



## TERMS OF SERVICE

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**IMPORTANT READ CAREFULLY:** THESE TERMS OF SERVICE ARE BINDING AND ENFORCEABLE BETWEEN YOU ("CUSTOMER") AND PROFESSIONAL DATASOLUTIONS, INC. ("PDI") FOR ITSELF AND ITS AFFILIATES. "CUSTOMER" REFERS TO THE ENTITY OR ORGANIZATION USING THE MANAGED SECURITY SERVICES AND/OR PRODUCTS DESCRIBED IN THIS AGREEMENT (THE "SERVICES"). THESE TERMS OF SERVICE ("THE "AGREEMENT") GOVERN CUSTOMER'S ACCESS AND USE OF CERTAIN MANAGED SECURITY SERVICES, UNLESS CUSTOMER HAS FULLY EXECUTED A SEPARATE SERVICE AGREEMENT WITH PDI OR ITS AFFILIATES, IN WHICH CASE SUCH SERVICE AGREEMENT GOVERNS, OR UNLESS CUSTOMER HAS FULLY EXECUTED A LICENSE AGREEMENT WITH AN AUTHORIZED CHANNEL PARTNER OR RESELLER FOR THE PROVISION OF THE SERVICES, IN WHICH CASE THAT LICENSE AGREEMENT GOVERNS AND RELATED QUESTIONS ABOUT THE TERMS OF THE SUBSCRIPTION SHOULD BE DIRECTED TO THE AUTHORIZED CHANNEL PARTNER/RESELLER. BY EXECUTING A QUOTATION OR ORDER FORM THAT REFERENCES THIS AGREEMENT; CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A CUSTOMER OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

These Terms of Service are effective as of the date listed on Customer's Order ("Effective Date"). PDI encourages Customer to periodically review and check this Agreement for updates to stay informed about the terms that govern Customer's use of the Services. Customer's continued use of the Services after PDI makes any changes is deemed to be an acceptance of those changes.

### 1. Definitions

- 1.1. "Confidential Information" means any business, technical or other confidential, non-public and/or proprietary information, regardless of the medium of conveyance (whether in oral, written, graphic, electronic, or any other form, or effected through inspection, review, or analysis), obtained in the course of negotiating or performing this Agreement which originates with a party (the "Disclosing Party") and comes into the possession of the other party (the "Receiving Party"), including without limitation: the terms, conditions and existence of this Agreement, software, code, trade secrets, inventions, pricing, algorithms, know-how, business systems, technical and financial information and practices, plans, proposals, forecasts, personnel files and information, lists, statistics, passwords and other access codes or other such information of a Disclosing Party.
- 1.2. "Equipment" means any piece of hardware provided by PDI to Customer as part of Customer's Order.
- 1.3. "Locations" means Customer's stores or sites.
- 1.4. "Order" means a document which has been submitted by Customer, and accepted by PDI, specifying the Services to be purchased and linked to these Terms of Service.
- 1.5. "Order Term" means the length of time that PDI will provide a Service pursuant to an Order as stated on such Order.
- 1.6. "Service(s)" means collectively the managed security services, Equipment and products, including installation services, agreed upon by the Parties and set forth in an Order.
- 1.7. "Service Description" means the then-current detailed description, including specifications, service levels, and additional terms and conditions, of the Services as located at the URL location on PDI's website as PDI may provide from time to time.
- 1.8. "Taxes" mean(s) any and all applicable federal, state and local taxes, including without limitation, all use, sales, value-added, excise, utility, franchise, commercial, gross receipts, license, privilege or other similar taxes, levies, surcharges, duties and fees, universal service fund contributions and similar exactions with respect to the supply of the products and Services to Customer. Taxes and Fees do not include any tax or fees on the income of PDI.

2. **Provision of Services.** PDI agrees to provide the Services for Customer and its Locations as identified in Customer's Order as initially submitted and on file or as subsequently ordered by Customer and approved by PDI during the Term of the Agreement.
3. **Service Descriptions.** PDI reserves the right in its discretion to modify the details and specifications of the Service as set forth in the Service Description, provided that such modification does not adversely affect the quality of the Service.
4. **Customer Responsibilities.**
  - 4.1. Customer may only use the Services as explicitly set forth in this Agreement. Customer is solely responsible for determining whether the Services are sufficient for its purposes, including but not limited to, whether the Services satisfy Customer's legal and/or regulatory requirements.
  - 4.2. Customer, on behalf of itself and its Customer Locations, shall ensure (i) physical, logical and environmental security and control with respect to the any on-site equipment across which the Services traverse for purposes of the Payment Card Industry Data Security Standards ("PCI DSS") or any other applicable industry standard, as may be amended from time to time and (ii) compliance with all applicable federal and state laws. PDI specifically disclaims any liability whatsoever with respect to any breach of security caused by, related to, or arising out of Customer's failure to comply with the PCI DSS, or to maintain proper physical, logical or environmental security with respect to the on-site equipment.
  - 4.3. Customer shall ensure that all Customer-owned equipment that connects to the Services will perform according to published technical specifications for such equipment and PDI's interface specifications. Customer shall be responsible for the use and compatibility of equipment or software not provided by PDI. This Agreement does not include the provision, maintenance, or repair by PDI of Customer-owned equipment or software, including, but not limited to, terminals, computer and other Customer third party equipment.
5. **Term and Termination.**
  - 5.1. **Term.** The term of this Agreement shall commence on the Effective Date and shall continue until the earlier of all Order Terms have expired or been terminated, or until this Agreement is terminated pursuant to the provisions hereof (the "Term"). Upon termination of this Agreement, all rights and obligations of the parties under this Agreement will automatically terminate except for rights of action accruing prior to termination, payment obligations, any obligations that expressly or by implication are intended to survive termination and any obligations as they relate to an existing Order or Service Description.
  - 5.2. **Additional Orders.** For as long as the Agreement is in effect, Customer may request the provision of additional service(s) or new Location(s) for Services by providing to PDI and PDI accepting, additional Order forms. All Orders and additional Locations shall be in governed by the terms and conditions of this Agreement and all similar rights and obligations apply; except that each additional Location shall have an Order Term commencing on the first day of the month after the date of installation for that Location and continuing thereafter for thirty-six (36) months, or as otherwise set forth in the applicable Order, or otherwise shall be subject to the Early Termination Fee as outlined in Section 5.3.2 below. After the expiration of the initial term, such Location shall automatically renew for additional twelve (12) month terms unless otherwise terminated as set forth herein.
  - 5.3. **Termination.**
    - 5.3.1. **Termination for Cause.** Either party may terminate this Agreement and all related Orders on thirty (30) days advance written notice if the other party (i) fails to cure a material breach within thirty (30) days of receiving written notice to do so (ii) is the subject of a dissolution, reorganization, insolvency or bankruptcy action that is not dismissed within forty-five (45) days of being filed; (iii) suffers the appointment of a receiver, conservator or trustee; (iv) commits any act related to the Service with the intent to defraud the other party; or (v) discontinues performance under this Agreement because of a binding order of a court or regulatory body.
    - 5.3.2. **Termination by Customer.** As specified in Customer's Order, Services are provided for a specified Order Term on noncancelable basis for the duration of the Order Term. Customer understands and acknowledges that in the event Customer terminates this Agreement or an Order for any reason other than PDI's breach, Customer agrees to pay PDI the following sums: (i) amounts owned for Services performed through the date of termination, (ii) any disconnection, early cancellation, termination or other charges paid by PDI to third parties for carrier services and/or equipment which arise as a result of such cancellation or termination, (iii) an amount equal to 75% of the total monthly fees for all remaining Order Terms, and (iv) a deinstallation fee equal to the amount paid by Customer for installation of the Equipment (the "ETF"). The ETF shall apply to each Location and for all Services provided hereunder. However, upon notification to and approval by PDI, Customer shall not owe the ETF if Customer successfully relocates the Equipment to another Location and utilizes

the Services at that Location. Such relocation must be effective within 90 days in order for PDI to waive the ETF.

- 5.3.3. **Termination by PDI.** In addition to the termination rights set forth above, PDI may terminate a Service, in whole or in part, without penalty, if PDI's agreement to use any third-party software or service upon which the Service relies expires or is terminated; provided, however, that prior to any such termination, PDI shall use commercially reasonable efforts to either (i) extend the applicable expiration or termination date so that its provision of the Service hereunder is not interrupted; (ii) procure a third-party software or service similar to the expired or terminated software or service in order to continue to deliver the Service without interruption and without reduction in quality or increase in cost to Customer; or (iii) develop another workaround that allows Customer to continue to receive the Service without interruption and without reduction in quality or increase in cost. In the event that PDI terminates a Service pursuant to this Section, then PDI shall provide Customer thirty (30) days advance written notice of such termination. In such event, Customer will pay PDI for the performed through the date of such termination.
- 5.3.4. **Return of Equipment.** Customer agrees that the obligation to return Equipment and to pay any applicable ETF survives any termination or expiration of this Agreement.

## 6. **Pricing.**

- 6.1. **Pricing.** Customer acknowledges that the pricing received is based, in part, on volume commitments and the length of the Initial Term of the Services. In consideration for Services provided to Customer by PDI, Customer agrees to pay PDI the fees and charges relating to such Services as set forth in each Customer Order.
- 6.2. **Shipping.** Customer is responsible for all shipping costs associated with Equipment shipment; such costs to be invoiced at standard available rates.
- 6.3. **Pricing Changes.** PDI reserves the right to change the prices for the Services during the Term of this Agreement as necessary to account for any increase in equipment provisioning or facility costs resulting from a change in Customer's Services' requirements when requested in writing by Customer. Customer acknowledges that tariffed local access charges (including, but not limited to, call set-up charges) which are imposed by third party carriers and which may be passed through to Customer, as set forth herein, are beyond the control of PDI and may be changed by such third-party carriers at any time during any Term of this Agreement. To the extent that any such change results in a price increase that PDI elects to pass through to Customer during the Term, PDI will furnish to Customer, at Customer's request, such materials as are reasonably necessary to document such increase.

## 7. **Fees and Payment.**

- 7.1. **Fees.** All charges and fees for PDI's Services will be charged in U.S. dollars on the terms and at the rates specified in Customers Orders. All charges and fees to be paid by Customer under this Agreement are exclusive of any applicable Taxes.
- 7.2. **Invoices and Payment.** PDI shall invoice Customer at the end of each full month during which Services were received. Such invoice and any supporting documentation sent to Customer shall set forth the total amount of fees and charges due to PDI, including for Services and associated Equipment provided to all Locations. Customer shall pay the Total Monthly Fee to PDI within 30 days following the date of invoice from PDI, without deduction or setoff. If any undisputed invoice is not paid to PDI within thirty (30) days of receipt, PDI reserves the right, without prejudice to any other remedy, to charge interest on such overdue sum from the due date until paid in full at the rate of 1.5% per month or the maximum rate permitted by law, whichever is less. Any and all disputed claims not submitted within said thirty (30) day period are deemed waived. PDI shall have the right, at its election and without obligation, in addition to all of its other rights and remedies, to immediately terminate this Agreement and/or suspend performance in the event of any undisputed overdue payment in excess of thirty (30) days and/or if payment has not been received by the expiration of the term of this Agreement. In the event of suspension of the Services, PDI shall not be liable for any resulting loss, damage or expense connected with such suspension. Payment to PDI from the Customer shall in no way be contingent on Customer's receipt of payment from the Locations.
8. **Proprietary Rights.** PDI and its licensors have and retain all right, title and interest in the Services, any modifications to, enhancements or derivative works of any of the foregoing, and all intellectual property rights in any of the foregoing. Customer shall not attempt in any way to alter, re-engineer, reverse engineer, tamper with, or otherwise misuse such Services.

## 9. **Confidentiality.**

- 9.1. For purposes of this Agreement, the term "Confidential Information" means any business, technical or other confidential, non-public and/or proprietary information, regardless of the medium of conveyance (whether in oral, written, graphic, electronic, or any other form, or effected through inspection, review, or analysis), obtained in the course of negotiating or performing this Agreement which originates with a party (the "Disclosing Party") and comes into the possession of the other party (the "Receiving Party"), including without limitation: the terms, conditions and existence of this Agreement, software, code, trade secrets, inventions, pricing, algorithms, know-how, business systems, technical and financial information and practices, plans, proposals, forecasts, personnel files and information, lists, statistics, passwords and other access codes or other such information of a Disclosing Party.
- 9.2. Unless the Disclosing Party agrees in writing, the Receiving Party agrees that all such Confidential Information shall be treated in confidence, shall be used by the Receiving Party only for the purposes of performing the Receiving Party's obligations and shall be disclosed only to those employees or contractors whose duties reasonably require access to such information and have agreed to comply with the terms of this section. The Receiving Party shall protect such Confidential Information from unauthorized disclosure with the same degree of care, which care shall not be less than reasonable care, that the Receiving Party exercises to protect its own Confidential Information.
- 9.3. Confidential Information shall remain the property of the party from or through whom it was provided. Notwithstanding the foregoing restrictions in this Section 8, neither party shall be obligated to preserve the confidentiality of any information that: (i) was previously known; (ii) is a matter of public knowledge; (iii) was or is independently developed without reference to the Disclosing Party's Confidential Information; (iv) is released for disclosure with the Disclosing Party's written consent; or (v) is received from a third party to whom it was disclosed without restriction. Disclosure of Confidential Information shall be permitted if it is: (a) required by law; (b) in connection with the tax treatment or tax structure of this Agreement; or (c) in response to a valid order of a U.S. court or other governmental body, provided the owner of the Confidential Information receives written notice and is afforded a reasonable opportunity to obtain a protective order.
- 9.4. This Section 9 shall survive for three (3) years following any termination or expiration of this Agreement; provided that with respect to Confidential Information remaining in the Receiving Party's possession following any termination or expiration of this Agreement, the obligations under this Section 8 shall survive for as long as such Confidential Information remains in such party's possession.

## 10. **Indemnification.**

- 10.1. **Indemnity.** Each party shall indemnify, defend, and hold harmless the other party and its affiliates, directors, officers, employees and agents (collectively, the "indemnitee") against any and all losses, liabilities, judgments, awards and costs (including reasonable legal fees and expenses) arising out of or related to any third-party claim for personal injury or property damage including any damages finally awarded attributable to such claim and any reasonable expense incurred by indemnitee in assisting indemnitor in defending against such claim, that arises out of any action or inaction by the indemnitor or its employees or agents; provided, however, that indemnitee gives indemnitor: (i) written notice within a reasonable time after indemnitee is served with legal process in an action asserting such claims, provided that the failure or delay to notify indemnitor shall not relieve indemnitor from any liability that it may have to indemnitee hereunder so long as the failure or delay shall not have prejudiced the defense of such claim; (ii) reasonable assistance in defending the claim; and (iii) sole authority to defend or settle such claim so long as such defense or settlement does not obligate the indemnitee financially or otherwise. In the event indemnitor elects not to defend any such claim, indemnitee shall have the option but not the duty to reasonably settle or defend the claim at its cost and the indemnitor shall indemnify indemnitee for such settlement or any damages finally awarded against indemnitee attributable to such claim, reasonable costs and expenses (including reasonable attorneys' fees) and interest on such recoverable funds advanced.
- 10.2. PDI shall defend, indemnify and hold harmless the Customer against any and all losses, liabilities, judgments, awards and costs (including reasonable legal fees and expenses) for any third party claim against Customer arising out of or related to any claim that any Service constitutes an infringement, misappropriation or unlawful use or disclosure of any intellectual property right of any third party; provided that PDI shall not be liable for any infringement or alleged infringement that results from: (i) use of a Service in a manner or for a purpose not specifically described in this Agreement; (ii) use of a Service in combination with computer programs, processes, hardware, software, data, systems, or services owned, licensed or provided by someone other than PDI; (iii) Customer's products or services not provided by PDI or a third party acting on its behalf; (iv) modification, change, amendment, customization, or adaptation of any Service not made by PDI or a third party acting on its behalf; or (v) Customer's failure to implement corrections or changes provided by PDI. If a claim of infringement has been asserted, or in PDI's opinion is about or likely to be asserted, PDI may, at its option either: (a) procure for Customer the

right to continue using the Service, Software or Deliverable; (b) replace or modify the Service, software, or Deliverable so that it becomes non-infringing; (c) terminate the applicable addendum or SOW and refund all pre-paid fees covering future use of the Service, software or Deliverable; or (d) defend the action on Customer's behalf and pay any associated costs or damages.

- 10.3. Customer will indemnify and defend PDI, its directors, officers, shareholders, employees, agents and their successors, from any and all third party claims and related loss, liability, damage and expense including reasonable attorneys' fees arising from improper use of Services or information, or any content or data transmitted across any portion of the PDI network including, but not limited to, libel, slander, invasion of privacy, infringement of copyright arising from any communication using the Services, claims of patent infringement arising from the combining or using of Services or with services or equipment provided by Customer or third parties.

## **11. Warranties and Limitations of Liability.**

- 11.1. Representations and Warranties. Each Party represents and warrants that: (i) it is a legal entity duly organized, validly existing and in good standing in its state of incorporation and principal place of business; (ii) it has all requisite corporate power and authority to execute, deliver and perform its obligations hereunder; (iii) it is duly licensed, authorized or qualified to do business in every jurisdiction in which a license, authorization or qualification is required for the ownership or leasing of its assets or the transaction of business of the character transacted by it, except when the failure to be so licensed, authorized or qualified would not have a material adverse effect on its ability to fulfill its obligations hereunder; (iv) it is not a party to any agreement with a third party, the performance of which is reasonably likely to affect adversely its ability or the ability of the other party to perform fully its respective obligations hereunder; and (v) its performance of its obligations under this Agreement will not violate any other agreement between such Party and any third party.

- 11.2. NO IMPLIED WARRANTIES. PDI MAKES NO OTHER WARRANTY OR GUARANTEE, EXPRESS OR IMPLIED, UNDER THIS AGREEMENT, AND PDI EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE. PDI DOES NOT WARRANT THAT THE PAYSAFE SPG SERVICES WILL PERFORM UNINTERRUPTED OR ERROR FREE, OR THAT THE FUNCTIONS OF THE PAYSAFE SPG INTERNET TECHNOLOGY WILL MEET CUSTOMER'S REQUIREMENTS OR THE REQUIREMENTS OF THE VENDORS, MERCHANTS OR RESELLERS.

- 11.3. INTERNET. TO THE EXTENT THAT CUSTOMER OFFERS PUBLIC INTERNET ACCESS AND INTERNET SERVICE ("PUBLIC INTERNET ACCESS"), CUSTOMER ACKNOWLEDGES AND AGREES THAT SUCH PUBLIC INTERNET ACCESS IS ON AN "AS IS" BASIS AND CUSTOMER'S PROVISION THEREOF IS AT CUSTOMER'S OWN RISK. PDI DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND IMPLIED WARRANTIES OR CONDITIONS RELATED TO CUSTOMER'S PUBLIC INTERNET ACCESS, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. PDI DOES NOT WARRANT THAT PUBLIC INTERNET ACCESS WILL PERFORM AT A PARTICULAR SPEED OR WILL BE UNINTERRUPTED, ERROR-FREE OR SECURE. NEITHER PDI NOR ITS OFFICERS, DIRECTORS, EMPLOYEES, AGENTS OR REPRESENTATIVES SHALL BE RESPONSIBLE FOR ANY DAMAGES, LOSSES, CLAIMS, EXPENSES, OR COSTS THAT CUSTOMER OR ITS CUSTOMERS INCURS AS A RESULT OF, OR IN ANY WAY RELATED TO, CUSTOMER'S PROVISION OF PUBLIC INTERNET ACCESS.

- 11.4. LIMITATION OF LIABILITY PDI'S LIABILITY TO CUSTOMER ON ACCOUNT OF ANY ACTS OR OMISSIONS RELATING TO THIS AGREEMENT SHALL BE LIMITED TO PROVEN DIRECT DAMAGES IN AN AGGREGATE AMOUNT NOT TO EXCEED AN AMOUNT EQUAL TO THE AMOUNT PAID BY CUSTOMER TO PDI DURING THE THREE (3) MONTHS PRECEDING THE MONTH IN WHICH THE CAUSE OF ACTION AROSE. CUSTOMER IS RESPONSIBLE FOR ALL FINES AND FEES ASSESSED BY ANY CARD SCHEME WITHOUT LIMITATION IN CONNECTION WITH VIOLATION OF PCI DSS COMPLIANCE. NEITHER PDI NOR CUSTOMER SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, RELIANCE, PUNITIVE OR SPECIAL DAMAGES, INCLUDING LIMITATION DAMAGES FOR HARM TO BUSINESS, LOST PROFITS, LOST SAVINGS OR LOST REVENUES, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; PROVIDED HOWEVER THAT NOTHING CONTAINED IN THIS CLAUSE (I) SHALL LIMIT CUSTOMER'S LIABILITY TO PAY ANY CHARGES, FEES AND/OR AMOUNTS DUE HEREUNDER FOR (A) SERVICES ACTUALLY PROVIDED BY PDI TO CUSTOMER PURSUANT TO THE TERMS HEREOF AND (B) CUSTOMER'S NONCOMPLIANCE WITH THE CARD SCHEMES' RULES, AND (II) SHALL LIMIT EITHER PARTY'S LIABILITY FOR PERSONAL PROPERTY DAMAGE OR PERSONAL INJURY OR DEATH DUE TO ITS GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

THE TOTAL AGGREGATE LIABILITY OF PDI ITS LICENSORS, DIRECTORS, OFFICERS, AND OR EMPLOYEES UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL, IN ALL CIRCUMSTANCES, BE LIMITED TO PROVEN DIRECT DAMAGES.

12. **Export Restrictions and Unlawful Activity.** PDI Services may be subject to export controls under applicable law. Accordingly, Customer shall: (i) remain in compliance with all requirements associated with these laws; (ii) cooperate fully with any audit related to these laws; and (iii) not utilize PDI Services in any country that is embargoed by the United States government. Customer represents that neither Customer, nor any of its directors, officers, agents, employees, or other persons associated with or acting on its behalf have received or will receive any unlawful contribution, gift, entertainment, or other payment from PDI or is in violation of, or will violate, any applicable anti-corruption or anti-bribery law. PDI shall have an irrevocable right to immediately terminate this Agreement if this subsection is breached.
13. **Disaster Recovery.** PDI will implement appropriate technical and organizational measures designed to minimize the risks associated with a disaster affecting PDI's ability to provide the Services under this Agreement. PDI shall back up and otherwise protect any programs, data, and equipment necessary to provide the Services.
14. **Miscellaneous.**
- 14.1. **Governing Law and Forum.** This Agreement will be governed by, and interpreted under, the laws of the State of Texas, without regard to conflict of laws principles. Jurisdiction and venue for any actions arising under or relating in any way to this Agreement shall vest exclusively in the courts of general jurisdiction of the State of Texas.
- 14.2. **Third Party Beneficiaries.** The provisions of this Agreement are for the benefit of the Parties hereto and not for any other person or entity.
- 14.3. **Attorneys' Fees.** If any action at law or in equity, including an action for declaratory relief, is brought to enforce or interpret the provisions of this Agreement, the prevailing Party will be entitled to recover costs of court and reasonable attorneys' fees from the other Party or Parties to such action in addition to any other relief that may be awarded.
- 14.4. **Assignment.** This Agreement may not be assigned or transferred by Customer without the prior written consent of PDI. PDI may assign this Agreement to an affiliate or to any successor to the business or assets of PDI to which this Agreement relates in its sole discretion, including, without limitation, by sale of voting stock, assets, merger, operation of law or otherwise. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties hereto, their successors and assigns.
- 14.5. **Relationship of Parties.** The Parties are independent contractors. Under no circumstances will the employees of one Party be deemed the employees of the other Party. This Agreement does not grant authority for either Party to act for the other in an agency or other capacity, or to make commitments of any kind for the account of or on the behalf of the other Party.
- 14.6. **Notices.** Notices to PDI under this Agreement must be in writing and sent by electronic mail as agreed to by the parties or by postage prepaid first-class mail or receipted courier service at the address below and will be effective upon the earlier of receipt or the fifth business day following mailing. Billing related notices to Customer will be addressed to the relevant billing contact designated by Customer. All other notices to Customer will be addressed to the relevant account contact designated by Customer.

**Notice Address for PDI:**  
Professional Datasolutions, Inc.  
14241 Dallas Parkway, Suite 400  
Dallas, Texas 75254  
Attn: President & General Manager, MCS

With a copy to:  
Professional Datasolutions, Inc.  
14241 Dallas Parkway, Suite 400  
Dallas, TX 75254  
Attn: Chief Legal Officer

This Section shall apply for formal contract notices only and shall not limit the Parties' ability to communicate via electronic mail or other methods as agreed to by the Parties for routine communication.

- 14.7. **Force Majeure.** Neither Party will be liable for any loss, damage or penalty resulting from delays or failures in performance hereunder, other than the payment of money, resulting from acts of God or other causes

beyond its control; provided that the affected Party will promptly notify the other and use its good faith efforts to perform or affect a cure.

- 14.8. Waiver. No waiver of any rights will be effective unless agreed to in writing by the Party to be charged. The waiver of any breach or default will not constitute a waiver of any other right hereunder or any subsequent breach or default.
- 14.9. Amendment. Except as otherwise provided for in this Agreement, the provisions herein may be modified only upon the mutual agreement of the Parties, however, no such modification shall be effective until reduced to writing and executed by both Parties.
- 14.10. Severability. If any provision of this Agreement is determined to be invalid or unenforceable, it will be deemed to be modified to the minimum extent necessary to be valid and enforceable. If it cannot be so modified, it will be deleted, and the deletion will not affect the validity or enforceability of any other provision.
- 14.11. Entire Agreement. This Agreement constitutes the entire and exclusive Agreement between the Parties hereto with respect to the subject matter hereof.