Standard Terms and Conditions

These Standard Terms and Conditions ("Terms") apply to products sold by TPM, INC. ("Service Provider"), a South Carolina corporation, to the client ("Client"). These Terms, together with any related quote, proposal or purchase order shall constitute the entire agreement (the "Agreement") between the parties. The parties hereby agree as follows:

1. **Products Provided.** The products to be covered by these Terms (each a "Product" or collectively the "Products") are set forth in one or more quotes, proposals or purchase orders between Service Provider and Client. In the event Client chooses to order additional products from Service Provider utilizing Service Provider's website, these Terms, as contained on such website as of the date of such order, shall apply to any such products ordered. These Terms are subject to any additional Hardware Services Agreement, Consulting Agreement, or other agreement(s) (the "Ancillary Agreements") between Service Provider and Client.

2. **Price and Payment.** The price for the Products may be set forth (a) in one or more quotes or proposals, (b) in a purchase order, or (c) on Service Provider's website. The price provided in a quote or proposal is valid for thirty (30) days, unless otherwise provided in such quote or proposal. Client shall be responsible for the cost of shipping any Product(s), if applicable, in addition to the price of such Product(s). If Client has an existing or creates an approved account with Service Provider (an "Account"), Client's Account will be billed monthly for the Products or services provided to date under this Agreement or any Ancillary Agreement with Service Provider. Each payment term is net thirty (30) days, unless otherwise provided in an applicable quote, proposal or purchase order. If Client does not have an existing Account and elects not to open an Account, Client must pay for each Product at the time of such Product's delivery to Client. Payment may be made by cash, cashier's check, wire or credit card. Payments by cash or cashier's check should be remitted to TPM, Inc., P.O. Box 6705, Greenville, South Carolina 29606. Payments made by wiring funds should be routed to Bank Routing Number (ABA) 021052053, Account Number 68436126. Payments made by credit card in excess of One Thousand Five Hundred Dollars ($1,500), excluding tax, shall be assessed a fee equal to three percent (3%) of the payment amount. Failure to pay within the specified terms may, at the option of Service Provider as may be exercised by Service Provider's written notice to Client, result in (i) the imposition of interest charges at 1.5% per month (or the highest charges allowed by law, whichever is lower) and/or (ii) the termination or suspension of Service Provider's obligations under this Agreement and any Ancillary Agreement with Client. All sales and use taxes shall be added to the invoice(s). In the event Client claims exemption from sales and use taxes, Client must provide Service Provider with the appropriate tax exemption certificate from the relevant taxing authority.

3. **Delivery.** Unless otherwise provided in an applicable quote, proposal, or purchase order, delivery of the Products will occur within ten (10) business days of the execution of the Agreement.

4. **Returns.** Client may not return, and Service Provider shall not refund any portion of the purchase price for, a Product purchased pursuant to this Agreement, except to the extent Service Provider, in its sole discretion, allows such return or provides such refund.

5. **Support.** Subject to any limitation provided in an applicable quote, proposal, or purchase order and the term of the Client's license of any Product, Service Provider shall (a) provide Client with access (via the Internet, telephone or other means established by Service Provider) to Service Provider's support helpline, and (b) use reasonable efforts to correct or circumvent any defects in a Product.

6. **Standard Services Rate Schedule.** Professional Services and labor outside standard support or SOW will be billed at the following rate schedule.

(a) Professional Services. CAD Consulting ($200/hr), Solutions Consulting ($250/hr), Advanced Solutions Consulting ($300/hr), After Hours ($375/hr), After Hours On-call ($100/hr).

(b) Hardware Service Technician. Business Hours ($250/hr), After Hours ($375/hr).

(c) Travel. Expenses associated with travel outside of a 30-mile radius of TPM location are excluded and will be charged as a reimbursable expense.

7. **Fees and Taxes.** Client, at its expense, shall pay, discharge, and be responsible for all licensee fees and business, sales, use, or other similar taxes or assessments charged or levied by reason of anything performed under this Agreement, excluding, however, all taxes and assessments applicable to Service Provider's income or applicable to Service Provider's property. If Service Provider is required to remit any fee, tax, or duty on behalf of or for the account of Client, Client will reimburse Service Provider within ten (10) business days after Service Provider notifies Client in writing of such remittance.

8. **Limitation of Liability.** Service Provider's liability under this Agreement is limited to the actual direct damages incurred by Client and shall in no event exceed the

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amount paid for the Products. In no event shall Service Provider be liable for any incidental, consequential, special, indirect, punitive or third party damages or claims, including but not limited to, lost profits, lost savings, lost productivity, loss of data, and loss from interruption of business, even if previously advised of their possibility and regardless of whether the form of action is in contract, tort or otherwise.

9. **Proprietary Rights.** Service Provider does not convey or transfer nor does Client obtain any right or interest in any of the software programs, systems, tools, data or materials or process utilized or provided by Service Provider in connection with the performance of this Agreement. Service Provider grants to Client a perpetual, royalty-free, worldwide right to use the technology imbedded in the Products, subject to any "click through" license agreements required by the software manufacturer or owner. The terms of any such "click through" license agreement are hereby incorporated by reference into this Agreement and Client agrees to be bound by the terms of such "click through" license regardless of whether the Product generating such "click through" license agreement is installed by Service Provider, Client, Client's employee or by an independent contractor.

10. **Client Responsibilities.** Client shall use the Products only on or with equipment and software recommended by Service Provider, or the applicable manufacturers and software providers. Client shall be solely responsible for any software license compliance related to any Products which may be provided by Service Provider.

11. **Miscellaneous.**

(a) <u>Governing Law</u>. This Agreement shall be governed by and construed in accordance with (i) the laws of the State of South Carolina applicable to contracts entered into and to be fully performed therein without regard to choice of law principles, and (ii) in accordance with any applicable federal laws.

(b) <u>No Assignment</u>. Neither party shall assign any of its rights or obligations under this Agreement to anyone without the other's prior written consent.

(c) <u>Entire Agreement</u>. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes any and all prior agreements between the parties with respect to the subject matter hereof.

(d) <u>No Waiver</u>. No waiver by Service Provider or Client of any condition or breach of any term, representation or warranty contained in this Agreement or any document referred to herein shall, whether by conduct or otherwise, be construed as a waiver or release of any other term, representation or warranty at any time.

(e) <u>Dispute Resolution</u>. If there is any dispute or controversy between the parties arising out of or relating to this Agreement, the parties agree that such dispute or controversy will be subject to arbitration in Greenville, South Carolina in accordance with proceedings under the South Carolina Uniform Arbitration Act, and such arbitration will be the exclusive dispute resolution method under this Agreement. The decision and award determined by such arbitration will be final and binding upon both parties. All costs and expenses, including reasonable attorney's fees and expert's fees, of all parties incurred in any dispute that is determined and/or settled by arbitration pursuant to this Agreement will be borne by the party determined to be liable in respect of such dispute; provided, however that if complete liability is not assessed against only one party, the parties will share the total costs in proportion to their respective amounts of liability so determined.

(f) <u>Counterparts; Facsimile and PDF</u>. This Agreement may be executed in one (1) or more counterparts, all of which shall be considered but one and the same agreement, and shall become effective when one (1) or more such counterparts have been signed by each of the parties and delivered to the other party. This Agreement may be executed by facsimile or "pdf" copy with the same binding effect as the original.

(g) <u>Notices</u>. Notices and communications under this Agreement shall be deemed made if given by certified mail, postage prepaid, and addressed to the party to receive such notice, invoice, or communication at the address or electronic mail address given in the signature block below.

(h) <u>Valid Agreement</u>. The invalidity or partial invalidity of any portion of this Agreement shall not invalidate the remainder of the Agreement, and the remainder shall be construed as if the invalidated portion shall never have been a part of this Agreement.

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