

MASTER SOFTWARE, HARDWARE AND MAINTENANCE AGREEMENT

This **MASTER SOFTWARE, HARDWARE AND MAINTENANCE AGREEMENT** (“**Agreement**”) is entered into as of _____, 201__ (“**Effective Date**”), between Oblong Industries, Inc., a Delaware corporation having a place of business at 923 E. Third St., Unit 111, Los Angeles, CA 90013 (“**Oblong**”), and _____, a _____ corporation having a place of business at _____ (“**Customer**”).

1. INTRODUCTION

1.1 **Agreement.** This Agreement (including any Order Form, Statement of Work or Appendix attached hereto or entered into in connection with this Agreement) establishes the terms under which Customer may use the Software and Hardware, and under which Oblong will maintain the Software and Hardware and provide professional services if requested.

1.2 **Order Forms; Purchase Orders.** The Oblong software and hardware products and components which Customer is authorized to use, the license fees, maintenance fees, professional services fees, and any special terms of this Agreement will be specified in one or more Order Forms signed by both parties and any Statement of Work entered into in connection with this Agreement. If the parties have executed an Order Form, such Order Form represents a binding commitment to purchase the Software, Hardware and/or services described therein, and the issuance of a purchase order by Customer is not necessary for Oblong to bill and collect the fees owed by Customer. The terms of any such Order Form are incorporated herein by reference. If Oblong agrees to provide professional services to Customer, they will be provided pursuant to the terms of a Statement of Work executed by both parties, provided that a Statement of Work shall not be required for installation services. In no event shall any supplemental or inconsistent terms and conditions contained in any purchase order or similar document issued by Customer be binding upon Oblong. Oblong’s delivery of Software, Hardware or services pursuant to such a purchase order or similar document shall not constitute acceptance of, and Oblong hereby rejects, any such terms.

2. DEFINITIONS

2.1 “**Confidential Information**” means the business, technical and financial information belonging to the disclosing party and its licensors, including without limitation, all Software, source code, inventions, algorithms, know-how and ideas and the terms and conditions of this Agreement, that is designated in writing as confidential, or that is disclosed in a manner that a reasonable person would understand the confidentiality of the information disclosed. Confidential Information does not include information that (i) is previously rightfully known to the receiving party without restriction on disclosure, (ii) is or becomes known to the general public, through no act or omission on the part of the receiving party, (iii) is disclosed to the receiving party by a third party without breach of any separate nondisclosure obligation, or (iv) is independently developed by the receiving party.

2.2 “**Documentation**” means any administration guides, installation and user guides, and release notes that are normally provided by Oblong to end users of the Software.

2.3 “**Error**” means a failure of the unmodified Software to operate as described in the Documentation in all material respects, provided that such condition is reported by Customer to Oblong during an annual Maintenance Term and can be verified by both parties. The further definition and classification of Errors is set forth in the Maintenance Appendix.

2.4 “**Hardware**” means any and all hardware specified in an Order Form or purchase order, excluding any Software installed thereon.

2.5 “**Intellectual Property Rights**” means patents, design patents, copyrights, trademarks, Confidential Information, know-how, trade secrets, moral rights, and any other intellectual property rights recognized in any country or jurisdiction in the world.

2.6 “**Maintenance**” means the technical support, Error correction, Hardware and Software maintenance services provided hereunder during any Maintenance Term, as described in the Maintenance Appendix.

2.7 “**Release**” means a major new version of the Software that, in the discretion of Oblong, is represented by a change to the left of the decimal point in the version number of the Software (e.g., x.0 to y.0). Oblong will maintain and support the current Release and one Release below the current release of the Software.

2.8 “**Services**” means installation, customization and other professional services to be performed by Oblong pursuant to an applicable Statement of Work executed by the parties, provided that a Statement of Work shall not be required for installation services.

2.9 “**Software**” means the Oblong products, components and modules identified in an Order Form or purchase order, excluding any Hardware. The term “**Software**” also includes any Error corrections, patches, workarounds, Updates, Upgrades and Releases provided by Oblong to Customer as part of Maintenance or as specified in an applicable Order Form. Error corrections, patches, workarounds, Updates, Upgrades and Releases will be provided on a when and if available basis.

2.10 “**Update**” means an update, enhancement, modification, bug-fix, patch or Error correction, that Oblong makes generally available to end users of the Software to whom Oblong owes a support obligation, but excludes hardware, software or services for which Oblong would generally charge an additional fee. Updates shall be deemed to be Software for purposes of the Agreement.

2.11 “**Upgrade**” means a revision of the Software to improve the existing functionality of the Software. “**Upgrade**” does not include (i) any separately priced product or module offered by Oblong that is not included in an Order Form under this Agreement (i.e., Oblong products that have not been purchased by Customer); (ii) any new, separately priced Oblong product or module released during the term of this Agreement; and (iii) any product or module that provides substantial new functionality not included in the Software previously licensed to Customer.

2.12 “Workaround” means a procedural change, modification or patch for a particular version of the Software, which may be of a temporary or interim nature, to help avoid an Error.

3. LICENSE GRANTS AND RESTRICTIONS

3.1 License. There are no implied licenses under this Agreement and Oblong and its licensors reserve all rights, title and interest in and to the Software not expressly granted to Customer under this Agreement. All Software licensed pursuant to this Agreement is unpublished copyrighted material, constitutes trade secrets and proprietary data of Oblong and is Confidential Information of Oblong. Subject to Customer’s compliance with the terms and conditions of this Agreement, Oblong grants to Customer a perpetual, worldwide, non-exclusive, non-sublicensable, non-transferable (except in connection with a permitted assignment of this Agreement under Section 14.13 of this Agreement) license as set forth herein.

3.2 License to Use Software.

3.2.1 Customer may use the Software only (i) in accordance with the Documentation, (ii) for Customer’s internal business purposes and (iii) on the Hardware purchased from Oblong pursuant to an applicable Order Form.

3.2.2 Customer has no right to receive, use or examine any source code or design documentation relating to the Software.

3.2.3 Customer may make a reasonable number of copies of the Documentation in support of Customer’s authorized use of the Software, provided that Customer does not remove any of Oblong’s proprietary notices from the Documentation.

3.3 Restrictions. Customer will not and will not allow a third party to: (i) decompile, reverse engineer, disassemble or otherwise attempt to derive, analyze or use any source code or underlying ideas or algorithms related to the Software by any means whatsoever (except to the extent that such restrictions are prohibited by applicable statutory law); (ii) remove or alter any product identification, copyright or other notices; (iii) use or allow the use of the Software by or for the benefit of third parties, including without limitation by renting, leasing, lending, timesharing, or using for service bureau purposes; (iv) except as specified in the Documentation provided by Oblong, incorporate into or with other software any part of the Software; (v) collect or disseminate benchmark performance information or analysis for purposes other than internal issue resolution or as requested by Oblong; (vi) reproduce the Software; (vii) sell, distribute, translate or market the Software; (viii) modify or create derivative works based on the Software (except for applications that were developed by Customer as set forth in the Documentation); (ix) install any other software on the Hardware, or modify or use the Hardware for any other purpose not expressly permitted in the Documentation, or install or use the Software installed on the Hardware on any hardware not provided or approved by Oblong; or (x) use the Software outside of any field of use specified in an Order Form. Customer agrees to ensure that there is no breach, compromise or violation, by Customer employees, consultants, or independent contractors, of such obligations and Oblong’s rights and title to the Software. Customer shall be responsible for any breach, compromise or violation of this Agreement by any employees, consultants or independent contractors of Customer.

4. HARDWARE

Oblong will provide to Customer the Hardware, as specified in one or more Order Forms signed by both parties. All shipments of Products purchased or licensed pursuant to this Agreement will be made, (a) for United States domestic addresses, F.O.B. Oblong’s designated facility, and (b) for deliveries to non-United States addresses, EXW Oblong’s designated facility (as defined in Incoterms 2010). Oblong shall prepay all shipping and insurance and will include the charges in Customer’s invoice. If Customer sells Hardware to a third party for any reason, Customer must delete all Software and any other products or software from the Hardware prior to sale to the third party.

5. INSTALLATION & SITE PREPARATION

Installation Services are not included in the purchase price unless otherwise indicated on the one or more Order Forms signed by both parties. Oblong will use commercially reasonable efforts to provide installation services if applicable. Customer shall have the responsibility (even if installation services are to be provided by Oblong) to prepare the site environmentally and provide the required services, power, Internet connectivity, HVAC, permits, licenses, equipment to move and unpack the Hardware and the like. Failure to provide such site preparation services will result in a service charge by Oblong at its standard hourly rates to cover lost time of its service personnel. Customer shall maintain its premises in a safe condition and comply with all applicable laws, statutes and regulations governing workplace health and safety. Oblong shall not indemnify or hold Customer harmless from any liability that Customer may incur as a result of Oblong’s installation services.

6. LIMITED WARRANTY & DISCLAIMER

6.1 Limited Warranty. Oblong warrants to Customer that: (i) the Software and Hardware will materially perform in accordance with the applicable Documentation for thirty (30) days after initial delivery to Customer; (ii) any Services performed by Oblong hereunder will be performed in a workman-like manner, in accordance with general industry standards; and (iii) the Software as delivered by Oblong does not contain any Trojan horses, worms, or undocumented disabling devices.

6.2 Exclusions. Oblong’s warranties in this Section 6 shall not extend to problems that result from: (i) Customer’s failure to implement all Updates issued by Oblong during the warranty period; (ii) any alterations or additions to the Software not performed by or at the direction of Oblong; (iii) the relocation, movement or modification of any fixed component of the Hardware by any party other than Oblong; (iv) failures in operation of the Software that are not reproducible by Oblong; (v) Software operated in violation of this Agreement or not in accordance with Documentation therefor or applicable Order Form; or (vi) failures which are caused by Customer’s software or other software, hardware or products not licensed or provided hereunder. Any work performed by Oblong as a result of these exclusions will be pursuant to a Statement of Work executed by both parties.

6.3 **Remedies.** For any Software or Services not in conformance with this Section 6, Oblong will, at its discretion and cost, either repair, replace or reperform the Software or Service, as applicable. This is Customer's exclusive remedy, and Oblong's sole liability arising in connection with the limited warranties herein.

6.4 **Disclaimer.** EXCEPT AS OTHERWISE STATED HEREIN, NEITHER OBLONG NOR ITS SUPPLIERS MAKE ANY OTHER WARRANTIES, AND HEREBY DISCLAIM ALL OTHER WARRANTIES, EXPRESS, IMPLIED, OR STATUTORY, INCLUDING BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT, REGARDING THE USE AND RESULTS OF THE TECHNOLOGY, OR THAT USE WILL BE UNINTERRUPTED OR ERROR-FREE, AND ALL WARRANTIES ARISING OUT OF COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE IN TRADE.

7. OWNERSHIP

7.1 **Oblong Ownership of Software.** Oblong and its licensors retain all rights, title, and interest, and all Intellectual Property Rights, in the Software and Documentation, including any modifications, enhancements maintenance releases, Error corrections, patches, Releases, Workarounds, Updates and Upgrades thereto. Oblong will own all Intellectual Property Rights in any deliverables or work product prepared in connection with any professional services engagement, unless otherwise specified in an applicable Statement of Work (the "Deliverables"). Oblong agrees to grant to Customer a royalty-free, non-exclusive, worldwide, perpetual license, under any copyrights in the Deliverables, solely for Customer's internal use, or use by a third party on Customer's behalf solely in connection with the Software.

7.2 **Customer Ownership of Customer Materials.** Customer will retain ownership of all right, title and interest, and all Intellectual Property Rights, to any data, software, Confidential Information or other material created by or for Customer by a third party (other than Oblong or its contractors) prior to or apart from this Agreement (the "Customer Materials").

7.3 **Third Party Software.** Customer's license to third party software that is installed on, embedded within or used in connection with its Software or Hardware (operating systems and the like) will be governed exclusively by the terms of the separate software license agreements of the third party, and such licenses will be shipped with the Software or Hardware.

8. PAYMENT

8.1 **License and Maintenance Fees; Due Date.** License and Maintenance fees for Order Form(s) are invoiced on the shipping date. Annual Maintenance fees are due annually in advance no later than the renewal of the Maintenance Term as specified in Section 9.2 below.

8.2 **Services Fees.** The fees for the Services shall be set forth in the Order Form(s) or Statement(s) of Work, provided that a Statement of Work shall not be required for installation services. If the scope of Services changes from what is defined in an Order Form or Statement of Work, Customer will be billed on a time and materials basis at the then current Oblong daily rates. Unless otherwise provided in an Order Form or Statement of Work, Customer will reimburse Oblong for Travel Expenses and all direct and out-of-pocket expenses reasonably and actually incurred by Oblong in connection with the provision of the professional and education services. "Travel Expenses" include all out-of-pocket expenses reasonably and necessarily incurred by Oblong when providing Services to Customer. Oblong will comply with Customer's reasonable travel policy if it is made available to Oblong in writing prior to the Effective Date. For fixed-price charges (including for professional services, training and/or expense reimbursement charges), Oblong will invoice Customer 50% of the charge upon execution of the Order Form or Statement of Work and 50% upon completion of the Services, unless otherwise agreed therein. Services rendered on a time and materials basis will be invoiced monthly in arrears at the then current Oblong daily rates.

8.3 **Payment Terms and Interest.** All invoices are payable net thirty (30) days after the invoice date. Without limiting any other remedies, payments received later than thirty (30) days after the invoice date will accrue late charges at a rate of one and one-half percent (1.5%) per month, or the maximum rate allowed under law, whichever is lower, until the date paid.

8.4 **Taxes.** Fees are exclusive of all taxes, levies or duties, and Customer will be responsible for payment of such taxes, levies or duties, excluding only U.S. taxes based solely upon Oblong's income. If Oblong has the legal obligation to pay or collect taxes for which Customer is responsible pursuant to this Section 8.4, Oblong will invoice the amount of such taxes to Customer, and Customer agrees to pay such amount, unless Customer provides Oblong a valid tax exemption certificate authorized by the appropriate taxing authority.

8.5 **Currency.** Unless otherwise specified in an Order Form or purchase order, all fees are payable in U.S. Dollars.

9. TERM AND TERMINATION

9.1 **License Term.** Subject to Section 9.3, the term of all licenses granted hereunder will be perpetual.

9.2 **Maintenance Terms.** The "Maintenance Term" shall be one (1) year from the initial shipping date under the initial Order Form, unless a different period is specified on the initial Order Form. Thereafter, Maintenance services will automatically renew for successive periods of one (1) year, at Oblong's then-current fees, unless either party gives written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current Maintenance Term. If Customer purchases additional Software or Hardware from Oblong during the first six (6) months of a Maintenance Term, then Customer must purchase Maintenance associated with the additional products and the term and fees for such additional Maintenance will be prorated so that all annual Maintenance expires on the same date; if Customer purchases additional Software or Hardware from Oblong after the first six (6) months of a Maintenance Term, then Customer must purchase Maintenance associated with the additional products and the terms and fees for such additional Maintenance shall extend for the remainder of the then-current Maintenance Term, plus an additional twelve (12) months, so that the Maintenance Term for such products renews with the Maintenance Term for the original Hardware and Software. For example, if the original purchase was concluded on January 1, 2013 and a subsequent purchase on March 1, 2013, the initial Maintenance Term for the March 1, 2013 purchase would end on January 1, 2014. If additional Hardware and Software were purchased on July 1, 2013, then the initial Maintenance Term for such purchase shall begin on July 1, 2013 and end on January 1, 2015. The Maintenance Term is subject to any earlier termination under Section 9.3.

9.3 **Hardware Maintenance Term.** After three (3) years from the applicable initial shipping date pursuant to the first Order Form for the particular Hardware component ("**Hardware Maintenance Term**"), Customer must purchase replacement Hardware from Oblong in the event of a failure of such Hardware.

9.4 **Termination.** Either party may terminate this Agreement immediately on written notice and the licenses granted hereunder if the other party (i) becomes insolvent and becomes unwilling or unable to meet its obligations under this Agreement, (ii) files a petition in bankruptcy, (iii) is subject to the filing of an involuntary petition for bankruptcy which is not rescinded within a period of forty-five (45) days, (iv) fails to cure a material breach of any material term or condition of this Agreement within thirty (30) days of receipt of written notice specifying such breach, or (v) materially breaches its obligations of confidentiality hereunder.

9.5 **Effects of Termination.** Upon termination of this Agreement for any reason, any amounts owed to Oblong under this Agreement before such termination will be immediately due and payable. If the termination was made by Oblong based upon the provisions of Section 9.4, all licensed rights granted in this Agreement will immediately cease, and Customer will promptly discontinue all use of the Software and Documentation, erase all copies of the Software from the Hardware, and return to Oblong or destroy all copies of the Software, Documentation and any other Oblong Confidential Information on tangible media in Customer's possession or control and certify in writing to Oblong that it has fully complied with these requirements.

9.6 **Survival.** The following provisions of this Agreement will remain in effect following the expiration or termination of this Agreement for any reason: 6.4 (Disclaimer), 7 (Ownership), 8 (Payment), 9.5 (Effects of Termination), 9.6 (Survival), 10 (Limitations of Liability), 11 (Indemnification), 12 (Confidentiality) and 14 (General).

10. LIMITATIONS OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, OBLONG AND ITS SUPPLIERS WILL NOT BE LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT, UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR (I) ANY AMOUNTS IN EXCESS, IN THE AGGREGATE, OF THE FEES PAID BY CUSTOMER HEREUNDER; (II) ANY INDIRECT, INCIDENTAL, EXEMPLARY, SPECIAL, RELIANCE OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS; (III) COST OF PROCUREMENT OF SUBSTITUTE GOODS, TECHNOLOGY OR SERVICES; (IV) LOSS, INACCURACY, OR CORRUPTION OF DATA OR INTERRUPTION OF USE; OR (V) ANY MATTER BEYOND ITS REASONABLE CONTROL. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING THE FAILURE OF THE ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

11. INDEMNIFICATION

11.1 **Indemnity.** Oblong will defend, indemnify and hold Customer harmless against any third party claims, liabilities or expenses incurred (including reasonable attorneys' fees), as well as amounts finally awarded in a settlement or by a court arising from any claim or allegation by a third party that the Software infringes or misappropriates a valid United States patent, copyright or trade secret right of a third party; *provided* that Customer gives Oblong: (i) prompt written notice of any such claim or allegation; (ii) control of the defense and settlement thereof; and (iii) reasonable assistance in such defense or settlement. If any Software becomes or, in Oblong's opinion, is likely to become the subject of an injunction, Oblong may, at its option, (a) procure for Customer the right to continue using such Software, (b) replace or modify such Software so that it becomes non-infringing without substantially compromising its functionality, or, if (a) and (b) are not reasonably available to Oblong, then (c) terminate Customer's license to the allegedly infringing Software and refund to Customer the Customer Fees actually paid for such infringing Software, depreciated on a straight-line basis over three (3) years. The foregoing states the entire liability of Oblong with respect to infringement of patents, copyrights, trade secrets or other intellectual property rights.

11.2 **Exclusions.** The foregoing obligations shall not apply to: (i) Software modified by any party other than Oblong, if the alleged infringement relates to such modification, (ii) Software combined or bundled with any non-Oblong products, processes or materials where the alleged infringement relates to such combination, (iii) the use of a version of the Software other than the version that was current at the time of such use, as long as Oblong shall have provided Customer with such non-infringing version, (iv) Software created to the specifications of Customer; or (v) infringement or misappropriation of any proprietary right in which Customer has an interest. Customer will defend, indemnify and hold Oblong harmless against any costs, claims, damages or expenses incurred (including reasonable attorneys' fees), as well as amounts finally awarded in a settlement or by a court arising from any such claim or allegation, subject to conditions reciprocal to those in Section 11.1.

12. CONFIDENTIALITY

Except as expressly and unambiguously allowed herein, the receiving party will hold in confidence and not use or disclose any Confidential Information and shall similarly bind its employees, consultants, independent contractors and clients in writing. Upon the expiration or termination of this Agreement, all of the Confidential Information (including any copies) will be returned to the disclosing party, and receiving party will make no further use of such materials. If required by law, the receiving party may disclose Confidential Information of the disclosing party, but will give adequate prior notice of such disclosure to the disclosing party to permit the disclosing party to intervene and to request protective orders or other confidential treatment thereof.

13. EXPORT

The Software, Hardware and related technical data may be subject to U.S. export control laws, including without limitation the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Customer shall comply with all such regulations and agrees to obtain all necessary licenses to export, re-export, or import the Software and related technical data.

14. GENERAL

14.1 No Agency. Oblong and Customer each acknowledge and agree that the relationship established by this Agreement is that of independent contractors, and nothing contained in this Agreement shall be construed to: (i) give either party the power to direct or control the day-to-day activities of the other; (ii) deem the parties to be acting as partners, joint venturers, co-owners or otherwise as participants in a joint undertaking; or (iii) permit either party or any of either party's officers, directors, employees, agents or representatives to create or assume any obligation on behalf of or for the account of the other party for any purpose whatsoever.

14.2 Compliance with Laws. Each party agrees to comply with all applicable laws, regulations, and ordinances relating to their performance hereunder. Without limiting the foregoing, Customer warrants and covenants that it will comply with all then current laws and regulations of the United States and other jurisdictions relating or applicable to Customer's use of the Software including, without limitation, those concerning Intellectual Property Rights, invasion of privacy, defamation, and the import and export of software.

14.3 Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, labor conditions, earthquakes, material shortages or any other cause which is beyond the reasonable control of such party.

14.4 Notices. Any notice required or permitted hereunder shall be in writing in English and shall be delivered as follows (with notice deemed given as indicated): (i) by personal delivery when delivered personally; (ii) by established overnight courier upon written verification of receipt; (iii) by facsimile transmission when receipt is confirmed orally; (iv) by certified or registered mail, return receipt requested, upon verification of receipt; or (v) via email with verified receipt. Either party may change its contact person for notices and/or address for notice by means of notice to the other party given in accordance with this Section. Notices shall be sent to the addresses set forth on the signature page hereto.

14.5 Confirmations. Upon request by Oblong, Customer agrees to reasonably cooperate with Oblong's auditors to confirm Customer's compliance with the terms and conditions of this Agreement and any associated Order Form(s) and Statement(s) of Work.

14.6 Marketing; Publicity. Customer agrees to allow Oblong to state that the Customer is a customer on its website and marketing materials. Oblong may issue press releases, white papers and case studies in text and video that references the Customer and its license of the Software, subject to the Customer's prior review and written approval.

14.7 Governing Law; Venue and Jurisdiction. This Agreement shall be interpreted according to the laws of California without regard to or application of choice-of-law rules or principles. The parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in Los Angeles, CA and the parties hereby consent to the personal jurisdiction and venue therein.

14.8 Injunctive Relief. The parties agree that monetary damages would not be an adequate remedy for the breach of certain provisions of the Agreement, including, without limitation, all provisions concerning infringement, confidentiality and nondisclosure, or limitation on permitted use of the Software. The parties further agree that, in the event of such breach, injunctive relief would be necessary to prevent irreparable injury. Accordingly, either party shall have the right to seek injunctive relief or similar equitable remedies to enforce such party's rights under the pertinent provisions of the Agreement, without limiting its right to pursue any other legal remedies available to it.

14.9 Entire Agreement and Waiver. This Agreement and any schedules or appendices hereto, as well as all Order Forms and Statements of Work executed by both parties and referencing this Agreement, shall constitute the entire agreement and contains all terms and conditions between Oblong and Customer with respect to the subject matter hereof and all prior agreements, representations, and statement with respect to such subject matter are superseded hereby. The terms of this Agreement shall control in the event of any inconsistency with the terms of any Order Form, Statement of Work, schedule or appendix. This Agreement may be changed only by written agreement signed by authorized representatives of both Oblong and Customer. No failure of either party to exercise or enforce any of its rights under this Agreement shall act as a waiver of subsequent breaches; and the waiver of any breach shall not act as a waiver of subsequent breaches.

14.10 Severability. In the event any provision of this Agreement is held by a court or other tribunal of competent jurisdiction to be unenforceable, that provision will be enforced to the maximum extent permissible under applicable law, and the other provisions of this Agreement will remain in full force and effect. The parties further agree that in the event such provision is an essential part of this Agreement, they will begin negotiations for a suitable replacement provision.

14.11 Counterparts. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered (including by facsimile or electronic transmission), shall be deemed an original, and all of which shall constitute the same agreement.

14.12 Binding Effect. This Agreement shall be binding upon and shall inure to the benefit of the respective parties hereto, their respective successors and permitted assigns.

14.13 Assignment. Neither party may, without the prior written consent of the other party (which shall not be unreasonably be withheld), assign this Agreement, in whole or in part, either voluntarily or by operation of law, and any attempt to do so shall be a material default of this Agreement and shall be void. Notwithstanding the foregoing, a party may assign its rights and benefits and delegate its duties and obligations under this Agreement without the consent of the other party (i) if necessary to satisfy the rules, regulations and/or orders of any federal, state or local governmental agency or body or (ii) in connection with a merger, reorganization or sale of all or substantially all relevant assets of the assigning party to which this Agreement relates; in each case provided that such successor assumes the assigning party's obligations under this Agreement.

14.14 United States Government Users. If a user or licensee of the Software is an agency, department, or other entity of the United States Government ("Government"), the use, duplication, reproduction, release, modification, disclosure or transfer of the Software, or any related documentation of any kind, including technical data or manuals, is restricted in accordance with Federal Acquisition Regulation 12.212 for civilian agencies and Defense Federal Acquisition Regulation 227.7202 for military agencies. The Software is commercial

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computer software and the related documentation is commercial computer software documentation. The use of the Software and related documentation is further restricted in accordance with the terms of this Agreement, and any modification hereto.

[SIGNATURE PAGE FOLLOWS]



AGREED AND ACCEPTED:

CUSTOMER

OBLONG INDUSTRIES, INC.

Authorized Signature

Authorized Signature

Name

Name

Title

Title

Date

Date

Names and Addresses for Notices to Customer:

Fax: _____
Email: _____

Names and Addresses for Notices to Oblong:

923 E. Third St., Unit 111
Los Angeles, CA 90013
Fax: 213-683-8482
Email: legal@oblong.com

APPENDICES:

Maintenance Appendix

MAINTENANCE APPENDIX

This Maintenance Appendix details Oblong's Software and Hardware Maintenance services.

1. Definitions. Capitalized terms used in this Maintenance Appendix and not otherwise defined shall have the respective meaning assigned thereto in the Agreement.

1.1. "Authorized Contact" has the meaning assigned thereto in Section 2.6(e) of this Maintenance Appendix.

1.2. "Error" means a failure of the unmodified Software to operate as described in the Documentation in all material respects, provided that such condition is reported by Customer to Oblong during an annual Maintenance Term and can be verified by both parties.

1.3. "Fix" means the repair or replacement of object or executable code within the Software to remedy an Error.

1.4. "Maintenance" means (a) the provision of Updates related to the Software (when and if available); (b) assistance by telephone or internet with respect to the use of the Software and Hardware including without limitation (i) clarification of functions and features of the Software and Hardware, (ii) clarification of the Documentation, and/or (iii) guidance in the operation of the Software and Hardware; and (c) Error verification, analysis and correction.

1.5. "Priority 1": means that the Software or Hardware is inoperable.

1.6. "Priority 2": means a problem with the Software or Hardware that causes a serious disruption but operations can continue in a degraded fashion.

1.7. "Priority 3": means a non-critical problem in the Software or Hardware where Customer is able to continue to use the Software or Hardware and a Workaround is available and/or there is limited operational impact.

1.8. "Priority 4": means a non-Priority 1, 2 or 3 condition.

1.9. "Service Hours" means 8:00 a.m. to 6:00 p.m. Pacific time, Monday through Friday, excluding U.S. Federal holidays.

1.10. "Support Call" means a telephone call, email or website notification from Customer to Oblong in respect of a Priority 1, Priority 2, Priority 3 or Priority 4 problem.

1.11. "Support Reply Time" means the elapsed time during Service Hours between the receipt of a Support Call and the target time within which Oblong begins Maintenance as verified by a verbal or email confirmation to Customer.

2. Maintenance Services. For so long as Customer is current in payment of all Maintenance fees and subject to the terms and conditions of the Agreement, Customer will receive support as specified herein.

2.1. Customer Support Center. Oblong shall receive Support Calls from an Authorized Contact and assign a priority level to the request during Service Hours.

2.2. Support Call Logging. Oblong shall acknowledge receipt of Support Calls by telephone or the same method that the Support Call was received with a tracking number within the Support Reply Times.

2.3. Support Reply Times. Support for the Software is available during Service Hours with the following Support Reply Times:

Priority	Support Reply Time
Priority 1	120 minutes
Priority 2	4 hours
Priority 3	24 hours
Priority 4	48 hours

Where Oblong does not acknowledge receipt of a Support Call within the applicable Support Response Times, the following escalation contact protocol shall apply:

Priority	Support Reply Time Elapsed	Escalation Contact
Priority 1	120 minutes	Service Director
Priority 1	180 minutes	Sr. Vice President
Priority 1	240 minutes	President & CEO

Priority 2 escalation contacts will be based on 4 hour increments.

2.4. Response. Following acknowledgement by Oblong in response to a Support Call in respect of a Priority 1 problem, Oblong will use commercially reasonable efforts to provide Customer with a Workaround or Fix as soon as reasonably practicable, provided that Customer makes its Authorized Contacts available on-site to assist in problem resolution. Following acknowledgement of a Priority 2 or 3 problem, Oblong will work using commercially reasonable efforts during Service Hours to provide Customer with a Workaround or Fix. Following acknowledgement of a Priority 4 problem, Oblong will use reasonable commercial efforts to incorporate any necessary changes with the next release of the Software, or provide a Fix or Workaround thereto, in its sole discretion.

2.5. Exclusions. If Oblong believes that a problem reported by Customer may not be due to an Error in the Software or Hardware, Oblong will so notify Customer. Support does not include services requested as a result of, or with respect to, causes which are not attributable to Oblong or the Software and/or Hardware ("Excluded Services"). Excluded Services will be billed to Customer at Oblong's then-current rates. Causes which are not attributable to Oblong or the Software and/or Hardware include, but are not limited to: (i) modifications made by or at the direction of Customer, other than modifications made by Oblong, to its operating environment, third

party software or hardware that adversely affects the Software; (ii) any alterations or additions to the Software or Hardware not performed by Oblong; (iii) failures in operation of the Software that are not reproducible in standalone form; (iv) Software or Hardware that is otherwise operated in violation of this Agreement or other than in accordance with the Documentation therefor; (v) failures which are caused by Customer or Customer's software or other software, hardware or products not licensed hereunder; or (vi) failures in Customer's software or software, hardware or products not licensed hereunder.

2.6. Customer Responsibilities. Oblong's provision of Maintenance to Customer is subject to the following.

- (a) Customer is responsible for providing sufficient information and data to allow Oblong to readily reproduce all reported Errors.
- (b) Customer shall provide Oblong with necessary access to the Software and Hardware, personnel and equipment during Service Hours. This access includes the ability to remotely access the Software and Hardware, subject to Customer's security procedures.
- (c) Customer shall document and promptly report all detected Errors to Oblong. At Oblong's direction, Customer shall take all steps necessary to carry out procedures for the rectification of Errors within a reasonable time after such procedures have been received from Oblong.
- (d) Customer shall properly train its personnel in the use and application of the Software or Hardware.
- (e) Customer shall appoint a reasonable number of trained individuals to serve as primary contacts between Customer and Oblong regarding the registry and report of Support Calls (each an "Authorized Contact"). All of Customer's Support Calls and Maintenance inquiries shall be initialized through the Authorized Contacts.

3. Hardware Repair and Replacement Services. During the Hardware Maintenance Term, Oblong shall use reasonable commercial efforts to provide hardware Support for the Hardware as follows:

3.1. Scope. The support services that Oblong agrees to provide are repair services which are necessary because of any defect which exists in materials or workmanship in the Hardware and components of the Hardware.

3.2. Return. If Oblong's support personnel determine that the reported issue is related to Hardware failure, Customer shall ship the failed Hardware to the address specified by Oblong support personnel within three (3) days from receipt of the replacement Hardware.

3.3. Repair. Oblong will use its reasonable commercial efforts to repair or replace failed Hardware within three (3) business days from the date of the specific determination of the problem. Oblong reserves the right in its discretion to include in the repaired Hardware embedded software that is upgraded, modified, or different and hardware components that may be new, repaired, or refurbished, provided that the repaired Hardware will have the same compatibility as the failed Hardware and will offer the same functionality as the failed Hardware did when purchased by Customer.

3.4. Customer Replaceable/ Repairable Parts. Oblong will from time to time designate certain parts as Customer replaceable/repairable. In the event of a failure of such designated part, Oblong will provide the processes and procedures for Customer-performed replacements or repairs. For parts that fail that are not designated Customer replaceable/repairable, Oblong (or its designated agent) will provide and install the replacement parts.

3.5. Support Not Covered. Hardware Maintenance does not include services requested as a result of, or with respect to, causes which are not attributable to Oblong or the Hardware ("Excluded Services"), including without limitation: (i) modification, alteration, customization or additions to any Hardware, including software installation, which is not approved by Oblong; (ii) damage to the Hardware arising out of accident, misuse, abuse, negligence, misapplication, or willful acts of Customer or any third party; (iii) failure to provide the appropriate technical environment (such as correct voltage, fusing, air conditioning, surge protection, etc.); (iv) restoring data to or preserving data on a returned Hardware; (v) preventive maintenance services, installation, deinstallation, relocation services, or operating supplies; or (vi) installation, de-installation, change of location or other alterations to the location of the Hardware conducted by any party other than Oblong or its authorized contractors. Excluded Services will be billed to Customer at Oblong's then-current rates.

THIS MAINTENANCE APPENDIX DEFINES A SERVICE ARRANGEMENT AND NOT A PRODUCT WARRANTY. THE SOFTWARE, HARDWARE AND MATERIALS AND SERVICES RELATED THERETO ARE SUBJECT EXCLUSIVELY TO THE WARRANTIES SET FORTH IN THE AGREEMENT. THIS MAINTENANCE APPENDIX DOES NOT CHANGE OR SUPERSEDE ANY TERM OF ANY SUCH AGREEMENT.