

## CHANGE OF ACCOUNT OWNERSHIP FORM

**IMPORTANT NOTE:** In order to take effect, this **Change of Account Ownership** form must be completed by both the seller and buyer. The buyer must also complete the **Service Order Form, Attachment C-1**, and **full affirmations for all services**, including the **Master Service Agreement (MSA)** and **Acceptable Use Policy (AUP)**, and **two forms of identification**.

Upon receipt of the **Change of Account Ownership** form, EC Suite will hold all funds generated on the account until the attached documents have been received along with any supporting documentation. **THE HOLDBACK AMOUNT HELD ON THE ACCOUNT WILL TRANSFER TO NEW OWNER.**

All requests must be completely filled out, signed, and faxed to 480.449.8801. Alternately, signed requests can be scanned and emailed to [contractadmin@ecsuite.com](mailto:contractadmin@ecsuite.com).

For assistance in completing this form, please send an email to [contractadmin@ecsuite.com](mailto:contractadmin@ecsuite.com).

### SELLER INFORMATION

Client Account Number:		
Seller Name:		
Current Email Address:		
Address:		
City:	State:	Zip:
Country:		

### BUYER INFORMATION

Link to EC Suite Account (optional):		
Buyer Name:		
Email Address:		
Address:		
City:	State:	Zip:
Country:		

**NOTE:** Please do not assume a change has been made until you receive email confirmation from EC Suite to the email address you have provided for the account.

Seller Signature:	Date:
Seller Name Printed:	
Buyer Signature:	Date:
Buyer Name Printed:	



### FAX ORDER COVER SHEET

TO: EC Suite Order Department

CLIENT NAME: \_\_\_\_\_

FAX: 480.449.8801

FAX: \_\_\_\_\_

DATE: \_\_\_\_\_

PAGES: \_\_\_\_\_

Thank you for your EC Suite order!

Please complete the attached forms and fax them back to us at 480.449.8801. Alternately, you may print and scan the document and attach it to an email directed to [contractadmin@ecsuite.com](mailto:contractadmin@ecsuite.com).

Please include the following items in with your completed contracts (if applicable):

- **Service Order Form** (see instructions below)
- **Attachment C-1**; Client Set-Up Information
- **Addendum B Credit Card Payment Authorization Form** (for Content Protection and Hosting orders)
- **Account Authorization Form** (If applicable)
- Copies of two (2) forms of identification (see **Appendix A; Acceptable Forms of Identification**)

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### SERVICE ORDER FORM INSTRUCTIONS

The **Service Order Form** consists of two parts: **Services and Products** and **Affirmations**.

- In the **Services and Products** section, please select the checkboxes to the left of the service name for the services that you wish to accept and leave the boxes next to those services that you wish to decline empty. This page will most likely be pre-filled for you by a Sales Associate, but it is a good idea to double-check to make sure that you are set up for all of the services that you need.
- On the **Affirmations** page, please read each section and place your initials in the appropriate fields to indicate that you have read the appropriate document and accept the conditions of those documents (all appropriate documents should be included in your packet). If you will be using our billing services, please accept and/or decline the different payment types that you wish to use by selecting the appropriate checkbox and place your initials in the appropriate fields whether you accept or decline the services. Then fill in the fields at the bottom of the form, attach any other necessary documents, and return the completed contract to us using one of the above methods.





**SERVICE ORDER FORM (CONT'D)**

**Affirmations**

Affirmations		INITIALS:
I have read and acknowledge the terms and conditions as outlined in the <b>EC Suite Master Service Agreement (MSA)</b> . I agree to abide by the terms stated herein as a Client of EC Suite LLC. If any conflict exists between this document and the MSA, the MSA takes precedence. Referenced MSA version dated <b>032609</b> .		
I have read, acknowledge, and agreed to abide by the EC Suite Acceptable Use Policy as outlined in <b>Addendum A: Acceptable Use Policy</b> and posted at <a href="http://www.ecsuite.com/cs/docs/pdf/aup.pdf">http://www.ecsuite.com/cs/docs/pdf/aup.pdf</a> .		
I have read, acknowledge, and agreed to abide by the terms and conditions of <b>Addendum C: Transaction Processing Agreement</b> . Unless pricing is outlined for said services above, I agree to abide by the pricing terms as listed in the noted addendum.		
<b>Transactions Processing Service Agreements:</b>		
<b>Visa:</b>		
<input type="checkbox"/> I have read and understand <b>Attachment C-2</b> and I wish to <b>accept VISA</b> for payment.		
<input type="checkbox"/> I <b>decline</b> the acceptance of <b>VISA</b> for payment.		
<b>MasterCard:</b>		
<input type="checkbox"/> I have read and understand <b>Attachment C-3</b> and I wish to <b>accept MasterCard</b> for payment.		
<input type="checkbox"/> I <b>decline</b> the acceptance of <b>MasterCard</b> for payment.		
<b>Discover Card:</b>		
<input type="checkbox"/> I agree to abide by the rules that Discover Card may impose and I wish to <b>accept Discover</b> cards for payment.		
<input type="checkbox"/> I <b>decline</b> the acceptance of <b>Discover</b> Cards for payment.		
<b>JCB Card:</b>		
<input type="checkbox"/> I agree to abide by the rules that JCB may impose and I wish to <b>accept JCB</b> cards for payment.		
<input type="checkbox"/> I <b>decline</b> the acceptance of <b>JCB</b> Cards for payment.		
<b>American Express:</b>		
<input type="checkbox"/> I agree to abide by the rules that American Express may impose and I wish to <b>accept American Express</b> cards for payment.		
<input type="checkbox"/> I <b>decline</b> the acceptance of <b>American Express</b> cards for payment.		
<b>Online Checks:</b>		
<input type="checkbox"/> I have read and understand <b>Attachment C-4</b> and I wish to <b>accept Online Checks</b> for payment.		
<input type="checkbox"/> I <b>decline</b> the acceptance of <b>Online Checks</b> for payment.		
<b>Addendums:</b>		
I have read and acknowledge the terms and conditions of <b>Addendum D: Hosting Addendum</b> . Unless pricing is outlined for said services above, I agree to abide by the pricing terms as listed in the noted addendum.		
I have read and acknowledge the terms and conditions of <b>Addendum E: Content Protection Addendum</b> . Unless pricing is outlined for said services above, I agree to abide by the pricing terms as listed in the noted addendum.		

All notices, demands, requests and other communications required or permitted hereunder shall be in writing to the last known place of business or email address of either party, and shall be deemed to be delivered or duly received when actually received, by hand or carrier; and regardless of whether actually received, two (2) days after being deposited with an overnight courier service, correctly addressed and postage prepaid; or on the date of receipt if made by facsimile transmission; or four (4) business days after being deposited in the United States mail, correctly addressed and first-class postage prepaid. Email notices are an acceptable form of notification under this Agreement and shall be deemed to be delivered at the time they are sent:

To: **EC Suite, LLC**

2353 W University Drive  
Tempe, AZ 85281

Client Name: \_\_\_\_\_

Address: \_\_\_\_\_

By (Printed): \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Sales Associate: \_\_\_\_\_

By (Printed): \_\_\_\_\_

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Account Number: \_\_\_\_\_



**ADDENDUM B  
CREDIT CARD PAYMENT AUTHORIZATION FORM**

Subject to the Master Services Agreement between EC Suite, LLC ("ECS") and Client, including all Addendums, Attachments, and Acceptable Use Policies (AUPs); ECS will provide the following services under the terms and conditions outlined herein.

EC Suite, LLC currently accepts VISA, MasterCard, Discover, and JCB as a payment option for your monthly services. To process your request for payment, EC Suite, LLC must have the following information and signature on file.

Accounts setup on a recurring status will be automatically charged a few days after the invoice date. These charges normally will settle in a 3-5 day timeframe. For those opting for a one-time charge, this authorization is valid for 45 days from the date listed below. If for some reason EC Suite, LLC is unable to process your request, we will notify you via email, phone, or fax to arrange for other payment arrangements. Please be advised, finance charges will accrue until your payment is processed.

ECS Account Number: \_\_\_\_\_

ECS Account Name: \_\_\_\_\_

Authorization Type:  Recurring  One-Time

Credit Card Type (please select one):  VISA  MasterCard  Discover  JCB

Credit Card Number: \_\_\_\_\_

Credit Card Expiration Date (MM/YYYY): \_\_\_\_\_

Name As Stated on Credit Card: \_\_\_\_\_

Mailing Address of Credit Card Statement: \_\_\_\_\_

City, State, ZIP: \_\_\_\_\_

Phone Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

Select *one* of the following payment authorizations:

I hereby authorize EC Suite to charge my credit card account for those charges from EC Suite, LLC that I may accrue from month to month or any past due balances in order to bring the above said account to a "current" status. This authorization type is valid until revoked in writing or expiration.

I hereby authorize EC Suite to charge my credit card account for the initial charges only (a one-time charge) related to this Addendum.

\_\_\_\_\_  
Printed

\_\_\_\_\_  
Signed

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**ATTACHMENT C - 1  
CLIENT SETUP INFORMATION**

<b>Business Information</b>				
*Company Name (Must Match Company ID)				
*Physical Address (No PO Boxes)	*City	*State	*Country	*ZIP or Postal Code
*Federal Tax ID (TIN) or Business License Number			Stock Symbol	
Sales Associate		Whom may we thank for referring you?		
<b>Principal Information</b>				
Desired Username		Desired Password		
*First Name (Must Match Principal ID)	*Last Name (Must Match Principal ID)	Position/Title		
*Phone	*Fax Number	*Email Address		
*Physical Address (No PO Boxes)	*City	*State	*Country	*ZIP or Postal Code
<input type="checkbox"/> SSN <input type="checkbox"/> Driver's License <input type="checkbox"/> Passport <input type="checkbox"/> EIN				
*Identification Type (Choose ONE and attach a copy). DO NOT use SSN if it is also your Federal Tax ID				*Identification Number
<b>Payment Information</b>				
<input type="checkbox"/> Wire Transfer <input type="checkbox"/> FedEx <input type="checkbox"/> U.S. Mail				
*Choose Payment Type				
<i>*Fees vary with destination and are based on fees paid by ECS. ECS will adjust the fee based on actual fees charged by the carrier and ECS reserves the right to modify these fees without notice in the event rates are increased.</i>				
*Name On Check				
*Physical Address (No PO Boxes if choosing FedEx payment option)	*City	*State	*Country	*ZIP or Postal Code
<b>If Choosing Wire Transfer for Payment (**required fields if choosing this option):</b>				
**Bank Name	**Bank Routing Number (ABA)	**Bank Account Number		
**Name on Account	Swift Number (If Applicable)			
**Bank Address	**City	**State	**Country	**ZIP or Postal Code
<b>Web Server Information</b>				
<input type="checkbox"/> Unix/Linux <input type="checkbox"/> Windows <input type="checkbox"/> Mac OS				
Server Operating System				
<i>Proper FTP information may be essential to begin installation. If you are unsure of the FTP information, please contact your hosting company.</i>				
FTP Username	FTP Password	FTP Directory	Member Directory	
Main/Home URL	Members' URL			
Host URL	Host Name			
Special Instructions:				
<b>Technical Contact Information</b>				
<input type="checkbox"/> Same As Principal				
*First Name	*Last Name	Position/Title		
Phone	*Fax Number	*Email Address		

*\*Required Information*

## ACCOUNT AUTHORIZATION FORM

This form allows Authorized Individuals the ability to make the selected changes until notice is received from the Principal to revoke such authorization. *This form requires signature of both the Authorized Individual and the Principal in order for the change(s) to take effect.*

All requests must be completely filled out, signed, and faxed to 480.449.8801. Alternately, signed requests can be scanned and emailed to [contractadmin@ecsuite.com](mailto:contractadmin@ecsuite.com).

For assistance in completing this form, please send an email to [contractadmin@ecsuite.com](mailto:contractadmin@ecsuite.com).

Please enter the account information to which the changes will apply:

Account Number:	Subaccount Number:	<input type="checkbox"/> Revoke Previous Authorization
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The individual whose signature appears below is authorized to perform the following (check all that apply):

- Change Check Address or Wire Information
- Change of Transfer Type (USPS, FedEx, or Wire)
- Change of Name on Check
- Issue Stop Payments on Checks
- Place Minimum Payout/Hold on the Account
- Place a Split on the Account
- Change Name of Person(s) to which Payouts are Split
- Change Email Addresses
- Tax ID Changes
- Full Access to Sensitive Account Information
- Speak with Client Support Regarding Technical Information (Release of Technical Information Allowed)

**NOTE:** Please do not assume a change has been made until you receive email confirmation from CCBill to the email address you have provided for the account.

### AUTHORIZED INDIVIDUAL

Printed Name:
Signature:
Contact Email:

### PRINCIPAL

Printed Name:
Signature:
Title:
Date:
Contact Email:



## Appendix A ACCEPTABLE FORMS OF IDENTIFICATION

Please include two forms of identification with your order to ensure timely installation and release of funds from your account.

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### United States (US)

For all clients who have a business address within the United States, please provide two forms of identification, one primary and one secondary, in order for funds to be released. The ID MUST match the Client Setup Information on Attachment C-4 exactly for contract acceptance.

Primary Identifications:

- Federal Tax ID
- United States Social Security Card (may not be used as a secondary if supplied as primary.)

Secondary Identifications:

- Driver's License issued by a U.S. state
  - United States Passport
  - United States Social Security Card (may not be used if supplied as primary)
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### Canadian Clients

For all clients who have a business address within Canada, please provide two forms of identification, one primary and one secondary, in order for funds to be released. The ID MUST match the Client Setup Information on Attachment C-4 exactly for contract acceptance.

Primary Identifications:

- Federal Business Number (BN)
- Social Insurance Card

Secondary Identifications:

- Canadian Driver's License
  - Canadian Passport
  - Social Insurance Card (may not be used if supplied as primary)
- 

### European Union (EU) Clients

For all clients who do not have a business address within the E.U., please provide two forms of any government issued identification in order for funds to be released. The ID MUST match the Client Setup Information on Attachment C-4 exactly for contract acceptance.

Primary Identifications:

- Federal Tax or Business ID
- Social Security Card or National ID Card
- VAT ID or Articles of Incorporation

Secondary Identifications:

- Driver's License issued by a government agency
  - Passport for their country of residence
- 

### NON-EU/NON-US Clients

For all clients who do not have a business address in the E.U. or the U.S., please provide two forms of any government issued identification in order for funds to be released. The ID MUST match the Client Setup Information on Attachment C-4 exactly for contract acceptance.

Primary Identifications:

- Federal Tax or Business ID
- Social Security Card or National ID Card
- VAT ID or Articles of Incorporation

Secondary Identifications:

- Driver's License issued by a government agency
  - Passport for their country of residence
- 

### KEY ACCOUNTS

#### (A Key Account is defined as companies which are publicly traded on the U.S. Stock Exchange)

For all clients who have a business address within the United States and the company is publically traded on the U.S. Stock Exchange, please provide two forms of identification, one primary and one secondary, in order for funds to be released.

Primary Identifications:

- Federal Tax ID
- Social Security Card (can be used as a secondary as well.)
- I.R.S. Form W-2 or Form 1099 showing Social Security Number

*Plus*

- Ticker Symbol
- EIN Number

Secondary Identifications:

- Driver's License issued by a US state
- United States Passport
- US Social Security Card



# MASTER SERVICES AGREEMENT

EC Suite, LLC (ECS) and Client agree that this Agreement, all Addendums hereto, and all related Service Orders which are incorporated herein by reference constitute the complete agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings, written or oral regarding such subject matter.

This Agreement shall be effective from the date the first Service Order is accepted by ECS and will automatically terminate in the event there are no active Addendums or Service Orders hereto.

Client agrees to pay ECS for services ECS provides based on the terms and conditions of the Addendums and/or Service Orders relating to each service.

In the event there is a conflict between this Agreement and any of its Addendums, the order of precedence will be:

1. This Master Services Agreement
2. All Addendums and Attachments in the order of last signed (most current)
3. Each Service Order
4. The Acceptable Use Policy (AUP)

## 1. Definitions

When used in this Agreement and its Addendums, the following definitions apply unless a specific definition is applied to and in any Addendum or attachment:

**Agreement:** This Master Services Agreement and all Addendums and attachments regardless of the effective dates of those Addendums and attachments.

**Client:** The company or individual contracting with ECS in order to utilize one or more of ECS' various services as indicated on the Addendums hereto.

**Database:** Any and all information received from Client and/or Customer which ECS' keeps in an electronic format for ECS' use. This may include at ECS' sole discretion a file containing only the Client's information and/or a universal file containing all of ECS' Clients' information

**Website:** The entire collection of web pages and other information (such as images, sound, and video files, etc) owned by Client to which this Agreement and its Addendums apply.

## 2. Additional Services

In addition, ECS may provide some services such as reporting and tracking as a no charge service. ECS reserves the right to stop providing these added services at any time for any reason. ECS reserves the right to begin charging for these additional services with 30 days written notice, and ECS also reserves the right to offer new services that are not covered by this Agreement wherein additional charges could incur should the Client choose to use them.

## 3. Database Ownership

Both parties own their own databases and nothing in this Agreement is intended to transfer that ownership. In order to provide the highest level of service to all ECS' clients, data provided by customers for venue access will be combined with data from all ECS' client customers. The combined database may be used for risk analysis of all clients' transactions. Ownership of the combined database remains with ECS. Credit card information from ECS' database will not be provided to the Client or any other party during the term of this Agreement or upon termination of this Agreement. However, ECS reserves the right to transfer the database in the event of a change in ECS' ownership. The Client shall be responsible for maintaining a record of all user identification information for the Client's own use as well as for backup in the event of a system failure that requires restoration.

Any unauthorized attempt to gain access to ECS' database or systems by the Client, or anyone directly or indirectly associated with or related to the Client, however remotely, will constitute

a material breach of this Agreement. In the event of any such attempt to gain access, ECS may immediately terminate this Agreement, and the Client will immediately return to ECS all copies of any information obtained by this access.

ECS agrees that if ECS is currently processing transactions for Client's websites, if ECS becomes permanently incapable of processing e-commerce transactions, as dictated by the card associations' rules and with client's approval, ECS will to the best of its ability transfer the membership database(s) associated with Clients websites to ECS's acquiring bank who will transfer the databases(s) to the acquiring bank specified by Client at that time. This in no way transfers any right to or ownership of ECS's database to Client directly.

#### **4. Termination for Cause**

ECS may terminate either (a) this Agreement, (b) any Addendums or (c) all, immediately, if the Client is the subject of a bankruptcy order, become insolvent, make any arrangement or composition with or assignment for the benefit of creditors, go into voluntary or compulsory liquidation, have a receiver or administrator appointed over the Client's assets, or if the equivalent of any such events under the laws of any of the relevant jurisdictions occurs to the Client.

The Client also agrees to abide by the Terms and Conditions of the Master Services Agreement, each Addendum, and ECS' Acceptable Use Policies (AUP). ECS reserves the right to manually or electronically review website(s) to ensure there are no violations of the Terms and Condition or the AUP.

ECS' employees and those of related companies have entered into an agreement to protect the companies' confidential and trade secret information even after their employment. The Client agrees that it would be difficult for ECS to enforce this Agreement if the Client were to hire an employee or a former employee and it would be difficult for the employee to abide by the terms of the Agreement. The Client therefore agrees that the Client will not actively and knowingly hire or enter into a contract of any kind with a current or former ECS or related company employee for a period of six (6) months following the effective date of that employee's last date of employment with ECS or any related company without ECS' written prior approval. The use of independent employment agencies (as long as they are not directed to solicit such employees) or general solicitations (such as advertisements in publications), and the hiring of persons obtained through such methods, shall not be deemed a violation of this paragraph.

#### **5. Privacy Policy**

The Client understands that ECS' Privacy Policy. in part reads, ***"By using ECS' services, the Client agrees that we may release information obtained in the course of the client's use of ECS' services when it is believed, in ECS' sole and absolute discretion, that the release is appropriate or otherwise necessary to comply with the law, enforce our Agreement, and/or protect the contract and other rights of our Clients"***.

#### **6. Taxes**

ECS and the Client both agree to pay any and all taxes that are imposed on ECS or the Client's respective business. If ECS is required to pay taxes for the Client, ECS shall notify Client in writing via email, invoice or other form of written communication deemed suitable by ECS and the Client will immediately reimburse ECS for those taxes and any fines, penalties and interest, or the Client agrees that ECS may deduct them from payments to the Client.

#### **7. Authorization**

By signing this Agreement the Client is stating that the Client is the owner, operator, and/or a designated officer of the business, with the authority to enter in to this Agreement, and have obtained all the necessary licenses, copyrights and/or certificates required to perform the Client's obligations. The Client will follow all laws and legal regulations that relate to the Client's business regardless of where those laws and regulations originate, and will comply with any laws and regulations that may apply in the future.

#### **8. Limitations of Liability**

**ECS WILL UTILIZE ITS BEST EFFORTS TO MAINTAIN ACCEPTABLE PERFORMANCE OF THE SERVICE, BUT ECS MAKES ABSOLUTELY NO WARRANTIES WHATSOEVER,**

**EXPRESSED OR IMPLIED, INCLUDING WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.**

EXCEPT AS EXPRESSLY PROVIDED HEREIN, ECS DOES NOT WARRANT THAT ECS'S APPLICATIONS WILL PERFORM IN THE MANNER EXPECTED OR WITHOUT INTERRUPTION, ERROR, OR DEFECT; OR THAT ANY REVENUE TO CLIENT WILL RESULT FROM THE ACTIVITIES CONTEMPLATED BY THIS AGREEMENT. EXCEPT AS SET EXPRESSLY FORTH IN THIS AGREEMENT, ECS DOES NOT MAKE ANY WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES AGAINST INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS NOT SPECIFICALLY ENUMERATED

ECS cannot guarantee continuous service, service at any particular time, or integrity of data stored or transmitted via its system or via the Internet. ECS will not be liable for the inadvertent disclosure of, or corruption or erasure of, data transmitted, received, or stored on its system. ECS will not be liable to the Client or any of the Client's customers for any claims or damages which may be suffered by the Client or the Client's customers, including, but not limited to, losses or damages of any and every nature, resulting from the loss of data, unauthorized access to the Client's website as a result of hackers or password trading, inability to access Internet, or inability to transmit or receive information, caused by, or resulting from, delays, non-delivery, or service interruptions whether or not caused by ECS' fault or negligence. ECS will not be responsible for the Client's venue not being accessible on the Internet due to circumstances not under ECS' direct control such as individual Internet user's own equipment capabilities, limitations, other Internet service provider limitations and/or browser software limitations.

Whenever possible ECS will give Client thirty (30) days written notice to the Client after which ECS may discontinue any service, or may require fulfillment of additional conditions ECS may choose to impose as a prerequisite for continuing any service. Client agrees that there may be circumstances beyond ECS' control that prevent giving Client advanced notice. ECS may discontinue service immediately for fraud committed by the Client or the Client's employees, illegal activity, or violations of its Acceptable Use Policies (AUP) and/or its other policies.

ECS' liability to the Client and any end user of the service or any other of its services is limited to the amount paid to and received by ECS for service not accepted. In no event will ECS be liable to the Client, or any end user or any other entity for any special, consequential, or other damages, however caused, whether for breach of contract, negligence or otherwise, even if ECS has been advised of the possibility of such damage.

The Client agrees that ECS is an Internet Service Provider ("ISP") under the Digital Millennium Copyright Act (DMCA) and understand that ECS is required under the DMCA to remove and/or have the Client remove any material that another party claims is infringing once ECS has received, in its sole judgment, a proper notification. The Client also agrees that if the Client does not comply with a written request from ECS to remove material under the DMCA or for any other reason, ECS may at its discretion block access any or all services provided under this Agreement including new member signups and renewals and hold all funds until such time as ECS is certain that the material is removed. ECS may, at its sole discretion, determine who is a "repeat infringer" and may terminate this Agreement and its Addendums without notice to the Client if ECS believes the Client to be a repeat infringer.

**9. Indemnification**

The Client is solely responsible for the Client's content, advertising and promotion, and that of anyone referring others to the Client's website. The Client is also responsible for insuring that the Client is the rightful owner or licensee for any copyrighted material, trademarks, or items that appear on the Client's website.

Each party will take all necessary measures to preclude the other party from being made a party to any lawsuit or claim regarding the service provided to or by the other party, or any end user. Each party hereby agrees to indemnify the other party and hold the other party harmless from any and all claims of whatever nature brought by anyone against either party in excess of the remedy set forth herein.

The parties hereby agree to reimburse the other party for any and all reasonable and actual expenses including legal fees associated with either party being involved with any civil, criminal, regulatory or investigatory actions brought by the other party or against the other

party by anyone, including expenses associated with providing information that either party, in its sole discretion, believes it legally must provide or has been authorized by the other party to provide. The Client also understands and agrees that ECS will deduct those expenses from monies due to the Client and the Client agrees to reimburse ECS for any expense that exceeds what ECS is able to deduct from the Client's account.

Following prompt notice by reasonable means of any claim or action subject to indemnification, each party will defend and indemnify the other party, its affiliates, its agents, and its contractors against such claims or actions, including liabilities, costs, expenses, and reasonable attorney fees, involving loss or damage to personal tangible property, intellectual property rights, contracts, and/or criminal investigations resulting from the negligence or willful misconduct of the indemnifying party. Furthermore, Client will defend and indemnify ECS, its affiliates, agents, and contractors against all third party claims, liabilities, costs, and expenses including reasonable attorney fees, arising from or related to the misuse, modification, or resale of the Services by Client, or End Users, including any violation of the ECS AUP.

ECS will provide information and reasonable assistance, at Client's expense, as necessary or appropriate to defend or settle such claim or action as they relate to Client. ECS shall have the right to employ separate counsel and participate in the defense of any claim or action against Client at Client's expense. Client shall defend and indemnify ECS against any and all equitable and/or legal damages. In any event, ECS retains full and sole authority to defend or settle claims or actions as they pertain to ECS.

If ECS provides notice of an indemnification claim in accordance herewith and is not notified within ten (10) days that Client intends to defend such claim, ECS shall be entitled to defend, settle or compromise such claim, subject to the indemnification provided herein. If directed by law enforcement, or under exigent circumstances, ECS reserves the right to waive the ten day notice period.

## **10. Relationship of Parties**

Nothing in this Agreement will create any partnership, joint venture, agency, franchise, sales representative, or employment relationship between the parties. The Client will have no authority to make or accept any offers or representations on our behalf. The Client will not make any statement, whether on the Client's site or otherwise, that reasonably would contradict anything in this Section. Neither party is the agent of the other and ECS expressly disclaims responsibility for any conduct by the Client in violation of our terms of Agreement.

## **11. Proprietary Rights, Security, Confidentiality, and Access**

Client and ECS mutually agree that:

- A.** Client owns and has absolute control over any content, design, material of any kind, and operation of Client's website and nothing in this Agreement or its Addendums and Attachments is intended to transfer that ownership or control to ECS.
- B.** Each party owns (or has uncontested legal rights to) their own intellectual property, content, databases, systems, trade secrets, trademarks, patents software, and applications and that nothing in this Agreement transfers any rights to these to the other. EC Suite hereby provides a limited license to use without modification or alteration any of the software and or applications provided under this Agreement and upon written request Client agrees to return or destroy all copies that may be in the Client's possession upon termination of this Agreement and /or any Addendums to this Agreement.
- C.** ECS and Client each hereby agree to hold each other's Proprietary Information in strict confidence and not to disclose such Proprietary Information to any third party without the prior written consent of the other party. Further, each party shall use the same degree of care it uses, but no less than a standard of reasonable care, with respect to its own Proprietary Information to prevent the unauthorized disclosure to a third party; provided, however, that the foregoing restriction shall not apply to information that is (a) known to the receiving party without restriction when received; (b) obtained from a source other than the originating party without known breach of another confidentiality agreement; (c) in the public domain when received or thereafter enters the public domain through no fault of the receiving party; (d)

disclosed by the originating party without restriction; or (e) disclosed by the receiving party pursuant to statute, regulation of the order of a court of competent jurisdiction, provided that the receiving party has notified the originating party in order to permit the taking of appropriate protective measures.

- D. Any attempt to gain access to ECS Databases or systems or those of its Service Providers by Client, or anyone directly related to Client, will constitute a material breach of this Agreement. In the event of any such attempt to gain access, ECS may immediately terminate this Agreement, and Client will immediately return to EC Suite all copies of any information obtained by this access.
- E. If ECS becomes subject to a claim from a third party of patent, trademark, or copyright infringement, arising from Client's Content or system, Client will indemnify the ECS for all costs associated with a judgment imposed against ECS pursuant to the infringement claim.
- F. Any use the trade name and/or trademarks of the other party in advertising or in any media as part of a "Client list" or "supplier" list must be done so with the prior approval, in writing, from the effected party.
- G. ECS and its Service Providers will not allow use of information from the Database by any third party for purposes other than those services provided by ECS and it's Service Providers in accordance with this Agreement.

## **12.Payment**

Client agrees that payment terms for the various services provided under this agreement may vary by type of service. ECS will strive to provide a single invoice each month that combines the charges for all of the services provided, but cannot guarantee that that can always be accomplished. Client agrees to pay all undisputed invoices within the time specified in the Addendum to this Agreement for each service provided by ECS. Client also agrees that if Client utilizes ECS' Transaction Processing Service, ECS may deduct payment for all services provided under this agreement from the weekly transaction settlement before remitting the payment to client.

## **13.Term**

This Agreement will continue until terminated by either party under the provisions above. Either party may terminate this Agreement immediately and without notice if the other party violates the terms of this Agreement, it's Acceptable Use Policies (AUP), its policies, or the law. ECS may, at its sole discretion, suspend or cancel services for the Client's account if it stays inactive for any consecutive ninety (90) day periods. Reinstatement of the Client's account, after suspension or cancellation, will require ECS approval.

## **14.Force Majeure**

The parties' obligations under this Agreement are subject to, and neither party shall be liable for, delays, failures to perform, damages, losses or destruction, or malfunction of any equipment or any consequence thereof caused or occasioned by, or due to acts of terrorism, fire, flood, water, the elements, labor disputes or shortages, utility curtailments, power failures, explosions, civil disturbances, governmental actions, shortages of equipment for supplies, unavailability of transportation, acts or omissions of third parties, or any other cause beyond the parties reasonable control ("Force Majeure Event"). Notwithstanding the aforesaid, if a Force Majeure Event takes place and a party is materially hindered in the performance of its obligations under this Agreement or its normal business operations are delayed or become impossible, then, without limiting the hindered party's rights, the hindered party shall have the option, by giving the other party written notice, to suspend its obligations hereunder for the duration of any such contingency provided that such hindered party shall promptly upon discovery of the Force Majeure Event, use its commercially reasonable efforts to recommence performance of the affected obligations or provide an acceptable alternative to such services, provided that no such suspension shall exceed thirty (30) days. If any such suspension exceeds thirty (30) days, the non-hindered party shall have the right to terminate this Agreement at any time on written notice to the hindered party. No Force Majeure Event shall relieve a party of its payment obligations of any outstanding invoices and for services rendered prior to any Force Majeure Event hereunder by ECS

## 15. Invalid or Unenforceable Provisions

If any provision of this Agreement or its Addendums is held to be invalid by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect. The Client and ECS agree to renegotiate in good faith any term held invalid and to be bound by any mutually agreed to substitute provision.

## 16. Choice of Law: Venue

This Agreement is governed by and construed under the laws of the State of Arizona and the United States of America. The federal and state courts of the State of Arizona will have exclusive jurisdiction to adjudicate any non-arbitrable dispute arising out of this Agreement.

## 17. Disputes

- A. General.** Any controversy or claim arising out of or relating to this Agreement, or the breach thereof, shall be settled first, by good faith efforts of the parties to reach mutual Agreement, and second, if mutual Agreement is not reached to resolve the dispute, by final, binding arbitration as set out in paragraph (B) below.
- B.** If there is a dispute, controversy, claim and/or disagreement concerning the interpretation, application or enforcement of or in any way arising under this Agreement or breach of this Agreement, ECS and Client shall work together in good faith to resolve such disputes within thirty (30) days from the date of the disputed incident. If ECS and Client fail to resolve a dispute within the aforementioned thirty (30) day period, either party may submit the dispute to arbitration. The arbitration will take place in Phoenix, Arizona before a single arbitrator under the auspices of the American Arbitration Association's ("AAA") Commercial Arbitration Rules currently in effect at that time. Disputes must be submitted to arbitration prior to any state, federal or international court action. Arizona law will be applied in the arbitration and any other subsequent legal hearings.
- C.** The arbitrator will not have the authority to award punitive damages or any other form of relief not contemplated in the contract. The arbitrator will render a written opinion setting forth the basis on which he or she arrived at the decision regarding each issue submitted to arbitration. The decision of each issue submitted to arbitration will be final and binding only to the extent it is accompanied by a written explanation of the basis upon which it was arrived at. Judgment upon the award, if any, rendered by the arbitrators, may be entered in any court having jurisdiction thereof.
- D.** Should any legal action permissible under this Agreement be instituted to enforce the terms and conditions of this Agreement, in particular the right to collect money due on unpaid invoices, the prevailing party will be entitled to recover reasonable attorney's fees and expenses incurred at both the trial and appellate levels.
- E. Injunctive Relief.** The foregoing notwithstanding, each party shall have the right to seek injunctive relief in an applicable court of law or equity pending resolution of the dispute in accordance with the foregoing.

## 18. Entire Agreement; Modifications

This Agreement and any Addendums and/or attachments and/or service orders hereto set forth the entire Agreement and understanding between the parties and merges all prior discussion between them. The terms and conditions of this Agreement are posted in the Admin Section at <https://admin.ecsuite.com>. ECS reserves the right to change these terms and conditions by posting such changes in the Admin Section at <https://admin.ecsuite.com>. Continued use of ECS' service by Client following such changes constitutes acceptance by Client of the current terms and conditions.

## 19. Notices

Client is responsible for providing ECS with an ECS Contact Change Form at any time there is a change in the contact information provided on the initial Service Order. Written notices to Client will be considered delivered when emailed to the email address on the initial Service Order or the latest Contact Change Form received by ECS.

## **20. Assignment**

Neither ECS nor Client shall assign this Agreement or any interest therein, without the prior written consent of the other party, except in the event of the sale of all or the majority of either party's stock or assets or in the event of other corporate reorganizations, which consent shall not be unreasonably withheld or delayed. Any assignment prohibited hereby shall be null and void.

## **21. Changes**

For the Client's own protection, the Client understands and agrees that ECS will only accept changes and modifications to this Agreement or any Addendums that are in writing and signed by the individual(s) signing this Agreement.

## **22. Partial Invalidity**

If any provision of this Agreement is held to be invalid by a court of competent jurisdiction, then the remaining provisions will nevertheless remain in full force and effect. We agree to renegotiate in good faith any term held invalid and to be bound by mutually agreed substitute provision.

## **23. Applicable Law, Jurisdictional Matters**

This Agreement is governed by and construed under the laws of the State of Arizona and the United States of America. The federal and state courts of the State of Arizona will have exclusive jurisdiction to adjudicate any non-arbitrable dispute arising out of this Agreement. You understand that by using ECS' services, you agree that we may release information obtained in the course of your use of ECS' services when it is believed, in ECS' sole and absolute discretion, that the release is appropriate or otherwise necessary to comply with the law, enforce our Agreement, and/or protect the contract and other rights of our Clients.

**In the event of changes in ownership of Client or, website(s) covered by this Agreement, the Client or anyone so designated on the Account Authorization Form must notify ECS in writing of the change of ownership. ECS may then require the new owner to execute a new Agreement and Addendums with ECS. In the event the Client wants to change the information in this Agreement regarding the payments to Client, the Client or anyone so designated on the Account Authorization Form must notify ECS in writing.**

## ADDENDUM A

### Acceptable Use Policies

All clients of EC Suite, LLC ("ECS") agree to abide by the policies contained herein. ECS reserves the right to change and update these policies as it sees necessary.

#### Introduction

Most Service Providers have specific guidelines pertaining to general use of the Internet. As the Internet expands, it is increasingly common for an Internet Service Provider, such as ECS, to be blocked from use of another organization's systems due to violations of that system's AUP. Because ECS runs multi-user systems, client actions can have a severe impact on other clients' ability to use the system(s). This is unfair to all ECS users. To this end, ECS has developed these Acceptable Use Policies. They are intended to inform Client of what ECS considers to be acceptable conduct in relation to the Internet, and of what actions we may take, with or without notice, in the event that ECS becomes aware of inappropriate use of its service. This AUP will be used to help ECS' System Administrators deal with complaints from users of ECS or other Internet-connected systems, and to determine when action should be taken. It is expected that Client will follow the policies set forth herein. These policies are drawn from applicable law and generally accepted standards of Internet conduct, and are intended to ensure protection of ECS' technical resources, ability to continue to provide high quality service to Client, and protect ECS' reputation as a service provider.

#### ACCESS TO ECS' SERVICE IS PROVIDED SUBJECT TO THE FOLLOWING:

##### Security

Client is responsible for all use of Client's account(s) and confidentiality of password(s), including choosing safe passwords and ensuring file protections are set correctly. ECS will suspend or change access to Client's ECS client account(s) immediately upon notification by Client that Client's password has been lost, stolen or otherwise compromised. ECS is not liable for any usage and or charges prior to ECS making the necessary account alteration. Electronic mail on this system is as private as ECS can make it. Client is reminded that no computer network can ever be considered completely safe from intrusion. E-mail may pass through many computer systems, and should not be considered a secure means of communication unless encrypted – and even encrypted information is only as secure as the encryption method utilized.

##### Non-Transferability of Account

The right to use ECS' services is not transferable. Use of ECS' accounts is expressly limited to the Client whose name appears on the contract

##### Unacceptable Conduct

The following types of conduct are grounds for immediate suspension of service pending investigation by ECS and may result in termination of any and all accounts held by the individual, corporation, or Web site associated with these violations.

Client will also be held responsible for the actions of Client's business relationships (referrers, associates, etc.) that impact ECS. Client's cooperation is necessary to insure that those involved in these relationships comply with ECS' AUP and those of ECS' providers. If they violate any of the following policies, ECS expects Client to make certain that they immediately cease the non-compliant action or

that Client discontinues Client's association with them. Continuing violations by Client's business relationships may result in ECS at its discretion having to terminate ECS' agreement with Client.

1. Spamming or Harassment
  - A. Posting a single article or substantially similar articles to an excessive number of newsgroups (i.e., more than 20) or continued posting of articles which are off-topic according to the newsgroup charter, or which provoke complaints from the regular readers of the newsgroup for being inappropriate.
  - B. Sending unsolicited mass E-mailings (i.e., to more than 25 users) that provoke complaints from the recipients.
  - C. Engaging in either (1) or (2) from a provider other than ECS to draw attention to a Web site housed within ECS' networks or covered by ECS' agreement with Client.
  - D. Engaging in abuse or harassment of other individuals on the Internet after being asked to stop by those individuals and/or by ECS.
  - E. Mail bombing, i.e., sending large volumes of unsolicited E-mail to individuals or to individual business accounts.
  - F. Impersonating another user or otherwise falsifying one's user name in E-mail, Usenet postings, on Internet Relay Chat (IRC), or with any other Internet service. (This does not preclude the use of nicknames in IRC or the use of anonymous retailer services.)
2. Network Unfriendly or Illegal Activity
  - A. Attempts, whether successful or not, to gain access to any other system or users' private data without express consent of the user.
  - B. Attempts to interfere with the regular workings of ECS' systems or network connections or which adversely affect the ability of other people or systems to use ECS' services or the Internet.
  - C. Any unauthorized attempts by a client to gain access to any account not belonging to that client on any of ECS' systems.
  - D. Any activity, which violates any local, state, U.S., or international law or regulation.
  - E. Repeated submissions of transactions to ECS utilizing the same or similar IPs with varying identification information.
3. Export Control Violations

Exporting encryption software over the Internet or otherwise, to points outside the United States is prohibited.
4. Usenet Groups

EC Suite reserves the right not to accept postings from newsgroups where we have actual knowledge or reasonably believe that the content of the newsgroup violates this AUP.

5. Violation of ECS Policy

A. ECS Transaction Processing Clients

- a. Attempts to offer for sale any item that is tangible in nature that is specifically excluded in the [Terms and Conditions Exhibit A: Tangible Goods AUP](#).
- b. Any attempt to bypass or remove ECS' name, logo, or customer support link from any page from ECS' servers.
- c. Failure to fulfill access or services sold to customer.
- d. The posting, display, or advertising of any adult content or anything that would lead a consumer to believe the site contained adult content.
- e. Any material uploaded to a ECS subscription page, (aka "join page") must be non-sexual in nature, and may only include non-nude individuals. ECS reserves the right to review and reject any material for any reason.
- f. MasterCard specifically prohibits the use of MasterCard's registered marks including the word "MasterCard" and/or their logo on any site without their written permission.
- g. Display of the trade or service marks of any credit card company on any webpage is specifically prohibited without the express written permission of the credit card company.
- h. Any attempt to mislead the consumer as to the site's content or actual initial or recurring pricing of the protected Web site.
- i. Failure to place a clear disclosure of trial periods and recurring charges conspicuously on the Web site.
- j. Using any wording relating to credit card use for age verification purposes.
- k. Use of blind links to ECS signup page. Users should have a reasonable expectation of getting a signup form when they click the link.
- l. The members' area of the protected Web site may not be inaccessible to users for more than a 24-hour period at a time, and not more than one 24-hour period in a 30-day period.
- m. If client chooses to utilize the rebilling option for sites containing members' areas, the members' area must be updated in a time frame that is equal to or less than the rebilling cycle. For example, if Client bills every thirty days, they must update their members' area at least every thirty days.
- n. Using an approved sub-account and its signup form to process for another URL that is not registered to that sub-account and approved by ECS and/or card association(s).
- o. "Posting in" payment information or any other violation of card associations' rules. Violations of card association rules may result in the immediate termination of all services by ECS including recurring billing. ECS will hold all funds until such time as all card association fines, charge-backs, and refunds have been satisfied.
- p. ECS will not process transactions for protected Web sites offering shell accounts.
- q. ECS will not process for sites advertising or selling the following:
  1. buyers clubs or membership clubs;

2. credit counseling or credit repair services;
3. direct marketing or non-internet type subscription merchants;
4. infomercial merchants;
5. multi-level marketing businesses;
6. outbound telemarketers;
7. prepaid phone cards or prepaid phone services;
8. rebate-based businesses;
9. "Up-Sale" merchants;
10. free grants or grant giveaways;
11. cash, money-making opportunities, or making money at home opportunities;
12. "cash for opinions";
13. grant/cash money making schemes;
14. Tobacco sites or any site that offers information and/or services for purchasing tobacco products on the internet;
15. Pharmaceutical Informational Sites or any site that offer information and/or services in relation to the purchasing of Pharmaceutical drugs; or
16. escort services
17. any Web site that is in violation of the card associations rules.

B. For All ECS Clients

- a. The posting or display of any image or wording related to any Web site running, participating, or advertising acts allowing the subscriber to bet or gamble on an uncertain outcome, or to play a game of chance for stakes.
- b. ECS may cancel any accounts whose primary use can be determined as supporting the use of bots such as Eggdrop or any other programs executed on a server through a Telnet or a dial-up account.
- c. Any attempt to display, sell, or transfer materials that violate or infringe any copyright, trademark, right of publicity, patent, statutory, common law or proprietary rights of others, or contain anything obscene, libelous or threatening. Display of the trade or service marks of any credit card company on any webpage is specifically prohibited without the express written permission of the credit card company.
- d. Any attempt to display or sell "Celebrity sites" or content
- e. Reproduction or transmission of any material in violation of any local, state, U.S., or international law or regulation is prohibited. ECS makes every attempt in such cases to work with both U.S. and foreign law enforcement agencies to provide information about the providers and purchasers of such material. This includes the posting or display of any image or wording instructing users how to make or perform devices or situations that may violate any state, federal, or international law.
- f. No part of the protected Web site may be hosted on a free web host or anywhere, which violates the host's AUP policy.

C. For Clients Utilizing ECS' Free Shared Servers

- a. File/Download archives (including image archives, audio archives, video archives, and multimedia archives.
- b. Web sites that use and store information relating to other Web sites or IP addresses- including those whose sole purpose is to provide links for access into other Web sites or IP addresses
- c. Web sites that store web pages, files, or data for other IP addresses or domain names—EC Suite reserves the right to make any of these determinations.

**Compliance with Rules of Other Networks**

Any access to other networks connected to ECS' Internet service must comply with the rules for that network as well as with ECS' rules. As a provider of Internet access, Web site hosting, and other Internet-related services, ECS respects that the Internet provides a forum for free and open discussion and dissemination of information; however, when there are competing interests at issue, ECS reserves the right to take certain preventative or corrective actions. In order to protect these competing interests, ECS has developed these Acceptable Use Policies (AUP), which supplement and explain certain terms of each client's respective service agreement and is intended as a guide to the client's rights and obligations when utilizing ECS' services. This AUP will be revised from time to time. A client's use of ECS' services after changes to the AUP are posted on ECS' Web site, [www.ecsuite.com](http://www.ecsuite.com), constitutes the customer's acceptance of any new or additional terms of the AUP that result from those changes. In addition, ECS and its clients are responsible for adhering to the AUP of ECS' upstream providers which include the following:

<b>Provider</b>	<b>AUP Location</b>
CWIE	<a href="http://www.cavecreek.com/aup.php">http://www.cavecreek.com/aup.php</a>
Level 3	<a href="http://www.level3.com/legal/acceptable_use_policy.html">http://www.level3.com/legal/acceptable_use_policy.html</a>
Highwinds	<a href="http://support.highwinds-media.com/aup.php">http://support.highwinds-media.com/aup.php</a>
Lime Light	<a href="http://www-origin.llnw.com/content-delivery-company/terms-of-use/">http://www-origin.llnw.com/content-delivery-company/terms-of-use/</a>
Cox	<a href="http://www.coxbusiness.com/acceptableusepolicy.pdf">http://www.coxbusiness.com/acceptableusepolicy.pdf</a>

Violation of an upstream provider's AUP by an EC Suite Client may result in the provider refusing to provide connectivity for that client.

**Monitoring/Privacy**

ECS reserves the right without Client's permission to monitor any and all communications through or with its facilities as well as all Clients' sites for compliance with this AUP and ECS' Terms and Conditions. ECS may also be required to provide access to Client's Web sites to representatives of the card associations and/or their acquiring members for monitoring for compliance with their operating rules. Client agrees that ECS is not considered a secure communications medium for the purposes of the Electronic Communications Privacy Act, and that no expectation of privacy is afforded. It may become necessary for ECS' employees to examine system accounting logs and other records to determine if privacy violations or other network unfriendly activities have occurred.

**Cooperation with Authorities**

ECS reserves the right to cooperate with law enforcement and other authorities in investigating claims of illegal activity including, but not limited to, illegal transfer or availability of copyrighted material, trademarks, child pornography, postings or E-mail containing threats of violence or other illegal activity without notification to Client.

**Confidentiality of Personal Subscriber Information**

ECS will not release any client or customer personal subscriber information, nor client or customer billing information, to any third party except upon presentation of a valid court order, or to a request to which ECS is legally required to respond to. Client agrees that ECS' judgment as to the validity of any court order, subpoena, or request shall be considered proper and final.

**ECS' Right to Modify These Acceptable Use Policies**

ECS may modify these Acceptable Use Policies on its Web site in any way, at any time. It is Client's responsibility to review the AUP on the Admin Web site on a regular basis to ensure compliance with the latest version of this AUP. Client's use of ECS' services after such changes have been posted shall constitute Client's acceptance of the modifications to these policies.

ECS may at its sole discretion accept or reject Client's site.

Any complaints about a client's violation of the AUP should be sent to [abuse@ecsuite.com](mailto:abuse@ecsuite.com).



## **ADDENDUM D**

### **Hosting Addendum**

Subject to EC Suite's Master Services Agreement including all Addendums, Attachments, Service Orders, and Acceptable Use Policies (AUPs); ECS will provide the following services under the terms and conditions outlined herein.

#### **1. Order Acceptance; Payment**

All orders are subject to acceptance by ECS. You will receive email confirmation of ECS' acceptance of the Client's order. ECS may refuse to accept any order. Such refusal may not be unreasonable, however, and we agree to provide the Client with notice via email or fax of any intent to delay or decline the acceptance of any order.

You agree to pay all charges in advance for the service selected by the Client in the Customer Order Information form that is incorporated in these terms and conditions by reference including all monthly fees, additional product charges and optional charges incurred by the Client. Payment may be made by check, ACH, or credit card. You authorize us to automatically charge any amounts the Client owe to ECS to any credit card provided by the Client. You also agree that if this Addendum becomes effective at any time after the 1st of the month, ECS may prorate the next invoice to reflect a full month's charges plus a sufficient number of days to have all subsequent billing periods start on the first of the month.

Bandwidth usage above the minimum specified in the Customer Order Information Form is automatically billed for the month the usage occurs in the month following the usage. If ECS provides notice of a price increase, the Client may cancel this Addendum if within the 30 day notification period, the Client notifies ECS of the Client's intent to cancel because of the increase.

Payment for service will be made in U.S. dollars to ECS. The initial payment is due with this Addendum in the amount specified in Customer Order Information form. If payment in full of any invoice is not received by ECS within thirty (30) days of invoice date, ECS may impose a debt service charge amounting to one and one-half percent (1.5%) of the overdue balance for each month or fraction thereof the overdue amount remains unpaid or the maximum allowed by law which ever is lower. In the event that any amount remains unpaid for thirty (30) days after the date of the invoice, ECS may at its discretion discontinue, withhold, or suspend service.

#### **2. Servers**

##### **A. Shared Servers**

ECS will provide shared server hosting based on the information in the applicable Service Order Form and this Addendum. Your use of ECS's shared hosting services constitutes your agreement that you have read and agree to these Terms & Conditions and in the event of your breach of this agreement you agree that ECS may take whatever actions necessary to satisfy any monies owed to ECS including preventing the removal of any of your content residing on ECS's server

##### **B. Dedicated (ECS Owned) Servers**

ECS will provide its standard server configuration or, ECS will build a server to the Client's specifications as specified by the Client in the applicable Service Order. In either case, ECS will charge the Client a one time lease fee based on ECS' cost of the components of the server as quoted to the Client at the time of the Client's order. You do not own this server; however, the Client is responsible for the cost of maintaining and repairing the server. ECS will pass on to the Client any component manufacturer's warranties that may be applicable. ECS may also charge the Client for its maintenance

labor at the then prevailing hourly rate. You will be responsible for any component charges beyond manufacturer's warranties required to repair the server. ECS is not responsible for any down time or damages resulting from server maintenance or the lack there of. ECS does not guarantee 24x7 maintenance and repair. ECS is not responsible for monitoring the condition of the server, or automatically performing preventive maintenance of any kind. You are responsible for notifying ECS of any server problems and must authorize ECS to perform the required maintenance and repair. ECS, at the Client's request, may provide (but has in no obligation to do so) the Client with a quote before performing on call maintenance or repair. Additional servers not included on the applicable Service Order will be ordered on subsequent Service Orders which will become addendums to this agreement upon acceptance by both parties.

**1.) Server Upgrades**

At the Client's request, ECS may provide (but has in no obligation to do so) the Client with a quote to upgrade the Client's server. Upgraded servers including the upgraded components remain the property of ECS.

**2.) Maintenance and Monitoring**

ECS may provide (but has in no obligation to do so) a monitoring and repair service for a fixed monthly fee as quoted in the Service Order. This service will include 24x7 monitoring of the server and response to problems, and all parts and labor to restore the server to operating standards. ECS will exert its best efforts to resolve any problems as quickly as possible however; ECS cannot guarantee that a problem can be resolved within a specific period of time. Whether or not the Client uses ECS' monitoring or repair service, the Client is required to maintain a current back-up copy of the Client's server in case it becomes necessary for ECS or the Client to restore the Client's server. ECS does not back-up the Client's server.

**3.) Server Impounding**

You agree that ECS has the right to hold the Client's server(s) (including all software and contents) until ECS is paid in full for all outstanding amounts the Client owes.

**4.) Server Buyout**

At the Client's request, ECS may provide (but has in no obligation to do so) the Client with a quote for the Client's cost to buy the Client's server

**C. Co-located (Client Owned) Servers**

You will provide the Client's own server or, ECS may build (but has in no obligation to do so) a server to the Client's specifications. If ECS builds the server, title will be transferred to the Client at the time the server is paid for. ECS will pass on to the Client any component manufacturer's warranties that may be applicable. You are responsible for the cost of maintaining and repairing the server. ECS may charge the Client for any parts and maintenance labor at the then prevailing hourly rate if the Client requests service from ECS. You will be responsible for any component charges beyond manufacturer's warranties required to repair the server. ECS is not responsible for any down time or damages resulting from server maintenance or the lack there of. ECS does not guarantee 24x7 maintenance and repair. ECS is not responsible for monitoring the condition of the server, or automatically performing preventive maintenance of any kind. You are responsible for notifying ECS of any server problems and must authorize ECS to perform the required maintenance and repair. ECS at the Client's request may provide (but has in no obligation to do so) the Client with a quote before performing on call maintenance or repair.

You also understand that for security reasons, ECS has the right to enforce its own security policies which may exclude the Client from entering our data center facilities. In such cases, arrangements must be made in advance with ECS to have the Client's

servers available at a place designated by ECS. ECS will cooperate with the Client to accommodate the Client's needs to have access to the Client's servers without compromising ECS' then existing security policies.

Additional servers not included on the initial Service Order will be ordered on subsequent Server Orders which will become addendums to this agreement upon acceptance by both parties.

### **1). Server Upgrades**

At the Client's request, ECS may provide (but has in no obligation to do so) the Client with a quote to upgrade the Client's server. Upgraded servers including the upgraded components remain the property of ECS until the Client have paid for them.

### **2). Maintenance and Monitoring**

ECS may provide (but has in no obligation to do so) a monitoring and repair service for a fixed monthly fee as quoted in the Server Order Form. This service will include 24x7 monitoring of the server and response to problems, and all parts and labor to restore the server to operating standards. ECS will exert its best efforts to resolve any problems as quickly as possible however; ECS cannot guarantee that a problem can be resolved within a specific period of time. Whether or not the Client uses ECS' monitoring or repair service, the Client is required to maintain a current back-up copy of the Client's server in case it becomes necessary for ECS or the Client to restore the Client's server. ECS does not back-up the Client's server.

### **3). Server Impounding**

You agree that ECS has the right to hold the Client's server(s) (including all software and contents) until ECS is paid in full for all outstanding amounts the Client owes.

Prior to storage of equipment or occupancy by Client of any Colocation Space and during the Service Term, Client shall procure and maintain the following minimum insurance coverage: (a) Workers' Compensation in compliance with all applicable statutes of appropriate jurisdiction (including Employer's Liability with limits of \$500,000 each accident); (b) Commercial General Liability with combined single limits of \$1,000,000 each occurrence; and (c) "All Risk" Property insurance covering all of Client's personal property located in the datacenter. Client acknowledges that it retains the risk of loss for, loss of (including, without limitation, loss of use), or damage to, Client equipment and other personal property located in the datacenter. Client further acknowledges that ECS' insurance policies do not provide coverage for Client's personal property located in the ECS datacenter. Client shall, at its option, maintain a program of property insurance or self-insurance covering loss of or damage to its equipment and other personal property located in the ECS datacenter. Client's Commercial General Liability policy shall be endorsed to show ECS (and any underlying property owner, as requested by ECS) as an additional insured. Client shall waive and/or cause its insurance carriers to waive all rights of subrogation against ECS, which will include, without limitation, an express waiver in all insurance policies. Client shall furnish ECS with certificates of insurance demonstrating that Client has obtained the required insurance coverages prior to use of the Colocation Space or the storage of equipment in the datacenter. Such certificates shall contain a statement that the insurance coverage shall not be materially changed or cancelled without at least thirty (30) days' prior written notice to ECS. Client shall require any contractor, Client or other third party entering the datacenter on Client's behalf to procure and maintain the same types, amounts and coverage extensions as required of Client above.

### **3. Duties of ECS**

ECS will provide the service selected by the Client in the applicable Service Order

### **4. Acceptable Use Policy**

ECS will impose an Acceptable Use Policy regarding the Client's use of its service. You agree to impose such policies on the Client's customers to the extent necessary to ensure compliance. The current policy can be found at [www.ecsuite.com/aup.pdf](http://www.ecsuite.com/aup.pdf). ECS may change any policy without prior notice to the Client. Violation of any provision of the Acceptable Use Policy (AUP) by the Client or the Client's clients can result in the immediate termination of the Client's service without notice.

### **5. Term and Termination**

This Addendum becomes effective upon acceptance the initial Service Order by ECS It is for an initial term as specified in the applicable Service Order beginning from the date of ECS' acceptance. After the initial term this Addendum will automatically renew on its anniversary date for twelve (12) months. Either party may terminate this Addendum at the end of the initial term or each subsequent term by so notifying the other in writing no less than thirty (30) days prior to the renewal date.

All cancellations must be received in writing according to the above deadlines and the Master Services Agreement. On cancellation, the Client is responsible to remove the Client's equipment and systems from the service.



## ADDENDUM C

### Transaction Processing Agreement

#### TERMS AND CONDITIONS

Subject to EC Suite's Master Services Agreement including all Addendums, Attachments, Service Orders, and Acceptable Use Policies (AUPs); ECS will provide the following services under the terms and conditions outlined herein.

#### 1. Definitions

When used in this Addendum, the following definitions apply:

- A. **Chargeback:** A charge to a customer that is reversed by the credit card issuer.
- B. **Customer:** Anyone trying to access a Client's website with a membership ID issued through ECS's e-ticketing and access management software.
- C. **Customer Charges:** Amounts to be charged to the customer.
- D. **E-Ticketing and /Site Access Management System:** Those services provided by ECS under the terms of this Addendum to facilitate customer access to your website or downloadable product.
- E. **Membership ID:** A unique code assigned to a customer through ECS's e-ticketing system that permits access to your restricted website or downloadable product.
- F. **Payment Form:** The payment mechanism, i.e. credit card, etc., a customer utilizes in purchasing an e-ticket to gain access to a Client's website or downloadable product.
- G. **Penalty:** Any fine, fee, assessment or other charge levied against ECS by the card associations, Merchant Bank, any state or federal Regulatory Agency, or any other system that is in addition to the normal fees charged by those entities.
- H. **Refund:** Any payment from your customer that is reversed by ECS or you.
- I. **Security Deposit:** A percentage of the value of each transaction that is withheld from your gross amount as determined by ECS and/or its Merchant Bank. The amount of security deposit will vary from time to time as will the period of time the security deposit is held for.

#### 2. Website Pricing Options

The minimum price that you can charge is \$2.95 per transaction. The maximum is \$99.99 per transaction. Any exceptions must be applied for in writing to ECS, and may or may not be accepted based solely on ECS's discretion.

#### 3. Services

The services covered by this Addendum include ECS's processing and access management tools.

#### 4. Fees

The net amount of any and all weekly payments will be the amount of customer charges minus the margin, security deposit, and refunds not processed in previous payments, chargebacks, ACH returned items, payment delivery fees, taxes, penalties, and any additional security deposit amounts. ECS reserves the right to charge any of these deductions against

the security deposit and to require you to replenish the security deposit to a level deemed appropriate solely by ECS or its Merchant Bank. Client agrees to pay the fees set forth in the Service Order attached hereto for the services provided by ECS. ECS shall have the right to change the fees stated herein upon providing notice to Client at least 10 days prior to the effective date of such changes. ECS will deduct this fee from your funds before payment to you.

In addition to the fee, ECS shall hold a security deposit for a minimum of six months as set forth in the Service Order attached hereto. ECS may increase its security deposit requirements, at any time, if in ECS's sole discretion it is necessary to cover potential refunds, chargebacks, customer disputes, and/ or fines or penalties imposed directly or indirectly on ECS by its acquiring bank, the card associations or regulatory agencies.

If ECS is penalized by its acquiring bank, a card association, or card company for chargebacks or refunds arising from ECS's processing transactions for your website(s), ECS may at any time and at its discretion charge you \$100 per chargeback, or the actual amount of the penalty per item, whichever is higher. ECS's waiver of this paragraph for any period of time does not constitute forfeiture of ECS's right to impose the application of the penalties retroactively or for that period of time. You acknowledge that the card associations and regulatory agencies may apply chargebacks and fines retroactively and that ECS must retain that right as well. In the event a flat amount penalty is assessed against ECS as opposed to a per transaction penalty, ECS may at its sole discretion prorate the flat amount among those clients that ECS at its sole discretion deems to have been the cause of the penalty.

## **5. Payment**

ECS will issue payment to you on a weekly basis. The payment made will be for the net amount of the customer charges for the week ending on Saturday, one week prior to the week the payment is issued. The minimum net amount that ECS will payout in any week is \$100.00 for wire transfers and \$20.00 for checks. Minimums are after deduction of the processing the payment. Lesser amounts will be held by ECS until the minimum has accumulated. While ECS will make reasonable effort to make payment on Monday, if there are unusual circumstances such as delays in ECS receiving payment from banks, holidays, or system failures, ECS will make payment as soon after Monday as possible.

The net amount of payment will be the amount of customer charges minus ECS's fees, security deposit, refunds not processed in previous payments, chargebacks, payment delivery fees, taxes, penalties, and any additional security deposit amounts. ECS reserves the right to charge any of these deductions against the security deposit and to require you to replenish the security deposit to a level deemed appropriate solely by ECS or its Merchant Bank.

In order to resolve complaints and disputes, you agree that ECS may issue refunds without your knowledge or approval in any situation ECS thinks is appropriate. ECS may also include the customer in its database of blocked accounts if there is an indication of fraud or inappropriate use of the customer's information by the customer or anyone else.

ECS offers additional services to its clients under separate Addendums. You agree that ECS has, and you hereby assign to ECS, the right to utilize funds due you under this Addendum to satisfy any fees that may occur under any other Addendums or Attachments you have entered into with ECS.

## **6. Cancellation**

You and ECS can cancel this Addendum at any time with 10 days written notice. Email and telephone are not acceptable forms of notice. ECS also has the right to cancel this Addendum without notice, if you violate the terms of this Addendum, or ECS's Acceptable Use Policies (AUP). ECS's AUP is available to Client through Client Administration System ECS will change its AUP from time to time and it is your responsibility to check it often to make sure you are in compliance. In cases of minor violations, ECS will give you an opportunity to become compliant, but ECS can cancel this Addendum or take any other action ECS feels is appropriate if you do not comply. Serious violations by you or any of your referrers or upon notification by

any of the card associations or regulatory agencies to discontinue accepting transactions will result in ECS canceling this Addendum immediately.

In the event Client's account is suspended for unacceptable conduct or suspicion of fraud, all rebilling members may be cancelled and all monies held for a period of six months to one year. In addition, ECS reserves the right, where feasible, to implement technical mechanisms, which prevent the occurrences listed above. Furthermore, ECS is under no obligation to notify client of its actions.

ECS may deactivate ECS accounts or sub accounts that have not processed any transactions within a 90-day period or the ECS join page is not viewable from the home URL of the protected website. Accounts are deactivated in order to minimize the unnecessary operational cost associated with maintaining them in the system.

## **7. Your Obligations**

You agree to use ECS's services for the sale of legal content, downloadable products, and services from your website. You will not use ECS's services for the sale of property or items that cannot be downloaded from your website by your customer.

On ECS's signup page for your website, ECS will plainly show the customer the price(s) you are charging and all terms and conditions of the purchase. If this Addendum is terminated by either you or ECS for any reason, you must leave the ability for customers to cancel their purchases through ECS's services until there are no more active recurring memberships. If you do not do this, or if in ECS's judgment there will be excessive chargebacks, ECS may without notice immediately issue refunds to your customers, and hold all payments and reserves until such time as ECS is convinced that there will be no further refunds and/or chargebacks. The minimum time that ECS will withhold payment is six months.

You are responsible for and agree to always maintain the ability to respond to your customer's technical inquiries and try to resolve issues amicably. If, in ECS's opinion customer complaints and/or chargebacks are excessive, ECS may choose to cancel this Attachment and you agree to immediately reimburse to ECS all its expenses fines and fees related to chargebacks and refunds.

Within the limits imposed by paragraph 2 of this Addendum you may change the access prices and subscription options for your website whenever you want. The correctness, functionality, and accuracy of these changes are your responsibility regardless of who makes them.

## **8. Entire Addendum; Modifications**

The MSA and all addendums and attachments set forth the entire agreement and understanding between the parties and merges all prior discussion between them. ECS reserves the right to modify this Addendum at any time. Utilization of the service by you and/or your customers following the effective date of any change or modification of this Addendum on ECS's website will constitute acceptance by you of such change(s). Otherwise, this Addendum may not be modified except by the written consent of both parties.

For your own protection, you understand and agree that ECS will only accept requested changes and modifications to this Addendum that are in writing and signed by the individual(s) signing this Addendum.

ECS strongly discourages clients from having more than one person sign this Addendum. If you choose to have more than one person sign this Addendum, please be advised that, when notified of a dispute, ECS will not make any changes to the account or disburse or refund any monies until ECS receives either written stipulation signed by all signatories or a court order.

## **9. Addendums and Schedules**

**All documents required by this Addendum must be received by ECS prior to ECS processing any transactions.** This Addendum becomes effective on the date is the Service order is accepted by ECS.

**Attachment Listing:**

- C -1 Terms and Conditions Specific to Accepting Visa for Payment
- C -2 Terms and Conditions Specific to Accepting MasterCard for Payment
- C-3 Terms and Conditions Specific to Accepting Online Checks for Payment

## Attachment C - 1

### Terms and Conditions Specific to Accepting Visa for Payment

This addendum to ECS' Terms and Conditions is incorporated as part of this agreement and is intended to clarify issues that are specific to your website accepting VISA cards in payment for access to your website. VISA has determined that websites that are clients of ECS are designated as "Sponsored Merchants." In order for ECS to process VISA transactions on client's behalf you must complete the VISA registration process and be approved by ECS, its acquiring bank(s) and VISA. If you so elect, ECS can begin processing other payment forms that you select until your VISA application has been approved.

The Visa rules require that:

1. The Sponsored Merchant being registered has a permanent establishment in the United States or Canada through which economic activity is completed.
2. The Sponsored Merchant being registered has a statutory agent with an address in the United States or Canada for correspondence and judicial process.
3. The Sponsored Merchant being registered pays applicable United States or Canadian taxes relating to the sales processed through ECS.

ECS, its acquiring bank(s) and Visa will all rely on the representations and warranties contained in this registration form.

ECS has no control over the acceptance or denial of this application by Visa and/or the acquiring bank(s), and that the acceptance of this registration form by ECS does not guarantee that Client will be approved to accept Visa transactions by Visa, and/or the acquiring bank(s), and if not accepted, ECS is not liable for any damages that Client may incur from the lack of approval.

If approved by Visa and the acquiring bank(s) Client agrees to:

1. Indemnify VISA, its member banks and ECS, its officers, directors, shareholders, affiliated entities and persons, employees, agents, representatives and attorneys for any liability it may incur, including attorney's fees, as a result of any misrepresentation I make on this form.
2. Abide by all Visa operating rules, and
3. And understands that at any time, Visa or the acquiring banks can require ECS to stop processing Visa transaction for Clients account without prior notice to Client, and if that should happen, Client has no recourse legal or otherwise to ECS for any damages Client might incur.
4. Client also understands that, should VISA or the acquiring bank(s) require ECS to discontinue accepting transactions for Client's account, the fees paid for initial registration and annual renewals are non-refundable in whole or in part.

If this registration or annual renewal is not accepted, ECS will refund any applicable Visa application or annual renewal fee, whichever is most recently paid to ECS.

## **Attachment C - 2**

### **Terms and Conditions Specific to Accepting MasterCard for Payment**

This addendum to ECS' Terms and Conditions is incorporated as part of this agreement and is intended to clarify issues that are specific to accepting MasterCard cards in payment for access to Client's website.

Client understands and agrees that:

1. MasterCard specifically prohibits the display of its logo, trademarks, and service marks on Client's website unless Client has a merchant account for processing some transactions that do not utilize ECS' services, and agree to abide by this prohibition as well as any other rules that MasterCard may impose.
2. ECS is the e-ticketing agent for client's services, membership areas and/or downloadable products and warrant to ECS that no indication otherwise will occur in any marketing campaign.
3. No MasterCard consumer credit card information may be gathered at any time by Client's marketing efforts.

## **Attachment C – 3**

### **Terms and Conditions Specific to Accepting Online Checks for Payment**

This addendum to EC Suite's Terms and Conditions is incorporated as part of this agreement and is intended to clarify issues that are specific to your site accepting on-line checks.

I understand that there is a several day delay between signup and when a check clears the bank or is rejected, and that during that time a member/subscriber will have full access to my site even though the transaction may be declined or returned by the bank.



## ADDENDUM E

### Content Protection—SecuredApp & DRM

Subject to EC Suite's Master Services Agreement including all Addendums, Attachments, Service Orders, and Acceptable Use Policies (AUPs); ECS will provide the following services under the terms and conditions outlined herein.

ECS provides Content Protection services entitled "SecuredApp" and "DRM Networks", that facilitate usage rules for application software, video, audio files and content via the Internet, and Client wants to utilize one [or both] of the services indicated in the applicable Service Order. Client warrants that Client is legally entitled to agree to this Addendum.

#### 1. Definitions

When used in this Addendum, the following definitions apply:

- A. Content: Files in the form of executables, audio, video or text.
- B. Customer: Anyone trying to access Client's Content with an ID and/or certificate issued through EC Suite's system.
- C. Executable: A file in a format that a computer can directly execute.
- D. File: Electronic documents in the form of Windows Media or executable.
- E. License: A small encrypted File that is needed to enable Content to be accessed.
- F. License Clearing: The act of issuing a valid License that allows Content to be accessed.
- G. Service Provider: Companies other than ECS that ECS uses to facilitate and/or enhance the Clients use of ECS' services.

#### 2. Services

- A. The services covered by this Addendum include providing Client with software to enable file encryption and ECS' license clearing services.
- B. For purposes of clarity, any services by ECS in connection with the sale of content and/or any other services offered by Client's website are not covered under this Addendum and will be the subject of one or more additional addendums. ECS will not provide services under this addendum unless Client also utilizes ECS' transaction processing services.

#### 3. Fees

- A. All orders are subject to acceptance by ECS. Clients will receive email confirmation upon acceptance of Client's order by EC Suite. ECS may refuse to accept any order. Such confirmation of acceptance shall not be unreasonably withheld, and ECS agrees to provide Client notice via email or fax of any intent decline the acceptance of any order.
- B. Client agrees to pay to ECS the fees indicated in the Service Order. If Client is also utilizing ECS' transaction processing, the fees applicable to this Addendum will first be deducted from each payment to client from the transaction processing. Client will be invoiced monthly by ECS for all fees due to ECS in excess of those fees that ECS deducts from the transaction processing payments to Client. Invoices may be delivered by mail, fax, or electronically, at Client's option. Payment is due upon

receipt and will become delinquent 30 days after the invoice date. ECS may assess and add to the outstanding balance, a late payment charge of 1½% per month or the maximum allowed by law, whichever is lower, for any amount that is delinquent. In addition, ECS may suspend or terminate any or all service to Client at anytime if Client's account is delinquent. Client agrees that ECS may apply funds due Client under the Transaction Processing Addendum to satisfy any amount due ECS under this Addendum

- C. Client agrees to pay all minimum charges in advance for the service selected by Client, including all monthly fees and additional product charges incurred by Client. Payment may be made by check or credit card. By providing ECS with a credit card, Client hereby authorizes ECS to charge any amounts due ECS to the credit card provided by Client. Client agrees that if this Addendum becomes effective at any time after the 1st of the month, ECS may prorate the first invoice to reflect a full month's charges plus a sufficient number of days to have all subsequent billing periods start on the first of the month. Payment for service will be made in U.S. dollars to ECS. The initial payment is due with with the Service Order in the amount specified in the Service Order.
- D. In the event Clients account is delinquent, Client agrees that ECS may deduct fees covered by this Addendum from Client's transaction processing funds before payment to Client.
- E. ECS may change the amount of any fees with a thirty (30) days notice to Client. If ECS provides notice of a price increase, Client may cancel this Addendum if Client notifies ECS of Client's intent to cancel because of the increase within the 30-day notification period.

#### **4. Cancellation**

- A. Cancellation for Breach. Either party may terminate or cancel this Addendum for a material breach or default of any of the terms or conditions of this Addendum by the other party, provided that such termination or cancellation may be made only following the expiration of a thirty (30) day period during which the breaching party has failed to cure such breach after having been given written notice of such breach. ECS may cancel this Addendum without notice at any time if there is a material breach by Client of ECS' Acceptable Use Policies (AUP). ECS may change its AUP from time to time and Client is responsible for reviewing the AUP periodically to make sure Client is in compliance. In cases of minor violations, ECS will give Client an opportunity to cure in order to be in compliance.
- B. Voluntary Cancellation. Client and/or ECS can cancel this Addendum at any time for any reason with thirty (30) days written notice and this Addendum remains in effect until cancelled by Client or ECS.
- C. Cancellation by Mutual Consent. The parties may at any time terminate this Addendum in its entirety, by mutual consent. In such event, each party shall release and hold harmless the other party for any costs, expenses or fees related to this Addendum, excepting in particular the right to collect money due on unpaid invoices.
- D. Effect of Cancellation. Notwithstanding anything herein to the contrary, upon termination or cancellation of this Addendum, the provision of Section 4 of this Addendum shall survive such termination or cancellation and shall continue in full force and effect.

#### **5. Client Obligations**

- A. Client will be responsible for any breaches in the security of data that is transmitted electronically to ECS, and agrees to provide and implement any security measures required by ECS for protection of the data in transit and systems.
- B. Client must comply with any rules of operation and security procedures established by ECS

- C.** Client agrees to use ECS services for its own business purposes in strict accordance with all applicable federal, state, and local laws and regulations and all applicable communications common carrier tariffs, copyrights and trademarks laws.
- D.** Client is responsible for and ECS is not responsible for the accuracy of the information submitted to ECS to the best of Client's knowledge and submitting it in a format acceptable to ECS.
- E.** Client is responsible for backing up any and all data submitted to ECS for processing to facilitate reconstruction and re-entry of Client's information that may be lost or destroyed. In the event a material loss of or damage to Client's information is attributable solely to ECS or its Service Providers, ECS or its Service Providers at its cost and expense will regenerate that information from the machine readable back-up copy supplied by Client.
- F.** Client is expressly prohibited from selling or reselling, directly or indirectly, ECS services to a third party without the written consent of ECS.