

ENSYNC MASTER SERVICES AND LICENSE AGREEMENT

THIS MASTER SERVICES AND LICENSE AGREEMENT (the “**Agreement**”) is made and entered into by enSYNC Corporation, a Texas Corporation, (“**enSYNC**”) with its principal place of business and offices located at 5049 Edwards Ranch Rd, Suite 400, Fort Worth, Texas 76109, and “**Customer**”

with offices at: Customer Address (“**Customer**”)

Contact: Customer primary contact person is:
Name: _____ E-Mail: _____

Customer billing contact person is:
Name: _____ E-Mail: _____

and.

By signing below Customer and enSYNC (collectively “**Parties**” and separately “**Party**”) agree to all of the terms and conditions of this Agreement that follow the signatures below effective as of the earlier of the date executed by Customer below or the date set forth on the time stamp collected when accepting this Agreement online (the “**Effective Date**”).

Further, enSYNC grants to Customer an End User License as defined and limited in Section 2 of this Agreement to use the “enSYNC Software” as defined in Section 2.4 of this Agreement and that is marked with a “x” or “check” below:

- | | |
|--|--|
| <input type="checkbox"/> AutoDraft | <input type="checkbox"/> LearningSYNC |
| <input type="checkbox"/> BluePay Gateway | <input type="checkbox"/> FinanceSYNC for Sage Intacct |
| <input type="checkbox"/> Gateway Reconciler | <input type="checkbox"/> FinanceSYNC for QuickBooks Online |
| <input type="checkbox"/> Online AutoDraft – Entity Manager | <input type="checkbox"/> MeetingSYNC for Zoom |
| <input type="checkbox"/> VoterSYNC (on-premise app) | <input type="checkbox"/> MeetingSYNC for GoToWebinar |

“**Customer**”

By: _____ Date Executed: _____
[Signature]

Printed Name: _____

Title: _____

enSYNC Corporation

By: _____ Date: _____
David D. Hickey, Chief Executive Officer

General Terms and Conditions

1. SERVICES

1.1. Customer Request(s) for Services. Any representative of Customer initiates a request for Services from enSYNC by contacting enSYNC via telephone, email, or through the enSYNC Client Portal.

1.1.1. “**Services**” are the services that enSYNC provides to Customer pursuant to this Agreement relating to business consulting, software implementation, software development, providing technical support, and software sales, and includes all of the time, work, effort, and resources utilized by enSYNC to fulfill Customer’s request, including, but not limited to implementation, consulting, planning, requirement analysis, upgrades, system administration, phone conferences, researching, project management, development, conversion, programming, testing, refinements, logging customer support request, documentation, training, email correspondence, maintenance, reporting and review. Services DO NOT INCLUDE ongoing support unless expressly stated in a Statement of Work.

1.1.2. A “**Service Ticket**” is a Customer request for Services that **requires fewer than eight (8) hours of Services to fulfill** (based solely upon enSYNC’s estimate of Services required to fulfill such Customer request).

1.1.3. A “**Statement of Work**” is a written or electronic agreement describing the Services that enSYNC agrees to provide in response to Customer’s request for Services that **requires eight (8) hours or more of Services to fulfill** (based solely upon enSYNC’s estimate of Services required to fulfill such Customer request) that is signed by a representative of Customer.

1.1.4. A “**Change Order**” is a written or electronic agreement signed by a representative of enSYNC and a representative of Customer to modify or change a Statement of Work.

1.2. enSYNC Response to Customer Request for Services. Upon receiving a request for Services from Customer, enSYNC will process such request and respond to Customer by either accepting or declining such Customer request for Services.

1.2.1 Accepting a Customer Request for Services. enSYNC accepts a Customer request for Services by delivering a Service Ticket, a proposed Statement of Work, or a proposed Change Order.

1.2.1.1 Upon delivering a Service Ticket to Customer, enSYNC will provide Customer the Services described in such Service Ticket.

1.2.1.2. Upon Customer and enSYNC signing a Statement of Work or Change Order, enSYNC will provide Customer the Services described in such Statement of Work or Change Order.

1.2.2 Declining a Customer Request for Services. enSYNC declines a Customer request for Services by giving Customer written or electronic notification of such declination with reasons clearly stated.

1.3 Performance of Services. The terms and conditions of this Agreement govern a Service Ticket, a Statement of Work, and Change Order. In performing Services, enSYNC agrees to use commercially reasonable efforts to provide the Services requested by Customer, including, but not limited to devoting the necessary time and staff. In performing Services, enSYNC is entitled to rely on Customer's routine, instructions, authorizations, approvals and other information Customer provides to enSYNC. enSYNC will incur no liability or responsibility in relying or complying with any such routine, instructions, authorizations, approvals and other information.

1.4 enSYNC Independent. Customer and enSYNC agree and acknowledge that (a) enSYNC is and will remain a separate and distinct entity from Customer, and (b) that enSYNC provide its Services to Customer under this Agreement as an independent contractor.

1.5. Completion of Work.

1.5.1 Upon fulfillment of a Service Ticket, enSYNC will give Customer written or electronic notice that the requested Services in such Service Ticket have been fulfilled. Within five (5) days of receipt of such written or electronic notice, Customer agrees to review and consider the Services rendered by enSYNC pursuant to such Service Ticket, and give written or electronic (a) acknowledgement that enSYNC rendered Services to Customer's satisfaction in accord with such Service Ticket; or (b) notification specifying in detail the basis for Customer's position that enSYNC has not rendered Services to Customer's satisfaction in accord with such Service Ticket. Absent enSYNC's receipt of written notification from Customer in accord with this subsection, Customer agrees that all Services required by such Service Ticket will be deemed and stipulated to be properly performed and fulfilled.

1.5.2 Upon fulfillment of a Statement of Work (and any associated Change Order), enSYNC will give Customer written or electronic notice that the requested Services in such Statement of Work (and any associated Change Order) have been fulfilled. Within fourteen (14) days of receipt of such written or electronic notice, Customer agrees to review and consider the Services rendered by enSYNC pursuant to such Statement of Work (and any associated Change Order), and give written or electronic (a) acknowledgement that enSYNC rendered Services to Customer's satisfaction in accord with such Statement of Work (and any associated Change Order); or (b) notification specifying in detail Customer's the basis for Customer's position that enSYNC has not rendered Services to Customer's satisfaction in

accord with such Statement of Work (and any associated Change Order). Absent enSYNC's receipt of written notification from Customer in accord with this subsection, Customer agrees that all Services required by such Statement of Work (and any associated Change Order) will be deemed and stipulated to be properly performed and fulfilled.

2. ENSYNC SOFTWARE AND END USER LICENSE

2.1 THIS AGREEMENT GOVERNS CUSTOMER'S RIGHTS AND RESPONSIBILITIES RELATING TO ACCESS AND USE OF THE enSYNC SOFTWARE. CUSTOMER MUST READ AND AGREE TO THE TERMS OF THIS AGREEMENT BEFORE CUSTOMER MAY ACCESS AND USE THE enSYNC SOFTWARE. IF CUSTOMER DOES NOT AGREE WITH ANY OF THE TERMS OF THIS AGREEMENT, CUSTOMER MAY NOT USE THE enSYNC SOFTWARE. BY SIGNING THIS AGREEMENT ABOVE, CUSTOMER CONFIRMS THAT CUSTOMER HAS READ, UNDERSTOOD AND AGREES TO BE LEGALLY BOUND BY THIS AGREEMENT.

2.2 The End User License granted by enSYNC to Customer in this Agreement does not obligate enSYNC to install, implement, perform custom work, train, or perform any other Services related to the enSYNC Software. Such Services are available from enSYNC, and may be requested by Customer as provided in Section 1 of this Agreement.

2.3 EnSYNC is the disclosed principal and sole party to this Agreement with Customer. No employee, officer, agent, distributor, dealer, reseller, solution provider, developer, consultant or other person, is authorized to make any commitments on enSYNC's behalf or otherwise bind enSYNC.

2.4 Definitions.

2.4.1. In this Agreement, the terms "**enSYNC Software**" and "**Software**" mean software applications and/or modules licensed by Customer from enSYNC and identified described on the first page of this Agreement, and the associated documentation, backup and distribution media, and all additions, corrections, updates, and enhancements provided by enSYNC to the Customer, together with all copies of such items.

2.4.2. In this Agreement, the terms "**enSYNC Work Product**" and "**Work Product**" mean all work performed and work produced by enSYNC, including all intellectual property of every kind and nature, unless otherwise specified in this Agreement (including any Service Ticket, Statement of Work, Change Order, or End User License). The terms "EnSYNC Work Product" and "Work Product" do not include work solely performed or work solely produced by Customer, or Confidential Information which is the sole property of the Customer.

2.5. enSYNC Grant of License to Customer. Subject to the terms and conditions of and except as otherwise provided in this Agreement, enSYNC grants to the named Customer only, a limited, non-exclusive, non-transferable and non-assignable license to access and use the enSYNC Software and enSYNC Work Product within or on its business premises and for its own internal uses during the Term (“**End User License**”).

2.5.1. The Customer has no rights in or to the enSYNC Software or the enSYNC Work Product except as expressly granted in this Agreement.

2.5.2. EnSYNC reserves to itself all ownership rights to the enSYNC Software and enSYNC Work Product including all copyright, trademark, patent, and other intellectual property rights in and to the enSYNC Software and the enSYNC Work Product.

2.5.3. Customer acknowledges and agrees that although Services and enSYNC Software are provided by eSYNC to Customer under this Agreement (including any Service Ticket, Statement of Work, Change Order, or End User License) for Customer’s benefit, as part of enSYNC’s payment under this Agreement, enSYNC retains the ownership in and to all enSYNC Work Product unless otherwise specified in this Agreement (including any Service Ticket, Statement of Work, Change Order, or End User License).

2.5.4. Customer acknowledges and agrees that EnSYNC can sell, or otherwise use all or part of the Work Product, to others and/or incorporate it into enSYNC products without remuneration, discounts or rebates of any kind to the Customer.

2.5.5. As between the Parties, the Customer acknowledges that the enSYNC Software and enSYNC Work Product, all copies of the enSYNC Software and enSYNC Work Product, any derivative works, compilations, and collective works of the enSYNC Software and enSYNC Work Product and any know-how and trade secrets related to the enSYNC Software and enSYNC Work Product are the sole and exclusive property of enSYNC and contain enSYNC’s confidential and proprietary materials.

2.5.6. Software defects, if any, will only be corrected by enSYNC under the terms and conditions of the limited warranty provided in Section 9 herein. This license does not grant customer any rights in connection with any trademarks or service marks of enSYNC.

2.6. Customer Grant of License to enSYNC. The Customer grants enSYNC, a worldwide, limited term license to host, copy, transmit and display Customer Data entered into, created by, or created for, the Customer and entered into or generated from using the Software, during the Term, as necessary for enSYNC to provide the Software or for the Customer to use the Software in accordance with this Agreement. For purposes of this Agreement, “**Customer Data**” shall mean any electronic data or information entered into,

submitted by or for the Customer to, the enSYNC Software or collected and processed by or for the Customer using the enSYNC Software. Subject to the limited licenses granted herein, enSYNC acquires no right, title or interest from the Customer or its licensors under this Agreement in or to the Customer Data. The Customer also grants enSYNC a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the enSYNC Software any suggestion, enhancement request, recommendation, correction or other feedback provided by the Customer or Users relating to the operation of the enSYNC Software.

2.7. Usage Restrictions. The Customer will not (a) make the enSYNC Software available to, or use the enSYNC Software for the benefit of, anyone other than the Customer, (b) replicate a portion or all of the enSYNC Software for use by an unlicensed organization (unless a license is obtained by each organization that accesses and uses the enSYNC Software), (c) sell, resell, license, sublicense, distribute, rent, lease or lend the enSYNC Software, or include it in a service bureau or outsourcing offering, (d) use the enSYNC Software to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (e) use the enSYNC Software to store or transmit malicious code, (f) interfere with or disrupt the integrity or performance of the Software or third-party data contained therein, (g) attempt to gain unauthorized access to the enSYNC Software or its related systems or networks, (h) permit direct or indirect access to or use of the enSYNC Software in a way that circumvents any contractual usage restriction or limit, (i) copy the enSYNC Software or any part, feature, function or user interface thereof, other than as allowed under this Agreement including for backup purposes, (j) frame or mirror any part of the enSYNC Software, other than framing on the Customer's own intranets or otherwise for the Customer's own personal use, (k) access the enSYNC Software for the purpose of monitoring availability or functionality, benchmarking, or otherwise assist with the creation and/or evaluation of any competitive service to the enSYNC Software, or (l) reverse engineer the enSYNC Software (to the extent such restriction is permitted by law). Notwithstanding the foregoing, Customer may make a copy of each component of only the on-premise enSYNC Software provided to the Customer (and not any hosted Software of enSYNC) for Customer's own internal use as backup or as a training, standby or test system, provided that Customer (a) includes in and on such copies all indications of attribution including notices of copyright and proprietary rights appearing in and on the enSYNC Software, and (b) erases or destroys such copies when they are no longer required. Except for such authorized copies, Customer will not copy or permit anyone else to copy any portion of the enSYNC Software and any such copies remain enSYNC's exclusive property. Customer will not disassemble, decode or reverse engineer or modify any portion of the enSYNC Software, or merge or embed the enSYNC Software into another computer program, or encourage, assist or otherwise facilitate such activities by any third parties.

3. TERM

3.1 *Initial Term.* This Agreement, including any End User License, commences on the Effective Date and shall continue in full force and effect for a period of one (1) year (the “**Initial Term**”).

3.1.1. Renewal Term. This Agreement automatically renews for successive one (1) year terms (each a “**Renewal Term**”) unless a party gives notice of its intention not to renew this Agreement sixty (60) days prior to the end of the Term.

3.1.2. Term. References to “**Term**” in this Agreement, are to the then current one (1) year term of this Agreement, whether such term is the Initial Term or a Renewal Term.

3.1.3 Expiration and Termination. If not renewed, this Agreement expires at the end of the Term and terminates.

4. PRICE AND PAYMENT

4.1. **enSYNC Services** - Customer agrees to pay for enSYNC’s Services as follows:

4.1.1. Time and Materials Basis - Not Fixed Price. Because the work and scope of a project often changes as enSYNC learns more about the details, enSYNC does not provide Services on a fixed price basis. Customer agrees and acknowledges that enSYNC’s Services will be provided on a time and materials basis, unless a Service Ticket or Statement of Work or Change Order specifically states that the Services are being provided for a fixed price or fixed number of hours and is signed and accepted by enSYNC.

4.1.2. Fees. Customer agrees to pay enSYNC the fees for the Services as follows:

4.1.2.1. Fees for Services pursuant to a Service Ticket, a Statement of Work, or a Change Order.

4.1.2.1.1. Service Ticket Fees. For Services provided pursuant to a Service Ticket, Customer agrees to pay enSYNC’s fees at our rates set forth in that attached **Exhibit A**. If Customer has opted for an enSYNC Support Plan by signing and delivering same to enSYNC, Customer will pay enSYNC’s fees at the rate provided in the selected enSYNC Support Plan, provided Customer makes all payments required by such Support Plan.

4.1.2.1.2. Statement of Work and Change Order Fees. For Services provided pursuant to a Statement of Work or a Change Order, Customer agrees to pay enSYNC’s fees at the rate stated in the

Statement of Work or Change Order. If no rate is stated in the Statement of Work or Change Order, Customer agrees to pay enSYNC's fees at our rates set forth in that attached **Exhibit A**.

4.1.2.2. enSYNC will bill Customer for the time enSYNC devotes to Customer's Service Ticket(s) and Statement(s) of Work, including travel time from enSYNC's offices to Customer's site and back.

4.1.2.3. Customer acknowledges that enSYNC periodically adjusts (increases) enSYNC's rates for Services. Customer will be notified in writing of any enSYNC service rate changes to **Exhibit A** thirty (30) days prior to its effect or through a Service Ticket, Statement of Work, or Change Order. In the event of such an adjustment, Customer agrees to pay enSYNC's fees based on the adjusted rate.

4.1.3. **Expenses**. Unless otherwise specified in a Service Ticket, Statement of Work or Change Order, Customer agrees to reimburse enSYNC for all reasonable out-of-pocket expenses, including but not limited to, telephone, telecommuting, parking, tolls, local transportation (mileage or car rental/fuel), courier charges, postage, copy charges, and any lodging and travel expenses incurred in providing the Services. Customer also agrees to reimburse enSYNC for any third-party software license costs and third-party hardware costs that Customer has authorized enSYNC to acquire for Customer's use. enSYNC's policy is to purchase the less expensive non-refundable airline tickets unless Customer instructs otherwise, and Customer agrees to pay any costs if enSYNC has to change the airline ticket. enSYNC will invoice the customer for the above-mentioned reimbursable charges with a copy of the receipts.

4.1.4 **Other Charges**. Customer also agrees to pay all excise, sales, use or other taxes, fees, value added surcharges, import and export duties and other assessments levied by governmental authorities on the Services.

4.2 **enSYNC Software and End User License**. Customer agrees to pay for enSYNC Software and any End User License as follows:

4.2.1 **Fixed Fee Price**. Customer agrees to pay enSYNC the subscription fees that are applicable to each enSYNC Software for each Term. Customer acknowledges that enSYNC expects to annually adjust (increase) enSYNC's subscription fees. In the event of such an adjustment, Customer agrees to pay enSYNC the adjusted subscription fees.

4.2.2 **Subscription Fees Non-Refundable**. Unless specifically provided for in this Agreement or agreed to by enSYNC in writing, all subscription fees for enSYNC Software are non-refundable.

4.3 Price Payment Terms

4.3.1. Invoice Delivery. Customer agrees to accept invoices from enSYNC via electronic mail to the billing contact person specified on the first page of this Agreement.

4.3.1.1. Services. EnSYNC will periodically, as frequently as weekly, invoice Customer for enSYNC Services. Invoices for Services will contain a brief description of the Services performed, date Services performed, individual performing the Services, and time devoted to the Services.

4.3.1.2. Software. EnSYNC will annually invoice Customer for enSYNC Software at least sixty (60) days prior to the start of a Renewal Term. Invoices for Software will identify the subscription fees applicable to each enSYNC Software.

4.3.2. Due Date. Unless enSYNC agrees, in writing, to another payment date or other payment terms, the “Due Date” is: (a) the date payment is due as specified in an enSYNC invoice, Service Ticket, Statement of Work, or Change Order, or (b) if no date is specified in an enSYNC invoice, Service Ticket, Statement of Work, or Change Order, then forty-five (45) days after the date of the enSYNC invoice.

4.3.3. Payment By Customer. Customer agrees to pay the invoice on or before the Due Date.

4.3.3.1. Taxes. In the event enSYNC is required to collect taxes for providing any Services, Software, or End User License, enSYNC will invoice Customer for such taxes. Customer agrees to pay such invoiced taxes and all excise, sales, use or other taxes, fees, value added surcharges, import and export duties and other assessments levied by governmental authorities on any Services, Software, or End User License unless Customer has delivered a valid tax exemption certificate to enSYNC.

4.3.3.2. Disputed Invoice Amount(s). In the event Customer disputes any invoiced amount, Customer agrees to give enSYNC written or electronic notification of such dispute specifying in detail the basis for Customer’s dispute within thirty (30) days of the date of the invoice. enSYNC agrees that late charges shall not apply to invoiced amounts that are disputed by Customer in accord with this Agreement.

4.3.3.2.1. Undisputed Invoices Correct and Payable. Absent enSYNC’s receipt of written or electronic notification of a disputed invoiced amount from Customer in accord with this Agreement,

Customer agrees that all invoices and invoiced amounts are deemed and stipulated to be correct and payable by Customer thirty (30) days after the date of the invoice.

4.3.3.2. Late Charges. Customer further agrees to pay a late charge of one and one-half (1.5) percent of any unpaid invoice amount each month starting the day after the Due Date. Customer agrees that any such late charge(s) be added to the invoice amount due.

4.3.3.3. Credit Hold (Suspension of Services) After 45 Days. In the event any invoiced amount (that is not disputed in accord with this Agreement) remains due from Customer forty-five (45) days after the date of an invoice, a credit hold will arise on all of Customer's accounts with enSYNC. A credit hold results in the immediate suspension of all Services provided by enSYNC to Customer, including any Services provided under a Service Ticket, Statement of Work, or Change Order until the credit hold is removed by full payment of all outstanding invoiced amounts (not disputed in accord with this Agreement), including late charges.

5. DEFAULTS AND REMEDIES.

5.1. Monetary Default. Customer acknowledges that Customer will be in default and in breach of this Agreement should Customer fail to pay to enSYNC any monetary fees, subscription fees, charges, or other amounts by the Due Date.

5.2. Non-Monetary Default. Customer further acknowledges that Customer will be in default and in breach of this Agreement should Customer fail to perform any of Customer's non-monetary obligations required by this Agreement, provided enSYNC gives Customer notice of such non-monetary breach and Customer fails to cure such non-monetary breach within fifteen (15) days of receipt of such notice.

5.3. Credit Hold (Suspension of Services and Software) After Due Date. If any invoiced amount (that is not disputed in accord with this Agreement) remains due from Customer after the Due Date, a Credit Hold will arise on all of Customer's accounts with enSYNC. Any such Credit Hold, including any resulting suspension, is removed by Customer's full payment of all outstanding invoiced amounts, including late charges. A "Credit Hold" results, at enSYNC's option, in:

5.3.1. the immediate suspension of all Services provided by enSYNC to Customer, including any Services provided under a Service Ticket, Statement of Work, or Change Order;

5.3.2. the immediate suspension of any End User License granted by enSYNC to Customer;

5.3.3. the immediate suspension of Customer's use of all enSYNC Software;

5.3.4. the immediate declaration by enSYNC that any amounts due enSYNC for Services provided to Customer, but not yet invoiced, pursuant to a Service Ticket, Statement of Work, Change Order, or this Agreement.

5.4. enSYNC's Default. In the event that enSYNC is unable or fails to perform any of its obligations under this Agreement, and after Customer provides written notice of such failure and provides enSYNC thirty (30) days to cure such failure, if enSYNC fails to cure such failure, enSYNC shall be considered to be in default of this Agreement. In the event of such default by enSYNC, Customer may, upon written notice to enSYNC, terminate this Agreement and following such termination, enSYNC shall refund to Customer, excluding non-refundable fees, any unearned fees and any prepaid fees on a pro rata basis. Notwithstanding any default by enSYNC, Customer shall pay to enSYNC any outstanding undisputed fees incurred by Customer for Services performed by enSYNC.

5.5. Customer agrees to pay enSYNC and enSYNC shall have the right to recover any and all attorney's fees and court costs incurred by enSYNC to collect amounts due to enSYNC pursuant to this Agreement.

6. PROTECTION OF CUSTOMER DATA. With respect to enSYNC Software, enSYNC will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer's Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of the Customer's Data by enSYNC's personnel except (a) to provide the Software to prevent or address service or technical problems, (b) as compelled by law in accordance with Section 8.5.1.4. of this Agreement (Confidentiality: Compelled Disclosure), or (c) as the Customer expressly permits in this Agreement or in another writing.

7. CUSTOMER RESPONSIBILITY FOR ENSYNC SOFTWARE AND WORK PRODUCT. The Customer will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of enSYNC Software and enSYNC Work Product including using commercially reasonable efforts to prevent unauthorized access to or use of enSYNC Software and enSYNC Work Product and will notify enSYNC promptly of any such unauthorized access or use. The Customer will use enSYNC Software and enSYNC Work Product only in accordance with this Agreement, End User License, applicable laws, and government regulations.

8. CONFIDENTIALITY

8.1. Disclosure of Confidential Information. In consideration of the mutual promises and obligations of enSYNC and Customer described in this Agreement,, as well as other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged,

enSYNC and Customer each hereby acknowledge and understand that pursuant to the terms of this Agreement, either enSYNC or Customer may disclose, provide, expose, or deliver Confidential Information to the other Party that is the property of enSYNC, Customer, their affiliated companies, their clients, or third parties to whom enSYNC or Customer owes a duty of confidentiality.

8.2. Confidential Information. Customer and enSYNC agree that “**Confidential Information**” is technical information, databases, specifications, formulations, computer software (source and object codes), versions, models, samples, manuals, table structures, identity of or details about actual or potential customers or members, or projects, techniques, inventions, discoveries, know-how and trade secrets that includes, but is not limited to, (a) technical information, specifications, computer software (source and object codes), manuals, table structures, trade secrets and know-how associated with enSYNC’s Services that are enSYNC’s exclusive property, (b) computer software (source and object codes), technical information, specifications, manuals, table structures, trade secrets and know-how associated with enSYNC Software that are enSYNC’s exclusive property, and (c) Customer’s membership information and related lists, processes, programs, data, and experience that are Customer’s exclusive property.

8.3. EnSYNC and Customer agree that Confidential Information shall remain the sole and exclusive property of the owner of such Confidential Information.

8.4. In this Agreement, the terms “**Disclose**”, “**Disclosing**” or “**Disclosure**”, mean to disclose, proliferate, duplicate, furnish, copy, reproduce, sell, assign, license, market, transfer, give, use, or otherwise dispose of, for any purpose.

8.5. During the Term this Agreement is in effect and at all times after its termination, EnSYNC and Customer each agree not to Disclose the Confidential Information of the other Party to any third party [including enSYNC and Customer’s employee(s), representative(s), authorized agent(s), consultant(s), or subcontractor(s), and any other person or entity], or to cause, allow, or facilitate Disclosure or use of Confidential Information of the other Party to or for any third party, for any purpose, except as authorized by this Agreement.

8.5.1. Allowed Disclosure of Confidential Information. Disclosure of Confidential Information of EnSYNC or Customer to a third party is allowed under this Agreement IF:

8.5.1.1. Prior Written Approval of Owner. Prior written approval from the owner of such Confidential Information is obtained by the Party Disclosing Confidential Information to a third party.

8.5.1.2. enSYNC's Confidential Information. If the Confidential Information is owned by enSYNC, Customer is allowed to Disclose enSYNC's Confidential Information to Customer's employee(s), representative(s), authorized agent(s), consultant(s), and subcontractor(s) after Customer provides enSYNC with such employee(s), representative(s), authorized agent(s), consultant(s), or subcontractor(s) written agreement to be bound by the same terms and conditions, including license restrictions and obligation of confidentiality, contained in this Agreement.

8.5.1.3. Customer's Confidential Information. If the Confidential Information is owned by Customer, EnSYNC is allowed to Disclose Customer's Confidential Information to enSYNC's employee(s), representative(s), authorized agent(s), consultant(s), or subcontractor(s). EnSYNC represents to Customer that enSYNC's employee(s), representative(s), authorized agent(s), consultant(s), or subcontractor(s) have each signed a written agreement to be bound by the same terms and conditions, including license restrictions and obligation of confidentiality, contained in this Agreement.

8.5.1.4. Compelled Disclosure. If compelled by law to do so, Customer or enSYNC is allowed to Disclose the Confidential Information of the other Party to the extent compelled by law to do so, provided that the Disclosing Party give prior written notice of the compelled Disclosure (to the extent legally permitted) and that the Disclosing Party provide reasonable assistance to the owner of such Confidential Information if the such owner of such Confidential Information wishes to contest the compelled Disclosure.

8.6. Obligation to Inform/Advise Not To Disclose Confidential Information.

8.6.1. Customer agrees to use reasonable best efforts to advise each of its employees who may be exposed to enSYNC's Confidential Information of Customer's and customer's employees' obligations not to Disclose Confidential Information.

8.6.2. enSYNC agrees to use reasonable best efforts to advise each of its employees who may be exposed to Customer's Confidential Information of enSYNC's and enSYNC's employees' obligations not to Disclose Confidential Information.

8.7. Obligations Upon Termination of Agreement. Upon termination of this Agreement, Customer and enSYNC shall each , within thirty (30) days of receiving written notice of such termination, return to the owner of such Confidential Information any and all Confidential Information previously supplied or made available to or acquired or compiled or prepared by Customer or enSYNC or their employee(s), representative(s), authorized agent(s), consultant(s), or subcontractor(s), including any copies, reproductions,

summaries or self-generated documents reflecting such Confidential Information. Upon the return of this Confidential Information by Customer or enSYNC, Customer and enSYNC's obligations to maintain strictest confidence shall nevertheless survive the termination of this Agreement and continue pursuant to the provisions of this Agreement, such obligations also continuing to apply to all employee(s), representative(s), authorized agent(s) and subcontractor(s) of either Customer or enSYNC to whom Confidential Information has been Disclosed.

8.8. Enforcement. It is understood and agreed that in the event of a breach of confidentiality, damages may not be an adequate remedy and each Party shall be entitled to injunctive relief to restrain any such breach, threatened or actual.

9. **LIMITED WARRANTY AND LIMITATION OF LIABILITY**

9.1. For Services. With respect to Services, enSYNC will perform its work in a professional and workmanlike manner, but, because of the nature of Services, enSYNC cannot guarantee any particular result or a particular date of completion. enSYNC is not responsible for any Work Product that Customer has modified. enSYNC's liability to Customer is limited to refunding the money Customer paid to enSYNC for a Service Ticket, Statement of Work, or Change Order that is in dispute minus the reasonable value of the Services that enSYNC provided. **NEITHER PARTY WILL BE LIABLE TO THE OTHER NOR TO ANY THIRD PARTY FOR ANY CONSEQUENTIAL, INDIRECT, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, INCLUDING LOSS OF REVENUE, PROFIT, GOODWILL OR ANTICIPATED SAVINGS, BUSINESS INTERRUPTION OR DIMINISHED BUSINESS VALUE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.**

9.2. For enSYNC Software. With respect to enSYNC Software, enSYNC warrants that the enSYNC Software, as provided to the Customer in unmodified form, will perform substantially in accordance with its then current published specifications which include manuals, release notes, bulletins and alerts (but which exclude advertising literature, brochures, verbal communications, proposals or any representations by representatives) during the one year period following the Effective Date or any Renewal Period (the "**Warranty Period**").

9.2.1. During the Warranty Period, if the enSYNC Software does not perform according to such specifications or if enSYNC breaches any of its obligations associated with the limited warranty, enSYNC will elect to provide Customer (within a commercially reasonable time period) with one of the following remedies, at enSYNC's sole discretion, as Customer's only remedy: (a) provide, without charge, a version of the enSYNC Software that does perform as warranted, (b) replace, without charge, the enSYNC Software with a functionally similar program, or (c) cause a refund of sums received by enSYNC for the license to the enSYNC Software associated with the period of nonconformance.

9.2.2. During the Warranty Period, enSYNC will provide to Customer free updates, patches and enhancements.

9.2.3. OTHER THAN THE LIMITED WARRANTY EXPRESSLY INCLUDED IN THIS SECTION 9 HEREIN, THE enSYNC SOFTWARE IS PROVIDED “AS IS” WITHOUT WARRANTY OF ANY KIND. ALL EXPRESS OR IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SPEED, NON-INFRINGEMENT, SATISFACTORY QUALITY, CUSTOMER PURPOSE, OR ARISING FROM A COURSE OF DEALING, LAW, USAGE, OR TRADE PRACTICE, ARE HEREBY EXCLUDED TO THE EXTENT ALLOWED BY APPLICABLE LAW.

9.2.4. In addition, enSYNC does not provide any warranties regarding (i) the accuracy of the results obtained through use of the enSYNC Software, (ii) the accuracy of the data contained within the enSYNC Software, (iii) that the enSYNC Software will operate error free, or in an uninterrupted fashion, (iv) the security of the enSYNC Software from intrusion or attack, or (v) the network, communications links or infrastructure Customer uses.

9.2.5. IN NO EVENT WILL enSYNC BE LIABLE TO THE CUSTOMER, OR ANY THIRD PARTY, FOR ANY LOST REVENUE, PROFIT, OR DATA, BUSINESS INTERRUPTION, OR FOR SPECIAL, INDIRECT, CONSEQUENTIAL, INCIDENTAL, OR PUNITIVE DAMAGES HOWEVER CAUSED AND REGARDLESS OF THE THEORY OF LIABILITY ARISING OUT OF THE USE OF OR INABILITY TO USE THE SOFTWARE EVEN IF enSYNC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER SHALL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW AND IN NO EVENT SHALL enSYNC’S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED IN THE AGGREGATE, THE AMOUNT PAID FOR CUSTOMER’S USE OF THE SOFTWARE IN THE 12 MONTHS PRECEDING THE CLAIM.

9.3. For Services and enSYNC Software. With respect to Services and enSYNC Software:

9.3.1. EnSYNC does not warrant any third party Software and Customer must refer to the manufacturer of such software for any warranty-related issues with such third party Software.

9.3.2. The limited warranty provided by enSYNC in this Section 9 are personal and limited to Customer and not applicable to any third party.

9.3.3. The limited warranty provided by enSYNC in this Section 9 do not apply to enSYNC Software or Services if such enSYNC Software or Services have been altered or modified in any way by anyone other than enSYNC.

9.3.4. The limited warranty provided by enSYNC in this Section 9 does not cover problems (i) caused by the specifics of the Customer's computer hardware or computer operating systems or any changes in the operating characteristics of computer hardware or computer operating systems that are made after Services are performed or after the release of the enSYNC Software, or (ii) caused by Customer's use of enSYNC Software not supplied by Company in conjunction with the enSYNC Software.

10. TERMINATION

10.1. Termination by Customer. Customer may terminate this Agreement (or any End User License, Service Ticket, Statement of Work, or Change Order) for any reason at any time by giving written notice to the enSYNC of the termination.

10.2. Termination by EnSYNC.

10.2.1. enSYNC Termination – Services. EnSYNC may terminate this Agreement in relation to Services for any reason at any time by giving written notice to the Customer of the termination.

10.2.2. enSYNC Termination of enSYNC Software. EnSYNC may terminate this Agreement in relation to the enSYNC Software if the Customer breaches any terms of this Agreement. Additionally, enSYNC may opt not to renew this Agreement as provided in Section 3.1.1. with the result that this Agreement in relation to the enSYNC Software and Services terminates as described in Section 3.1.3.

10.3. Handling Confidential Information. The termination of this Agreement triggers the obligations of the Parties regarding Confidential Information described in Section 8.7 of this Agreement.

10.4. Refunds. Upon termination of this Agreement, enSYNC shall refund to Customer any prepaid fees for Services on a pro rata basis. Customer acknowledges that all subscription fees for enSYNC Software are non-refundable except as provided in Section 4.2.2. of this Agreement.

10.5. Handling enSYNC Software and Work Product. Upon termination or expiration of this Agreement, Customer shall erase or destroy all originals and copies of the enSYNC Software and enSYNC Work Product in its possession. If requested in writing by enSYNC, Customer will confirm that it has complied with the obligations (described in this Section

10.5) by delivering to enSYNC an affidavit (supplied by enSYNC to Customer) signed by an officer of the Customer in the presence of a notary public, stating that all originals and copies of the enSYNC Software and enSYNC Work Product in the possession of the Customer were erased or destroyed.

10.6. Handling Work Results. Upon termination and upon Customer's written request, enSYNC shall deliver to Customer the results of all work that Customer has paid for.

11. FORCE MAJEURE: Notwithstanding any other provision of this Agreement, neither Party shall be liable for any delay, failure in performance, loss or damages or for any failure of the Services, the product of the Services, of the enSYNC Software because of circumstances beyond the reasonable control of that party.

12. INDEMNIFICATION.

12.1. Defense and Indemnification by enSYNC. EnSYNC will defend the Customer against any claim, demand, suit or proceeding made or brought against the Customer by a third party alleging that the use of the enSYNC Software, in unmodified form and in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights, and will indemnify the Customer from any damages, attorney fees and costs finally awarded against the Customer as a result of, or for amounts paid by the Customer under a court-approved settlement of such claim, provided the Customer (a) promptly gives written notice of the claim to enSYNC, (b) gives enSYNC sole control of the defense and settlement of the claim (except that enSYNC may not settle any claim unless it unconditionally releases the Customer of all liability), and (c) gives enSYNC all reasonable assistance, at enSYNC's expense. If enSYNC receives information about an infringement or misappropriation claim related to the enSYNC Software, enSYNC may in its discretion and at no cost to the Customer (i) modify the enSYNC Software so that it no longer infringes or misappropriates, without breaching enSYNC's warranties, (ii) obtain a license for the Customer's continued use of the enSYNC Software in accordance with this Agreement, or (iii) terminate the Customer's subscriptions for the enSYNC Software upon thirty (30) days' written notice. The above defense and indemnification obligations do not apply to the extent a claim arises from the Customer's breach of this Agreement.

12.2. Defense and Indemnification by Customer. The Customer will defend enSYNC against any claim, demand, suit or proceeding made or brought against enSYNC by a third party alleging that the Customer's Data, or its use of the enSYNC Software in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law, and will indemnify enSYNC from any damages, attorney fees and costs finally awarded against enSYNC as a result of, or for any amounts paid by enSYNC under a court-approved settlement of such claim, provided enSYNC (a) promptly gives the Customer written notice of the claim, (b) gives the Customer sole control of the defense and settlement of the claim (except that the Customer may not settle any claim

unless it unconditionally releases enSYNC of all liability), and (c) gives enSYNC all reasonable assistance, at the Customer's expense.

13. DISPUTE RESOLUTION. In connection with any dispute between the Parties arising from this Agreement, the Parties shall attempt to resolve such dispute by utilizing the procedure specified in this Section of this Agreement.

13.1. Negotiation by Individuals. To commence negotiation of a dispute, either Party may send written notice ("**Negotiation Notice**") to the other Party containing a concise summary of the dispute and requesting negotiations. Within seven (7) days following receipt of such Negotiation Notice by the other Party, each Party will designate in writing to the other Party one or more individuals having general responsibility for this Agreement and authority to negotiate a settlement of the dispute ("**Individuals**"). The chosen Individuals shall make such investigation as they deem appropriate and will promptly, but in no event later than thirty (30) days from the date of the Negotiation Notice, communicate to attempt to resolve the dispute. If the dispute has not been resolved within forty-five (45) days of the first communication between such Individuals in furtherance of resolving the dispute, resolution shall then be attempted by representatives as specified in subsection (b) of this Section of this Agreement below. The submission of a Negotiation Notice shall toll any applicable statutes of limitation or prescriptive periods under this Agreement, pending the settlement or abandonment of the dispute.

13.2. Negotiation by Representatives. If the dispute is not resolved within forty five (45) days of the first communication between the Individuals ("**45-day Individual Negotiation Period**") or within such further period as the Parties may agree, the Parties will elevate the dispute to other representatives ("**Representatives**"). Specifically, within seven (7) days after the end of the forty-five (45) day Individual Negotiation Period, each Party shall nominate one or more Representatives with a title of vice president or higher who shall attempt to resolve the dispute. If the dispute is not resolved within thirty (30) days after both Representatives have been nominated ("**30-day Representative Negotiation Period**"), either Party may pursue a resolution of the dispute in accord with the terms of this Agreement, including, but not limited to Section 16 of this Agreement.

14. Entire Agreement; Conflicts with Other Agreements, Service Tickets, Statements of Work, Change Orders, and Supplementary Agreements.

14.1. Services. This Agreement and all accepted Service Tickets, Statements of Work, and Change Orders state the entire agreement between the Parties concerning enSYNC's Services unless there is a more specific written agreement (a "**Supplementary Agreement**") covering the Services that is signed by both Parties and specifically states that it supersedes this Agreement.

14.2. enSYNC Software and Work Product. This Agreement stated the entire agreement between the Parties concerning enSYNC Software and enSYNC Work Product unless there

is a Supplementary Agreement covering the enSYNC Software and enSYNC Work Product that is signed by both Parties and that specifically states that the Supplementary Agreement supersedes this Agreement.

14.3. All Representations/Warranties In Agreement. The Parties acknowledge that no representations or warranties have been made except as expressly set forth in this Agreement.

14.4. Written Agreement Required. The Parties acknowledge that a letter, email, meeting or telephone call is not a Supplementary Agreement, and that enSYNC is not bound by any written or verbal representations, promises or statements made by enSYNC or enSYNC's employees or representatives relating to (a) any of enSYNC's Services unless such representations, promises or statements are included in this Agreement, a Service Ticket, Statement of Work, Change Order, or Supplementary Agreement, or (b) any enSYNC Software or enSYNC Work Product unless such representations, promises or statements are included in this Agreement or a Supplementary Agreement.

14.5. Supplementary Agreement. In the event of a conflict between the terms this Agreement and the terms of a Supplementary Agreement, the terms of the Supplementary Agreement will prevail only for the Services, enSYNC Software, or enSYNC Work Product provided under the terms of the Supplementary Agreement, and, where possible, the terms shall supplement each other and both apply to the Services, enSYNC Software, or enSYNC Work Product provided under the terms of the Supplementary Agreement.

14.6. Agreement Controls. In the event of a conflict between the terms of an accepted Service Ticket, Statement of Work or Change Order and the terms of this Agreement, the terms of this Agreement shall prevail unless the accepted Service Ticket, Statement of Work, or Change Order clearly states that the particular term supersedes the conflicting term of this Agreement.

14.7. Limited Modification of Agreement. An accepted Service Ticket, Statement of Work, Change Order, or Supplementary Agreement never modifies this Agreement except to the limited extent that such accepted Service Ticket, Statement of Work, Change Order, or Supplementary Agreement specifically applies and relates to this Agreement and the particular accepted Service Ticket, Statement of Work, or Change Order or Supplementary Agreement.

15. SUBCONTRACTORS. enSYNC reserves the right to use contractors, at enSYNC's discretion; provided that any contractors enter into written confidentiality agreements at least as protective as the confidentiality provisions herein and enSYNC will remain fully responsible for the actions of all such contractors and all obligations under this Agreement.

16. GOVERNING LAW, JURISDICTION, AND FORUM. This Agreement is made in Fort Worth, Tarrant County, Texas and shall be governed by, interpreted, and construed in accordance with the laws of the State of Texas. The federal and state courts located in Tarrant

County, Texas shall be the only courts with jurisdiction to hear disputes or provide any other relief under this Agreement. Customer and enSYNC consent to the exclusive jurisdiction of the federal and state courts located in Tarrant County, Texas to hear such disputes and any action arising out of or in connection with this Agreement.

17. ASSIGNMENT; SUBLICENSING. This Agreement and any enSYNC Software, enSYNC Work Product, End User License, Service Ticket, Statement of Work, or Change Order, cannot be assigned or sublicensed by Customer without the prior written consent of enSYNC.

18. ATTORNEY'S FEES AND EXPENSES. If any legal action is brought by either Party against the other regarding the subject matter of this Agreement, the prevailing Party shall be entitled to recover, in addition to any other relief, reasonable attorney's fees and expenses.

19. NOTICES. Notices in connection with this Agreement shall be delivered certified mail, return receipt requested to the addresses listed on the first page of this Agreement. If either of these addresses should change, notice of such change shall be forwarded as provided by this Section.

20. SEVERABILITY. The provisions of this Agreement are severable. Should any part, term or provision be determined by any Court to be illegal, invalid or inoperative, such part, term or provision will be deemed not to be a part of this Agreement; however, the remaining parts, terms or provisions of this Agreement shall remain in full force and effect.

21. SURVIVAL. The provisions of Section 2 (enSYNC Software and End User License), Section 4 (Price and Payment), Section 6 (Protection of Customer Data), Section 7 (Customer Responsibility For enSYNC Software and Work Product), Section 8 (Confidentiality), Section 9 (Limited Warranty and Limitation of Liability), Section 10 (Termination), Section 11 (Force Majeure), Section 12 (Indemnification), Section 13 (Dispute Resolution), Section 14 (Entire Agreement; etc...), Section 16 (Governing Law, Jurisdiction, and Forum), Section 18 (Attorney's Fees and Expenses), and Section 21 (Survival) of this Agreement will survive expiration or termination of this Agreement and will continue in effect.