

DocMinder®

Hosted Services Agreement

This Word-Tech **DocMinder® Hosted Services Agreement**, (the "**Agreement**"), is by and between Word-Tech, Inc., a Missouri company, with offices located at 5625 Foxridge Drive, Suite 110, Mission, KS 66202 ("**Word-Tech**"), and the customer identified in the applicable Order ("**Customer**").

WHEREAS, Customer wishes to subscribe to the Hosted Services (as defined below), and Word-Tech wishes to provide such Hosted Services to Customer, each on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Definitions.

"**Access Credentials**" means any user name, identification number, password, license or security key, security token, PIN or other security code, method, technology or device used, alone or in combination, to verify an individual's identity and authorization to access and use the **DocMinder® Hosted Services**.

"**Action**" means any claim, suit, action or proceeding.

"**Affiliates**" of a party means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such party. A Word-Tech Partner is not an Affiliate.

"**Authorized User**" means each of the individuals authorized by the Customer or any of its Affiliates to access and use of the Hosted Services. Employees and contractors of a Word-Tech Partner are deemed to be Authorized Users without payment of additional Fees insofar as they are engaged by the Customer or any of its Affiliates in connection with, and for the benefit of, the Customer's or any of its Affiliates' enjoyment of the Hosted Services and DocMinder® Materials.

"**Availability Date**" has the meaning set forth in the applicable Order.

"**Availability Requirement**" has the meaning set forth in [Section 5.1](#).

"**Available**" means the **DocMinder® Hosted Services** are available for access and use by Customer and its Authorized Users over the Internet and operating materially in accordance with the Specifications and Documentation.

"**DocMinder® Hosted Services**" has the meaning set forth in [Section 2.1](#).

"**DocMinder® Hosted Services Maintenance**" has the meaning set forth in [Section 5.6](#).

"**DocMinder® Hosted Services Product Specification**" means the specifications for the **DocMinder® Hosted Services** product as set forth in [Schedule 2](#).

"**Confidential Information**" has the meaning set forth in [Section 8.1](#).

"**Customer Data**" means data (including Personal Information) in any form which is collected, uploaded or otherwise received from Customer or an Authorized User for use with the Services. Customer Data excludes DocMinder® Materials.

"**Customer Failure**" means Customer's delay in performing, or failure to perform, any of its obligations under this Agreement, or any delay or failure by a Word-Tech Partner to carry out Customer's obligations under this Agreement.

"**Customer Systems**" means the Customer's information technology infrastructure, including hardware, software, databases (including database management systems) and networks, whether operated directly by Customer or through the use of third-party or Word-Tech Partner services.

“Data Breach” means (a) any circumstance pursuant to which applicable Law requires notification of such Data Breach to be given to affected parties or other activity in response to such circumstance or (b) any actual, attempted, suspected or threatened circumstance that compromises, or could reasonably be expected to compromise, either the physical security or systems security in a fashion that either does or could reasonably be expected to permit unauthorized processing, loss, use, disclosure or acquisition of or access to any Customer Data.

“Data Return Arrangements” means the facilities, tools and services set out in the relevant Specification for returning Customer Data to Customer upon expiration or termination of this Agreement for any reason or as required by the Customer during the Term.

“Disclosing Party” has the meaning set forth in [Section 8.1](#).

“Documentation” means any manuals, instructions or other documents or materials that Word-Tech provides or makes available to Customer with help files or on the DocMinder® Support website found at [DocMinder Knowledge Center](#) and which describe the functionality, components, features or requirements of the Services or DocMinder® Materials, including any aspect of their installation, configuration, integration, operation, use, support or maintenance.

“Effective Date” has the meaning set forth in the applicable Order.

“Emergency Maintenance” has the meaning set forth in [Section 5.5](#).

“Exceptions” means (a) access to or use of the **DocMinder® Hosted Services** by Customer, any of its Affiliates or any Authorized User, or using an Authorized User's Access Credentials, that does not comply with this Agreement and the Specifications; (b) Customer Failure or any deficiency or failure of Customer Systems; (c) Customer's, any of its Affiliates' or its Authorized User's Internet connectivity; (d) Force Majeure Event; (e) failure, interruption, outage or other problem with any software, hardware, system, network, facility or other matter not supplied by Word-Tech pursuant to this Agreement; (f) Scheduled Downtime; or (g) suspension or termination of the Hosted Services pursuant to [Section 2.8](#).

“Fees” means the fees set out in the applicable Order.

“Force Majeure Event” has the meaning set forth in [Section 13.1](#).

“Harmful Code” means any software, hardware or other technology, device or means, including any virus, worm, malware or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner (i) the function of any computer, software, firmware, hardware, system or network or (ii) the security, integrity, confidentiality or use of any data, or (b) prevent Customer, any of its Affiliates or any Authorized User from accessing or using the Hosted Services or Word-Tech Systems as intended by this Agreement.

“Word-Tech Indemnitee” has the meaning set forth in [Section 11.2](#).

“Word-Tech Materials” means the DocMinder® Software Specifications, Documentation and Word-Tech Systems and any and all other information, data, documents, materials, methods, processes, technologies and inventions, plans or reports, that are provided or used by Word-Tech or any Subcontractor in connection with the Hosted Services.

“Word-Tech Personnel” means individuals involved in the performance of Services as employees, agents or independent contractors of Word-Tech or any Subcontractor (but not a Word-Tech Partner).

“Word-Tech Systems” means the information technology infrastructure used by or on behalf of Word-Tech in performing the Hosted Services, including all computers, software, hardware, databases (including database management systems) and networks, whether operated directly by Word-Tech or through the use of third-party services.

“Indemnitee” has the meaning set forth in [Section 11.3](#).

“Indemnitor” has the meaning set forth in [Section 11.3](#).

“Initial Term” has the meaning set forth in [Section 9.1](#).

“Intellectual Property Rights” means existing and future registered and unregistered rights granted, applied for or otherwise in existence under or related to any patent, copyright, trademark, trade secret, database protection or other intellectual property rights laws, and all similar or equivalent rights or forms of protection, in any part of the world.

“Word-Tech Partner” means, if included within an Order, the approved third party expressly identified as such within an Order.

“Law” means any statute, law, ordinance, regulation, rule, order, constitution, treaty, common law, judgment, decree or other requirement of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.

“Losses” means any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.

“DocMinder® Service Software” means the DocMinder® software application or applications and any third-party or other software, and all new versions, updates, revisions, improvements and modifications that Word-Tech provides for use as part of the Hosted Services.

“Order” has the meaning set forth in [Section 2.1\(a\)](#).

“Permitted Use” means any use of the Hosted Services, by an Authorized User or by a Word-Tech Partner, for the benefit of Customer or any of its Affiliates solely in or for Customer's or its Affiliates' internal business operations or, where applicable.

“Person” means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association or other entity.

“Personal Information” means any information that, individually or in combination, does or can identify a specific individual or by or from which a specific individual may be identified, contacted or located. Personal Information includes all "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, "protected health information" as defined under the Health and Insurance Portability and Accountability Act of 1996, "Personal Data" as defined in local legislation enacted pursuant to the EU Data Protection Directive (Directive 95/46/EEC), "Personal Information" as defined under the Children's Online Privacy Protection Act of 1998, and all rules and regulations issued under any of the foregoing.

“Process” means to take any action or perform any operation or set of operations that the **DocMinder® Hosted Services** are capable of taking or performing on any data, information or other content. **“Processing”** and **“Processed”** have correlative meanings.

“Professional Services” means any non-recurring services that Customer or any of its Affiliates, at its option, may request from Word-Tech and that Word-Tech agrees to provide pursuant to an agreed upon statement of work, subject to additional Fees (evidenced by an Order) and governed by the terms and conditions found in [Schedule 1](#) attached hereto, which are in addition to **DocMinder® Hosted Services** and **DocMinder® Hosted Services Maintenance**. Professional Services do not include services undertaken by a Word-Tech Partner.

“Receiving Party” has the meaning set forth in [Section 8.1](#).

“Renewal Term” has the meaning set forth in [Section 9.2](#).

“Representatives” means, with respect to a party, that party's and its Affiliates' employees, officers, directors, consultants, agents, independent contractors, service providers, subcontractors and legal advisors.

“Scheduled Downtime” has the meaning set forth in [Section 5.4](#).

“Service Credit” has the meaning set forth in [Section 5.2](#).

“Service Level Failure” means a failure of the **DocMinder® Hosted Services** to meet the Availability Requirement.

“**Service Period**” has the meaning set forth in [Section 5.1](#).

“**Service Software**” means the DocMinder® software applications and any third-party software applications, and, in each case, all new versions, updates, revisions, improvements and modifications provided by Word-Tech for remote access and use of as part of the Hosted Services. Service

“**Hosted Services**” has the meaning set forth in [Section 2.1](#).

“**Specifications**” means the specifications for the Services set forth in the applicable Order, including, but not limited to, the **DocMinder® Hosted Services** Product Specification.

“**Subcontractor**” has the meaning set forth in [Section 2.7](#).

“**DocMinder® Hosted Services Maintenance**” has the meaning set forth in [Section 5.6](#).

“**Term**” has the meaning set forth in [Section 9.2](#).

2. Hosted Services.

2.1 Hosted Services. Subject to Customer's, its Affiliates and their Authorized Users' compliance with this Agreement, Word-Tech shall, during the Term, provide to Customer and its Affiliates, exercisable by and through their Authorized Users, the following services (“**Hosted Services**”), substantially in accordance with the Specifications and Documentation, 24 hours per day, seven days per week, every day of the year, other than as a result of an Exception:

(a) the hosting, management and operation of the Service Software and other services for remote electronic access and use by the Customer and its Authorized Users (“**DocMinder® Hosted Services**”) as described in one or more written orders specifically referencing this Agreement, including all Specifications set forth in such orders, which, by this reference are incorporated in and made a part of this Agreement (each, an “**Order**”);

(b) the support and maintenance services defined as **DocMinder® Hosted Services Maintenance**;

(c) such other services, including Professional Services, as may be specified in an applicable Order; and

(d) any incidental services not expressly set out in an Order if they are reasonably and necessarily required for the proper performance of the Hosted Services which are expressly set out in the applicable Order.

2.2 Service and System Control. Except as otherwise expressly provided in this Agreement, as between the parties:

(a) Word-Tech has and will retain sole control over the operation, provision, maintenance and management of the Hosted Services including the: (i) Word-Tech Systems; (ii) selection and deployment of the Service Software; and (iii) performance of **DocMinder® Hosted Services Maintenance**; and

(b) Customer has and will retain sole control over the operation, maintenance and management of, and all access to and use of, the Customer Systems, and sole responsibility for all access to and use of the Hosted Services and DocMinder® Materials by or through the Customer Systems or any other means controlled by Customer or any Authorized User.

2.3 Location of Customer Data. Customer Data shall be stored within **Amazon Web Services (AWS)** cloud computing platform.

2.4 Service Management. Each party shall, throughout the Term, maintain within its organization a service manager to serve as such party's primary point of contact for day-to-day communications, consultation and decision-making regarding the Hosted Services. Each service manager shall be responsible for providing all day-to-day consents and approvals on behalf of such party under this Agreement. Each party shall ensure its service manager has the requisite organizational authority, skill, experience and other qualifications to perform in such capacity. Each party shall use commercially reasonable efforts to maintain the same service manager in place throughout the Term. If either party's service manager ceases to be employed by such party or such party otherwise wishes to replace its service manager, such party shall promptly name a new service manager by written notice to the other party.

2.5 Status of Word-Tech Partners. To the extent that a Word-Tech Partner participates in performance of this Agreement, each party will be entitled to (a) rely in good faith on communications from the Word-Tech Partner made with the ostensible authority of the other party; (b) respond to such communications through the Word-Tech Partner with a presumption that such communications are effective responses to the other party; and (c) assume that Confidential Information can be shared with the Word-Tech Partner; provided that, a participating Word-Tech Partner must be engaged by Customer. A Word-Tech Partner is deemed to be an authorized Subcontractor (as defined below) for Customer and/or

Word-Tech (as applicable and inferred from the circumstances and from such separate contractual arrangements as may be concluded with the Word-Tech Partner) but, except as described in this [Section 2.5](#), a Word-Tech Partner will not be deemed to be an agent for either party. The entitlements and presumptions set out in this [Section 2.5](#) can be overridden by express notice from one party to the other.

2.6 Orders. Orders will be effective only when agreed in writing by Customer and Word-Tech and executed by Customer. Any modifications or changes to the Hosted Services under any executed Order will be effective only if and when memorialized in a written change order ("**Change Order**") executed by Customer and Word-Tech.

2.7 Subcontractors. Word-Tech may from time to time in its discretion engage third parties to perform part of the Services (each, a "**Subcontractor**"). Customer acknowledges and agrees that, in connection with the Hosted Services; Word-Tech may use third-party data centers to store, monitor and maintain the hardware equipment on which Customer Data is stored (the "**Data Centers**"). The personnel of such Data Centers will have access to the physical equipment upon which Customer Data is stored but will not have access to the Customer Data itself. Word-Tech may change Data Centers and relocate Customer Data from time to time. Word-Tech shall ensure each Subcontractor complies with all relevant terms of this Agreement, including all provisions relating to Customer Data, Personal Information or other Confidential Information of Customer. Word-Tech remains responsible for the acts and omissions of its Subcontractors.

2.8 Suspension or Termination of Services. Without limiting any other rights or remedies under this Agreement, Word-Tech may suspend, terminate or otherwise deny Customer's or any Authorized User's access to or use of all or any part of the Hosted Services or DocMinder® Materials, without incurring any resulting obligation or liability, if: (a) Word-Tech receives a judicial or other governmental demand or order, subpoena or law enforcement request that requires Word-Tech to do so; provided that, to the extent permitted by applicable Law, (i) Word-Tech shall promptly notify Customer of, and provide Customer with a copy of, such demand, order, subpoena, or request; and (ii) Word-Tech shall provide such notification and documentation to Customer prior to the suspension or termination of Customer's service, with both of the foregoing being intended to permit Customer to seek to discuss the matter with the government or law enforcement agency, or to seek judicial intervention; (b) Word-Tech believes, in its good faith and reasonable discretion, that Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities relating to or in connection with any of the Services; or (c) Customer or any Authorized User has failed to comply with any material term of this Agreement, or accessed or used the Hosted Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any material instruction or requirement of the Specifications but only after Word-Tech has provided notice to Customer of the non-compliance and Customer has failed to cure the same within thirty (30) days; provided that, in the case of a suspension under sub clause (a), (b) or (c), such suspension will apply to the minimum necessary part of the Hosted Services or DocMinder® Materials and will be in effect only while the condition or need exists.

2.9 Return of Customer Data. All references in this Agreement to terminating or suspending any Hosted Services for the Customer or any Authorized Users, including by reason of termination of expiry of this Agreement for any reason, are to be interpreted as being subject to the absolute right of the Customer in any circumstances, to utilize the Data Return Arrangements so that the Customer is not deprived of any access to Customer Data.

3. Authorization and Customer Restrictions.

3.1 Authorization. Subject to Customer's compliance and performance in accordance with the terms and conditions of this Agreement, Word-Tech hereby authorizes Customer (and, if engaged by Customer, any Word-Tech Partner) to access and use, during the Term, the Hosted Services and such DocMinder® Materials as Word-Tech may supply or make available to Customer solely for the Permitted Use by and through Authorized Users in accordance with the Specifications. This authorization is non-exclusive and, other than as may be expressly set forth in [Section 14.8](#), non-transferable.

3.2 Authorization Limitations and Restrictions. Except for any Word-Tech Partners engaged by Customer, and subject to [Section 3.3](#), Customer shall not, and shall not permit any Person to, access or use the Hosted Services or DocMinder® Materials except as expressly permitted by this Agreement. For purposes of clarity and without limiting the generality of the foregoing, Customer shall not, except as this Agreement or applicable Law expressly permits:

- (a) copy, modify or create derivative works or improvements of the Hosted Services or DocMinder® Materials;
- (b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available any Hosted Services or DocMinder® Materials to any Person, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud or other technology or service;
- (c) reverse engineer, disassemble, decompile, decode, adapt or otherwise attempt to derive or gain access to the source code of the Hosted Services or DocMinder® Materials, in whole or in part;
- (d) bypass or breach any security device or protection used by the Hosted Services or DocMinder® Materials or access or use the Hosted Services or DocMinder® Materials other than by an Authorized User through the use of valid Access Credentials;

(e) input, upload, transmit or otherwise provide to or through the Hosted Services or Word-Tech Systems, any information or materials that are unlawful or injurious, or contain, transmit or activate any Harmful Code;

(f) damage, destroy, disrupt, disable, impair, interfere with or otherwise impede or harm in any manner the Hosted Services, Word-Tech Systems or Word-Tech's provision of services to any third party;

(g) remove, delete, alter or obscure any trademarks, Specifications, Documentation, warranties or disclaimers, or any copyright, trademark, patent or other intellectual property or proprietary rights notices from any Hosted Services or DocMinder® Materials, including any copy thereof;

(h) access or use the Hosted Services or DocMinder® Materials in any manner or for any purpose that infringes, misappropriates or otherwise violates any Intellectual Property Right or other right of any third party, or that violates any applicable Law;

(i) access or use the Hosted Services or DocMinder® Materials for purposes of competitive analysis of the Hosted Services or DocMinder® Materials or the development, provision or use of a competing software service or product; or;

(j) otherwise access or use the Hosted Services or DocMinder® Materials beyond the scope of the authorization granted under [Section 3.1](#).

3.3 Use by Affiliates. Customer is entitled to make DocMinder® Materials available to Authorized Users employed by its Affiliates provided that:

(a) Customer will be responsible for the Fees and the acts and omissions of its Affiliates;

(b) Customer shall ensure that any rights (b) remedies arising in connection with this Agreement will be actionable against Word-Tech solely by Customer and not by Affiliates except that Customer will be entitled to treat Losses of its Affiliates as if they are Losses of the Customer; and

(c) Customer shall indemnify Word-Tech against any Losses incurred by Word-Tech arising out of Customer's breach of [Section 3.3\(a\)](#) or [Section 3.3\(b\)](#).

4. Customer Obligations.

4.1 Customer Systems and Cooperation. During the Term, Customer has the responsibility to: (a) set up, maintain and operate in good repair and in accordance with the Specifications and Documentation all Customer Systems on or through which the Hosted Services are accessed or used; and (b) provide all cooperation and assistance as Word-Tech may reasonably request to enable Word-Tech to exercise its rights and perform its obligations under and in connection with this Agreement.

4.2 Effect of Customer Failure or Delay. Word-Tech is not responsible or liable for any delay or failure of performance caused in whole or in part by a **Customer Failure**.

4.3 Corrective Action and Notice. If Customer becomes aware of any actual or threatened activity prohibited by [Section 3.2](#), Customer shall, and shall cause its Authorized Users to, promptly: (a) take reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects; and (b) notify Word-Tech of any such actual or threatened activity.

5. Service Levels and Credits.

5.1 Service Levels. Word-Tech will use commercially reasonable efforts to make the **DocMinder® Hosted Services** Available at least 99.9% of the time as measured over the course of each calendar month during the Term (each calendar month, a "**Service Period**"), excluding unavailability as a result of any of the Exceptions (the "**Availability Requirement**").

5.2 Service Level Failures and Remedies. In the event of a Service Level Failure, Word-Tech may issue a credit to Customer for the applicable percentage of the monthly Fees for the Hosted Services due for the Service Period in which the Service Level Failure occurred (each, a "**Service Credit**").

Word-Tech has no obligation to issue any Service Credit unless (a) Customer reports the Service Failure to Word-Tech immediately on becoming aware of it; and (b) requests such Service Credit in writing within thirty (30) days of the Service Level Failure.

Any Service Credit payable to Customer under this Agreement will be issued to Customer in the calendar month following the month in which Customer requests the Service Credit.

Customer may terminate this Agreement, effective upon on written notice to Word-Tech, in the event the **DocMinder® Hosted Service** is Available less than 99.0% in any three (3) months out of a consecutive six (6) month period and Word-Tech will issue Customer a refund equal to the balance of any prepaid amount.

This **Section 5.2** sets forth Word-Tech's sole obligation and liability and Customer's sole remedy for any Service Level Failure.

5.3 Service Monitoring and Management. Word-Tech shall continuously monitor and manage the **DocMinder® Hosted Services** to optimize Availability that meets or exceeds the Availability Requirement.

5.4 Scheduled Downtime. Word-Tech schedules downtime for routine maintenance of the Hosted Services on a monthly basis not to exceed twenty-four (24hrs.) hours for any (1) one month ("**Scheduled Downtime**"), unless otherwise expressly set forth in the Specifications.

5.5 Emergency Downtime. Word-Tech reserves the right to perform emergency maintenance services at any time and without prior notice to Customer ("**Emergency Maintenance**"); provided that, Word-Tech will use commercially reasonable efforts to provide prior notice to Customer.

5.6 DocMinder® Hosted Services Maintenance. The Services include support and maintenance services defined as **DocMinder® Hosted Services Maintenance** in the Support and Maintenance Services document then in effect, available at:

[DocMinder® Maintenance and Support](#) (the "**Support and Maintenance Services**").

Word-Tech may amend the Support and Maintenance Services document from time to time in its sole discretion; provided that, no such modification will materially degrade the level of service or other benefits provided to Customer under the version of the Support and Maintenance Services in place as of the date of this Agreement, unless such modification has been agreed upon in writing by Customer.

6. Fees; Payment Terms.

6.1 Fees. Customer shall pay Word-Tech the Fees in accordance with this [Section 6](#).

6.2 Fees During Renewal Terms. The Fees are fixed during the Initial Term. Word-Tech may increase the Fees for any Renewal Term by providing written notice to Customer at least sixty (60) days prior to the commencement of such Renewal Term. No increase in fees for any Renewal Term shall exceed five (5%) percent of the Fees effective during the immediately preceding Initial Term or Renewal Term.

6.3 Taxes. All Fees and other amounts payable by Customer under this Agreement are exclusive of taxes and similar assessments. Customer is responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental or regulatory authority on any amounts payable by Customer hereunder, other than any taxes imposed on Word-Tech's income.

6.4 Payment. Customer shall pay all undisputed Fees within thirty (30) days after the date of the invoice. Customer shall make all payments hereunder in U.S. dollars. Customer shall make payments to the address or account specified in the applicable invoice.

6.5 Inaccurate Charges. If Customer disputes any Fees, Customer shall within thirty (30) days of the invoice date (a) pay the undisputed Fees and (b) notify Word-Tech, in writing of the basis for disputing the Fees. The parties agree to discuss any dispute within ten (10) days of Word-Tech's receipt of such description. If necessary, Word-Tech shall provide a corrected invoice to Customer after the discussion and Customer will pay such invoice within thirty (30) days of the invoice date.

6.6 Late Payment. If Customer fails to make any undisputed payment when due then, in addition to all other remedies that may be available, if such failure continues for thirty (30) days following written notice of such failure (including notice that the Hosted Services may be suspended), Word-Tech may suspend performance of the Hosted Services until all past due amounts have been paid, without incurring any obligation or liability to Customer by reason of such suspension.

6.7 No Deductions or Setoffs. All amounts payable to Word-Tech under this Agreement shall be paid by Customer to Word-Tech in full without any setoff, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

7. Intellectual Property Rights.

7.1 Services and DocMinder® Materials. All right, title and interest in and to the Hosted Services and DocMinder® Materials, including all Intellectual Property Rights therein, are and will remain with Word-Tech. Customer has no right, license or authorization with respect to any of the Hosted Services or DocMinder® Materials except as expressly set forth in [Section 3.1](#), in each case subject to [Section 3.2](#). All other rights in and to the Hosted Services and DocMinder® Materials are expressly reserved by Word-Tech.

7.2 Customer Data. As between Customer and Word-Tech, Customer is and will remain the sole and exclusive owner of all right, title and interest in and to all Customer Data, including all Intellectual Property Rights relating thereto, subject to the rights and permissions granted in [Section 7.3](#).

7.3 Consent to Use Customer Data. Customer and each of its Affiliates hereby grant all such rights and permissions in or relating to Customer Data to Word-Tech, its Subcontractors and Word-Tech Personnel as are necessary to perform the Services.

8. Confidentiality.

8.1 Confidential Information. In connection with this Agreement, each party (as the “**Disclosing Party**”) may disclose or make available Confidential Information to the other party (as the “**Receiving Party**”) (including Confidential Information which might be disclosed through a Word-Tech Partner). Subject to [Section 8.2](#), “**Confidential Information**” means information in any form or medium (whether oral, written, electronic or other) that is identified as confidential at time of disclosure or if the circumstances of disclosure would reasonably indicate confidential treatment, including information consisting of or relating to the Disclosing Party’s technology, trade secrets, know-how, business operations, plans, strategies, customers, pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, in each case whether or not marked, designated or otherwise identified as “confidential”. Without limiting the foregoing, (a) all Customer Data (including all Personal Information) is and will remain the Confidential Information of Customer, (b) the Hosted Service Software, Specifications and Documentation are and will remain the Confidential Information of Word-Tech and (c) the terms and existence of this Agreement are the Confidential Information of both parties.

8.2 Exclusions. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information’s being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party’s or any of its Representatives’ noncompliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that, to the Receiving Party’s knowledge, was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

8.3 Protection of Confidential Information. As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

(a) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;

(b) except as may be permitted by and subject to its compliance with [Section 8.4](#), not disclose or permit access to Confidential Information other than to its Representatives who: (i) need to know such Confidential Information for purposes of the Receiving Party’s exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party’s obligations under this [Section 8.3](#); and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth in this [Section 8.3](#);

(c) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its sensitive information and in no event less than a reasonable degree of care: (i) with respect to trade secrets, for so long as such trade secrets qualify as trade secrets under applicable state law, (ii) with respect to Customer Data (including all Personal Information), in perpetuity, and (iii) with respect to all other Confidential Information, five years from the date of receipt or (if longer) for such period as the information remains confidential; and

(d) ensure its Representatives’ compliance with, and be responsible and liable for any of its Representatives’ non-compliance with, the terms of this [Section 8](#).

8.4 Compelled Disclosures. If the Receiving Party or any of its Representatives is compelled by applicable Law to disclose any Confidential Information then, to the extent permitted by applicable Law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy or waive its rights under [Section 8.3](#); and (b) provide reasonable assistance to the Disclosing Party, at the Disclosing Party’s sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this [Section 8.4](#), the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that the Receiving Party is legally required to disclose and, on the Disclosing Party’s request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment.

9. Term and Termination.

9.1 Initial Term. The initial term of this Agreement commences on the Effective Date and, unless terminated earlier pursuant to any of this Agreement’s express provisions, will continue for the term as set forth in the applicable Order (the “**Initial Term**”).

9.2 Renewal. This Agreement will automatically renew for additional successive one (1) year terms unless earlier terminated pursuant to this Agreement's express provisions or either party gives the other party written notice of non-renewal at least thirty (30) days prior to the expiration of the then-current term (each, a "**Renewal Term**" and together with the Initial Term, the "**Term**").

9.3 Termination. In addition to any other express termination right set forth elsewhere in this Agreement:

(a) either party may terminate this Agreement, effective on written notice to the other party, if the other party materially breaches this Agreement, and such breach: (i) is incapable of cure; or (ii) being capable of cure, remains uncured thirty (30) days after the non-breaching party provides the breaching party with written notice of such breach; and

(b) either party may terminate this Agreement, effective immediately upon written notice to the other party, if the other party: (i) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (ii) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency Law; (iii) makes or seeks to make a general assignment for the benefit of its creditors; or (iv) applies for or has appointed a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

9.4 Effect of Expiration or Termination. Upon any expiration or termination of this Agreement, except as expressly otherwise provided in this Agreement:

(a) all rights, licenses, consents and authorizations granted by either party to the other hereunder will immediately terminate;

(b) after Customer properly uses the Data Return Arrangements, Word-Tech shall (i) destroy all documents and tangible materials containing, reflecting, incorporating or based on Customer Data or Customer's Confidential Information and (ii) permanently erase all Customer Data and Customer's Confidential Information from all systems Word-Tech directly or indirectly controls;

(c) Customer shall, in accordance with the applicable Specifications, cease all use of any Hosted Services or DocMinder® Materials and (i) promptly return to Word-Tech, or at Word-Tech's written request destroy, all documents and tangible materials containing, reflecting, incorporating or based on any DocMinder® Materials or Word-Tech's Confidential Information and (ii) permanently erase all DocMinder® Materials and Word-Tech's Confidential Information from all systems Customer directly or indirectly controls.

(d) notwithstanding anything to the contrary in this Agreement, with respect to information and materials then in its possession or control: (i) the Receiving Party may retain the Disclosing Party's Confidential Information, (ii) Word-Tech may retain Customer Data, (iii) Customer may retain DocMinder® Materials, in the case of each of sub clause (i), (ii) and (iii) in its then current state and solely to the extent and for so long as required by applicable Law; (iv) Word-Tech may also retain Customer Data in its backups, archives and disaster recovery systems until such Customer Data is deleted in the ordinary course; and (v) all information and materials described in this [Section 9.4\(d\)](#) will remain subject to all confidentiality, security and other applicable requirements of this Agreement;

(e) Word-Tech may disable all Customer, its Affiliates and Authorized User access to the Hosted Services and DocMinder® Materials;

(f) if Customer terminates this Agreement pursuant to [Section 5.2](#) or [Section 9.3\(a\)](#), Customer will be relieved of any obligation to pay any Fees attributable to the period after the effective date of such termination and Word-Tech will: (i) refund to Customer Fees paid in advance for Hosted Services that Word-Tech has not performed as of the effective date of termination and (ii) pay to Customer any unpaid Credits, if any, to which Customer is entitled;

(g) if Word-Tech terminates this Agreement pursuant to [Section 9.3\(a\)](#), all Fees that would have become payable had the Agreement remained in effect until expiration of the Term will become immediately due and payable, and Customer shall pay such Fees, together with all previously-accrued but not yet paid Fees, on receipt of Word-Tech's invoice therefor; and

(h) Word-Tech will exercise commercially reasonable efforts to efficiently transition to a successor ("**Transition Assistance**"). The parties shall cooperate in good faith in order to mutually agree in writing as to the Transition Assistance to be provided at the time. All services provided by Word-Tech related to the Transition Assistance that are incremental to the standard services provided by Word-Tech hereunder shall be paid for on a time and materials basis by the Customer, at the Professional Services rate provided during the term of this Agreement.

9.5 Surviving Terms. Each provision of this Agreement that, by its nature, should survive termination or expiration of this Agreement, will survive any expiration or termination of this Agreement.

10. Representations and Warranties.

10.1 Mutual Representations and Warranties. Each party represents and warrants to the other party that:

(a) it is duly organized, validly existing and in good standing as a corporation or other entity under the Laws of the jurisdiction of its incorporation or other organization;

(b) it has the full right, power and authority to enter into and perform its obligations and grant the rights, licenses, consents and authorizations it grants or is required to grant under this Agreement;

(c) the execution of this Agreement by its representative has been duly authorized by all necessary corporate or organizational action of such party;

(d) this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms; and

(e) it will, at all times, comply with all Laws that are applicable to this Agreement and its performance hereunder.

10.2 Additional Word-Tech Representations, Warranties and Covenants. Word-Tech represents, warrants and covenants to Customer that (a) Word-Tech will perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement and (b) the Word-Tech Systems and **DocMinder® Hosted Services** are and will remain free of Harmful Code.

10.3 Additional Customer Representations, Warranties and Covenants. Customer represents, warrants and covenants to Word-Tech that Customer owns or otherwise has and will have the necessary rights and consents in and relating to the Customer Data so that, as received by Word-Tech and Processed in accordance with this Agreement, they do not and will not infringe, misappropriate or otherwise violate any Intellectual Property Rights, or any privacy or other rights of any third party or violate any applicable Law.

10.4 DISCLAIMER OF WARRANTIES. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN [SECTION 10.1](#), [SECTION 10.2](#) AND [SECTION 10.3](#), ALL SERVICES AND DOCMINDER® MATERIALS ARE PROVIDED "AS IS" AND WORD-TECH HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND WORD-TECH SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, WORD-TECH MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR WORD-TECH MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL OPERATE WITHOUT INTERRUPTION, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES EXCEPT IF AND TO THE EXTENT EXPRESSLY SET FORTH IN THE SPECIFICATIONS, OR BE ERROR FREE.

11. Indemnification.

11.1 Word-Tech Indemnification. Word-Tech shall indemnify, defend and hold harmless Customer from and against Losses incurred by Customer arising out of or relating to any Action by a third party (other than an Affiliate of Customer) to the extent that such Losses arise from any allegation in such Action that use of the Hosted Services (excluding Customer Data) in compliance with this Agreement (including the Specifications) infringes an Intellectual Property Right of such third party. The foregoing obligation does not apply to any Action or Losses arising out of or relating to any:

(a) access to or use of the Hosted Services or DocMinder® Materials in combination with any hardware, system, software, network or other materials or service not provided or authorized in the Specifications or otherwise in writing by Word-Tech;

(b) modification of the Hosted Services or DocMinder® Materials other than: (i) by or on behalf of Word-Tech; or (ii) with Word-Tech's written approval in accordance with Word-Tech's written specification;

(c) failure to timely implement any modifications, upgrades, replacements or enhancements made available to Customer by or on behalf of Word-Tech; or

(d) act, omission or other matter described in [Section 11.2\(a\)](#) or [Section 11.2\(b\)](#), whether or not the same results in any Action against or Losses by any Word-Tech Indemnitee.

11.2 Customer Indemnification. Customer shall indemnify, defend and hold harmless Word-Tech and its Subcontractors and Affiliates, and each of its and their respective officers, directors, employees, agents, successors and assigns (each, an "**Word-Tech Indemnitee**") from and against Losses incurred by such Word-Tech Indemnitee in connection with any Action by a third party (other than an Affiliate of an Word-Tech Indemnitee) that arises out of or relates to any:

(a) Customer Data infringing the Intellectual Property Right of such third party; or

(b) Word-Tech's compliance with any specifications or directions provided by or on behalf of Customer, its Affiliates or any Authorized User to the extent prepared without any contribution by Word-Tech.

11.3 Indemnification Procedure. Each party shall promptly notify the other party in writing of any Action for which such party believes it is entitled to be indemnified pursuant to [Section 11.1](#) or [Section 11.2](#). The party seeking indemnification (the “**Indemnitee**”) shall cooperate with the other party (the “**Indemnitor**”) at the Indemnitor’s sole cost and expense. The Indemnitor shall immediately take control of the defense and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at the Indemnitor’s sole cost and expense. The Indemnitee’s failure to perform any obligations under this [Section 11.3](#) will not relieve the Indemnitor of its obligations under this [Section 11](#) except to the extent that the Indemnitor can demonstrate that it has been prejudiced as a result of such failure. The Indemnitee may participate in and observe the proceedings at its own cost and expense with counsel of its own choosing.

11.4 Mitigation. At its option and sole cost and expense, Word-Tech is entitled to mitigate the risk or Losses of any actual or threatened infringement of any third-party’s Intellectual Property Right by:

(a) obtaining the right for Customer to continue to use the Hosted Services and DocMinder® Materials materially as contemplated by this Agreement;

(b) modifying or replacing the Hosted Services and DocMinder® Materials, in whole or in part, to make the Hosted Services and DocMinder® Materials (as so modified or replaced) non-infringing, while providing materially equivalent features and functionality, in which case such modifications or replacements will constitute Hosted Services and DocMinder® Materials, as applicable, under this Agreement; or

(c) if options (a) or (b) are not commercially reasonable, by written notice to Customer, terminating this Agreement with respect to all or part of the Hosted Services and DocMinder® Materials, requiring Customer to immediately cease any use of the Hosted Services and DocMinder® Materials or any specified part or feature thereof, and issuing Customer a refund equal to the balance of any prepaid amount.

THIS [SECTION 11](#) SETS FORTH CUSTOMER’S SOLE REMEDIES AND WORD-TECH’S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED OR ALLEGED CLAIMS THAT THIS AGREEMENT OR ANY SUBJECT MATTER HEREOF (INCLUDING THE HOSTED SERVICES AND DOCMINDER® MATERIALS) INFRINGES, MISAPPROPRIATES OR OTHERWISE VIOLATES ANY THIRD-PARTY INTELLECTUAL PROPERTY RIGHT.

12. Limitations of Liability.

12.1 EXCLUSION OF DAMAGES. EXCEPT AS OTHERWISE PROVIDED IN [SECTION 12.3](#), IN NO EVENT WILL WORD-TECH OR ANY OF ITS LICENSORS, SERVICE PROVIDERS OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES, OTHER THAN FOR THE ISSUANCE OF ANY APPLICABLE SERVICE CREDITS PURSUANT TO [SECTION 5.2](#), OR (c) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

12.2 CAP ON MONETARY LIABILITY. EXCEPT AS OTHERWISE PROVIDED IN [SECTION 12.3](#), IN NO EVENT WILL THE AGGREGATE LIABILITY OF WORD-TECH UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY AND OTHERWISE, EXCEED THE VALUE OF ALL AMOUNTS PAID BY CUSTOMER UNDER THIS AGREEMENT DURING THE TWELVE (12) MONTHS PRECEDING THE BREACH. THE FOREGOING LIMITATION APPLIES NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

12.3 Exceptions. The exclusions and limitations in [Section 12.1](#) and [Section 12.2](#) do not apply to Word-Tech’s obligations under [Section 11](#) (Indemnification) or liability for Word-Tech’s gross negligence or willful misconduct.

13. Force Majeure.

13.1 No Breach or Default. In no event will either party be liable or responsible to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing this Agreement, except for any payment obligation, when and to the extent such failure or delay is caused by any circumstances beyond such party’s reasonable control (a “**Force Majeure Event**”), including acts of God, flood, fire, earthquake or explosion, war, terrorism, invasion, riot or other civil unrest, embargoes or blockades in effect on or after the date of this Agreement, national or regional emergency, strikes, labor stoppages or slowdowns or other industrial disturbances (other than within Word-Tech), passage of Law or any action taken by a governmental or public authority, including imposing an embargo, export or import restriction, quota or other restriction or prohibition or any complete or partial government shutdown, or national or regional shortage of adequate power or telecommunications or transportation. Either party may terminate this Agreement if a Force Majeure Event continues substantially uninterrupted for a period of thirty (30) days or more. Word-Tech will not be excused

for any failure or delay in the performance of this Agreement, and such failure or delay will not be deemed to be a Force Majeure Event.

13.2 Affected Party Obligations. In the event of any failure or delay caused by a Force Majeure Event, the affected party shall give prompt written notice to the other party stating the period of time the occurrence is expected to continue and use commercially reasonable efforts to end the failure or delay and minimize the effects of such Force Majeure Event.

14. Miscellaneous.

14.1 Further Assurances. Upon a party's reasonable request, the other party shall, at the requesting party's sole cost and expense, execute and deliver all such documents and instruments, and take all such further actions, necessary to give full effect to this Agreement.

14.2 Relationship of the Parties. The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

14.3 Marketing. Upon Customer's consent and approval; Word-Tech may include Customer's name and logo in Word-Tech's list of customers, press releases and other promotional materials.

14.4 Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement have binding legal effect only if in writing and addressed to a party as follows (or to such other address or such other person that such party may designate from time to time in accordance with this [Section 14.4](#)):

If to **Word-Tech**: 5625 Foxridge Drive, Suite 110
Mission, KS 66202
Attention: Bruce Karlson
bkarlson@wordtech.com

If to **Customer**: Use the address and email address in the applicable Order(s)

Notices sent in accordance with this [Section 14.4](#) will be deemed effectively given: (a) when received, if delivered by hand, with signed confirmation of receipt; (b) when received, if sent by a nationally recognized overnight courier, signature required; (c) when sent, if by facsimile or e-mail, in each case, with confirmation of transmission, if sent during the addressee's normal business hours, and on the next business day, if sent after the addressee's normal business hours; and (d) on the third day after the date mailed by certified or registered mail, return receipt requested, postage prepaid.

14.5 Interpretation. For purposes of this Agreement: (a) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (b) the word "or" is not exclusive; (c) the words "herein," "hereof," "hereby," "hereto" and "hereunder" refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and vice-versa; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (x) to sections, exhibits, schedules, attachments and appendices mean the sections of, and exhibits, schedules, attachments and appendices attached to, this Agreement; (y) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof; and (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.

14.6 Headings. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

14.7 Entire Agreement. This Agreement, together with any other documents incorporated herein by reference, constitutes the sole and entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, the related exhibits, schedules, attachments and appendices (other than an exception expressly set forth as such therein) and any other documents incorporated herein by reference, the following order of precedence governs: (a) first, this Agreement, excluding its exhibits, schedules, attachments and appendices; (b) second, the exhibits, schedules, attachments and appendices to this Agreement as of the Effective Date; and (c) third, any other documents incorporated herein by reference.

14.8 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party

may assign this Agreement in its entirety (together with all Orders), without the other party's consent to an Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, Word-Tech will refund to Customer the balance of any prepaid amount. Any purported assignment, delegation or transfer in violation of this **Section 14.8** is void. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective permitted successors and assigns.

14.9 No Third-party Beneficiaries. This Agreement is for the sole benefit of the parties hereto and their respective permitted successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

14.10 Amendment and Modification; Waiver. No amendment to or modification of or rescission, termination or discharge of this Agreement is effective unless it is in writing and signed by an authorized representative of each party. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

14.11 Severability. If any provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

14.12 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of Missouri without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Missouri. Any legal suit, action or proceeding arising out of or related to this Agreement or the licenses granted hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Missouri in each case located in the city of the city of Kansas City and County of Jackson, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.

14.13 Waiver of Jury Trial. Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby.

14.14 Equitable Relief. Each party acknowledges and agrees that a breach or threatened breach by such party of any of its obligations under [Section 8](#) or, in the case of Customer, [Section 3.2](#) or [Section 4.3](#), would cause the other party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other party will be entitled to equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

14.15 Attorneys' Fees. In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing party.

SCHEDULE 1

TERMS AND CONDITIONS FOR PROFESSIONAL SERVICES

1. Applicability. These terms and conditions apply only to the provision of Professional Services and prevail over any inconsistent provisions of the Agreement.
2. Services. Word-Tech shall provide the Professional Services to Customer as described in an accompanying statement(s) of work (each, a “**SOW**”). In the event of any inconsistencies between the Agreement and a specific SOW issued under the Agreement, for such engagement, the terms of the specific SOW shall take precedence.
3. Customer's Obligations. Customer shall:
 - (a) cooperate with Word-Tech in all matters relating to the Professional Services and provide such access to Customer's premises, and such office accommodation and other facilities as may reasonably be requested by Word-Tech, for the purposes of performing the Professional Services;
 - (b) provide supervised remote access to Customer Systems as deemed necessary by Word-Tech;
 - (c) respond promptly to any Word-Tech reasonable request to provide direction, information, approvals, authorizations or decisions;
 - (d) provide such Customer materials or information as Word-Tech may reasonably request and ensure that such Customer materials or information are complete and accurate; and
 - (e) obtain and maintain all necessary licenses and consents and comply with all applicable laws in relation to the Professional Services before the date on which the Professional Services are to start.
4. Customer's Acts or Omissions. If Word-Tech's performance of its obligations under a SOW is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Word-Tech shall not be deemed in breach of its obligations under the applicable SOW or the Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.
5. Intellectual Property. All Intellectual Property Rights in and to all documents, work product and other materials that are prepared by or on behalf of Word-Tech in the course of performing the Professional Services, including any items identified in a SOW (collectively, the “**Deliverables**”), shall be owned by Word-Tech. Word-Tech hereby grants Customer the right to use the Intellectual Property Rights in the Deliverables pursuant to the terms of the Agreement.
6. Representation and Warranty.
 - (a) Word-Tech shall perform the Professional Services pursuant to [Section 10.2](#) of the Agreement.
 - (b) Word-Tech shall not be liable for a breach of the warranty set forth in [Section 6\(a\)](#) unless Customer gives written notice of the defective Professional Services, reasonably described, to Word-Tech within ten (10) days of the time when Customer discovers or ought to have discovered that the Professional Services were defective.
 - (c) Subject to [Section 6\(b\)](#), Word-Tech shall, in its sole discretion, either:
 - (i) repair or re-perform such Professional Services (or the defective part); or
 - (ii) credit or refund the price of such Professional Services at the pro rata contract rate.
 - (d) THE REMEDIES SET FORTH IN [SECTION 6\(c\)](#) SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY AND WORD-TECH'S ENTIRE LIABILITY FOR ANY BREACH OF THE LIMITED WARRANTY SET FORTH IN SECTION 6(a).
7. Disclaimer of Warranties. EXCEPT FOR THE WARRANTY SET FORTH IN [SECTION 6\(a\)](#) ABOVE, THE PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND WORD-TECH HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND WORD-TECH SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE.
8. Termination. In addition to any remedies that may be provided under the Agreement, Word-Tech may terminate a SOW with immediate effect upon written notice to Customer, if Customer fails to pay any amount when due under such SOW.

SCHEDULE 2

DOCMINDER® HOSTED SERVICES PRODUCT SPECIFICATION

DocMinder® Hosted Services is a cloud based, work product management service for Customer organizations (the “**Hosted Services**”). The Service includes desktop, mobility and/or web-based user interfaces for content management, search, records management and workflow/process automation, with the requisite server software to support this functionality.

The DocMinder® Hosted Service described in this Product Specification (the “**Product Specification**”) includes the following applications:

- **DocMinder® Base System** – Includes five (5) Manager Licenses and fifty (50) Recipient Licenses;
- **DocMinder® ARC** – This allows anyone to kick off a DocMinder process through a web-form. Includes ten (10) hours of custom development for initial web-forms;
- **DocMinder® Workflow System** - Workflow/process automation; Includes Five (5) Workflow Licenses;

Refer to the relevant Order to identify the specific applications and number of Authorized Users supported for a particular Customer deployment.

This DocMinder® Hosted Services Product Specification is incorporated into the DocMinder® Hosted Services Agreement (the “**Agreement**”). Any defined terms used herein and not otherwise defined herein shall have the meaning given to them in the Agreement.