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Master Services Agreement For

Digital Signage Platform and Support Services

By And Between

City of Key West Florida
(Client)

and

Message Point Media of Alabama, Inc.
(Provider)

I. Scope of This Agreement

This agreement covers the terms of service and the obligations of both parties as they pertain to the delivery of digital signage / messaging services, digital signage displays, and professional design, support, and consulting services ("Service") by Provider for the benefit of the Client. Provider is an authorized Value Added Reseller for the Core Signage Platform ("Platform"). Provider is in the business of creating and adding value to existing software and technology products in the visual communications space, and re-marketing the value-added products and services to resellers and end-users. Provider is authorized to license Platform to Client and to add value to same by combining the core platform with other products as well as a variety of services to include installation, support, training, content development, and consulting all pursuant to this agreement. This agreement supersedes any earlier written or an oral agreement with respect to its content.

II. Agreement Term, Renewal, and Termination

A. Term of This Agreement

Subject to the Early Termination provision provided below, this agreement shall remain in force for the longer of a period of ~~36-12~~ consecutive months, beginning on the effective date indicated on the signature page of this agreement, and for any subsequent renewal periods as outlined below OR for the length of any associated service schedules.

B. Renewal

Either party agrees to give the other party Sixty (60) days written notice prior to the end of this contract if they DO NOT want to continue services according to the terms of this agreement. If either party does not provide notice by this date, this agreement shall renew, subject to approval by Client's Contracting Authority if legally required, for subsequent One Year periods until either party provides such notification.

C. Termination

Either party may terminate this agreement for any reason by providing the other party Sixty (60) days prior written notice. If client wishes to terminate this agreement for any reason, prior to termination Client **MUST** complete all of the following:

- 1) Pay any outstanding balances due in full
- 2) Buy out remaining amortized equipment, setup, and installation costs, IF ANY, outlined in the attached service schedule(s). The amount on the schedule shall be reduced by 1/~~36~~th-~~12~~th for each month that the contract has been in force until it is fully offset, at which time it will be treated as \$1. If additional service schedules are added to this contract, they shall be reduced at the same 1/~~36~~th-~~12~~th per 30 days formula counting from the first in-service date for that schedule until fully offset. Upon payment of this amount Provider shall transfer title to any or all of the Provider owned customer premises equipment, if any, included in this service as requested by the client.

III. Price & Terms of Payment

- A. Prices, Discounts, and Other Terms:** Prices, discounts, and other terms, if any, for the Product are set forth on attached Service Schedules. and are subject to change at any time, to take effect no sooner than the end of the Initial or Current Renewal Term of the service schedule and following at least sixty (60) days prior written notice by Provider. Unless otherwise specified on the respective attached service schedule, all licensing is due and payable on an annual basis.
- B. Taxes and Fees:** Prices according to section III.A above, and all payments by Client hereunder are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Client shall be responsible for payment of all such taxes, levies, or duties. If client is Tax Exempt they must provide evidence of such to Provider otherwise, if required, Provider will notify the appropriate taxing authority. Provider does not and will not collect taxes such as Sales or Use taxes in any jurisdiction in which they do not have a business nexus.
- C. License Adjustment:** Client can adjust the number of licenses in use on a month-to-month basis. The number of licenses licensed on a single month will remain in effect for subsequent months unless changed by Client. There will be no refunds or credits for partial months of service, refunds for upgrade/downgrade, or refunds for unused months with an open account. Unless otherwise requested, Provider, the billing for any new services will be billed such that the total billing period is pro-rated to cover the term until the next renewal or billing date of the existing services.

IV. Services and Deliverables

- A. Service and Deliverable Terms:** In accordance with the terms and conditions of this Agreement, including any Service Schedules, Statements of Work, and other attachments, Provider will provide Client with the Services and Deliverables. All Deliverables that are written documents, whether electronic or otherwise, shall be produced in English, or in the case of software code, in the specified programming language, and shall be delivered in a format designated by the Client. Any Software Deliverables will be delivered to Client in object code versions only (unless otherwise provided in the Statement of Work), provided that if the Statement of Work specifies that source code will be provided in connection with a certain Project Plan then Provider will include such user and technical documentation as may be required for a programmer of reasonable skill to modify the Software Deliverable. Any Software Deliverables that represent existing Provider developed applications, and/or modifications or enhancements to these applications, may upon request and at the sole expense of client, be subject to the terms of a 3rd party software escrow agreement.
- B. Service Schedules:** Provider and Client shall mutually agree upon the specifications and charges for all Services and Deliverables to be performed or provided under this Agreement in a written Schedule of Products and Services per End-Client Project ("Service Schedule"). Each Service Schedule shall be attached to this Agreement as a sequentially numbered exhibit and shall expressly be deemed incorporated into this Agreement and subject to all the terms and conditions set forth herein. In the event of any conflict between this Agreement and a Statement of Work, this Agreement shall govern. Each Service Schedule shall contain at least the following information, as may be applicable to the particular Services and/or Deliverables:
- 1) the details of the scope and type of Services to be performed by Provider, including Deliverables (if any), labor requirements, and time estimates for completion of the Services and Deliverables;
 - 2) the location where the Services will be performed (e.g., Provider's Facilities, Client's Facilities, End-Client's Facilities), and which, if any, Equipment Client or End-Client will be required to provide, including access to Client or End Client's Networks or Systems;
 - 3) the agreed fees and payment criteria (e.g., milestones; time and material; fixed price; discounts; etc.);
 - 4) the bill of services, bill of materials, functional and/or design specifications as are mutually determined;

- 5) a project plan (as described in section C below; and
- 6) any other additional terms and conditions as required for the performance of the Services or completion of Deliverables, including by way of example and not limitation, service level agreements and service level objectives.

- C. Project Plan:** If a Service Schedule or Statement of Work does not contain a Project Plan, prior to execution of such Service Schedule or Statement of Work, the parties shall mutually agree upon a schedule for completion of the Project within sixty (60) days following execution of the Service Schedule or Statement of Work (the "Project Plan"). The Project Plan shall detail the schedule of all Services to be performed by Provider and all Deliverables to be produced. The Project Plan shall also specify milestones, including Deliverables due at each milestone. Each executed Project Plan shall be deemed incorporated into this Agreement as part of the applicable Service Schedule or Statement of Work, or as a separate exhibit as the parties may determine, and subject to all the terms and conditions set forth in this Agreement and in the applicable Service Schedule or Statement of Work. Supplier shall perform Services and provide Deliverables in accordance with the terms and conditions of this Agreement, including, but not limited to, any time frames set forth in the Service Schedule, Statement of Work and/or Project Plan.
- D. Time of Essence; Delay:** The parties agree that time is of the essence in the performance of this Agreement. Both parties agree that they shall notify the other party on a continuing basis of any event or occurrence that could cause a material delay in meeting any milestone set forth in the Project Plan or otherwise delay the performance of the Services or the development of the Deliverables. For purposes of this Agreement, "Material Delay" means a delay that materially, adversely impacts, interferes with or hinders the successful deployment of the Project. Any Material Delay which is caused by Provider and is not a result of Force Majeur or other acts or forces beyond its control shall be deemed to be a material breach of this Agreement. Examples or acts or forces including, but are not limited to, such conditions as Acts of God, Civil Disobedience, US or other National, State or Local Government Action, U.S. Customs, Any National, State or Local, Declared Emergency, Unforeseeable Port or Shipping Delays, or Damage in Transit by Common Carrier. If, in the event of a Material Delay, Client in its sole discretion, elects not to terminate the impacted service schedule(s) or statement(s) of work, Client may, by written notice, designate a new date for the completion of the delayed Services, as to which time shall be of the essence. Provider is not responsible or liable for any late delivery or delay or failure of performance caused in whole or in part by Client's delay, or End-Client's delay in performing, or failure to perform, any of its obligations under this Agreement. In the event of any such delay or failure, Provider may, by written notice to Client, extend all or any subsequent due dates for milestones set forth in the Project Plan as Provider deems reasonably necessary.
- E. Training:** As part of the Services, Provider shall provide the training set forth in the Service Schedule, Statement of Work, the Project Plan or other applicable document(s). All training shall be at a location as mutually agreed upon and scheduled by the parties. The Service Schedule or Statement of Work may state whether Provider may provide training as either "Onsite" or "Remote". Onsite training will be subject to the reimbursement by Client of Provider's reasonable travel and related expenses. Remote training may be delivered using video-conferencing, or web-conferencing technology to one or more Client and/or End-Client sites simultaneously. If Client or End-Client does not provide notice of desire to reschedule a training session within 24 hours for remote training, or 72 hours for onsite training, the session will be deemed to have been delivered if Supplier's Personnel are present and/or available for the agreed upon session. If onsite training is rescheduled or cancelled with less than 14 days' notice Client will be responsible for any non-refundable travel costs and/or any reasonable costs involved in changing travel arrangements.
- F. Support:** For Service Deliverables, Software Deliverables, Hardware Deliverables and System Deliverables, Supplier shall provide the support and maintenance set forth in the applicable Service Order, Statement of Work, Project Plan or other document(s).

V. Equipment; Facilities; Networks.

Client will provide, or cause it's End Client to provide, Provider with the necessary access to such facilities as Provider reasonably requests to deliver the requested services under this agreement, including when necessary, after hours and on weekends; provided that Provider shall comply with the security and facility access policies of the Client or End-Client. Client will provide, or cause it's End Client to provide, reasonable workspace for Supplier at Client's or End-Client's facilities, if necessary and as agreed upon by Client, which may include network connections and telephone and printer access.

- A. Provider Equipment; Provider Facilities.** Except as otherwise agreed in writing by Client and Provider, Provider shall, at its own expense, provide all necessary resources for the complete, proper and timely provision of the Services and the Deliverables, including but not limited to Facilities, Equipment, supervision, labor, materials and supplies.
- B. Client Equipment; Client Facilities.** Where Provider requires, and as agreed in writing between the parties, Client shall provide Provider with reasonable access to Client's Facilities, Client's Equipment, Client's Network for the sole purpose of providing the Services and Deliverables under this Agreement. Access to Client's Facilities, Client's Equipment and Client's Network shall be subject to all applicable Client policies, security requirements, standards and procedures, any applicable laws, statutes or regulations, and any other restrictions Client may deem necessary or practical. Client may, at its sole option, require Provider and/or applicable Personnel to execute additional documents related to such access.
- C. End Client Equipment; End Client Facilities.** Where Provider requires, and as agreed in writing between the parties, Client shall cause End Client to provide Supplier with reasonable access to End Client's Facilities, End Client's Equipment, End Client's Network for the sole purpose of providing the Services and Deliverables under this Agreement. Access to End Client's Facilities, End Client's Equipment and End Client's Network shall be subject to all applicable End Client policies, security requirements, standards and procedures, any applicable laws, statutes or regulations, and any other restrictions End Client may deem necessary or practical. End Client may, at its sole option, require Provider and/or applicable Personnel to execute additional documents related to such access. In addition End Client shall provide facilities for the installation of provided equipment that meets the following obligations:
 - a. End Client will provide a properly grounded electrical outlet at the display installation location.
 - b. End Client will maintain provided indoor or mobile displays in a climate-controlled location with temperature and humidity control suitable for electronic devices.
 - c. Client will maintain reliable wireless Internet connectivity at the display location, or will provide a hard-wired ethernet connection to the Internet at the display location. Client understands that unreliable connectivity may result in degradation of screen content and sustained connectivity issues may result in failure of display services. Professional Services labor incurred due to recurring client internet connectivity may, at Provider's sole discretion, be billable at the prevailing professional services labor rates.
 - d. Client will not re-locate the display without notifying provider and will not re-locate any provider owned equipment to a new service address without written permission from provider.
 - e. Client agrees that Provider is not a professional engineering firm and cannot reasonably be expected, unless otherwise specified in particular scope of work as a line item, to be an expert in local construction codes and/or the design and construction of any client buildings, vehicles, infrastructure, etc. to which the provider's equipment might be mounted. Provider will provide technical details and drawings of any provided equipment and at client's request may provide a suggested installation plan and components, however it is ultimately the Client's responsibility to have this installation plan reviewed by their own representatives with appropriate knowledge and credentials for the application, environment, and jurisdiction involved if they have any concerns. If Client chooses to implement Provider's installation plan without performing their own review then they are solely liable for any later issues that may arise from this as Provider can make no representations as to the ultimate suitability of this plan to a particular application or location unless this scope is explicitly assigned in the Scope of Work.

- D. Liability for Loss or Damage.** Provider and Provider's Personnel shall, if provided with access to Client's or End-Client's Equipment, Network and/or Facilities, take good care to safeguard against foreseeable unauthorized access to or theft of same. Provider shall be responsible for the reasonable costs of any damage, loss or theft of Client's or End Client's Equipment, and for any damage to Client's or End Client's Facilities, and any losses resulting therefrom, caused by Provider or Provider's Personnel. Provider shall execute, and shall cause any Personnel to execute, any agreements or contracts reasonably required by Client evidencing and acknowledging Provider's or Provider's Personnel's obligations and liability with respect to any of Client's or End Client's Equipment and/or Facilities. If Provider delivers access to Provider's Equipment, Facilities, Network, or Platform to Client or End-Client, and Client or End-Client accepts such access, Client and/or End Client shall take good care to safeguard against foreseeable unauthorized access, theft, or misuse of same. Should damage, loss, theft, or other loss occur due to the client or end-client's failure to take such care, provider is entitled to recover reasonable costs associated with any associated loss.
- E. Third Party Consents.** If Provider needs consent or license from any third party to perform any of the Services or deliver any of the Deliverables, Provider shall promptly obtain the appropriate consent or license from the applicable third party or parties, and where required, Client and/or End Client shall provide reasonable assistance in connection therewith. If such consent or license is outside the scope of Provider's standard installation or service agreement then any direct costs will be reimbursed by Client to Provider, or paid directly by Client.

VI. Acceptance

- A. Delivery:** Provider shall deliver to Client all Deliverables and other Documentation and materials necessary for Client to review and analyze the Deliverables.
- B. Acceptance:**
- 1) Testing and Acceptance of Service Deliverables:** The Service Deliverables shall be tested to determine whether they comply with the specifications set forth in the Service Schedule or Statement of Work and any other specifications agreed by the parties. If Client, in its reasonable discretion, determines that the services or any deliverable are not sufficiently complete or otherwise do not conform to this Agreement, Provider shall promptly cure any deficiencies identified by Client at Provider's expense and shall resubmit for testing pursuant to this Section VI.
 - 2) Testing and Acceptance of Software, Hardware, and System Deliverables:** For Software Deliverables, Hardware Deliverables and System Deliverables the following testing procedures will apply:
 - i. **Acceptance Testing Period.** For purposes of this Agreement, "Acceptance Testing Period" means the time period, beginning on the date a Software Deliverable, Hardware Deliverable or System Deliverable is installed and ending after the later of thirty (30) days (or such other time period as the parties agree to include in the Service Schedule or Statement of Work) and when Provider has repaired deviations from the Acceptance Criteria, during which such Software Deliverable, Hardware Deliverable or System Deliverable shall be subject to testing by Client. During the Acceptance Testing Period, the Software Deliverable, Hardware Deliverable or System Deliverable shall meet, without material deviation, the functionality requirements and performance standards set forth in the Acceptance Criteria.
 - ii. **Acceptance Criteria.** The Acceptance Criteria shall mean:
 1. The warranties in this agreement;
 2. Specifications for the deliverables;
 3. Any other acceptance criteria identified in a Statement of Work; and
 4. The Documentation

Should deviation(s) arise in the functionality or performance of any Deliverables relative to the Acceptance Criteria during the Acceptance Testing Period, Client shall inform Provider in reasonable detail of such deviations by means of a written Notice of Noncompliance (a "Notice"). Provider will, at its own expense, correct within thirty (30) days of receiving such a Notice (or other time period agreed on by the parties, in writing), any deviations cited by Client in the Notice. Upon resolution by Provider of each said deviation, Client shall have an additional thirty (30) day Acceptance Testing Period to determine whether that deviation was resolved by Provider in accordance with this Section VI.B.2.ii.

- iii. **Acceptance Failure.** If Provider fails or is unable to correct any material deviation within ninety (90) business days from the later of the beginning of the Acceptance Testing Period or the last mutually accepted remediation plan, then Client shall be entitled at its option to declare such failure a material breach of this Agreement, whereupon Client shall be entitled to terminate the applicable Service Schedule or Statement of Work, or this Agreement, in Client's sole discretion, and Client will receive a refund of any fees paid for the rejected Deliverable or Services associated therewith.

VII. Intellectual Property; License

- A. Work Product:** Except as set forth in Section VII.B or in a Statement of Work with respect to a certain Project, and without limiting the generality of Section VII.C, the Deliverables and all information and Intellectual Property arising from Provider's provision of the Services hereunder, and any other work for Client (including, without limitation, all ideas, technology, software, inventions, concepts, discoveries, developments, improvements and innovations, whether or not patentable or reduced to practice) conceived, made or developed by Provider whether alone or together with Client or others, which is not a Licensed Property or Third Party Software (both of which are defined below in this Section VII), shall be the sole and exclusive property of Provider. All of the rights and items described in the foregoing sentence, and all Intellectual Property or other proprietary rights relating to the Deliverables shall be defined, collectively, as the "Work Product." Client has no right or license with respect to any Work Product except as expressly licensed under Section VII.D or the applicable third party software license, in each case subject to Section VII.E. All other rights in and to the Work Product are expressly reserved by Provider and the respective licensors of Third-Party Software. Notwithstanding the foregoing, in the event that any Work Product developed under any Statement of Work is to be considered made for hire for Client under the copyright laws of the United States, then such designation must be specifically set forth in the applicable Statement of Work related to such Work Product. To the extent that: (i) any said Deliverables described in such Statements of Work may be held not to be works made for hire by a court or tribunal of competent jurisdiction whose decision is final and from which no appeal is or can be taken; or (ii) any right, title or interest in and to any such Deliverables may not otherwise vest in Client by operation of law, Provider shall within such applicable Statement of Work give, transfer and assign to Client all right, title and interest, including all rights in the nature of patent, copyright, trade secret or other Intellectual Property or proprietary rights, and any reversions or renewals thereof, now or thereafter arising in and to such Work Product not otherwise owned by Client (as a work for hire or otherwise), and shall assign same to Client, and waive any so-called "moral rights" in such Work Product, to the extent permitted by law. Provider agrees to execute and deliver such additional documents and take such additional reasonable actions as Client deems necessary or convenient to perfect or evidence Client's rights under this Agreement and such Statement of Work, provided that preparation of such additional documents shall be at the expense of Client.
- B. Client Properties:** Any Intellectual Property provided to Provider by Client under this Agreement is the sole and exclusive property of Client, and except as may be expressly provided in this Section VII, Provider shall have no right or interest therein. Provider acknowledges that Client is the sole and exclusive owner of all of right, title and interest in and to such Client properties, including, without limitation, all Intellectual Property rights related

thereto. Nothing contained herein shall create, nor shall be construed as, an assignment to Provider of any right, title or interest in or to such Client properties; it being acknowledged that all right, title and interest in and to such Client properties is expressly reserved by Client. Provider agrees that it will do nothing inconsistent with Client's ownership of, or rights in, such Client properties, and that all use of such Client properties by Supplier shall inure to the benefit of, and be on behalf of, Client. During the course of the normal design or support process Client may submit to provider design suggestions, mockups, feature requests, enhancement concepts, or other feedback whether verbal, electronic, or in writing. This is collectively referred to as "Design or Feature Request" submissions. Unless explicitly stated in writing this material shall not be considered to be Client Intellectual Property for purposes of this agreement and shall instead be included in the Work Product

- C. Provider Properties:** The Intellectual Property owned by Provider that may be used or useful to Provider in providing the Services is the sole and exclusive property of Supplier, and except as may be expressly provided in this Section VII, Client shall have no right or interest therein. Client acknowledges that Provider is the sole and exclusive owner of all of right, title and interest in and to such Provider properties, including, without limitation, all Intellectual Property rights related thereto. Nothing contained herein shall create, nor shall be construed as, an assignment to Client of any right, title or interest in or to such Provider properties; it being acknowledged that all right, title and interest in and to such Provider properties is expressly reserved by Provider. Client agrees that it will do nothing inconsistent with Provider's ownership of, or rights in, such Provider properties, and that all use of such Provider properties by Client shall inure to the benefit of, and be on behalf of, Provider.
- D. Licensed Properties:** Subject to and conditioned upon Client's payment of the Fees and compliance with and performance in accordance with all other terms and conditions of this Agreement, and unless otherwise provided in a Statement of Work, Provider hereby grants to Client a fully paid-up and royalty free, worldwide, non-transferable, non-sublicensable license to (a) to install, operate and use the Software Deliverables in object code only, solely for Client's business operations, and/or for the business operations of any End Clients specifically enumerated in an executed Service Schedule, and in accordance with the Documentation; and (b) use the Documentation, Specifications, and any other Work Product solely in connection herewith (each a "Licensed Property").
- E. Prohibited Use:** Client shall not, and shall not permit any other person or entity to, access or use any Work Product except as expressly permitted by this Agreement and, in the case of Third-Party Software, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Client shall not, except as this Agreement expressly permits:
 - 1) copy, modify or create derivative works or improvements of the Work Product;
 - 2) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer or otherwise make available the Work Product to any other person or entity, including through or in connection with any time-sharing, service bureau, software as a service, cloud or other technology or service;
 - 3) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain access to the source code of the Software Deliverables or any part thereof;
 - 4) remove, delete, alter or obscure any trademarks or any copyright, trademark, patent or other intellectual property or proprietary rights notices from any Work Product, including any copy thereof;
 - 5) use any Work Product in a manner or for any purpose that infringes, misappropriates or otherwise violates any law or third party Intellectual Property right;
 - 6) use the Work Product for purposes of competitive analysis of the Software Deliverables, the development of a competing software product or service or any other purpose that is to Provider's commercial disadvantage; or
 - 7) otherwise use the Work Product beyond the scope of the license granted under Section VII.D.

VII. Dispute Resolution

A. Negotiation / Adjudication

1. **Waiving trial by jury:** all disputes, claims, controversies or litigation arising out of, or relating to, or in connection with, any provision of this agreement or the parties thereto, whether asserted as the basis for a claim, counterclaim or crossclaim, or a defense to a claim, counterclaim or crossclaim shall be resolved by a judge sitting without a jury. the parties understand that they have a right to litigate disputes in court, and that they prefer to resolve their disputes through a trial before a judge sitting without a jury and that they knowingly waive any right they have to a jury trial. the parties agree and understand that all disputes claims, controversies or litigation arising under case law, statutory law and all other laws including, but not limited to, all contract, tort and equitable relief will be subject to a trial before a judge sitting without a jury in accord with this contract.
2. **Venue:** the parties agree that venue for all such disputes, claims, controversies, or litigation arising from or relating to this contract or the parties thereto shall only be before the circuit court for ~~Jefferson County~~Monroe County, Alabama~~Florida, the Birmingham Division.~~
3. **Jurisdiction:** the parties knowingly waive any right they have for subject matter jurisdiction and personal jurisdiction to be vested in any federal district court and that the parties hereby agree that the subject matter jurisdiction and personal jurisdiction to resolve any and all disputes, claims, controversies or litigation arising out of, or relating to, or in connection with any provision of this contract or the parties thereto, whether asserted as the basis for a claim, counterclaim or crossclaim, or a defense to a claim, counterclaim or crossclaim shall only be in the circuit court for Monroe County, Florida.
4. **Inadequate legal remedy:** both parties understand and acknowledge that violation of their respective covenants and agreements may cause the other irreparable harm and damage, that may not be recovered at law, and each agrees that the other's remedies for breach may be in equity by way of injunctive relief, as well as for damages and any other relief available to the non-breaching party, whether in law or in equity.

B. Risk Allocation

Provider warrants that the services under this agreement will be of a quality conforming to generally accepted practices in the indoor digital signage industry for a period of 90 days from the completion of the service. During this period Provider will repeat or rework any services provided that are not consistent with this standard or refund the portion of the service fee applicable to this non-conforming service. This represents provider's sole warranty with regard

to this service. Provider does not provide any other implied or expressed warranties, including any warranty of merchantability, fitness, or suitability for any specific purpose or function. Both parties agree that neither party shall be liable to the other party, under any claim or theory, for any special, punitive, consequential, incidental, indirect or consequential damages arising out of any services covered by this agreement (including, but not limited to, lost profits, good will, lost opportunity, lost data, and loss of usage).

IX. Representations and Warranties

- A.** Each Party represents and warrants to the other party that:
 - a. it is duly organized, validly existing and in good standing as a corporation or other entity under the laws of the jurisdiction of its incorporation or other organization;
 - b. it has the full right, power and authority to enter into, and to perform its obligations and grant the rights and licenses it grants or is required to grant under, this Agreement;
 - c. the execution of this Agreement by its representative whose signature is set forth at the end of this Agreement has been duly authorized by all necessary corporate or organizational action of such party; and
 - d. when executed and delivered by both parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms
- B. Services:** Provider represents and warrants that the Services will be performed in a timely, competent, professional and workmanlike manner by individuals of appropriate training and experience, and that all work will meet or exceed industry standards. During the term of this Agreement, Provider will repeat or rework any Services provided that are not consistent with this standard or refund the portion of the Service fee applicable to this non-conforming Service. This represents Provider's sole warranty with regard to the Services. Provider does not provide any other implied or expressed warranties, including any warranty of merchantability, fitness, or suitability for any specific purpose or function.
- C. Infringement:** Provider represents and warrants that the Deliverables do not and will not violate or infringe upon the rights of any third party, including without limitation, Intellectual Property rights or other proprietary rights of any kind.
- D. Rights:** Provider represents and warrants that Provider has the right and authority to grant all rights and licenses set forth in this Agreement without the authorization, approval or consent of any third party and that such rights and licenses shall not violate the rights of any third party.
- E. Additional Warranties:** In connection with the Software Deliverables, Hardware Deliverables and System Deliverables, Supplier provides the following additional warranties:
 - a. **Performance:** Provider represents and warrants that, with respect to each Deliverable, upon Acceptance of such Deliverable, shall be in good working order, shall be free from any material defects or

malfunctions, and shall operate in accordance with the Acceptance Criteria and the applicable specifications set forth in the Service Schedule or Statement of Work for such Deliverable. In addition, Provider shall repair or replace any hardware deliverable that fails to meet this criteria in a material way at its sole expense, except equipment that fails due to abuse, misuse, physical damage, or acts of God. This warranty is extended for the longer of the duration of the hardware warranty period outlined in the Service Schedule or any client paid Extended Warranty Period, whichever is longer. Provider may, at its sole discretion, replace any hardware deliverable, or subcomponent thereof with either a new item, or a functionally equivalent reconditioned item.

- b. **Integration of System Deliverables:** Provider represents and warrants that the hardware and software components of System Deliverables constitute all of the hardware and software necessary for the proper installation and full operation of a System Deliverable in accordance with the Acceptance Criteria and the applicable Service Schedule or Statement of Work.
- c. **Compatibility:** Provider represents and warrants that all components of each Deliverable acquired from Provider or approved, in writing, by Provider for use in the Deliverable, shall be fully compatible with each other and shall operate together as an integrated system and in accordance with the Acceptance Criteria applicable to such components and to the Deliverable as a whole. Provider further represents and warrants that the Deliverable is to be fully compatible and capable of interfacing with the systems described in the respective service schedule or statement of work or with respect to which Client agrees to provide a fully documented interface based on industry standards for open APIs. It is understood and agreed that, unless otherwise specified in the Service Schedule or Statement of Work, there may be costs associated with configuring, provisioning, or integrating with said interface, even if the Deliverable is capable of interfacing with said system. If there is a cost for licensing or access to said interface, unless otherwise specified in the Service Schedule or Statement of Work, Client agrees that it is responsible for any such costs.
- d. **Response Time and Deliverable Availability:** Provider represents and warrants that the Services and Deliverables shall meet the response time, availability parameters and all other criteria set forth in the current Provider SLA, the Service Schedule or Statement of Work, if any, and otherwise as required by applicable law.

X. Fees

- A. **Services and Deliverables:** Provider shall provide Client with Provider's current published rate schedule from which Supplier shall calculate the fees associated with all time and material or hourly-billed Projects hereunder. The rates in the rate card shall be denominated in US Dollars and shall be fixed subject only to an annual adjustment as mutually agreed by the parties; provided, however, the parties may adjust the rates at any time to take account of currency fluctuations of greater than ten percent (10%). Client shall pay a set fee for the Services and Deliverables as set forth in the applicable Service Schedule or Statement of Work (the "Fees"). Except as otherwise specified in a Service Schedule or Statement of Work, Provider shall be responsible for determining and providing all resources which are needed in order to meet Provider's obligations under this Agreement. Except as otherwise specified in a Service Order or Statement of Work or pursuant to section V.E regarding 3rd Party Consents, Provider shall be responsible for all costs and expenses incident to the performance of Services, including but not limited to, all costs of equipment provided by Provider, all fees, licenses, bonds or taxes required of or imposed against Provider, and all other of Provider's costs of doing business. Client shall not be responsible for any expenses incurred by Provider in performing Provider's obligations under this Agreement unless agreed to in advance by Client. The Fees shall include any travel expenses, materials or software required to complete the Project, except as otherwise specified in a Service Schedule, Statement of Work, or Pursuant to Section VI.E regarding OnSite training.

- B. Timing of Payments:** Client shall pay the Fees associated with the Services and Deliverables within thirty (30) days following receipt of a proper invoice from Supplier. All Fees shall be invoiced in and are payable in US Dollars.
- C. Taxes:** In addition to Fees, Client shall also be responsible for all federal, state and local taxes (including government assessed duties and fees) assessed in connection with the Services and the Deliverables, except to the extent Client is a tax-exempt entity and provides Provider with a valid tax-exemption certificate or other documentation evidencing such status. Client shall not be liable for taxes relating to Provider's income, franchise or property taxes or other taxes not related to the Services, the Deliverables, or Client's use thereof. Client shall not be responsible for payment of any interest or penalties in connection with said taxes not caused by Client, and Client has the right, but not the obligation, to protest the validity or amount of any tax. If taxes are paid by Client and subsequently refunded to Provider, Provider shall refund these amounts to Client. Neither this Agreement nor any other document shall cause Client to accept liability or otherwise shift responsibility to Client for any Provider obligations to pay any taxes, fees, fines or other penalty due and owing by Provider.
- D. Disputed Charges:** Client may withhold payment of a disputed charge subject to good faith dispute provided that Client pays the undisputed portion of all charges in accordance with this Section, and reasonably cooperates with Provider's efforts to investigate and resolve the dispute. If the disputed charge is found to be an error, Provider shall issue a credit or reverse the amount incorrectly billed. If after a reasonable, good faith investigation, Provider determines that a disputed charge was billed correctly, Provider shall issue a new invoice, and payment shall be due from Client within 7 (seven) business days. If Client still disputes the charge, the parties will submit the dispute for negotiation pursuant to Section X below.
- E. Provider's Efforts to Minimize Charges:** To the extent any Services are rendered on a time and materials ("T&M") basis under this Agreement, a Service Schedule, or any Statement of Work, Provider shall use best efforts to complete each assigned task in as economical a manner as possible and to minimize the T&M charges and other charges or fees and expenses incurred in connection therewith, to the maximum extent possible, consistent with Provider's other obligations under the Service Schedule, Statement of Work and/or this Agreement.
- F. Payment for Non-Cancelable Materials or Expenses:** The cost of any non-cancelable materials, services, travel, expenses, etc. which Provider purchases or commits to purchase for Client's account at Client's request, (either specifically or as part of a plan such as modules, digital assets and/or external services) shall be the responsibility of Client. Provider agrees to use its best efforts to minimize such costs promptly upon written notification from Client of any cancellation or termination hereof or of any Service Schedule, Statement of Work, or any element thereof. Provider will provide written proof, upon request, that any such materials and/or services are non-cancelable.
- G. Late Payment:** If Client fails to make any payment when due then, in addition to all other remedies that may be available: (i) Provider may charge interest on the past due amount at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law; (ii) Client shall reimburse Provider for all reasonable costs incurred by Provider in collecting any late payments or interest, including attorneys' fees, court costs and collection agency fees; and (iii) if such failure continues for ninety (90) days following written notice thereof, Supplier may suspend performance of the Services until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Client or any other person or entity by reason of such suspension.

XI. Content Standards

Because the Message Point service is a managed service signage/messaging system provided on equipment, software, and servers owned and managed by provider, provider has an obligation to ensure all content meets certain standards and

requirements to be stored and displayed on the system. While provider reserves the ultimate decision to reject any content at its sole discretion, the following standards cover the majority of reasons why content would be rejected:

Client must be able to document ownership or license to display the content in a public setting for commercial purposes (if applicable) from any copyright owner. For example, Public Domain License, Creative Commons CC0 or CC Attribution (CC BY) License (with appropriate attribution), evidence of commercial royalty free license purchase, affidavit of self-generation (with appropriate model release if necessary)

Content must be provided in a size, compression ratio, and format appropriate for the target location on the display.

Content must meet a standard of decency based on community standards, specific location, and context.

XII. Information Security

Unless otherwise specified in an individual service schedule or statement of work the MessagePoint.TV system and service you are contracting to use is designed and secured for the display of PUBLIC INFORMATION ONLY. Client may not use the system, or cause the system to be used for the storage or display of any information that is not suitable and permitted to be displayed in a public setting where it might be accessible to any interested party. The system should not be used to store or display any protected information including but not limited to information subject to FCRA, HIPPA, PCI, or other compliance standards. If client loads or causes to be displayed protected information on the MessagePoint.TV system or service they do so at their own risk and are solely responsible for any consequences or penalties; legal, regulatory, or otherwise of doing so.

While the MessagePoint.TV controller has been designed to minimize it's attack surface and any potential security vulnerabilities, It is provider's recommendation that the MessagePoint.TV controller be deployed either completely outside of the organization's firewall or security perimeter, or in an isolated "DMZ" security zone. If there is no requirement for access to any resources within the client's trusted network it is recommended that the controller simply be deployed outside the client's firewall with no more access than any other guest or public internet device. In the case that visual applications require access to information within the trusted network, it is the policy of Message Point Media that this should be done through the provisioning of a properly secured REST API endpoint that provides only the required information. In addition, the client's firewall should be properly secured to only provide access to the resources (IP Addresses, Ports) that are required to support the visual application's data needs. If the client does not follow this recommendation, misconfigures their network infrastructure, or requests that MPM deploy it's controllers in a manner other than this recommendation they do so solely at their own risk, and MPM has no liability for any resulting information security breach or incident caused by the service being deployed in this unsupported fashion.

If Client becomes aware of any information security breach, unauthorized release of credentials, unauthorized access to the MessagePoint.TV platform, or any other security related incident that has any potential to involve or affect the MessagePoint.TV platform or service it is their responsibility to immediately make provider aware of this incident via email to our information security team at IT_Security_Team @mpmedia.tv or by calling our Support Hotline at (844) 4My-SIGN.

If Provider becomes aware of any information security breach, unauthorized release of credentials, unauthorized access to the MessagePoint.TV platform, or any other security related incident that has any potential to involve or affect the MessagePoint.TV platform or service it is our responsibility to immediately make any effected client aware of this incident via email from our information security team at IT_Security_Team @mpmedia.tv via e-mail to the client's designated primary point of contact. These e-mails will contain the keyword [CRITICAL] in the subject line to allow the client to easily identify them.

XIII. Miscellaneous

- A. Severability:** Both Parties agree that if any provision of this agreement is deemed invalid or void it shall in no way effect any other provision of this agreement.
- B. Force Majeure:** This agreement is designed to cover the support needs of the Client during normal operating conditions. The Provider shall not be liable for damages, delay, or default in performance if such delay or default is caused by conditions beyond its control including, but not limited to, acts of God, government restrictions (including the denial or cancellation of any export or other necessary license), wars, insurrections, international trade disputes, fire, flood, electrical surges, deliberate malicious acts, theft, and/or any other cause beyond the reasonable control of either party.
- C. All Amendments in Writing:** No waiver, amendment or modification of any provisions of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom such waiver, amendment or modification is sought to be enforced. Furthermore, no provisions in either party's purchase orders or in any other business forms employed by either party will supersede the terms and conditions of this Agreement.
- D. Notices:** Any notice required or permitted by this Agreement shall be deemed given if sent by registered mail, postage prepaid with return receipt requested, addressed to the other party at the address set forth in the preamble of this Agreement or at such other address for which such party gives notice hereunder. Delivery shall be deemed effective three (3) days after deposit with postal authorities.
- E. Delay:** No failure or delay by either party in exercising any right, power or remedy under this Agreement, except as specifically provided in this Agreement, shall operate as a waiver of any such right, power or remedy.
- F. Cumulative Rights:** Any specific right or remedy provided in this Agreement will not be exclusive but will be cumulative upon all other rights and remedies described in this agreement and allowed under applicable law.
- G. Headings:** The titles and headings of the various sections and sections in this Agreement are intended solely for convenience of reference and are not intended for any other purpose whatsoever, or to explain, modify or place any construction upon or on any of the provisions of this Agreement.
- H. Counterparts:** This Agreement may be executed in multiple counterparts, any one of which will be considered an original, but all of which will constitute one and the same instrument.
- I. Survival of Certain Provisions:** The warranties and the indemnification and confidentiality obligations set forth in the Agreement shall survive the termination of the Agreement by either party for any reason.
- J. Breach and Cure:** In the event of any other breach or default of any material obligation owed by one party to the other in this Agreement, then the notifying party shall provide notice to the breaching party the breaching party shall be provided a reasonable opportunity to cure the breach or default prior to the notifying party taking any other actions.

XIV. Signatures

By signing this Agreement, the parties hereto agree to all terms, conditions and covenants contained herein and that they are authorized to make such decisions for their respective organizations. The parties acknowledge that this is a legally binding contract, and the parties fully acknowledge that they each have accepted this contract of their own free will and that the signing of this document was not the result of coercion or duress and that both parties sought and received, or had the opportunity to seek and receive, the advice of legal counsel of their choice prior to signing this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be signed by their duly authorized representatives as of the date set forth below.

For Client

For Provider

Title

Title

Effective Date

Reviewed for Legal Sufficiency:

Kendal Harden

Addendum A

Optional Display Content Services

Content Service Options

Provider offers a number of optional content services to client to supplement the content client may have available to display on the service. These include both one-time content development services like our Content Credit System or Professional Services as well as ongoing services like our content subscriptions and visual applications. Client is under **no obligation** to use these services. Provider will load any content that meets the content standards outlined below into the system for display on the client's service.

Content Credits

Content Credits are a pre-paid system for obtaining affordable custom graphic design and content development services. Credits are purchased in defined bundles and unused credits do not expire if an agreement for service is still in force. However unused content credits are non-refundable. Client agrees that content developed on their behalf under this system is delivered to them under a Creative Commons Attribution-NoDerivs (CC BY-ND) license. Client understands and agrees that Provider may create similar, but not identical, derivative works for other clients from the same template(s) or source materials as the design provided to them. Client also agrees that Provider may, at its sole discretion, allow its employees or contractors to include content developed under this system in their personal portfolio or work samples on a strictly non-commercial basis. Clients who do not agree to these terms may either commission "Custom" design work on a per-item basis or commission work from an outside designer or firm so long as it meets the below content standards.

Professional Content Development, Consulting, and Design Services

Provider offers a number of professional services to support the successful deployment and maintenance of the MessagePoint services. These include design, content production, consulting, and development services. Client may, at their option, utilize these services for more complicated or ad-hoc projects on an as-needed basis at the currently prevailing professional services rate schedule.

Visual Applications and Services

Visual Applications and services offer additional functionality such as interactivity, smartphone integration, alerting, or other add-on capabilities to the message point service. These services require a minimum six-month commitment, and thereafter renew for additional 90-day commitments unless client provides at least 30 days notice of desire to terminate those services.

Content Subscriptions

Provider also offers client a number of ongoing content services and subscriptions. Examples of these include news, weather, traffic, flight information, trivia, and interactive services. Third party companies provide the content of these services and subscriptions and client understands that provider has no control over the specific content of those content feeds. By subscribing to a given feed, client agrees that their sole remedy for any issues arising out of the content of that feed is to discontinue the service with provider. These content subscriptions require a minimum 90-day commitment, and thereafter renew for additional 90 day commitments unless client provides at least 30 days notice of desire to terminate those content module services. Within each commitment period, client may swap any content feed for an equivalent or lesser-cost content feed up to twice, but no more than once every 30 days.

Advertising Services

Provider offers the client an optional, no-cost advertising service for the generation of additional revenues. This service is provided according to the service level agreements outlined in Attachment 2: Advertising SLA. This document outlines the negotiated revenue share and service levels. To enable advertising services, a signed copy of the attachment must be ratified by both parties.

Payment for Non-Cancelable Materials

Any non-cancelable materials, services, etc., we have properly committed ourselves to purchase for your account, (either specifically or as part of a plan such as modules, photography and/or external services) shall be paid for by you, in accordance with the provisions of this Agreement. We agree to use our best efforts to minimize such liabilities immediately upon written notification from you. We will provide written proof, upon request, that any such materials and services, are non-cancelable.

Materials Unpaid For

If upon termination there exist any materials furnished by us or any services performed by us for which you have not paid us in full, until such time as you have paid us in full, you agree not to use any such materials, in whole or in part, or the product of such services.

Transfer of Materials

Upon termination of this agreement, provided there is no outstanding balance or obligations owed by client to Provider, Provider shall transfer, assign and make available to you all property and materials in its possession or control belonging to you. You agree to pay for all costs associated with the transfer of materials.

Addendum B

Professional Services Rate Schedule

<i>Rate Description</i>	<i>Hourly Rate</i>
<i>Tier 1 Remote Support</i>	<i>\$65.00 / Hour</i>
<i>Tier 2 Remote Support</i>	<i>\$85.00 / Hour</i>
<i>Tier 1 Onsite Support</i>	<i>\$105.00 / Hour</i>
<i>Tier 2 Onsite Support</i>	<i>\$150.00 / Hour</i>
<i>Tier 1 Development / Design</i>	<i>\$75.00 / Hour</i>
<i>Tier 2 Development / Design</i>	<i>\$125.00 / Hour</i>
<i>Tier 3 Development / Design</i>	<i>\$150.00 / Hour</i>
<i>Business Analyst / Project Management</i>	<i>\$ 150.00 / Hour</i>
<i>Consulting</i>	<i>\$ 200.00 / Hour</i>

Remote Support - 15 Minute Increments / Minimum

Development / Design/ Onsite Support(Local) – One Hour Minimum / 30 Minute Increments

Onsite Support (Non-Local) / Consulting - Two Hour Minimum / 30 Minute Increments