

amshot, LLC
TERMS OF SERVICE

Last Updated: 05/19/22

THESE TERMS OF SERVICE, along with the Master Technology Services Agreement (“MTSA”); any accompanying Service(s) Rider prepared and submitted by Company and under which work is performed by Company, regardless of whether such Service(s) Rider is signed by the Client (referred herein individually as “Rider” and collectively as “Riders”); any Statement of Work prepared and submitted by Company and under which work is performed by Company, regardless of whether such Statement of Work is signed by the Client; and any exhibit, attachment, or amendment, each incorporated herein by reference (referred herein collectively as this “Agreement”), shall govern any and all transactions involving the sale of goods and provisions of products, services, and equipment by amshot, LLC (d/b/a amshot Solutions), an Oklahoma limited liability company with its primary office at 428 Dean A. McGee Avenue, Oklahoma City, OK 73102 (referred to herein as “amshot” or “Company”), to the party identified in the MTSA and its employees, officers, owners, agents, consultants, and contractors (referred to herein as “Client”). amshot and Client may be individually referred to herein as a “Party” or collectively as the “Parties.”

Company performs services and provides products, services, and equipment (“Services”) intended solely for business use, pursuant to the terms and conditions set forth in this Agreement and on the condition that Client accepts and complies with this Agreement. By signing the MTSA, (a) Client accepts this Agreement and agrees that Client is legally bound by its terms; (b) the Client’s representative signing this Agreement represents and warrants that: (i) its representative is eighteen (18) years of age or of legal age to enter into a binding agreement; and (ii) has the right, power, and authority to enter into this Agreement on behalf of the Client and to bind such party to these terms; (c) Client will not use Company’s Services in a way that violates or infringes upon the intellectual property rights or the privacy or publicity rights of any person or entity or that may otherwise be unlawful or give rise to civil or criminal liability; and (d) Client will not use Company’s Services in violation of any U.S. denied party-list, embargoed country restriction, export law or regulation. If Client does not agree to the terms of this Agreement, Client may not use the Company’s Services.

1. Scope and Terms.

Company will perform such services and provide such products, services, and equipment as are set forth in any Service Rider or Statement of Work (“Services”). By entering this Agreement, Client is agreeing to be bound by the Agreement and all applicable laws and regulations and agreeing that Client is responsible for compliance with any applicable local laws.

Supplemental terms may apply to the various services provided by Company and will be disclosed to Client in the MTSA, Rider, Statement of Work, or in connection with the applicable Services. Supplemental terms are in addition to, and shall be deemed a part of, these Terms of Service. In the event of any conflict between the documents comprising this Agreement, precedence will be given to the documents in the following descending order: (i) Terms of Service; (ii) MTSA; (iii) Service Rider; (iv) Statement of Work; and (v) any other document expressly referred to in this Agreement which governs the Services.

2. Modifications to Terms of Service.

Company may revise these Terms of Service at any time with or without notice. Client's signature on the MTSA, Rider, or Statement of Work shall serve as an agreement to be continually bound by the current version of these Terms of Service posted at <https://amshot.com/terms-of-service>.

3. Term of Agreement.

The term of the Agreement depends on the type of service provided as set forth below:

3.1 *Managed IT Service.*

The Initial Term for Managed IT Service shall be defined in the Managed IT Service Rider ("MS Rider") to the Agreement. After the Initial Term, this Agreement shall automatically renew for successive equal terms (the "Renewal Term" that collectively with the Initial Term shall be referred to hereinafter as the "Term") until terminated by either Party as herein provided, unless otherwise agreed in the MTSA, MS Rider, or Statement of Work.

3.2 *Project Services.*

The Initial Term for Project Services shall be defined in the Project Services Rider ("PS Rider"). After the Initial Term, this Agreement shall automatically renew for successive equal terms (the "Renewal Term" that collectively with the Initial Term shall be referred to hereinafter as the "Term") until terminated by either Party as herein provided, unless otherwise agreed in the MTSA, PS Rider, or Statement of Work. Generally, the Term is for the duration of the development and/or management of the project, which could include a product, application, and/or service described in the PS Rider or Statement of Work and is completed upon finalization of the development and/or management of the product, application, and/or service described in the PS Rider or Statement of Work. Completion of the development and/or management of the product, application, and/or service will be in accordance with the standards identified in the PS Rider or Statement of Work as reasonably determined by the Company.

3.3 *Staff Augmentation Service.*

The Initial Term for Staff Augmentation Service shall be defined in the Staff Augmentation Service Rider ("SA Rider"). After the Initial Term, this Agreement shall automatically renew for successive equal terms (the "Renewal Term" that collectively with the Initial Term shall be referred to hereinafter as the "Term") until terminated by either Party as herein provided, unless otherwise agreed in the MTSA, SA Rider, or Statement of Work.

4. Additional Service Terms.

The following additional terms apply to all types of Services provided and are incorporated into the MTSA and any accompanying Rider or Statement of Work:

4.1 Software Support.

Company supports only software that is identified by Company in its sole discretion as indicated in the MTSA, Rider, or Statement of Work. Company will notify Client in writing which systems are currently supported. Any discontinued software or software identified by Company, in its sole discretion, as outdated will be deemed unusable and will not be supported. Any vendor-specific software supported by Company will not be serviced by Company unless the Client maintains a service agreement with the software vendor or Company agrees to service the software in a Rider or Statement of Work. Any software that Company resells will have a service contract between the Client and that vendor, unless otherwise agreed by the Parties. Company may provide certain recommendations of software after evaluating it, but Company cannot warranty or guarantee the software's functionality or compatibility. Company is not responsible for the functionality of any software installed by Client during the Term ("Client Software"), and Client assumes the risk of failure or deficiency of the Client Software. Client shall be responsible for payment of any Fees charged by Company that are related to Client Software and may be more than the Fees provided for in a Rider or Statement of Work.

4.2 Hardware Support.

Company reserves the right to refuse service of hardware that is no longer supported by the manufacturer or is identified by Company, in its sole discretion, as outdated. Company is not responsible for any new hardware purchased by the Client during the Term without Company's recommendation or involvement ("Client Hardware"). Client shall be responsible for payment of any Fees charged by Company that are related to Client Hardware and may be more than the Fees provided for in a Rider or Statement of Work.

4.3 Client Obligations.

In addition to specific obligations contained in the MTSA, Rider, or Statement of Work, Client will:

- a. Provide free, safe, and sufficient access to Client's facilities including ample working space, electricity, high-speed internet access, and a local telephone line;
- b. Provide all resources requested by Company and manage the related operations and data necessary for completion of Client's objectives as directed by Company;
- c. For existing and new Client supplied software, ensure that Client is authorized by the licensor(s) to use them on any hardware used by Client or Company on behalf of Client;
- d. Limit the use of any software Company may provide to Client in connection with the Services for Client's efforts;
- e. Furnish or pay for any additional supplies, materials and storage media that are not provided in the Services, as described in this Agreement, that Company, in its sole discretion, deems are necessary;
- f. Be solely responsible for the results obtained from the Services (including any machines, equipment, hardware, and software Company may provide) as well as all machines, equipment, hardware, and software provided by the Client;
- g. Be solely responsible for the security of data during transmission and for correcting transmission errors and data corruption problems and apply all rules related to data privacy;

- h. Take all reasonable precautions to protect any software and hardware Company may provide in connection with the Services from infection by computer virus while under Client's control;
- i. Immediately notify Company upon learning of any significant problem with the performance of any software, hardware, or Client's network;
- j. Cooperate with Company in connection with its performance of the Services by providing access to Client's physical premises as reasonably necessary;
- k. Purchase software and hardware recommended by Company as may be reasonably necessary for the effective operation of its network;
- l. Provide any passwords or keys (virtual or otherwise) that Company requires to provide the Services to Client.
- m. Refrain from deactivating or removing software and hardware solutions implemented by Company for protection from virus and malware;
- n. Perform the day-to-day tasks associated with creating archival or backup copies of data in a format and method acceptable to Client;
- o. Refrain from using the Company's support desk for training as training of end users is not included in Services;
- p. Notify Company within a reasonable time regarding any change in the identity of Client's network administrator;
- q. Allow Company to make basic decisions regarding the security and functionality of the network, such as not allowing individual accounts to have administrative privileges;
- r. Consult Company before any installation of hardware, software, or changes to network;
- s. Maintain appropriate licenses through the life of this Agreement;
- t. Cooperate with Company and necessary third-party vendors in obtaining and maintaining licenses related to Services; and
- u. Comply with all federal, state, and local laws, rules, regulations, and requirements which are applicable to Client and relate to the Services provided by Company, at its sole expense and without cost to Company.

Subject to the provisions of this Agreement, Client shall bear all the costs and expenses of maintaining and operating all technology systems of Client without cost to Company.

4.4 Authorization to Maintain and Access Client Devices.

In connection with its performance of the Services, Client acknowledges that Company will, when necessary, access, connect to, and manage Client's supported devices via remote technologies (except where prohibited by law).

In connection with these Services, Company may perform remote management activities without first contacting Client. These activities include, but are not limited to: updating or changing software drivers; installing and applying software patches; rebooting devices; deleting temporary files and clearing caches; starting or restarting application services; staging and executing scripts for automated maintenance routines; network performance tuning; transfer data associated with routine system tuning and upkeep between systems within a Client's network; and identify, collect and report on detailed data for devices

on a network. Client is responsible for notifying Company of a restriction of remote or on-site access, connections or management activities related to any supported device.

Company shall not be responsible for delay in performing or not performing any of the Services or any obligation under the Agreement directly or indirectly resulting from Client's denial to Company of full and free access to Client's personnel or facilities pursuant to this Agreement.

4.5 On-Site Support and Parts Availability.

Unless otherwise stated in the MTSA, Rider, or Statement of Work, Company provides on-site support and parts availability in accordance with this section 4.5. On-site support may not be available in all geographies and may be limited to commercial locations within supported geographies. Additional labor or parts costs may apply to supported non-Company devices subject to original equipment manufacturer ("OEM") support practices and level of Client warranty/service contract entitlement. Service parts may not be available for non-Company devices or may be available at additional costs.

4.6 Emergency Services.

Unless otherwise stated in the MTSA, Rider, or Statement of Work, Company reserves the right to charge Client additional Fees for performing emergency services, as determined by Company in its sole discretion, which includes but is not limited to any products, services, or equipment recommended or proposed by Company to Client on a Rider or Statement of Work and rejected by Client.

4.7 Staff Augmentation Service.

If Client and Company execute a Staff Augmentation Service Rider ("SA Rider"), the following additional terms apply and are incorporated into the MTSA and any Statement of Work:

4.7.1 Scope of Services.

Company will provide Staff Augmentation Service pursuant to the SA Rider to assist Client in achieving its objectives, as set out in the SA Rider or Statement of Work.

4.7.2 Client's Obligations.

In addition to specific obligations contained in the MTSA or any SA Rider or Statement of Work, Client will:

- a. Follow the specifications and procedures Company provides for the Staff Augmentation Service;
- b. Provide a safe working environment, in compliance with Occupational Safety and Health Administration (OSHA) rules and regulations, and timely report any work-related injuries of Company's employees performing Services to Client;
- c. Comply with all federal, state, and local laws, rules, regulations, and requirements, including but not limited to, those related to harassment, sexual or otherwise, and discrimination based on sex, race, color, genetic information, religion, national origin, marital status, age, disability, and/or union status or any other protected category;

- d. Provide Company's employees with all policies applicable to the Staff Augmentation Service provided by Company to which Client and Client's employees must comply, such as those in an Employee Handbook, including but not limited to, any federal, state, and local laws, rules, regulations, and requirements;
- e. Review and sign time sheets submitted by Company's employees to approve work performed, provide such approval within three (3) days of receiving time sheets, and agree that failure of Client to sign time sheets within three (3) days will result in automatic approval of any time sheets submitted by Company's employee;
- f. Promptly notify Company if Client has knowledge of any actual or potential claim regarding Company's employee, including but not limited to, complaints (oral or written), charges, incidents, allegations, lawsuits, or government investigations or audits; and
- g. Maintain day-to-day control, management, and supervision of Company's employees performing Services to Client, including but not limited to training, orientation, and supervision of employees, agents, contractors, and representatives of Company as needed to perform Services to Client, to ensure that all such parties perform in accordance with industry and Client's standards.

5. Leased or Loaned Equipment.

Client agrees:

- a. That all equipment leased or loaned to Client by Company shall remain sole property of Company. Company, in its sole discretion, may prepare and maintain a list of Company Equipment and may periodically provide such list to Client. Client will not attempt to sell, lease, encumber, resale, tamper, troubleshoot, repair, move, or add to such equipment without prior written permission of Company;
- b. Upon termination of this Agreement, Client shall return such leased or loaned property to Company within ten (10) days after the termination date. Company may take possession of such equipment after such ten (10) days, and Client shall compensate Company for expenses accrued during the recovery;
- c. Client shall not attempt, or cause to be attempted, any maintenance on any equipment of Company. Any tampering, repair, or service, except by Company, on such equipment constitutes a default under this Agreement;
- d. Client shall make reasonable attempts to keep equipment of Company safe, secure, and protected while in its possession. Client shall keep current insurance on equipment of Company while in Client's possession and list Company as an additional loss payee. Client shall provide proof thereof to Company and provide a current copy of its insurance declaration sheet showing Company as a loss payee; and
- e. Should Client default under this Agreement, Company may enter Client's premises at any time and remove all of Company's hardware, and such entry will be deemed consensual and not a trespass. Client shall fully cooperate and shall not interfere in any way with such removal. Client shall not disturb the peace during such removal.

6. Loss of Data.

Client understands and agrees that the Services (including installation or repair of components to any system) may cause data or software programs in Client's environment to be damaged, destroyed or lost, whether directly or indirectly arising out of work performed on any systems within the environment during or after the Services are completed. Client also understands and agrees that Client is responsible for backing up all data and software programs in any system before any work is set to commence and that COMPANY IS NOT RESPONSIBLE FOR LOSS OF OR RECOVERY OF DATA, SOFTWARE, HARDWARE, OR LOSS OF USE OF SYSTEM(S) OR NETWORK arising out of the Services or support or any act or omission, including negligence, by Company or a third-party service provider.

7. Notification of Unauthorized Use.

Client will promptly notify Company in writing of any unauthorized use of Client's devices, hardware, network, accounts, or content that comes to Client's attention. In the event of any such unauthorized use by any third-party that obtained access to the Client's network directly or indirectly, Client will take all steps within Client's control as reasonably necessary to terminate such unauthorized use and will provide Company with such cooperation and assistance related to any such unauthorized use as Company may reasonable request.

8. Confidentiality.

8.1 *Company's Confidential Information.*

Client acknowledges and agrees: (a) that any intellectual property, software, code, equipment, technology, systems, plans, specifications, designs, trade secrets, and other documents and materials created pursuant to this Agreement, or related to Services performed hereunder and any information, work in progress, or other secret or confidential matter related to the business or projects of Company constitute confidential information ("Confidential Information"), and (b) that Client shall maintain in strict confidence and shall not use, copy or disclose to any person, firm or corporation any such Confidential Information, unless such use, copying or disclosure is necessary to accomplish Services or has been authorized in writing by Company. In no event shall Client disclose any Confidential Information to any competitor of Company.

8.2 *Client's Confidential Information.*

Client acknowledges, represents, and agrees: (1) in connection with the performance of the Services, (a) Company may access any information (including personal information) contained in Client's network, and (b) Client may provide information (including personal information) to Company by telephone or otherwise; and, (2) Client is authorized by law or otherwise to disclose the information to Company.

9. Intellectual Property.

9.1 *Ownership of Intellectual Property Rights.*

Unless otherwise stated in the MTSA, Rider, or Statement of Work, any Confidential Information or intellectual property, including, but not limited to, programming, copyrightable works, writings, drawings, designs or other works created or developed by Company or its personnel during the performance of this Agreement (“Company IP”) are the property of Company. Provided however, Company will not use Company IP for other commercial purposes unless it can do so without disclosing Client’s confidential information.

9.2 *Limited License.*

Company hereby grants a non-exclusive, limited, royalty free license for Client to use Company IP in connection with the Services and related uses contemplated in this Agreement. This limited license shall terminate upon termination of this Agreement and all Company IP shall be immediately returned and/or Client shall cease to use.

9.3 *Proprietary Marks.*

Company’s logo, designs, graphics, icons, service marks, trademarks, trade names, commercial symbols and copyrights, as may presently exist, or which may be modified, changed, or acquired by Company (collectively “Marks”) shall be owned by Company absolutely and in their entirety. Client shall not use the Company’s Marks without Company’s prior approval.

10. Third-Party Vendors.

Company works with third-party vendors to provide quality products, services, and equipment to Client. As a result, Company is subject to third-party vendor agreements. Client acknowledges and agrees to refrain from activities that could result in a breach of those agreements as a user of third-party vendor products, services, and equipment. Activities that may result in a breach include, but are not limited to, reverse engineering and infringement on intellectual property rights.

Client acknowledges and agrees to any terms Client is subject to under third-party vendor agreements necessary to obtain Services from Company, including, but not limited to, end-user license agreements, warranties, cloud service plans, privacy policies, data use agreements, conduct agreements, subscription terms and conditions, and use policies. Additionally, Client agrees to cooperate with and assist Company in confirming Client’s consent to be bound by the terms of the third-party vendor agreement(s).

Company will provide Client on or before the Effective Date of this Agreement and from time-to-time thereafter, as necessary, written notice of any limits imposed on Client resulting from such third-party vendor agreements.

11. Non-Interference.

Client shall not reverse engineer any Company IP, equipment, technology, systems, plans, specifications, designs, trade secrets, and other documents and materials created pursuant to this Agreement to produce competitive products, services or equipment. Client shall not directly contact vendors, service providers, contractors, software companies, or similar third-parties to interfere with a business relationship between Company and such third-parties or otherwise obtain products, services and equipment which Company provides pursuant to this Agreement.

12. Payment, Fees, and Invoicing.

12.1 *Payment.*

Client will pay Company for the Services and any included goods in the amounts and on the terms set forth in the Agreement (“Fees”). The Fees do not include any sales, use, service, or similar taxes that may be payable by reason of the provisions of the MTSA. Client will pay all such taxes which may become due in connection with the Services. Company may add, collect, and remit sales tax from the sale of applicable products, services or equipment as required. The Fees do not include, and Client will pay Company for, reasonable and necessary cost of travel (outside a fifty (50) mile radius of the Company’s Oklahoma City office unless the travel is part of a monthly on-site billing arrangement) and out-of-pocket costs, including, but not limited to, photocopying, overnight courier, and unusual long-distance telephone calls. All expenses will be billed monthly as incurred, at a multiple of 1.2 (cost plus 20%).

12.2 *Payment Information.*

Client will keep its contact information, billing information and credit card information (where applicable) up to date. All payment obligations are non-cancelable, and all amounts paid are non-refundable, except as provided for in this Agreement.

12.3 *Payment by Credit Card.*

If Client is paying by credit card, Client authorizes Company to use a third-party to process payments, and hereby consents to the disclosure of Client’s payment information to such third-party.

12.3.1 *Prepayment of Service Fees.*

The Fees will remain fixed during the Initial Term unless Client adds or removes Services provided by Company. Unless otherwise agreed to by the Parties, Client may only decrease the Services provided under the MTSA, at the time of renewal of the MTSA.

amshot may increase monthly pricing and hourly rates periodically as indicated by Company in writing and according to the terms of the MS Rider. Where a price change applies to Client, Company will charge or invoice Client under the new price structure with the next renewal term, except as provided below under “Fee Adjustments During the Term.” All Staff Augmentation Service Fees are due and payable in advance throughout the Term of this Agreement.

12.3.2 Service Fee Adjustments During the Initial/Renewal Term.

Service Fees are subject to increase if Client accepts additional Services during the applicable Term. Company may choose to decrease Client's Fees upon written notice to Client.

12.4 Invoicing.

All amounts due to Company shall be paid within fifteen (15) days after the date of an invoice. A late fee, equal to the lower of (i) one and one half percent (1.5%) per month of the total invoice, or (ii) the maximum allowable rate of interest under applicable law, shall be paid by Client on any amounts remaining due more than thirty (30) calendar days from the date of the invoice.

12.5 Non-Payment Suspension.

If Client's account is more than thirty (30) days past due, in addition to any other rights or remedies it may have under this Agreement or by law, Company reserves the right to suspend its Services upon written notice, without liability to Clients, until such past due amounts are paid in full.

12.6 Billing Disputes.

If Client reasonably and in good faith disputes any portion of Company's billing, it must provide written notice to Company within ten (10) days of the billing date along with payment in full, identifying the reason for the dispute, and the amount in dispute. Amounts Company finds to be an error resulting in an overpayment by the Client will be applied as a credit on future invoices.

12.7 Collections.

All late payments will be subject to collection efforts. Client must pay all costs of collection, including reasonable attorneys' fees and costs.

13. Termination.

Except as provided in Section 13.4, termination of any Rider or Statement of Work is not a termination of the MTSA, these Terms and Conditions, or any other existing Rider or Statement of Work. Termination of the MTSA shall be a termination of the MTSA, these Terms and Conditions, and any executed Rider or Statement of Work, unless otherwise agreed to in writing by the Parties.

13.1 Termination Without Cause.

Either Party may elect to terminate this Agreement without cause by giving written notice to the other Party of its intention to terminate said Agreement. The terminating Party must give notice to terminate without cause to the non-terminating Party at least thirty (30) days prior to the desired termination date. The thirty-day period runs from the date the non-terminating Party receives the written notice of termination.

13.1.1 Termination Without Cause – Managed IT Service.

Notwithstanding Section 13.1 hereinabove, upon termination of an Agreement to provide Managed IT Service by Client without cause, Client shall pay Company (1) all outstanding Fees due under this Agreement through the Termination Date; and (2) a cancellation fee of an amount equal six (6) months of the Fees due under this Agreement then in effect.

13.1.2 Termination Without Cause – Product Management Service.

Notwithstanding Section 13.1 hereinabove, upon termination of this Agreement to provide Product Management Services by Client without cause, Client shall pay Company a cancellation fee of an amount equal to the amount of six (6) months of the Fees due under this Agreement then in effect, without regard to termination date.

13.2 Termination for Cause and Right to Cure.

Client must notify Company in writing of any failure to perform any of our obligations pursuant to this Agreement. Client may terminate this Agreement for cause only if (a) Company materially defaults in the performance of any terms and conditions in this Agreement; (b) Client gives Company written notice within fourteen (14) days detailing the material default; and (c) Company fails to cure this material default within thirty (30) days of receipt of Client's written notice of default. Termination for cause will not alter or affect the terminating Party's right to exercise any other remedies. Should Company fail to timely cure a material default after receipt of written notice pursuant to this Agreement, Client shall pay Company for Services rendered up to the date of expiration of the cure period.

Company shall be permitted to terminate this Agreement for cause (a) at any time upon Client's breach of this Agreement that is not cured within thirty (30) days of receipt of written notice of such breach; or (b) immediately upon Client's violation of any law governing the contents or application of this Agreement.

The Parties shall be excused for failure to perform services or provide products, services or equipment herein if such services, products or equipment are prevented by circumstances beyond such Party's reasonable control which includes but is not limited to acts of God, strikes, labor disputes, acts or omissions of any governmental authority, natural disaster, power or communication delays or outages, delay in transportation or deliveries of supplies or materials, or any other forces or events over which Company has no control ("Force Majeure").

13.3 Consequences of Termination.

Upon termination or expiration of this Agreement for any reason, all Client's rights will terminate, and Client will do the following:

- a. Client will provide access, during normal business hours, to Client's facilities to enable Company to remove all equipment owned by the Company from Client's facilities, wherever located;
- b. Client will immediately discontinue use of all Company intellectual property;

- c. Client will immediately discontinue use of all Company Confidential Information;
- d. Client will immediately return Company property; and
- e. All amounts owed by Client shall become immediately due and owing.

Upon termination or expiration of this Agreement for any reason, Company shall return all of the Client's data to the Client in a commercially reasonable manner, not to exceed fifteen (15) calendar days, following the date the Client requested return of its data. Company shall return Client's data in a comma separated value (i.e., CSV) format, unless another industry-standard format is mutually agreed to by the Parties. If Client requests Company's assistance in transitioning to a new service provider, Company shall assist the Client with the transition only if the Client:

- a. Has paid all Fees due and owed to Company under this Agreement prior to providing such assistance to Client; and
- b. Agrees to pay Company its then-current hourly rate for such assistance.

Company shall have no obligation to store or maintain any of Client's data in Company's possession beyond fifteen (15) calendar days following the termination or expiration of this Agreement.

13.4 *Survival of Obligations.*

The rights and obligations of the Parties under Sections 5, 6, 8, 11, 14, 15, 16, 17, 18 and 19 shall survive the termination and/or expiration of this Agreement.

14. Non-Solicitation.

Recognizing the unique nature of the Services provided by Company or its agents or affiliates, Client shall not, during the term of this Agreement and for one (1) year after termination of the Agreement, individually or in conjunction with others, directly or indirectly:

- a. recruit, solicit, induce, influence, or employ any person or persons employed by Company or its agents or affiliates to discontinue such employment or agency relationship with the Company; or
- b. solicit, induce, or influence any of Company's vendors or subcontractors to discontinue or reduce the scope of their business relationship with the Company.

Because damages for a breach of this provision can be difficult to determine, liquidated damages, not as a penalty, for any action in violation of subsection 1) of this section shall be in the amount equal to fifty percent (50%) of that employee or subcontractor's annual compensation from Company, including any signing bonus paid in the twelve (12) months prior, and for violations of subsection 2) of this section and equal to one (1) year of revenue generated from such business relationship with the Company.

15. Limitations of Liability.

SUBJECT TO APPLICABLE LAW, COMPANY, ITS AFFILIATES AND/OR ITS SUPPLIERS ARE NOT LIABLE FOR ANY OF THE FOLLOWING: (A) INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES; (B) DAMAGES RELATING TO FAILURES OF TELECOMMUNICATIONS, THE INTERNET, ELECTRONIC COMMUNICATIONS, CORRUPTION, SECURITY, LOSS OR THEFT OF DATA, VIRUSES, SPYWARE, LOSS OF

BUSINESS, REVENUE, PROFITS OR INVESTMENT, OR USE OF INFORMATION OR USE OF SOFTWARE OR HARDWARE THAT DOES NOT MEET COMPANY SYSTEMS REQUIREMENTS. THE ABOVE LIMITATIONS APPLY EVEN IF COMPANY, ITS AFFILIATES, AND/OR ITS SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS AGREEMENT SETS FORTH THE ENTIRE LIABILITY OF COMPANY, ITS AFFILIATES, AND ITS SUPPLIERS AND CLIENT'S EXCLUSIVE REMEDY.

Company assumes no liability for any of Client's websites or cloud-based software, social networking accounts, entertainment related sites or web-based email. Client is ultimately responsible for deciding when, if or who has access to any of these additional services.

The total liability of Company for all claims of any kind arising as a result of or related to this Agreement, or to any act or omission of Company, whether in contract, tort or otherwise, shall not exceed an amount equal to the amount actually paid by Client to Company during the twelve (12) month period preceding the date the claim arises.

16. Indemnification.

Company agrees to release, protect, defend, indemnify and hold harmless Client, its officers, directors, employees, agents, investors, stakeholders, insurers, and all related entities for any and all loss, damages, cost, expense, or liability, including attorney fees, from and against all claims, demands, and causes of action of every kind and character without limit resulting from the acts or omissions of Company's employees to the extent such employee is acting outside the scope of the Services being provided to Client or outside of the direction of Client when performing Staff Augmentation Service, including the joint or concurrent negligence of any party related to Client, under any theory of strict liability and defect of premises, arising in connection with this Agreement.

Client agrees to release, protect, defend, indemnify and hold harmless Company, its officers, directors, employees, agents, investors, stakeholders, insurers, and all related entities for any and all loss, damages, cost, expense, or liability, including attorney fees, from and against all claims, demands, and causes of action of every kind and character without limit resulting from the acts or omissions of Client or Company's employees to the extent such employee is acting within the scope of the Services being provided to Client or at the direction of Client when performing Staff Augmentation Service, including the joint or concurrent negligence of any party related to Client, under any theory of strict liability and defect of premises, arising in connection with this Agreement.

17. No Warranties.

USE OF ALL SERVICES, INFORMATION, HARDWARE, SOFTWARE AND CONTENT IS ENTIRELY AT CLIENT'S OWN RISK. EXCEPT AS DESCRIBED IN THIS AGREEMENT, THE SERVICES, INFORMATION, HARDWARE, AND SOFTWARE ARE PROVIDED "AS IS." TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY AND ITS AFFILIATES DISCLAIM ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY THAT THE SERVICES, HARDWARE OR SOFTWARE ARE FIT FOR A PARTICULAR PURPOSE, ANY ORAL OR WRITTEN REPRESENTATIONS, PROPOSALS OR STATEMENTS MADE ON OR PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT, TITLE, MERCHANTABILITY, DATA LOSS, NON-INTERFERENCE WITH OR NON-INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS; OR THE ACCURACY, RELIABILITY,

QUALITY OR CONTENT IN OR LINKED TO THE SERVICES, HARDWARE OR SOFTWARE. COMPANY AND ITS AFFILIATES AND ITS SUPPLIERS DO NOT WARRANT THAT THE HARDWARE AND/OR SOFTWARE ARE SECURE, FREE FROM BUGS, VIRUSES, INTERRUPTION, ERRORS, THEFT OR DESTRUCTION. IF THE EXCLUSIONS FOR IMPLIED WARRANTIES DO NOT APPLY TO CLIENT, ANY IMPLIED WARRANTIES ARE LIMITED TO SIXTY (60) DAYS FROM THE DATE OF PURCHASE OR DELIVERY OF THE SERVICES, WHICHEVER IS SOONER.

COMPANY DOES NOT PROVIDE LEGAL ADVICE, AS SUCH, COMPANY AND ITS AFFILIATES DISCLAIM ANY REPRESENTATIONS OR WARRANTIES THAT THE USE OF THE SERVICES, HARDWARE OR SOFTWARE WILL SATISFY OR ENSURE COMPLIANCE WITH ANY LEGAL OBLIGATIONS, LAWS OR REGULATIONS.

Company does not warrant or make any representations concerning the accuracy, likely results, or reliability of the use of the Services, hardware, or software provided to Client.

Client acknowledges that no hardware or software can be made completely stable or secure, and that Company cannot guarantee the stability, safety or security of Client's network or data. Company warrants that the Services will be provided in a skillful manner, and in conformity with generally prevailing industry standards. Client is solely responsible for implementing and monitoring appropriate operational and security procedures and for making appropriate backup copies of all data. THIS WARRANTY IS EXCLUSIVE AND IS IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE AND ANY ORAL OR WRITTEN REPRESENTATIONS, PROPOSALS OR STATEMENTS MADE ON OR PRIOR TO THE EFFECTIVE DATE OF THIS AGREEMENT.

18. Dispute Resolution.

18.1 *Mediation.*

THIS AGREEMENT SHALL BE GOVERNED BY THE LAWS OF THE STATE OF OKLAHOMA. ANY DISPUTES ARISING UNDER, ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING AN ALLEGATION OF BREACH THEREOF, AND ANY DISPUTES ARISING OUT OF OR RELATING TO THE RELATIONSHIP CREATED BY THE AGREEMENT, AND ANY DISPUTES AS TO THE RIGHTS AND OBLIGATIONS OF THE PARTIES, (A "DISPUTE") SHALL BE FIRST SUBMITTED TO NON-BINDING MEDIATION IN OKLAHOMA CITY, OKLAHOMA. IF THE DISPUTE CANNOT BE SETTLED BY MEDIATION, EITHER PARTY MAY GIVE THE OTHER PARTY AND THE MEDIATOR A WRITTEN NOTICE TERMINATING THE MEDIATION PROCESS, AND THE DISPUTE WILL THEN BE RESOLVED BY ARBITRATION AS SET FORTH HEREINAFTER. ALL CONFERENCES AND DISCUSSIONS THAT OCCUR IN CONNECTION WITH THE MEDIATION CONDUCTED UNDER THIS AGREEMENT WILL BE DEEMED SETTLEMENT DISCUSSIONS. EACH PARTY WILL BEAR ITS OWN COSTS OF MEDIATION, AND ANY COSTS PAYABLE TO THE MEDIATION SERVICE OR THE MEDIATOR WILL BE SHARED EQUALLY BY THE PARTIES.

18.2 *Arbitration.*

UPON CONCLUSION OF AN UNSUCCESSFUL MEDIATION, A DISPUTE, INCLUDING THE ARBITRABILITY OF DISPUTES BETWEEN THE PARTIES, SHALL BE FULLY RESOLVED BY ARBITRATION IN ACCORDANCE WITH THE OKLAHOMA UNIFORM ARBITRATION ACT AND/OR THE FEDERAL ARBITRATION ACT, ANY

ARBITRATION BETWEEN THE PARTIES WILL BE GOVERNED BY THE THEN CURRENT COMMERCIAL ARBITRATION RULES OF THE AMERICAN ARBITRATION ASSOCIATION (THE "RULES"). IN THE EVENT OF CONFLICT BETWEEN THE RULES AND THE PROVISIONS OF THIS AGREEMENT, THE PROVISIONS OF THIS AGREEMENT SHALL CONTROL. EXCEPTIONS/CLARIFICATIONS OF THE RULES INCLUDE: (I) THE PROCEEDINGS SHALL BE CONDUCTED BY A SINGLE, NEUTRAL ARBITRATOR TO BE SELECTED BY THE PARTIES, OR, FAILING THAT, APPOINTED IN ACCORDANCE WITH THE RULES, (II) THE SUBSTANTIVE LAW OF THE STATE OF OKLAHOMA SHALL APPLY, AND (III) THE AWARD SHALL BE CONCLUSIVE AND BINDING WITH NO FURTHER CHALLENGE OR APPEAL. A DEMAND FOR ARBITRATION SHALL BE FILED NOT LATER THAN ONE (1) YEAR AFTER THE DISPUTE ARISES OR THE CLAIM ACCRUES, AND FAILURE TO FILE SAID DEMAND WITH THE ONE (1) YEAR PERIOD SHALL BE DEEMED A FULL WAIVER OF THE CLAIM. THE PARTIES AGREE THAT ANY PRE-ARBITRATION PROCEEDINGS ("DISCOVERY") WILL BE LIMITED TO: TEN (10) INTERROGATORIES AND TEN (10) REQUESTS FOR PRODUCTION ISSUED TO THE OPPOSING PARTY; TWO (2) INDIVIDUAL DEPOSITIONS PER PARTY; THE DEPOSITION OF ONE (1) EXPERT DESIGNATED BY THE OPPOSING PARTY; AND UNLIMITED SUBPOENA POWER FOR THIRD PARTY DOCUMENTS. THE PLACE OF THE ARBITRATION HEREIN SHALL BE OKLAHOMA CITY, OKLAHOMA. BOTH PARTIES AGREE TO BE FULLY AND FINALLY BOUND BY THE ARBITRATION AWARD, AND JUDGMENT MAY BE ENTERED ON THE AWARD IN ANY COURT HAVING JURISDICTION THEREOF. THE PARTIES AGREE THE ARBITRATION FEES SHALL BE SPLIT BETWEEN THE PARTIES AND THE PARTIES SHALL BEAR THEIR OWN COSTS OF RETAINED LEGAL COUNSEL AND ANY PRE-ARBITRATION MEDIATION PROCEEDINGS/DISCOVERY THEY UNDERTAKE.

19. Miscellaneous.

19.1 *Relationship of the Parties and No Third-Party Beneficiaries.*

Parties expressly understand that in the performance of the Services, Company and its agents and employees shall act in an independent capacity and as an independent contractor and not as officers, employees, or agents of the Client. Nothing herein will create or imply an agency relationship between Company and Client, nor will this Agreement be deemed to constitute a joint venture or partnership between the Parties. The Parties have entered into this Agreement solely for their own benefit and do not intend that any third-party rely upon or enforce this Agreement or any part of this Agreement.

19.2 *Authorization.*

Parties acknowledge that they are duly authorized by appropriate corporate action to enter into this Agreement and that this Agreement is being signed by duly authorized agents to act on their respective behalf.

19.3 *Assignment.*

Neither Party may assign this Agreement, in whole or in part, without the prior written consent of the other Party.

19.4 *Notices.*

All notices required under this Agreement must be in writing and shall be deemed received: (i) three (3) days after placement in the United States Mail by registered or certified mail, postage prepaid; (ii) the day

after placement with a courier guaranteeing overnight delivery; or (iii) if sent by electronic mail transmission on the day of receipt if delivered (as indicated by delivery confirmation of the sender) by 5:00 p.m. Oklahoma City time, in each case addressed to the following:

omshot Solutions LLC
428 Dean A. McGee Avenue
Oklahoma City, OK 73102

Client: To the address listed below the Client's signature block of the MTSA or, if no address is provided, at the principal place of business of the Client.

19.5 Construction of Language.

The language of this Agreement will be construed according to its fair meaning and not strictly for or against either Party. All words used in this Agreement refer to whatever number or gender the context requires.

19.6 Governing Law and Venue.

Client acknowledges that this Agreement was accepted in the State of Oklahoma. Client also acknowledge that it has and will continue to develop a substantial and continuing relationship with Company's principal offices in Oklahoma, where Company's decision-making authority is vested. This Agreement will be governed, to the extent permissible, by the laws of the State of Oklahoma without regard to the principles of conflicts of law.

19.7 Attorney Fees.

If any litigation or arbitration is necessary to enforce the terms of this Agreement, the prevailing Party will be entitled to recover reasonable attorneys' fees and costs from the other Party.

19.8 Entire Agreement and Amendments.

This Agreement constitutes the entire, full, and complete agreement between the Parties concerning the subject matter of this Agreement and supersedes all other oral or written communications relating thereto. Any amendments or changes to this Agreement shall be in writing containing an express indication of an intent to amend this Agreement and will not be effective until signed by both Parties. Company shall not be bound by any terms or conditions printed on any purchase order, invoice, memorandum, or other written communication between the Parties, unless such terms or conditions are incorporated into a duly executed Rider or Statement of Work.

19.9 Order of Precedence.

In the event of any conflict between the documents comprising this Agreement, precedence will be given to the documents in the following descending order: (i) Terms of Service; (ii) MTSA; (iii) Service Rider; (iv) Statement of Work; and (v) any other document expressly referred to in this Agreement which governs the Services.

19.10 *Severability.*

If any provision of this Agreement is considered to be invalid or inoperative for any reason, that part shall be deemed modified to the extent necessary to make it valid and operative, or if it cannot be modified, then severed, and the remainder of this Agreement will continue in effect as if the Agreement had been signed with the invalid portion modified or eliminated.

19.11 *Enforceability.*

This Agreement is binding upon and inures to the benefit of and is enforceable by the Parties, their respective legal representatives, assigns, and successors in interest.

19.12 *Time Limitations.*

The Parties mutually agree that any action for breach of or upon a matter arising out of this Agreement must be commenced within one (1) year after the cause of action accrues or the action is forever barred.

19.13 *No Waiver.*

The failure of either Party to enforce or insist upon compliance with any of the terms and conditions of this Agreement, the temporary or recurring waiver of any term or condition of this Agreement, or the granting of an extension of the time of performance of the Services under this Agreement, shall not constitute an Agreement to waive such terms and conditions with respect to any other occurrences.

19.14 *Counterparts.*

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same Agreement. The counterparts of this Agreement and all related documents may be executed and delivered by electronic mail or other electronic signature by either Party to the other party and will be deemed original signatures. Electronic copies of this document shall constitute and be deemed an original copy of this document for all purposes, provided that such electronic copies are fully executed, dated, and identical in form to the original hard copy version of this document. The receiving party may rely on the receipt of such document so executed and delivered by electronic mail or other electronic means as if the original had been received.

19.15 *Insurance.*

Company and Client shall each maintain, at their own expense, all insurance reasonably required in connection with this Agreement, including but not limited to workers compensation and general liability. Company agrees to maintain a general liability policy with a limit not less than \$1,000,000 per occurrence and an automobile liability insurance policy of not less than \$250,000 bodily injury per person, \$250,000 per accident, and \$100,000 property damage liability. All insurance policies described herein shall not be canceled, materially changed, or renewal refused until at least thirty (30) days' written notice has been given to the other Party by certified mail. The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Oklahoma with the latest edition of *A.M. Best's Insurance Guide: Financial Stability B+ to A+*.

19.16 Interpretation.

The headings herein are for convenience only and shall not be deemed to affect the meaning or interpretation of any provision hereof. Any words herein used in the singular shall denote the plural as the context so requires, and when used herein in the plural shall denote the singular as the context so requires. Pronouns used herein, whether masculine, feminine or neuter, shall be interpreted as the context so requires.