

Last Updated Date: Jan 01, 2025

---

**MASTER SERVICE AGREEMENT**

---

**GENERAL TERMS & CONDITIONS**

This General Terms and Conditions (the “General Terms”) is made and entered into between GAN Computer Services, Inc. (“GAN”) and the client that has executed an Order Form (hereinafter “Client”) with GAN and this General Terms shall govern the Services (as defined herein) provided by GAN for the Client as referenced herein and in such Order Form.

BY EXECUTING AN ORDER FORM, CLIENT EXPRESSLY ACCEPTS AND AGREES TO THE TERMS OF THIS GENERAL TERMS AS OF THE EFFECTIVE DATE SET FORTH IN THE ORDER FORM (“ORDER FORM EFFECTIVE DATE”), AGREES TO AND ACCEPTS SUCH TERMS AND CONDITIONS AS OF THE ORDER FORM EFFECTIVE DATE. IF CLIENT IS AN INDIVIDUAL AGREEING TO THE TERMS OF THIS GENERAL TERMS ON BEHALF OF THE CLIENT’S LEGAL ENTITY, CLIENT REPRESENTS THAT SUCH INDIVIDUAL HAS THE LEGAL AUTHORITY TO BIND SUCH ENTITY. IF CLIENT DOES NOT AGREE WITH THIS GENERAL TERMS, CLIENT MUST NOT EXECUTE THE ORDER FORM.

ARBITRATION NOTICE: EXCEPT FOR CERTAIN TYPES OF DISPUTES DESCRIBED IN SECTION 16, CLIENT AGREES THAT DISPUTES BETWEEN GAN AND CLIENT WILL BE RESOLVED BY MANDATORY BINDING ARBITRATION AND CLIENT WAIVES ANY RIGHT TO PARTICIPATE IN A CLASS-ACTION LAWSUIT AND/OR CLASS-WIDE ARBITRATION.

**I. GENERAL.**

1. Order Form. The General Terms and each Order Form (the “Order Form”) shall be collectively referred to herein as the “Agreement.” Client is engaging GAN to provide information technology solutions (the “Services”) as described in the relevant, duly executed Order Form(s) under these General Terms. Neither party will have any obligation with respect to any draft Order Form unless and until it is executed by both parties. Except as otherwise provided herein, if any terms and/or conditions of these General Terms conflict with any terms and/or conditions of any Order Form, the terms and conditions set forth in the Order Form will control solely with respect to the Services covered under such Order Form.

**II. THE SERVICES.**

1. Provision of Services.

(a) In the event Services are subject to a service level agreement (“SLA”), such SLA shall be attached to the applicable Order Form. GAN shall use commercially reasonable efforts to provide Services that are ‘current’ in the information technology industry; however, Client acknowledges and agrees that information technology generally, GAN’s Services, and/or any equipment used to provide the Services are all parts of a rapidly evolving industry and may change from time to time and the foregoing is outside of GAN’s control.

(b) Exclusions. The following services are specifically excluded unless otherwise set forth in the Order Form at specific hourly rates:

(i) Any hardware, software, licenses needed for Client shall be invoiced and paid for separately.

(ii) Special project work (work that goes beyond the scope of work for the onsite staff member) will be priced out and billed separately. GAN will use commercially reasonable efforts to give a flat rate for any special project work assigned. A normal "special project" will require an additional GAN staff member, or contractor, and take more than four (4) hours to accomplish.

(iii) In the event of a disaster, GAN shall use commercially reasonable efforts to provide necessary resources to ensure business continuity. Additional costs will be incurred when additional resources are needed for recovery purposes.

(c) Third Party Products & Interference.

(i) Except as expressly set forth in any Order Form, GAN has not provided an estimate for, and is not responsible for, the selection or procurement of any hardware, devices or equipment, operating system software, database software, or other third party software, connectivity, data transport, or other IP Rights (as defined in Section VI.1.) required to perform the Services ("Third Party Products"). Client is solely responsible for the selection, procurement, costs, and expenses of acquiring the same, and any other infrastructure required to support Client's use of the Services. Client acknowledges and agrees that GAN is not liable for the performance of any Third Party Products.

(ii) In the event GAN procures the installation of Third Party Products, such Third Party Products may be licensed, leased or sold by GAN. Client agrees to provide a suitable operating environment for the Third Party Products and promptly report any faults in or damage to the Third Party Products, any alteration in its performance, or any change in its operating environment that will affect its operation. Client further agrees not to misuse the Third Party Products. Client acknowledges that certain Third Party Products are the property of GAN or if leased by GAN, of GAN's lessors, and the Client will not obscure or remove any labels or markings from such Third Party Products. Risk in the Third Party Products sold to Client, shall pass to the Client upon set up of such Third Party Product. The Client undertakes to effect and maintain adequate security measures to safeguard the Third Party Products from access and/or use by any unauthorized person. In the case of damage to or destruction or loss of the Third Party Products, the Client shall reinstate the same (or its equivalent) unless otherwise agreed by the parties and GAN shall not be liable under this Agreement until such Third Party Products are reinstated.

(iii) If Client's activities in any way interfere with, disturb and/or disrupt GAN's systems, Services and/or services to other clients, and/or are unlawful as deemed by GAN, in its reasonable discretion, then GAN reserves the right, without prior notice, to suspend Services and/or access to GAN's systems without liability. Any such suspension shall remain in effect until such time as Client is able to demonstrate, in GAN's sole and absolute discretion, that the issue has been cured by Client.

2. Cooperation. Client shall cooperate with GAN in the provision and use of Services. If any part of the Services is delayed by any act or omission of Client, including but not limited to Client's failure to make payments, the scheduled completion of the Services may be delayed, for which GAN shall not be responsible.

3. Personnel. GAN shall provide qualified, competent representatives to perform the

Services. No GAN representative shall be required to perform Services exclusively for Client during the term of this Agreement. GAN shall supervise the performance of the Services and shall be entitled to control the manner and means by which the Services are performed, subject to the terms of this Agreement. Client acknowledges and agrees that GAN may, in its sole discretion, use one or more third party subcontractors (each a "Subcontractor") to provide the Services and/or other services related to the operations of GAN's business.

4. Additional Services. Client may request additional services by contacting GAN. If the requested additional services are available, GAN shall provide Client with a quotation for fees, and the parties shall enter into a separate Order Form detailing such additional services.

5. Accuracy of Client Information, Review of Output; Back-ups; Client Obligations.

(a) The performance of the Services by GAN shall be dependent on the timely completion of Client's responsibilities and obligations under this Agreement. Client shall be responsible for the consequences of any instructions Client may give to GAN, provided GAN has followed such instructions. Client shall be responsible for the accuracy of all information provided to GAN.

(b) Client shall not act or rely upon any Services containing any error, omission, or discrepancy discovered by either party prior to taking such action until such error, omission or discrepancy has been corrected.

(c) GAN does not provide record keeping services. Client shall keep copies of all source documents of the information delivered to GAN or inputted by Client and/or on behalf of Client, including log-in and password information.

(d) Client shall also be responsible for maintaining backups of all local critical software, documents, and applications on all of Client's file servers, personal computers, and other electronic equipment. Client shall also be responsible for reviewing backup reports for successful completions and if not successful, to interact with GAN to resolve of all critical software, documents, and applications on all of Client's file servers, personal computers, and other electronic equipment.

(e) Client shall: (i) provide a suitable operating environment (including without limitation a suitable electrical power supply) and safe workplace for GAN's representatives providing Services; (ii) ensure, unless specifically requested by GAN, that no person other than GAN and its authorized representatives removes, adjusts, repairs, maintains and/or otherwise interferes with any part of the Services; (iii) ensure that no third party uses the Services other than those third parties with whom the Client has a relationship in the ordinary course of its business, and in any event ensuring that any third parties comply with the relevant provisions of this Agreement relating to the Services and its use; (iv) ensure that its network and systems comply with the relevant specifications provided by GAN from time to time and shall provide GAN with information as may be required by GAN in order to render the Services; and (v) provide to GAN such information as GAN reasonably requires in order to perform its obligations under this Agreement.

(f) Client will determine the access controls for its authorized users and will be responsible for activity occurring under Client's account, including without limitation compliance with the terms and conditions set forth in this General Terms and applicable Order Form(s). Client shall ensure that its network and systems comply with the relevant specifications provided by GAN from time to time. Client understands and agrees that there may be interruptions to the Services and/or access to Client's account due to circumstances both within GAN's control (e.g., routine maintenance) and outside of GAN's control.

6. Compliance with Laws.

(a) Client (and not GAN) shall be solely responsible for Client's compliance with all applicable laws and governmental regulations affecting the operation of the business of Client or the Services.

(b) Client may not use the Services, other than for Client's own legitimate and lawful business purposes and in a manner that complies with this Agreement and all applicable laws and regulations.

(c) Without limiting the generality of the foregoing, Client shall not use the Services to engage in fraudulent, deceptive or misleading activities or practices; infringement, misappropriation or violation of any intellectual property, privacy, or other right of any person or entity; and/or violation of any applicable law or regulation.

(d) Changes in the performance of GAN's obligations under this Agreement necessitated by GAN's good faith interpretations of any applicable law and/or regulation shall not constitute a breach of this Agreement.

7. No Legal, Accounting or Tax Advice. The Services do not include any legal, regulatory, accounting, or tax advice and Client will rely solely upon its own advisors with respect to any such advice. GAN makes no warranty or guaranty that the Services will comply with the laws or regulation of Client's jurisdiction.

8. Client Vendors. Client shall at its own cost make all necessary arrangements to cause Client or any third-party vendors to send information or data to and from GAN as required for GAN to provide the Services. At GAN's sole discretion, Client shall be responsible to reimburse GAN for any costs GAN is required to bear in connection with or arising out of any such transmissions of information or data from or to Client and/or to such third-party vendors.

9. Client Requests. GAN shall use commercially reasonable efforts to respond to technical service requests and other Client requests within one (1) Business Day (hereinafter defined as any day except any Saturday, Sunday, or the following holidays in the United States: New Year Day, Memorial Day, July Fourth, Labor Day, Thanksgiving and the day after Thanksgiving and Christmas Day).

**III. FEES.**

1. Fees for Services.

(a) In consideration of the provision of the Services described herein and/or in any Order Form, Client agrees to pay GAN the fees set forth in the duly executed Order Form (the "Fees"). All fees due and payable by the Client to GAN under this Agreement must be paid in full without any deduction, set-off, counterclaim or withholding of any kind unless required by law. The fees reflected in such Order Form(s) shall be in U.S. dollars. Notwithstanding anything herein to the contrary, in the event third party providers increase their fees for Third Party Products, GAN shall pass on such increase in fees to Client and Client shall pay such fees in accordance with the terms and conditions of this Agreement. Any services provided outside of the scope of Services set forth herein and/or in the applicable Order Form shall be provided at GAN's then-current rate for such out-of-scope services and shall be due and payable in accordance with the terms and conditions set forth herein.

(b) GAN shall provide Client with the Services based on the applicable Order Form.

If the number of supported users changes, GAN shall have the right, in its sole discretion, to propose an increase to the Fees to reflect the current number of supported users in accordance with the Order Form.

(c) In addition to paying the Fees, Client shall also pay all reasonable travel and out-of-pocket expenses incurred by GAN in connection with any Services that are specifically set forth in the Order Form, including, but not limited to, insurance costs, taxes, costs for Third Party Products, and/or other charges of any kind imposed by any federal, state, or local government entity (collectively, the "Expenses"). All Fees and Expenses due and payable under this Agreement are exclusive of taxes, which will be added at the prevailing rate from time to time.

(d) In its sole discretion, GAN may change the Fees then in effect, or add new fees, by providing Client with advanced notice.

## 2. Payment Terms.

(a) Unless otherwise set forth herein or in the applicable Order Form, GAN will provide Client with an invoice for Fees that become due hereunder and such invoices shall be due and payable as follows: (i) monthly Fees for Services provided to Client shall be due and payable in advance on the first day of the month and each month thereafter during the term of such Order Form and/or (ii) fees for all other Services provided to Client shall be due and payable by Client upon receipt of such invoice. Invoices submitted by GAN to Client are deemed accepted and approved unless disputed by Client in accordance with the terms and conditions contained herein. GAN will send via electronic mail an invoice(s) to Client detailing the amount(s) due. A payment link will be provided to allow Client to pay via 'ACH'. Mailing a business check to payment address for delivery by USPS is an alternate payment option. Client must immediately pay the amount due in full. If Client requests to pay via credit, bank, or debit card Client agrees to pay fees due hereunder via credit card, GAN shall apply, and Client shall be liable for, a 4% administrative fee. In the event Client elects to pay fees due hereunder via ACH Bank Payment, GAN may apply, and Client shall be liable for, up to a 1.5% administrative fee.

(b) Unless otherwise set forth in this Agreement, all Fees and Expenses are nonrefundable.

3. Late Payment. Overdue balances that are not subject to a good faith dispute are subject to a service charge equal to the lesser of 2.0% per month or the maximum legal interest rate allowed by law.

4. Collection Expenses. Client will reimburse GAN for all reasonable costs and expenses (including legal fees) GAN may incur in connection with collecting any amounts payable under this Agreement.

5. Billing and Contact Information. Client shall provide GAN with current and accurate billing and contact information and shall promptly notify GAN of any change in such information.

## IV. TERM & TERMINATION.

1. Term. This Agreement is effective as of the applicable Order Form Effective Date and will continue until terminated in accordance with Section IV. 2. The Services will commence on the date set forth in the Order Form and shall remain in effect until terminated by either party, or as otherwise set forth in the Order Form.

## 2. Termination.

(a) Unless otherwise agreed to in an Order Form, either party may terminate this General Terms for any reason whatsoever by providing three (3) calendar months prior written notice to the other party; provided that GAN is not providing Services under an Order Form.

(b) Without limiting any other remedies to which either party may be entitled, if a party, in good faith, determines that the other party has materially breached any of its obligations under this Agreement, such party shall provide written notice to the other party of such determination. The breaching party shall have thirty (30) days after its receipt of written notice of material breach to cure the alleged breach ("Cure Period"), provided that such breach is curable. If the breaching party fails to cure within the Cure Period or if such breach is not curable, the non-breaching party shall have the right to immediately suspend its performance, in whole or in part, under this Agreement, immediately terminate this Agreement, the applicable Order Form or both. Any and all Fees and Expenses will continue to be payable to GAN during the Cure Period.

(c) Notwithstanding the foregoing, GAN reserves the right, at GAN's sole option, to immediately suspend its performance, in whole or in part, under this Agreement, or immediately terminate this Agreement without liability, if GAN, in good faith and in its sole discretion, determines: (i) Client has failed to pay Fees and/or Expenses due under this Agreement, to perform any other obligation, or upon a breach of this Agreement by Client; (ii) the requirements of any law or regulation have not been met; (iii) as a result of any new, or changes in existing, law or regulation that the requirements of any law or regulation will not be met; (iv) the use of Services is the subject of litigation or threatened litigation by any government agency; (v) any product or material reasonably necessary for the Services is/are enjoined, likely to be enjoined, or the licenses thereto is/are otherwise terminated by the licensing entity; (vi) Client becomes insolvent, files for bankruptcy, or is adjudicated as bankrupt or insolvent, or makes an assignment for the benefit of creditors, or makes an arrangement pursuant to any bankruptcy law, or if a receiver, liquidator, custodian, trustee or the like is appointed for its business; (vii) if Client winds down, liquidates, or otherwise ceases or discontinues its business for any reason; (viii) if Client does not provide its updated billing and contact information within a reasonable time period after GAN makes a request; or (ix) any combination of the foregoing.

## 3. Effect of Termination.

(a) In the event Client terminates this Agreement and/or any Order Form, upon termination Client will pay all outstanding Fees, Expenses and charges incurred through the effective date of termination, and all fees and expenses owed related to Third Party Products.

(b) Upon termination of this Agreement: (i) all rights (including any access and use rights) granted to Client by GAN under this Agreement (including without limitation rights to Third Party Products) or in connection with the terminated Services will be terminated.; (ii) all Fees and Expenses will become immediately due and payable to GAN in accordance with this Article IV.; and (iii) GAN will cease all Services and terminate Client access and/or use of Services.

(c) With the exception of GAN's obligation, if any, to provide Services under this Agreement, all provisions of this Agreement which, by its nature, would survive termination of this Agreement shall survive any such termination of this Agreement. Any such termination shall not affect any duties or obligations of either party that accrue prior to the effective date of any such termination.

## V. WARRANTIES.

1. GAN Limited Warranty.

(a) Unless otherwise set forth in this Agreement, GAN warrants that it: (i) will perform the Services in a good, diligent, timely, and professional manner, utilizing personnel with a level of skill commensurate with the Services to be performed; and (ii) has the requisite power, capacity and authority to enter into this Agreement and to carry out GAN's obligations hereunder (collectively the "Limited Warranty"). GAN explicitly makes no, and disclaims any, warranty or guaranty regarding: (i) the availability of GAN personnel or Services; (ii) uptime, demand availability, or service levels of the Services; (iii) maintenance of Client data for any purpose; (iv) availability of back-up data or systems; and/or (v) protection against technical malfunction, security breaches, malware, or failure due to security/operating system patches.

(b) Client's sole and exclusive remedy and GAN's sole and exclusive liability for any breach of the Limited Warranty set forth in Section V.1.(a), shall be for GAN, at its option and at no cost to Client, provide remedial services necessary to enable the Services to conform to the warranty or, if such remedial services are unsuccessful, refund amounts paid solely in respect of the defective Services. The Limited Warranty is available only if Client notifies GAN in writing within five (5) days following delivery of each Service that does not conform to the Limited Warranty. Client will provide GAN with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. The remedy set out in this subsection are Client's sole and exclusive remedy for breach of GAN's Limited Warranty.

(c) EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, GAN MAKES NO OTHER WARRANTY, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, NONINFRINGEMENT, TITLE, QUALITY, OR FITNESS FOR A PARTICULAR PURPOSE. EXCEPT AS EXPRESSLY OTHERWISE STATED HEREIN, ALL OF THE SERVICES ARE PROVIDED ON AN 'AS IS' BASIS WITHOUT WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, GAN HEREBY SPECIFICALLY DISCLAIMS, (I) WARRANTIES ARISING FROM ANY COURSE OF DEALING, USAGE OR TRADE PRACTICE, (II) WARRANTIES THAT THE SERVICES OR WORK PRODUCT ) (INCLUDING, BUT NOT LIMITED TO, ANY REPORTS, ADVICE AND RECOMMENDATIONS, IN ANY FORM) WILL BE UNINTERRUPTED, SECURE, ERROR-FREE, OR THAT ALL DEFECTS (INCLUDING, BUT NOT LIMITED TO, MINOR OR COSMETIC DEFECTS THAT DO NOT SIGNIFICANTLY AND ADVERSELY AFFECT FUNCTIONALITY) WILL BE CORRECTED, INCLUDING THE SERVICES OF ANY THIRD PARTY HOSTING PROVIDER, DATA SECURITY SERVICE OR PRODUCT, OR ANY DATA BACKUP SERVICE OR PRODUCT; AND/OR (III) WARRANTIES, EXPRESS OR IMPLIED, AS TO SYSTEM AVAILABILITY AND FUNCTIONALITY OR ABILITY TO RESOLVE COMPUTER- RELATED PROBLEMS, TO RECOVER DATA, OR TO AVOID LOSING DATA. GAN IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES AND/OR OTHER LOSS AND/OR DAMAGE RESULTING FROM (A) TRANSFER OF DATA OVER COMMUNICATION NETWORKS SUCH AS THE INTERNET AND/OR (B) INABILITY TO ACCESS AND/OR GET ACCURATE DATA FROM THIRD-PARTY SYSTEMS AND/OR APPLICATIONS THAT THE SERVICES ARE DEPENDENT ON.

2. Client Warranties and Representations.

(a) Client warrants and represents that it: (i) has the requisite power, capacity and authority to enter into this Agreement and to carry out Client's obligations; (ii) shall not use the Services in a manner that violates any law or governmental regulation; (iii) has not and will not enter into any agreement or perform any act which might contravene the purposes and/or effects of this Agreement; (iv) by providing any non-public personal information to GAN, Client has the right, permission, and authority to provide

such non-public personal information, and the submission of non-public personal information does not violate any law, regulation, and/or confidentiality agreements or obligations; and (v) by providing software, text, images, photographs, and content to GAN, Client has the right, permission, proper license, and authority to provide such software, text, images, photographs, and content to GAN.

(b) Client further warrants and represents that it shall not: (a) copy or use the Services, except as expressly permitted by this Agreement; (b) use the Services in a manner that: (i) violates, exploits, or harms, or attempts to violate, exploit, or harm, the legal rights (including the rights of publicity and privacy) of any person or third party; (ii) promote any illegal activity, or advocate, promote or assist any unlawful act; (iii) cause annoyance, inconvenience or needless anxiety or be likely to upset, embarrass, alarm or annoy any person or third party; (iv) stalk, harass, intimidate, or harm any person or third party; (v) track any person or third party without their explicit consent; or (vi) act in a manner that could give rise to any civil or criminal liability under any applicable local, state, national or international laws, statutes, ordinances, rules, regulations or ethical codes governing your jurisdiction, including confidentiality, data protection, and intellectual property laws.

3. For any Third Party Products installed or maintained through provision of the Services, factory and/or manufacturer warranties may apply and shall be passed through to Client to the extent possible.

## **VI. INTELLECTUAL PROPERTY.**

1. Ownership of Proprietary Rights; Access and Use Rights. Unless otherwise set forth in an Order Form, GAN retains all rights, title and interest to or in any and all forms of intellectual property, including without limitation, patent, copyright, trademark, service mark, trade secret, business or trade name, know-how and rights of a similar or corresponding character (“Intellectual Property Rights” or “IP Rights”) to the Services or any products, and/or other materials provided or made available to Client by GAN hereunder. Except for the rights expressly granted to Client in this Agreement, all such Services and other materials that are provided or made available, and all work product that is developed, under this Agreement, all modifications, compilations, and derivative works thereof, and all IP Rights pertaining thereto (collectively the “Work Product”), are and shall remain the property of GAN and its respective licensors (and to the extent any rights of ownership in any such Work Product, materials, or rights might, for any reason, otherwise vest in Client, Client hereby assigns such ownership rights to GAN). GAN confirms that it has all the rights necessary to provide the Services described herein and has the ability to grant all the rights it purports to grant under, and in accordance with, the terms of this Agreement.

2. Client Content. “Client Content” means any elements of text, graphics, images, photos, designs, artwork, logos, trademarks, service marks, data, software, and other information, materials and/or content which Client provides in connection with the Services. Client Content excludes any content available in the public domain; and any content owned or licensed by GAN, whether in connection with providing Services or otherwise. Client hereby grants GAN a worldwide, non-exclusive right and license to reproduce, distribute and display the Client Content solely as necessary to provide the Services. Client represents to GAN and guarantees that all Client Content is owned by Client, or that Client has permission from the rightful owner to use each of the elements of Client Content; and that Client has all rights necessary for GAN to use the Client Content in connection with the Services. Client and its licensors retain title, all ownership rights, and all IP Rights, in and to the Client Content, and reserve all rights not expressly granted to GAN hereunder. GAN has no knowledge of the value of Client’s Content or of the financial or other consequences of the Client’s Content being lost or not properly processed and/or transmitted and it is the Client’s responsibility to store and back-up at all relevant times and whenever possible and keep a permanent record of such Client Content processed and/or transmitted via any network.



3. Infringement Indemnity.

(a) GAN shall defend Client against any third party claims and will indemnify and hold Client harmless against any resulting damage awards or settlement amounts in any cause of action to the extent such cause of action is based on a claim alleging that the Work Product as provided by GAN and used in accordance with the terms of this Agreement infringes upon any third party's Intellectual Property Rights in the United States ("Infringement Claims"). Client acknowledges and agrees that it shall use commercially reasonable efforts to mitigate the costs and expenses related to such Infringement Claim.

(b) The foregoing infringement indemnity will not apply and GAN will not be liable for any damages assessed in any cause of action to the extent resulting from a (i) any change, modification or enhancement in the Work Product made by Client or any third party for Client; (ii) Client's use of the Work Product except as permitted under this Agreement or in combination with any hardware, software, or other materials not expressly authorized by GAN, or (iii) Client Content.

(c) If any Work Product is held or believed to infringe on any third-party's Intellectual Property Rights, GAN may, in its sole discretion, (i) modify the Work Product to be non-infringing, (ii) obtain a license to continue using such Work Product, or (iii) if, in GAN's sole discretion, neither (i) nor (ii) are practical, terminate this Agreement as to the infringing Work Product and return to Client any unearned Fees prepaid by Client to GAN. This Section states GAN's entire liability and Client's exclusive remedies for an Infringement Claim of Intellectual Property Rights of any kind.

4. Client Infringement Indemnity. Client shall defend GAN against any third party claims and will indemnify and hold GAN harmless against any resulting claims, liabilities, damages, judgments, awards, losses, costs, actions, expenses, settlements, interest, penalties, fines, or fees of whatever kind (including reasonable attorneys' fees and investigation costs) in any cause of action alleging GAN's use of the Client Content constitutes infringement upon any Intellectual Property Rights of a third party. This Section states Client's entire liability and GAN's exclusive remedies for infringement of intellectual property rights of any kind.

5. Indemnity Conditions. The indemnities set forth in this Agreement are conditioned upon the following: (i) the indemnitee promptly notifies the indemnitor in writing of such applicable claim, (ii) the indemnitor controls any negotiations or defense and the indemnitee assists the indemnitor as reasonably requested by indemnitor, and (iii) the indemnitee takes all reasonable steps to mitigate any potential damages that may result.

**VII. DATA PRIVACY; BREACH NOTIFICATION.**

1. No GAN Warranty Regarding Data Security. Client acknowledges and understands that GAN will provide Services designed to provide Client with certain kinds of network security from outside attempts to breach Client's network. Specifically, GAN will provide Client with a business-grade firewall - designed to filter out certain sources of viruses, malware, and other malicious programs; software will be installed to facilitate the updating and patching of all programs on Client's network and workstations; and GAN will make sure Client's anti-virus software is updated regularly so that known security vulnerabilities in said software are remedied when possible. However, Client acknowledges and understands that a majority of security breaches occur as a result of employee negligence and/or third-party(ies) malicious interference with business networks and, therefore, as a result GAN cannot warrant, represent, or guarantee that any of the above-listed network security measures will always maintain administrative, technical, or physical security safeguards which (i) ensure the security and confidentiality of non-public personal information; (ii) protect against threats or hazards to the security or integrity of non-public personal information; (iii) protect against unauthorized access or use of non-public personal information that could

result in substantial harm or inconvenience; or (iv) ensure that any Service or Work Product is free from computer viruses or malicious code, at the time of delivery or the Services or Work Product or in the future.

2. Security. Client represents and warrants that it: (i) shall ensure that any computer or computer system that Client uses to access the Services shall have up-to-date anti-virus software installed and in operation; (ii) all GAN-supplied identification codes and associated passwords shall be kept confidential and secure. The Client agrees that GAN will not, and is not required to, monitor or in any way check the content of any data being transmitted by Client or any third party via the Services provided by GAN. Without prejudice to the foregoing, if GAN discovers the transmission of data or other matter relating to data or the use of the Services that is in contravention of any law, regulation, order or other similar rule of any competent authority or acceptable use policy, GAN may (without any liability or penalty whatsoever) take all action required to ensure compliance with such laws, regulations, orders or rules or acceptable use policy. The Client shall pay for any costs and charges associated with such action.

3. Notification. If GAN becomes aware of any unauthorized access that compromises the security, integrity or confidentiality of any non-public personal information, GAN will take actions in good faith to contain and mitigate such unauthorized access, and as required by law.

4. IN THE EVENT OF A SECURITY BREACH, CLIENT AGREES THAT CLIENT IS RESPONSIBLE, AT CLIENT'S SOLE COST AND EXPENSE, FOR ANY AND ALL COSTS RELATING TO COMPLIANCE WITH DATA BREACH LAWS, OR COSTS RELATING TO CLIENT AND/OR CONSUMER NOTIFICATION.

5. In the event of any conflict between this Section VII and another agreement or writing executed between GAN and Client, the terms of this Section VII shall prevail unless explicitly otherwise set forth in a signed agreement or writing executed between GAN and Client.

## **VIII. LIMITATION OF LIABILITY.**

1. Mitigation of Damages. GAN and Client will each use commercially reasonable efforts to mitigate any potential damages or other adverse consequences arising from or related to the Agreement or Services.

2. Limitation on Damages. GAN'S TOTAL AND CUMULATIVE LIABILITY FOR DIRECT DAMAGES ARISING OUT OF AND/OR IN CONNECTION WITH THIS GENERAL TERMS AND/OR ANY ORDER FORM SHALL IN NO EVENT EXCEED THE FEES PAID BY CLIENT TO GAN DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE CLAIM UNDER THE APPLICABLE ORDER FORM THAT GAVE RISE TO SUCH CLAIM. IN NO EVENT WILL GAN BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL AND/OR PUNITIVE DAMAGES (INCLUDING WITHOUT LIMITATION LOST PROFITS) EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

THE FOREGOING LIMITATIONS SHALL APPLY WHETHER SUCH CLAIMS, DAMAGES, LAWSUITS, LOSSES OR CAUSES OF ACTION ARISE OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY AND REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR GAN WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

3. Applicability of Limit on Damages. The foregoing limitation shall apply only to the extent permitted by applicable law and shall apply the indemnity obligations of GAN with respect to damages awarded to third parties under Infringement Claims set forth in Section VI.

4. Client agrees and acknowledges that GAN shall not be responsible for damages, issues, or problems created as a result of Client's alteration of Services, equipment, and/or Client network or systems.

#### **IX. INDEMNIFICATION.**

Notwithstanding anything herein to the contrary, Client agrees to indemnify, defend and hold harmless GAN, its employees, officers, directors, agents, representatives, and affiliates (collectively, the "GAN indemnitees") from and against any and all liability (including without limitation claims, demands, actions, suits, proceedings, liabilities, judgments, awards, damages, settlements, costs, expenses, recoveries, deficiencies, interest, fines, penalties, investigation costs, and reasonable attorney's fees) arising from and/or relating to: (i) use or misuse, storage, access to, or handling of the services, work product, or non-public personal information by Client or anyone acting under its authority or on its behalf; (ii) violation by Client or anyone acting under its authority or on its behalf, or any applicable law or regulation pertaining to the privacy or security of non-public personal information; (iii) violation of any applicable law or regulation by Client or anyone under its authority or on its behalf, or agreement or obligation to a third party; (iv) any breach of this Agreement or any obligations, representations and/or warranties under this Agreement, by Client or anyone acting under its authority or on its behalf; (v) any Client alteration of services, equipment and/or Client's network or system; and/or (vi) any technical malfunction, security/operating system patches, security breaches, malware, or data maintenance.

#### **X. NON-SOLICITATION OF EMPLOYEES.**

(a) Client acknowledges that GAN has a substantial investment in its employees that provide Services to Client and that such employees are subject to GAN's control and supervision. In consideration of this investment, during the term of this Agreement and for a period of one (1) year following the effective date of termination, Client shall not, without GAN's prior written consent, directly or indirectly (i) solicit or encourage any GAN employee to leave the employment or other service of the GAN, or (ii) hire, on behalf of the Client or any other person or entity, any GAN employee whom performed Services for Client or by which Client became acquainted during the term of the Agreement. Notwithstanding the foregoing, Client may hire the GAN's employees who (a) respond to public advertisements or (b) have not provided Services to the Client under an Order Form for a period of one (1) year or more. In the event of a breach of this Section, Client shall immediately pay GAN seventy-five percent (75%) of the employee's then-current annual salary and/or engagement fees paid by GAN.

(b) Client agrees that during the term of this Agreement and for a period of one (1) year after the effective date of termination, Client shall not interfere in, or solicit or induce any change in or cessation of, the business relationship between GAN and any of its clients, Subcontractors, agents, representatives, suppliers, investors or other relationships. [

#### **XI. ADDITIONAL PROVISIONS.**

1. Amendment. Each Order Form and any amendments thereto may be executed in counterparts and will not be effective or enforceable unless and until it is executed with the signature of an authorized representative of each party. The exchange of a fully executed Order Form by fax, electronic and/or computer image shall be sufficient to bind the parties to the terms and conditions of such Order Form. Notwithstanding anything herein to the contrary, GAN may, at any time, for any reason, in its sole and absolute discretion make changes to this General Terms and any changes to this General Terms will become effective upon Client's execution of a new or additional Order Form in which the new terms of this General Terms will be incorporated. GAN will post the updated General Terms on the "last updated" date listed above.

2. Assignment. Neither this Agreement, nor any of the rights or obligations under this Agreement, may be assigned by either party without the prior written consent of the other party (which consent shall not be unreasonably withheld), except that either party may assign this Agreement in whole as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets (without necessity of such consent). This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and permitted assigns.

3. Entire Agreement. This General Terms, including all Order Forms, exhibits and referenced documents herein represents and constitutes the entire agreement and understanding by and between GAN and Client with respect to its subject matter and merges and supersedes all prior discussions, agreements and understandings of every kind and nature between the parties, and no party will be bound by any representation, warranty, covenant, term or condition other than as expressly stated in this Agreement.

4. No Third-Party Beneficiaries. Nothing in this Agreement creates, or will be deemed to create, third party beneficiaries of or under this Agreement. Client agrees that GAN's obligations in this Agreement are to Client only, and GAN has no obligation to any third party (including, without limitation, Client's personnel, directors, officers, employees and any administrative authorities).

5. Force Majeure. Any party to this Agreement will be excused from performance of its obligations under this Agreement, except for Client's obligation to pay the Fees to GAN for the Services already rendered, for any period of time that the party is prevented from performing its obligations under this Agreement due to a cause or event that is beyond the reasonable control of GAN and could not reasonably have been foreseen or avoided, including, without limitation, third-party network or system outage, hacking, virus attack, criminal attack or other form of sabotage, act of God, act of government, strike, lockouts, riot, insurrection, civil commotion, war, terrorist attack, earthquake, civil disobedience, court order, labor dispute or disturbances, governmental regulation, computer intrusion, or communication or utility failure, or any outage, unavailability, interruption, delay or degradation of the Services resulting from or caused by any of the following: (i) scheduled downtime, maintenance or repair; or (ii) any act or omission by Client or anyone acting under its authority or on its behalf (collectively, "Force Majeure"). In the event of a Force Majeure event, the parties agree to meet and discuss how to resolve the issue. GAN may terminate this Agreement by giving Client written notice if the Force Majeure event continues for a period of two (2) months and the Services are impacted during such timeframe. This Section does not apply to any obligation to pay money, or any obligation that is unaffected by the Force Majeure event. █

6. Waiver. Performance of any obligation required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party, which waiver shall be effective only with respect to the specific obligation described therein. The failure of any Party to exercise any of its rights under this Agreement will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of this Agreement will not affect the validity or enforceability of any of the other provisions hereof, and this Agreement will be construed in all respects as if such invalid or unenforceable provision(s) were valid.

7. Notices. All notices required to be sent or given under this Agreement will be sent in writing and will be deemed duly given and effective (i) immediately if delivered in person, (ii) when sent if sent by electronic mail during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, or (iii) upon confirmation of signature recording delivery if sent via a recognized overnight courier service with signature notification requested, in each case at the address shown on the signature page (or any other address given in writing).

8. Severability. If any provision of this Agreement is finally determined to be invalid, illegal or unenforceable by a court of competent jurisdiction, the validity, legality or enforceability of the

remainder of this Agreement will not in any way be affected or impaired and such court shall have the authority to modify such invalid, illegal or unenforceable provision to the extent necessary to render such provision valid, legal or enforceable, preserving the intent of the parties to the furthest extent permissible.

9. Use of Client's Name. Client acknowledges and agrees that GAN may mention and use Client's name and corporate logo in sales, marketing, advertising and promotional materials (including, without limitation, sales/marketing pitches and presentations, and client/customer lists) for the purpose of identifying Client as a customer of GAN.

10. Governing Law; Venue; Arbitration. The parties agree that this Agreement shall be analyzed, interpreted, construed, and enforced in accordance with the laws of the State of Virginia. Any dispute between the parties related to this Agreement shall be resolved by binding arbitration under the auspices of the American Arbitration Association and the rules promulgated by that body and before a single arbitrator chosen by GAN, in its sole discretion. The arbitration shall be conducted in the City of Virginia Beach, State of Virginia, and judgment of the arbitration award may be entered into any court having jurisdiction thereof.

11. No Primary Drafter. The parties acknowledge and agree that they have mutually negotiated the terms and conditions of this Agreement and that any provision contained herein with respect to which an issue of interpretation or construction arises shall not be construed to the detriment of the drafter on the basis that such party or its professional advisor was the drafter, but shall be construed according to the intent of the parties as evidenced by the entire Agreement.

12. Headings. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement.

13. Relationship of the Parties. The relationship of the Parties hereunder is that of independent contractors. Nothing in this Agreement shall be deemed or construed to constitute an agency, partnership or joint venture between the Parties. None of GAN's employees, agents, vendors, or Subcontractors will be considered employees, agents or subcontractors of Client. Unless expressly stated in this Agreement, none of GAN, its employees, agents, vendors, or its Subcontractors may enter into contracts on behalf of, bind, or otherwise obligate Client in any manner whatsoever.

14. Use of Services in other Countries. Except as otherwise specifically agreed by GAN and Client in writing, the Client will access and use the Services only in the United States. Client shall be responsible for the consequences of any access or use by Client or third parties authorized by Client outside of the United States, including, but not limited to, legal compliance and regulatory actions.

15. Enforcement Fees and Costs. In any action involving the enforcement or interpretation of this Agreement, the prevailing party, whether Client or GAN, shall be entitled to recover its reasonable attorneys' fees and costs, including such fees and costs incurred in connection with any appeals, in addition to such other relief as may be provided by law.

16. Arbitration. Except with respect to breach of intellectual property infringement and/or any lawsuit solely for injunctive relief to stop unauthorized use and/or abuse of the Services, if a dispute arises between the parties relating to the interpretation and/or performance of this Agreement or the grounds for the termination hereof, the parties agree to hold a meeting within fifteen (15) days of written request by either party, attended by individuals with decision-making authority, regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute prior to pursuing other available remedies. If, within fifteen (15) days after such meeting, the parties have not succeeded in resolving the dispute, then the parties agree to resolve any claims related to this Agreement through final and binding arbitration in accordance

with the commercial arbitration rules, in effect at the time the proceedings begin, of the American Arbitration Association. All information relating to and/or disclosed by any party in connection with the arbitration of any disputes shall be treated by the parties, their representatives, and the arbitrator as proprietary business information and shall not be disclosed without prior written authorization of the disclosing party. In the event the agreement to arbitrate is found not to apply to a claim, the parties agree that any judicial proceeding (other than small claims actions) will be brought pursuant to Section XI.10 herein.