



Master Services Agreement

The following terms and conditions govern our relationship with you and limit our liability for any services or products that we provide to you. **Please read these terms carefully and keep a copy for your records.**

SCOPE; SERVICES

- a. **Scope.** This master services agreement (this "MSA") governs all services that Solus Network Solutions Inc., d/b/a/ Solus Technology Solutions ("us", "our", "we" or "SOLUS"), performs for, as well as any services, licenses or products that we sell or re-sell, to you (collectively, the "Services") under a Services "ADDENDUM" or an attached Services Agreement ("AGREEMENT").
- b. **Quotes.** The Services may be defined in a quote, service order, or proposal (collectively "Customer Service Order"), AGREEMENT or ADDENDUM, or they may be defined by the actual Services provided to you and our invoicing of same. If no written AGREEMENT or ADDENDUM exists, then in this document "AGREEMENT" or "ADDENDUM" shall include the actual Services provided to you and for which you are, or for which you have been, invoiced by SOLUS. **By accepting the AGREEMENT or ADDENDUM, you agree to the terms of this Agreement.**
- c. **Conflict.** If there is a material difference between the language in a AGREEMENT or ADDENDUM and the language in this MSA, then the language of the AGREEMENT or ADDENDUM will control, except in situations involving warranties, limitations of liability, or termination of this Master Services Agreement. Under those limited circumstances, the terms of this MSA will control unless the AGREEMENT or ADDENDUM expressly states that it is overriding the conflicting provisions of this MSA.

GENERAL REQUIREMENTS

- a. **Prioritization.** All Services will be performed on a schedule, and in a prioritized manner, as determined by SOLUS.
- b. **Authorized Contact(s).** SOLUS will be entitled to rely on any directions or consent provided by your personnel or representatives who are authorized in an AGREEMENT or ADDENDUM to provide such directions or consent ("Authorized Contacts"). If no Authorized Contact is identified in an applicable AGREEMENT or ADDENDUM, then your Authorized Contact will be the person(s) (i) who signed this Agreement, and/or (ii) who signed the applicable AGREEMENT or ADDENDUM. If you desire to change your Authorized Contact(s), please notify SOLUS of such changes in writing which, unless exigent circumstances are stated in the notice, will take effect three (3) business days thereafter.

FEES; PAYMENT

- a. **Fees.** You agree to pay the fees, costs, and expenses described in each AGREEMENT or ADDENDUM or Customer Service Order.
- b. **Schedule.** Fees are due and payable in advance of the provision of the Services, unless otherwise stated in a AGREEMENT or ADDENDUM.
- c. **Nonpayment.** Fees that remain unpaid for more than thirty (30) days after the date on the invoice will be subject to interest on the unpaid amount(s) until and including the date payment is received, at the lower of either 1% per month or the maximum allowable rate of interest permitted by applicable law. We reserve the right, but not the obligation, to suspend part or all of the Services without prior notice to you in the event that any portion of undisputed fees are not timely received by us, and monthly or recurring charges shall continue to accrue during any period of suspension. Notice of disputes related to fees must be received by us within thirty (30) days after the applicable Service is rendered or the date on which you pay an invoice, whichever is later; otherwise, you waive your right to dispute the fee thereafter.

ACCESS

You hereby grant to SOLUS the right to monitor, diagnose, communicate with, retrieve information from, and otherwise access the Environment as necessary to enable us to provide the Services.

LIMITED WARRANTIES; LIMITATIONS OF LIABILITY

- a. **Hardware / Software Purchased Through SOLUS.** Any, subscriptions purchased from SOLUS ("Third Party Products") are nonrefundable once the applicable purchase order is placed in SOLUS' queue for delivery. All Third Party Products are provided "as is" and without any warranty whatsoever as between SOLUS and you (including but not limited to implied warranties).
- b. **Liability Limitations.** This paragraph limits the liabilities arising under this MSA or any AGREEMENT or ADDENDUM and is a bargained-for and material part of this Agreement. You acknowledge and agree that SOLUS would not enter into any AGREEMENT or ADDENDUM or this MSA unless SOLUS could rely on the limitations described in this paragraph. In no event shall either party be liable for any indirect, special, exemplary, consequential, or punitive damages, such as lost revenue, loss of profits (except for fees due and owing to SOLUS), savings, or other indirect or contingent event-based economic loss arising out of or in connection with this MSA, any AGREEMENT or ADDENDUM, or the Services, or for any loss or interruption of data, technology or services, or for any breach hereof or for any damages caused by any delay in furnishing Services under this MSA or any AGREEMENT or ADDENDUM, even if a party has been advised of the possibility of such damages; however, reasonable attorneys' fees awarded to a prevailing party (as described below) shall not be limited by the foregoing limitation. Except for your payment obligations and your indemnification obligations described in this Agreement, a responsible party's ("Responsible Party's") aggregate liability to the other party ("Aggrieved Party") for damages from any and all claims or causes



whatsoever, and regardless of the form of any such action(s), that arise from or relate to this Agreement (collectively, "Claims"), whether in contract, tort, indemnification, or regular or gross negligence, shall be limited solely to the amount of the Aggrieved Party's actual and direct damages, not to exceed the lesser of (i) the amount of fees paid by you (excluding hard costs for licenses, hardware, etc.) to SOLUS for the specific Service upon which the applicable claim(s) is/are based during the six (6) month period immediately prior to the date on which the cause of action accrued. The foregoing limitations shall not apply to the extent that the Claims are caused by a Responsible Party's willful or intentional misconduct. Similarly, a Responsible Party's liability obligation shall be reduced to the extent that a Claim is caused by, or the result of, the Aggrieved Party's willful or intentional misconduct, or gross negligence.

INDEMNIFICATION

Each party (an "Indemnifying Party") agrees to indemnify, defend and hold the other party (an "Indemnified Party") harmless from and against any and all losses, damages, costs, expenses or liabilities, including reasonable attorneys' fees, (collectively, "Damages") that arise from, or are related to, the Indemnifying Party's breach of this Agreement. The Indemnified Party will have the right, but not the obligation, to control the intake, defense and disposition of any claim or cause of action for which indemnity may be sought under this section. The Indemnifying Party shall be permitted to have counsel of its choosing participate in the defense of the applicable claim(s); however, (i) such counsel shall be retained at the Indemnifying Party's sole cost, and (ii) the Indemnified Party's counsel shall be the ultimate determiner of the strategy and defense of the claim(s) for which indemnity is provided. No claim for which indemnity is sought by an Indemnified Party will be settled without the Indemnifying Party's prior written consent, which shall not be unreasonably delayed or withheld.

TERM; TERMINATION

- a. **Term.** This MSA begins on the earliest date on which you accept the AGREEMENT or ADDENDUM or, if no written AGREEMENT or ADDENDUM exists, the date on which you accept the Services and continues until terminated as described in this Agreement. Each AGREEMENT or ADDENDUM will have its own term and will be terminated only as provided herein, unless otherwise expressly stated in the applicable AGREEMENT or ADDENDUM. If no written AGREEMENT or ADDENDUM exists, then the Services will be provided on a month-to-month basis. The termination of one AGREEMENT or ADDENDUM shall not, by itself, cause the termination of (or otherwise impact) this MSA or the status or progress of any other AGREEMENT or ADDENDUM between the parties.
- b. **Termination Without Cause.** Unless otherwise agreed by the parties in writing or otherwise permitted under this MSA, no party will terminate this MSA without cause if, on the date of termination, a AGREEMENT or ADDENDUM is in progress. In addition, no party will terminate a AGREEMENT or ADDENDUM without cause prior to the AGREEMENT or ADDENDUM's natural expiration date, it being understood that if no written AGREEMENT or ADDENDUM exists, then the Services must be terminated with no less than two month's written notice. Notwithstanding the foregoing, if SOLUS decides to cease providing a service to all of its customers generally, then SOLUS may terminate an applicable AGREEMENT or ADDENDUM without cause by providing no less than one hundred and twenty (120) days prior written notice to you. If you terminate a AGREEMENT or ADDENDUM without cause and without SOLUS' consent, then you will be responsible for paying the termination fee described in the "Termination for Cause" section, below. If no AGREEMENT or ADDENDUM is in progress, then either party may terminate this MSA without cause by providing the other party with Thirty (30) days prior written notice.
- c. **Termination For Cause.** In the event that one party (a "Defaulting Party") commits a material breach under an AGREEMENT or ADDENDUM or under this MSA, the non-Defaulting Party will have the right, but not the obligation, to terminate immediately this MSA or the relevant AGREEMENT or ADDENDUM (a "For Cause" termination) provided that (i) the non-Defaulting Party has notified the Defaulting Party of the specific details of the breach in writing, and (ii) the Defaulting Party has not cured the default within twenty (20) days (ten (10) days for non-payment by Client) following receipt of written notice of breach from the non-Defaulting Party. The foregoing cure period may be extended by us as commercially reasonably necessary if the default is not capable of being cured within twenty (20) days. If SOLUS terminates this MSA or any AGREEMENT or ADDENDUM For Cause, or if you terminate any AGREEMENT or ADDENDUM without cause prior to such AGREEMENT or ADDENDUM's applicable expiration date, then SOLUS shall be entitled to receive, and you hereby agree to pay to us, all amounts that would have been paid to SOLUS had this MSA or AGREEMENT or ADDENDUM (as applicable) remained in effect. If you terminate this MSA or a AGREEMENT or ADDENDUM For Cause, then you will be responsible for paying only for those Services that were properly delivered and accepted by you up to the effective date of termination.
- d. **Client Activity As A Basis for Termination.** In the event that (i) you or any of your staff, personnel, contractors, or representatives engage in any unacceptable act or behavior that renders it impracticable, imprudent, or unreasonable to provide the Services to you, then SOLUS will have the right, upon ten (10) days prior written notice to you, to terminate this MSA or the applicable AGREEMENT or ADDENDUM for Cause.
- e. **Consent.** You and we may mutually consent, in writing, to terminate a AGREEMENT or ADDENDUM or this MSA at any time.
- f. **Transition; Deletion of Data.** Unless otherwise expressly stated in a AGREEMENT or ADDENDUM, we will have no obligation to store or maintain any Client data in our possession or control beyond fifteen (15) calendar days following the termination of this Agreement. We will be held harmless for, and indemnified by you against, any and all claims, costs, fees, or expenses incurred by either party that arise from, or are related to, our deletion of your data beyond the time frames described in this section.



CONFIDENTIALITY

- a. **Defined.** For the purposes of this MSA, Confidential Information means any and all non-public information provided to us by you, including but not limited to your customer data, customer lists, internal documents, and related information. Confidential Information will not include information that: (i) has become part of the public domain through no act or omission of SOLUS, (ii) was developed independently by us, or (iii) is or was lawfully and independently provided to us prior to disclosure by you, from a third party who is not and was not subject to an obligation of confidentiality or otherwise prohibited from transmitting such information.
- b. **Use.** We will keep your Confidential Information confidential and will not use or disclose such information to any third party for any purpose except (i) as expressly authorized by you in writing, or (ii) as needed to fulfill our obligations under this MSA.
- c. **Due Care.** We will exercise the same degree of care with respect to the Confidential Information we receive from you as we normally take to safeguard and preserve our own confidential and proprietary information, which in all cases will be at least a commercially reasonable level of care.
- d. **Compelled Disclosure.** If we are legally compelled (whether by deposition, interrogatory, request for documents, subpoena, civil investigation, demand or similar process) to disclose any of the Confidential Information, we will immediately notify you in writing of such requirement so that you may seek a protective order or other appropriate remedy and/or waive our compliance with the provisions of this Section. We will use its best efforts, at your expense, to obtain or assist you in obtaining any such protective order. Failing the entry of a protective order or the receipt of a waiver hereunder, we may disclose, without liability hereunder, that portion (and only that portion) of the Confidential Information that we have been advised, by written opinion from our counsel, that we are legally compelled to disclose.
- e. **Business Associate.** If we enter into a business associate agreement ("BAA") with you for the protection of personal health information, then the terms of the BAA will be read in conjunction with the terms of the confidentiality provisions of this MSA. The terms that protect confidentiality most stringently shall govern, and conflicting privacy- or confidentiality-related terms shall be governed by the BAA.

ADDITIONAL TERMS; THIRD PARTY SERVICES

- a. **Third Party Services.** Portions of the Services may be acquired from, or rely upon, the services of third party manufacturers or providers, such as (but not limited to) data hosting services, domain registration services, and data backup/recovery services ("Third Party Service"). Not all Third Party Services may be expressly identified as such in a AGREEMENT or ADDENDUM , and at all times we reserve the right to utilize the services of any third party provider or to change third party providers in our sole discretion as long as the change does not materially diminish the Services to be provided to you under a AGREEMENT or ADDENDUM . We will not be responsible, and will be held harmless by you, for the failure of any third party provider or manufacturer to provide Third Party Services to SOLUS or to you.
- b. **Data Loss.** Under no circumstances will we be responsible for any data lost, corrupted or rendered unreadable due to (i) communication and/or transmissions errors or related failures, (ii) equipment failures (including but not limited to silent hardware corruption-related issues), or (iii) our failure to backup or secure data from portions of the Environment that were not expressly designated in the applicable AGREEMENT or ADDENDUM as requiring backup or recovery services. Unless expressly stated in a AGREEMENT or ADDENDUM , we do not warrant or guarantee that any maintained storage device or functionality,

OWNERSHIP

Each party is, and will remain, the owner and/or licensor of all works of authorship, patents, trademarks, copyrights and other intellectual property owned or licensed by such party ("Intellectual Property"), and nothing in this MSA or any AGREEMENT or ADDENDUM shall be deemed to convey or grant any ownership rights or goodwill in one party's Intellectual Property to the other party.

ARBITRATION

Any dispute, claim or controversy arising from or related to this MSA, including the determination of the scope or applicability of this agreement to arbitrate, shall be determined by arbitration before one arbitrator to be mutually agreed upon by the parties. The arbitration shall be administered and conducted by JAMS pursuant to its arbitration rules for commercial arbitration (the "Rules"). In the event of any inconsistency between the Rules and the procedures set forth below, the procedures set forth below will control. The arbitrator will be experienced in contract, intellectual property and information technology transactions. If the parties cannot agree on an arbitrator within fifteen (15) days after a demand for arbitration is filed, JAMS shall select the arbitrator. The arbitration shall take place in Reno, Nevada. The arbitrator shall determine the scope of discovery in the matter; however, it is the intent of the parties that any discovery proceedings be limited to the specific issues in the applicable matter, and that discovery be tailored to fulfill that intent. The cost of the arbitration shall be split evenly between the parties; however, the party prevailing in the arbitration shall be entitled to an award of its reasonable attorneys' fees and costs. Notwithstanding the foregoing, SOLUS shall not be required to send collections-related matters to arbitration unless the amounts subject to collection were timely disputed by you in good faith.

MISCELLANEOUS

- a. **Compliance.** Unless otherwise expressly stated in a AGREEMENT or ADDENDUM , the Services are not intended, and will not be used, to bring Client into full regulatory compliance with any rule, regulation, or requirement that may be applicable to Client's business or operations.



Depending on the Services provided, the Services may aid Client's efforts to fulfill regulatory compliance; however, the Services are not (and should not be used as) a compliance solution.

- b. **Disclosure.** You warrant and represent that you know of no law or regulation governing your business that would impede or restrict our provision of the Services, or that would require us to register with, or report our provision of the Services (or the results thereof), to any government or regulatory authority. You agree to promptly notify us if you become subject to any of the foregoing which, in our discretion, may require a modification to the scope or pricing of the Services.
- c. **Non-Solicitation.** Each party (a "Restricted Party") acknowledges and agrees that during the term of this MSA and for a period of one (1) year following the termination of this MSA, the Restricted Party will not, individually or in conjunction with others, directly or indirectly solicit, induce or influence any of the other party's employees with whom the Restricted Party worked as a result of this Agreement, to discontinue or reduce the scope of their business relationship with the other party, or recruit, solicit or otherwise influence any employee or contractor of the other party to discontinue his/her employment or agency relationship with the other party. In the event of a violation of the terms of the restrictive covenants in this section, the parties acknowledge and agree that the damages to the other party would be difficult or impracticable to determine, and in such event, the Restricted Party will pay the other party as liquidated damages and not as a penalty an amount equal to fifty percent (50%) percent of that employee's first year of base salary with the defaulting party (including any signing bonus). In addition to and without limitation of the foregoing, any solicitation or attempted solicitation for employment directed to a party's employees by a Restricted Party will be deemed to be a material breach of this MSA, in which event the affected party shall have the right, but not the obligation, to terminate this Agreement or any then-current AGREEMENT or ADDENDUM immediately For Cause.
- d. **Non-Circumvention.** During the term of this MSA, you agree not to offer, pursue, or engage in any transaction with any contractor designated by SOLUS to provide Services to you where your efforts are intended to, or may, circumvent or encourage the circumvention of the Services in whole or in part.
- e. **Assignment.** Neither this MSA nor any AGREEMENT or ADDENDUM may be assigned or transferred by a party without the prior written consent of the other party. This MSA will be binding upon and inure to the benefit of the parties hereto, their legal representatives, and permitted successors and assigns. Notwithstanding the foregoing, we may assign our rights and obligations hereunder to a successor in ownership in connection with any merger, consolidation, or sale of substantially all of the assets of our business, or any other transaction in which ownership of more than fifty percent (50%) of our voting securities are transferred; provided, however, that such assignee expressly assumes our obligations hereunder.
- f. **Amendment.** Unless otherwise expressly permitted under this MSA, no amendment or modification of this MSA or any AGREEMENT or ADDENDUM will be valid or binding upon the parties unless such amendment or modification is originated in writing by SOLUS, specifically refers to this MSA or the AGREEMENT or ADDENDUM being amended, and is accepted in writing (email or electronic signature is acceptable) by you.
- g. **Time Limitations.** The parties mutually agree that, unless otherwise prohibited by law, any action for any matter arising out of this MSA or any AGREEMENT or ADDENDUM (except for issues of nonpayment by Client) must be commenced within six (6) months after the cause of action accrues or the action is forever barred.
- h. **Severability.** If any provision hereof or any AGREEMENT or ADDENDUM is declared invalid by a court of competent jurisdiction, such provision will be ineffective only to the extent of such invalidity, illegibility or unenforceability so that the remainder of that provision and all remaining provisions of this MSA or any AGREEMENT or ADDENDUM will be valid and enforceable to the fullest extent permitted by applicable law.
- i. **Other Terms.** We will not be bound by any terms or conditions printed on any purchase order, invoice, memorandum, or other written communication supplied by you unless such terms or conditions are incorporated into a duly executed AGREEMENT or ADDENDUM, or unless we have expressly acknowledged the other terms and, thereafter, expressly and specifically accepted such other terms in writing.
- j. **No Waiver.** The failure of either party to enforce or insist upon compliance with any of the terms and conditions of this MSA, the temporary or recurring waiver of any term or condition of this MSA, or the granting of an extension of the time for performance, will not constitute an Agreement to waive such terms with respect to any other occurrences.
- k. **Merger.** This MSA, together with any and all Quotes and AGREEMENTS or ADDENDUMS, sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements or understandings related to the Services; however, any payment obligations that you have or may have incurred under any prior superseded agreement are not nullified by this MSA and remain in full force and effect. No representation, promise, inducement or statement of intention has been made by either party which is not embodied herein. We will not be bound by any of our agents' or employees' representations, promises or inducements if they are not explicitly set forth in this MSA or any Quote or AGREEMENT or ADDENDUM. Any document that is not expressly and specifically incorporated into this MSA or AGREEMENT or ADDENDUM will act only to provide illustrations or descriptions of Services to be provided and will not modify this MSA or provide binding contractual language between the parties. The foregoing sentence shall not apply to any business associate agreement required under HIPAA, which the parties may (if required) enter into after the Effective Date of this MSA.
- l. **Force Majeure.** Neither party will be liable to the other party for delays or failures to perform its obligations under this MSA or any AGREEMENT or ADDENDUM because of circumstances beyond such party's reasonable control. Such circumstances include, but will not



be limited to, any intentional or negligent act committed by the other party, or any acts or omissions of any governmental authority, natural disaster, act of a public enemy, acts of terrorism, riot, sabotage, disputes or differences with workmen, power failure, communications delays/outages (including but not limited to ISP-related outages), delays in transportation or deliveries of supplies or materials, cyberwarfare, cyberterrorism, or hacking, malware or virus-related incidents that circumvent then-current anti-virus or anti-malware software, and acts of God.

- m. **Survival.*** The provisions contained in this MSA that by their context are intended to survive termination or expiration of this MSA will survive. If any provision in this MSA is deemed unenforceable by operation of law, then that provision shall be excised from this MSA and the balance of this MSA shall be enforced in full.
- n. **Insurance.*** SOLUS and you will each maintain, at each party's own expense, all insurance reasonably required in connection with this Agreement or any AGREEMENT or ADDENDUM , including but not limited to, workers compensation and general liability. We agree to maintain a general liability policy with a limit not less than \$1,000,000 per occurrence. All of the insurance policies described herein will not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the other party.
- o. **Governing Law; Venue.*** This MSA and any AGREEMENT or ADDENDUM will be governed by, and construed according to, the laws of the state of Nevada. You hereby irrevocably consent to the exclusive jurisdiction and venue of Washoe County, for any and all claims and causes of action arising from or related to this Agreement.
- p. **No Third Party Beneficiaries.*** The Parties have entered into this MSA solely for their own benefit. They intend no third party to be able to rely upon or enforce this MSA or any part of this MSA.
- q. **Business Day.*** If a time period set forth in this MSA expires on a day other than a business day in Washoe County, Nevada, such period will be extended to and through the next succeeding business day in Washoe County, Nevada.
- r. **Notices; Writing Requirement.*** Where notice is required to be provided to a party under this MSA, such notice may be sent by U.S. mail, overnight courier, fax or email as follows: notice will be deemed delivered three (3) business days after being deposited in the United States Mail, first class mail, certified or return receipt requested, postage prepaid, or one (1) day following delivery when sent by FedEx or other overnight courier, or one (1) day after notice is delivered by fax or email. Notice sent by email will be sufficient only if (i) the sender emails the notice to the last known email address of the recipient, and (ii) the sender includes itself in the "cc" portion of the email and preserves the email until such time that it is acknowledged by the recipient. Notwithstanding the foregoing, any notice from you to SOLUS regarding (a) any alleged breach of this MSA by SOLUS, or (b) any request for indemnification, or (c) any notice of termination of this MSA or any AGREEMENT or ADDENDUM , must be delivered to SOLUS either by U.S. mail or fax, unless such requirement is expressly and specifically waived by SOLUS. All electronic documents and communications between the parties, including email, will satisfy any "writing" requirement under this Agreement.
- s. **Independent Contractor.*** SOLUS is an independent contractor, and is not your employer, employee, partner, or affiliate.
- t. **Subcontractors.*** Generally, we do not utilize subcontractors to perform onsite services; however, should we elect to subcontract a portion of those services, we will guarantee the work as if we performed the subcontracted work ourselves.
- u. **Data Access/Storage.*** Some of the Services may be provided by persons outside of the United States and/or your data may occasionally be accessed, viewed, or stored on secure servers located outside of the United States. You agree to notify us if your company requires us to modify these standard service provisions, in which case additional (and potentially significant) costs will apply.
- v. **Counterparts.*** The parties intend to sign, accept and/or deliver any Quote, this MSA, AGREEMENT or ADDENDUM or any amendment in any number of counterparts, and each of which will be deemed an original and all of which, when taken together, will be deemed to be one agreement. Each party may sign, accept, and/or deliver any Quote, this MSA, any AGREEMENT or ADDENDUM or any amendment electronically (e.g., by emailed acceptance, digital signature, and/or electronic reproduction of a handwritten signature) or by reference (as applicable).