



PROFESSIONAL SERVICES TERMS AND CONDITIONS

IMPORTANT: THESE PROFESSIONAL SERVICES TERMS AND CONDITIONS ARE INCORPORATED INTO ANY STEMMONS ORDER FORM OR AGREEMENT THAT REFERENCES IT, AND FORMS PART OF THE BINDING AGREEMENT BETWEEN STEMMONS AND CUSTOMER.

STEMMONS PROVIDES THE PRODUCTS AND SERVICES SOLELY ON THE TERMS AND CONDITIONS SET FORTH IN THESE TERMS AND CONDITIONS AND ON THE CONDITION THAT CUSTOMER ACCEPTS AND COMPLIES WITH THEM. CUSTOMER AGREES TO BE BOUND BY THE TERMS HEREOF BY EXECUTING AN ORDER FORM OR OTHER AGREEMENT THAT REFERENCES THIS AGREEMENT. THE INDIVIDUAL ACTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY REPRESENTS AND WARRANTS THAT THEY HAVE THE RIGHT, POWER, AND AUTHORITY TO AGREE ON BEHALF OF CUSTOMER AND BIND CUSTOMER TO ITS TERMS. IF CUSTOMER DOES NOT AGREE TO THE TERMS AND CONDITIONS, STEMMONS WILL NOT AND DOES NOT PROVIDE THE PRODUCT OR SERVICES TO CUSTOMER.

Version: Professional Services Terms and Conditions, last updated on 6/19/2019.

1. DEFINITIONS.

"Affiliate" means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the direct or indirect power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.

"Agreement" means the Professional Services Terms and Conditions, as modified by any Order Form(s), any attachments and/or appendix(ices) to an Order Form, and/or Statement of Work or other agreement that references this Agreement.

"Confidential Information" has the meaning set forth in Section 7.1.

"Customer" means in the case of an individual accepting this Agreement on his or her own behalf, such individual, or in the case of an individual accepting this Agreement on behalf of a company or other legal entity, the company or other legal entity for which such individual is accepting this Agreement by executing/entering an Order Form, and/or Statement of Work or other agreement that references this Agreement.

"Customer Delay" has the meaning set forth in Section 4.1.

"Deliverable" (singular) and "Deliverables" (plural) have the meaning set forth in Section 2.1.

"Law" and "Laws" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, or other requirement of any federal, state, local, or foreign government or political subdivision thereof, or any arbitrator, court, or tribunal of competent jurisdiction.

"Mark" or "Marks" have the meaning set forth in Section 6.2

"Party" or "Parties" means Stemmons and Customer, individually or collectively.

"Order Form" means an ordering document or online order specifying the Products to be provided hereunder that is entered into between Customer and Stemmons or any of their Affiliates, including any schedules and/or addenda thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

"Person" means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.

"Product" means the Software and Services that are ordered by Customer under an Order Form or online purchasing portal, or provided to Customer free of charge (as applicable) or under a free trial, and made available online by Stemmons.

"Services" means certain services provided by Stemmons as defined in Section 2.1.

"Software" has the meaning set forth in the Software License Terms and Conditions available at <https://docs.stemmons.com>.

"Statement of Work" or "SOW" have the meaning set forth in Section 2.1.

"Stemmons" means Stemmons Enterprise, L.L.C., a Texas limited liability company, including any successors or assigns, 720 North Post Oak Blvd., Suite 500, Houston, TX 77024.

"Stemmons' Intellectual Property" means Stemmons' preexisting proprietary information and methodologies for delivery of the Services set forth herein, document templates or project tools used by Stemmons to deliver the Services, the Software, and materials in the Work Product owned by Stemmons

"Taxes" means any taxes, levies, duties or similar governmental assessments.

"Term" means the term of any Services as set forth in an Order Form, unless earlier terminated.

"Work Product" has the meaning set forth in Section 6.1.

2. SERVICES

2.1 Scope. Stemmons shall provide services to Customer pursuant to an Order Form, which may include a written schedule, statement of work, project proposal, or other project order document, which is incorporated herein by reference, for ordering Services, which document shall specify the Services, applicable fees, scope of work, and/or appropriate project timelines, as well as any terms and conditions which differ from or add to the general provisions of this Agreement (each a "Statement of Work" or "SOW"), as mutually agreed upon from time to time by the Parties pursuant to an Order Form, or amendment thereto (services described in each SOW are collectively referred to as the "Services"). Each SOW shall specify the Services to be provided, including, but not limited to, all deliverables ("Deliverables"), and other particulars that shall govern the Services rendered under each SOW.

2.2 SOW Authorization and Modification. The SOW is to be signed on behalf of Customer exclusively by authorized individuals of Customer. Any deviation from or modification to a SOW must be by mutual agreement, in writing, by the Parties. In the event of any conflict or inconsistency between the provisions of a SOW and the provisions of this Agreement, the provisions of the SOW will govern and control with respect to the interpretation of that SOW; provided, however, that the provisions of the SOW will be so construed as to give effect to the applicable provisions of this Agreement to the fullest extent possible.

2.3 Acceptance of Deliverables. Unless otherwise agreed to in a SOW, Customer shall have ten (10) business days following Stemmons' delivery of any Deliverable described in a SOW to accept the Deliverable. Customer's acceptance shall be deemed to have occurred upon the expiration of the ten business day review period. If Customer does not accept the Deliverable, Stemmons shall have a reasonable period of time (not to exceed thirty (30) business days unless otherwise agreed to by the Parties) to remedy the deficiencies or to present a plan to remedy the deficiency which is reasonably acceptable to Customer, its acceptance not to be unreasonably withheld, conditioned or delayed.

3. FEES, PAYMENT AND TAXES

3.1 Fees for Services. Customer will pay Stemmons the fees specified in each SOW. Unless otherwise specified in the applicable SOW, actual and reasonable expenses incurred by Stemmons in connection with the Services shall be charged to

Customer in addition to the stated fees, so long as such expenses are consistent with the SOW or otherwise approved in writing by Customer.

3.2 **Invoicing and Payment.** Customer is responsible for providing complete and accurate billing and contact information to Stemmons and notifying Stemmons of any changes to such information. Unless otherwise stated in a SOW, Stemmons shall have the option to invoice Customer on a biweekly basis. Customer shall pay Stemmons upon invoice delivery for any of the Services and expenses provided or incurred hereunder. Stemmons may charge Customer interest and late fees on any overdue and unpaid portion of the Fees in an amount one and one-half percent (1.5%) per month or the highest amount allowed by law, whichever is less.

3.3 **Taxes.** Stemmons' fees do not include any Taxes. Customer is responsible for paying all Taxes assessed in connection with its acquisition or use of the Product. If Stemmons is obligated to collect or remit taxes for which Customer is responsible, Stemmons will invoice Customer and Customer will pay that amount or provide a valid tax exempt certificate issued by the appropriate taxing authority. Stemmons is solely responsible for taxes assessable against it based on its income, property, or employees.

3.4 **Overdue Charges; Defaults.** If Customer fails to pay an amount due to Stemmons by its due date, then without limiting Stemmons' rights or remedies, those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower. In addition, Stemmons may give notice to Customer of its failure to pay fees or comply with any other obligation required of Customer, and if Customer does not cure the failure within 15 days after notice by Stemmons, then Stemmons may, in addition or in the alternative to exercising any other right or remedy available under this Agreement or by law, (1) accelerate any unpaid fee amounts owed by Customer so that all become immediately due and payable, and (2) terminate Customer's license to use or access the Product. Stemmons will not exercise its rights under this Section 3.4 for any fee amounts which Customer is reasonably disputing and cooperating diligently and in good faith to resolve the dispute; if the dispute is not resolved within thirty (30) days, Customer shall pay any disputed amount.

4. CUSTOMER OBLIGATIONS

4.1 Customer agrees to fulfill its responsibilities set forth in a SOW and to cooperate with Stemmons as reasonably necessary for Stemmons to perform the services set forth herein. If Customer fails to satisfy in a timely manner its responsibilities in any material respect (a "Customer Delay"), the due date for Stemmons' performance under the SOW shall be extended for the amount of time caused by Customer Delay. Furthermore, if a Customer Delay causes the Deliverables to be delayed by more than thirty (30) calendar days, Stemmons may, at its option, terminate the SOW and this Agreement. Termination of such SOW shall not affect Customer's payment obligations thereunder. Notwithstanding anything herein to the contrary, if Customer fails to respond to Stemmons' communications regarding an alleged Customer Delay, Stemmons may, in addition to any rights it may have, and at its option, suspend all work under a SOW or terminate the SOW.

4.2 Customer represents and warrants that it has all necessary rights, title, and interest in and to all content, artwork, and designs which are provided to Stemmons hereunder.

5. TERM AND TERMINATION

5.1 **Term.** The initial Term of this Agreement and any Services commences as of the Effective Date as defined in an Order Form and continues in effect for the Term specified in the Order Form (if no term is specified, then for a period of one (1) year), unless terminated earlier pursuant to any of the Agreement's express provisions.

5.2 **Termination for any Reason.** Unless otherwise described in the SOW, either Party may terminate a SOW for any reason by providing written notice to the other Party at the address set forth above or via email at least thirty (30) days' prior to the effective date of termination. In the event Customer terminates this Agreement pursuant to this Section 5.2, Customer shall pay Stemmons all fees incurred under Section 3.1 through the effective date of termination. Termination of a SOW only shall not have the effect of terminating this Agreement or other SOWs, if any. However, termination of this Agreement shall terminate all SOWs, if any, between the Parties.

5.3 Termination Upon Breach. In the event either Party materially breaches any provision of this Agreement or a SOW, including, but not limited to, Sections 4.1 or 4.2, and fails to remedy such breach within thirty (30) calendar days of receipt of written notice from the non-breaching Party, then the non-breaching Party may immediately terminate this Agreement and/or the applicable SOW. Notwithstanding the foregoing, Stemmons may suspend performance under a SOW due to Customer's failure to fully pay the amount due, as set forth therein, after ten (10) calendar days prior written notice by Stemmons to Customer. Additionally, either Party may immediately terminate this Agreement and any SOW then in effect upon written notice to the other Party in the event the other Party (i) discontinues its business; (ii) files a petition for bankruptcy; (iii) becomes insolvent; or (iv) makes an assignment for the benefit of creditors. In the event of termination pursuant to this Section 5.3, Customer shall pay Stemmons all fees incurred under Section 3.1 through the effective date of termination.

5.4 Mutual Agreement to Terminate. The Parties may mutually agree in writing, at any time, to terminate this Agreement or any SOW.

5.5 In the event of any termination of this Agreement for any reason, all provisions of this Agreement whose meaning requires them to survive shall survive the expiration or termination of this Agreement, including, but not limited to any payment obligation accrued by Customer hereunder.

6. WORK PRODUCT AND PROPRIETARY INFORMATION

6.1 Work Product. Except as set forth below, all Deliverables created for Customer by Stemmons (the "Work Product") shall be considered "work made for hire" and shall be the sole and exclusive property of Customer. In the event any rights do not vest in Customer, the Parties agree and understand, by this Agreement, that Stemmons shall grant and assign to Customer all such rights in such Work Product. Work Product shall not include Stemmons' Intellectual Property. Nothing herein shall be interpreted to prevent Stemmons from performing similar services for any other customer. Unless otherwise set forth in a SOW, in the event any Stemmons' Intellectual Property is required to use the Work Product or receive benefit from the Services, Stemmons hereby grants to Customer a perpetual, nonexclusive, royalty-free, limited license to use, execute, reproduce, display, perform, and distribute copies of the Stemmons Intellectual Property specifically required to use the Work Product, solely for Customer's internal business purposes. A breach of Customer's limited license hereunder shall immediately terminate the license set forth in this Section 6.1. If a separate license is required for any software programs or platforms to be installed or configured by Stemmons, it is the responsibility of Customer to negotiate and enter into any required license agreement(s).

6.2 Use of Trademarks. The Parties agree and understand that Customer hereby grants to Stemmons, a limited right to use any and all trademarks, trade names, logos and/or services marks ("Marks") for purposes of press releases, publicity, branding, marketing and distribution of identifying Services of Stemmons as set forth in this Agreement and for no other purpose. Stemmons acknowledges that such Marks remain the proprietary property of Customer and Stemmons shall have no right to use any such Mark outside the scope of this Agreement.

7. CONFIDENTIALITY.

7.1 Confidential Information. In connection with this Agreement, each Party may disclose or make available (i.e., a Disclosing Party) certain Confidential Information to the other Party (i.e., a Receiving Party). Subject to Section 7.2, "Confidential Information" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, whether or not marked, designated, or otherwise identified as "confidential." Without limiting the foregoing, the Stemmons' Intellectual Property, Software, and financial terms of this Agreement are the Confidential Information of Stemmons.

7.2 Exclusions. Confidential Information does not include information that the Receiving Party can demonstrate: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' noncompliance with this Agreement; (c) was or is received

by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

7.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall: (a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement; (b) except as may be permitted under the terms and conditions of Section 7.4, not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations under this Section 7; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this Section 7; (c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its [most/similarly] sensitive information and in no event less than a reasonable degree of care; (d) promptly notify the Disclosing Party of any unauthorized use or disclosure of Confidential Information and take all reasonable steps/use its best efforts/cooperate with Disclosing Party to prevent further unauthorized use or disclosure; and (e) ensure its Representatives' compliance with, and be responsible and liable for any of its Representatives' non-compliance with, the terms of this Section 7. Notwithstanding any other provisions of this Agreement, the Receiving Party's obligations under this Section 7 with respect to any Confidential Information that constitutes a trade secret under any applicable Law will continue until such time, if ever, as such Confidential Information ceases to qualify for trade secret protection under one or more such applicable Laws other than as a result of any act or omission of the Receiving Party or any of its Representatives.

7.4 Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party will: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under Section 7.3; and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section 7.4, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party will disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose.

7.5 Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by the Receiving Party of any of its obligations under Section 7.3 of this Agreement would cause the Disclosing Party irreparable harm for which monetary damages would not be an adequate remedy and that, in the event of such breach or threatened breach, the Disclosing Party will be entitled to equitable relief, including in a restraining order, an injunction, specific performance, and any other relief that may be available from any court of competent jurisdiction, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

8. LIMITATION OF LIABILITY, INDEMNIFICATION

8.1 Liability. NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES, UNDER ANY CIRCUMSTANCES, INCLUDING, BUT NOT LIMITED TO, LOST PROFITS, REVENUES, OR SAVINGS, OR THE LOSS OR USE OF ANY DATA OR DAMAGE TO ANY SOFTWARE, HARDWARE, OR CODE, EVEN IF THE PARTY HAS BEEN ADVISED OF, KNEW, OR SHOULD HAVE KNOWN, OF THE POSSIBILITY THEREOF. UNDER NO CIRCUMSTANCES SHALL STEMMONS' AGGREGATE CUMULATIVE LIABILITY HEREUNDER, WHETHER IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), OR OTHERWISE, EXCEED THE TOTAL AMOUNT OF FEES ACTUALLY PAID TO STEMMONS UNDER THE SOW FROM WHICH THE CLAIM ARISES FOR THE TWELVE MONTHS PRECEDING THE DATE OF THE CLAIM.

8.2 Indemnification by Customer. Customer shall indemnify, defend, and hold harmless Stemmons and its Affiliates, officers, directors, employees, agents, successors, and assigns, from and against all claims, demands, liabilities, damages, and costs including, without limitation, its reasonable attorneys' fees and other costs of defense, arising from or relating to (a)

the use of the Service and Deliverables in the conduct of its business; (b) any violation of applicable Law; or (c) any claims of infringement by Customer of the intellectual property rights of any third party.

8.3 Indemnification by Stemmons. Stemmons shall indemnify, defend, and hold harmless Customer and its Affiliates, officers, directors, employees, agents, successors, and assigns, from and against all claims, demands, liabilities, damages, and costs including, without limitation, its reasonable attorneys' fees and other costs of defense, arising from or relating to any claims of infringement by Stemmons of the intellectual property rights of any third party, subject to the limitations herein.

8.4 The Party seeking indemnification (i.e., the indemnitee) shall provide the other Party (i.e., the indemnifying Party) prompt written notice of any knowledge it may have of such an infringement or other indemnity claim, and the indemnitee shall reasonably cooperate in the defense and settlement of any such claim. The indemnifying Party shall have the right to control the defense, negotiation and settlement of any such claim and the indemnifying Party shall pay all damages and costs awarded by a court of competent jurisdiction against Indemnitee arising out of such claim or the amount of any settlement to which the indemnifying Party may agree, subject to the limitations herein.

9. WARRANTY

9.1 Warranty. EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL DELIVERABLES AND SERVICES ARE PROVIDED "AS-IS" AND STEMMONS MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, REGARDING ANY MATTER, INCLUDING, WITHOUT LIMITATION, THE MERCHANTABILITY, SUITABILITY, ORIGINALITY, FITNESS FOR A PARTICULAR USE OR PURPOSE, OR RESULTS TO BE DERIVED FROM THE USE OF, ANY SERVICE, WEBSITE, OR OTHER DELIVERABLES PROVIDED UNDER ANY SOW. STEMMONS DOES NOT REPRESENT OR WARRANT THAT THE OPERATION OF ANY WEBSITE OR OTHER DELIVERABLES WILL BE UNINTERRUPTED OR ERROR-FREE. CUSTOMER AGREES AND UNDERSTANDS THAT STEMMONS TAKES NO RESPONSIBILITY FOR ALL DATA OR FILES AFTER SUCH DATA OR FILES ARE DELIVERED TO CUSTOMER. CUSTOMER ACKNOWLEDGES THAT IT IS A SOPHISTICATED PARTY TO THIS AGREEMENT AND RECOGNIZES AND AGREES THAT THIS PROVISION IS AN IMPORTANT FACTOR IN STEMMONS'S WILLINGNESS TO PERFORM SERVICES HEREUNDER.

10. ADDITIONAL TERMS

10.1 Capacity. Each Party represents, warrants and covenants to the other Party that: (a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization; (b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses and authorizations it grants and is required to grant under this Agreement; (c) the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such Party; and (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid and binding obligation of such Party, enforceable against such Party in accordance with its terms.

10.2 Relationship between the Parties. The Parties are acting hereunder as independent contractors. Stemmons shall not be considered or deemed to be an agent, employee, joint venturer or partner of Customer. Stemmons' personnel shall not be considered employees of Customer, shall not be entitled to any benefits that Customer grants its employees and have no authority to act or purport to act on Customer's behalf. Neither Customer nor Stemmons has the right, and shall not seek, to exercise any control over the other Party. Each Party shall be solely responsible for hiring, firing, promoting, demoting, rates of pay, paying taxes, benefits and other terms and conditions in regard to its own personnel.

10.3 Exclusive Agreement / Amendments. (a) This Agreement is the Parties' final, complete, exclusive, and binding statement of the terms and conditions of their agreement concerning its subject matter. (b) Each Party represents and warrants that it is sophisticated in the subject matter hereof and that, in entering into this Agreement, that party is not relying on any promises, warranties, or representations by the other party that are not stated in (or expressly incorporated by reference into) this Agreement. (c) This Agreement may be amended only by a writing that so states and is signed by the parties; each party agrees not to assert otherwise in any forum. (d) If Customer provides Stemmons (or previously provided Stemmons) with a purchase order or similar document, any terms, conditions, or provisions appearing therein (other than as to identification of the Software and of the number and types of licenses, and optionally of any maintenance or any training or consulting services being purchased) will be given effect if and only if the purchase order meets the amendment requirements of this Section 10.3. No vendor, distributor, reseller, dealer, retailer, or other person (other than an authorized

officer of Stemmons) is authorized to modify this Agreement nor to make any warranty, representation or promise that is different than, or in addition to, the representations and promises of this Agreement.

10.4 Non-solicitation. Stemmons and Customer agree that during the Term of this Agreement and any SOW, and for a period of twenty-four (24) months thereafter, neither shall solicit for employment or retention as an independent contractor any employee or former employee of the other who provided any Services pursuant to this Agreement. Solicitation under this Section 10.4 shall not be deemed to include advertising in newspapers or trade publications available to the public. Upon any breach of this Non-Solicitation provision, the breaching party shall pay the non-breaching party the equivalent of twelve (12) month's salary of the employee hired or solicited, as liquidated damages, plus any other costs, expenses, or damages recoverable under this Agreement and applicable law.

10.5 Assignment. Customer may not assign or transfer this Agreement or any of its obligations hereunder without prior written consent of Stemmons. Subject to the foregoing, this Agreement shall be binding upon, and shall inure to the benefit of, the parties and their respective successors and permitted assigns. Any assignment or assumption without Stemmons' prior written consent shall be null and void. Stemmons may assign this Agreement, Order Form, Scope of Work, or other agreement, at any time, including but not limited to, as part of a corporate reorganization, consolidation, merger, or sale of all or substantially all of its assets or business to which this Agreement relates.

10.6 Governing Law / Forum. All disputes arising out of or relating to this Agreement or the interpretation, validity, or enforceability thereof will be governed by the laws of the United States of America and the State of Texas as though this Agreement had been made and performed in that state by its residents, without regard to conflicts of law rules. The parties exclude the application of (i) the United Nations Convention on Contracts for the International Sale of Goods; (ii) the Uniform Computer Information Transactions Act ("UCITA"); and (iii) the American Law Institute's Principles of the Law of Software Contracts. The state and federal courts having subject-matter jurisdiction in Houston, Harris County, Texas will have exclusive jurisdiction of any action or proceeding arising out of or relating to this Agreement or any transaction or relationship resulting from it. Each party consents to personal jurisdiction in such court(s), agrees not to contest the same, and agrees not to assert any claim of inconvenient venue. Each party consents to service of process by certified mail, return receipt requested, or by established overnight courier with proof of delivery or refusal (e.g., FedEx or UPS).

10.7 Savings Clause. If any provision of this Agreement is held to be invalid, void, unenforceable, or otherwise defective by a court or other tribunal of competent jurisdiction, then (a) all other provisions will remain enforceable, and (b) such provision will be deemed modified to the minimum extent necessary to cure the defect.

10.8 Survival of Terms. Any terms of this Agreement, which by their nature are intended to extend beyond this Agreement's expiration or termination, shall remain in effect until fulfilled and shall apply to respective successors and assignees.

10.9 Force Majeure. Neither Party will be liable for any failure to perform its obligations where such failure is as a result of Acts of Nature (including fire, flood, earthquake, storm, hurricane or other natural disaster), war, invasion, act of foreign enemies, hostilities (whether war is declared or not), civil war, rebellion, revolution, insurrection, military or usurped power or confiscation, terrorist activities, nationalization, government sanction, blockage, embargo, labor dispute, strike, lockout or interruption or failure of electricity or telecommunications service (for example, Internet failures).

10.10 Early Neutral Evaluation (Non-Binding). In any dispute, at either Party's request, the Parties will jointly consult an experienced, knowledgeable, neutral individual, informally and in confidence, for non-binding advice as to what would constitute a responsible resolution of the dispute. Any procedural disagreement concerning the consultation will be resolved by reference to the Early Neutral Evaluation Procedures of the American Arbitration Association (AAA) then in effect, to the extent not inconsistent with this Agreement.

10.11 Language. By express agreement of the Parties, this Agreement is written in and shall be interpreted for all purposes in accordance with the English language as used in the United States of America. (French translation of the previous sentence: Les parties conviennent expressément que le présent Accord ainsi que toutes ses annexes seront rédigés en langue Anglaise et interprétés par référence à la terminologie utilisée aux Etats-Unis.)

10.12 Notices. Except as otherwise expressly set forth in this Agreement, any notice, request, consent, claim, demand, waiver, or other communication under this Agreement have legal effect only if in writing and addressed to a Party at the address designated herein (or to such other address or such other person that such addressee Party may designate from time to time in accordance with this Section 10.12). Notices to Customer shall be delivered as set forth in any applicable Order Form. Notices shall be delivered to Stemmons as set forth in Section 1. Notices sent in accordance with this Section 10.12 will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; and (c) on the fifth (5th) day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

10.13 Privacy. Customer agrees that Stemmons may collect, store, use, compile, modify, translate, and/or disclose information that Customer processes, transmits, or stores using the Product as stated in the applicable version of Stemmons' Privacy Statement (currently available at https://stemmons.com/wp-content/uploads/2019/01/privacy-policy_2019.pdf) or as required by law, for the purpose of developing, servicing or maintaining the Product and to monitor the use of the Product.

10.14 Waivers. Except as expressly provided otherwise herein, waivers concerning this Agreement must be in express, signed writings. Each party agrees not to assert a waiver that does not comply with the previous sentence.

10.15 Interpretation. For purposes of this Agreement: (a) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to sections, exhibits, schedules, attachments, and appendices mean the sections of, and exhibits, schedules, attachments, and appendices [attached] to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

10.16 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

THIS CONCLUDES THE STEMMONS PROFESSIONAL SERVICES TERMS AND CONDITIONS.