



## Master Subscription Agreement Under NCPA Contract 01-140

This Master Subscription Agreement (including the exhibits hereto, this "Agreement"), effective as of XXXXXXXX, is by and between Precision Task Group, Inc., a Texas corporation with principal offices at 9801 Westheimer Road, Suite 803, Houston, Texas 77042 ("Reseller") and XXXXXXXXXX ("Client") with offices at XXXXXXXXXXXXXXXX. Whereas Reseller resells SpryPoint Services, Inc ("SpryPoint"), a Canadian Corporation with offices at 45 Queen Street, Charlottetown, PE C1A 4A4, subscription Service, Implementation Services and related solutions, to which Client intends to subscribe to the Service and receive the Implementation Services and related services under this Agreement. This Agreement establishes the business relationship and allocation of responsibilities regarding the Service and the Parties therefore agree as follows.

The exhibits and schedules attached hereto are an integral part of this agreement and are deemed incorporated by reference herein.

Through Reseller, SpryPoint, shall perform the services described below in accordance with the terms and conditions of this Agreement. Should there be a conflict of terms or conditions, this Agreement shall control, and the order of precedence shall be as follows:

1. Master Subscription Agreement
2. Exhibit A – Statement of Work
3. Exhibit B – Pricing Schedule
4. Exhibit C – Service Level Agreement
5. Exhibit D – Insurance Requirements

**DEFINITIONS.** The following capitalized terms shall have the following meanings whenever used in this Agreement.

**"Affiliate"** means any entity which directly or indirectly controls, is controlled by, or is under common control by SpryPoint, Reseller or Client. For purposes of the preceding sentence, "control" means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"Agreement"** means this Master Subscription Agreement, including any exhibits or attachments hereto.

**"Authorized Named User"** means an end user of the Client that has been given access by Client to use the Services.

**"Authorized Parties"** means Clients' or an authorized Affiliate's Employees and third-party providers authorized to access Client's Tenants and/or to receive Client Data by Client (i) in writing, (ii) through the Service's security designation, or (iii) by system integration or other data exchange process.

**"Confidential Information"** refers to the following types of material or content from SpryPoint, Reseller or Client to this Agreement ("Discloser") discloses to another ("Recipient"): (a) any information Discloser marks or designates as "Confidential" at the time of disclosure; and (b) any other non-public, sensitive information disclosed by Discloser including, but not limited to code, inventions, know-how, business, technical, and financial information, or other information which should reasonably be known by the Recipient to be confidential at the time it is disclosed, due to the nature of the information and the circumstances surrounding such disclosure Confidential Information does not include information that: (i) is in Recipient's possession at the time of disclosure; (ii) is independently developed by Recipient without use of or reference to Confidential Information; (iii) becomes known publicly, before or after disclosure, other than as a result of Recipient's improper action or inaction; or (iv) is rightfully obtained by Recipient from a third party without breach of any confidentiality obligations.



**“Client Data”** means a subset of Confidential Information that is comprised of Client’s data obtained, used in, or stored as the result of the use of the Services. Client Data shall include the following: (a) Data collected, used, processed, stored, or generated by the Client as the result of the use of the Service, including any personal identifiable information (“PII”) and any information related to payment processing, such as credit card numbers and ACH account numbers. Client Data is and shall remain the sole and exclusive property of Client and all right, title, interest in same is reserved to Client.

**“Client Input”** means suggestions, enhancement requests, recommendations or other feedback provided by Client, its employees and Authorized Parties relating to the operation or functionality of the Service.

**“Competitor”** means any entity that may be reasonably construed as offering competitive functionality or the Service offered by SpryPoint.

**“Documentation”** means the Software’s standard user manuals and any other accompanying documents related to the Software delivered to Client during Implementation.

**“Implementation”** means the process for gathering requirements, configuring, testing, training, and integrating the Service for Client’s use, as set forth in a Statement of Work.

**“Intellectual Property Rights”** means any and all common law, statutory and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

**“Implementation Services”** means the services provided by Provider to Client for the integration, implementation and use of the Service, which may include project management, analysis, configuration, data conversion, training, testing, development and ongoing maintenance & support, as outlined in Exhibit A - Statement of Work.

**“Malicious Code”** means viruses, worms, timebombs, trojan horses and other malicious code, files, scripts, agents or programs.

**“Messaging Service”** means SpryPoint’s alerts, notifications, communications, campaigns & messaging capabilities provided with the Service.

**“Parties”** Collectively refers to Reseller and the Client.

**“Personal Data”** means any information that is related to an identified or identifiable individual and has been provided by Client or its Affiliates as Client Data within the SpryPoint Service to enable SpryPoint to process the data on its behalf.

**“Production Deployment”** means once the Client has provided User Acceptance Testing (“UAT”) signoff and the Service has been moved into a production environment.

**“Security Breach”** means (i) any actual or reasonably suspected unauthorized use of, loss of, access to or disclosure of, Client Data; provided that an incidental disclosure of Client Data to an Authorized Party or SpryPoint or incidental access to Client Data by an Authorized Party or SpryPoint, where no reasonable suspicion exists that such disclosure or access involves theft, or is fraudulent, criminal or malicious in nature, shall not be considered a “Security Breach” for purposes of this definition, unless such incidental disclosure or incidental access triggers a notification obligation under any applicable Law and (ii) any security breach (or substantially similar term) as defined by applicable law.

**“Service”** means the combination of SpryPoint’s software-as-a service applications as described in the Documentation and subscribed to as set forth in Exhibit B - Pricing Schedule or through a Change Order.



**“Service Level Agreement” (SLA).** means SpryPoint’s standard Service Level Availability policy which may be updated from time to time. No update shall materially diminish SpryPoint’s responsibilities under the SLA.

**“Subscription Service Fee”** means the annual amount invoiced and payable for Client’s use of the Service. The Subscription Service Fee does not include the one-time implementation fees for the Services as set forth in Exhibit A Statement of Work.

**“Tenant”** means a unique instance of the Service, with a separate set of Client data held by SpryPoint in a logically separated database.

**“Term”** means the Initial Term of this Agreement which commences on the Effective Date and will continue for one year.

**“Updates”** means all updates, improvements, enhancements, error corrections, bug fixes, release notes, upgrades and changes to the Service and Documentation as developed by SpryPoint and made generally available for Production use.

## 1. Provision of Service.

- 1.1 Resale.** Client understands and agrees that Client is contracting directly with Reseller for the SpryPoint Service, Implementation Services and related services. This Agreement is not intended to create a direct contractual relationship between SpryPoint and Client. Further, Client expressly agrees that SpryPoint is a third-party beneficiary to this Agreement and may enforce any and all terms and conditions of this Agreement.
- 1.2 NCPA Contract.** Client understands and agrees that Reseller is appointed as a nonexclusive reseller of the SpryPoint subscription Service, Implementation Services and related solutions solely through the NCPA contract vehicle (the “NCPA Contract”) executed by Reseller and the National Cooperative Purchasing Alliance with an effective date of December 8, 2020.
- 1.3 License to Sublicense.** Client understands and agrees that SpryPoint granted Reseller a limited, nonexclusive, non-assignable, non-transferable license solely during the term of SpryPoint and Reseller’s certain resale agreement to grant sublicenses of the Service to Reseller’s clients under the SpryPoint and Reseller resale agreement.
- 1.4 SpryPoint Obligations.** During the Term of this Agreement, SpryPoint shall make the Service and Updates available to Client in accordance with the Documentation, the SLA and pursuant to the terms of this Agreement. SpryPoint shall not use Client Data except to provide the Service, or to prevent or address service or technical problems, verify Service Updates, in accordance with this Agreement and the Documentation, or in accordance with Client’s instructions and shall not disclose Client Data to anyone other than Authorized Parties in accordance with this Agreement.
- 1.5 Client Obligations.** Client may enable access of the Service for use only by Authorized Parties solely for the internal business purposes of Client and its Affiliates in accordance with the Documentation and not for the benefit of any third parties. Client is responsible for all Authorized Party use of the Service and compliance with this Agreement. Client shall: (a) have sole responsibility for the accuracy, quality, and legality of all Client Data and (b) take commercially reasonable efforts to prevent unauthorized access to, or use of, the Service through login credentials of Authorized Parties, and notify Reseller and SpryPoint promptly of any such unauthorized access or use. Client shall not: (i) use the Service in violation of applicable Laws; (ii) in connection with the Service, send or store infringing, obscene, threatening or otherwise unlawful or tortious material, including material that violates privacy rights; (iii) send or store Malicious Code in connection with the Service or its related systems or networks in a manner not set forth in the Documentation. Client shall designate a maximum number of named contacts as listed in the applicable Order form to request and receive support services from SpryPoint. Named



support contacts must be trained on the SpryPoint product(s) for which they initiate support requests. Client shall be liable for the acts and omissions of all Authorized Parties and Client Affiliates relating to this Agreement.

**1.6 Acceptable Use.** Client acknowledges and agrees that Reseller and SpryPoint do not police the content of communications or data of Client or its users transmitted through the Service, and that Reseller and SpryPoint shall not be responsible for the content of any such communications or transmissions. Client shall use the Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations Client is solely responsible (a) for making sure that the disclosure and use of data, content and information provided to SpryPoint does not violate any applicable law or infringe upon the intellectual property rights of any third party and (b) for the appropriate use of any reports and other materials prepared by Client in a manner that will not violate any applicable law or infringe upon the intellectual property rights of any third party. Client agrees not to post or upload any content or data which (a) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (b) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (c) otherwise violates any applicable law. SpryPoint may remove any violating content posted or transmitted through the Services, without notice to Client. SpryPoint may suspend or terminate any user's access to the Service upon notice in the event that SpryPoint reasonably determines that such user has violated the terms and conditions of this Agreement.

## 2. Fees.

**2.1 Invoices & Payment.** Reseller will invoice Client the first-year subscription fee for the Service upon execution of this Agreement. All fees are quoted and payable in United States Dollars. All invoiced charges are due net 30 days from the invoice date unless otherwise stated on the invoice. Client is responsible for providing Reseller complete and accurate billing and contact information including a valid email address prior to the commencement of your subscription. Upon Reseller's request, Client will make payments via ACH. All remittance and invoice inquiries are to be directed to [accounting@ptg.com](mailto:accounting@ptg.com).

**2.2 Non-Cancelable & Non-Refundable.** Except as specifically set forth to the contrary under Section 6 (Warranty) and Section 7 (Indemnification), all payment obligations are non-cancelable, and all payments made are non-refundable.

**2.3 Non-Payment and Suspension of Service.** If Reseller does not receive any invoiced amount by the due date as provided in Section 2.1 herein, then without limiting rights and remedies, the invoiced amount(s) may accrue interest at the rate of 1.5% per month. If any amount owing by Client to Reseller for SpryPoint's services under this or any other agreement is net 30 or more days overdue, Reseller, without limiting its other rights and remedies reserves the right to suspend the Service until such amounts are paid in full.

**2.4 Taxes.** All fees invoiced pursuant to this Agreement do not include any applicable taxes. Client shall be solely responsible in the event any authority imposes a duty, tax, levy, or fee (excluding those based on Provider's net income) directly upon the Client in relation to this Agreement.

**2.5 Tax Status.** Reseller's fees do not include any Transaction Taxes. Client agrees that it is exempt from all Transaction Taxes, including but not limited to, any local, state, provincial, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value - added, goods and services taxes, excise, use or similar taxes. In the event that Client's tax-exempt status changes such that it is no longer exempt from Transaction Taxes, Client shall become responsible for paying all Transaction Taxes associated with this Agreement. If Reseller has a legal obligation to pay or collect Transaction Taxes for which Client is responsible under this section, the appropriate amount shall be invoiced to and paid by Client. If Client itself, as a body entitled to assess taxes or fees, imposes any taxes or fees upon SpryPoint's provision of the Services, through Reseller, the fees in this Agreement are net of any such taxes or fees and Reseller will gross up its invoices to include such taxes or fees.



**2.6 Additional Services.** The Service includes optional variable services such as SMS messaging services and outbound IVR dialer services (collectively "Additional Services"). All Additional Services shall be invoiced by Reseller to Client upon the request of such services by Client at the pricing and rates provided in Exhibit B.

(a) For SMS text messaging services, an optional SMS Short Code fee shall be invoiced upon request of a Short Code by Client. SMS short code fees shall be invoiced annually, while in- bound and out-bound text message usage fees shall be invoiced monthly for actual amount used.

(b) For Outbound IVR services, usage fees shall be invoiced monthly for the actual amount used upon activation and usage of the outbound IVR services.

**2.7 Enhancement Cost.** Any enhancements to the Service beyond the initial scope as outlined in Exhibit A – the Statement of Work will be performed on a time and material basis, at an hourly rate of \$200 USD per hour. SpryPoint will implement enhancements pursuant to the change control process as outlined in Exhibit A.

**2.8 Additional Users.** SpryPoint will be automatically notified when new users are added to Client's Service. If the number of active users, not including archived users, exceeds Client's current subscription, Reseller will invoice client for any incremental user additions during the calendar month. Invoice to client will be prorated to align with the remaining months in Client's subscription period.

### 3. Proprietary Rights

**3.1 SpryPoint Intellectual Property Rights.** SpryPoint retains all right, title, and interest in and to the Service, Documentation and other SpryPoint Intellectual Property Rights including any related methodologies, techniques, processes, and instruction developed by SpryPoint and used in the course of delivering the Service. under this Agreement and an applicable Statement of Work. No rights are granted to Client hereunder other than expressly set forth herein. Client shall not (and shall not allow or cause any third party to (i) reverse engineer, modify or copy the Service or Documentation or create any derivative works based on the Service and Documentation; (ii) copy and features, functions, interfaces, integrations or graphics of the Service or Documentation; (iii) access the Service or Documentation in order to build any commercially available product or service.

**3.2 Client Rights.** SpryPoint hereby grants Client's Authorized Named Users (and those of Client's Affiliates and Authorized Parties) through Reseller a non-exclusive, non-transferable, non-perpetual limited right to use the Service and Documentation, solely for the internal business purposes of Client and Affiliates and solely during the Term, subject to the terms and conditions of this Agreement.

**3.3 License to Host Client's Data.** Client grants SpryPoint and SpryPoint's hosting partners through Reseller a worldwide, limited-term license to host, copy, transmit and display Client's Data, as necessary for SpryPoint to provide the Service in accordance with this Agreement. As between Reseller and Client, the Parties agree that SpryPoint acquires no right, title or interest from Client under this Agreement in or to Client's Data.

**3.4 License to use Client's Feedback.** Client, through Reseller, grants to SpryPoint and its affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into the Service any suggestion, enhancement request, recommendation, correction or other Client feedback relating to the Service. Client understands and agrees that SpryPoint shall have no obligation to make Client Input an Improvement.

**3.5 Statistical Information.** Client understands and agrees that SpryPoint owns all aggregated and statistical data derived from the operation of the Service, including, without limitation, the number of records in the Service, the number and types of transactions, configurations, and performance results for the Service. SpryPoint may



anonymously compile statistical information related to the performance of the Service for purposes of improving the SaaS service, provided that such information does not identify Client's data or include Client's name.

#### 4. Confidentiality

- 4.1 Confidentiality.** A party shall not disclose or use any Confidential Information of the other party except as reasonably necessary to perform its obligations or exercise its rights pursuant to this Agreement except with the other party's prior written permission.
- 4.2 Nondisclosure.** A party shall not use Confidential Information for any purpose other than to facilitate this Agreement. A Recipient: (a) shall not disclose Confidential Information to any employee or contractor unless such person needs access in order to facilitate the Agreement and executes a nondisclosure agreement with Recipient (b) shall not disclose Confidential Information to any third party without Discloser's prior written consent.
- 4.3 Protection.** Each party shall protect Confidential Information with the same degree of care it uses to protect its own confidential information, but in no event using less than a reasonable standard of care.
- 4.4 Injunctive Relief.** Recipient agrees that breach of Confidentiality would cause irreparable injury, for which monetary damages would be inadequate. If a recipient discloses or uses any Confidential Information of the other party in breach of confidentiality protections hereunder, the other party shall have the right, in addition to any other remedies available, to injunctive relief to enjoin such acts.
- 4.5 Retention of Rights.** This Agreement does not transfer ownership of Confidential Information or grant a license or any other right thereto. Discloser will retain all right, title and interest in and to all Confidential Information.
- 4.6 SpryPoint Confidentiality Obligations.** SpryPoint's agreement with Reseller obligates SpryPoint to protect the Confidential Information of Client and not disclose Client's Confidential Information for any purpose other than to facilitate this Agreement and as reasonably necessary to perform SpryPoint's obligations or exercise its rights hereunder except with the Client's prior written permission. Further, SpryPoint shall protect Confidential Information with the same degree of care it uses to protect its own confidential information, but in no event using less than a reasonable standard of care. Additionally, SpryPoint's agreement with Reseller provides that where SpryPoint receives Confidential Information of Client, SpryPoint: (a) shall not disclose Confidential Information to any employee or contractor unless such person needs access in order to facilitate the Agreement and executes a nondisclosure agreement with Client; and (b) shall not disclose Confidential Information to any third party without Client's prior written consent.

#### 5. Data Privacy & Security

- 5.1 SpryPoint use of Data.** Client, through Reseller, hereby grants SpryPoint a limited right to access, process, collect, store, generate, display, and use Client Data for the sole purpose of providing the Service. SpryPoint shall keep and maintain Client Data in strict confidence and shall not allow any third parties to use, disclose, or access Client Data without Client's prior written consent through Reseller. Notwithstanding the foregoing, SpryPoint may disclose Client Data as required by applicable law or by proper legal or governmental authority. Through Reseller, SpryPoint shall give Client notice of any such legal or governmental demand and reasonably cooperate with Client in any effort to seek a protective order or otherwise contest such required disclosure, at Client's expense.
- 5.2 Data Security.** Each SpryPoint and Client shall be responsible for establishing and maintaining its own data privacy and information security policies, including physical, technical, administrative, and organizational safeguards to ensure the security and confidentiality of Client Data; protect against any anticipated threats or hazards to the





security of Client Data, protect against unauthorized disclosure, access to, or use of Client Data, ensure the proper disposal of Client Data, and ensure that all employees, agents, and subcontractors, if any, comply with the above.

**5.3 Unauthorized Disclosure.** If either Party believes there has been a Security Breach, such party must notify the other Party and SpryPoint upon the earlier of forty-eight (48) hours after discovery or any time frame required by applicable law unless legally prohibited from doing so. With SpryPoint, each Party will reasonably assist the other Party in mitigating or remediating any potential damage where appropriate. Each Party shall bear the costs of such remediation or mitigation to the extent the breach or security incident was caused by it. As soon as reasonably practicable after any such Security Breach, upon Client's request, SpryPoint Client and Reseller will consult in good faith regarding the root cause analysis and any remediation efforts.

## 6. Warranties & Disclaimers

### 6.1 From SpryPoint Through Reseller.

- a) **Function:** Through Reseller, SpryPoint represents and warrants that, during the Term, the Service will perform materially in accordance with the Documentation.
- b) **Intellectual Property Rights:** Through Reseller, SpryPoint represents and warrants that it owns the Service and has the power and authority to grant the rights in this Agreement without the further consent of any third party.
- c) **Malicious Code:** Through Reseller, SpryPoint represents and warrants that to the best of its knowledge, the Service does not contain any Malicious code. Through Reseller, SpryPoint further warrants that it will not knowingly introduce any Malicious Code into the Service.

**6.2 From Both Parties.** Each party represents and warrants that it has the full right and authority to enter into, execute, and perform its obligations under this Agreement and that no pending or threatened claim or litigation know to it would have a material adverse impact on its ability to perform as required hereunder.

**6.3 Warranty Remedies.** In the event of a breach of the warranty as set forth in Section 6.1, or upon the discovery of Malicious Code in the Service, (a) SpryPoint shall correct the non-conforming Service at no additional charge to Client or (b) in the event SpryPoint is unable to correct such deficiencies after good-faith efforts, Reseller shall refund Client amounts paid that are attributable to the defective Service from the date Reseller received such notice through the date of remedy, if any. At no time shall the refund exceed the subscription fees actually paid by Client to Reseller in consideration for SpryPoint's service delivery during the immediately preceding twelve (12) month period for the Service.

**6.4 Warranty Disclaimer.** EXCEPT FOR THE EXPRESS WARRANTIES OUTLINED IN SECTION 6.1 AND 6.2 ABOVE, RESELLER AND SPRYPOINT MAKE NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICE AND/OR RELATED DOCUMENTATION. RESELLER AND SPRYPOINT DO NOT WARRANT THAT THE SERVICE WILL PERFORM WITHOUT ERROR OR THAT IT WILL RUN WITHOUT IMMATERIAL INTERRUPTION. THE LIMITED WARRANTIES PROVIDED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CLIENT IN CONNECTION WITH THE PROVISION OF THE SERVICE.

## 7. Indemnification

**7.1 Indemnification.** Reseller shall protect, defend, hold harmless and indemnify Client harmless against any loss, damage or costs in connection with claims, demands, suits or proceedings ("Indemnified Claims") made or brought against Client alleging that the use of the Service infringes any third party's Intellectual Property Rights; provided, however, that Client; (a) promptly gives written notice of the Claim to Reseller; (b) gives SpryPoint sole



control of the defense and settlement of the Claim; and (c) provides to SpryPoint, at SpryPoint's cost, all reasonable assistance. Reseller and SpryPoint's obligations set forth in this Section do not apply to the extent that an Indemnified Claim arises out of: (a) Client's breach of this Agreement; (b) revisions to the Service made without SpryPoint's written consent; (c) Client's failure to incorporate Upgrades that would have avoided the alleged infringement; (d) Modification of the Service by Client, its Employees, or Authorized Parties in conflict with Client's obligations (e) Unauthorized use of the service by third parties; or (f) use of the Service in a manner inconsistent with the Documentation. Furthermore, the obligation to indemnify shall not apply if such liability is ultimately adjudicated to have arisen through the sole active negligence or sole willful misconduct of Client. If Client is enjoined from using the Service or either Reseller or SpryPoint reasonably believes it will be enjoined, SpryPoint shall have the right at its sole option, to obtain for Client the right to continue use of the Service or to replace or modify the Service so that it is no longer infringing. If neither of the foregoing options is reasonably available to SpryPoint, then use of the Service may be terminated at either Party's option and Reseller's sole liability shall be to refund any prepaid fees for the Service that were to be provided after the effective date of termination.

## 8. Limitation of Liability

- 8.1 Liability Cap.** Reseller's liability arising out of or related to this Agreement shall in no event exceed the Subscription Fees paid by Client within the twelve (12) months preceding the claim.
- 8.2 Clarifications & Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO EITHER PARTY'S INDEMNIFICATION OBLIGATIONS, RECKLESS MISCONDUCT, GROSS NEGLIGENCE, WILLFUL MISCONDUCT AND/OR FRAUD, IN NO EVENT SHALL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, EXCEED THE SUBSCRIPTION FEES ACTUALLY PAID BY CLIENT TO RESELLER IN CONSIDERATION FOR SPRYPOINT'S SERVICE DELIVERY DURING THE IMMEDIATELY PRECEDING TWELVE (12) MONTH PERIOD FOR THE SERVICE FROM WHICH THE CLAIM AROSE. FOR THE AVOIDANCE OF DOUBT, RESELLER'S LIABILITY LIMITS APPLY TO RESELLER'S AFFILIATES, PROVIDERS, AGENTS, SPONSORS, DIRECTORS, OFFICERS, EMPLOYEES, CONSULTANTS AND OTHER REPRESENTATIVES.
- 8.3 Exclusion of Damages.** EXCEPT WITH RESPECT TO AMOUNTS TO BE PAID BY EITHER PARTY PURSUANT TO A COURT AWARD (OTHER THAN A DEFAULT JUDGMENT) OR SETTLEMENT AS WELL AS THE DEFENSE COSTS UNDER THE INDEMNIFICATION OBLIGATIONS NO MATTER HOW MUCH DAMAGES MAY BE CHARACTERIZED, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, HOWEVER CAUSED, OR FOR ANY LOST PROFITS, LOSS OF USE, COST OF DATA RECONSTRUCTION, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, WHETHER IN CONTRACT, TORT OR OTHERWISE, ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, ANY INTERRUPTION, INACCURACY, ERROR OR OMISSION, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS, OR SUBCONTRACTORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES. CLIENT WILL NOT ASSERT THAT ITS PAYMENT OBLIGATIONS ARE EXCLUDED AS RESELLER'S OR SPRYPOINT'S LOST PROFITS.

## 9. Term & Termination

- 9.1 Term of Agreement.** The Term of this agreement commences on the Effective Date and will continue for one year.
- 9.2 Annual Renewal.** The initial Term shall automatically renew for successive terms of one year unless either Party provides the other written notice of termination at least (30) days prior to the expiration of the current term.





**9.3 Annual Escalation.** The annual Subscription Service Fee for the Service shall be subject to adjustment on each anniversary of the Effective Date at the higher of the following:

- a) in accordance with the change in the USA Consumer Price Index ("CPI") as published by the Government of the United States. The CPI will be determined based on the percentage increase in the CPI for the twelve (12) month period ending with the calendar month which is three (3) months prior to each anniversary of the Effective Date
- b) 5% per year.

**9.4 Termination for Convenience.** Client shall have the right to terminate this Agreement without cause or penalty, by giving not less than Thirty (30) days' prior written notice to Reseller and SpryPoint. Upon termination, Client shall pay Reseller all fees due up to the time of termination.

**9.5 Termination for Default.** Either Party may terminate this Agreement upon Thirty (30) days prior written notice in the event of a material breach by the other Party if such breach remains uncured at the expiration of such notice period.

**9.6 Termination for Non-Appropriation of Funds.** Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement are not forthcoming or are insufficient, through the failure of any entity to appropriate funds or otherwise, Client will have the right to terminate at no additional cost or penalty by giving thirty (30) days written prior notice to Reseller and SpryPoint documenting the lack of funding.

**9.7 Effect of Termination.** Upon any termination of this Agreement, Client shall, as of the date of such termination, immediately cease accessing and otherwise utilizing the applicable Service. Termination for any reason shall not relieve Client of the obligation to pay any fees accrued or due and payable to Reseller prior to the effective date of termination.

**9.8 Access to Client Data.** Upon written request by Client made prior to any expiration or termination of this Agreement, SpryPoint, through Reseller, will make Client Data available to Client through the Service solely for purposes of Client retrieving Client Data for a period of up to sixty (60) days. After 60 days, SpryPoint, through Reseller, will have no obligation to maintain or provide any Client data and shall thereafter, unless legally prohibited, delete all Client Data and will have no further obligation to make it available to Client.

## **10. Messaging.**

**10.1 Supplemental Messaging Terms.** If Client elects to use SpryPoint's Alerts, Notifications, Communications, Campaigns & Messaging capabilities (Messaging Service") provided with the Service the following supplemental terms ("Messaging Terms") will apply. For avoidance of doubt, Messaging Terms apply to all SpryPoint applications within the service involving automated phone calls, pre-recorded messages, text messages, emails, in-app notifications and any other bulk communications.

**10.2 Responsibility & Risk.** Client shall be solely responsible for the content of any communications which Client initiates or authorizes in connection with the Messaging Services. Neither Reseller or SpryPoint shall have any responsibility or liability with respect to messages or communications initiated or authorized by Client. Client assumes all risks associated with use of the Messaging Service.

**10.3 Messaging Indemnity.** Client shall hold harmless, defend and indemnify each Reseller and SpryPoint and their respective officers, directors, employees, contractors and representatives from and against all claims, damages, losses and expenses including without limitation any statutory damages, penalties and attorney's fees arising out of or relating to the Messaging Service or any breach by Client of the Agreement including without limitation, these Messaging Terms, except in the event of Reseller's or SpryPoint's willful misconduct.



**10.4 Compliance.** SpryPoint is limited to delivering the Messaging Service to the Client as part of the Service, accordingly, compliance with applicable laws is strictly Client's responsibility with respect to the Messaging Service notwithstanding any provision to the contrary.

**11. Miscellaneous**

**11.1 Independent Contractor.** SpryPoint and all persons(s) employed by or contracted with SpryPoint to furnish labor and/or materials under this Agreement are independent contractors and do not act as agent(s) or employee(s) of Client. SpryPoint has full rights to manage its employees in their performance of the Service under this agreement. This agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between SpryPoint and Client.

**11.2 Insurance.** SpryPoint will maintain during the entire Term of this Agreement, at its own expense the insurance coverage as outlined in Attachment D. Reseller will maintain during the entire Term of this Agreement, and its own expense the insurance coverage as outlined in Attachment E. Each of the policies shall name Client as an additional insured with respect to the provision of services provided under this agreement.

**11.3 Governing Law.** This Agreement shall be governed exclusively by the internal laws of the State of **XXXXXXXXXX**.

**11.4 Notices.** All notices under this Agreement shall be in writing and shall be deemed to have been given upon the third business day after first class mailing.

Notices to the Client shall be sent to:

**XXXXXXXXXX**  
**Attention: XXXXXXXXXXX**

Notices to the Reseller shall be sent to:

Legal  
9801 Westheimer Road, Suite 803  
Houston, Texas 77042

Notices to SpryPoint shall be sent to:

Kyle Strang  
Managing Partner  
49 Pownal Street – Suite 1010  
Charlottetown, PE C1A 3P5

**11.5 Waiver.** No failure or delay by either Party in exercising any right under this agreement shall constitute a waiver of that right or any other right. Neither Client's review, acceptance nor payments for any of the Service or the Implementation Services shall be constructed to operate as a waiver of any rights under this agreement or of any cause of action arising out of the performance of this Agreement.

**11.6 Force Majeure.** In no event shall either Party be responsible or liable for any failure or delay in the performance of its obligations hereunder arising out of or caused by, directly or indirectly, forces beyond its control, including, without limitation, strikes, work stoppages, accidents, acts of war or terrorism, civil or military disturbances, nuclear or natural catastrophes or acts of God, and interruptions, loss or malfunctions of utilities, communications or computer (software and hardware) services; it being understood that SpryPoint shall use



reasonable efforts which are consistent with accepted software industry practices to resume performance as soon as practicable under the circumstances. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

- 11.7 Conflicts of Interest.** Through Reseller, SpryPoint certifies that to the best of its knowledge, no Client officer, employee or authorized representative has any financial interest in the business of SpryPoint and that no person associated with SpryPoint has any interest, direct or indirect, which could conflict with the faithful performance of this Agreement.
- 11.8 Fair Employment.** Through Reseller, SpryPoint warrants that it shall not discriminate against any employee or applicant for employment because of race, sex, color, religion, religious creed, national origin, ancestry, age, gender, marital status, physical disability, mental disability, medical condition, genetic information, sexual orientation, gender expression, gender identity, military and veteran status, or ethnic background, in violation of federal, state or local law.
- 11.9 Time.** Through Reseller, SpryPoint warrants timely and prompt performance of its obligations through Reseller hereunder.
- 11.10 Assignment.** Neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party (which consent shall not be unreasonably withheld). Except to the extent forbidden herein, this Agreement will be binding upon and inure to the benefit of the Parties' respective successors and assigns. Notwithstanding the foregoing, either Party may assign this Agreement in its entirety without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets so long as the assignee agrees to be bound by all of the terms of this Agreement and all past due fees are paid in full. In no event shall Client have the right to assign this Agreement to a direct Competitor of SpryPoint. Any attempt by a party to assign its rights or obligations under this Agreement other than as permitted by this section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors and permitted assigns.
- 11.11 Severability.** To the extent permitted by the law, the parties waive any provision of law that would render any clause of this Agreement invalid or unenforceable. In the event that a provision herein is held to be invalid or unenforceable, such provision will be interpreted to fulfill its intended purpose to the maximum extent permitted by the law, and the remaining provisions of this Agreement will continue in full force and effect.
- 11.12 Publicity.** Except as set forth herein, Reseller nor SpryPoint shall use Client's name, logos, or trademarks in any written press releases, advertisements and/or marketing materials without the prior consent of Client, however, Reseller and SpryPoint are authorized to use Client's name and logo in lists of Clients and on its website, however, such usage shall not be classified as an advertisement but only identification as an entity who receives the Service from SpryPoint through Reseller.
- 11.13 Piggyback.** It is understood and agreed by Client and SpryPoint that any governmental entity may purchase the services specified herein in accordance with the prices, terms, and conditions of this Agreement and as further described in any Exhibit A Statement of Work. It is also hereby mutually understood and agreed that Client is not a legally bound party to any contractual agreement made between SpryPoint and any entity other than Customer.
- 11.14 Amendment.** This Agreement may only be amended in writing by authorized representatives of each Party.
- 11.15 Execution in Counterparts:** This Agreement may be executed in one or more counterparts. Each counterpart will be an original, but all such counterparts will constitute a single instrument.



| Client Name  | Precision Task Group, Inc. |
|--------------|----------------------------|
| Signature:   | Signature:                 |
| Name:        | Name:                      |
| Title:       | Title:                     |
| Date Signed: | Date Signed:               |