

EVT SOLUTIONS, INC.
SERVICE AGREEMENT

This Service Agreement (the "Agreement") is made and entered into as of the date signed below by both parties (the "Effective Date") by and between EVT SOLUTIONS, INC., ("EVT"), a Washington corporation located at 8060 165th Ave. N.E., Redmond, WA 98052, and _____, a _____ corporation, ("COMPANY"). In consideration of the covenants and conditions hereinafter set forth, COMPANY and EVT agree as follows:

1. Definitions.

"EVT Software" shall mean commercially available software programs licensed by EVT in the ordinary course of business including, without limitation, EVTRetail™ products, Upgrades, Directories, modules for any EVT Software, tool sets, wizards, and libraries.

"Derivative Technology" shall mean: (i) for copyrightable or copyrighted material, any translation (including translation into other computer languages), portation, modification, correction, addition, extension, enhancement, upgrade, improvement, compilation, abridgment or other form in which an existing work may be recast, transformed or adapted; (ii) for patentable or patented material, any improvement thereon; and (iii) for material which is protected by trade secret, any new material derived from such existing trade secret material, including new material which may be protected or have the right to be protected by copyright, patent and/or trade secret.

"Tools" and/or "Utilities" shall be defined as software code and/or a portion of code used in application development or data conversion, or used to diagnose or troubleshoot problems arising from software code.

2. Services. EVT shall perform the services for COMPANY that are described in the Statement(s) of Work as may be attached hereto from time to time by mutual written agreement of the parties in accordance with the terms and conditions of this Agreement, and on the price, delivery dates and Specifications described in the applicable Statement of Work (the "Services"). The Statement(s) of Work shall be in the form attached hereto and shall be signed by both parties, consecutively numbered (i.e., Statement of Work No. 1, 2, 3, etc.), and attached to this Agreement. EVT is not obligated to perform any services hereunder and COMPANY has not contracted for any services unless and until a Statement of Work is executed by both parties and attached hereto.

3. Payment.

3.1 Payment Terms. COMPANY shall pay EVT fees for the Services as described in each applicable Statement of Work ("Service Fees") on the following schedule:

- COMPANY shall pay 100% of Hardware and Software and 50% of the total estimated Service Fees specified upon sign-off of an estimate or change request, prior to work commencing. EVT will use the deposit as a credit for work performed and invoice against that credit.
- COMPANY shall pay the remaining amount on receipt of correct and undisputed invoices from EVT as work has been performed. COMPANY shall pay such invoice on the payment terms of net thirty (30) days. All invoices shall be expressed and payable in U.S. dollars.

3.2 Payment Method. Payments by COMPANY shall be made by check or wire transfer. Payment shall be deemed credited to the account of COMPANY when received by EVT's financial institution.

3.3 Disputed Amounts. COMPANY may dispute any payable amount by notice to EVT orally or in writing within ten (10) calendar days of COMPANY's receipt of the invoice, which claim of dispute may concern not only the accuracy of the charge itself, but also any claim of deficient services or

performance, or any other claim of breach of this Agreement that relates to the specific charges in the invoice. Any partial payment of an invoice shall be deemed notice by COMPANY of the disputed amount. All disputed amounts that COMPANY subsequently agrees in writing to pay, or that are required to be paid pursuant to a proper court order or award from any mutually submitted arbitration, shall be paid on the payment terms set forth in subsection 3.1 above.

3.4 Travel. "Travel Expenses" are defined as the reasonable expenses incurred by EVT while performing the Statement of Work, including, air and surface transportation, lodging, car rental, and meals, and other miscellaneous necessary expenses incurred while conducting authorized COMPANY business. COMPANY agrees to pay EVT's approved Travel Expenses up to a total amount set forth in the applicable Statement of Work. EVT will pay for all Travel Expenses, then COMPANY will reimburse EVT for approved Travel Expenses, provided appropriate expense documentation, including an expense report with all receipts to support actual costs invoiced for payment, is submitted to COMPANY within thirty (30) days following the completion of approved travel.

4. Warranties.

4.1 EVT has full and right and power to enter into and perform according to the terms of this Agreement.

4.2 The Services shall be performed in a professional manner and shall be of a high grade, nature, and quality; and

4.3 EVT's employees shall, while on COMPANY property or conducting any COMPANY related business, comply with all applicable, local, state and federal laws, including specifically all laws prohibiting harassment of any kind in the workplace. EVT assumes all responsibility for providing to its employees any training that may be required to insure compliance with such laws.

5. LIMITATION OF LIABILITY AND DISCLAIMER OF DAMAGES.

5.1 EXCEPT AS OTHERWISE SET FORTH IN THIS SECTION 5.1, EVT'S LIABILITY TO COMPANY AND ITS OFFICERS, AGENTS, CUSTOMERS AND EMPLOYEES FOR ANY CLAIM ARISING UNDER THIS AGREEMENT OR OTHERWISE ARISING FROM THE TRANSACTIONS CONTEMPLATED HEREIN, REGARDLESS OF THE FORM OF ACTION (INCLUDING, BUT NOT LIMITED TO ACTIONS FOR BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY, RESCISSION AND BREACH OF WARRANTY) WILL NOT EXCEED THE LESSER OF (A) THE AGGREGATE FEES ACTUALLY PAID TO EVT UNDER THE STATEMENT OF WORK UNDER WHICH SUCH BREACH OR DAMAGE OCCURRED DURING THE ONE YEAR PERIOD, OR (B) THE ACTUAL DAMAGES SUSTAINED BY COMPANY.

5.2 NO CONSEQUENTIAL DAMAGES. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUES AND LOSS OF PROFITS, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

6. Indemnity.

COMPANY agrees to indemnify, defend, and hold EVT and its successors, officers, directors and employees harmless from any and all actions, causes of action, claims, demands, costs, liabilities, expenses and damages, herein referred to as "Claims" (including the indemnified party's reasonable attorneys' fees), arising out of, or in connection with (a) erroneous, privileged, inaccurate or unauthorized information provided to EVT, (b) property damage to the extent caused by the COMPANY in connection with performance of a Statement of Work, or (c) claims by customer/client of COMPANY as the end user or consumer of the Deliverable(s).

If any action shall be brought against EVT seeking in respect to which indemnity may be sought from COMPANY pursuant to the provisions of this Section, EVT shall promptly notify the COMPANY in

writing, specifying the nature of the action, any related information in the possession or control of the party seeking indemnification and the total monetary amount sought or other such relief as is sought therein. EVT shall cooperate with COMPANY at COMPANY'S expense in all reasonable respects in connection with the defense of any such action. EVT shall have the right to employ separate counsel, at its expense, and participate in the defense thereof. COMPANY shall reimburse EVT upon demand for any payments made or loss suffered by it at any time after the date hereof, based upon the final judgment of any court of competent jurisdiction or pursuant to a bona fide compromise or settlement of claims, demands, or actions, in respect to any damages to which the foregoing relates.

7. Intellectual Property Infringement Protection. EVT agrees, at its own expense, to defend or, at its option, to settle, any claim or action brought against COMPANY to the extent such action is based on a claim that COMPANY's use of the Deliverable in accordance with the scope of this Agreement infringes or violates any United States copyright, trademark, or trade secret of a third party, and will indemnify and hold COMPANY harmless from and against any damages, costs and fees reasonably incurred (including reasonable attorneys' fees) that are attributable to such claim or action and which are assessed against COMPANY. COMPANY agrees that EVT shall have the foregoing obligation only if COMPANY provides EVT with: (a) prompt written notification of the claim or action; (b) sole control and authority over the defense or settlement thereof; and (c) all available information, assistance and authority to settle and/or defend any such claim or action.

8. Termination.

8.1 Termination of Agreement. This Agreement shall commence as of the Effective Date and shall terminate upon sixty (60) days prior written notice by either party, provided EVT must complete all Statements of Work then active and COMPANY shall comply with any obligations which it agreed to undertake prior to the termination effective date. The term of any right or license or proprietary rights granted to COMPANY under this Agreement shall run concurrently with this agreement or be for the full term of such proprietary rights.

8.2 Statement of Work – Termination for Convenience. COMPANY shall have the right to cancel any Statement of Work without cause. In the event COMPANY cancels the Statement of Work, COMPANY will provide EVT written notice of such cancellation. Upon receipt of such notice, EVT will discontinue all work thereunder. In such event, COMPANY will pay for all work performed by EVT up until the date of receipt of the cancellation notice. In the event of cancellation of a Statement of Work, upon request by COMPANY, EVT agrees to turn over to COMPANY all work in progress applicable to such Statement of Work within ten (10) business days.

8.3 Statement of Work – Termination for Breach. Either party shall have the right to terminate a Statement of Work immediately upon notice to the other if such party commits a material breach of such Statement of Work and the party asserted to be in breach shall have failed to cure such breach within thirty (30) days of receipt of notice of such breach from the non-breaching party. In the event COMPANY terminates for breach under this section, EVT's liability for damages shall be for actual documented damages for such breach subject to the limitations of Section 9.

8.4 Survival of Rights. In the event of termination or expiration of this Agreement for any reason, Sections 3, 5, 6, 7, 9, 10, 11 and 12 shall survive termination.

8.6 Taxes. The amounts to be paid by COMPANY to EVT herein do not include any foreign, U.S. federal, state, local, municipal or other governmental taxes, duties, levies, fees, excises or tariffs, arising as a result of or in connection with the transactions contemplated under this Agreement, and COMPANY shall be responsible for any taxes related to the Deliverables except for any income or business occupations taxes of EVT.

9. Confidentiality. The parties agree not to disclose any Confidential Information related to this Agreement, including but not limited to proprietary information, personal information and intellectual property of the other party, unless required to do so by court order or administrative law.

12.6 Assignment. This Agreement shall not be assigned by either party without the other party's prior written approval. Except as otherwise provided, this Agreement shall be binding upon and inure to the benefit of the party's successors and lawful assigns.

12.7 Entire Agreement; Headings; Counterparts. This Agreement and the schedules attached hereto, constitute the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersede all prior agreements, arrangements and undertakings between the parties with respect to the subject matter hereof. No addition to or modification of any provision of this Agreement shall be binding upon the parties unless made by a written instrument signed by a duly authorized representative of each of the parties. The headings to the sections of this Agreement are for ease of reference only and shall not affect the interpretation or construction of this Agreement. This Agreement and any amendments, new SOW or additions may be signed in counterparts, using original copies, facsimile copies or duly authorized Internet transmission with written receipt of transmission.

12.7 Partial Invalidity; Waiver. If any provision of this Agreement or the application thereof to any party or circumstances shall be declared void, illegal or unenforceable, the remainder of this Agreement shall be valid and enforceable to the extent permitted by applicable law. In such event the parties shall use their best efforts to replace the invalid or unenforceable provision by a provision that, to the extent permitted by applicable law, achieves the purposes intended under the invalid or unenforceable provision. No failure of either party to exercise any power or right given either party hereunder or to insist upon strict compliance by either party with its obligations hereunder, and no custom or practice of the parties at variance with the terms hereof shall constitute a waiver of either party's right to demand exact compliance with the terms hereof.

ADDENDUM 1
PRODUCT DELIVERY
TERMS AND CONDITIONS

This Addendum 1 shall apply to the extent that Deliverables are required by a Statement of Work under the Agreement. The terms and conditions contained herein are hereby incorporated as a supplement to the Agreement terms and conditions.

In consideration of the covenants and conditions of the Agreement and those hereinafter set forth, COMPANY and EVT agree as follows:

1. Definitions.

“Acceptance Criteria” shall mean, with respect to the Deliverables listed in the Statement of Work, all of the functional, performance and other requirements described in the Statement of Work.

“Deliverable” shall mean the various items to be prepared and/or delivered by EVT in connection with a Statement of Work and described in the applicable Statement of Work.

“Statement of Work” shall mean a written document that is mutually agreed to between COMPANY and EVT which describes the Work and Deliverables to be provided to COMPANY. The Statement of Work may reference other documents for a complete specification of the Deliverables.

“Specifications” shall mean, with respect to any Deliverable, the functions to be performed by such Deliverable and expressly referenced in the relevant Statement of Work.

2. Delivery. EVT shall provide the Deliverables to COMPANY that are described in the Statement(s) of Work as may be attached hereto from time to time by mutual written agreement of the parties in accordance with the terms and conditions of this Agreement, and on the price, delivery dates and Specifications described in the applicable Statement of Work. The Statement(s) of Work shall be in the form attached hereto and shall be signed by both parties, consecutively numbered (i.e., Statement of Work No. 1, 2, 3, etc.), and attached to this Agreement. EVT is not obligated to deliver any goods or services hereunder and COMPANY has not contracted for any goods or services unless and until a Statement of Work is executed by both parties and attached hereto.

3. Diligence in Completing Projects.

3.1 After agreement on the terms of a Statement of Work, and if applicable COMPANY’s written notice to proceed, EVT shall diligently proceed with the performance of services and development of the Deliverables for such Statement of Work in accordance with timetable and other specifications set forth in such Statement of Work. EVT shall commit and utilize such resources, as it reasonably considers sufficient to deliver each Deliverable on or before the Completion Dates as agreed under the Statement of Work.

3.3 COMPANY acknowledges that it has certain obligations as may be listed in the COMPANY Responsibilities section in each applicable Statement of Work. In the event that COMPANY’s failure to satisfy its obligations under the COMPANY Responsibilities section has caused or will cause a delay to EVT in complying with a Completion Date, EVT shall have the right but not the obligation to delay the relevant Completion Dates.

These Sections 3.2 and 3.3 shall apply unless expressly agreed to by the parties in writing in the applicable SOW.

4. Delivery and Acceptance of Deliverables.

4.1 Acceptance Process. COMPANY shall evaluate the Deliverables set forth in the Statement of Work and provide EVT with a written acceptance or rejection thereof within thirty (30) days

after receiving the final Deliverable. If any Deliverable fails to meet the Acceptance Criteria, then COMPANY shall send to EVT a notice in writing detailing the basis of the rejection and EVT shall correct such failures within fourteen (14) days following receipt of such notice. COMPANY shall not be deemed to have waived any rights to accept or reject particular Deliverables under this Section in the event it fails to deliver any of the notices described herein; provided, however, that notwithstanding anything contained herein to the contrary, any Deliverable shall be deemed accepted in the event that COMPANY either commences use of the Deliverable with its customers/clients or fails to deliver a notice of either acceptance or rejection within thirty (30) days of delivery thereof by EVT.

4.2 Failure to Deliver and Rejection. If either (a) EVT fails to deliver any Deliverable on or before the dates specified in the Statement of Work (subject to the grace period provided for in Section 3.2), or (b) any Deliverable required under the Statement of Work fails to meet the Acceptance Criteria after the correction periods specified in Section 4.1 above, then the parties agree that within three (3) business days, the appropriate executives of the respective parties shall meet or hold a conference call and determine the resolution path for delivering a Deliverable that can meet the Acceptance Criteria. In the event that the parties fail to agree upon such a resolution path during such meeting and/or call, COMPANY may, at its option (i) further extend the correction period; (ii) extend the Completion Date, or (iii) terminate the Agreement for breach and obtain the applicable remedy pursuant to Section 8 of the Service Agreement.

5. Changes. From time to time, COMPANY may request that EVT revise the Deliverables. If COMPANY makes a request or a series of requests that materially changes the Deliverables and EVT determines that a change in compensation is warranted, EVT may provide COMPANY with a quote of the change in cost for which it shall undertake the change relating to the Statement of Work ("Interim Rate Quote"). COMPANY may accept or reject any Interim Rate Quote. Any change Quote shall be in writing and signed by both parties.

6. Limited Product Warranty.

6.1 Subject to the limitations and exceptions set forth in this Section 6, EVT warrants for a period of sixty (60) days from acceptance of the completion of installation of a Deliverable, if properly used by COMPANY, will substantially conform to the relevant Specifications. EVT shall have no liability to COMPANY under this warranty, or otherwise, if (i) the Deliverable is installed and used in connection with any computer equipment that is not expressly contemplated by the applicable STATEMENT OF WORK, (ii) the Deliverable has been modified by any party other than EVT; or (c) the failure of the Deliverable to conform to its Specifications can be attributed to causes that are not the responsibility of EVT.

6.2 Nonconforming Deliverable. In the event of nonconformity of a Deliverable, COMPANY shall promptly notify EVT and provide EVT with all available information in written or electronic form to demonstrate any such nonconformity or to assist EVT to reproduce any such nonconformity. EVT's sole obligation is to undertake reasonable efforts to correct a non-conformity so reported to EVT during the warranty period. EVT's SOLE LIABILITY AND COMPANY'S EXCLUSIVE REMEDY WITH RESPECT TO BREACH OF THE FOREGOING LIMITED WARRANTY WILL BE LIMITED TO ERROR CORRECTION OR DELIVERABLE REPLACEMENT, OR IF NEITHER IS, IN EVT'S OPINION, COMMERCIALY FEASIBLE, THEN THE REFUND SPECIFIED IN SECTION 8 SHALL APPLY.

6.3 DISCLAIMER. THE FOREGOING PROVISIONS OF THIS SECTION 6 STATE EVT'S SOLE AND EXCLUSIVE WARRANTY AND SOLE AND EXCLUSIVE OBLIGATION TO COMPANY FOR BREACH OF WARRANTY. EXCEPT FOR THE EXPRESS WARRANTIES STATED IN THIS SECTION 8, EVT MAKES NO ADDITIONAL WARRANTY, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER WHATSOEVER AND ALL WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS ARE EXPRESSLY EXCLUDED.

7. No Obligation/Independent Development. Notwithstanding any other provision of this Agreement, COMPANY shall have no obligation to market, sell or otherwise distribute any Deliverable or technology contained therein provided under this Agreement, either alone or in any COMPANY product. Except as

otherwise provided to the contrary in this Agreement, nothing in this Agreement will be construed as restricting either party's ability to acquire, license, develop, manufacture or distribute for itself, or have others acquire, license, develop, manufacture or distribute for COMPANY, similar Deliverables or technology performing the same or similar functions as the Deliverables or technology contemplated by this Agreement, or to market and distribute such similar Deliverables or technology in addition to, or in lieu of, the Deliverables or technology contemplated by this Agreement.

8. Infringing Deliverable. If EVT believes that the Deliverable furnished hereunder is likely to be found to constitute an infringement or if the Deliverable provided hereunder is found in any action to constitute an infringement and its use is enjoined, EVT shall immediately and at its expense: (a) procure for COMPANY the right to continue use, sale, and marketing of the Deliverable; or (b) replace or modify the Deliverable with a version of the Deliverable that is non-infringing. If (a) or (b) are not available to EVT, EVT shall provide COMPANY a refund in accordance with Section 8 of the Agreement.

9. Ownership of Deliverables.

9.1 Ownership of Pre-Existing Assets. The parties acknowledge that certain Intellectual Property owned by either COMPANY or EVT, which existed prior to the effective date of this Agreement, or was developed independent of any actions under this Agreement ("Pre-Existing Assets"), may be included in the Deliverable. The parties each retain sole ownership of their Pre-Existing Assets, but hereby grant each other a worldwide, royalty-free, non-exclusive license to use their Pre-Existing Assets only in conjunction with the Deliverable during the term of this Agreement. EVT acknowledges that this license is extended to employees, independent contractors, consultants, outsourced workers and interns hired by COMPANY that are performing "work for hire" services for COMPANY in relation to the Deliverable. Unless stated elsewhere in this Agreement, no other rights in or to the parties' Pre-Existing Assets, including but not limited to any right to use them independently of the Deliverable or after termination of this Agreement, are granted or implied.

9.2 Ownership of Intellectual Property in or arising out of the Deliverable. The parties agree that all intellectual property in or arising out of the Deliverables shall be deemed EVT Intellectual Property unless specifically noted otherwise in the applicable Statement of Work. Such ownership shall be identified according to the following ownership classifications.

9.3 COMPANY Intellectual Property ("Client IP"). The Intellectual Property in or arising out of a Statement of Work that is designated as Client IP shall be solely owned by COMPANY. Notwithstanding any other provisions in this Agreement, ClientIP shall include, but not be limited to: Business Requirements, Process Workflow Documents, COMPANY Configuration Requirements.

9.4 EVT Intellectual Property ("EVT IP"). The Intellectual Property in or arising out of any aspect of the Statement of Work shall be solely owned by EVT unless otherwise designated in the applicable Statement of Work for such Deliverable. Notwithstanding any other provisions in this Agreement, EVT IP shall include, but not be limited to: any code changes in Software made by EVT except as otherwise specified in a Statement of Work, all EVT Pre-Existing Assets as defined in the applicable Statement of Work, including clearly specified and defined Tools and/or Utilities, proprietary know how, techniques and databases.

9.5 Definition of Intellectual Property. For the purpose of this Agreement, "Intellectual Property" shall mean all rights, title and interest in and to the Deliverable, including but not limited to the following:

(i) any copyrights that may be possessed or acquired in the Deliverable. All copyrights and equivalent rights in the Deliverable throughout the world, including all renewals and extensions of such rights that may be secured under the laws now or hereafter in force and effect in the U.S. or in any other country or countries;

(ii) all rights in and to any inventions, ideas, designs, concepts, techniques, discoveries, or improvements whether or not patentable, embodied in the Deliverable or developed in the

course of EVT'S delivery of the Deliverable. These rights include, but are not limited to, all trade secrets, utility and design patent rights and equivalent rights in and to such inventions and designs throughout the world regardless of whether or not legal protection for the Deliverable is sought;

(iii) any documents, magnetically or optically encoded media, or other materials created by under this Agreement; and

(iv) the right to sue for infringements that may occur after the effective date of the applicable Statement of Work, and to collect and retain damages resulting from any such infringements.

9.6 Cooperation to Secure Intellectual Property. Notwithstanding any other provision in this Agreement, the ownership of the Intellectual Property in or arising out of the Deliverable shall be in accordance with the above Deliverable ownership classifications, irrespective of which party actually performs the work. The parties shall execute and deliver such instruments and take such other action as may be reasonably requested by one party of another to perfect or protect their rights in the Deliverable and to give effect to the provisions contemplated in this Section. In this regard, the party requesting cooperation will pay the actual expenses incurred by the assisting party. The parties agree to cooperate in the filing and prosecution of any copyright or patent applications that either party may properly elect to file on the Deliverable or inventions and designs relating to the Deliverable.

9.7 Reverse Engineering. Each party agrees not to modify, decompile, disassemble or otherwise reverse engineer Pre-Existing Assets of the other, except as permitted under this Agreement or United States laws.

10. Warranties and Representations. EVT specifically represents that:

(i) The Deliverables will comply with all applicable laws and regulations;

(ii) To the best of EVT's knowledge and belief, the Deliverables as delivered to COMPANY do not infringe any copyright, patent, trade secret, trademark or other proprietary right held by any third party;

(iii) The Deliverables will be created by employees of EVT within the scope of their employment and under written obligation to assign all right, title and interest in the Deliverables to EVT, including, without limitation, the rights enumerated and assigned to COMPANY in Section 7, or with COMPANY'S prior written consent, by independent contractors under written obligation to assign all right, title and interest in the Deliverables to EVT including, without limitation, the rights enumerated and assigned to COMPANY in Section 7 above;

(iv) The Deliverables will either be originally created by EVT, or EVT will obtain all necessary rights to the Deliverables to transfer ownership to COMPANY as may be required by the Statement of Work. Further, EVT will not incorporate in the Deliverables any third party product, software, or other materials for which the intellectual property rights are not owned solely by EVT without the express written permission of COMPANY.

11. Survival of Rights. In the event of termination or expiration of this Agreement for any reason, Sections 6, 8 and 9 hereof shall survive termination.

IN WITNESS WHEREOF, the parties have entered into this Agreement as of the Effective Date written above.

COMPANY: _____ EVT SOLUTIONS, INC.

By: _____ By: _____
(Sign) (Sign)

Name: _____ Name: _____
(Print) (Print)

Title: _____ Title: _____

Date: _____ Date: _____