

## Terms of Service - MBT

This Services Agreement ("Agreement") is entered into by and between Ministry by Text LLC, a Texas Limited Liability Company with its principal office located at 15110 North Dallas Parkway, Suite #500, Dallas, Texas 75248 ("MBT"), and the entity identified on the signature page hereof ("Customer"), effective as of the date of last signature hereto (the "Effective Date"). The parties agree as follows:

All of which are incorporated herein by reference as if set forth verbatim (collectively the "**Agreement**"), including, without limitation, **(i) THE LIMITATIONS ON AND DISCLAIMER OF WARRANTIES AND LIABILITIES CONTAINED IN PARAGRAPHS 6 AND 8 AND (ii) THE PROPRIETARY RIGHT AND CONFIDENTIAL INFORMATION PROVISIONS OF PARAGRAPHS 4 AND 5, BOTH (i) AND (ii) REFERENCING THE GENERAL TERMS AND CONDITIONS AND BOTH PARTIES ACKNOWLEDGING THEIR REVIEW, CONTEMPLATION AND UNDERSTANDING OF SAME AFTER REVIEW WITH LEGAL COUNSEL OF THEIR CHOOSING.** Both parties stipulate to the conspicuousness and fair notice of such provision and acknowledgement that such provisions were negotiated and form a major component of the consideration bargained for hereunder. MBT's principles and best Practices do not constitute or convey legal advice and should not be used as a substitute for obtaining legal advice from qualified counsel. Use of and access to the principles and best practices herein do not create an attorney-client relationship with MBT and the user.

### 1. SERVICES

1.1. **Generally.** MBT provides a short message service (or "SMS") via a hosted network service that supports the use of "Short Codes" for two-way delivery of mobile originated ("MO") and mobile terminated ("MT") messages to MBT supported wireless carriers and devices, including mobile phones across an Application Program Interface (the "Services"). As used herein:

- (i) "Application Program Interface" or "API" means the connectivity method in place between MBT and the Customer. The API format may vary by customer, but is limited to the specifications or formats offered by MBT. Examples of API formats may include but are not limited to Web services (http/XML), SOAP, SMPP, SMTP.
- (ii) Short Code means a combination of fewer than ten digits to which End-Users can direct text messages from their wireless equipment and which the carrier translates into a valid SMPP address for delivery to MBT or one of MBT's affiliates in order for End Users to order and/or receive mobile content. Customer may elect a dedicated or shared Short Code.

The Services shall include MBT procuring Short Codes from the applicable Short Code administrative organization. Message content may include information, text, data, color or black and white images, moving and still images, and sound recordings. The Services do not include, and the Customer must provide and maintain all compatible equipment, hardware and software necessary to establish a connection to the API, and install, configure and operate any required equipment, hardware and software; provide access to the API from its network or data processing equipment via the Internet or telephone facilities and pay any service charges and charges associated with such access; maintain the security of and prevent unauthorized access to the API; give all end-users/consumers (and any third parties to whom messages may be transmitted using the Services) the rights to opt-in and opt-out of the SMS; and cooperate with MBT, third-party service providers, and governmental authorities in investigations of any alleged or perceived violation of any law, rule, regulation, or the Acceptable Use Policy. During the term of the Agreement (as set forth in Section 7), and in exchange for the consideration (as set forth in the attached Pricing Schedule Addendum and Service Order attached as addendums hereto and incorporated herein for all purposes), MBT will provide the Services to Customer.

1.2. **Support.** MBT provides software support to Customer Monday through Friday during normal business hours (9:00 a.m. – 5:00 p.m. CST) After hours support services are provided by contacting 269-488-9785.

1.3. **Additional Consulting Services.** Customer may request MBT to provide professional consulting services work in addition to or separate from Installation Services and Training ("Additional Professional Consulting Services"). If Additional Professional Consulting Services are requested by Customer, the terms are set forth in an Addendum attached hereto and incorporated herein for all purposes.

## 2. PAYMENT

2.1. **Fees.** Customer shall pay MBT the "Initial Investment" costs outlined on the attached Agreement and thereafter, fees for Services as set forth in the Agreement attached hereto, as applicable. MBT will provide monthly and/or quarterly invoicing for all such fees other than the Initial Investment.

2.2. **End-users/Consumers.** MBT's Services are free to end-users/consumers. MBT does not charge the end-user/consumer to "receive" or "reply" to text messages. The end-user/consumer may be charged by their carrier depending on mobile provider and individual rate plan, i.e. standard text message rates apply to the end-user/consumer.

2.3. **Payment.** Customer shall pay an "Initial Investment" which shall include the fees and costs for new account set up, the initial charges for General Account items, and required text messages. Thereafter, Customer will be billed for additional services as indicated in the Agreement. All text messages are subject to additional carrier specific look up and surcharges which shall be passed through to Customer. Lookup service is required for every existing (list scrub), new (Verify by Text), and repurposed or provisioned number and will be billed at the current text credit rate per instance. Customer is billed monthly and/or quarterly and agrees to pay such charges. Payment for the Initial Investment costs are due as outlined in the Agreement and thereafter, fees are due and payable no later than thirty (30) days from the invoice date. Fees and costs are non-refundable. Interest shall accrue at the rate of one and one-half percent (1.5%) per month or the highest rate allowed by applicable usury law, whichever is less, on all amounts due and unpaid. MBT may charge payment methods on file for any amounts outstanding.

2.4. **Taxes.** All prices and fees quoted herein and in Pricing Schedule are stated exclusive of tax. All taxes, duties, charges and other governmental charges of any kind (including sales, services, use, and value-added taxes, but excluding taxes based solely on the income of MBT) which are imposed by or under the authority of any government authority or political subdivision thereof on the Services shall be billed to and paid by Customer upon demand.

## 3. CONFIDENTIAL INFORMATION

3.1. **Generally.** Confidential Information includes, but is not limited to, (i) the terms of this Agreement; (ii) any information that concerns technical details and operation of any of MBT's Services, software or hardware offered or provided hereunder; and (iii) any other non-public or proprietary information, communication or data related to a party's business, products, or services, in any form, including, but not limited to oral, written, graphic or electronic forms, which the disclosing party identifies as confidential or which is of such a nature that the receiving party should reasonably understand that the disclosing party desires to protect such information against unrestricted disclosure or use, including without limitation, business information, financial data and marketing data (collectively, "Confidential Information"). Confidential Information does not include information that is: (i) generally known in the public (other than through unauthorized disclosure); (ii) rightfully in the receiving party's possession prior to disclosure, (iii) independently developed by the receiving party without reliance on or reference to the disclosing party's Confidential Information; or (iv) rightfully received by the receiving party from a third party without a duty of confidentiality.

3.2. **Treatment.** Each party agrees that during the Term of this Agreement and thereafter (i) it will use the disclosing party's Confidential Information solely for the purpose(s) of this Agreement and (ii) it will not, without the prior written consent of the disclosing party, disclose such party's Confidential Information to any third party (other than as may be required under applicable law or limited to the receiving party's employees, agents, or representatives on a need-to-know basis who are bound by obligations of nondisclosure and limited use at least as stringent as those contained herein). All Confidential Information shall remain the sole property of the disclosing party and no license or other right to such information is granted under this Agreement. Upon the disclosing party's request upon termination of this Agreement, all Confidential Information, including copies of such information, must be promptly returned to the disclosing party or destroyed. The receiving party's obligation to maintain the confidentiality of Confidential Information will survive for three (3) years after the termination or expiration of this Agreement.

3.3. **Disclosures.** In the event the receiving party is required to disclose any Confidential Information by order of a court or any government agency, by law, regulation, judicial or administrative process, the receiving party will: (i) give prior written notice of such disclosure to the disclosing party (if legally permitted to do so) together with a copy of the material proposed to be disclosed; (ii) reasonably cooperate with the disclosing party at the disclosing party's request and expense to resist or limit such disclosure or to obtain a protective order; and (iii) in the absence of a protective order or other remedy, disclose only that portion of the Confidential Information that is legally required to be disclosed.

#### 4. PROPRIETARY RIGHTS

4.1. **MBT Proprietary Rights.** Except as otherwise expressly set forth in this Agreement, Customer acknowledges that MBT and any entity that MBT directly or indirectly controls, is controlled by or is under common control with (its "Affiliates") retain all property rights and title in and to all of their Confidential Information or other proprietary information, products, services, and the ideas, concepts, techniques, inventions, processes, software or works of authorship developed, embodied in, or practiced in connection with the Services provided by MBT or its Affiliates hereunder, including, without limitation, all modifications, enhancements, derivative works, configurations, translations, upgrades, and interfaces thereto (collectively, "MBT Works"). Nothing in this Agreement shall create any right of ownership or license in and to the MBT Works or to MBT's Intellectual Property Rights.

**Customer Rights.** The MBT Works do not include Customer's preexisting databases, hardware, software, or networks. Customer is expressly prohibited from copying, sublicensing, reselling, renting, leasing or otherwise redistributing the Services, or permitting either direct or indirect use of the Services by any third party. Customer agrees not to modify, disassemble, decompile, reverse engineer, or create any derivative work of the Services and MBT's Intellectual Property.

#### 5. REPRESENTATIONS AND LIMITED WARRANTIES

5.1. **Customer's Representations.** Customer represents and warrants that Customer: (i) has the corporate power and authority to enter into this Agreement and to fully perform its obligations under this Agreement; (ii) has obtained the end-users/consumer's consent to receive the content from the Customer via SMS; and (iii) will comply with all applicable consumer protection laws and regulations.

5.2. **MBT's Representations.** MBT represents and warrants that MBT (i) has the corporate power and authority to enter into and to perform its obligations under this Agreement; (ii) will perform the Services in a manner consistent with applicable industry standard by qualified personnel on a timely basis; and (iii) there is no action, claim, suit, litigation, proceeding, arbitration, class action or investigation pending against MBT or its personnel, or to MBT's knowledge, threatened, that would materially affect MBT's ability to execute, deliver or perform its obligations under this Agreement.

5.3. **MBT's Limited Warranty.** MBT warrants that from the date of completion of implementing the initial Service Order such that Customer may engage in any message campaign so launched, that: (i) the cloud based media portal on which the Service is launched will be free of defects in materials and workmanship under normal use; and (ii) the Services substantially conform to its published specifications. Except for the foregoing, the Services are provided AS IS, WHERE IS AND WITH ALL FAULTS. This limited warranty extends only to Customer. Customer's exclusive remedy and the entire liability of MBT and its Affiliates and suppliers under this limited warranty will be, at MBT's option, repair, replacement, or refund of the fees actually paid to MBT for the applicable Service. In no event does MBT warrant that the Services or any applicable software or cloud based service is error free or that Customer will be able to utilize the Services without problems or interruptions. This warranty does not apply if Customer has altered the Services or otherwise failed to comply with the specifications of MBT.

5.3.1 **Limited Warranty – Security Breach.** MBT warrants that it has established and will maintain safeguards against the loss or unauthorized access to non-public personal information (as such term is defined in Title V of the Gramm-Leach-Bliley Act, 15 U.S.C. Section 6801, et seq., as it may be amended from time to time, and the regulations promulgated thereunder) provided by Customer and shall otherwise maintain the integrity of non-public personal information in its possession in accordance with any federal or state law privacy requirements. Such safeguards include the elements set forth in 16 C.F.R.

Section 314.4 and are reasonably designed to (a) ensure the security and confidentiality of the consumer information, (b) protect against any anticipated threats or hazards to the security or integrity of consumer information, and (c) protect against unauthorized access to or use of consumer information that could result in substantial harm or inconvenience to the consumer. In the event of any unauthorized access to, unauthorized disclosure of, loss of, damage to or inability to account for any of Customer's (or its end users) non-public personal information in the custody and control of MBT (each individually a "Breach"), MBT agrees that it shall promptly, at its own expense (a) report such Breach to Customer by telephone with immediate written confirmation sent by e-mail describing in detail any accessed materials and identifying any individual(s) who may have been affected by such Breach; (b) take all actions necessary or reasonably requested by Customer to stop, limit, or minimize the Breach; and (c) restore and/or retrieve, as applicable, and return all non-public personal information that was lost, damaged, accessed, copied or removed. MBT shall cooperate in all reasonable respects with Customer in Customer's actions to minimize the damage resulting from the Breach

**Disclaimer of Warranty. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 5.3 ABOVE (as limited by this Section 5.4), MBT MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR NONINFRINGEMENT OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE, TO THE MAXIMUM EXTENT EXCLUSION IS PERMITTED BY APPLICABLE LAW.**

- (a) MBT's Services, and any consulting provided in relation thereto, represent the opinion, advice and recommendations of MBT only. While MBT makes any such recommendations or gives any such advice in accordance with its good intentions and industry standards as MBT understands them, MBT shall have no liability for any incorrect opinion, the failure to obtain any particular or desired result, and does not guarantee the performance or any outcome based thereon.
- (b) IN NO EVENT WILL MBT OR ITS AFFILIATES OR SUPPLIERS BE LIABLE FOR ANY LOST REVENUE, PROFIT, OR DATA, 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 DATA OR SERVICES EVEN IF MBT OR ITS AFFILIATES OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- (c) In no event shall MBT's or its Affiliates or suppliers' liability to Customer, whether in contract, tort (including negligence), or otherwise, exceed the price actually paid by Customer for the applicable Service.

The foregoing limitations shall apply even if the above-stated warranty fails of its essential purpose. SOME STATES DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY OR CONSEQUENTIAL OR INCIDENTAL DAMAGES, and in the event the law of any such state shall ever be deemed to apply to the Services or this Agreement, this Article 5 shall be amended and reduced to the least extent necessary to honor the original intent hereof but to also comply with such applicable state law.

## **6. INDEMNIFICATION**

**6.1. Customer Indemnification.** Customer agrees to defend, indemnify, and hold harmless MBT and its Affiliates, and each of their employees, officers, directors, consultants, contractors, agents, licensors and suppliers, from all liabilities, losses, damages, claims, costs and expenses, including reasonable attorney's fees, that arise from (i) use or misuse of the Services by Customer or any person to whom Customer has granted access to the Services, (ii) Customer's violation of this Agreement or (iii) any violation of the Telephone Consumer Protection Act of 1991, as same may be amended or restated from time to time, resulting from the inclusion of an end-user/consumer in any Customer database or other Customer supplied contact who has not consented to solicitation or has opted out of such solicitation.

**6.2. MBT Indemnification.** Subject at all times to the Customer's obligation to indemnify MBT under Section 6.1 of this Agreement, MBT agrees to indemnify, defend, and hold harmless Customer and its

Affiliates, and each of their employees, officers, directors, consultants, contractors, agents, licensors and suppliers, from and against any claims, demands, proceedings, legal actions, losses, fines, penalties, damages, costs or expenses (including, without limitation, reasonable attorneys' fees and related costs and expenses) that arise from (i) MBT's failure to comply with the terms of this Agreement, (ii) MBT's misuse of Customer's end-user database, or (iii) a claim that the Services or any portion thereof constitute an alleged infringement of any U.S. Patent, copyright or trade secret (but excluding any claim arising because of specifications or information required or supplied by Customer).

6.3. **Process.** The Indemnitee shall promptly notify the Indemnitor of any such claim for indemnity, and the Indemnitor shall bear full responsibility for the defense of such claims (including any settlements); provided however, that the Indemnitor shall keep the Indemnitee informed of, and consult with the Indemnitee in connection with the progress of such litigation or settlement; the Indemnitor shall not have any right, without the Indemnitee's written consent, which consent shall not be unreasonably withheld, to settle any such claim if such settlement arises from or is part of any criminal action, suit or proceeding or contains a stipulation to or admission or acknowledgment of, any liability or wrongdoing (whether in contract, tort or otherwise) on the part of the Indemnitee, or requires any specific performance or non-pecuniary remedy by the Indemnitee; and the Indemnitee shall have the right to participate in the defense of a claim with counsel of its choice at its own expense.

**MBT Options Related to Intellectual Property Infringement Claims.** In the event of any claims (regardless of whether indemnity is sought) alleging infringement of any U.S. Patent, copyright or trade secret, MBT shall have the right, at its sole option, to obtain the right to continue use of the affected Services or to replace or modify the affected Services so that they may be provided by MBT and used by Customer without infringement of third party United States patent, copyright or trade secret rights. If neither of the foregoing options is available to MBT on a commercially reasonable basis, MBT may terminate the Agreement immediately upon written notice to Customer, and within thirty (30) days after such termination shall pay Customer a termination charge equal to the portion of any charges (excluding installation and any other non-recurring charges) paid in advance by Customer commensurate with the remaining portion of the service period for which such charges were paid. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE RIGHTS AND REMEDIES SET FORTH IN SECTIONS 6.2(iii) AND 6.4 CONSTITUTE THE ENTIRE OBLIGATION OF MBT AND THE EXCLUSIVE REMEDIES OF CUSTOMER WITH RESPECT TO THE SUBJECT MATTER THEREOF.

6.4. **Limitation.** Nothing in this Article 6 shall require any Indemnitor to indemnify any Indemnitee for any claim caused solely by the Indemnitee's own gross negligence or willful misconduct. To the greatest extent allowed by applicable law, neither party shall be liable to the other for any consequential, indirect, special, punitive, incidental, or exemplary damages, including, without limitation, for lost profits or revenues, whether foreseeable or unforeseeable, even if such party has been advised of the possibility of such damages. The foregoing limitations under this paragraph 6.5 shall not apply to a claim for indemnity under Section 6.2(iii) above.

## 7. TERM

This Agreement will commence as of the Effective Date and will continue for a period of one (1) year (the "Primary Term"). Upon expiration of the Primary Term (or any applicable Renewal Term), this Agreement shall automatically renew for subsequent one (1) year periods (each such period a "Renewal Term"). Either Party may terminate the Agreement following the expiration of the Primary Term or at any time thereafter upon thirty (30) days advance written notice.

## 8. GENERAL PROVISIONS

8.1. **Notices.** All "notices" required or permitted hereunder shall be in writing and addressed to the party to be served at the respective addresses set forth in this Agreement. Any such notice may be served personally or by certified mail (postage prepaid), internationally commercially recognized overnight delivery service (such as Federal Express or DHL), email (requires confirmed receipt with reply), or courier. Notice shall be deemed served upon personal delivery, overnight carrier, or by courier, upon the earlier of actual receipt or the second business day after the date sent and for notices sent via certified mail, upon the earlier of actual receipt or the third business day after the date sent (regardless of whether actually claimed). Either

Party may change the address to which notices are to be delivered by written notice to the other party.

8.2. **Entire Agreement.** This Agreement, including the exhibits and addendums attached hereto, constitutes the entire understanding and agreement between MBT and Customer with respect to any Services, and supersedes any and all prior or contemporaneous oral or written representations, understandings, agreements or communications relating thereto.

8.3. **Amendments and Waiver.** Any term or provision of this Agreement may be amended, and the observance of any term of this Agreement may be waived, only by a writing in the form of a non-electronic record referencing this Agreement conspicuously stating its control over contrary provisions hereof, and signed by the Parties to be bound thereby, and this Agreement may not be modified solely by submission of a purchase order or restricted payment or similar instrument referencing this Agreement.

8.4. **Force Majeure.** No party shall be deemed in default hereunder, nor shall it hold the other party responsible for, any cessation, interruption or delay in the performance of its obligations hereunder (excluding payment obligations) due to earthquake, flood, fire, storm, natural disaster, act of God, war, terrorism, armed conflict, labor strike, lockout, boycott, governmental action or other similar events beyond the reasonable control of such Party, provided that the Party relying upon this provision: (i) gives prompt written notice thereof, and (ii) takes all steps reasonably necessary to mitigate the effects of the force majeure event; provided further, that in the event a force majeure event extends for a period in excess of thirty (30) days in the aggregate, either party may immediately terminate this Agreement upon written notice.

8.5. **Severability.** In the event that any provision of this Agreement should be found by an authority of competent jurisdiction (governing authority, arbitration panel or court, as applicable) to be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions contained shall not, in any way, be affected or impaired thereby and the invalid, illegal or unenforceable provisions shall be revised in such a way to give effect to the intent thereof without violating any law, statute, regulation or holding.

8.6. **Compliance with Law, Export Requirements, and Foreign Reshipment Liability.** Each party agrees that it shall comply with all applicable federal, state and local laws, regulations, and export requirements in connection with its performance under this Agreement. Regardless of any disclosure made by Customer to MBT of an ultimate destination of any software, hardware, or technical data acquired from MBT and, notwithstanding anything contained in this Agreement to the contrary, Customer will not modify, export, or re-export, either directly or indirectly, any software, hardware, or technical data, or portions thereof, without first obtaining any and all necessary licenses from the United States government or agencies thereof or any other country that requires an export license or other governmental approval at the time of modification, export, or re-export. MBT shall have the right to suspend performance of any of its obligations under this Agreement, without any prior notice being required and without any liability to Customer, if Customer fails to comply with this provision.

8.7. **Assignment.** Neither party may assign or transfer this Agreement or any obligation hereunder without the prior written approval of the other party, except that, upon written notice, a Party may assign or transfer to an entity acquiring all or substantially all of the assets of that Party, whether by acquisition of assets or shares, or by merger or consolidation. Any assignment in violation of this Section 8.7 shall be void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties.

8.8. **Independent Contractors.** The parties to this Agreement are independent contractors. Neither Party is an agent, representative, joint venturer, or partner of the other party. Neither party shall have any right, power or authority to enter into any agreement for or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. Other than as specifically allocated herein, each party shall bear its own costs and expenses in performing this Agreement.

8.9. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Texas, without regard to its conflicts of law rules.

8.10. **Arbitration.** Any dispute which is not resolved by mediation and which arises out of, relates to or concerns this Agreement shall be resolved by arbitration administered by the American Arbitration

Association under its commercial arbitration rules, and judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. All arbitration hearings shall be conducted in Dallas, Texas. Each party will bear its own costs, fees, and expenses associated with any arbitration, except that the parties agree to split equally the costs and expenses of the arbitrator or panel and the conduct of the arbitration itself.

8.11. **Dispute Resolution.** The Parties agree that prior to filing any lawsuit, other than for (i) an injunction as specifically permitted hereunder to protect confidentiality of information or the protection of proprietary information, or (ii) as may be necessary to preserve the claim because of a statute of limitations running (and in such event, immediately after filing and prior to conducting any discovery), the parties shall mediate any dispute in good faith. To invoke this mediation, a party shall submit notice of a call to mediate to the opposing party, identifying five (5) acceptable mediators (each from a different mediation company). Each such acceptable mediator shall have not less than ten (10) years commercial mediation experience, be a licensed and otherwise qualified mediator practicing within the state of Texas, and not have mediated any dispute or have any business or familiar relationship with the naming party. The party receiving the notice shall select a mediator from those named, or provide valid objection in writing to all such named mediators and identify five (5) acceptable, qualified mediators from which the initiating party may select the mediator within five (5) business days. If the parties are unable to agree upon a mediator, each party shall select a qualified mediator of their choosing and the two (2) selected shall then select a qualified mediator to serve. Mediation shall occur in the location of the principal offices of the selected mediator within the state of Texas or at any other mutually agreeable location within thirty (30) days of selection. The costs of the mediator shall be shared equally and each party shall pay their own legal fees and travel costs.

8.12. **No Third-Party Beneficiaries.** The provisions of this Agreement are for the sole benefit of the parties and not for the benefit of any other persons or entities.

8.13. **English Version.** In the event this Agreement is translated in any language other than the English language, then in the event of a conflict between the English language version and the translated version, the English language version shall prevail in all respects.

**BOTH PARTIES, ACKNOWLEDGING THEIR REVIEW, CONTEMPLATION AND UNDERSTANDING OF SAME AFTER REVIEW WITH LEGAL COUNSEL OF THEIR CHOOSING, STIPULATE TO THE CONSPICUOUSNESS AND FAIR NOTICE OF THE PROVISIONS HEREOF AND ACKNOWLEDGE THAT SUCH PROVISIONS WERE NEGOTIATED AND FORM A MAJOR COMPONENT OF THE CONSIDERATION BARGAINED FOR HEREUNDER.** This Agreement shall not be construed in favor of one party or the other based on a presumption of drafting.