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MSA Review Legal Fee Notification

This document covers all engagements with North Shore Automation unless another mutually agreed upon document is in place. North Shore charges a minimum of \$5,000 to negotiate and draft a client-specific MSA. Please contact NSA sales or your reseller for more information.

End-User License Agreements

[Akomi EULA](#)

[Middleware EULA](#)

Dhub EULA - in progress

North Shore Software Support Agreements

<http://kb.northshoreautomation.com/licenses-agreements/north-shore-middleware-support-agreement>

Service Levels

Service Offerings

- Deployment
- Telephone support
- Email support
- Planned or emergency remote assistance using remote access (extra costs may apply)
- Planned or emergency onsite assistance (extra costs will apply)

Service Availability

- **Deployment**
 - North Shore will deliver deployments via remote access unless specifically specified in project scope of work
 - Between 9:00 AM and 6:00 PM Pacific Time
 - Monday - Friday, not including national holidays
 - Deployments must be scheduled at least 48 hours in advance

- **Telephone and Email support**
 - Between 9:00 AM and 6:00 PM Pacific Time
 - Monday - Friday, not including national holidays
 - Calls and emails received outside these times will be answered by a recording, and will be returned on the next business day
- **Remote assistance**
 - Between 9:00 AM and 6:00 PM Pacific Time
 - Monday - Friday, not including national holidays
- **Onsite assistance**
 - Between 9:00 AM and 6:00 PM
 - Monday - Friday, not including national holidays
 - Southern CA Onsite assistance must be scheduled at least 72 hours in advance
 - Onsite beyond Southern CA requires 2 weeks advance notice

Response Times

- High priority: within four (4) business hours
 - Client unable to perform critical editorial or production functions
 - Client on deadline or needs priority schedule to coordinate with onsite IT or other coordinated response
 - *Note: This is rare as DAM is typically not a mission critical system that would prevent operations*
- Standard priority: within one (1) business day
 - Training, software update, customization request, or other non-critical configuration changes during average work/caseload periods
 - *Note: Most common support scenario*
 - During times of heavy caseload, with agreement from the client, we may schedule the tech response during the next business day
- Low priority: within five (5) business days
 - Training, software update, customization request, or other non-critical configuration changes

Maintenance/Upgrades

- North Shore will provide system and software updates or upgrades upon request
 - This includes OS, VM (if any), and applications
 - This will be billed against support time block
- North Shore is not responsible for any problems that arise subsequent to system and software updates or upgrades performed by client without notification and North Shore's prior written acknowledgement/approval of the upgrade

Billing Practices

- All hourly North Shore support work, unless stated otherwise in a statement of work or contract, is billed at \$275 per hour
- Standard phone, email, and remote assistance is billed in 15 minute increments
- After-hours phone, email, and remote assistance is billed in 30 minute increments
- Onsite assistance within 150 miles of Los Angeles is billed in 2 hour increments
- Onsite assistance more than 150 miles of Los Angeles is billed in 4 hour increments
- Onsite assistance between 6:00 PM and 12:00 AM is billed at 1.5x the normal rate
- Onsite assistance between 12:00 AM and 7:00 AM is billed at 2x the normal rate

Travel

- Travel within 150 miles of Los Angeles will be billed at 0.5x the normal rate
- Travel more than 150 miles from Los Angeles will incur a 4-hour charge
- Reimbursable travel expenses will be submitted for prior written approval, and include:
 - Airfare
 - Airport transportation
 - (or mileage at \$ 0.55 per mile)
 - Hotel (3-4 star business hotel)
 - \$50 per day meal allowance

Deployment Service & Support Practices

1. General Installation Requirements

1. North Shore requires remote access to all systems during deployments (e.g. CatDV Server, CatDV Worker Node, and VM host server)
 - a. Client is responsible for managing this process
 - i. Remote access may be disabled after deployment is complete
 - b. North Shore recommends Teamviewer access to the server(s)
 - i. If that is not available, access via VPN and VNC is acceptable but must be configured by client IT staff
 - c. If client cannot support secure access on its network, North Shore can configure server hardware outside the client's firewall or in an alternate location (e.g. Reseller office/lab) but testing will be compromised
 - i. If onsite installation is required due to security or other restrictions, travel expenses and minimums will apply and will be quoted separately
2. North Shore will need administrator credentials for all systems during the deployment (e.g. CatDV Server, CatDV Worker Node, and VM host server)
 - a. The administrator credentials may be revoked after deployment is complete
3. All network and storage components should be installed, tested, and running without issue before deployment begins
 - a. North Shore does not provide storage or networking, consulting, configuration, or administration services

2. NSA Dhub, Akomi, and Middleware Support Requirements

1. Annual Support and Maintenance is required on all systems
 - a. Technical Support/After-Care is provided for Dhub, Akomi, and middleware applications as part of the yearly support and maintenance contract for this product
 - b. Support and Maintenance is purchased annually in advance from your dealer
 - i. North Shore provides email and phone support, troubleshooting or workflow assistance after the completion of projects through a ticket system at support@northshoreautomation.com or via emails sent to support@northshoreautomation.com
 - c. For details on Middleware Support Contracts please go to:
 - i. <http://kb.northshoreautomation.com/licenses-agreements/north-shore-middleware-support-agreement>

Technical Limitations and Exclusions

General Technical Exclusions & Limitations

1. No Virtual Machine (VM) host server system design/configuration services are included in any NSA integration
 - a. North Shore assumes that all VM host server configuration will be performed by approved client or reseller technicians
 - b. North Shore cannot configure or modify a VM host server or account in any way
 - c. North Shore is not responsible for limitations or bugs in the VM host server OS/Hypervisor, or any other third party software/system used with North Shore applications or workflows
 - d. VMs deployed by NSA are considered the property of the client and are delivered with no on-going management or administration services provided. System updates, backup operations and security are the sole responsibility of the client
2. VM administration
 - a. Client is responsible for administration of the hardware and software that the North Shore VM(s) run on
 - b. North Shore can provide recommendations for VM hardware, OS, and applications, but is not responsible for selection, deployment, configuration, performance, or administration
3. VM Performance
 - a. North Shore is not responsible for VM performance issues caused by a network or device failure external to our VM, including at #client hardware, software, networking, inadequate bandwidth or related to third-party software or services
 - b. North Shore is not responsible for VM performance issues if client does not configure related hardware, software, or networking as advised by North Shore
 - c. No network design or configuration is included, unless specified in the applicable PO and SOW

4. All systems used by the application and workflow require unrestricted access to each other
 - a. If firewalls or port blocking are required, they should only be enabled after this integration is complete
 - b. Any network related issues or errors resulting from these restrictions are the responsibility of client
5. Software updates or configuration changes are not included
 - a. This installation is supported only on the OS and application versions present on the host system at the time of installation
 - b. Any software or hardware changes that require changes to the scripting, workflows or application should be discussed with North Shore support and professional services should be purchased to address the necessary changes.
 - c. Any DAM customization or consulting not covered by an SOW will be considered a change order, subject to mutual approval, and will be billed at standard North Shore support rates
6. Software/system updates required by DAM or VM host server changes are supported only under the yearly support and maintenance contract available from your reseller
 - a. North Shore is not responsible for changes to CatDV APIs or the VM host server OS that negatively impact the performance of North Shore applications or workflows
 - b. North Shore may discontinue support for North Shore applications or workflows at any time without notice, unless support for the same is active
7. No training or support is included for any terminal, command line or programming functions
 - a. The bash and other shells are complex command processors which can take extensive training and study to master
 - b. North Shore is not responsible for training the client on shell or command line operations
 - c. Administrative actions requiring command line interactions may be documented by North Shore but no training on their execution is included
8. No web server or server operating system administration is included in any deployment scope unless explicitly called out. For example, deployment of a North Shore web application such as Akomi includes the initial instantiation of the system but no other server configuration, software updates, or similar.
9. North Shore is not responsible for network security configuration or testing
 - a. While North Shore will observe industry best practices when deploying systems, we recommend that the clients IT department review the configuration and security settings of any server, virtual or hardware, provided with any NSA or other application.
10. North Shore is not responsible for client data loss in any case (e.g. hardware failure, software malfunctions, human error, etc.)
 - a. client is responsible for ensuring industry-standard backup procedures are in place before deployment begins
 - b. North Shore recommends a nightly backup of boot drives, VMs, server data, and all media storage in addition to a strong off-site disaster recovery (DR) plan
11. No DNS mapping or other DNS configuration is included in this installation
 - a. CatDV Web Server, Akomi, and/or middleware applications will be installed on the server at a hostname or IP address provided by client
 - b. If client needs a domain or subdomain mapped to the server this shall be the responsibility of client's IT staff

- i. e.g. `http://appserver.northshoreautomation.com` vs. `http://170.123.123.8:80`, which might be the actual IP of the server
- 12. No SSL certificate services are included in this installation
 - a. CatDV Web Server, Akomi, and/or middleware applications may require an SSL certificate, depending on client workflows and security protocols
 - b. Client IT is responsible for purchase/generation, installation, and configuration of SSL certificates
- 13. Integration of any server system with directory services is not included unless explicitly called out in the scope of work
- 14. North Shore is not responsible for access credentials (e.g. user name and password)
 - a. Client is responsible for providing temporary access credentials (e.g. user name and password) to the servers and software required for the completion of this engagement, including cloud-based systems
 - i. Client is responsible for deleting the credentials once the engagement is complete
 - b. North Shore employs industry standard practices to keep the temporary access credentials secret and secure while using them
 - i. North Shore is not responsible for storing, tracking, or updating the credentials once the engagement is complete
 - c. If client believes that there is unauthorized use of the temporary access credentials, please change or delete them immediately and then notify North Shore.

CatDV Exclusions & Limitations

- 1. North Shore is not responsible for CatDV software**
 - a. North Shore is not responsible for limitations or bugs in the CatDV software used in this system, or issues with how it is configured (unless North Shore has done that configuration)
 - b. Square Box Systems is the developer of CatDV, and any CatDV bugs or issues should be reported to Square Box support
- 2. Deliverable specs and CatDV functionality**
 - a. North Shore designs its applications and workflows to the known deliverable specs provided and the capabilities of CatDV
 - b. North Shore is not responsible for CatDV software bugs or feature additions or deletions which may impact its system and its workflows
- 3. CatDV Worker Node & Workflows**
 - a. CatDV Worker Node workflows are considered “proposed” and are not guaranteed to work, as issues outside of North Shore’s control may interfere with their final implementation (e.g. storage or network configuration)
 - i. e.g., a workflow that depends on ftp upload speed may be unacceptably slow or unreliable because internet connection speed
 - b. North Shore is not responsible for any bugs or limitations of the CatDV Worker Node
 - c. North Shore delivers scripts and workflows in final form, and any edits or changes to scripts and workflows implemented by client are unsupported
 - d. CatDV Worker Node errors or failures are the responsibility of the installing integrator
 - i. North Shore will not be setting up any Worker Node error reporting

- ii. This is the responsibility of the system integrator
- 4. North Shore Workflow testing**
 - a. North Shore tests the workflows that it delivers, and will attest that CatDV Worker Node will perform these operations with the specified support hardware and software at the time of installation
- 5. Akomi and Middleware Applications do not include CatDV design, configuration, or support services unless separately purchased**
 - a. Only the CatDV Worker Node actions, CatDV Server configuration changes, and CatDV database related to the specified workflow are included with Akomi and middleware application purchases (as outlined in the applicable SOW)
 - b. The CatDV host system as well as any additional required software should be fully installed and functional before undertaking this integration
 - c. Any CatDV customization or consulting will require additional professional services which will be billed at standard North Shore support rates
- 6. NLE Integration**
 - a. North Shore workflows do not include any integration between CatDV and NLE systems such as Avid Media Composer, Apple Final Cut Pro or Adobe Premiere unless specified in the applicable SOW
- 7. Third Party system integration**
 - a. No third party system design or configuration services are included in CatDV integrations unless specified in the applicable SOW
 - i. All third party system configuration will be performed by technicians assigned by the third party vendor, reseller, or client
 - 1. e.g. Vantage by Telestream technicians, XenData by Xendata technicians, FlashNet by Masstech technicians, etc.
 - ii. North Shore cannot configure third party systems in any way
 - b. North Shore is not responsible for any bugs or limitations of the third party systems

Training and Documentation

- **Training**
 - North Shore CatDV, or other product, training is necessary even if the client has purchased training from another source, and North Shore cannot guarantee the outcome of contracted projects unless North Shore's training program is completed
 - Training is an ongoing process and the training provided in a specific phase does not ensure overall mastery of an application
 - Users will be trained on the aspects of a specific workflow that are relevant to their role within the workflow, and may not be trained on all aspects of all workflows and systems
 - North Shore training assumes industry-standard knowledge of production technology and workflows, including: file formats; NLE editing systems; encoding systems; production systems including cameras, decks, and storage systems; and proficiency on the deployed operating system
- **Documentation**
 - Documentation is delivered as built at the time of deployment. Documentation will not be updated unless noted in the SOW

Client Requirements & Exclusions

- **Workflow staffing decisions**
 - Client is responsible for assigning staff members to perform specific workflows
 - North Shore will define specific workflow actions, and can provide guidance regarding the level of difficulty of specific tasks, and ideal skill set profiles best suited to efficiently perform them
- **Client information**
 - Client is responsible for returning all necessary requested system and environment information in a timely manner
 - Installations may be delayed if client documentation is not provided in a timely manner
 - North Shore retains the right to close a deployment project, without issuance of credit or refund if client is unresponsive for more than 180 days.

Hardware & 3rd Party System Exclusions & Limitations

1. **Hardware and system administration**
 - a. Client is responsible for all hardware redundancy and data backup procedures
 - b. System backup scripts are provided with some deployments and must be managed by the client's IT staff once installed
 - c. Client may require support and assistance to manage this process effectively
 - d. North Shore may supply support for data back as part of its support services, but is not responsible for data backup or data integrity
2. **Network design or configuration**
 - a. No network design or configuration is included in this installation
 - i. North Shore assumes that all deployed systems (e.g. CatDV, third party systems) have unrestricted access to all others
 - ii. If client requires security measures such as firewalls or port blocking, they should be enabled only after this integration is complete
 - iii. North Shore is not responsible for any issues or errors resulting from these restrictions
 - b. No DNS mapping or configuration is included in this installation
 - i. CatDV Web Server will be installed on the server at a hostname or IP address provided by client
 1. If client needs a domain or subdomain mapped to the server this is the responsibility of client's IT staff
 2. e.g. `http://appserver.northshoreautomation.com` vs. `http://170.123.123.8:80` which might be the actual IP of the server
 - c. No SSL certificate services are included in this installation
 - i. CatDV Web Server may require an SSL certificate, depending on client workflows and security protocols
 1. Client's IT is responsible for purchase/generation, installation, and configuration of that certificate
 - d. Unless specifically noted, North Shore does not integrate any server system with

directory services

3. Third-party data centers

- a. Client is responsible for all data center issues (if applicable to the installation), including account management, service outages, or data center service responsiveness
- b. North Shore can provide data center recommendations, but is not responsible for setting up the data center, delivering data to the datacenter, supporting the data center, or the performance of the data center

4. Data & network security

- a. This deployment does not address disaster recovery (e.g. offsite tape copies)
- b. North Shore does not monitor server or firewall logs or provide any kind of intrusion detection, and recommends that client implement industry standard practices
- c. North Shore is not responsible for client data loss in any case (e.g. hardware failure, software malfunctions, human error, etc.)
- d. Client is responsible for ensuring industry-standard backup procedures are in place before deployment begins
- e. North Shore recommends a nightly backup of server boot drive, server data, and proxy storage

Cloud Services Fee Waiver of Liability

1. Client Responsibility for Cloud Fees

- a. Client acknowledges that use of North Shore software, middleware, or configured workflows may require access to third-party cloud services (e.g., AWS, Azure, Google Cloud, or similar) that generate usage-based fees. All such fees, charges, and costs are the sole responsibility of Client.

2. No Liability for Usage or Billing

- a. North Shore shall not be held liable, under any theory of contract, tort, or otherwise, for any charges, overages, penalties, or unexpected costs incurred by Client through the use of any cloud service, whether directly or indirectly connected to North Shore's products or services.

3. Client Obligation to Monitor Usage

- a. Client is solely responsible for monitoring, managing, and controlling usage of all cloud services, including but not limited to: compute instances, storage, bandwidth, data transfer, third-party licenses, and API calls.

4. Indemnification

- a. Client agrees to indemnify, defend, and hold harmless North Shore, its affiliates, officers, employees, and contractors from any claims, damages, or liabilities relating to third-party cloud service fees incurred by Client.

5. Survival

- a. This waiver shall survive termination or expiration of any Support Agreement, Statement of Work, or related agreement between North Shore and Client.

Media Formats & Organization

- **File naming schema**

- North Shore is not responsible for issues caused by the use of incompatible file names in the client's filesystem. We recommend following the guidelines laid out in this article:
 - <http://kb.northshoreautomation.com/middleware-portal/middleware-faq/invalid-characters>
 - Any changes to filenames must be performed by the client or an estimate for filename cleanup scripting may be requested.
- North Shore can offer basic recommendations on naming schemes, but file nomenclature is a complex issue, and will require a separate consulting engagement to fully define and implement within the client workflow

- **File formats for capture, archive or delivery**

- North Shore assumes that client has done due diligence on what media formats are required at each stage of the workflow, and has this information ready or has determined it to not be critical to the success of this deployment
- Selection of media formats requires in-depth knowledge of the client's workflow and delivery partner requirements
- If assistance is needed with choosing specific media formats for ingest or delivery to outside partners this will require a separate consulting engagement

- **MXF or RED based workflows**

- North Shore assumes that the client will be managing individual assets readable by the CatDV client host system (e.g. Apple mov, mp4, etc.) All codecs necessary to view media should be installed prior to deployment
- Media such as Sony XDCAM, Panasonic P2, or RED can require substantial additional resources to deploy and automate. No provision for such media is made in an engagement unless noted in the SOW

Akomi-Specific Application Exclusions & Limitations

1. Akomi video playback

- a. Akomi utilizes a HTML5 video player for mp4 playback
- b. Akomi provides limited support for mov playback
 - i. Users must have Apple's Quicktime player installed to view mov files
- c. North Shore has no responsibility for mov playback, QuickTime limitations, or bugs

2. Akomi browser support

- a. North Shore supports the OS X and Windows versions current as of the deployment date of Apple's Safari browser, Google's Chrome browser, and Mozilla's Firefox browser
- b. Linux is not officially supported but may be useable in some configurations
- c. North Shore is not responsible for bugs or inconsistencies caused by browser incompatibility or limitations
- d.

3. Akomi Error reporting

- a. Error reporting on Akomi is directed at system administrators and assumes a high level of familiarity with web servers
- b. Error reporting for Akomi software consists of reporting failures via email, CatDV metadata updates and error logs

- c. No errors will be captured and reported other than in the application logs
- 4. Akomi performance**
 - a. Akomi playback performance is directly related to the size, bitrate and encoding format of the proxy videos
 - i. Proxy file format should match the server internet connection, upload bandwidth, and expected user count
 - ii. Please refer to the Akomi Integration and Best Practices documentation for suggested proxy formats
 - iii. Proxy files sizes over 2GB may not perform satisfactorily
 - b. System capacity guidelines
 - i. Akomi will manage 250,000 to 400,000 assets on desktop-level hardware (Apple Mac Mini or similar)
 - 1. In cases where the expected asset count in Akomi will exceed 300,000 assets, North Shore recommends deploying Akomi on server-level hardware (e.g. additional CPU(s), RAM, SSD RAID database storage, etc.)
 - 2. In cases where the expected asset count in Akomi will exceed 1,000,000 assets, North Shore recommends you engage with your reseller and North Shore engineers to discuss an enterprise-scale deployment strategy
- 5. Akomi Failover**
 - a. If an optional Akomi failover license is purchased, North Shore is not responsible for configuring DNS “failover”, which is dependent on client’s IT infrastructure and outside the scope of this engagement
 - b. North Shore will ensure that the Failover Server functions as designed within the limitations of the client’s infrastructure, once DNS failover is configured
- 6. No Akomi MySQL database access**
 - a. North Shore does not support any direct access of Akomi MySQL database (e.g. via terminal or phpmyadmin)
 - b. If the secure default password is changed, it will constitute a violation of the Akomi license agreement and will result in termination of any support contract
- 7. Akomi and Middleware Applications do not include CatDV design, configuration, or support services unless separately purchased**
 - a. Only the CatDV Worker Node actions, CatDV Server configuration changes, and CatDV database related to the specified workflow are included with Akomi and middleware application purchases (as outlined in the applicable SOW)
 - b. The CatDV host system as well as any additional required software should be fully installed and functional before undertaking this integration
 - c. Any CatDV customization or consulting will require additional professional services which will be billed at standard North Shore support rates

NSA Master Service Agreement

1. Services.

1.1 Services. North Shore and Client will develop and enter into one or more statements of work incorporating a description of the specific services requested by Client (each, and as modified by the parties from time to time, an “SOW”). Each SOW will set forth, among other things, project scope, various project activities and tasks to be performed by the parties, Deliverables (as hereinafter defined) and roles and responsibilities of the parties. North Shore will provide to Client those services described as its obligation in each SOW (collectively, the “Services”). Each SOW shall specifically identify this Agreement and indicate that it is subject to the terms hereof. To the extent there are any conflicts or inconsistencies between this Agreement and any SOW, the provisions of this Agreement shall govern and control unless expressly contradicted by the SOW. Any Affiliate of North Shore may itself provide Services to Client and any Affiliates of Client under the Agreement by executing SOWs in its own name. As used herein, the term “Affiliate” means any entity that controls or is controlled by or is under common control with North Shore or Client, as applicable, where “control” means possessing, directly or indirectly, the power to direct or cause the direction of the management, policies and operations of such entity, whether through ownership of voting securities, by contract or otherwise.

1.2 Deliverables and Acceptance. Deliverables, if any, under this Agreement will be as set forth under any SOW. Each SOW will describe, if applicable, the deliverables that North Shore is obligated to furnish to Client hereunder (collectively, the “Deliverables”), the acceptance criteria for each of the Deliverables (the “Acceptance Criteria”) and the completion criteria, if any, to signify completion of each phase of a project. Client shall review, evaluate and/or test, as the case may be, each of the Deliverables within the applicable time period set forth in a SOW (with respect to each Deliverable, the “Acceptance Period”) to determine whether or not such Deliverable satisfies the applicable Acceptance Criteria in all material respects. If any Deliverable fails to satisfy its Acceptance Criteria in any material respect, then Client will notify North Shore in writing specifying the respects in which such Deliverable does not conform to the applicable Acceptance Criteria and what modifications are necessary to make it conform thereto. Thereafter, North Shore shall modify such Deliverable to so conform and the Deliverable will be resubmitted for acceptance by Client. If, after repeated attempts, North Shore is unable to remedy any non-conforming portion of any Deliverable, Client may terminate pursuant to Section 11.2 herein.

2. PROJECT SCHEDULE CHANGES.

2.1 Project Schedule Changes. Each SOW will set forth the projected work effort and schedule applicable to the Services. All statements and agreements concerning time are of the essence. Either party will be entitled to propose changes. It is mutually acknowledged that any such change may affect the fees or charges payable to North Shore and/or the project schedule. Neither party shall have any obligation respecting any change until an appropriate change order or amendment to the applicable SOW is executed and delivered by both parties.

2.2 Excusable Delays and Failures. Client acknowledges that in case of any force majeure event that is beyond North Shore’s reasonable control will be considered an excusable delay or excusable failure to perform hereunder and may impede or delay completion of the Services. North Shore shall use all commercially practical efforts to complete its obligations in the face of an excusable delay.

3. PAYMENT.

3.1 Note: Governed by reseller/distributor agreement and/or SOW

4. OBLIGATIONS OF THE PARTIES.

4.1 North Shore's Personnel Commitment. North Shore represents and warrants to Client that the individuals providing Professional Services to Client on behalf of North Shore will be authorized to work in the United States during the term of such Professional Services (except to the extent such individuals are not situated in the United States), will be qualified to perform such Professional Services, and will have been assigned by North Shore to work with Client in connection therewith. North Shore warrants to Client that it will take all commercially reasonable efforts to comply with all applicable labor laws. All North Shore personnel will have the requisite skilled experience required to complete the Project as outlined in the applicable SOW.

5. OWNERSHIP.

- 5.1 Note: Governed by SOW and/or software EULA
- 5.2 Contact NSA for more information, if required

6. CONFIDENTIAL INFORMATION.

6.1 Confidentiality Obligations. For a period of five (5) years from the date of disclosure of the applicable Confidential Information (as hereinafter defined), Client and North Shore shall each (i) hold the Confidential Information of the other in trust and confidence and avoid the disclosure or release thereof to any other person or entity by using the same degree of care as it uses to avoid unauthorized use, disclosure, or dissemination of its own Confidential Information of a similar nature, but not less than reasonable care, and (ii) not use the Confidential Information of the other party for any purpose whatsoever except as expressly contemplated under this Agreement or any SOW. Each party shall disclose the Confidential Information of the other only to those of its employees (including employees of North Shore's corporate affiliates) having a need to know such Confidential Information and shall take all reasonable precautions to ensure that such employees comply with the provisions of this Section 6.1.

6.2 Definition. The term "Confidential Information" shall mean any and all information or proprietary materials (in every form and media) not generally known in the relevant trade or industry and which has been or is hereafter disclosed or made available by either party (the "disclosing party") to the other (the "receiving party") in connection with the efforts contemplated hereunder, including (i) all trade secrets, (ii) existing or contemplated products, services, designs, technology, processes, technical data, engineering, techniques, methodologies and concepts and any information related thereto, and (iii) information relating to business plans, sales or marketing methods and customer lists or requirements.

6.3 Exceptions. The obligations of either party under Section 6.1 will not apply to information that the receiving party can demonstrate (i) was in its possession at the time of disclosure and without restriction as to confidentiality, (ii) at the time of disclosure is generally available to the public or after disclosure becomes generally available to the public through no breach of agreement or other wrongful act by the receiving party, (iii) has been received from a third party without restriction on disclosure and without breach of agreement by the receiving party, or (iv) is independently developed by the receiving party without regard to the Confidential Information of the other party. In addition, the receiving party may disclose Confidential Information as required to comply with binding orders of governmental entities that have jurisdiction over it;

provided that the receiving party (a) gives the disclosing party reasonable written notice to allow the disclosing party to seek a protective order or other appropriate remedy, (b) discloses only such Confidential Information as is required by the governmental entity, and (c) uses commercially reasonable efforts to obtain confidential treatment for any Confidential Information so disclosed.

7. INDEMNIFICATION.

7.1 Indemnity. North Shore shall indemnify and hold harmless Client from and against any and all third party claims, demands, lawsuits, losses, injuries, damages, liabilities, judgments, costs and expenses, including reasonable attorneys' fees and costs, experts' fees and costs, and court costs (each a "Claim"), arising out of or in connection with a breach of this Agreement by North Shore or any allegation that, if true, would constitute a breach of this Agreement by North Shore.

7.2 Infringement Remedies. In the event of an infringement or misappropriation claim as described in Section 7.1 above arises, or if the indemnified party reasonably believes that a claim is likely to be made, the indemnifying party, may: (i) modify the applicable Deliverables so that they become non-infringing but functionally equivalent; or (ii) replace the applicable Deliverables with material that is non-infringing but functionally equivalent; or (iii) obtain for Client the right to use such Deliverables upon commercially reasonable terms; or (iv) remove the infringing or violative Deliverables and refund to Client the fees received for such Deliverables.

7.3 Personal Injury and Property Damage Indemnity. North Shore and Client each agree to indemnify, defend and hold harmless the other from and against any and all claims, actions, damages, liabilities, costs and expenses, including reasonable attorneys' fees and expenses, arising out of third party claims for bodily injury or damage to real or tangible personal property, not including software, data, and documentation, to the extent caused directly and proximately by the gross negligence or willful misconduct of the indemnifying party, its employees or agents.

8. WARRANTY.

8.1 Warranty. With respect to any Deliverable or Services, North Shore warrants the following

- 8.1.1 the applicable Services rendered hereunder will be performed by qualified personnel;
- 8.1.2 the Services performed will conform to any applicable requirements set forth in the SOW;
- 8.1.3 North Shore shall at all times comply with all applicable laws, statutes, ordinances, rules, regulations and other governmental requirements; and
- 8.1.4 the Deliverable will conform to the corresponding product specifications set forth in the applicable SOW for such Deliverable.

8.2 In the event that any Deliverable or Service fails to conform to the foregoing warranty, North Shore, at its expense, will promptly cure or correct such failure. If after repeated attempts, North Shore is not able to conform the Deliverable, Client shall have the right to terminate this Agreement for cause in accordance with Section 11.2 hereunder.

8.3 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN SECTION 8.1, NORTH SHORE DOES NOT MAKE OR GIVE ANY REPRESENTATION OR WARRANTY OR CONDITION OF ANY KIND, WHETHER SUCH REPRESENTATION, WARRANTY, OR CONDITION BE EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, QUALITY, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE OR ANY REPRESENTATION, WARRANTY OR CONDITION FROM COURSE OF DEALING OR USAGE OF TRADE.

9. LIMITATION OF LIABILITY AND REMEDIES.

9.1 Exclusion of Damages. In no event shall either party be liable to the other party or any other person or entity for any special, exemplary, indirect, incidental, consequential or punitive damages of any kind or nature whatsoever (including, without limitation, lost revenues, profits, savings or business, or contribution or indemnity in respect of any claim against the party) or loss of records or data, whether in an action based on contract, warranty, strict liability, tort (including, without limitation, negligence) or otherwise, even if such party has been informed in advance of the possibility of such damages or such damages could have been reasonably foreseen by such party.

9.2 Total Liability. Except for North Shore's indemnity obligations set forth under Sections 7 (Indemnification) or either party's breach of confidentiality obligations under Section 6 (Confidential Information), In no event shall either party's arising out of or in connection with this Agreement or the Services exceed, in the aggregate, the total fees paid by Client to North Shore for the particular Service or Deliverable with respect to which such liability relates (or in the case of any liability not related to a particular portion of the Services, the total fees paid by Client to North Shore under the applicable SOW), whether such liability is based on an action in contract, warranty, strict liability or tort (including, without limitation, negligence) or otherwise. The limitations specified in this Section 9 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose. The liability for North Shore's indemnity obligations set forth under Sections 7 (Indemnification) shall be limited to the amount stated under North Shore's insurance coverage as set forth in Section 14.4.

10. EMPLOYEES.

10.1 No Employee Relationship. North Shore's employees are not and shall not be deemed to be employees of Client. North Shore shall be solely responsible for the payment of all compensation to its employees, including provisions for employment taxes, workmen's compensation and any similar taxes associated with employment of North Shore's personnel. North Shore's employees shall not be entitled to any benefits paid or made available by Client to its employees.

10.2 Non-Solicitation Obligations. During the term hereof and for a period of twelve (12) months thereafter, neither party shall solicit for employment or employ, or accept services provided by, (i) any employee, officer or independent contractor of the other party; or (ii) any former employee, officer or independent contractor of the other party who performed any work in connection with or related to the Services. Nothing herein shall prohibit a party from hiring an employee of the other that responds to a generally available posting or advertisement for employment that are not specifically targeted at such employees.

10.3 Subcontractors. North Shore may engage third parties to furnish services in connection with the Services or Deliverables, provided that such third parties have executed appropriate confidentiality agreements with North Shore and North Shore shall disclose the identity of such subcontractors in advance. In addition, Services may be performed by affiliates of North Shore. No such engagement will relieve North Shore from any of its obligations under this Agreement.

10.4 Nondiscrimination. To the extent applicable to Services under this Agreement, North Shore shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, national origin, protected veteran status or disability.

11. TERM AND TERMINATION.

11.1 Term. The term of this Agreement will commence on the date first written above and will remain and continue in effect, unless sooner terminated, as provided hereunder.

11.2 Termination. This Agreement may be terminated in whole or in part by either party (the “non-breaching party”) upon written notice to the other party if any of the following events occur by or with respect to such other party (the “breaching party”): (i) the breaching party commits a material breach of any of its obligations hereunder and fails to cure such breach within thirty (30) days after receipt of notice of such breach or fails to reach an agreement with the non-breaching party regarding the cure thereof; or (ii) any insolvency of the breaching party, any filing of a petition in bankruptcy by or against the breaching party, any appointment of a receiver for the breaching party, or any assignment for the benefit of the breaching party’s creditors.

11.3 Survival. In the event of termination or upon expiration of this Agreement, Sections 3, 5, 6, 7, 8 (subject to the expiration of any warranty period), 9, 10, 11, and 12 hereof will survive and continue in full force and effect.

12. Intentionally omitted.

13. DATA USAGE & PROTECTION

13.1 For the purposes of this Agreement “personal data”, “processing of personal data”, (“processing”), “controller”, “processor”, “data subjects” and “third party”, shall have the same meanings as under the Data Protection Laws. “Data Protection Laws” means data protection and privacy laws, regulations, regulatory requirements and codes of practice in connection with its data processing obligations under this Agreement or which may otherwise apply, including laws applicable in the country or countries where personal data is collected, held or processed, including the European Data Protection Directive 95/46/EC and the Privacy and Electronic Communications Directive 2002/58/EC and any applicable guidelines and codes issued by a competent data protection authority, or other competent governmental body or agency, in respect of such laws.

13.2 Only to the extent North Shore processes Personal Data in connection with performance of its obligations hereunder:

- a). North Shore and North Shore Personnel shall comply with all applicable Data Protection Laws relevant to the Work, and shall not do, cause or permit to be done, anything which may cause or otherwise result in a breach by Client of the same.
- b). North Shore shall process Personal Data only as necessary to fulfill its contractual obligations to Client and only under the instructions of Client.
- c). North Shore shall promptly notify Client about (i) any legally binding request for disclosure of Personal Data by a law enforcement authority unless otherwise prohibited to do so; (ii) any accidental or unauthorized access to Personal Data; and (iii) any request received directly from the data subjects and will not respond to such requests until authorized or requested by Client to do so.
- d). North Shore shall implement all commercially reasonable technical, physical and organizational security procedures and measures as required by Data Protection Laws and as necessary or appropriate to protect Personal Data against unauthorized or unlawful processing, accidental loss, alteration, disclosure destruction or damage including ensuring that only duly authorized and appropriately trained employees, agents and contractors are permitted access to such data.
- e). Upon written request by Client, North Shore shall (i) immediately cease processing Personal Data, (ii) return Personal Data and all copies, notes or extracts thereof to Client within seven (7) business days of receipt of request and (iii) on request of Client, confirm in writing that North Shore has complied with the obligations set forth in this Clause. On Termination of this Agreement, North Shore shall either return or destroy all copies of Personal Data on Client's request.
- f). North Shore shall provide Client with such cooperation and assistance with regard to the data processing as Client may reasonably request and at no additional charge, including prompt cooperation with data subject access requests (e.g. by providing a copy of particular Client Personal Data to Client in tangible form) and inquiries from data protection and/or other regulators with similar responsibilities. North Shore shall not respond to any requests, inquiries or complaints related to the data processing without, and in accordance with, the prior written approval of Client at Client's sole discretion unless required by applicable law.

14. MISCELLANEOUS.

14.1 Governing Law. The laws of the State of California will govern this Agreement, without reference to the principles of conflicts of law. The parties acknowledge and agree that this Agreement relates solely to the performance of services (not the sale of goods) and, accordingly, will not be governed by the Uniform Commercial Code of any State having jurisdiction. In addition, the provisions of the Uniform Computerized Information Transaction Act and United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

14.2 Binding Effect and Assignment. Neither party may assign or otherwise transfer any of its rights, duties or obligations under this Agreement without the prior written consent of the other party, except either party may, upon prior written notice to the other party (but without any

obligation to obtain the consent of such other party), assign this Agreement or any of its rights hereunder to any affiliate of such party, or to any entity who succeeds (by purchase, merger, operation of law or otherwise) to all or substantially all of the capital stock, assets or business of such party, if such entity agrees in writing to assume and be bound by all of the obligations of such party under this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assignees.

14.3 No Third Party Beneficiaries. This Agreement shall not confer any rights or remedies upon any person other than the parties and their respective successors and permitted assigns.

14.4 Insurance. For the term of this Agreement and for 3 years thereafter, North Shore shall carry at its sole cost and expense the following insurance and the following limits:

Section 1 A commercial general liability insurance policy covering Supplier's legal liability with a minimum insured limit of not less than two million dollars (\$2,000,000) per occurrence, and covering, at a minimum: bodily injury (including death); personal injury; property damage (including loss of use); blanket contractual liability; advertising injury; and intellectual property infringement protection.

Section 2 Professional liability insurance policy with an insured limit of not less than two million dollars (\$2,000,000) per claim, covering the following: economic loss; cyber extortion; network security liability; identity services expenses; media liability; security liability; and privacy liability.

14.5 Notices. All notices required by this Agreement will be given in writing to the other party and delivered by registered mail, international air courier, facsimile, or the equivalent. Notices will be effective when received as indicated on the facsimile, registered mail, or other delivery receipt. All notices will be given by one party to the other at its address stated on the first page of this Agreement unless a change thereof previously has been given to the party giving the notice.

14.6 Amendments and Waivers. This Agreement may be modified only by a written amendment executed by duly authorized officers or representatives of both parties. No waiver by either party of any right or remedy hereunder shall be valid unless the same shall be in writing and signed by the party giving such waiver. No waiver by either party with respect to any default, misrepresentation, or breach of warranty or covenant hereunder shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

14.7 Severability. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, then such provision shall be severed from this Agreement and the remaining provisions will continue in full force.

14.8 Counterparts. This Agreement and each SOW may be executed in several counterparts and by facsimile signature, each of which will be deemed an original, and all of which taken together will constitute one single agreement between the parties with the same effect as if all the signatures were upon the same instrument. A telecopy signature shall be as legally effective as an original signature.

14.9 Entire Agreement. This Agreement and all SOWs attached hereto constitute the complete and exclusive statement of the agreement between the parties and supersedes all proposals, oral or written, and all other prior or contemporaneous communications between the parties relating to the subject matter herein.

14.10 Headings. The section headings contained in this Agreement are inserted for convenience only and shall not affect in any way the meaning or interpretation of this Agreement.

14.11 Consents and Approvals. Except where expressly provided as being in the discretion of a party, where approval, acceptance, consent or similar action by either party is required under this Agreement or the applicable SOW, such action shall not be unreasonably withheld or delayed.