

## SCARBROUGH MASTER SERVICES AGREEMENT

This Master Services Agreement (the "Agreement") is between the Client signing below ("Client" or "you") and Scarborough Intl Ltd. ("Scarborough" or "we") (together with you, the "Parties") having a principal place of business at 10841 N Ambassador Dr, Kansas City, MO 64153, and it becomes effective as of the date of your signature below (the "Effective Date"). For good and valuable consideration Scarborough and Client agree as follows:

**1. Services.** We provide the services (collectively, the "Services") described in one or more schedules executed by the Parties and incorporated into this Agreement by this reference (each a "Services Schedule"). You agree to provide assistance and cooperation and meet any Client obligations listed on any Services Schedule. You are retaining us to exclusively provide the Services during the Term (as defined below and on the Services Schedule). All parcel credits and cost reductions identified by Scarborough and experienced by Client during the Term of this Agreement are deemed the result of Scarborough Services.

a. Fees; Payment Terms. Client will establish automated payment through either (i) ACH debit service, (ii) ACH credit service, (iii) credit card, (iv) a "P" (Purchasing) card, or (v) payment via check. The fees for each respective Service(s), described in each Services Schedule, are due within fifteen (15) days after receipt of Scarborough's invoice and do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). Client is responsible for paying all Taxes associated with Client's purchases hereunder. For clarity, Scarborough is solely responsible for taxes assessable against it based on income, property, and employees. Overdue payments will accrue interest at the lesser of one and one-half percent (1.5%) per month or the maximum allowable interest under applicable law, from due date until paid.

b. Intellectual Property. To provide the Services and provide access to related reporting reflecting the results of the Services ("Reports"), we use proprietary software ("Software"), know-how and information that embody methods, algorithms, inventions, information, logos, and other elements that we use to provide our Services and that are protected (or qualify for protection) under US patent, trademark, copyright or trade secret law. Scarborough and its licensors own the Software, Reports and all content in the Reports (including all information, artwork, text, trademarks, trade dress, and report formatting) and all associated intellectual property.

c. Scarborough Services; Exclusive Remedy. During the Term, Scarborough will use reasonable efforts to provide the Services in a good and workmanlike manner. Scarborough will correct any purported breach of this Agreement by Scarborough within thirty (30) days after receiving written notice from Client concerning such breach. This will be your sole remedy for any purported breach by

Scarborough with respect to the Scarborough Services. The Services remedy is exclusive and in lieu of all other express or implied warranties of any kind, whether written, oral or implied, regarding the Services, including any implied warranty of title, merchantability, non-infringement or fitness for a particular purpose, and warranties implied from a course of dealing or usage of trade, all of which Scarborough disclaims.

**2. Term.** The term of this Agreement will be from the execution date below through the date of the last active Services Schedule. The term of each Services Schedule will be designated on the Services Schedule. If a Services Schedule specifies automatic renewal, the Services Schedule will automatically renew for additional 12 month terms (or such other period as is stated on the Services Schedule) unless either party notifies the other party of its intent not to renew at least ninety (90) days before the end of the current term.

**3. Termination.** Either Party may terminate this Agreement for breach of a material obligation in this Agreement, in writing, if, after providing written notice to the defaulting Party of such breach, such defaulting Party fails to cure such breach within thirty (30) days thereafter; provided, however, such cure period will not apply with respect to payment breaches. Sections 4 through 7 of this Agreement (as well as Scarborough's rights with respect to any amounts owed by Client), will survive the termination or expiration of this Agreement; and (b) the provisions of this Agreement applicable to any Services Schedule outstanding at the time of the termination or expiration of this Agreement will survive such termination or expiration until such Services Schedule has been performed or otherwise terminated by the Parties in writing. In the event of a termination of this Agreement, all invoices and fees owed to Scarborough by Client will become immediately due and payable.

**4. Indemnity.**

a. Scarborough will defend, indemnify and hold harmless Client and its directors, officers, employees and agents from and against any and all third party claims, demands, lawsuits, judgments, losses, or expenses (including reasonable attorneys' fees and court costs) to the extent arising out of any claim that the Software infringes a copyright of any third party. Scarborough will have the right to control the defense of any third party claim for which Client seeks indemnity and defense under this Section 4(a). The foregoing indemnity, defense, and hold harmless obligations will not apply to purported Services defects, Client's sole remedies for which are set forth in Section 1(c) above or

claims for which Client has an obligation to indemnify Scarborough.

b. Client will defend, indemnify and hold harmless Scarborough, its affiliates and their respective directors, officers, employees and agents from and against any and all claims, demands, lawsuits, judgments, losses, or expenses of any nature whatsoever (including attorneys' fees) arising directly or indirectly from or out of, or any way relating to (i) Client's use of the Software or Services, except a claim covered by Section 4(a); (ii) any claim against Scarborough by customers or vendors of Client; and (iii) any claim by a carrier relating to Client's disclosure of carrier pricing, rate and other information to Scarborough, except any breach by Scarborough of Section 5.

**5. Confidentiality.** Confidential (defined below) or sensitive information one Party (the "Disclosing Party") provides to the other Party (the "Receiving Party") under this Agreement, and Services Schedules referenced in, will be governed as follows:

a. Confidential Information. "Confidential Information" means non-public and proprietary know-how and information disclosed under this Agreement, whether oral or written or electronic, that (a) concerns the Software, reporting/Reports, technology, customers, finances, methods, research, processes or procedures of either Scarborough or Client; or (b) is designated as "Confidential" or "Proprietary" by the Disclosing Party at the time of disclosure or within a reasonable period thereafter.

b. Non-disclosure. The Receiving Party will retain the Disclosing Party's Confidential Information in confidence, and will not use or disclose Confidential Information except for purposes permitted under this Agreement. The Receiving Party will be entitled to disclose Confidential Information of the Disclosing Party (i) to its employees, provided such employees are bound by non-disclosure obligations no less protective than those set out in this Agreement, and (ii) to affiliates and vendors, provided such affiliates and vendors are bound by non-disclosure obligations no less protective than those set out in this Agreement.

c. Exceptions. Sections 5(a) and 5(b) will not apply to Confidential Information the Receiving Party can demonstrate: (i) is or becomes a matter of public knowledge through no fault of the Receiving Party; (ii) was or becomes available to the Receiving Party on a non-confidential basis from a third-party, provided that such third-party is not bound by an obligation of confidentiality to the Disclosing Party with respect to such Confidential Information; (iii) was independently developed by the Receiving Party without reference to the Disclosing Party's Confidential Information; or (iv) is required to be disclosed by law, provided that the Disclosing Party is promptly notified by the Receiving Party to provide the Disclosing Party an opportunity to seek a protective order or other relief.

**6. Limitation of Liability.**

a. Under no circumstances will Scarborough be liable for any consequential, indirect, special, punitive, exemplary or incidental damages of any kind whatsoever, whether foreseeable or unforeseeable (including but not limited to, claims for lost revenue, lost profits, loss of data, loss of goodwill, loss of use of money or use of services, interruption in the use or availability of data, stoppage of other work or impairment of other assets), arising out of the purported breach or failure of any express or implied warranty, breach of contract, negligence, strict liability in tort or otherwise. In no event will Scarborough's liability under this Agreement exceed the earnings received by Scarborough from Client for performing the Services within the twelve (12) months preceding Client's claim.

b. Neither Party will be responsible for any failure to perform its obligations under this Agreement (other than obligations to pay money) if such failure is caused by events beyond the reasonable control of either Party such as flood, fire, theft, communications failure, etc.

c. Scarborough is not a law firm. Client understands that Scarborough is not providing legal advice when providing contract engineering or negotiation services or any other such services.

d. Scarborough does not control, your negotiations with carriers concerning your shipping costs, nor do we have any influence over your shipping volumes or destinations.

e. Scarborough makes no representation or warranty as to the availability, accuracy, or completeness of the Services or any shipping cost reductions or savings. You take the Services, Reports and our performance "as is." Scarborough disclaims all conditions, representations and warranties, whether express, implied, statutory or otherwise including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or non-infringement of third party rights.

**7. Other Provisions.**

a. Governing Law; Waiver of Jury Trial. The Parties agree that Kansas law, without reference to rules governing conflict of laws, will apply to this Agreement and any dispute between the Parties related thereto. The Parties agree to exclusive jurisdiction and venue in the federal and state courts of Kansas for any dispute arising under this Agreement.

b. Promotion. Scarborough may list Client's name and logo in our promotional materials.

c. General. Scarborough's failure to enforce strict performance or compliance with any provision of this Agreement will not constitute a waiver of our rights to subsequently enforce such provision or other provisions of this Agreement. If a court of competent jurisdiction finds any provision of this Agreement to be illegal or unenforceable, that provision will be eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect. This Agreement contains the entire understanding of the Parties regarding its subject matter and

supersedes all prior agreements between the Parties, both oral and written. This Agreement will not be amended except by mutual written consent of both Parties. Client may not

assign this Agreement by operation of law, or otherwise without Scarbrough's prior written consent.

**SCARBROUGH INTERNATIONAL LTD.**

Client Name

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Name

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Name

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Signature

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Signature

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Title

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Title

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Date

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Date