

THIS **MASTER SERVICE AGREEMENT** (this “**MSA**”), is effective as of the date of signature below (the “**Effective Date**”) by the named party as Contractor (“the Contractor”) and is made and entered into by and between Barrington & Burdette, LLC dba OSP Technologies (hereinafter referred to as “OSP”, the “Company”, or the “Construction Manager”), having its principal address at 501 Hickerson St. Bldg 2 Conroe, Texas 77301 and the Contractor having its principal address in Texas. The Company shall be considered the Prime Contractor over all projects administered to the Contractor named below.

## **ARTICLE I. THE RELATIONSHIP OF PARTIES**

**Section 1.01 Party Relationship.** Company and Contractor accept and establish a relationship of trust, good faith and fair dealing outlined by this Agreement and shall cooperate with each other in furtherance of a Primary Providers interest (hereinafter defined as the Corporate Provider of the work who has engaged the Company as the Primary Contractor). The Contractor shall exercise its skill and judgment in furnishing construction and engineering skills during the performance of its Services in an expeditious and economical manner. The Contractors shall promote harmony and cooperation among their staff, subcontractors, architects, and other personnel or entities involved in the project during the term of this agreement. Contractor retains control over the manner and means of performing the services, subject only to the specifications, schedules, and acceptance criteria in the this MSA and construction documents.

**Section 1.02 Construction Documents.** Construction Documents include but not limited to plans, specifications, scopes of work (hereafter referred to as “SOW”) , maps, quality control guidelines, billing definitions, addendums, appendices, exhibits, project summaries, and schedules provided by the Company or the Corporate Provider, which delineate the design and/or specific requirements for the construction of Projects, are hereby incorporated by reference into this Agreement. Contractor shall obtain all necessary work permits and/or licenses from local, federal, or state authorities, as required. These documents may be requested from Contractor from time to time. If necessary, the Company reserves the right to have specific Construction Documents apply to each project assigned to Contractor.

**Section 1.03 Acceptance; Right to Reject.** Company will review Deliverables for conformity with the MSA and the applicable specifications from the relevant construction documents. Company reserves the right to reject Contractor work at any time and may reject any nonconforming services or deliverables by written notice reasonably describing the deficiency. Upon rejection, Contractor shall, at its own cost, promptly re-perform or correct the nonconforming services/deliverables within a reasonable cure period specified in the written notice of nonconformity to Contractor. Contractors’ failure to cure, refusal to cure, or inadequate repair may result in Company deducting its sustained cost and expenses associated thereof from any payment owed to Contractor or Company excising any remedies available to it by law against Contractor. No payment will be due Contractor for rejected services/deliverables unless and until accepted by Company.

**Section 1.04 Warranty of Services; Repair of Non-Conforming Work.** Contractor warrants that the Services (including initial performance,) will be performed in a professional and workmanlike manner, in accordance with this agreement, applicable specifications, and industry standards. Contractor shall provide an expressed warranty of good workmanlike manner for all work and services that are a product of this agreement. Contractor shall warrant all work performed for one (1) year from date of completion of the job. Contractor shall satisfactorily remedy all deficiencies or problems within three (3) days of written notice from Company. Contractor at its own expense, even after payment has been fully rendered, shall re-perform or correct services that fail to perform, unaccepted the Corporate Provider, goes against the Contract documents, or is unaligned with industry standards. Contractor agrees to the foregoing warranty; this clause shall survive the termination of this agreement.

**Section 1.05 Extent of Agreement.** This Agreement represents the entire agreement between the Company and the Contractor and supersedes all prior negotiations, representations, and agreements. This Agreement consists of the Construction Documents and additional documents specifically identified and incorporated in this Agreement and shall supersede any conflicting provisions within Construction Documents which may be amended only by written instrument signed by both the Company and the Contractor, specially enumerating the clause requiring amendment and the change to be added. In the event of conflict between this Standard Master Service Agreement between the Company and the Contractor and any of the Construction Documents hereto or any other documents incorporated herein into this Agreement, the terms and provisions of the Agreement shall control.

**Section 1.06 Fundamental Principle of Good Faith and Fair Dealing.** In entering into this MSA, the Company and the Contractor each acknowledge and agree that all aspects of the worldwide business relationship and dealings between them contemplated by this MSA and each Project Summary assigned (hereinafter referred to as “PSA”), including the performance of all obligations and the exercise of all rights under this MSA and each PSA, will be governed by the fundamental principle of good faith and fair dealing. The Company and the Contractor shall assure that each Primary Provider, respectively, complies with this principle of good faith and fair dealing.

**Section 1.07 Incorporation into Project Summaries.** These terms and conditions are incorporated by reference into all Project Summaries assigned to Contractor as entered into between the Company and the Corporate Provider. Each project assigned to Contractor must be similar to the form displayed and content outlined in **Project Summary Assigned attached as Exhibit A**. These Terms and Conditions shall apply unless stated to the contrary in a Service Agreement. The task list provided to Contractor shall be the schedule for each Project. Notwithstanding the foregoing, the order of precedence applies only to the extent a conflict exists (and only for the purpose of resolving such conflict as it applies to the terms and conditions comprising a particular undertaking as defined by a Project Summary). Any conflicting terms shall not be deemed to be amended, modified, cancelled or waived with respect to any other PSA or for any other purpose whatsoever.

**Section 1.08 Term of Agreement.** The term of this MSA shall commence as of the Effective Date and shall continue until the expiration of an initial term of two (2) years. The term of this MSA may be extended for an additional term of two (2) year or more upon mutual written agreement prior to the end of the initial term. Any PSA that continues or extends beyond the term of this MSA but was initiated prior to its expiration shall be subject to the terms herein until the initial intent of the project is completed as deemed by the Corporate Contractor unless parties thereto otherwise agree to termination of this MSA.

**Section 1.09 Failure of performance.** If the Contractor, at any time, fails in the performance of the terms, stipulations and agreements of this agreement and its Contract documents, or fails to use due diligence in the work awarded to them, so as to interfere with or in any way impede allied operations of Company, and other Contractors, this will be a failure of performance. Failure of performance will rest solely in the judgment of Company, which will provide notice to anyone representing the Contractor at the job site or Contractor's place of business. Such notice will state the nature of the violation of the Agreement or contracts. If the failure is continuing for two (2) days after notice to the Contractor, Company, may precede there upon to complete the work under the terms of the this agreement at the cost and expense of Contractor. Company may re-sublet the work, and any monies due the Contractor on that project will be held until the Contractor's portion of the project has been completed by a new Contractor or by Company. These monies will be paid to Company, or the new Contractor for the work done. Contractor further agrees that if Contractor should delay the material progress of the work so as to create any damage or cost overage for which Company, shall become liable, then the Contractor shall indemnify Company, for any damages so caused.

**Section 1.10 Independent Contractor Status.** Throughout the term of this Agreement, as an independent contractor, the Contractor agrees that neither it nor any of its personnel is or will become an employee, partner, agent, or principal of the Company while this Agreement is in effect. This Agreement does not in any way create any type of partnership, association, joint venture, or other business relationship. The Contractor agrees, that neither it nor any of its personnel, shall be entitled to the rights or benefits afforded to the Company's employees, including but not limited to, disability or unemployment insurance, worker's compensation, medical or life insurance, sick leave, compensation time, overtime, retirement, holiday benefits, vacation time, profit sharing, bonuses, or any other employment benefits. The Contractor shall be responsible for providing, at his/her own expense, disability, unemployment, and other insurance, worker's compensation, training, permits, licenses, and any other requirement for a 1099 the Contractor will be required to submit.

## **ARTICLE II. WORK PRODUCT AND STANDARD**

**Section 2.01 Scopes of Work.** Contractor agrees to provide Company a signed acceptance on each scope of work issued to be executed. Contractor shall confirm acceptance of each SOW in writing before commencing work. No mobilization shall occur without documented acknowledgment of the SOW to Company, the assigned task list, project summary, and agreed pricing.

**Section 2.02 Project Summary.** As for the Effective Date of this Agreement, each assigned project summary, subject to the limitations set forth in this MSA, if and to the extent applicable shall:

- (a) Refer to this MSA, which reference shall be deemed to incorporate into the Service Agreement the applicable provisions of this MSA.
- (b) Designate the date as of which the provisions of the Service Agreement will be effective and the term or period during which supplier will perform services pursuant to the Service Agreement.
- (c) Describe the obligations of the Contractor related to the Project, including any hardware or materials to be delivered and any services to be performed by the Contractor pursuant to the PSA, together with the general performance standards and related provisions agreed to by the Parties.
- (d) Describe the obligations of the client related to the PSA, including without limitation any space, facilities, hardware, materials, client assets or other support to be provided by the client.

**Section 2.03 Change Requests.** Requests by Company for changes to the composition of the work product or the way the services are provided, delivered, or charged shall not be unnecessarily burdensome and be deemed reasonable. The Contractor shall promptly advise the Company only of the potential implications of such changes and charges. With the information that the Contractor has provided, the Construction Manager shall make an initial decision regarding whether to proceed with the changes and their requirements. From time-to-time, the Company may ask the Contractor to assist with the updating of the client with the information found. Upon the Client's initial decision to proceed with the changes, the Contractor shall cure or adjust the work as requested. The Contractors' refusal to proceed will affect payment as agreed and the distribution of future work and/or termination of this Agreement.

**Section 2.04 Quality Control Guidelines.** The Construction Manager shall evaluate, within a reasonably accepted amount of time, all work completed by the Contractor according to the quality control standard provided to the Contractor. Further, through the project, the Company may perform quality control checks at specific points of completion as deemed necessary in its sole discretion to ensure that the equipment and construction fully comply with the plans and specifications required. **Quality Control Guidelines attached as Appendix A** shall govern the quality guidelines in which the Contractor shall adhere to as an acceptable standard of work. The Company reserves the right to amend these guidelines from time-to-time without notice. The Company will make a final inspection of the work and certify its completion to the Client.

**Section 2.05 Contractors' and Third-party's Obligations.** The Contractors shall require any third-party contractor to comply with the Company's reasonable requirements

regarding operations confidentiality, licensing, quality control, insurance, service requirements, security and any other conditions Company may deem necessary in their sole discretion.

**Section 2.06 Progress Reports.** The Contractor shall report to the Company not less than twice per week—preferably on Tuesdays and Fridays, unless the business is closed—regarding its progress in fulfilling its responsibilities and meeting the project milestones outlined in the PSA. Promptly upon receiving any information indicating that the Contractor may not fulfill its responsibilities or meet the project milestones outlined in the PSA, the Contractor shall disclose such information to the Company and shall identify for the Company consideration and approval of specific measures to address such delay and mitigate the risks associated therewith. Progress reports must be submitted to [reports@osptech.net](mailto:reports@osptech.net).

**Section 2.07 Liquidated Damages for Delay.** In the event of any delay in meeting the project milestones that is not excused under the terms of the PSA or applicable law, Contractor shall be liable to the Company for liquidated damages in the amount of \$1,000.00 at minimum per calendar day of unexcused delay. This amount may increase contingent upon the amounts charged to Company by the Primary Provider. The parties agree that such liquidated damages are a reasonable estimate of the damages the Company would suffer as a result of delayed performance, including but not limited to lost use, lost profits, increased overhead, and disruption of other work. This section shall be enforced in the sole discretion of Company on a case-by-case basis and is not dependent upon a court order or judicial ruling to be enforced. Amounts shall be levied against Contractor once performance is found to be unreasonably delayed. These damages shall be in addition to any other rights or remedies the Company may have under the PSA or applicable Texas law property damage.

**Section 2.08 Property Damages to Others.** The Contractor shall accept full responsibility of any claims for damages by residents, governmental entities, or third parties arising from work performed during the term of this Agreement. Immediately upon becoming aware of property damage attributed to the direct acts of the Contractor, the Company will notify the Contractor. If for any reason the Contractor has reason to believe that he or she has caused property damage, the Contractor agrees to notify the Company in writing no later than forty-eight (48) hours from the reasonable belief arising. At a minimum, such notification will include the complainant's name, customer address, account number, and contact information. Contractor acknowledges and accepts full responsibility for the resolution of all claims for damage arising from work performed by Contractor. Such work shall be made immediately and no more than forty-eight (48) hours from notification unless a signed written agreement is provided to Company from Complainant. Contractor must also provide date and time of claim and a general description of the claim details. Contractor shall provide a ten (10) year warranty of work for any repair made to the damages sustained due to Contractors work. Upon the completion of the repairs, Contractor agrees to get a signed release from the customer releasing both Contractor and Company from any and all known or unknown charges, promises, omissions, arbitrations, complaints, claims, counterclaims, cross-claims, indemnity claims, contribution claims, causes of action, lawsuits, demands, remedies, damages, liabilities, debts, suits, actions, obligations, liens, rights, costs, expenses, fees, and controversies of whatever kind or nature arising out of or relating in any to the property damage.

The signed release must be similar in form and content as the **Release & Indemnification attached as Exhibit B**. The Contractor acknowledges and understands that the Company's finding of any gross negligence, recklessness, or lack of reasonable care made by the Contractor as a result of the property damage may lead to the Contractor's termination and/or the Contractor's indemnification of the Company for all costs sustained by the Company.

**Section 2.09 Final Authority.** The Company retains acceptance authority to promulgate information technology, deliverables, architectures, standards, plans and to modify or grant waivers from such architectures, standards or plans. Final authority for the acceptance of work shall abide in Company solely. Contractor shall (1) comply with and enforce the information technology, architectures, standards and plans established by Company, (2) modify the services provided as and to the extent necessary to conform to such architectures, standards and plans as directed, and (3) obtain the Company's prior approval for any deviations from such architectures, standards or plans. Modification of the services and changes to the information technology, architectures, standards and plans not contemplated by a particular PSA shall be subject to the Company's Change Control Procedures.

### **ARTICLE III. PROPERTY PROTECTION AND SECURITY**

**Section 3.01 Client Data.** All data and information submitted by or on behalf of a Corporate Provider to the Company or otherwise in the Contractor's possession or accessible by the Contractor pursuant to a provision of the services, including without limitation all Personal Information ("**Client Data**"), are and shall remain the property of the Client or applicable third parties. The Client Data shall not be: (a) used by the Contractor or any third-party other than in connection with providing the services; (b) disclosed, sold, assigned, leased or otherwise provided to third parties or to anyone not having a specific need to know if the information for providing the services, by the Contractor or any third-party; or (c) commercially exploited by or on behalf of the Contractor or any third-party Agent.

**Section 3.02 Return or Destruction of Data.** Upon the Companies request at any time and upon the cessation of the services or termination of this Agreement, whichever is later, the Contractor shall: (a) promptly return in the format and on the media in use as of the date of the request, all, or the portion requested, of the Client Data; or (b) erase or destroy all or a portion of the Client Data in its possession prior to the cessation of the Termination Assistance Services, and destroy all media containing Client Data. If the Client directs the Company to erase or destroy all or a portion of the Client Data, the Contractor shall promptly confirm to the Company in writing that such erasure or destruction has occurred. Archival tapes containing any Client Data shall be used solely for back-up purposes and shall be returned or destroyed pursuant to this Section.

**Section 3.03 Data Security.** The Contractors shall establish and maintain safeguards against the destruction, loss, alteration or unauthorized disclosure of the Client Data in the possession of the Contractor in accordance with the Company's security standards set out in the Company's process and procedures.

**Section 3.04 Confidential Information.** Each Party acknowledges that the Contractor will have access to information that is treated as confidential and proprietary by Company, including, without limitation, the existence and terms of this Agreement, trade secrets, technology, and information pertaining to business operations, strategies, customers, pricing, marketing, finances, sourcing, personnel, or operations of the Company, its affiliates, relationships, celebrity clientele, donors, or its vendors or partners, in each case whether spoken or written and in any form or medium (collectively, the “**Confidential Information**”). Any Confidential Information that the Contractor develops in connection with their contractual relationship, including but not limited to any Works, shall be subject to the terms and conditions of this Article. The Contractor shall treat all Confidential Information as strictly confidential, not to disclose Confidential Information or permit it to be disclosed, in whole or part, to any third-party without the prior written consent of the Company in each instance, and not to use any Confidential Information for any purpose except as required in the performance of the services. The Contractor shall notify the Company immediately in the event the Contractor becomes aware of any loss or disclosure of any Confidential Information. Notwithstanding anything herein to the contrary, Confidential Information shall not include information that: (a) is or becomes generally available to the public other than through a breach of this Agreement by the Contractor or its Personnel, (b) is communicated to the Contractor by a third-party that had confidentiality obligations with respect to such information, or (c) was independently developed by the Contractor without use of any Confidential Information. In addition, the Contractor shall not be prohibited from disclosing any Confidential Information if, and only to the extent that, such disclosure is required by applicable law or court order, provided the Contractor first gives the Company notice of such planned disclosure (if not prohibited by such law or court order), and cooperates with any reasonable request to restrict or protect such disclosure.

**Section 3.05 Standard of Care.** The Contractor shall protect all Confidential Information of the Company, its Clients, and Corporate Providers, that he or she may come across during the duration of their contractual relationship, with the same degree of care as it uses to avoid unauthorized use, disclosure, publication or dissemination of its own confidential information of a similar nature, but in no event less than a reasonable degree of care. For purposes of this Agreement, Confidential Information of the Client shall also include Client Confidential Information and Confidential Information of Corporate Providers.

**Section 3.06 Restricted Disclosure.** The Contractor shall not use for its own benefit or the benefit of any third-party, or disclose, publish, release, transfer or otherwise make available to any third-party, any Confidential Information of the Company, its Clients, and Corporate Providers without the Company’s prior written consent. However, disclosure of Confidential Information may be permitted in limited instances where it is reasonably necessary for the performance of its duties and obligations hereunder or it is material to the execution and furtherance of the Project, provided by the agents, third parties, laborers, and subcontractors under the Contractor’s supervision. The Contractors shall be responsible for any violation of the confidentiality obligations set forth herein by any of the foregoing.

**Section 3.07 Exceptions to Disclosure.** The obligations in this **Article III** shall not restrict any disclosure of Confidential Information received by one Party (the “**Receiving Party**”) from the other Party (the “**Disclosing Party**”) where the Receiving Party can demonstrate that:

- (i) Such Confidential Information was independently developed by the Receiving Party prior to its receipt thereof without violating its obligations hereunder or any of the Disclosing Party’s proprietary rights;
- (ii) Such Confidential Information is or becomes publicly known (other than through unauthorized disclosure by the Receiving Party);
- (iii) Such Confidential Information is disclosed by the Disclosing Party to a third-party without any obligation of confidentiality;
- (iv) Such Confidential Information was already known to the Receiving Party prior to its receipt thereof without any obligation of confidentiality;
- (v) Such Confidential Information is received by the Receiving Party from a third-party without any obligation of confidentiality; or
- (vi) the Receiving Party is required to do so pursuant to any applicable law (provided that the Receiving Party shall provide reasonable prior written notice to the Disclosing Party of such disclosure).

**Section 3.08 Media Releases/Publicity.** The Contractor shall not use Company’s name or refer to its Clients, or Corporate Providers directly or indirectly in any media release, public announcement or public disclosure relating to the MSA or their subject matter, including in any promotional or marketing materials, customer lists, referral lists or business presentations without written consent from the Company for each such use or release. The Contractors may not use any intellectual property including any trademark, copyright, or service mark of the Company without the Company’s written consent, which consent shall be given in that Company’s sole discretion.

**Section 3.10 Insurance Coverage Minimum.** Contractor shall fully comply with the **Insurance Requirements & Agreement attached as Appendix B**, which is hereby incorporated herein by reference. Contractor must submit renewal documentation for expiring insurance documents fourteen (14) days prior to their expiration. If Contractor fails to maintain any of the required insurances outlined in this Agreement during the Term of this Agreement or allows any such required insurances to expire without renewal or replacement and/or if new, current insurance certificates are not supplied to Company at least fourteen (14) days prior to expiration of the insurance policy(s), such failure shall be considered a breach of this Agreement and it shall excuse any payments due but not yet paid under this Section.

#### **ARTICLE IV. COMPANY POLICIES AND PROCEDURES**

**Section 4.01 Appearance and Demeanor.** The Contractor shall abide by the Company policies related to the appearance and conduct while performing work under this Agreement. The Contractors shall maintain a neat and professional appearance during project hours. The Company may be allowed to prohibit the display of offensive tattoos, clothing with offensive slogans or jewelry that can be interpreted as being offensive or derogatory or may be a hazard on site. Uniform

or protective apparel may be provided by the Company for safety purposes. If required by law, site rules, or client security, Contractor will ensure its personnel comply with site safety/identification requirements, including any mutually agreed protective apparel, while performing services under this Agreement.

**Section 4.02 Driver Policy.** The Company shall not be responsible for the frolic or detours of the Contractor or its third party relationship including but not limited to its subsidiaries, subcontractors, affiliates, or vendors while furthering the Company initiatives. The Contractor agrees to carry car insurance for both the vehicle and of their person covering uninsured motorist, cargo, and non-owners. The Contractor understands and acknowledges that it will be identify and reimburse Company for expenditures thereof made in connection with its violation including but not limited to any party referenced above. Contractor agrees to abide by the Company’s “**Distracted Drivers Policy**” which is hereby incorporated herein by reference and may be amended from time-to-time in the Company’s sole discretion. See **Distracted Driver Policy for Drivers Exhibit C.**

**Section 4.03 Vehicle Policy.** The Contractor shall engage a third-party to perform motor vehicle records (“MVR”) checks meeting the minimum requirements set by Company on everyone who will perform work which entails or might involve driving. From time to time, Contractor may be requested to provide a list of vehicles with make and model and license plate that will be used for the safety and tracking of projects in the sole discretion of Company. Contractor will be responsible for the cost of all background and MVR checks and will supply this information within forty-eight (48) hours of any requests from Company. The Contractor shall supply, at its sole cost and expense, all vehicles. Further, Contractor shall ensure the following related to its vehicles:

- (i) The Contractor’s vehicles must meet Company standards of its own authorized fleet of vehicles, which may change from time to time, be free of dents and rust, and should be less than six (6) years old.
- (ii) Any vehicle used by Contractor to perform Services must be properly licensed, insured and pass inspection in accordance with all applicable Laws.
- (iii) All vehicles, machinery, and tools are to be provided by contractor and must conform to applicable federal, state, and local safety laws.

The Contractor must obtain written approval from a Company regional manager or equivalent representative before using vehicles that do not meet the above criteria. Contractor will not be permitted to perform any Services in an unapproved vehicle.

**Section 4.04 Contractor Conduct and Manner.** For the safety of the Company, as well as the Contractor, the Company prohibits the use of profanity, abusive language, and the playing of loud or offensive music during any given project assigned to the Contractor. Alcohol, smoking, vaping, and/or smokeless tobacco used during a project is strictly prohibited per the Company’s “**Workforce Compliance and Screening Policy**”, which is hereby incorporated herein by reference and may be amended from time-to-time in the Company’s sole discretion. See **Workforce Compliance and Screening Policy attached as Exhibit D.**

Contractor shall ensure that all personnel assigned to Company projects comply with all customer, Corporate Provider, property owner, and project-specific screening, certification, badging, training, drug testing, background screening, MVR, site access, and other compliance requirements communicated by Company. The Contractor agrees to immediately notify the Company and remove from the premises any persons found to be using or in the possession of alcohol or non-prescription drugs, or to have engaged in theft, or the disregard for safety standards. Unless otherwise agreed in writing, Contractor shall be solely responsible for all associated costs. Company reserves the right to deny access to, reject, or require the removal of any personnel who fail to meet such requirements. Contractor acknowledges that these requirements may change from time to time and agrees to comply with any revised or additional requirements as a condition of continued eligibility to perform work under this Agreement.

This Section of the Agreement is intended to create a standard of common courtesy and shall be extended to all affiliates of the Company always demonstrating professionalism and care while on the performance of service under this Agreement.

**Section 4.05 Mapping and Tracing Policy.** The Contractor understands that upon providing reports of an assigned project, that the Company requires the consistent mapping and tracing of the project by the Contractor according to the Standard map samples following the guidelines of **Mapping & Tracing Policy attached as Appendix C**. Such mapping and tracing shall be submitted with the Contractor invoices showing proof of work, this must be similar as to form and content as **Mapping & Tracing Policy attached as Appendix C** and completed with the respective invoice as a request for payment aligning with the mapping and tracing submitted to the Company. Documents may be submitted to [payments@osp.net](mailto:payments@osp.net) or any other mailbox as the Company may designate from time-to-time in their sole discretion.

**Section 4.06 Job Workflow and Ledger.** The Contractor agrees and understands that the continuity of assigned projects is critical to the success of the Company. All projects assigned to the Contractor must follow **Job Workflow attached as Exhibit E**, to ensure quality and performance, unless expressly provided otherwise in writing. This shall be considered the projects scope of work. Once Contractor has agreed to accept a project, they must follow the task list in which they accepted at the agreed upon price. Contractors' workflow and timeframe of work shall abide according to the accepted task list and **Contractor Invoicing Requirements attached as Appendix D**. The Company's accounting department will accept the invoice upon verifying that the pricing on the invoice matches the initial offer for payment in the task list and comparing the invoice to the projects scope of work. Payment is estimated to occur no less than sixty (60) days after quality control (hereinafter referred to as "QC") has approved the quality of work presented as complete and consistent with the corresponding invoice. Company agrees to pay Contractor once paid, delay in the remittance of payment from a Client or Primary Provider shall delay Contractor's payment. Company will not be responsible to pay Contractor until paid by the client and/or Primary Provider. Contractor understands and acknowledges that it shall not work outside of the agreed SOW and that Company shall not be liable for any cost associated with such work. Company will not remit payment for work performed that is out of the original scope of work, unless agreed upon in writing by Company's regional manager and authorized as an expansion of scope prior to work being completed. Upon written agreement, such work may be paid by Company.

**Section 4.07 Staffing and Supervision.** Contractor will, on an on-going basis maintain, update, and keep current, the names and status of those working for Contractor on Company projects. This includes but it is not limited to, the maintenance of all records and documentation pertaining to the work completed on behalf of Company. A current report of Contractor's personnel or subcontractors with the foregoing information will be provided to the Construction manager or designated representative immediately upon commencing work and immediately after a change in status of any personnel. The Contractor shall, upon request, provide copies of any of its personnel forms and applicable tax/identity documentation (excluding IRS Form I-9). The Contractor shall provide trained, competent individuals for all Services rendered to Company.

**Section 4.08 Issuance and Storage of Material.** Company will issue the materials for each projects SOW to Contractor as needed. Using material not provided by Company is strictly prohibited. Contractor must manage all materials issued to them by Company and provide an accounting and reconciliation of all materials issued upon request by the Construction Manager. Contractor may not house materials off-site without written permission from a Company regional manager or an equivalent representative. Company reserves the right to inspect Contractor vehicles at its discretion to verify material levels. Contractor shall receive periodic materials, and resupply at times and on dates mutually agreeable to Contractor and Company management or representative. Such resupply is to occur no more than two times per work week. Only designated, Company approved personnel shall be authorized to access Company facilities. Loitering in or around any Company facility by the Contractor employees/subcontractors is prohibited. If Contractor ceases performing services or stops performing work, Contractor must promptly return any unused materials and all other Company property to Company manager or representative. Contractor shall be responsible for damage to any Company equipment, materials, or supplies, which shall include loading and unloading, and transportation to and from the warehouse and job site. Any material damaged by a Contractor will be replaced at their sole cost and expense. Contractor hereby acknowledges and agrees that Contractor shall have no ownership interest or other legal right or interest in materials, which shall be the sole and exclusive property of Company. All materials not permanently installed by Contractor in the performance of Services, shall be returned to Company as soon as is reasonably possible, and, if Contractor shall fail to return all unused materials in good order and repair, Company shall have the right to offset amounts due to Contractor under this Agreement, in amounts equal to the fair market value of said materials. In no event shall Contractor have the right to use any of the materials other than for providing Services, and Contractor shall not otherwise sell, dispose, or use such materials in any manner inconsistent with this Agreement. In any event, and without limiting Company's rights and remedies, contractor shall remain liable for the fair market value of all materials utilized or disposed of by Contractor in violation of this Agreement. The fair market value of the materials shall be determined by Company at the time of the loss or damage to such materials.

**Section 4.09 Rubbish and Waste.** Contractor understands and agrees that they shall keep all working areas free from accumulation of waste material and rubbish and, at the completion of the work, contractor shall remove from the premises all rubbish, implements and surplus materials and leave the premises clean and ready to occupy. Injury sustained due to the work environment of the Project, including those of a third party including an invitee or trespasser, shall result in the Contractor being liable and claiming sole financial

responsibility of the resulting injuries, including but limited to medical bills, expenses, fees, settlement payments and costs—future, present, and unforeseeable.

**Section 4.10 Test Equipment Calibration.** Test equipment used in fulfillment of this Agreement must be manufacturer-calibrated and maintained to current industry standards. Contractor shall be responsible for the continuous maintenance and testing of its own equipment including but not limited to its calibration and any cost associated with the adjustments necessary for its calibration thereof. Documentation of calibration must be available upon request to Company.

## **ARTICLE V. PAYMENT PROCEDURES**

**Section 5.01 Price and Payment.** The Contractor shall fully comply with the **Contractor Invoicing Requirements attached as Appendix D** and **Mapping & Tracing Policy attached as Appendix C**. Payment of all contractor invoices shall be made in the following manner:

- (i) *Contractor Payment Method.* Except as otherwise provided herein, the Contractor shall be paid in accordance with all Rate Schedules as specified in a respective statement of work applicable to this Agreement. All payments from Company to the Contractor shall be made payable to the Contractor in its DBA name or LLC name, and such payments shall not be made payable to any officers or employees of the Contractor, nor shall Contractor have any obligation, liability, or responsibility for payment to any such person or persons. Contractor shall provide to Company all federal, state, or local tax identification numbers, together with other information reasonably required by Company.
- (ii) *Rates of Pay to Contractor.* Rates of pay to Contractor for Services are set forth in applicable SOW's.
- (iii) *Minimum Standards of Payment.* Contractor will be paid when Services are completed in accordance with the requirements of this Agreement. All properly submitted invoices shall be paid on a net sixty (60) day basis. If Contractor is in default of this Agreement, no payments shall be made until such default is rectified, or until Contractor has taken such steps to cure the default as shall be satisfactory to Company.
- (iv) *Retainage.* Unless Company has previously waived this requirement, specified job invoices shall document a ten (10%) reduction of the total value of labor and materials per project used during the period of the invoice (“Retainage”), which shall be retained by Company for the due and punctual performance of the Contractor's obligations in the applicable SOW. Additionally, upon termination of this Agreement, Company shall retain fifteen percent (15%) from the final invoice(s) pending reconciliation of all chargebacks. The remaining balance of the retainage shall be remitted after such reconciliation of all chargebacks and payable to Contractor within six (6) months of full reconciliation and full payment has been received by Corporate provider. If applicable, all invoices or draws are subject to a five (5%) percent Early Pay Deduction and are to be turned into Company, by

5:00 p.m. each Wednesday. Payment will only be approved for the percentage of work completed on the turn in date by Contractor. All Contractor payments are subject to the fund availability and the acceptance of confirming work. Contractor's payment is contingent on Company receiving payment from Corporate Provider. Company reserves the right to offset the amount of any claims against Contractor from the agreed price, in addition to any retainage held. Any charge backs attributed to Contractor's acts or omissions will be deducted from the Contractor's agreed rate or any other sums due Contractor, and not from retainage amount.

**Section 5.02 Invoice Frequency.** Contractor shall invoice Company on a weekly basis. Invoices submitted late or after a project has ended are subjected to rejection by Company, without Contractor recourse against Company or its affiliates, if the Project has been closed by the client or primary provider. Invoices including multiple weeks of work that are submitted at the end of a Project will be rejected by Company. Resubmission of these invoices may be made within ten (10) business days provided the work referenced is split by weekly invoices.

**Section 5.03 Non-Travel Expenses.** Except for expenses for travel and communication lines covered by subsection 5.03, all expenses relating to the services are included in the charges and shall not be reimbursed by the Company.

**Section 5.04 Travel and Communication Expenses.** The Contractor shall be responsible for its own travel and communication lines. The Company will not reimburse the Contractor for its out-of-pocket expenditures for such travel and communication lines.

**Section 5.05 Reimbursement Guidelines.** To the extent the Company agrees to reimburse the Contractor for any out-of-pocket expenditures, such expenditures shall be passed through to the Company at actual cost with no markup. Proof of no markup must be shown by submitting the original receipt of the expense. To be eligible for reimbursement, such expenses must be properly documented and incurred by the Contractor in connection with providing the services in accordance with the Company's corporate travel policies or other applicable expense guidelines, which will be provided to the Contractor after the Effective Date of the applicable Service Agreement; *provided, however,* that the Contractor shall be responsible for travel expenses relating to the Contractor's internal operations that are not directly related to performing services for the Company, including account management, training for supplier's staff, meetings and seminars.

**Section 5.05 Payment of Disputed Invoices.** Contractor shall promptly pay all of its employees, subcontractors, and vendors for materials provided and labor performed. The provisions of this Section shall not apply when a claim or demand is disputed in good faith by Contractor, and the Company, in its sole discretion, determines that Contractor has reasonable grounds for refusing to pay such claim or demand. In such event, Contractor shall defend, indemnify, and hold Company harmless from and against all liability for said claim, including

reasonable attorneys' fees, and shall, if requested by Company, post a performance bond to insure payment of the claim if ultimately due by Contractor.

## **ARTICLE VI. REPRESENTATIONS, WARRANTIES AND COVENANTS**

**Section 6.01 Responsibility of Work.** The Contractor will perform its responsibilities and provide the services under this Agreement in a manner that does not infringe, or constitute an infringement or misappropriation of, any Intellectual Property Right of any third-party. The Contractor represents and warrants that the internal use or commercial exploitation of any Services, Works or other deliverable will not subject the Company to any claim for copyright or patent infringement by a third-party or for infringement in any way of the proprietary rights of any other Person, whether such rights are afforded by the laws of the United States or any other state, country or jurisdiction. If any service, work or other is determined to be infringing or likely to infringe any third-party Intellectual Property Right, the Contractor shall, at its option and expense, (a) procure the right for the Company to continue to use the affected services, works or other deliverable, (b) modify the services, works or other deliverable so that they do not infringe any such right (which modifications shall provide the same functionality and performance levels as the applicable services, work, or other deliverable), or (c) replace the applicable services, work or other deliverable with substitutes that do not infringe any such right, and to not result in any diminution of functionality or performance levels. In the event that none of the preceding remedies are reasonably available, and solely upon the request by the Company, the Contractor shall cease the infringing act and indemnify the Company for all damages sustained including but not limited to cost sustained due to the bad acts itself and all fees that are a result of the Intellectual Property violation.

**Section 6.02 Representation of Skills and Experience.** The Contractor represents and warrants that he or she has the necessary knowledge, skills, experience, qualifications, rights and resources to provide and perform the services in accordance with this Agreement, and that the services will be performed for and delivered to the Company in a diligent, workmanlike manner in accordance with industry standards, laws and governmental regulations applicable to the performance of such services. Additionally, the Contractor warrants to the Company that they (a) obtained all necessary credentials, certifications, and skills necessary for the performance and provision of the services agreed to be provided, and (b) comply with all laws, rules and regulations applicable to the Contractor.

**Section 6.03 Confidentiality Agreements.** The Contractors make the following representations to the Company, understanding that the Company is relying on such representations in its engagement of the Contractor.

**Section 6.04 Non-Compete and Non-Solicitation.** In recognition of the highly confidential and proprietary nature of the Company's business methods, practices and client relationships, the Contractor during the term of this Agreement, and for a period of twelve (12) months after expiration/termination, Contractor will not solicit business in competition with

Company from clients for whom Contractor provided services under this Agreement and had material contact, nor solicit Company personnel to leave their engagement.:

- (a) solicit to render, render, as an agent, the Contractor, consultant, stockholder, partner, member, solicitor, officer, director or in any other capacity, for the benefit of any person or entity other than the Company, any consulting services or any other business, marketing or technical services rendered by the Company from/to: (i) any person or entity who is a Client of the Company or (ii) any person or entity identified as a prospective Company Client (*i.e.* any and all individuals or entities identified and/or contacted by or who contacts the Company for the purpose of becoming a Company Client prior to the term of this Agreement, termination, or expiration of this Agreement) by the Contractor, by any other Contractor, associate and/or consultant of the Company, or by the Company, during the term of this Agreement. As used in this Agreement, “**solicit**” means the initiation, whether directly or indirectly, of any contact or communication of any kind whatsoever, for the express or implicit purpose of inviting, encouraging or requesting an individual or entity to:
  - (i) transfer business to any person or entity other than the Company;
  - (ii) obtain consulting, business, marketing or technical services (which are rendered by the Company) from any person or entity other than the Company; or
  - (iii) otherwise discontinue, change, or reduce such individual or entity’s existing business relationship with the Company, including referral sources of the Company.

The Contractor hereby acknowledges, specifically and further agrees that the term “**solicit**” as used in this Agreement also includes any mailing, announcement, advertisement, E-mail message, or other verbal or written communication that is sent directly or indirectly to one or more Company Client, referral source or prospective client informing them: (i) that the Contractor is no longer engaged by the Company, (ii) that the Contractor plans to no longer provide services to or engaged by the Company continue to provide services to the Company, or (iii) how to contact the Contractor in the event that he/she ceases, or has ceased, to provide services under this Agreement.

- (b) directly or indirectly, (i) solicit or contact any of the Contractors, associates and/or consultants, full-time or part-time, of the Company for the purpose of inducing them to end their engagement with or association with the Company; (ii) hire or otherwise engage any such Contractor, associate or consultant to end their engagement with the Company; or (iii) induce any supplier, license, licensee, business relation, representative or agent of the Company to terminate or modify its relationship with the Company;
- (c) Solicit or contact any referral sources of the Company for the purpose of inducing them to terminate or modify their relationship with the Company or to provide referrals to any other person or entity other than the Company (including making any negative or disparaging

statements regarding the company, any of its consultants, agents, contractors, and/or affiliates); or

- (d) become associated with or employed by any former Company Contractor, consultant or partner who was a Company Contractor, consultant or partner at any time during the term of this Agreement. This prohibition includes, but is not limited to, the joining of any entity or client for which a former Company Contractor, consultant or partner has any ownership interest, management role, and/or would have a direct or supervisory relationship with the Contractor.

The Contractor understands that the above restrictions are not intended to deprive him/her of an opportunity to earn a living in the same profession as that of the Company. Rather, the Contractor agrees to abide by the above restrictions in recognition of the Company's legitimate and reasonable objective to protect its business interests and client relationships.

**Section 6.05 Equitable Relief.** The Contractor further acknowledges and understands that his/her violation of any of the above covenants or restrictions will result in irreparable harm to the Company, and that an award of money damages, alone, will not be adequate to remedy such harm. Consequently, in the event that the Contractor violates or threatens (*i.e.* indicates—in any manner or form—to any person or entity an intention or desire to violate this Agreement) to violate any of the above covenants or restrictions, the Company, in addition to any other rights and remedies provided under law, shall be entitled to both: (a) a preliminary or permanent injunction in order to prevent the continuation of such harm; and (b) money damages, including without limitation, all reasonable costs and attorneys' fees incurred by the Company in enforcing the provisions of this Agreement.

In any such legal action, the Company shall not be required to plead or prove irreparable harm or lack of an adequate remedy at law or post a bond as a condition of obtaining equitable relief. Nothing contained herein shall preclude the Company from pursuing any action or other remedy for any breach or threatened breach of this Agreement, all of which shall be cumulative.

## **ARTICLE VII. TERMINATION OF RELATIONSHIP**

**Section 7.01 Early Termination.** The Company may terminate this Agreement with cause provided written notice is given to the Contractor fifteen (15) days in advance. The Company may also terminate this Agreement immediately if the Contractor breaches this Agreement. Upon an early termination, the Contractor shall receive a pro-rated payment for services rendered to the Company's reasonable satisfaction, up to the termination date. Payment after termination shall follow terms within Section 4.06 and 5.05.

**Section 7.02 Expiration of Agreement.** Unless otherwise terminated as provided in this Agreement, this Agreement will continue in effect until the expiration of the initial term and any renewal thereof from the date of both parties' signature or until the services provided for in this

Agreement have been fully and completely performed to the satisfaction of the Company and shall then terminate unless renewed in writing by both parties.

**Section 7.03 Return of Materials.** Upon expiration or termination of this Agreement, successful completion of the services to be provided under this Agreement, or as otherwise requested by the Company, the Contractor will deliver to the Company deliverables, software, tools, equipment, client notes, documents/files, or related items that the Company requests to be returned.

## **ARTICLE VIII. GENERAL PROVISIONS**

**Section 8.01 Notices.** Any notice, demand or other communication required or permitted to be given under this Agreement shall be in writing and personally delivered or sent, costs prepaid, by first class mail (return receipt requested) or overnight courier and shall be addressed to the Parties at their respective addresses set forth on the first page hereof. Either Party may change address for notices by a notice given in the manner set forth in this Section. Any notice sent in such manner shall be deemed received, as applicable, upon personal delivery, three (3) business days after being sent by first class mail as described above, or the first business day after being sent by overnight courier.

**Section 8.02 Assignment.** The Contractor shall not assign this Agreement, in whole or in part, without the prior written consent of the Company. The Company may assign this Agreement to any affiliate thereof or to any party that acquires or succeeds to the business of the Company, whether by purchase of stock, assets, merger, or otherwise. This Agreement shall be binding on the Parties and their respective successors and assigns and shall inure to the benefit of the Parties and their respective permitted assigns.

**Section 8.03 Governing Law & Venue.** This Agreement shall be governed and heard by and construed in accordance with the internal laws of the Harris County in the State of Texas without giving effect to any choice or conflict of law provision or rule.

**Section 8.04 Remedies.** All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either Party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the Parties or otherwise.

**Section 8.05 Severability.** If any provision of this Agreement is determined by a court of competent jurisdiction to be too broad to permit enforcement to its full extent or is otherwise determined to be invalid or unenforceable, then (a) such determination shall not affect any other provision herein, and (b) the invalid or unenforceable provision will be enforced to the maximum extent permitted by law. Each of the Parties hereby consents and agrees that the scope of any restriction herein may be judicially modified in any proceeding brought to enforce such provisions of this Agreement.

**Section 8.06 Entire Agreement; Amendment and Severability.** This Agreement (including all PSA's, Exhibits, Schedules, Appendices) contains the entire agreement between the Parties as to the subject matter hereof and fully supersedes all prior understandings, written or oral, between the Parties regarding such subject matter. This Agreement may not be modified or amended except by a written instrument executed by both Parties.

**Section 8.07 Interpretation.** For purposes of this Agreement, the word “including”, and any other words or phrases of inclusion will not be construed as terms of limitation, so that references to “included” matters will be regarded as if they read “including but not limited to.” Titles and headings in this Agreement are inserted for convenience only and in no way define, limit, extend or describe the scope of this Agreement or the intent of any of its provisions.

**Section 8.08 Counterparts.** This Agreement may be executed by facsimile and in one or more counterparts, each of which will be deemed to be an original, but all of which together will constitute one and the same instrument, without the necessity of production of the others.

**Section 8.09 Dispute Resolution.** In any dispute, controversy or claim arising out of or related in any way to this Agreement or any services performed hereunder, both parties agree to attempt in good faith to resolve the dispute in an amicable manner before involving a third-party. If they cannot resolve it between another, both parties agree to select a mutually acceptable mediator between the parties to help resolve the dispute. If they cannot resolve the dispute with a mediator's help, with both parties engaging in mediation in good faith, the dispute will be submitted to binding arbitration. Matters that cannot be amicably resolved shall be solely and finally settled by arbitration administered by the American Arbitration Association (AAA) in accordance with its commercial arbitration rules. Judgment on the award rendered by the arbitrator(s) may be entered in any court having jurisdiction thereof. The arbitration shall take place before a panel of three (3) arbitrators sitting in Harris County, Texas. The language of the arbitration shall be English. The arbitrators will be bound to adjudicate all disputes in accordance with the laws of the State of Texas. The decision of the arbitrators shall be in writing with written findings of fact and shall be final and binding on the parties. This section provides the sole recourse for the settlement of any disputes arising out of, in connection with, or related to this Agreement.

**Section 8.10 Indemnification.** To the fullest extent permitted by applicable law, the Contractor shall indemnify, defend, and waive and release the Company, its affiliates, and their respective officers, directors, employees, agents, successors, and assigns (each, a “**Company Indemnitee**”) from and against third-party claims to the extent directly arising out of (a) the Contractor's material breach of its obligations under this Agreement, or (b) personal injury, death, or damage to tangible personal or real property to the extent caused by the negligence or willful misconduct of the Contractor or its employees in the performance of the Work in relation to contract agreement with the Company. Contractor shall indemnify, hold harmless and defend Company, from and against any and all costs, expenses (including reasonable counsel fees), liabilities, losses, damages, suits, actions, fines, penalties, claims or demands of any kind and asserted by or on behalf of any person or governmental authority, arising out of or in any way connected with, Company, shall not be liable to Contractor on account of (1) any failure by

Contractor or its Subcontractor's, vendors, or affiliates, to perform any of the agreements, terms, covenants or conditions of this agreement, and ay of the Contract documents; (2) any failure by Contractor to comply with any statutes, ordinances, regulations or orders of any governmental authority, or (3) any accident, death or personal injury, or damage to or loss or theft of property, with shall occur performing under this agreement, regardless of whether such liability, claims, demands, damages and costs were caused in whole or part by Company, or the concurrent negligence of Company, or any other person or entity.

**SIGNATURES**

**IN WITNESS WHEREOF**, the parties have caused this Master Service Agreement to be executed as of the date signed by the parties below. By signing below, the parties acknowledge and reaffirm the independent-contractor relationship; nothing herein creates employment, joint venture, or agency between them.

\_\_\_\_\_  
*Contractor/Company Name*

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

\_\_\_\_\_,  
*Authorized Name of Contractor*

\_\_\_\_\_,  
*Signature of Contractor*

*Company Address:* \_\_\_\_\_

\_\_\_\_\_

AND

Barrington & Burdette, LLC  
dba OSP TECHNOLOGIES  
*A Texas Limited Liability Company,*

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

Authorized By: \_\_\_\_\_

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