

TERMS OF SERVICE

SOFTWARE LICENSE AGREEMENT TERMS

IMPORTANT!!!

READ THIS SOFTWARE LICENSE AGREEMENT ("AGREEMENT") CAREFULLY BEFORE ACCESSING AND/OR USING THE PURCHASED ITEMS (AS MORE FULLY DEFINED BELOW) AND RELATED DOCUMENTATION, IF ANY. THIS AGREEMENT CONSTITUTES A LEGALLY BINDING AGREEMENT BETWEEN "CUSTOMER" (AS DEFINED BELOW) AND COLLISION RESOURCES, INC. ("CRI"). IF THE SOFTWARE IS ACCESSED AND/OR USED, CUSTOMER IS DEEMED TO HAVE UNCONDITIONALLY ACCEPTED THIS AGREEMENT AND AGREES TO BE BOUND BY ITS TERMS. FURTHER, BY CLICKING "AGREE" AT THE END OF THIS DOCUMENT, CUSTOMER HAS DEMONSTRATED CUSTOMER'S UNCONDITIONAL ACCEPTANCE OF THIS AGREEMENT AND THIS AGREEMENT IS EFFECTIVE AS OF THAT DATE ("EFFECTIVE DATE"). IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT (AS DEMONSTRATED BY CLICKING "DO NOT AGREE"), CUSTOMER IS NOT AUTHORIZED TO ACCESS AND/OR USE THE SOFTWARE PRODUCT; AND AS A RESULT, CUSTOMER SHALL IMMEDIATELY CEASE ACCESS AND/OR USE OF THE SOFTWARE PRODUCT. THIS AGREEMENT, IF ACCEPTED, AND ANY AGREEMENTS AND TERMS AND CONDITIONS INCORPORATED BY REFERENCE REPRESENT THE COMPLETE AGREEMENT BETWEEN CUSTOMER AND CRI CONCERNING THE PURCHASED ITEMS (AS DEFINED BELOW) AND IT SUPERSEDES ANY PRIOR OR CONCURRENT AGREEMENT, REPRESENTATION, OR UNDERSTANDING BETWEEN THE PARTIES, INCLUDING BUT NOT LIMITED TO ANY ASSOCIATED CUSTOMER PURCHASE ORDER TERMS AND CONDITIONS UNDER WHICH THE SOFTWARE PRODUCT OR ANY PURCHASED ITEM WAS OBTAINED, UNLESS OTHERWISE AGREED IN WRITING.

CRI and Customer may be alternatively referred to as party, individually, and parties, collectively.

Customer is either: (i) a sole individual or (ii) a legal entity. In the latter case, it is the legal entity and not the employee, agent or representative ("users") of Customer that is entering into this Agreement. Further, in the case of a legal entity, Customer may have multiple authorized and recognized users networked and/or residing at various Customer physical locations that may access and use the Purchased Items on behalf of and for the benefit of Customer. Such users unconditionally bind Customer to this Agreement. Notwithstanding the foregoing, Customer assumes the entire responsibility and liability to verify Customer's authorized and recognized users that access and utilize the Purchased Items. This Agreement and the referenced terms and conditions apply to all availability of the Purchased Items.

1. **Purpose.** This Agreement recites the terms and conditions under which CRI shall provide Customer with (a) a certain number of subscription licenses to access and use the Software Product, as specified in the Quote; (b) certain onboarding assistance for the Software Product ("Onboarding Service" or "Onboarding Services"), and (c) an agreed upon measure of the average response and resolution times that CRI shall provide to Customer ("Service Level Agreement" or "SLA"), as described in the Quote. The Quote is incorporated into this Agreement by this reference and provides further clarification, details, terms and conditions regarding the Purchased Items. This Agreement DOES NOT cover any additional services, such as further training or custom development.
2. **Definitions.** The following terms when used in this Agreement shall have the following meanings:
 - a. "*Affiliate*" means any direct or indirect parent or subsidiary, or any other entity in which a Party has a controlling interest.
 - b. "*Customer Data*" or "*Data*" means End-User supplied information or data that is specific to Customer and is used to populate CRI formats or data models based on customized queries to provide custom representations of such data or information in the form of generated work products to accomplish certain Customer customized tasks. Data is collected, stored, processed and manipulated through the access and use of the Software Product. End-User supplied Data is confidential and proprietary to Customer.
 - c. "*End-Users*" mean the individuals who access and use the Purchased Items consistent with the terms and conditions recited in this Agreement and under the Quote. End-Users must be specifically identified, in writing, by Customer. Direct competitors of CRI and individuals who desire to access the Purchased Items for the purposes of monitoring availability, performance or functionality of the Software Product or SLA, or for any other benchmarking competitive purpose, cannot be End-Users.
 - d. "*End-User Documentation*" is defined as any operating or user manuals or other embodiment of information (either in hard copy or electronic form) that CRI provides to End-Users explaining the performance, use and operation of the Purchased Items.
 - e. "*EULA*" means the End-User License Agreement, if any, that End-Users of the desktop and mobile versions of the Software Product shall click-through or otherwise accept when accessing the Software Product, under which they shall, among other actions, become bound by this Agreement. If no separate EULA exists, this Agreement shall constitute the EULA.

- f. *"Purchase Order"* or *"P.O."* means the ordering document generated by Customer based on the Quote to obtain from CRI the Purchased Items, which P.O. terms are superseded in their entirety by this Agreement.
- g. *"Purchased Items"* means the Software Product, Onboarding Services and the SLA.
- h. *"Quote"* means CRI's written quote concerning the Purchased Items, when accepted by Customer.
- i. *"Software Product"* means CRI's CR Auto Scheduler™, CR Auto Scheduler Plus™ and CR Auto Scheduler Me™ software (collectively, the "CR Auto Scheduler Program"), (2) the CRASWatch™ and CRASLink™ software (collectively, the "CR Auto Scheduler Support Programs") that support the CR Auto Schedule Program, and all related materials and documentation (including the End-User Documentation) (collectively, the "CR Program Group").
- j. *"Third-Party Products"* means third-party software products that CRI incorporated in or used to build the Software Product. With respect to the Third-Party Products, this Agreement comprises and incorporates by reference the terms and conditions accepted by CRI for use of the Third-Party Products, to the extent such terms and conditions are transferable to Customer and/or End-Users.

3. **Term.** The term of this Agreement shall be for an initial term of one (1) year from the Effective Date, unless earlier terminated under Section 11 (as extended or earlier terminated, the "Term"). Additionally, unless earlier terminated as provided for in this Agreement, this Agreement shall automatically extend as the for additional one (1) year terms ("Renewal Term") under the same terms and conditions as recited in this Agreement subject to cost adjustments and modifications, if any, to the Purchased Items, as provided in the subsequent Quotes and invoices issued therefrom. Each Party may elect not to enter into a Renewal Term but such election must be provided for in writing as provided under Section 11.

4. Purchase of the Software Product, Onboarding Service and SLA.

- a. This Agreement shall apply to the purchase of a certain number of subscription licenses to the Software Product as set forth in a Quote, the Onboarding Service as set forth in the Quote, and the SLA as set forth in the Quote. Customer acknowledges that the Software Product is NOT sold but licensed for access and use as set forth in the EULA terms and conditions and supplemented by this Agreement. In the event of conflict between this Agreement and the EULA, the terms of this Agreement shall control.
- b. The cost, including applicable taxes, fees, costs and charges, for the Purchased Items is contained in the Quote. The full cost of the Purchased Items shall be due and payable by Customer to CRI net thirty (30) days after the invoice date, and when paid, such payment shall be non-refundable except as provided under the EULA. Acceptance of the Software Product is as provided under the EULA. Following the foregoing acceptance, the warranty period (including, without the limitation, under the EULA and Section 5 below) applies to the Software Product. Notwithstanding the foregoing, if the costs do not include taxes, levies, duties or similar government assessments of any nature ("taxes"), Customer shall be responsible and liable for any taxes due and payable in connection with the purchase of the Purchased Items. If CRI has the legal obligation to collect or pay taxes for which Customer is responsible, CRI shall be permitted to invoice Customer and receive payment thereof unless Customer can provide CRI with a valid tax exemption certificate authorized by the appropriate tax authority. CRI acknowledges that CRI is responsible for taxes assessed against CRI based on CRI's receipt of income, use of CRI property or in connection with CRI employees.
- c. If Customer is delinquent in payment, CRI, without limiting any other rights and remedies available to it, shall be entitled to charge interest on all outstanding delinquent amounts, in an amount equal to 18% per annum (or such lesser amount that is the maximum legally allowable interest rate), until such amounts are paid. All exchange, interest, banking, collection and other charges shall be at Customer's expense. CRI may require an irrevocable letter of credit from a bank acceptable to CRI regarding payment if Customer's payments are delinquent beyond the thirty (30) day period stated in Section 4(a) above. In the event of conflicts between the terms of any P.O. and this Agreement, the terms of this Agreement shall prevail and supersede the terms of the P.O. If Customer cancels any P.O. after CRI accepts such P.O., then Customer shall reimburse CRI for any costs and expenses incurred incident to such efforts and activities that occurred under the P.O.
- d. Except as otherwise recited in the Quote, if any amount that is due and owing is more than thirty (30) days overdue under this or any other related agreement for the Purchased Items, CRI, without limiting any other rights and remedies available to it, may (i) accelerate all payments that are due and owing so that all such payments become due and owing immediately, and/or (ii) suspend all access and use of the Purchased Items until all amounts are paid in full. Notwithstanding the foregoing, CRI shall provide at least ten (10) days' prior written notification to Customer that access and use of the Purchased Items shall be suspended.

- e. Except as otherwise recited in the Quote, CRI shall not take either of the actions described in Section 4(d) if Customer is disputing the applicable unpaid charges reasonably and in good faith and is cooperating diligently to resolve the dispute within thirty (30) days after the date that written notice of such dispute is forwarded from Customer to CRI. Failure by the Parties to resolve the dispute in such thirty (30) day period shall be grounds for termination of this Agreement as provided in Section 11. Further, Customer acknowledges that timely payment of amounts due under this Agreement is not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by CRI regarding future Add-ons, other software products or improved performance.

5. Warranty/Disclaimer of Warranties.

- a. Each of the Parties represents and warrants to the other Party that it has full power and authority to enter into this Agreement without restriction and has the legal authority to do so; and that its execution and delivery of this Agreement (by executing and delivering the Quote), and its performance of its obligations under this Agreement, do not or shall not conflict with any agreement, obligation or understanding, whether written or oral, to which it is a party or by which it may be bound.
- b. CRI warrants and represents that the Software Product shall be accessible and usable by End-Users when End-Users are identified by Customer, which Customer must access and use promptly by End-User to verify access and use. If such access and use is not promptly achieved by the End-User, Customer shall promptly, in writing, notify CRI and CRI shall remedy such access and use so as to allow End-User access and use; provided that such non-access or non-use is directly traceable to the Software Product. No warranty applies where the Software Product has been modified, altered or changed by Customer or any third party or used inconsistently with CRI provided specifications or used with non-recommended or non-authorized third-party software or hardware. When the Software Product is accessed and used, CRI provides no other warranties (and disclaims all implied warranties) with respect to the Software Product. Any breach of this warranty shall be subject solely to the following available remedies to be provided by CRI, which election of remedy shall be at CRI's election, which shall be to either: (i) fix the access and use problem or (ii) issue a refund of only the amount of money that is equal to the exact price paid for only the Software Product line item as evidenced on the associated Software Product invoice. The foregoing warranty covers only problems arising under normal use and does not include malfunctions or failure resulting from misuse, abuse, neglect, alteration, problems with electrical power, acts of nature, unusual temperatures or humidity, improper installation, or damage determined by CRI to have been caused by Customer. All limited warranties on the Software Product are granted only to Customer and are non-transferable and non-assignable. The foregoing serves as CRI's entire liability for the Software Product with respect to function, operation or performance or any other problem with the Software Product and shall serve as Customer's sole and entire remedy with respect to the authorized access and use of the Software Product.
- c. CRI warrants to Customer that support provided per the SLA shall be performed in a commercially reasonable manner, subject to professional standards, and substantially compliant with the Customer elected serviceability level. Except when otherwise recited in the Quote, CRI warrants to Customer that any deliverables (error corrections, bug fixes, updates or modifications) under the SLA shall be operational and perform free of defects, bugs or errors, and CRI shall remedy any problem that is directly attributable to the Software Product. For the breach of this warranty, CRI shall provide a fix such as an error correction or bug fix. This warranty serves as CRI's entire liability with respect to the function, operation or performance of the Software Product and/or the SLA and Customer's sole remedy with respect to any breach of this warranty. EXCEPT WHEN OTHERWISE STATED, THE SUPPORT PROVIDED PER THE SLA, INCLUDING ANY DELIVERED ERROR CORRECTION, BUG FIXES, UPDATES OR MODIFICATIONS, ARE PROVIDED "AS IS" AND THERE ARE NO OTHER WARRANTIES (AND CRI DISCLAIMS ALL IMPLIED WARRANTIES), INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE EXPECTATIONS OR NON-INFRINGEMENT OR CLAIMS OF INFRINGEMENT, MISAPPROPRIATION, MISUSE OR UNAUTHORIZED USE FROM A THIRD-PARTY.
- d. Customer acknowledges that Customer's access to the Software Product and CRI's ability to perform support per the terms of the SLA may be adversely affected by certain events such as scheduled maintenance; network or equipment failure outside of CRI's control; Third-Party Product problems, affects or issues or third-party acts of negligence or omissions; unauthorized access, breach or use by any third party of the Software Product; and other events and circumstances beyond CRI's control. The occurrence of such events and circumstances shall not be considered a breach by CRI.
- e. EXCEPT WHERE OTHERWISE STATED, THE PURCHASED ITEMS ARE PROVIDED "AS IS". CRI MAKES NO (AND DISCLAIMS ALL) OTHER WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR IN LAW, INCLUDING, BUT NOT LIMITED TO, ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR CLAIMS OF INFRINGEMENT, MISAPPROPRIATION, MISUSE OR UNAUTHORIZED USE FROM A THIRD PARTY OTHER THAN AS SET FORTH IN THIS AGREEMENT, INCLUDING THE LIMITED WARRANTY RECITED IN SECTION 11.

SECTION 5.

- f. CRI MAKES NO WARRANTY (AND DISCLAIMS ALL IMPLIED WARRANTIES) THAT THE PURCHASED ITEMS WILL MEET CUSTOMER'S REQUIREMENTS OR OPERATE UNDER CUSTOMER'S SPECIFIC CONDITIONS OF USE OR THAT OPERATION OF THE PURCHASED ITEMS WILL BE SECURE, ERROR FREE, BUG FREE OR FREE FROM INTERRUPTION. CUSTOMER MUST DETERMINE WHETHER THE PURCHASED ITEMS SUFFICIENTLY MEETS CUSTOMER'S REQUIREMENTS FOR SECURITY AND UNINTERRUPTABILITY. CUSTOMER SHALL BEAR SOLE RESPONSIBILITY AND ALL LIABILITY FOR ANY LOSS INCURRED DUE TO FAILURE OF THE PURCHASED ITEMS TO MEET CUSTOMER'S REQUIREMENTS. CRI SHALL, UNDER ANY CIRCUMSTANCES, BE RESPONSIBLE OR LIABLE FOR THE LOSS OR CORRUPTION OF DATA ON ANY COMPUTER OR INFORMATION STORAGE DEVICE OR IN CONNECTION WITH THE PURCHASED ITEMS THAT IS ACCESSED AND USED BY CUSTOMER. CUSTOMER SHALL ASSUME ENTIRE LIABILITY FOR ANY OF CUSTOMER'S DATA OR INFORMATION WHICH IS IMPORTED, PROCESSED AND/OR EXPORTED IN CONNECTION WITH THE PURCHASED ITEMS. THE PURCHASED ITEMS DO NOT GUARANTEE OR MAKE ANY REPRESENTATIONS REGARDING THE USE OR ACCURACY OF THE PURCHASED ITEMS. NO ORAL OR WRITTEN INFORMATION OR ADVICE FROM CRI PERSONNEL, EMPLOYEES, AGENTS, REPRESENTATIVES OR CONSULTANTS SHALL CREATE ANY WARRANTY OR IN ANY WAY INCREASE THE SCOPE OF CRI'S OBLIGATIONS UNDER THIS AGREEMENT. FURTHER, IN NO EVENT SHALL CRI WARRANT ANY UPTIME OR BE LIABLE FOR DOWNTIME, LOST PROFITS, BUSINESS INTERRUPTION, REPLACEMENT PURCHASED ITEMS OR REPLACEMENT SOFTWARE PRODUCTS THAT FUNCTION WITH THE ASSOCIATED PURCHASED ITEMS.
- g. During the Term and except as otherwise provided in this Agreement or under the EULA, CRI makes no warranty or representation (and disclaims all warranties and representations) regarding the applicable administrative, physical and technical safe guards for the protection of security, confidentiality and integrity of Data; or that CRI will maintain the standards and security of the Data. CRI has implemented reasonable security measures, systems and procedures to protect against anticipated or hazards to the security, integrity or compromise of Data.

6. Data and Security.

- a. Customer assumes all responsibility and liability for the Data that is imported, exported, uploaded, provided, accessed, used, processed, stored or displayed through the use of Purchased Items. CRI assumes no (and disclaims all) responsibility for the accuracy, completeness or veracity of the Data. Customer grants CRI the non-exclusive right to use, copy, access, process, reproduce, display, modify, store, host, distribute and transmit the Data during the Term and each Renewal Term solely for the purposes of fulfilling the terms of this Agreement in connection with the Purchased Items,
- b. Customer shall assume all responsibility and liability for End-Users and any account set up by End-Users, and any negligent acts or omissions of End-Users shall be the sole responsibility of Customer; Customer shall bear all liability in connection therewith. End-Users shall comply with all terms and conditions of this Agreement referencing End-Users, and shall not share, transfer or use account information with any third party or any other End-User.
- c. CRI shall use reasonable commercial efforts to maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Data to which CRI may have access. Those safeguards shall include, but shall not be limited to, measures for preventing access, use, modification or disclosure of Data by CRI personnel except (i) to provide any custom services and to prevent or address service or technical problems, (ii) as compelled by law, or (iii) as Customer expressly permits in writing. Within fourteen (14) days after the date of expiration or earlier termination of this Agreement, CRI, at Customer's request, shall export or download Data as per the terms set forth at www.collisionresourcesinc.com; or in the alternative, shall delete, destroy and erase all Data and confirm such destruction with written confirmation. After the lapse of such fourteen (14) day period, CRI shall have no further obligation to maintain the Data or return any Data to Customer and shall delete, destroy and erase the Data.
- d. Customer shall: (i) be responsible for End-Users' compliance with this Agreement; (ii) be responsible for the accuracy, quality and legality of Data and the means by which Customer acquired Data; (iii) use commercially reasonable efforts to prevent unauthorized access to or use of Purchased Items, and notify CRI promptly of any such unauthorized access or use; (iv) use Purchased Items only in accordance with this Agreement and applicable laws and government regulations; and (v) comply with terms of service of any Third-Party Products with which Purchased Items are used.
- e. Neither Customer nor any End-User shall (i) make any of the Purchased Items available to, or use any of the Purchased Items for the benefit of, anyone other than Customer or End-Users, unless expressly stated otherwise in a Quote; (ii) sell, resell, license, sublicense, distribute, make available, assign, transfer, disclose, disseminate, rent or lease any of the Purchased Items, or include any of the Purchased Items in a service bureau or outsourcing offering, (iii) use any of the Purchased Items or any Third-Party Product to store or transmit infringing, libelous or otherwise unlawful or tortious material or to store or transmit material in violation of

including, without limitation, (i) use any of the Purchased Items or any Third-Party Product to store or transmit Malicious Code (code, files, scripts, agents or programs intended to do harm, including but not limited to viruses, worms, time bombs or Trojan horses), (v) interfere with or disrupt the integrity or performance of any of the Purchased Items or third-party data contained therein, (vi) attempt to gain unauthorized access to the Software Product or its related systems or networks, (vii) permit direct or indirect access to or use of the Software Product in a way that circumvents a contractual usage limit, or use the Software Product or its related systems or networks to access or use any of CRI's intellectual property except as permitted under this Agreement, a Quote, (viii) copy the Software Product or any part, feature, function or user interface thereof, (ix) frame or mirror any part of any Software Product, (x) access the Software Product in order to build a competitive product or service or to benchmark with a another software product or service, or (xi) disassemble, decompile, reverse engineer or alter the Software Product. Any use of the Software Product in breach of this Agreement or Quote, by Customer, End-Users that in CRI's judgment threatens the security, integrity or availability of CRI's Software Product, may result in Customer's immediate loss of access to the Software Product, however CRI shall use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to such suspension.

7. Proprietary Interest; Authorization; Confidentiality.

- a. Customer acknowledges that CRI owns all right, title and interest in and to Information (as subsequently defined), inventions, research, developments, concepts, ideas, methods, processes, interfaces, techniques, technology, know-how, software, in whatever form, designs, improvements, enhancements, modifications, versions, releases, updates, bug fixes, error corrections, system(s), architecture, expressions, documents (whether in tangible or electronic form) and/or derivative works related to the Purchased Items (collectively, "Intellectual Property") that is in existence as of the Effective Date or that is developed or created by CRI, Customer or End-User, whether or not jointly, during the Term and the Renewal Term and is related to the Purchased Items. Customer acknowledges that any improvement, enhancements, bug fixes, modifications or derivative works that are developed, created or generated by CRI, and/or Customer or End-User from the preceding, during the Term and each Renewal Term, shall also be owned by CRI and Customer and End-User assigns, without further action or documentation, the foregoing to CRI to confirm CRI's ownership of all rights, title and interests therein. Additionally, all Intellectual Property that CRI, whether solely or jointly with Customer or End-User and during the Term or while performing support per the SLA, develops, creates or generates that is derived from any CRI background Intellectual Property or CRI Information shall be wholly owned by CRI, and all right, title and interest therein shall vest entirely in CRI (collectively, "CRI Property").
- b. During the Term, CRI grants to Customer a non-exclusive, non-sublicensable, non-transferable, limited right solely to access and use, internal to Customer, the Software Product only as provided under the EULA, to access and use the Onboarding Services, and to receive support per the SLA. Customer shall not reverse engineer, create derivative works, copy, distribute or modify the Purchased Items. All deliverables provided under the SLA, including updates, versions, releases, error corrections, modifications, bug fixes or any other derivative works, shall be subject to the license granted herein. No other rights or interests are granted, express or implied, to Customer by CRI as a result of Customer's receipt of any information from CRI under this Agreement.
- c. During the Term, CRI grants to Customer the non-exclusive, non-sublicensable, non-transferable, limited right solely (i) to use certain items of CRI Property only for the purposes of this Agreement; (ii) to copy, disseminate and distribute, either in tangible form or electronic form, End-User Documentation under end user license agreements substantially similar in form and substance to the EULA; (iii) to create derivative works (including translations) of End-User Documentation; and (iv) to copy, disseminate and distribute (whether in electronic or tangible form) End-User Documentation or such derivative works bearing CRI's copyright notice in the form as displayed on CRI's website; provided, however, that such end user license agreements, derivative works and copies of End-User Documentation and derivative works thereof shall be subject to CRI's prior written consent and, if CRI objects, Customer shall modify the item that presents a concern to CRI to conform to CRI's requirements. The licenses and rights described in this Section 7(c) do not diminish, in any manner, CRI's rights, title and interests in CRI Property, and Customer's use is limited to the scope of the rights and authorizations described in this Section 7(c). Customer must include all proprietary notices on any and all Purchased Items. CRI does not grant Customer any other licenses, express or implied, to any CRI Property, except as otherwise provided in this Section 7(c).
- d. During the Term, Customer shall not remove any of CRI's trademarks (nor notices associated therewith) applied to the Purchased Items. Except as set forth in this Section 7(d), nothing contained in this Agreement grants to Customer any right, title or interest in CRI's trademarks or copyrighted material, and Customer shall not assert any right, title or interest in or to any of such trademarks or copyrighted material, including derivative works and any translations thereof. Customer acknowledges the validity of CRI's trademarks and copyrights; and at no time during or after the Term shall Customer (i) register or attempt to register any trademarks identical to or confusingly similar to those trademarks of CRI or to any copyrighted CRI materials or documentation, whether

tangible or electronic, or (ii) challenge or assist others to challenge CRI's trademarks or the registration thereof.

Customer shall promptly notify CRI of any apparent infringement or threatened infringement of any CRI trademark or copyright or any other CRI Property, and shall, upon request by CRI, and at CRI's expense, use its best efforts to assist CRI to restrain any such infringement or threatened infringement. Customer shall include and display on all Software Products, End-User Documentation and derivatives and copies thereof all copyright notices as requested by CRI, and shall retain such notices intact and unaltered.

- e. CRI information ("Information"), whether disclosed in oral, visual or written form, is defined as, but not limited to, Specifications, drawings, designs, Software Product plans, Software Product blueprints; service offerings; CRI Property, mechanical/electrical specifications, equipment; current and future product plans; system architectures; product strategies; algorithms, programs and software (object, source, microcode, binary or HTML), including any associated improvements, updates, error corrections, new versions, revisions, new releases, enhancements, modifications; scientific and technical data; equations, prototypes, demonstration packages; user manuals, instruction sheets and documents; marketing strategy, customer lists, personnel information, business strategies; financial information and data; and any other technical and/or business information related to the support per the SLA, custom services deliverables, CRI Property, Software Product, or any information marked with a CRI confidential or similar legend. Such Information is considered to be confidential and proprietary to CRI. Customer shall use reasonable efforts to protect the confidentiality of the Information, and to prevent the unauthorized use, dissemination, disclosure or publication of the Information to any third party. However, Customer shall be permitted to disclose Information to employees, subcontractors and consultants, who have a definable need to know, and who are under written obligations commensurate with the terms and conditions recited in this Agreement. Customer shall use the Information only for the purposes recited in this Agreement, and for no other purposes whatsoever. The term of confidentiality shall include the Term and extend beyond the expiration and/or earlier termination date of this Agreement for five (5) years, except for "trade secrets," which confidentiality shall remain an obligation on Customer as provided under applicable law. Information shall not include information that Customer can demonstrate (i) was rightfully in Customer's possession before receipt from CRI; (ii) is or becomes a matter of public knowledge through no fault of Customer; (iii) is rightfully received by Customer from a third party without a duty of confidentiality; (iv) is disclosed under operation of law; or (v) is disclosed with CRI's prior written approval. Customer acknowledges that CRI deems the terms and conditions recited in this Agreement, but not the parties to or the existence of this Agreement, to be confidential.
- f. Any Customer or End-User suggestions, feedback, requests, recommendations and other opinions and submissions in connection with the Purchased Items shall be considered the proprietary and confidential information of CRI.

8. Patent, Copyright, Trademark Claims; Limitation on Liability.

- a. CRI, at its expense, shall, indemnify, hold harmless and defend Customer with respect to any claims, suits or proceedings brought against Customer on the issue of infringement of U.S. patent or copyright, or at its option, shall settle, any claim, suit or proceeding brought against Customer on the issue of infringement of any U.S. patent or copyright by the Software Product provided under this Agreement or the use thereof, subject to the limitations hereinafter set forth. CRI shall have sole control of any such action or settlement negotiations, and CRI agrees to pay, subject to the limitations hereinafter set forth, any final judgment entered against Customer on such issue in any such suit or proceeding defended by CRI. Customer agrees that CRI, at its sole option, shall be relieved of the foregoing obligations unless Customer notifies CRI promptly (within 3 days of such claim notification) in writing of such claim, suit or proceeding and gives CRI authority to proceed as contemplated herein and, at CRI's expense, gives CRI proper and full information and assistance to settle and/or defend any such claim suit or proceeding. If the Software Product, or any part thereof, are, or in the opinion of CRI may become, the subject of any claim, suit or proceeding for infringement of any U.S. patent or copyright, or if adjudicated, a non-appealable judgment indicates that the Software Product, or any part thereof, infringe any U. S. patent or copyright, or if the use of the Software Product, or any part thereof, is, as a result, enjoined, then CRI may, at its option and expense either: (i) procure for Customer the right under such patent or copyright to access or use, as appropriate, the Software Product; or (ii) replace the Purchased Items with other comparable products or services; or (iii) modify the Software Product to operate substantially the same as the original Software Product but in a non-infringing manner; or (iv) if the use of the Software Product is prevented by injunction, remove the Software Product, and provide a refund of monies for the fees paid by Customer under this Agreement for the six (6) months immediately preceding the date on which the claim arose for use of the Software Product. CRI shall not be liable for any costs or expenses incurred by Customer without its prior written authorization.
- b. Notwithstanding the above, CRI assumes no liability for any third party claims to the extent they are attributable to: (i) infringement combinations, methods or processes in which the Software Product is used without authorization; (ii) infringement for Software Product when used alone are not infringing; (ii) infringement

involving the unauthorized modification, alterations, changes or misuse of the Software Product, (iii) use of the Software Product in combination with other unauthorized software or hardware; or (iv) accessing, using, copying, creating derivative works or distributing material or work derived from the Software Product that was not authorized by CRI.

- c. The foregoing provisions state the entire liability and obligations of CRI regarding any claim of infringement and the exclusive remedy of Customer with respect to any alleged infringement of U.S. patents or copyrights in connection with the Software Product.

9. Publicity; Non-Solicitation.

- a. During the Term, CRI shall be authorized to use Customer's name in advertising, promotional or other literature, whether tangible or intangible, in connection with the Purchased Items. CRI may post on its website: (i) the logo of Customer; and (ii) a link to Customer's website.
- b. During the Term and for one (1) year following termination of this Agreement, the Parties agree that neither Party shall solicit or recruit, directly or indirectly, any employee, consultant, sub-contractor or representative of the other for employment, consulting or other engagement where such employee, consultant, sub-contractor or representative is or was connected, in any manner, with this Agreement. This provision shall not prohibit the hiring of any person who responds to general solicitations, including but not limited to, job postings published in newspapers, trade publications or on websites that did not target that person directly, provided that no hiring of prohibited persons occurs. This Section 9(b) shall survive termination of this Agreement.

10. Indemnity/Limitation of Liability.

- a. Customer shall indemnify, defend and hold harmless CRI from and against all claims, costs, liabilities, damages, and judgments (including attorney's fees and court costs) that CRI may suffer or incur arising out of third party claims to the extent arising from or relating to: (i) Customer's business and commercial activities (including Customer's business arrangements with any third party, including End-Users); (ii) Customer's or any End-User's access to, use of, possession of, or operation of any of the Purchased Items; (iii) Customer's or any End-User's failure to access or use the Purchased Items in accordance with this Agreement; (iv) Customer's or any End-User's unauthorized use, misuse, modification or alteration of the Software Product; or (v) Customer's misuse or unauthorized use of CRI Property.
- b. EXCEPT WHERE STATED HEREINABOVE, THE PURCHASED ITEMS ARE PROVIDED BY CRI "AS IS," AND THERE ARE NO OTHER (AND CRI DISCLAIMS ALL) WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR CLAIMS OF INFRINGEMENT, MISAPPROPRIATION, MISUSE, OR UNAUTHORIZED USE BY A THIRD-PARTY.
- c. EXCEPT WHERE OTHERWISE RECITED IN THIS AGREEMENT WITH RESPECT TO BREACHES OF CRI PROPERTY, IN NO EVENT, WHETHER AS A RESULT OF BREACH OF CONTRACT, BREACH OF WARRANTY, OR TORT, OR OTHERWISE, SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY SPECIAL, PUNITIVE, CONSEQUENTIAL OR INCIDENTAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES ASSOCIATED WITH OR ARISING FROM LOSS OF PROFIT OR REVENUES, OR UNREALIZED SAVINGS, WITH RESPECT TO THIS AGREEMENT, THE SUBJECT MATTER OF THIS AGREEMENT OR RESULTING FROM THE ACCESS, POSSESSION, USE OR OPERATION OF THE PURCHASED ITEMS.
- d. CRI'S ENTIRE LIABILITY TO CUSTOMER AND ALL END-USERS FOR ANY CLAIM FOR ANY KIND OF LOSS OR DAMAGE ARISING OUT OF OR RESULTING FROM ANY BREACH OF THIS AGREEMENT, THE SUBJECT MATTER OF THIS AGREEMENT OR FROM THE PURCHASED ITEMS SHALL BE LIMITED ONLY TO ACTUAL AND PROVABLE DAMAGES UP TO AND NOT EXCEEDING THE AMOUNT OF MONIES PAID BY CUSTOMER TO CRI UNDER THIS AGREEMENT IN THE PRECEDING SIX (6) MONTHS RELATING TO THE PURCHASED ITEM THAT GAVE RISE TO THE CLAIM. THE FOREGOING SHALL SERVE AS THE ENTIRE LIABILITY AND AMOUNT OF DAMAGES AVAILABLE FROM CRI WITH RESPECT TO ANY CLAIM MADE UNDER THIS AGREEMENT.

11. Termination.

- a. Either Party may terminate this Agreement effective on the anniversary of the Effective Date, without cause, upon at least ninety (90) days' prior written notice. Failure to so terminate shall result in this Agreement extending for another twelve (12) month term with all amounts due and owing as provided in the applicable Quote or in this Agreement.
- b. If either Party materially defaults in the performance of any of its obligations under this Agreement, or otherwise breaches this Agreement, the breaching Party shall correct such breach within ten (10) days after written notice from the non-breaching Party. If any such breach is not remedied within such ten (10)-day period, then the non-breaching Party, at its option, may terminate this Agreement by giving written notice to the breaching Party and such termination shall be effective on the notice date provided in such written notice.

- c. CRI shall have the right, with at least ten (10) days prior written notice to Customer, to terminate this Agreement: (i) if Customer fails to pay in-full to CRI any moneys owed under this Agreement following the opportunity to cure; (ii) if Customer breaches any CRI Property interests or rights; (iii) if Customer breaches any of its obligations under Sections 4, 5, 6 and 10; (iv) upon the institution by or against Customer of insolvency, receivership or bankruptcy proceedings, appointment of an administrator or any other proceedings for the settlement of Customer's debts; (v) if Customer, its Affiliates or any of its directors, officers or significant consultants shall be indicted for a criminal offense; (vi) a civil lawsuit shall be commenced against Customer, its Affiliates or any of its directors, officers or significant consultants alleging fraud or any crime involving corruption, bribing, criminal activity or terrorism activity; or (vii) Customer, its Affiliates or any of its directors, officers or significant consultants or End-Users violates any applicable law or other U.S. Government requirement as applicable to the Software Product. Furthermore, this Agreement shall automatically terminate, without further action by CRI, (1) upon Customer's making an assignment for the benefit of creditors; (2) upon Customer's dissolution or ceasing to do business; and (3) if Customer becomes legally disqualified for any reason from accessing or using the Software Product, including all necessary registrations, licenses and permits Customer shall immediately notify CRI of the occurrence of any of the events described in this clause (c).
- d. Upon any termination of this Agreement, the following shall occur: (i) all amounts due, owing and payable to CRI by Customer shall immediately be paid (or paid in accordance with submitted invoices if an invoice has not yet been submitted by CRI to Customer); (ii) all rights granted to Customer under this Agreement in connection with the Purchased Items shall immediately terminate; (iii) Customer shall immediately cease all use of the Purchased Items and shall certify to CRI in writing that it has done so, and (iv) Customer shall immediately remove from its website all content, including CRI trademarks and copyrighted material and documentation, including derivative works, and any other material or documentation that refers to CRI or the Software Product; and (v) Customer shall immediately return all Information. Further, any order placed by Customer and accepted by CRI that has not been fulfilled at the date of termination shall, at CRI's option, be completed on the same terms and conditions as if this Agreement were still in force, subject to payment being received by CRI of all outstanding monies due to CRI and in respect of all unfulfilled orders before delivery is made.

12. General Provisions.

- a. This Agreement (including the Quote, the EULA, and any fully executed agreement between the parties at any time during the Term that applies to the subject matter of this Agreement and references this Agreement, all of which are incorporated into this Agreement by this reference) constitutes the entire agreement between the Parties with respect to the subject matter of this Agreement, and supersedes any and all prior or contemporaneous oral or written understandings between the Parties concerning the subject matter of this Agreement. No representations, inducements, promises or agreements, whether oral or otherwise, between the Parties not contained in this Agreement or incorporated into this Agreement by reference shall be of any force or effect. Except as set forth in this Agreement, no modification of or amendment to this Agreement or any waiver of any rights under this Agreement, nor any agreement or understanding extending this Agreement or varying its terms (including any inconsistent terms in any purchase order, acknowledgement or similar form) shall be effective unless in writing signed by both Parties to this Agreement. The provisions of this Agreement are severable; and if any provision shall be deemed by a court of competent jurisdiction to be invalid or unenforceable in any respect, the applicability or validity of any other provision of this Agreement shall not be affected, and this Agreement shall be construed as if such invalid or unenforceable provisions are not contained in this Agreement. All notices shall be in writing and addressed to the Party to be served at the address recited above. Notices may be delivered via PDF or fax followed up by certified mail, postage pre-paid or via a nationally recognized carrier. In each case the effective date of notice shall be five (5) days after mailing or two (2) days after carrier deposit.
- b. All amendments or modifications of this Agreement shall be binding upon the Parties so long as the same shall be in writing and executed by each of the Parties, which amendments or modifications shall be executable and binding via the use of PDF signatures or Fax signatures.
- c. Customer shall comply with all applicable U.S. Export Control laws and regulations. Export laws and regulations of the United States, and any other relevant local export laws and regulations, apply to and govern the handling and use of the Purchased Items. The Parties agree that the Parties shall comply with all such applicable export laws and regulations (including "deemed export" and "deemed re-export" regulations). No Purchased Items shall be exported, directly or indirectly, in violation of these laws and regulations, or be used for any purpose prohibited by these laws.
- d. Customer shall not, without CRI's prior written consent, transfer, assign or delegate this Agreement, or any of its rights or duties under this Agreement, directly, indirectly, by operation of law, or otherwise. Customer agrees that its rights and obligations under this Agreement may not be transferred, delegated or assigned, directly or

indirectly, without the prior written consent of CRI. CRI may transfer, assign or delegate any of its rights and obligations under this Agreement, with notice to Customer. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

- e. The following sections shall survive the expiration or earlier termination of this Agreement: Sections 2, 4 (clauses b, c, d and e), 5 through 8, and 10 through 12.
- f. Each of the Parties represents that it is authorized to sign this Agreement and agrees that fax signatures or signatures in PDF form are acceptable and binding legal method of executing this Agreement.
- g. Nonperformance by either Party shall be excused to the extent that performance is rendered impossible due to mobilization, requisition, embargo, currency restriction, insurrection, general shortage of transport, material or power supply, fire, explosion, terrorism, stroke of lightning, force majeure and similar casualties or other events beyond a Party's control, as well as default in deliveries from subcontractors due to such circumstances as defined in this clause, but the non-defaulting Party shall have the right to terminate this Agreement, by written notice to the defaulting Party, if such nonperformance continues for a period of ninety (90) days with no possibility of abating or to resume performance. This Section 12(g) shall not apply to payment defaults.
- h. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one instrument. This Agreement may be translated and signed in a language other than English; provided, however, that the English language version shall control in the event of any conflicts or discrepancies.
- i. No failure or delay by either Party in exercising any right or remedy under this Agreement shall be construed as a waiver of such right or remedy, nor shall any single or partial exercise of any right or remedy preclude any further or other exercise of such right or remedy. All rights and remedies under this Agreement are cumulative and shall not be deemed to be exclusive of any other rights or remedies provided by law. Except as otherwise expressly set forth herein, no provision of or right under this Agreement shall be deemed to have been waived by any act or acquiescence on the part of either Party, its agents or employees, except by an instrument in writing signed by an authorized officer of each Party. No waiver by either Party of any breach of this Agreement by the other Party shall be effective as to any other breach, whether of the same term or condition or any other term or condition and whether occurring before or after the date of such waiver.
- j. Each Party is considered an independent contractor and shall not be deemed to be an employee, agent, contractor, partner or legal representative of the other for any purpose and shall not have any right, power or authority to create any obligation or responsibility on behalf of the other.
- k. Customer shall promptly notify CRI of any and all actions at law or equity or claims or governmental administrative proceeding arising out of the operation or performance of this Agreement or the subject matter of this Agreement.
- l. The prevailing party in any legal action brought by one party against the other and arising out of this Agreement shall be entitled, in addition to any other rights and remedies it may have and subject to the limitation of liabilities herein, to reimbursement for its expenses, including court costs and reasonable attorneys' fees.
- m. Customer acknowledge that certain U.S. and International Internet Laws may apply to the download, access and use of the Purchased Items, and Customer shall assume full responsibility for compliance with all such applicable laws in connection with access and use by Customer and End-Users of the foregoing. Customer acknowledges that if any personal information is collected by Customer or any End-User while accessing and using the Purchased Items, Customer and such End-User shall comply with all applicable data privacy laws (e.g., Data Privacy and Security Acts and Computer Fraud and Abuse Act) and take responsibility and liability for all appropriate levels of precaution in the collection of personal information and data online and shall inform any provider of such personal information of Customer's privacy protection policies.
- n. In connection with a U.S. Government Customer, the Purchased Items qualify as "commercial items" as that term is defined at Federal Acquisition Regulation ("FAR") 48 CFR 2.101, consisting of "commercial computer software" and "commercial computer documentation" as such items are used in FAR 12.212, Consistent with FAR 12.212 and DoD Far Supp. 227.7202-1 through 227.7202-4, and which have been developed at private expense; and notwithstanding any other FAR or other contractual clause to the contrary in any agreement into which this Agreement may be incorporated. U.S. Government Customer shall acquire the Purchased Items with only those rights set forth in this Agreement. Further, any U.S. Government download, access and use of the Purchased Items constitute the U.S. Government's acknowledgement that the Purchased Items are "commercial computer software" and "commercial computer software documentation" and developed solely at private expense. As applicable and so marked with respect to the Purchased Items, the U.S. Government shall acquire the Purchased Items with at least applicable Limited Rights and Restricted Rights as defined under the relevant and applicable

items with at least applicable limited rights and restricted rights as defined under the relevant and applicable FARs and DFARs.

- o. This Agreement shall be governed by the laws of the State of Kansas USA, as applicable, without regard to the applicability of the principles of conflicts of law, and any dispute between the Parties shall be adjudicated in the competent courts in Miami County in the State of Kansas. CRI shall be entitled to seek all available legal and equitable remedies. Neither the 1980 United Nations Convention on Contracts for the International Sale of Goods nor the Uniform Computer Information Transaction Act ("UCITA") shall apply to this Agreement or to any sale or other transaction under this Agreement.