

## PROFESSIONAL SERVICE AGREEMENT

These web-based terms and conditions govern the terms of Service unless you (the “Client) have a fully executed a master products and/or services agreement or other like agreement with General Datatech, L.P. (“GDT”). Please complete the information below, print, sign and return to GDT with your order.

### 1. GDT Responsibilities:

1.1. **Services** – GDT will perform the Services contracted for in any mutually agreed upon statement of work (SOW) or purchase order (PO) executed by the parties; Services may include managed services, cloud services, and any other services agreed upon by and between the parties.

### 1.2. Assignment of Rights and Interests:

1.2.1. Each party acknowledges that the other party will own all rights to all data, information, techniques, methodologies and materials, including any patents, patent rights, copyrights, trademarks, trade secret rights and other intellectual property rights embodied therein, that such party owned prior to the commencement of Services (“Pre-existing Intellectual Property Rights”).

1.2.2. The parties agree that any patentable or copyrightable material, trade secret, or other intellectual property rights which are based on, are an improvement on, or which relate to GDT Pre-existing Intellectual Property Rights that may arise out of the performance of the Services, including those set forth in any SOW or PO by GDT (the “Improvements”) shall be the sole and exclusive property of GDT to the extent that such improvements do not contain any proprietary or confidential material of the client.

1.2.3. The parties agree that any patentable or copyrightable material, trade secrets or other intellectual property rights which are based on, are an improvement on, or which directly relate to Client’s Pre-existing Intellectual Property Rights that arise out of the performance of the Services including those set forth in any SOW or PO (“Client’s Related Rights”) shall be the sole and exclusive property of Client.

1.2.4. In the event GDT Pre-existing Intellectual Property Rights or Improvements thereto (collectively “GDT Related Rights”) are incorporated into the Services provided by GDT or are necessary for Client to use such work product, GDT hereby grants a royalty-free, irrevocable, worldwide, nonexclusive, perpetual license to Client to use, disclose, reproduce, sublicense, modify, prepare derivative works from, perform and display GDT Related Rights for the sole purpose of utilizing the Services internally.

1.3. **Invoicing** – GDT shall invoice Client and Client shall make payment within thirty (30) days for Services rendered pursuant to applicable SOW’s or PO’s unless expressly specified otherwise in the SOW. Each invoice will indicate the nature of the Services provided. In addition, GDT will invoice Client and Client shall pay for all other direct, non-labor charges, if any, incurred by GDT. Such charges may include, by illustration, travel, lodging, automobile rental, meals and incidentals, computer time, telephone charges (remote connection to Client’s computer), copy charges, publications (printing, graphics), purchased software, shipping charges, and miscellaneous materials required for GDT to perform the Services.

### 1.4. Warranty, Disclaimer and Exclusive Remedy

1.4.1. GDT warrants that qualified personnel will perform the Services and that the Services will be of the kind and quality described in the respective SOW or PO.

1.4.2. With regard to any Services that are provided to Client by a third party, which are purchased by Client from GDT, including but not limited to cloud services (hereinafter “Third Party Services”), GDT will and does hereby ‘pass through’ to Client any and all warranties offered by such third party that are available for pass through. GDT makes no independent warranty with respect to any such Third Party Services. **CLIENT AGREES TO LOOK SOLELY TO THE THIRD PARTY PROVIDER FOR ITS WARRANTY AND ANY EXCLUSIVE REMEDIES WITH RESPECT TO ANY THIRD PARTY SERVICES PROCURED FROM GDT.**

1.4.3. **OTHER THAN THE WARRANTIES SPECIFICALLY OFFERED HEREIN, NEITHER GDT NOR ITS SUPPLIERS EXTEND ANY WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EITHER TO CLIENT OR TO THIRD PARTIES, FOR ANY SERVICES OR THIRD PARTY SERVICES PROVIDED TO CLIENT. NEITHER GDT NOR ITS SUPPLIERS SHALL BE LIABLE TO CLIENT OR TO ANY THIRD PARTY FOR ANY INTERRUPTION IN SERVICE OF ANY HARDWARE, SOFTWARE OR SYSTEM, OR FOR ANY SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, OR FOR ANY LOSS, DAMAGE, OR EXPENSE DIRECTLY OR INDIRECTLY ARISING FROM THE SERVICES OR THIRD PARTY SERVICES, EITHER SEPARATELY OR IN COMBINATION WITH OTHER SERVICES, OR FOR COMMERCIAL LOSS OF ANY KIND, REGARDLESS OF WHETHER CLIENT OR ITS SUPPLIERS AND AGENTS HAVE BEEN ADVISED OF SUCH POSSIBILITY.**

**1.4.4. IN ALL SITUATIONS INVOLVING PERFORMANCE OR NONPERFORMANCE BY GDT, CLIENT'S SOLE AND EXCLUSIVE REMEDY IS TO (1) REQUIRE RE-PERFORMANCE OF THE SERVICES TO CLIENT'S REASONABLE SATISFACTION; (2) IN THE EVENT RE-PERFORMANCE IS NOT SATISFACTORY BY THIS STANDARD, CLIENT MAY TERMINATE THE APPLICABLE ORDER CLAIMED TO HAVE BEEN BREACHED BY WRITTEN NOTICE TO GDT; AND, (3) IN THE EVENT RE-PERFORMANCE IS NOT SATISFACTORY AND AN ORDER IS TERMINATED, CLIENT MAY RECEIVE A PRO RATA REFUND OF ANY PRE-PAID SERVICE FEES, LESS ANY SUMS DUE AND OWING TO GDT.**

**2. Client Responsibilities:**

2.1. Payment – Client shall pay all amounts invoiced by GDT, regardless of the expiration or termination of any SOW or PO, without right of set-off, within thirty (30) days of the date of the invoice.

2.2. Taxes – The charges by GDT do not include taxes or duties. If GDT is required to pay or collect any federal, state, local, value added, goods and services, or any other similar taxes or duties based on Services provided, then such taxes and/or duties shall be invoiced to and paid by Client, unless a valid exemption certificate is furnished to GDT for the state of use; taxes based on GDT income shall not apply.

2.3. Cooperation – Client agrees that where participation by its own staff is necessary to GDT's provision of the Services (or to the provision of Third Party Services) or any other performance obligations, such staff shall possess the appropriate skills, experience and authority for the tasks assigned to them and shall be available at such times as are agreed by the parties. Client agrees to designate a member of its staff who shall have the authority to represent Client on all technical and staffing matters relating to the Services or Third Party Services to be provided.

2.4 Client will provide GDT with: a) a safe and suitable environment in which to perform its obligations (as applicable), b) full and free use of data communications/telecommunication facilities as necessary to perform such obligations, and c) the right, under Client's license or agreement with each third-party licensor of software utilized by Client, for GDT to perform its obligations with respect to such software. Client shall indemnify and hold harmless GDT from all costs, claims, expenses, damages, and/or liability that GDT incurs as a result of any failure or claimed failure by Client to provide the right referenced in this Section 2.4.

**3. Limitation of Liability & Indemnification:**

**3.1. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THE CUMULATIVE AGGREGATE LIABILITY OF GDT FOR ALL LOSSES, CLAIMS, SUITS, CONTROVERSIES, BREACHES, ATTORNEYS' FEES, OR DAMAGES FOR ANY CAUSE WHATSOEVER AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, UNDER ANY STATUTE, OR OTHERWISE, SHALL BE LIMITED TO THE REPAIR, REPLACEMENT OR CORRECTION OF THE SERVICES OR, IF GDT REASONABLY DETERMINES IN ITS SOLE DISCRETION THAT SUCH REMEDY IS NOT ECONOMICALLY OR TECHNICALLY FEASIBLE, THE AMOUNT PAID BY CLIENT FOR THE SERVICES.**

**3.2. EXCEPT FOR DAMAGES ARISING FROM A BREACH OF CONFIDENTIALITY OBLIGATIONS, IF ANY, IN NO EVENT SHALL GDT OR CLIENT BE LIABLE FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL OR PUNITIVE DAMAGES OF ANY KIND OR NATURE WHATSOEVER, HOWEVER CAUSED AND ON ANY THEORY OF LIABILITY ARISING FROM THE SERVICES GIVING RISE TO THE LIABILITY, INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR GOODWILL OR LOST REVENUES OR LOSS OF RECORDS OR DATA, REGARDLESS OF WHETHER ARISING FROM BREACH OF CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE OR OTHERWISE, EVEN IF GDT OR CLIENT HAS, OR SHOULD HAVE, ANY KNOWLEDGE, ACTUAL OR CONSTRUCTIVE, OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES OR IF SUCH LOSS OR DAMAGE COULD HAVE BEEN REASONABLY FORESEEN.**

**3.3. CLIENT AGREES TO INDEMNIFY AND HOLD HARMLESS GDT, ITS OFFICERS, DIRECTORS, AGENTS AND EMPLOYEES FROM ANY LIABILITY, LOSS OR DAMAGE THEY MAY SUFFER AS A RESULT OF CLAIMS, ACTIONS, DEMANDS, COSTS OR JUDGMENTS AGAINST THEM ARISING OUT OF THE ACTIVITIES TO BE CARRIED OUT BY CLIENT, INCLUDING, BUT NOT LIMITED TO, THE USE BY CLIENT OF THE RESULTS OBTAINED FROM THE ACTIVITIES PERFORMED BY GDT; PROVIDED, HOWEVER, THAT ANY SUCH LIABILITY, LOSS OR DAMAGE RESULTING FROM THE NEGLIGENCE OR WILLFUL MALFEASANCE OF ANY OFFICER, DIRECTOR, AGENT OR EMPLOYEE OF GDT IS EXCLUDED FROM THIS AGREEMENT TO INDEMNIFY AND HOLD HARMLESS.**

**4. General Terms:**

4.1. Client recognizes that GDT has made a substantial investment in recruiting and/or retaining employees, contractors and/or other resources. As such, during the period that GDT is providing Services to Client and for 12 months thereafter, Client agrees that it shall not, directly or indirectly hire or retain for employment (or any other professional relationship, contractor association, etc.) any employee or contractor of GDT who was involved in the Services performed hereunder. If during that time, Client directly or indirectly retains the services (whether as an employee, independent contractor, or otherwise) of any employee or contractor of GDT who was involved in the Services provided or who otherwise provided services for Client on behalf of GDT, Client agrees that GDT will be damaged, but that the amount of this damage will be difficult to determine. Accordingly, Client agrees that for each such GDT employee or other professional hired by Client, Client will pay GDT an amount equivalent to one year of the employee's or other individual's salary or other compensation.

4.2. In performing this Agreement, GDT is acting as an independent contractor and not as an employee or agent of Client. There is no relationship of agency, partnership, joint venture, employment or franchise between the parties. Each party agrees that it has no authority hereunder to assume or create any obligation or responsibility, expressed or implied, on behalf of or in the name of the other party.

4.3. The obligations of either GDT or Client (except Client’s payment obligation) hereunder shall be suspended to the extent that such party is hindered or prevented from complying therewith because of labor disturbances, acts of God, fires, storms, accidents, riot, governmental regulations, or any cause whatsoever not within its control.

4.4. This Agreement shall be construed in accordance with the internal laws of the State of Texas (irrespective of its choice of law principles). If any provision of this Agreement, or the application thereof, shall for any reason and to any extent be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force, and the remainder of this Agreement and the application of such provision to other persons or circumstances shall be interpreted so as to best effect the intent of the parties hereto.

4.5. Any provision which by its nature contemplates performance or observance will survive and will continue in full force and effect. Except for actions for nonpayment, indemnification, or breach of either party’s intellectual property or confidentiality rights, no action, regardless of form, arising out of this Agreement may be brought by either party more than two (2) years after the cause of action has accrued.

4.6. Each party agrees to comply with all relevant laws and regulations of the United States and the country or territory in which the Products are provided, including but not limited to export laws (“Laws”) to assure that neither any deliverable, if any, nor any direct product thereof is: a) exported, directly or indirectly, in violation of Laws, or b) intended to be used for any purposes prohibited by the Laws, including without limitation encryption technology, nuclear, chemical, or biological weapons proliferation.

4.7. Confidentiality – In the course of performing their respective obligations under this Agreement, either party (the “Disclosing Party”) may disclose to the other party (the “Receiving Party”) certain information that the Disclosing Party regards as proprietary and confidential in nature, including but not limited to trade secrets; inventions; innovations; processes; records; business and product processes, methods and customer lists; accounts and procedures; software; products; and, consulting methodologies and specifications owned or licensed by the Disclosing Party and/or used by Disclosing Party in connection with the operation of its business (hereinafter “Proprietary Materials”) that may or may not be licensed under separate agreements. The Receiving Party agrees to safeguard and keep confidential the Proprietary Materials, and to use such Proprietary Materials only internally in the course of the Receiving Party’s business. The Receiving Party will limit the use of, and access to, the Proprietary Materials to the Receiving Party’s employees whose use of, or access to, the Proprietary Materials is necessary for the Receiving Party’s internal business use. The Receiving Party will have in effect, and will enforce, rules and policies designed to protect against unauthorized use or reproduction of the Proprietary Materials and other confidential information, including instruction of and written agreements with the Receiving Party’s employees and contractors to ensure that they use and protect the Proprietary Materials in a manner which protects the Disclosing Party’s proprietary rights. The Receiving Party shall not provide access to the Disclosing Party’s Proprietary Materials to any third party unless such third party has signed a confidentiality agreement with the Disclosing Party. The Receiving Party shall have no obligation of confidentiality with respect to Proprietary Materials that: (i) were rightfully in possession of or known to the Receiving Party without any obligation of confidentiality prior to receiving it from the Disclosing Party; (ii) were, or subsequently become, legally and publicly available without breach of this Agreement; (iii) are rightfully obtained by the Receiving Party from a source other than the Disclosing Party without any obligation of confidentiality; (iv) are developed by or for the Receiving Party without use of the Proprietary Materials and such independent development can be shown by documentary evidence; (v) become available to the Receiving Party by wholly lawful inspection or analysis of products offered for sale; (vi) are transmitted by a party after receiving written notification from the other party that it does not desire to receive any further Proprietary Materials; or (vii) are disclosed by the Receiving Party pursuant to a valid order issued by a court or government agency, provided that the Receiving Party provides the Disclosing Party (a) prior written notice of such obligation and (b) the opportunity to oppose such disclosure or obtain a protective order.

4.8. This Agreement, and the incorporated SOW by and between the parties, as well as GDT invoices, constitute the complete and exclusive agreement about the Service to be provided and supersede all prior communications relating to the subject matter. Additional or conflicting terms of Client PO or other agreement are hereby rejected.

**GDT will begin processing your Service request as detailed in the SOW or PO as referenced in GDT SOW number:  Click or tap here to enter text.) and described in Client’s Purchase Order (“PO”) number  Click or tap here to enter text.) issued on or after your acceptance of these terms and conditions.**

**Client/Company Name and Address:**  Client/Company Name & Address  Click or tap here to enter text.)

**Signature of Duly Authorized Representative:** \_\_\_\_\_

**Print Name & Title:**  Print Name & Titel  Click or tap here to enter text.)

**Acceptance Date:**  Click or tap to enter a date.)