Master Services Terms & Conditions
Last modified on 06-10-2020.

Dialogs Apps, Inc. ("Dialogs") has established the following Master Services Terms & Conditions ("Terms"). Please read these Terms very carefully. By creating a profile on the Dialogs.com site, becoming a Dialogs client or using any of Dialogs services or software, you are agreeing to be bound by these Terms. If you are using this Site or any of Dialogs services or software on behalf of an entity or organization, you are agreeing to these Terms for that entity or organization and promising that you have the authority to bind that entity or organization to these Terms. In that case, "you" and "your" will refer to that entity or organization.

Dialogs reserves the right to and may refuse service to anyone, close accounts of any users, and change the Terms at any time. If Dialogs makes any changes to these Terms, Dialogs will notify you via email at the email address provided by you in your profile. Your continued use of this Site or the Dialogs services will constitute your agreement to be bound by the Terms, as amended.

If you have any questions regarding these Terms, please contact us.

1) **Definitions.** When used in these Terms and in each SOW issued hereunder, the capitalized terms set forth below have the following meanings:

    a) "Client" means you or, if you represent an entity, the entity you represent.

    b) "Deliverables" means all code, documentation, processes, systems, designs and other materials developed for or delivered to Client by Dialogs under these Terms and under any SOW issued hereunder.

    c) "Derivative Work" means a work that is based upon one or more preexisting works such as a revision, modification, translation, abridgment, condensation, expansion, or any other form in which such preexisting works may be recast, transformed, or adapted, and that, if prepared without authorization of the owner of the copyright in such preexisting work, would constitute a copyright infringement.

    d) "Party" or "Parties" means Dialogs or Client, as applicable.

    e) "Site" means the website located at www.Dialogs.com.

    f) "SOW" means a Statement of Work for specific services to be performed by Dialogs for Client and submitted to Dialogs pursuant to an online ticket. Each SOW is governed by the terms of these Terms. However, if an SOW conflicts with these Terms, the Terms of the SOW will govern.

2) **Eligibility.** In order to use this Site and any Dialogs services, you must be:

a) At least 18 years of age or older,

b) Agree to the Terms and any amendments thereto,

c) Complete a Client profile located here.

d) Maintain an up to date Client profile with true, correct and complete information.

If you use the Site or any of Dialogs' services, you are (1) agreeing to these Terms, (2) certifying that you have met, and will continue to meet, the qualifications listed above, and (3) if you are a representative of an entity, certifying that you have the authority to act on behalf of such entity and to legally bind such entity.

3) **Delivery and Acceptance**. Upon completion, Dialogs will provide to Client all Deliverables to Client for testing and acceptance. Unless Client provides written notice otherwise to Dialogs within 30 days of receipt of the Deliverables, the Client will be deemed to have accepted and approved such Deliverables.

4) **Compensation.** In consideration of the products and services Dialogs provides to a Client pursuant to an SOW or as purchased by Client, Client shall pay to Dialogs the fees and expenses set forth in these Terms and any applicable SOW within 30 days of receipt of an invoice.

a) **Plans for Dialogs Software.** The fees to obtain a license to use the various editions of the Dialogs Software are posted on the Dialogs Software page of the Site and must be paid at the time of ordering a license.

b) **Monthly Hosting Plans.** Monthly website hosting fees are billed to the Client on a monthly basis or may be paid for with DPS Units and are posted on the Dialogs Hosting page of the Site.

c) **Service Level Agreements.** The fees for services performed pursuant to a Service Level Agreement are billed to the Client on a monthly basis or may be paid for with DPS Units. Amounts of such fees are posted on the Service Level Agreement page of the Site.

d) **DPS Solutions**. The costs for the various DPS Solutions Dialogs offers will be set forth in an SOW setting for the services to be performed for the Client and Dialogs will invoice the Client for such services on a monthly basis payable within 15 days of the date of such invoice or as set forth in the applicable SOW.

e) **Past Due Payments**. Payments that are 30 days or more past due will bear interest at the rate of one and one half percent (1.5%) per month or the

highest rate permitted by law, whichever is lower, until such payments are made. Additionally, Dialogs will assess a $50.00 returned check fee if a Client's payment by check is not collected upon and returned for insufficient funds or another reason. In addition to all other available rights and remedies, Dialogs may immediately suspend or terminate (at Dialogs' option) any SOW, any Licenses or any services provided to Client upon at least 30 days prior written notice of such delinquency if Client fails to make payments when due, and fails to cure any non-payments of invoices of any amounts owing Dialogs regardless of what products or services the payments are for and regardless of whether such products or services are pursuant to these Terms or any other agreement between Dialogs and Client. For example and further clarification, if Dialogs provides hosting services and has entered into an SOW with Client for development of an application and Client fails to timely pay an invoice for the development services, Dialogs may suspend the application development and the hosting services provided to Client until the invoice is paid in full.   If, within a 12-month period, Client fails to pay two or more invoices within 30 days of the date when due, Dialogs may require Client to pay for services in advance.

5) **Rights in Data and Works**

a) Ownership of Solution. Dialogs agrees that, upon payment in full of all amounts owed to Dialogs by Client, Client will be the sole owner of all right, title and interest in the custom software solution (the "Solution") developed for Client by Dialogs pursuant to this Agreement and any SOW as well as the Deliverables, Applications, and Content including, without limitation, any Derivative Works of any of the foregoing, and including all intellectual property rights related to any of the foregoing (collectively, "Work Product"). Dialogs will, at Client's expense, execute any documents or take such other actions that may be necessary to vest sole ownership of the Solution in Client. The Parties agree that Dialogs shall retain all right, title and interest in and to all of its patents, copyrights, software, technology, and code that (i) pre-existed the effective date of this Agreement that was used in the Deliverables or Solution or (ii) otherwise was or is developed by Dialogs (or a third party on behalf of Dialogs) independently from Client or outside the scope of this Agreement (the "Dialogs IP").

b) Underlying Technology. Notwithstanding anything to the contrary contained herein, the Deliverables may include software, technology and/or code that is owned by, or subject to the rights of, third parties or that may be software, technology, and/or code developed by Dialogs for stand-alone use or for use in other software (the "Underlying Technology"). Client expressly understands and agrees that any copyrights and other intellectual property contained in the Underlying Technology and the Dialogs IP will remain the property of Dialogs or the third party owning such Underlying Technology

and Dialogs hereby grants to Client a non-exclusive, perpetual right to use the Underlying Technology contained in the Deliverables in accordance with these Terms. Client will not have any ownership of the Underlying Technology. To further clarify, it is the compilation of the work of Dialogs and the Underlying Technology as a whole that constitutes the Solution owned by Client pursuant to Section 5(a) above and not the individual parts of Underlying Technology. Client may not prevent Dialogs from altering, selling, marketing, or using the Underlying Technology in any way for itself or third parties. Client may not copy or use the Underlying Technology for any purpose other than the Solution.

c) Work Product. The Work Product shall be considered "work made for hire" with all right, title, and interest to such Work Product pursuant to this Agreement vesting in Client. Client shall have the right to use the Work Product or any part or parts thereof as it sees fit subject to any ownership interests of Dialogs or third parties in the Underlying Technology and the Dialogs IP. Dialogs hereby irrevocably assigns to Client all right, title, and interest that it or any of its employees or contractors may have in Work Product (except for the Underlying Technology and Dialogs IP, which is owned by Dialogs or third parties, as applicable) and agrees to execute, and cause any employee or contractor to execute all documents necessary to implement and confirm this section. Dialogs hereby grants Client, and Client hereby accepts, a revocable (solely for breach of license), perpetual, world-wide, royalty-free license to use, copy, modify, distribute, display, perform, import, manufacture and sublicense the Dialogs IP for the purpose of exercising Client's right, title, and interest in the Work Product and for use in conjunction with the Work Product in which the Dialog IP is embedded.

6) **Copy and Use Restrictions.**

a) Client may copy the Deliverables as necessary for backup, archival or disaster recovery purposes and as permitted herein provided that Dialogs' copyright notice and proprietary legends and labels are included on and in any such copies. Client agrees to keep records of the number and location of all copies of the Deliverables in Client's possession and to permit Dialogs to audit such records and Client's use of the Deliverables during normal business hours upon reasonable notice.

b) Client may not, nor allow any third party to: (i) decompile, disassemble, reverse engineer, or otherwise attempt to reconstruct or discover any source or underlying ideas or algorithms of the Deliverables by any means whatsoever; (ii) remove any product identification, copyright, or other notices; (iii) provide, lease, lend, use for timesharing or service bureau purposes, or otherwise use or allow others to use the Deliverables for the benefit of third parties; (iv) incorporate into or with other software or create a Derivative Work of any part of the Deliverables; or (v) except with Dialogs'

permission, disseminate performance or benchmark tests or analysis relating to the Deliverables.

7) **Content License.** Client will provide advertisements, trademarks, product images and content (collectively, "Content") necessary to fulfill its obligations under each SOW. Client hereby grants Dialogs a world-wide, non-exclusive, royalty-free license solely to distribute, display, transmit, and otherwise use the Content as reasonably anticipated to fulfill Dialogs' obligations under these Terms and such SOW's. Content may not contain, advertise, link (either directly or, if with the knowledge of Client, indirectly) to or otherwise be related to content that infringes or misappropriates third party intellectual property rights (including, but not limited to, copyrights, trademarks, service marks or any other proprietary, publicity or privacy right). Dialogs may, but is under no obligation to, review the Content to determine if it infringes or misappropriates third party intellectual property rights. If Dialogs receives a claim of infringement concerning the Content or a claim which alleges a breach of this Section, Client agrees that Dialogs may take any action it deems necessary to ensure it does not infringe or misappropriate third party intellectual property rights, pending receipt of a non-infringing replacement Content or satisfactory resolution of the claim, and any such action will not constitute a breach of these Terms. Client must provide non-infringing replacement Content or resolve the claim to Dialogs satisfaction, within forty-eight hours of notification. Client shall indemnify, defend, save and hold Dialogs, its officers, directors, employees, agents, affiliates and representatives harmless from and against all claims, suits, actions, liabilities, losses, fines, penalties, damages and expenses of any kind (including, but not limited to, reasonable attorneys' fees and court costs) which arise out of or are based upon a third party's claim of any Content infringing or misappropriating such third party's intellectual property rights.

8) **Representations.** The Parties mutually represent and warrant to one another that: (a) no further approval (corporate or otherwise) from either of the Parties is necessary for these Terms to become effective, (b) each of the Parties has the legal power, authority and right to enter into and perform its respective obligations under these Terms, and (c) each of the Parties' execution of, delivery of and performance under these Terms shall not constitute a violation of any oral or written agreement to which it is a party or by which it is bound.

9) **DISCLAIMER.** SUBJECT TO THE LIMITATIONS SET FORTH ELSEWHERE IN THESE TERMS, THE SOFTWARE AND OTHER DELIVERABLES ARE PROVIDED ON AN "AS IS" BASIS, AND DIALOGS DISCLAIMS ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESSED, IMPLIED, ORAL, OR WRITTEN), RELATING TO THE SOFTWARE AND DELIVERABLES OR ANY PART THEREOF, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. DIALOGS MAKES NO WARRANTIES RESPECTING ANY HARM THAT MAY BE CAUSED BY THE TRANSMISSION OF A COMPUTER VIRUS, WORM, TIME BOMB,

LOGIC BOMB, OR OTHER SUCH COMPUTER PROGRAM. THIS DISCLAIMER OF WARRANTY MAY NOT BE VALID IN SOME STATES. YOU MAY HAVE WARRANTY RIGHTS UNDER LAW WHICH MAY NOT BE WAIVED OR DISCLAIMED. DIALOGS DOES NOT SEEK TO LIMIT YOUR WARRANTY RIGHTS TO ANY EXTENT NOT PERMITTED BY LAW.

10) **LIMITATION OF REMEDIES AND DAMAGES.** EXCEPT AS PROVIDED IN THIS SECTION BELOW, DIALOGS IS NOT RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THESE TERMS OR ANY SOW, PRODUCT ORDER, SCHEDULE OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY FOR: (A) DAMAGES FOR LOSS OR INACCURACY OF DATA OR (EXCEPT FOR RETURN OF AMOUNTS PAID TO DIALOGS THEREFOR) COST OF PROCUREMENTS OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY; (B) ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO LOSS OF PROFITS; OR (C) ANY MATTER BEYOND ITS REASONABLE CONTROL. IN ANY CASE, DIALOGS' ENTIRE LIABILITY UNDER ANY PROVISION OF THESE TERMS SHALL BE LIMITED TO THE CLIENT FEE ACTUALLY PAID BY CLIENT UNDER THESE TERMS WITH RESPECT TO THE SOFTWARE OR DELIVERABLE AT ISSUE. WITHOUT LIMITING THE FOREGOING, DIALOGS SHALL HAVE NO LIABILITY FOR ANY FAILURE OR DELAY RESULTING FROM CONDITIONS BEYOND DIALOGS' CONTROL.

11) **Term.** The term of the agreement for services between Client and Dialogs are as follows:

    a) **Plans for Dialogs Software.** The License granted to Client for use of the Dialogs Software will begin on the date on which the Client purchases either the Standard Edition, Business Edition or Enterprise Edition and will continue for a period of one year unless terminated or extended sooner pursuant to these Terms.

    b) **Hosting Plans.** The term for the Hosting Plan begins on the date on which the Client purchases the Hosting Services and will continue for a period of one year unless terminated or extended sooner pursuant to these Terms.

    c) **Service Level Agreements**. The term for a Service Level Agreement begins on the date on which the Client purchases the Service Level and will continue for a period of one year unless terminated or extended sooner pursuant to these Terms.

    d) **DPS Solutions**. The term for a DPS Solution begins on the date on which the Client signs an SOW for such services and will continue for a period of one year unless terminated or extended sooner pursuant to these Terms or the terms of the SOW.

e) <u>**Auto Renewal of Terms.**</u> The terms stated above (each an "Initial Term") will be automatically renewed for successive one-year periods (each, a "Renewal Term") upon the Terms, commencing on the date that is the end of the Initial Term, and on each anniversary date thereafter, unless either Party gives the other Party written notice of such Party's intention to terminate at least 30 days prior to the end of such Initial Term or Renewal Term, as applicable.

12) <u>**Default**</u>. Each of the following events constitutes a default under these Terms, regardless of any other effect or result:

a) Client fails to pay any monies due under or contemplated by these Terms within 30 days of receipt of an invoice from Dialogs.

b) Other than as provided above in this Section, if either of the Parties commits a breach of any material obligation or express warranty or representation of these Terms that is capable of being cured and that is not remedied within 30 days after having received written notice of the breach.

13) <u>**Termination.**</u> In addition to any rights of termination stated in other sections of these Terms:

a) <u>Termination of Hosting and Service Levels</u>. Notwithstanding any provision in these Terms to the contrary, the Client may only terminate the Hosting and Service Level Agreements at the end of an Initial Term or Renewal term, as applicable, by providing Dialogs with written notice of Client's intention to terminate at least 30 days prior to the end of such term.

b) <u>Termination of Plans for Dialogs Software, DPS Solutions and other Services</u>. Except as otherwise provided, these Terms, all SOW's and any Licenses granted to Client may be terminated prior to the expiration of any Initial Term or Renewal Term:

   i) By any Party and for any reason whatsoever, upon 30 days written notice to the other Party; or

   ii) By the non-defaulting Party in the event of a default, as described in the Section regarding Default herein, immediately upon such default by providing written notice to the defaulting Party.

c) Without limiting any remedies of any non-defaulting Party, any Party not in default shall be entitled to enforce its rights under these Terms through an action at law or equity (including, without limitation, specific performance and injunctive relief) and the recovery of all costs arising from any litigation including, but not limited to, reasonable attorneys' fees and court costs.

d) Notwithstanding anything in these Terms to the contrary and without requiring any opportunity to cure, these Terms, all SOW's and any Licenses granted may be immediately terminated upon written notice at either Party's option if (i) the other Party is dissolved; (ii) the other Party is the subject of a petition filed in bankruptcy under Chapter 7, which is still pending 30 days after filing and notice to the other Party; (iii) the other Party is adjudicated as bankrupt or insolvent; (iv) the other Party makes a general assignment for the benefit of creditors or an arrangement pursuant to any bankruptcy law; (v) if a receiver is appointed to take charge of the affairs and/or assets of the other Party, which is still pending 30 days after filing and notice to the other Party; or (vi) in the event of the other Party's uncured breach of the confidentiality, restrictive covenants or legal compliance requirements in these Terms.

e) Upon any termination of these Terms, all Licenses shall immediately cease and Client shall: (i) immediately discontinue usage of the Software; (ii) promptly return or destroy all copies of the Software, including removal from each computer and/or server to which the Software had been copied (whether or not modified or incorporated with or into other software), and other written materials which may pertain to the Software; and (iii) verify these actions in writing to Dialogs if requested.

f) Any restrictive covenants contained in these Terms shall survive termination of these Terms or any portion thereof for any reason. Termination is not an exclusive remedy and all other remedies will be available whether or not these Terms or any Licenses are terminated.

14) <u>Confidential Information</u>.

a) Each Party may receive Confidential Information from the other Party with respect to the performance of these Terms. As used in these Terms, "Confidential Information" means any information, including without limitation, these Terms, any terms and conditions of an SOW, business information, financial information, vendor identity and other vendor information, customer information, technical information and marketing information of the disclosing Party and any information that is marked as confidential or, if disclosed verbally, is designated as such at the time of disclosure. Confidential Information does <u>not</u> include information that:

   i)   becomes generally available to the public through no fault of the receiving Party;

   ii)   is, prior to its initial disclosure hereunder, legally and rightfully in the possession of the receiving Party;

iii)   is acquired by the receiving Party from any third party without any restrictions on its use or disclosure or violation of a confidentiality agreement; or

iv)   is independently developed by the receiving Party without use of the Confidential Information.

b)   Any Confidential Information disclosed pursuant to these Terms shall be retained in confidence by the receiving Party, will not be disclosed to any third party without the prior written permission of the disclosing Party and will be used only for the purposes of carrying out the terms of these Terms. Confidential Information may be disclosed only to employees or consultants of the receiving Party who have a need to know in furtherance of carrying out the terms of these Terms and are bound by these Terms or a similar confidentiality agreement requiring them to keep such information confidential. The receiving Party shall be responsible for any breach of these Terms by an employee or consultant of such the receiving Party. The receiving Party shall use the same degree of care as it uses to protect its own confidential information of a similar nature, but no less than reasonable care, to prevent the unauthorized use, dissemination or publication of the Confidential Information. The receiving Party may not make any copies of any printed Confidential Information, except to the extent necessary to perform its duties under these Terms.

c)   If the receiving Party becomes subject to a demand for discovery or disclosure of the Confidential Information of the other Party under legal process, the receiving Party shall provide prompt written notice to the disclosing Party of the demand prior to furnishing the Confidential Information demanded so that the disclosing Party may protest such disclosure, or seek a protective order limiting such disclosure. At the expense of the disclosing Party, the receiving Party shall obtain or cooperate with the disclosing Party in seeking reasonable arrangements to protect the confidential and proprietary nature of the Confidential Information. In the event of a disputed disclosure, Client bears the burden of proof to demonstrate that the information falls under one of the above described exceptions.

d)   All Confidential Information disclosed under these Terms shall remain the exclusive property of the disclosing Party and nothing contained herein shall be construed as a grant, express or implied or by estoppel, of a transfer, assignment, license, lease of any right, title or interest in the Confidential Information.

e)   Upon the termination of these Terms or upon the written request of the disclosing Party, the receiving Party shall, at the option of the disclosing Party, (i) immediately return to the disclosing Party all Confidential Information disclosed in tangible form and all copies thereof; or (ii) promptly

destroy such Confidential Information (including all copies thereof) and certify their destruction in writing to the disclosing Party.

15) **Non-Solicitation of Employees.** During any Initial Term or Renewal Term and continuing for a period of one year after the termination or expiration of these Terms, neither Party will, without the prior written consent of the other Party, employ or consult, or interfere with the employment or consultation of any of the employees, consultants, agents, or independent contractors of the other Party, whether now employed or employed by the other Party during the term of these Terms or directly or indirectly induce or attempt to influence any employee, consultant, agent or independent contractor of the other Party, whether now employed or employed by the other Party during the term of these Terms to terminate services or any other type of relationship with the Other Party.

16) **Independent Contractors.** Dialogs and Client are not partners or joint venturers. The Parties have entered into these Terms as independent contractors and not as agents of one another. Neither Party shall have any authority to act in any way as the representative of the other, or to bind the other to any third party, except as specifically set forth herein.

17) **Force Majeure.** Neither Party shall be liable to the other for any failure to satisfy an obligation, representation or warranty under these Terms (except for the failure of Client to pay invoices due hereunder) due to any cause beyond its reasonable control including, but not limited to, inclement weather, Acts of God, war, riot, malicious acts of damage, civil commotion, strike, lockout, industrial dispute, power failure or fire, Internet outages, or unforeseeable acts of third parties. If such a condition prevents a Party's performance for a continuous period of 30 or more days, the Parties hereto shall consult with each other to determine whether these Terms should be modified. The Party facing an event of force majeure shall use its best endeavors in order to remedy that situation as well as to minimize its effects. A Party experiencing an event of force majeure shall notify the other Party as soon as possible after its occurrence.

18) **No Waiver.** The failure in any one or more instances of a Party hereto to insist upon performance of any of the terms, covenants or conditions of these Terms, to exercise any right or privilege in these Terms conferred, or the waiver by said Party of any breach of any of the terms, covenants or conditions of these Terms will not be construed as a subsequent waiver of any such terms, covenants, conditions, rights or privileges, but the same will continue and remain in full force and effect as if no such forbearance or waiver had occurred.

19) **Injunctive and Equitable Relief.** The Parties acknowledge and agree that the restrictive covenants set forth in these Terms are reasonable and necessary for the protection of the Parties' business interests and that irreparable injury may result if they are breached and that the extent of damages to a Party in the event of a breach by the other Party of any restrictive covenant set forth in the restrictive

covenants in these Terms would be impossible to ascertain, that the irreparable harm arising out of any breach shall be irrebuttably presumed, and that the remedy at law for any breach will be inadequate to compensate the Party. Consequently, the Parties agree that, in the event of a breach of any such covenant, in addition to any other relief to which a Party may be entitled, the Party shall be entitled to enforce the covenant by specific performance and injunctive or other equitable relief ordered by a court of competent jurisdiction, without necessity of posting bond or other collateral security.

20) **Governing Law, Jurisdiction and Venue. These Terms and any SOW shall be governed by and construed under the laws of the State of Texas without regard to conflicts of laws principles. Any action or proceeding seeking to enforce any provision of, or based on any right arising out of, these Terms shall be brought against any of the Parties in the courts of the State of Texas, County of Dallas, or, if it has or can acquire jurisdiction, in the United States District Court for the Northern District of Texas, and each of the Parties consents to the jurisdiction of such courts (and of the appropriate appellate courts) in any such action or proceeding and waives any objection to venue laid therein. Process in any action or proceeding referred to in the preceding sentence may be served on any Party anywhere in the world.**

21) **Mediation. If a dispute arises out of or relates to these Terms, or if a Party alleges any breach or default of these Terms, the Parties shall first, in good faith, attempt to negotiate a settlement of that dispute, breach or default before filing any lawsuit. Except as specifically provided in these Terms, the Parties agree that any dispute or controversy arising out of, relating to or in connection with the interpretation, validity, construction, performance, breach or termination of these Terms shall be submitted to mediation in the Dallas, Texas area by a mediator chosen from names furnished by the Association of Attorney Mediators ("AAM") in Dallas, Texas. Notwithstanding the above, if the amount of the dispute or damages relating thereto are of an amount that would enable the Party to file the dispute in a justice of the peace court or small claims court, the Parties to these Terms may file their dispute in the applicable justice of the peace court or small claims court and will not otherwise be required to submit their dispute to mediation or arbitration. Notwithstanding the above, if the Party needs to file a lawsuit in order to preserve its claim or to prevent further damage by requesting an injunction be issued, the Parties to these Terms may file their dispute in the applicable court and then proceed to mediation in an attempt to settle the dispute.**

22) **Partial Invalidity.** Wherever possible, each provision of these Terms shall be interpreted in such a way as to be effective and valid under applicable law. If a provision is prohibited by or invalid under applicable law, it shall be omitted from these Terms without invalidating the remainder of such provision or the remaining provisions of these Terms.

23) **Assignment.** The Licenses granted herein, and any of its rights or obligations hereunder, shall not be transferable or otherwise assignable by either Party to any third party or entity, including but not limited to Client's parent, subsidiary or affiliated companies without the consent of the other Party, which consent may not be unreasonably withheld, and these Terms may not be involuntarily assigned or assigned by operation of law without the prior written consent of the other Party. Any assignment in violation of the foregoing shall be void. Notwithstanding the foregoing, Dialogs may assign its rights and obligations under these Terms as part of a sale of all, or substantially all, of its assets, business or intellectual property rights in the Software without the prior consent of Licenses.

24) **Survival of Covenants.** All restrictive covenants contained in these Terms shall survive the termination of these Terms.

25) **Attorneys' Fees.** In the event that either Party is required to engage the services of legal counsel to enforce the material terms and conditions of these Terms against the other Party, regardless of whether such action results in litigation, the prevailing Party shall be entitled to reasonable attorneys' fees, costs of legal assistants, and other costs from the other Party, which shall include any fees or costs incurred at trial or in any appellate proceeding, and expenses and other costs, including any accounting expenses incurred.

26) **Validity.** If any provision of these Terms or the application of any provision hereof to any person or circumstances is held invalid, unenforceable or otherwise illegal, the remainder of these Terms and the application of such provision to any other person or circumstances will not be affected, and the provision so held to be invalid, unenforceable or otherwise illegal will be reformed to the extent (and only to the extent) necessary to make it enforceable, valid or legal.

27) **Entire Agreement.** These Terms and each SOW constitute the entire agreement between the Parties and supersede any prior or contemporaneous oral or written representations with regard to the subject matter hereof. These Terms may not be modified or amended except by a writing signed by authorized representatives of both Parties.

28) **Notices.** All notices, requests, demands and other communications given hereunder (collectively, "Notices") will be in writing and delivered personally or by overnight courier to the parties at the addresses listed in the Client's profile or the Dialogs Contact Us page `ent by facsimile, with confirmation received; provided, however, that any payments pursuant to this Agreement may be sent via United States Postal Service. All Notices will be deemed delivered when actually received if delivered personally or by overnight courier or sent by confirmed facsimile, addressed as set forth above. Each of the parties will hereafter notify the other in accordance with this section of any change of address or facsimile number to which notice is required to be sent.

29) **<u>Authorized Signature</u>.** Under the Electronic Signatures in Global and National Commerce Act ("E-Sign"), these Terms, any SOW and all electronically executed documents related hereto are legally binding in the same manner as are hard copy documents executed by hand signature. When accepted in electronic form, this Agreement and all related electronic documents shall be governed by the provisions of E-Sign. By pressing "Submit," "Accept" or "I Agree," Client agrees: (i) that these Terms and related documents shall be effective by electronic means, (ii) to be bound by the Terms and related documents, and (iii) that it has had the ability to print or otherwise store these Terms and related documents.

Terms Changes Log:

- 04/29/2013 – Master Services Terms & Conditions Posted
- 12/13/2017 – Page 1, "Kaleidoscope Information Services, Inc." was changed to "Dialogs Apps, Inc."
- 06-10-2020 – Paragraph 5 rewritten to clarify the ownership of Solution and Underlying Technology.