RDN shall not be liable or responsible to LICENSEE or any other party for any losses, damages, claims, costs or other obligations arising out of or relating to any unauthorized access to, disclosure or use of such LICENSEE data or other Confidential Information while such information is transmitted through the Internet. Additionally, RDN shall have no responsibility or liability for any services performed by third party communication providers related to LICENSEE's use of the RMDS System or any breach of confidentiality or security related thereto, and RDN shall not be responsible for any breach of security or confidentiality caused by LICENSEE's failure to maintain the confidentiality and control of LICENSEE's user identification numbers or passwords related to its use of the RMDS System.
- 8.5 *Data Rights.* LICENSEE agrees that, in connection with the RMDS System, RDN may aggregate and disclose information related to the performance by LICENSEE of the RMDS System, in general, without reference to LICENSEE, including, without limitation, response times for completion of services and service success rates, and agrees that such disclosure shall not be considered or otherwise deemed Confidential Information or a breach of this Agreement. Further, LICENSEE acknowledges and agrees that RDN may use, compile and disclose Network Data for any lawful purpose consistent with this Agreement. As set forth in Section 8.2 hereof, certain data entered into the RMDS System is necessarily shared between the Lien Holder and LICENSEE and accordingly cannot be deleted by RDN

without mutual consent.

8.6 Privacy.

- (a) The parties acknowledge that the RMDS System may contain data entered or received by the LICENSEE, Global Clients, Local Clients, or repossession companies ("**Licensee Data**") which is or may be subject to the protections of the Gramm-Leach-Bliley Act, Pub. L. No. 106-102 (1000), and the Federal Trade Commission's Privacy Rule, 16 C.F.R. Part 313(2000) and applicable state privacy laws (collectively, "**Privacy Laws**") including non-public personal information ("**NPI**") as defined by Privacy Laws. RDN agrees to comply with Privacy Laws applicable to RDN. RDN has implemented and maintains reasonable safeguards appropriate to ensure the security, integrity, and confidentiality of NPI contained in the RDMS System.
- (b) With respect to any Licensee Data that is subject to Privacy Laws including any NPI, LICENSEE agrees and represents that, to the best of its knowledge, it has and will at all times comply with all applicable Privacy Laws. LICENSEE acknowledges and agrees that it is responsible for any NPI or any information LICENSEE considers confidential that is included in the Licensee Data. The laws of some jurisdictions may require the consent of individuals prior to including their personal information in the Licensee Data or require compliance with laws, rules, and regulations (such as nonpublic consumer financial information). LICENSEE agrees to comply with all applicable laws, to obtain all necessary consents, and make all necessary disclosures before including personal information (including, without limitation, NPI) in the Licensee Data and using the RMDS System. In addition, RDN agrees to not sell any NPI to any third party.

9. LIMITATIONS OF LIABILITY

- 9.1 UNDER NO CIRCUMSTANCES SHALL EITHER PARTY (OR THEIR SUPPLIERS AND CONTRACTORS) HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY CONSEQUENTIAL (INCLUDING LOST PROFITS), EXEMPLARY, INCIDENTAL, INDIRECT OR SPECIAL DAMAGES OR COSTS RESULTING FROM ANY CLAIM (WHETHER IN CONTRACT, TORT, NEGLIGENCE, OR STRICT LIABILITY) RELATED TO OR ARISING OUT OF THIS AGREEMENT OR THE USE OR INABILITY TO USE, OR PERFORMANCE OR NONPERFORMANCE OF, THE SERVICES, OR ANY COMPONENT THEREOF, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 9.2 Each party's liability (including its suppliers and contractors) for any breach(es) of this Agreement shall be limited to actual, direct damages incurred by the other party as a result of such breach(es), and its aggregate liability for such actual damages shall not exceed, under any circumstances, the aggregate amount of the Fees paid by LICENSEE to RDN pursuant to this Agreement during the eighteen (18) month period immediately preceding the date the cause of action accrued. Multiple claims shall not expand these limitations.

10. Except for the obligations under Sections 7.4, 8, , and 11, LICENSEE agrees that RDN shall have no liability whatsoever, actual or otherwise, to LICENSEE based on any of the following: (i) any delay, interruption in use of, failure in or breakdown of the RMDS System or errors or defects in transmission occurring in the course of the use of the RMDS System; any unlawful or unauthorized use of the RMDS System or Network Data; (iii) any loss of or damage to LICENSEE's records or information; (iv) any claims based on services provided by a third party communication services provider or license plate recognition services provider in connection with this Agreement or the RMDS System; or (v) any claim resulting from the termination of the RMDS System. LICENSEE INDEMNIFICATION. LICENSEE HEREBY INDEMNIFIES AND HOLDS HARMLESS RDN (AND ITS OFFICERS, DIRECTORS, AGENTS, EMPLOYEES, PARENT, SUBSIDIARIES AND AFFILIATES) FROM AND AGAINST ANY AND ALL CLAIMS AND DEMANDS, INCLUDING REASONABLE ATTORNEYS' FEES, MADE BY ANY THIRD PARTY DUE TO OR ARISING OUT OF (1) LICENSEE'S BREACH OF THIS AGREEMENT, (2) THE FAILURE

OF ANY REPRESENTATION OR WARRANTY OF LICENSEE CONTAINED IN THIS AGREEMENT TO BE ACCURATE, (3) LICENSEE'S NEGLIGENT ACT OR OMISSION OR WILLFUL MISCONDUCT, (4) THE BREACH OF, OR DEFAULT UNDER, ANY AGREEMENT OR TRANSACTION IN TO WHICH LICENSEE ENTERS INTO WITH ANOTHER LICENSEE CLIENT/CUSTOMER, LIEN HOLDER OR A THIRD PARTY SERVICE PROVIDER, OR (5) LICENSEE'S VIOLATION OF ANY LAW OR THE RIGHTS OF A THIRD PARTY, WHICH MAY ARISE OUT OF OR RELATE TO LICENSEE'S ACCESS TO OR USE OF THE RMDS SYSTEM OR ANY RELATED SERVICES.

11. RDN INDEMNIFICATION. RDN HEREBY INDEMNIFIES AND HOLDS HARMLESS LICENSEE (AND ITS OFFICERS, DIRECTORS, AGENTS, CONTRACTORS, EMPLOYEES, PARENTS, SUBSIDIARIES AND AFFILIATES) FROM AND AGAINST ANY AND ALL CLAIMS AND DEMANDS, INCLUDING REASONABLE ATTORNEYS' FEES, MADE BY ANY THIRD PARTY DUE TO OR ARISING OUT OF (1) RDN'S BREACH OF THIS AGREEMENT, (2) THE FAILURE OF ANY REPRESENTATION OR WARRANTY OF RDN CONTAINED IN THIS AGREEMENT TO BE ACCURATE, (3) RDN'S NEGLIGENT ACT OR OMISSION OR WILLFUL MISCONDUCT, (4) THE BREACH OF, OR DEFAULT UNDER, ANY AGREEMENT OR TRANSACTION IN TO WHICH RDN ENTERS INTO WITH ANOTHER LICENSEE CLIENT/CUSTOMER, LIEN HOLDER OR A THIRD PARTY SERVICE PROVIDER, OR (5) RDN'S VIOLATION OF ANY LAW OR THE RIGHTS OF A THIRD PARTY, WHICH MAY ARISE OUT OF OR RELATE TO THIS AGREEMENT.

12. NOTICES

All notices, demands and other communications hereunder shall be in writing or by written telecommunications, and shall be deemed to have been duly given: (i) if mailed to the other party's address by certified mail, postage prepaid, on the date three (3) days from the date of mailing, (ii) if delivered by overnight courier, when received by the contact or (iii) if sent by confirmed email, one business day following receipt by the contact. Notices to RDN shall be addressed to Recovery Database Network, Inc., Attn: President, [1620 S. Stapley Drive, Suite 232 Mesa, Arizona 85204](#) and copy to: General Counsel, 13085 Hamilton Crossing Blvd, Carmel, IN 46032. Notices to LICENSEE shall be to the address indicated on LICENSEE'S registration materials.

13. AUDIT

RDN may at any time and without notice, electronically audit LICENSEE's information, records, and operations for the purpose of confirming LICENSEE's compliance with all terms and conditions of this Agreement. Further, RDN may, on ten (10) days' notice to LICENSEE, attend at LICENSEE'S premises to audit LICENSEE's information, records and operations for the purpose of confirming LICENSEE's compliance with all the terms and conditions of this Agreement (a "**Premises Audit**"). Premises Audits shall be conducted during regular business hours and RDN shall use commercially reasonable efforts to minimize disruption with LICENSEE's business activities. LICENSEE shall have the reasonable right to audit once annually, RDN's information, records, and operations for the purpose of confirming RDN's compliance with all terms and conditions of this Agreement, including but not limited to, its compliance with the data security requirements under this Agreement.

14. MISCELLANEOUS

14.1 *Entire Agreement.* This Agreement, including any amendment or addendum hereto for additional services, constitutes the entire agreement between the parties with respect to the subject matter of this Agreement and supersedes any previous and contemporaneous agreements and understandings, whether oral or written, between the parties hereto with respect to the subject matter hereof.

14.2 *Governing Law.* This Agreement will be construed, interpreted and applied in accordance with the laws of the State of Indiana and applicable federal law, without regard to its conflict of laws principles. Any legal action or proceeding arising under this Agreement will be brought exclusively in the Circuit and Superior Courts of Marion County, Indiana and the federal courts of the United States, sitting in Indiana, and the parties hereby irrevocably consent to personal jurisdiction and venue therein. The

prevailing party in any litigation to enforce any of the terms under this Agreement shall be entitled to its reasonable attorneys' fees and costs.

- 14.3 *Assignment.* LICENSEE may not assign any of its rights and/or delegate any of its obligations under this Agreement, in whole or in part, by operation of law or otherwise without RDN's prior and express written consent to such assignment. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's permitted successors and permitted assigns.
- 14.4 *Waiver.* Any waiver of breach or default by either party pursuant to this Agreement must be in writing, and will not be a waiver of any other subsequent default. Failure or delay by either party to enforce any term or condition of this Agreement will not constitute a waiver of such term or condition.
- 14.5 *Invalidity.* If any provision herein is held to be invalid or unenforceable for any reason, such provision will be enforced to the maximum extent permitted by law and the remaining provisions of this Agreement will continue in full force without being impaired or invalidated in any way.
- 14.6 *Interpretation.* Headings are for reference purposes only and in no way define, limit, construe or describe the scope or extent of such section. In resolving any dispute or construing any provision hereunder, there shall be no presumptions made or inferences drawn (i) because the attorneys for one of the parties drafted the Agreement; (ii) because of the drafting history of the Agreement; or (ii) because of the inclusion of a provision not contained in a prior draft, or the deletion of a provision contained in a prior draft.
- 14.7 *Remedies.* Except as otherwise expressly set forth hereunder, the exercise by either party of any remedy under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise.
- 14.8 *Status of Parties.* The parties to this Agreement are independent contractors, and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise or agency between RDN and LICENSEE.
- 14.9 *Amendments.* The parties may mutually agree to amend in writing the terms of this Agreement.
- 14.10 *No Reliance.* No party hereto has relied on any statement, representation or promise of any other party or with any other officer, agent, employee or attorney for the other party in executing this Agreement except as expressly stated herein.
- 14.11 *Force Majeure.* Neither party shall be responsible for failure to perform (including, failure to perform in a timely manner) under this Agreement when its failure results from any of the following causes: Acts of God or public enemies, civil war, insurrection or riot, fire, flood, explosion, earthquake or serious accident, strike, labor trouble or any cause beyond its reasonable control.

SCHEDULE A -LICENSE FEES

<i>License Type</i>	<i>Set-up Fee</i>	<i>Monthly per user Fee*</i>
Forwarder	\$1,295	1-5 users \$450; each additional \$20
Full	\$1,295	1-5 users \$350; each additional \$20
Limited	\$0	1 user \$0; each additional \$20

<i>License Type</i>	<i>Global Client Order Transaction Fees</i>			
	<i>Repossession Order Type</i>	<i>Field Visit Order Type</i>	<i>Investigate Order Type</i>	<i>All Other Order Types</i>
Forwarder	\$0 to accept; \$2 upon report of " Repossession "*** to the client	\$2 to accept; \$0 for completion	\$0 to accept; \$2 for completion	\$0 to accept; \$0 for completion
Full	\$0 to accept; \$2 upon report of " Repossession "*** to the client	\$2 to accept; \$0 for completion	\$0 to accept; \$2 for completion	\$0 to accept; \$0 for completion
Limited	\$1 to accept; \$2 upon report of " Repossession "*** to the client	\$2 to accept; \$0 for completion	\$1 to accept; \$2 for completion	\$1 to accept; \$0 for completion

<i>License Type</i>	<i>Local / Company Client Order Transaction Fees</i>			
	<i>Repossession Order Type</i>	<i>Field Visit Order Type</i>	<i>Investigate Order Type</i>	<i>All Other Order Types</i>
Forwarder	\$0 to accept; \$0 upon report of " Repossession "*** to the client	\$0 to accept; \$0 for completion	\$0 to accept; \$0 for completion	\$0 to accept; \$0 for completion
Full	\$0 to accept; \$0 upon report of " Repossession "*** to the client	\$0 to accept; \$0 for completion	\$0 to accept; \$0 for completion	\$0 to accept; \$0 for completion
Limited	\$1 to accept; \$2 upon report of " Repossession "*** to the client	\$2 to accept; \$0 for completion	\$1 to accept; \$2 for completion	\$1 to accept; \$0 for completion

* Excludes Local Client users and users who access the RMDS System exclusively through the field agent portal.

** "Repossession" means that an asset has been recovered on behalf of a Lien Holder through the services of the RSP that accepted the Order, and is therefore subject to the Transaction Fees set forth in this Agreement.

Additional terms:

- a. Set-up Fee: LICENSEE shall pay the Set-up Fee upon execution of this Agreement by LICENSEE. (Only applies to LICENSEE who is a first-time full-version user)
- b. Monthly Fee: LICENSEE shall pay the Monthly Fees to RDN in advance on or before the 1st day of each month during the term of this Agreement. (For example, the Monthly Fee for May would be due and payable no later than May 1st.) The per user fees will be based on the highest total unique number of users that were active at any time during the billing month. The Monthly Fee must be paid in full for each month during the Term and is not pro-rated for partial months. LICENSEE is solely responsible for notifying RDN of the deactivation of any User.
- c. Transaction Fees. RDN will invoice LICENSEE for Transaction Fees on a monthly basis. Such Transaction Fees will accumulate from the previous month and be charged on the first of the month in total along with the Monthly Fee.
- d. Unless otherwise agreed by RDN in writing, LICENSEE shall pay the Set-up Fee, Monthly Fees and Transaction Fees by pre-authorized credit card charge.