**TERMS AND CONDITIONS**

**SERVICE HOURS.** Company's standard business hours are 9:00am – 6:00 pm Monday – Friday, Eastern Time, excluding all government and GO Computing observed holidays.

**CUSTOMER OBLIGATIONS.** Customer shall be responsible for ensuring that all of its end users' files are adequately duplicated and documented. Company is not responsible for Customer's failure to do so, or for the cost of reconstructing data stored on disc files, tapes, memories, etc., lost or damaged during the performance of service under this Record of Service ("ROS") Agreement. Additionally, Customer warrants that it has the right and license to use all software installed on its equipment. Customer shall be responsible for ensuring that the services it requests from Company are permitted under and do not adversely affect any licenses or other agreements Customer may have with third parties.

**COMPLIANCE WITH POLICIES.** Customer agrees to comply (and to ensure that its employees and independent contractors comply) with any "terms and conditions" and/or other policies that Company may communicate to Customer from time to time and with any laws and regulations applicable to Customer's use of Company's services.

**DISCLAIMER OF WARRANTIES.** COMPANY MAKES NO REPRESENTATION OF WARRANTIES OF ANY KIND WHETHER EXPRESSED OR IMPLIED FOR THE SERVICE IT IS PROVIDING. COMPANY ALSO DISCLAIMS ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. WITHOUT LIMITING THE FOREGOING, COMPANY MAKES NO REPRESENTATION OR WARRANTY THAT THE SERVICES WILL OPERATE SECURELY OR WITHOUT INTERRUPTION.

**LIABILITY.** IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION, LOSS OF PROFITS OR INCOME, LOSS OF USE OR OTHER BENEFITS, ARISING OUT OF OR IN CONNECTION WITH THIS ROS AGREEMENT OR THE SERVICES PERFORMED UNDER THIS ROS AGREEMENT. COMPANY WILL NOT BE RESPONSIBLE FOR ANY DAMAGES CUSTOMER MAY SUFFER, INCLUDING LOSS OF DATA RESULTING FROM DELAYS, NON-DELIVERIES, OR SERVICE INTERRUPTIONS CAUSED BY COMPANY'S OWN NEGLIGENCE OR CUSTOMER ERRORS OR OMISSIONS, OR DUE TO INADVERTENT RELEASE OR DISCLOSURE OF INFORMATION SENT BY THE CUSTOMER. COMPANY MAKES NO WARRANTY OR REPRESENTATION OF THE PERFORMANCE OR RESULTS WHICH CUSTOMER MAY ACHIEVE BY USING THE SERVICES OR ANY EQUIPMENT OR MATERIALS PREPARED OR USED IN COMBINATION THEREWITH.

**INDEMNIFICATION.** Customer agrees to defend, indemnify and hold harmless Company and its employees, officers, directors, independent contractors, licensees, legal representatives, successors and assigns from and against any claims by any person or entity resulting from Customer's use of the service in a manner inconsistent with any provision of this ROS Agreement or Customer's failure to undertake its responsibilities and obligations (including, but not limited to, those set out in the CUSTOMER OBLIGATIONS and COMPLIANCE WITH POLICIES sections).

**PAYMENT TERMS.** Any services performed outside of standard business hours shall be invoiced at 1.5 times the quoted rate. Customer agrees that all GO Computing services requested shall be billed at the rate of one (1) hour minimum and fifteen (15) minute increments thereafter.

Company shall bill Customer for GO Computing services and materials used on a monthly basis and payment is due Company upon receipt of the invoice. Accounts are in default if payment is not received by the invoice due date. Customer shall be responsible for paying all taxes of any nature which due with regard to Company, except for taxes on Company's income, irrespective of which party may be responsible for reporting or collecting such taxes.

If Company should receive less than its invoiced amount due to returned check, bank charges, transfer fees, or the like, Company will notify Customer of the shortfall. In the case of a returned check, rejected credit card, transfer fees, or the like, Customer's account is immediately in default and Customer is subject to a processing charge, as applicable, as well as a $25 late fee.

Accounts unpaid thirty (30) days after invoice due date are in default and all subsequent requests for GO Computing services may be denied until all outstanding balances are paid. Default status does not relieve Customer of its obligation to pay any amounts due. Accounts in default are subject to an interest rate of 1.5% per month or the state's legal maximum allowable rate until all outstanding balances are paid. If Customer defaults for nonpayment, Customer agrees to pay Company its reasonable expenses, including attorney fees and collection agency fees, incurred in enforcing are rights under this ROS Agreement.

**GENERAL**

**NOTICES.** All notices shall be in writing delivered either by hand delivery, by registered or certified mail, return receipt requested, or by nationally reputable overnight delivery, to the address provided by each party, and shall be effective upon receipt or refusal. Notices to Company shall be sent to the attention of the Legal Department.

**FORCE MAJEURE.** Neither Company nor Customer will be responsible or liable in any way for its failure to perform or delay in performance of its obligation under this ROS Agreement during any period in which performance is prevented or hindered by conditions reasonably beyond its control, including, but not limited to acts of nature, fire, flood, failure of public utilities, war, embargo, strikes, labor disturbances, explosions, riots, and laws, rules, regulations and orders of any governmental authority.

**ASSIGNMENT.** Customer's rights under this ROS Agreement are non-assignable and non-transferable. Upon written notice, Company may assign the ROS Agreement and its rights hereunder to any parent, successor, subsidiary or affiliate.

**RELATIONSHIP BETWEEN THE PARTIES.** There is no joint venture, partnership, agency or fiduciary relationship existing between the parties and the parties do not intend to create any such relationship by this ROS Agreement. Customer acknowledges and agrees that Customer's building ownership and management are not parties to this ROS Agreement and are not responsible for provisioning the services covered by this ROS Agreement or for the performance, non-performance or enforcement of Company's obligations hereunder. Customer further acknowledges that this ROS Agreement is solely between Customer and Company. This ROS Agreement is non-exclusive.

**NO WAIVER.** No delay or failure on the part of either party in the exercise of any right granted under this ROS Agreement or available at law or equity shall be construed as a waiver of such right. All waivers must be in writing. Any such waiver shall constitute a waiver only with respect to the specific manner described in such writing and shall in no way impair the rights of the party granting such waiver in any other respect or at any other time.

**SEVERABILITY.** If any provision (or portion thereof) of this ROS Agreement shall be invalid or unenforceable under any applicable law, such invalidity shall not affect the enforceability of any other provision hereof. In addition, in the event that any provision (or portion thereof) of this ROS Agreement is determined by a court to be unenforceable as drafted by virtue of the scope, duration, extent, or character of any obligation contained therein, it is the parties' intention that such provision (or portion thereof) shall be construed in a manner designed to effectuate the purposes of such provision to the maximum extent enforceable under such applicable law.

**GOVERNING LAW.** This ROS Agreement shall be governed by and construed in accordance with the substantive laws of the State of Maryland, without regard to conflict of laws rules thereof. Each of the Parties irrevocably submits to the exclusive jurisdiction of the state and federal courts of competent jurisdiction sitting in the State of Maryland, and waives any objection to venue in any of such court.

**ENTIRE AGREEMENT: AMENDMENT.** This ROS Agreement together with any attachments hereto (which are incorporated herein and made an integral part hereof), contain the entire agreement between the parties with respect to the transactions contemplated herein, supersede all prior written agreements, negotiations and term sheets, and all prior and contemporary oral understandings, if any, and may not be amended, supplemented or discharged except by an instrument in writing signed by each of the parties. Notwithstanding the foregoing, to the extent that the terms of this ROS Agreement conflict with any terms of the Order Form for GO computing services between the parties, the terms of Order Form-GO Computing services shall control.

**AUTHORITY.** Each party hereto represents that it has the authority to enter into this ROS Agreement.