

## NSKNOX SERVICES AGREEMENT

This nsKnox Services Agreement (the “**Agreement**”) forms an integral part of the accompanying quote (the “**Quote**”).

This Agreement sets forth the terms and conditions upon which nsKnox Technologies Inc. (“**nsKnox**”) makes available the nsKnox Solution and related Services and constitutes an agreement between nsKnox and the Company (as set forth in the Quote). In the event of inconsistency or conflict between the provisions of this Agreement and the provisions of a Quote or any other provisions, the provisions of this Agreement shall prevail unless explicitly stated otherwise. The parties may execute, from time to time, Quotes, all of which are subject to this Agreement. All terms, including the capitalized terms, described in the Quote shall apply to this Agreement.

1. **Definitions.** For the purposes of this Agreement, the following terms shall have the meanings set out below:

“**Affiliate**” means with respect to a Party, any entity that is, directly or indirectly, controlled by and/or under common control with and/or controlling such Party or in which the concerned Party holds directly or indirectly more than 50% of its shares.

“**Authorized User(s)**” means a Company personnel designated by the Company in the framework of the Company Onboarding, and throughout the Term of this Agreement, as applicable, who will be able to use and/or manage the nsKnox Solution, including through the nsKnox App, on behalf of the Company, all as further detailed in the Documentation.

“**Confidential Information**” means all proprietary or confidential information or data relating to either party and its Affiliates and/or their respective operations, employees, products or services, clients, customers or potential customers. Information shall not be considered Confidential Information to the extent such information is: (i) already known to the receiving party free of any restriction at the time it is obtained; (ii) subsequently learned from an independent third party free of any restriction and without breach of this Agreement; (iii) becomes publicly available through no wrongful act of the receiving party; or (iv) independently developed by the receiving party without reference to any Confidential Information of the other.

“**Documentation**” means the instructions, user guides, manuals and release notes generally provided by nsKnox, at any time, in printed and/or electronic form, that describe the operation, use or technical specifications of the nsKnox Solution, as attached hereto as **Exhibit A**. It is hereby agreed that **Exhibit A** may be supplemented by nsKnox, from time to time, with additional Documentation, by providing a reasonable prior notice to Company.

“**nsKnox App**” means an application and/or platform, for the use of certain nsKnox Services, which is downloaded and installed by the Authorized Users on their mobile devices, or other devices, approved by nsKnox.

“**Services**” means any and all services provided by nsKnox (including through its Subcontractors) to the Company under this Agreement, including without limitation the right to use the Software and the nsKnox App, as further detailed in the applicable Documentation.

“**nsKnox Solution**” means, collectively, the Services, the Software, the nsKnox App, the applicable Documentation and any and all

other information, materials, software programs and/or code used or made accessible by nsKnox in connection therewith.

“**Subcontractor(s)**” shall mean any third-party engaged by nsKnox to perform any portion of the Services or any of nsKnox’s obligations under this Agreement.

“**Support Services**” means those support services specified in **Exhibit B**.

“**Transaction**” shall mean an actual or attempted payment transaction made by Company to its payees and is verified through the use of the Solution.

## 2. nsKnox Services and Solution.

2.1. nsKnox has developed certain proprietary software solution for the performance of corporate payment protection (the “**Software**”), installed on end users’ devices and provided as cloud-based service (SaaS), and which allows nsKnox to provide various Services, as set forth in the Quote and Documentation. Subject to payment of the Fees under a valid Quote, the activation, installation and use of the Software shall be enabled, locally or remotely, on the Company’s internal networks.

2.2. Prior to commencement of the provision of the nsKnox Services, the Company shall be required to complete the onboarding process and service registration, as further detailed in the Documentation (the “**Company Onboarding**”). Thereafter, the Company shall be required to comply with the requirements set forth in the Documentation with respect to the use in the nsKnox Solution.

2.3. Subject to Company’s compliance with its obligations under this Agreement, nsKnox, including via its Subcontractors, will provide Company the Services, as set forth in the Quote and the applicable Documentation. Subject to the terms of this Agreement, nsKnox hereby grants to Company and its Authorized Users a limited, non-exclusive, non-transferable, non-sublicensable and revocable right to use the nsKnox Solution, all as indicated in the Quote and the Documentation, as applicable, beginning on the Effective Date and continuing through the Term, solely for Company’s internal business use for the purposes of validating account details and / or verifying Transactions and not for any further commercialization and strictly in accordance with the terms and conditions set forth in this Agreement.

2.4. nsKnox shall make available Documentation to Company, in connection with the use of the nsKnox Solution. The Company may print or copy the Documentation as needed for Company’s own internal business purposes provided that all copyright notices are included therein. The Documentation shall be considered as nsKnox’s Confidential Information, and in any event the sole property of nsKnox. Unless explicitly stated otherwise, all references in this Agreement to the Services, the Software and/or the nsKnox App shall include the Documentation.

2.5. During the Term, nsKnox shall use commercially reasonable efforts to ensure the availability of the Services 99.0% of the time, excluding any (a) scheduled downtime for the update and/or upgrade and/or maintenance of the Solution that has been announced in advance to Company (and nsKnox will use commercially reasonable efforts that such scheduled downtime

will not exceed two (2) hours for any single instance), and (b) downtime resulting from (i) circumstances beyond nsKnox's reasonable control, including, without limitation, acts of any governmental body, war, insurrection, sabotage, armed conflict, embargo, fire, flood, strike or other labour disturbance, unavailability of or interruption or delay in telecommunications or third party services, virus attacks or hackers, and failure of third party software used by the nsKnox; (ii) unexpected emergency maintenance; and/or (iii) any Company's acts or omissions (or acts or omissions of others engaged or authorized by it, including any provider of cloud computing instance). For the avoidance of doubt, it is hereby clarified that the calculation of availability will be in connection with the nsKnox Solution and not the availability of any hardware, the network or other components which are not under nsKnox's control.

2.6. During the Term, nsKnox shall provide Company with its support services as further detailed in **Exhibit B** attached hereto. The Company may purchase additional support as further detailed in the Quote.

### 3. Company Data.

3.1. As part of the engagement contemplated hereunder, Company and its Authorized Users may provide certain data through their use of the nsKnox Solution and any information provided in the framework of Company Onboarding (collectively the "**Company Data**"). All such Company Data shall be owned by Company and shall be regarded as Company's Confidential Information.

3.2. Company hereby grants nsKnox a non-exclusive, non-assignable, non-transferable (other than to its Subcontractors) right to use the Company Data, solely for the purpose of, providing the Services.

3.3. nsKnox shall have the right to maintain the Company Data for such period of time necessary, or required, in order to provide the Services, and as required under applicable law and subject to all other terms and conditions of this Agreement.

3.4. Notwithstanding the foregoing, Company hereby grants nsKnox a non-exclusive, non-transferable, irrevocable, perpetual worldwide license and right to use (i) anonymized Company Data (other than Company Data that contains financial information), or (ii) the Company Data on an aggregated or statistical basis, in each case, solely for the purpose of nsKnox internal research, development, and enhancement of the nsKnox Solution and related products and services.

3.5. The parties hereby acknowledge and agree that to the extent any personally identifiable information or personal data (as such term is defined under any applicable law) is provided by the Company to nsKnox in connection with the nsKnox Solution or otherwise in connection with this Agreement ("**Company Personal Data**"), then (i) the Company's collection, use, processing and transfer to nsKnox of the Company Personal Data is and shall be in accordance with any applicable laws, including, privacy protection laws, and the Company have made all necessary disclosures and obtained all required consents (if required), in order to transfer such Company Personal Data to nsKnox for the purposes of performance of this Agreement, (ii) nsKnox shall comply with all applicable laws in connection with its use of such Company Personal Data provided to it by the Company in connection with this Agreement, and (iii) to the extent relevant under any applicable law, the parties agree that with respect to any such

Company Personal Data, the Company is the 'controller' and nsKnox is the 'processor' of such Company Personal Data under applicable law and to the extent required, the terms and conditions of the Data Processing Addendum attached hereto shall govern any such Company Personal Data.

### 4. Company Conduct; Restriction on Use.

4.1. The Company may not, whether by itself or anyone on its behalf, nor shall it authorize or assist any third-party to: (i) copy, modify, adapt, translate, reverse engineer, decompile, or disassemble, in any way, any portion of the nsKnox Solution, or publicly display, reproduce, create derivative works from, perform, distribute, or otherwise use such nsKnox Solution, other than as permitted by nsKnox in writing; (ii) intentionally transmit or otherwise make available in connection with the use of the nsKnox Solution, any virus, worm, Trojan Horse, time bomb, web bug, spyware, or any other computer code, file, or program that may or is intended to damage or hijack the operation of any hardware, software, or telecommunications equipment, or any other actually or potentially harmful, disruptive, or invasive code or component; (iii) sell, license, or exploit for any commercial purposes any use of or access to the nsKnox Solution; (iv) use the nsKnox Solution, or any part thereof for any purpose or in any manner not explicitly authorized hereunder; (v) transmit, distribute, display or otherwise make available through or in connection with the nsKnox Solution any Company Data, which may infringe third-party rights, including privacy rights; (vi) intentionally interfere with or disrupt the operation of the nsKnox Solution, or the servers or networks that host the nsKnox Solution or make the nsKnox Solution available; (vii) bypass any measures which may be used to prevent or restrict access to the nsKnox Solution and/or certain functionalities therein; (viii) conceal or remove any copyright or proprietary notices contained in the nsKnox Solution; and (ix) access and/or use the nsKnox Solution in order to build a competitive product or service.

4.2. Without derogating from the foregoing, Company (i) shall take commercially reasonable precautions to prevent any unauthorized access and/or unauthorized usage of the nsKnox Solution, including by any Authorized User; (ii) shall be responsible and liable for any act or omission by any of its Authorized Users in connection with the use of the nsKnox Solution; and (iii) represents that any and all information provided to nsKnox in the course of applying for, setting up and using the nsKnox Solution, including the Company Onboarding, shall be true and accurate.

4.3. The Company acknowledges the utilization and use of third-parties software and components, including without limitation components licensed under free or open source licenses as detailed in <http://legal.txauthority.com/>, (collectively "**3<sup>rd</sup> Party Components**"), as part of the nsKnox Solution.

### 5. Fees and Payment of Fees.

5.1. **Fees.** In consideration for the use of the nsKnox Solution, Company shall pay to nsKnox the fees and other consideration set forth in the Quote (the "**Fees**"). Payment shall be due in accordance with the payment schedule set forth in the Quote, subject to nsKnox's issuance of a valid invoice.

5.2. **Tax.** All Fees are exclusive of any tariffs, duties or taxes (however designated, levied or based and whether foreign or domestic), including (without limitation) VAT. Company will pay or reimburse nsKnox as the case may be for all such tariffs, duties or taxes, except for those taxes based on nsKnox's income. In the

event that pursuant to any law or regulation, tax is required to be withheld at source from any payment made to nsKnox hereunder, the Company shall be entitled to withhold said tax at the rate set forth in the certification issued by applicable tax authority or if there is no such certification, at the rate determined by said law, regulation, unless nsKnox has presented to the Company with a tax withholding exemption certificate issued by the applicable tax authority, in which case the reduced withholding tax will apply. Company may not set off any Fees or payments due to nsKnox hereunder.

5.3. **Payment Terms.** Late payments shall bear interest compounded daily commencing on the date such payments become due, using a monthly rate of 1.5% or the highest rate permitted by law (whichever is lower). Any payment or part of a payment that is not paid by Company to nsKnox when due shall constitute sufficient cause for nsKnox to suspend its performance hereunder and terminate this Agreement, provided that a seven (7) business days prior notice was provided. Payment shall be made in United States Dollars by wire transfer only, using banking details provided by nsKnox. To reduce the risk of payment fraud, such details shall be verified by Company whenever provided or updated by nsKnox and whether instructed by email, phone or any other means using the secured online service made available by nsKnox to all its customers at [verify.nsknox.net](http://verify.nsknox.net). All sums paid are non-refundable, except as expressly stated otherwise in the Quote or under this Agreement.

## 6. Confidential Information.

6.1. Each party acknowledges that it may directly or indirectly disclose Confidential Information to the other party in the course of negotiation of and performance of this Agreement. All such Confidential Information disclosed hereunder shall remain the sole property of the disclosing party, and the receiving party shall have no interest in, or rights with respect thereto, except as set forth herein. Each party agrees to treat such Confidential Information with the same degree of care and security as it treats its most confidential information, but in no event with less than a reasonable degree of care. Each party may disclose such Confidential Information to employees (and with respect to nsKnox, also to its Subcontractors) who need to know such Confidential Information in connection with the performance of the services or obligations under this Agreement. The receiving party will ensure adherence to the provisions hereof by its officers, directors, stockholders, employees and Subcontractors. Except as contemplated by this Agreement, neither party shall disclose the Confidential Information of the other party without the prior written consent of the disclosing party.

6.2. The terms of this Agreement shall be Confidential Information; provided that nsKnox may disclose the terms of this Agreement to (i) potential investor or acquirers in the framework of a due-diligence process performed by such third parties; (ii) to any third party upon written consent from Company.

6.3. Notwithstanding the foregoing, a party may disclose Confidential Information to a third party, if disclosure is required by applicable law or to comply with a subpoena or court order, provided that the disclosing party gives the other party prompt written notice (to the extent permitted by law, subpoena or court order) of such legal requirement prior to the disclosure and provides the other party reasonable opportunity to contest the requirement to disclose the Confidential Information.

6.4. Since the Confidential Information under this Agreement may include sensitive financial information and may contain third party information and/or private information protected by law, the duty to protect the other party's Confidential Information shall expire five (5) years from the date of termination of this Agreement; provided that Confidential Information which constitutes sensitive financial information shall survive termination of this Agreement without limitation of time until such information is no longer regarded as Confidential Information. Notwithstanding the above, any and all obligations regarding confidentiality in connection with trade secrets shall remain in effect until such information ceases to be considered as a trade secret. Except as expressly set forth herein, no license or other rights to Confidential Information are granted or implied hereby by either party.

## 7. Term and Termination.

7.1. This Agreement shall become effective on the day the Company Onboarding process has initiated (the "**Effective Date**") and shall remain in effect for the term defined in the applicable Quote (the "**Term**").

7.2. Each party hereunder may terminate this Agreement upon the provision of thirty (30) days written notice to the other party.

7.3. Either party shall have the right to suspend performance or terminate this Agreement in the event that the other party is in breach of this Agreement, and such breach is not cured within ten (10) business days of being provided with written notice and opportunity to cure. Either party may immediately terminate this Agreement if the other party is dissolved or liquidated, becomes insolvent or unable to pay debts as they mature, or ceases to so pay, or makes an assignment for the benefit of creditors. A party's exercise of its termination rights for reason of a breach hereunder shall in no way restrict or diminish such party's rights to other remedies available in connection with the material breach.

7.4. Upon termination of this Agreement, (i) all subscriptions, rights and licenses granted herein, and all services provided by nsKnox hereunder shall terminate immediately; (ii) each party shall return to the other party all Confidential Information in its possession, custody, or control; provided that nsKnox shall be permitted to retain: (a) a copy of the Confidential Information for the purposes of this Agreement and so long as required by any applicable law; and (iii) Company shall remit in full all payments due to nsKnox, accruing prior to the date thereof, according to this Agreement and all Quotes. Upon termination of this Agreement by nsKnox pursuant to Section 7.2 above or termination by Company according to 7.3 above, nsKnox shall be required to refund the Company with the applicable prorated portion of the prepaid fees covering the remainder of the Term after the effective date of termination.

## 8. Representations and Warranties; Limited Warranty

8.1. Each party represents and warrants that: (i) it has the full corporate right, power and authority to enter into this Agreement and to perform the acts required of it under this Agreement; (ii) the execution of this Agreement and performance of its obligations under this Agreement do not and shall not violate any other agreement to which it is a party; (iii) the individual executing this Agreement on behalf of a party has authority to bind such party to this Agreement and the performance hereof; and (iv)

the execution of this Agreement and performance of its obligations and responsibilities under this Agreement do not, and will not, require any consent, approval, order or authorization of any individual, corporation, partnership, business association or other entity that has not been, or will not have been obtained by such party prior to the execution of this Agreement.

8.2. nsKnox warrants, for Company's benefit alone, that the nsKnox Solution, as provided by nsKnox, if operated as directed and in accordance with the Documentation, shall operate substantially in accordance with the functional specifications in the Documentation. Except as set forth in this Section 8.2, nsKnox does not warrant or guarantee that the nsKnox Solution will operate uninterrupted or be free of bugs or errors. The warranty in section 8.2 does not cover, and nsKnox shall have no responsibility or liability for problems caused by modifications or customizations to the nsKnox Solution made by the Company or any other third party acting on Company's behalf, or events beyond nsKnox's reasonable control. Furthermore, nsKnox validation service is performed based on data provided by various external sources, including banks and other third-party data sources. While nsKnox takes considerable measures to verify such data we are unable to guaranty the accuracy, completeness or truthfulness of such data and of the analysis based on it, and no results or validation results provided by nsKnox are guaranteed to be error-free. Company (and not nsKnox) bears all responsibility for any actions and/or decisions taken by it (or on its behalf) as a result of or based on the use of the nsKnox service and the information provided by it. Company understands and acknowledges that the nsKnox Services should be used as a source of information for its anti-fraud decision making together with reasonable security measures, account validation processes and prudence that Company is otherwise reasonably expected to take in validating information and handling its payments.

8.3. For any breach of the warranties contained in Section 8.2, Company's exclusive remedy, and nsKnox's entire and sole liability, shall be to use reasonable commercial efforts repair or adjust the nsKnox Solution so that they operate as warranted; provided that (i) the Company has fully paid all applicable Fees, (ii) Company is not otherwise in breach or violation of this Agreement, and (iii) Company has reported in writing to nsKnox the claimed failure promptly upon discovery. If nsKnox is unable to repair or adjust the nsKnox Solution, the Company will be entitled to terminate this Agreement and recover any prepaid unused amount of the fees covering the remainder of the Term after the effective date of termination. nsKnox may disclaim any obligation or liability under this Agreement, including under this Section 8 if nsKnox determines that the nsKnox Solution has been: (i) altered, modified, or serviced by the Company or any other third party acting on Company's behalf or any other third party not approved by nsKnox; (ii) improperly installed or used in a manner other than as specified in the Documentation; or (iii) Company's integration and or the combination of the nsKnox Solution with any third-party product or component not in accordance with this Agreement; or (iv) Company's failure to implement any updates, upgrades and new versions to the nsKnox Solution provided by nsKnox within a commercially-reasonable time period.

8.4. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.2 ABOVE, the NSKNOX SOLUTION (INCLUDING THE SERVICES, THE SOFTWARE AND/OR THE NSKNOX APP) ARE PROVIDED "AS IS" AND NSKNOX AND ITS AFFILIATES, MAKE AND GIVE NO REPRESENTATIONS OR WARRANTIES WHATSOEVER, AND

EXPRESSLY DISCLAIMS ALL WARRANTIES, REPRESENTATIONS, CONDITIONS AND GUARANTIES, WHETHER ORAL OR WRITTEN, IMPLIED, EXPRESS OR STATUTORY, INCLUDING WITHOUT LIMITATION ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT, AND WARRANTIES ARISING FROM COURSE OF DEALING OR USAGE OF TRADE, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WITH REGARD TO THE SERVICES, THE SOFTWARE, THE NSKNOX APP AND/OR THE NSKNOX SOLUTION.

8.5. It is hereby agreed that any updates, upgrades and new versions to the nsKnox Solution, including without limitation the Software and the nsKnox App, shall be made by nsKnox at its sole discretion. Company hereby warrants and acknowledges that Company's execution of this Agreement is not made contingent on the delivery of any future functionality or features not included in the Quote, or dependent on any oral or written public comments, made by nsKnox regarding any future functionality or features.

#### 9. Intellectual Property.

9.1. Any ideas, inventions, improvements, technology, designs, software, algorithms, documents and other materials, and any derivative works, modifications, techniques or works of authorship in any form, or any other intangible assets or intellectual property, including any patents, copyrights, trademarks, trade secrets, mask works or other intellectual property rights therein (collectively, "**Intellectual Property**"), which may be included in or relate to the nsKnox Solution, is owned by nsKnox and its licensors, shall remain at all times owned by nsKnox and its licensors, and is protected by copyright law, patent law, and/or other laws protecting intellectual property rights and international treaty provisions. No license, express or implied, in or to the Intellectual Property of nsKnox, its Affiliates, or its licensors (including with regard to any trademark of nsKnox, its Affiliates, or licensors) is granted to Company under this Agreement, other than as explicitly stated hereunder.

9.2. In the course of the provision of the Services hereunder and otherwise in connection with the Company's use of the nsKnox Solution, Company may make suggestions or provide its input, suggestions, ideas, inventions or other subject matter relating to the nsKnox Solution (including with respect to the Services, the Software and/or the nsKnox App), its technologies, or anything lacking therein ("**Feedback**"), it being understood and agreed that nsKnox would own all such Feedback and any know-how or understanding derived therefrom. Accordingly, Company hereby forever irrevocably assigns to nsKnox all of its right, title and interest in all Feedback, or any portion thereof disclosed by Company to nsKnox. Any Feedback is provided "as is" without any representation of warranty.

#### 10. Indemnification.

10.1. nsKnox shall defend, indemnify and hold harmless Company and its officers, directors, shareholder, employees, Affiliates and agents (the "**Company Indemnitee**") from and against all costs, damages, losses and expenses, including reasonable attorneys' fees and other legal expenses, arising from any third-party claims alleging that the nsKnox Solution, as delivered and used in accordance with the terms of this Agreement, infringes any third-party Intellectual Property rights or privacy rights.

10.2. As a condition to the defense and indemnity set forth above, the Company Indemnitee shall give nsKnox prompt notice

of any such claim made against it and nsKnox shall be entitled, by written notice to such Company Indemnitee, to assume sole control of the defense of any such claim, suit or proceeding, including appeals, negotiations and any settlement or compromise thereof (collectively, "Claim"), at its own expense, provided that (a) no settlement, consent order or consent judgment which involves any placement of a financial burden or admission of any liability or wrongdoing, act or omission on the part of the Company Indemnitee may be agreed to by nsKnox without the prior written consent of Company Indemnitee (not to be unreasonably withheld, delayed or conditioned); and (b) nsKnox shall keep the Company Indemnitee informed of the status and progress of such Claim, the defense thereof and/or settlement negotiations with respect thereto. The Company Indemnitee shall give nsKnox all reasonable assistance, at nsKnox cost and expense, necessary in connection with such defense. The Company Indemnitee shall have the right to employ separate counsel in the defense of any such claim and participate in the defense thereof.

10.3. It is hereby agreed that nsKnox may disclaim any obligation or liability for alleged infringement under Section 10.1 above, if nsKnox determines any of the following: (i) Company altered or modified the nsKnox Solution (or any portion thereof), to the extent that the infringement would not have occurred but for such modification; (ii) Company improperly installed or used the nsKnox Solution (or any portion thereof), in a manner other than as specified in the Documentation provided by nsKnox, to the extent that the infringement would not have occurred but for such improper installation; (iii) Company's integration and or the combination of the nsKnox Solution (or any portion thereof), with any third party product or component, to the extent that the infringement would not have occurred but for such integration or combination; (iv) Company's failure to implement any updates, upgrades and new versions to the nsKnox Solution (or any portion thereof), provided by nsKnox within a commercially reasonable time period to the extent that the infringement would not have occurred but for such failure of Company; or (v) Company breached the terms of the Agreement, to the extent that the infringement would not have occurred but for such breach.

10.4. If an injunction is obtained in connection with any third-party action against the Company's use of the nsKnox Solution, nsKnox may, at its commercially reasonable discretion; (i) obtain for Company (at no cost to the Company) the right to continue to use the nsKnox Solution; (ii) modify the nsKnox Solution so it is non-infringing; or (iii) replace the nsKnox Solution with non-infringing ones that comply with the Agreement, provided that such replacement is functionally equivalent. In the event that nsKnox elects to act under (iii) above, Company is obligated to implement such non-infringing nsKnox Solution. If none of options (i), (ii) and (iii) can be commercially and technically implemented by nsKnox, nsKnox shall have the right to terminate the Agreement upon thirty (30) days' written notice. Section 10.2 and this Section 10.5 states nsKnox's entire liability and Company's exclusive remedy for any third-party claim for infringement.

## **11. LIMITATION OF LIABILITY.**

11.1. EXCEPT FOR EITHER PARTY'S OBLIGATIONS OF CONFIDENTIALITY, TO THE EXTENT PERMITTED BY APPLICABLE LAW, WHATEVER THE LEGAL OR EQUITABLE BASIS FOR THE CLAIM, NEITHER PARTY, NOR ANY OF ITS AFFILIATES, WILL BE LIABLE FOR ANY INDIRECT DAMAGES (INCLUDING, WITHOUT LIMITATION, CONSEQUENTIAL, SPECIAL OR INCIDENTAL DAMAGES, DAMAGES FOR LOST PROFITS OR REVENUES, BUSINESS INTERRUPTION, LOSS

OF GOODWILL, COMPUTER FAILURE OR MALFUNCTION, LOSS OF DATA OR BUSINESS INFORMATION, OR ANY AND ALL OTHER INDIRECT COMMERCIAL DAMAGES OR LOSSES) ARISING IN CONNECTION WITH THIS AGREEMENT OR FROM THE USE OF OR INABILITY TO USE (INCLUDING, WITHOUT LIMITATION, BY ANY AUTHORIZED USER) THE SERVICES AND/OR THE SOLUTION (INCLUDING, WITHOUT LIMITATION, THE NSKNOX APP), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH POSSIBILITY WAS REASONABLY FORESEEABLE. NSKNOX MAXIMUM AGGREGATE LIABILITY FOR DIRECT DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL BE LIMITED TO THE FEES ACTUALLY PAID FOR THE SERVICES DURING THE TWELVE-MONTH PERIOD PRIOR TO AND GIVING RISE TO THE CLAIM AS SET FORTH IN THE QUOTE. THE FOREGOING LIMITATION WILL NOT APPLY TO LIABILITY CAUSED BY GROSS NEGLIGENCE OR WILLFUL MISCONDUCT BY NSKNOX.

11.2. Notwithstanding anything to the contrary in this Agreement, the Company hereby acknowledges and agrees that the Subcontractors (including, without limitation, the Knoxers) shall have no direct liability towards the Company any claim or demand raised by the Company in connection with this Agreement shall be made directly to nsKnox and not to the Subcontractors, all subject to the terms and conditions set forth in this Agreement.

11.3. Except for monetary obligations hereunder, neither party shall be liable for any failure or delay in performance due in whole or in part to any cause beyond the reasonable control of such party or its contractors, agents or suppliers, including but not limited to utility or transmission failures, failure of phone lines or phone equipment, power failure, strikes or other labor disturbances, acts of God, acts of war or terror, floods, sabotage, fire, natural or other disasters.

## **12. General**

12.1. Except as otherwise provided for in this Agreement, the relationships of the parties to this Agreement shall be that of independent contractors. Nothing in this Agreement or in the business or dealings between the parties shall be construed to make them joint ventures or partners with each other.

12.2. Neither party may assign or transfer any rights or delegate any duties under this Agreement without the other party's prior written consent, except that nsKnox may, without the need for consent, assign or transfer this Agreement to any Affiliate and/or in connection with a sale or transfer of all or substantially all of its assets, stock or business by sale, merger, consolidation, or similar transaction. Any purported assignment or transfer in violation of this Section 12.2 shall be void.

12.3. This Agreement and its exhibits constitute the entire understanding and agreement between the parties and supersedes any and all prior discussions, agreements, promises and correspondence, whether oral or written, with regard to the subject matter hereof or otherwise. This Agreement may not be amended except by a document in writing signed by both nsKnox and Company.

12.4. No failure, delay of forbearance of either party in exercising any power or right hereunder will in any way restrict or diminish such party's rights and powers under this Agreement or operate as a waiver of any breach or nonperformance by either party of any terms of conditions hereof.

12.5. In the event that any provision of this Agreement is held invalid or unenforceable in any circumstances by a court of

competent jurisdiction, the remainder of this Agreement shall not be affected thereby, and the unenforceable provision shall be enforced to the maximum extent permissible under applicable law. Nothing in this Agreement shall be construed or be deemed to create any rights or remedies in or for the benefit of any third party.

12.6. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together will constitute one and the same instrument. A scanned or faxed version of this Agreement shall be deemed as an acceptable original thereof.

12.7. All notices and other communications required or permitted hereunder to be given to a party to this Agreement shall be in writing and shall be sent by mail to the following addresses, if to nsKnox: to 135 Madison Ave., New York NY 10016 and/or to [finance@nsknox.net](mailto:finance@nsknox.net), and if to Company, to the address indicated on the beginning of this Agreement, in the Quote or in each schedule hereto (as applicable). Any notice sent in accordance with this Section shall be effective within 3 days of the day it is sent. Any notice of default shall be sent by courier to the addresses specified in this section, with proof of delivery.

12.8. When provided to Company for execution in electronic form, Company hereby waive any rights or requirements under any Applicable Law which require an original (non-electronic) signature or delivery or retention of non-electronic records, to the extent permitted under Applicable Law.

12.9. By using the Services and any part thereof, Company expressly agree that this Agreement will be governed by the laws of New York State without regard to its choice of law or conflicts of law principles. Company expressly consent to the exclusive jurisdiction and venue in the courts in New York, NY, except that temporary relief to enjoin infringement of Intellectual Property rights may be sought in any court.

12.10. Sections 3.3, 3.4, 4.3, 6, 7, 9, 10, 11 and 12 of this Agreement shall survive the expiration or termination of this Agreement.