

PROFESSIONAL SERVICES TERMS AND CONDITIONS (EXHIBIT TO STATEMENT OF WORK)

Date of Last Revision: May 29, 2019

All Statements of Work are governed by the Agreement between the parties as set forth in the Quotation.

In consideration for the payment of Professional Services fees as set forth in the Quotation that references and incorporates the Statement of Work between the Parties (to which these Professional Services Terms and Conditions are attached as an Exhibit or referenced therein) (collectively, the “Agreement”), and subject to the terms and conditions of this Agreement, the Parties agree as follows:

1. Definitions.

(a) **“Acceptance Period”** means a period of (10) business days following the delivery of the Deliverable for acceptance testing pursuant to mutually agreed acceptance criteria, if any, set forth in the SOW.

(b) **“Affiliate”** means any entity that controls, is controlled by, or is under common control with, a Party, where “control” means the power, directly or indirectly, either to (i) vote more than 50% of the capital stock or ownership interests having ordinary voting power for the election of directors of such entity, or (ii) direct or in effect cause the direction of the management and general activities of such entity whether by contract or otherwise, but in each case only for so long as such ownership or control continues.

(c) **“Services”** means the professional services to be provided by Globalscape for Customer as described in the statement of work (**“SOW”** or **“Pre-Packaged Services SOW”**) (to which these Professional Services Terms and Conditions are attached as an Exhibit or referenced therein) agreed to by the Parties pursuant to a Quotation executed by the Parties. The Pre-Packaged Services SOW(s) are described at the following link: <https://www.globalscape.com/documentation>.

(d) **“Customer Materials”** means any materials or Technology provided to Globalscape by Customer in connection with the Services.

(e) **“Deliverables”** means any reports, analyses, scripts, templates, code or other work products, tangible or intangible, to be delivered by Globalscape to Customer as set forth in the applicable SOW.

(f) **“Intellectual Property Rights”** means all worldwide intellectual property rights including copyrights, trademarks, service marks, trade secrets, know-how, inventions, patents, patent applications, moral rights and all other proprietary rights, whether registered or unregistered.

(g) **“Parties”** means Globalscape and Customer collectively, and a **“Party”** means Globalscape or Customer individually.

(h) **“Taxes”** means any sales, use and other taxes (other than taxes on Globalscape’s income), export and import fees, customs duties and similar charges applicable to the Services as described in the SOW that are imposed by any government or any other authority.

(i) **“Technology”** means algorithms, approaches, source and object codes, concepts, data, designs, developments, documentation, discoveries, hardware, inventions, know-how, methodologies, multimedia files, processes, programs, skill, software, techniques, technology, templates, text, tools, and web pages.

(j) **“Globalscape Retained Materials”** means (i) materials (other than products) developed or obtained by or for Globalscape independently of the Services, and (ii) subsets or modules of the Deliverables that by themselves provide generic technical information not unique to Customer’s business including, but not limited to,

scripts, code, templates, and all other materials developed or otherwise provided by Globalscape in connection with the Services.

(k) “**M&S Plan**” means the maintenance and support agreement or plan, if purchased by Customer or to which Customer is otherwise entitled, pursuant to which Globalscape is obligated to provide EFT Software updates and upgrades and access to technical support services.

2. Services.

(a) Services. Globalscape will provide the Services and Deliverables as specified in the SOW. The SOW will specify and describe the relevant business parameters, including, but not limited to, the Services, the Deliverables, the Customer Materials, primary contact information for Globalscape and Customer, project description, delivery schedule, staff roles, pricing, and a payment schedule. In the event of a conflict between the terms of these Professional Services Terms and Conditions and the terms of the SOW, these Professional Services Terms and Conditions will govern unless otherwise explicitly superseded in the SOW.

(b) Acceptance.

(i) For fixed fee engagements, upon completion of each milestone, Globalscape will deliver to Customer a Service Render Notification. For time and materials (“**T&M**”) engagements, Globalscape will deliver timesheets to Customer. Customer may reply to the Service Render Notification or timesheets, as applicable, to Globalscape within the Acceptance Period, indicating Customer’s acceptance of the SOW’s Deliverables and/or Services.

(ii) If Customer reasonably believes that Globalscape did not perform the Services or the Deliverables in substantial conformance with the SOW and its acceptance criteria, if any, Customer will notify Globalscape in writing within the Acceptance Period. Customer’s notice must specifically identify and explain each alleged non-conformance with the terms of the SOW. Upon receipt of Customer’s notice of non-conformance, Globalscape reserves the right to do one or more of the following:

(a) reject Customer’s assertion of any non-conformance if the non-conformance is not attributable to Globalscape Services or Globalscape product.

(b) reject Customer’s assertion of any non-conformance that is suspected to be attributable to Globalscape product defects. In the event that the non-conformance is attributable to Globalscape product defects, the non-conformance will be treated, tracked and resolved by way of technical support cases handled by the Globalscape technical support team and governed by the Customer’s applicable M&S Plan.

(c) dispute any of Customer’s identification and explanation of the alleged non-conformance. In the event that Globalscape reasonably believes that the alleged non-conformance is not attributable to Globalscape Services, Customer may, within the Acceptance Period provide additional evidence of the alleged non-conformance being attributable to Globalscape Services.

(d) If Globalscape concurs with Customer’s assertion of the non-conformance, Globalscape will use reasonable efforts to correct Customer’s non-conformances attributable to Globalscape Services and then again present a Service Render Notification or timesheets for Customer’s acceptance as required by Section 2(b)(i), and the acceptance process and Acceptance Period will be re-applied as described herein. Customer understands that only non-conformances attributable to Globalscape Services will be subject to the acceptance of the Services.

(iii) If Globalscape does not receive Customer's acceptance or rejection within the Acceptance Period, the Services and the Deliverables will be deemed accepted by Customer, and Customer will have waived any right of rejection.

(iv) If Parties do not agree on the alleged non-conformance, then the SOW may be terminated by either Party, and the only payments due will be for Services performed and any expenses incurred by Globalscape prior to the termination date.

(c) Change Order.

(i) Either Party may request a modification to the Deliverables or to any material provision of the SOW by requesting a Change Order. Upon receipt of a Change Order, Globalscape will estimate the Change Order's financial and schedule impacts, if any. The Parties will review these estimates to determine whether the Change Order would be mutually acceptable. Globalscape may not unreasonably refuse to accept a Change Order initiated by Customer, if Customer agrees to bear the pricing and schedule impacts.

(ii) If the Parties agree on the Change Order, Globalscape will attach the final Change Order to the SOW. If the Parties are unable to agree within ten (10) business days after the Change Order is submitted, then the submitting Party may either withdraw the Change Order or terminate the SOW. If the SOW is terminated, the only payments due are for Services performed and any expenses incurred by Globalscape prior to the termination date.

(d) Customer Materials Delays. Customer acknowledges that Globalscape's performance of the Services and delivery of the Deliverables is contingent on Customer's timely delivery of the Customer Materials required to perform the Services. Customer agrees that any reasonable scheduling or financial impacts caused by Customer's failure to deliver Customer Materials within the specified time will be treated as a Change Order or a new SOW. Customer agrees to sign such Change Order or new SOW, otherwise Globalscape will have the right to terminate the SOW and Customer will pay for Services performed and any expenses incurred by Globalscape prior to the termination date.

(e) Personnel. Globalscape will determine the personnel assigned to perform the Services. Customer may request, in writing, with specific reasons stated, the replacement of Globalscape personnel or Globalscape contractors that Customer reasonably believes are not adequately performing the Services.

(f) Deliverable Configuration. Configuration Deliverables delivered by Globalscape pursuant to a SOW will be constrained within the product core features, and will be delivered "AS IS." Once Customer accepts the configuration Deliverable, any work that requires a consultant or developer time will be considered out of the scope of the SOW. In such situations, Customer may purchase additional services from Globalscape. Globalscape may develop or use custom tools and scripts, or may use third party tools to provide functionality when necessary throughout the project. Development of custom code or scripting is provided "AS IS" and Globalscape will not provide maintenance or support for such code. Any custom code or scripting modifications, issues/defects, configuration, assistance, usage, troubleshooting, or documentation shall require an additional professional services engagement in a separate statement of work.

(g) Third party Software. Third party software (if any) may be licensed separately and not under the terms of the Globalscape End User License Agreement (EULA), and may be subject to additional payments. Customer is responsible for complying with the applicable third party software licenses and is subject to the third party software terms and conditions.

(h) Delivery Methods:

(i) REMOTE (Virtual): A Globalscape consultant is assigned to work remotely for the duration of the Services. The remote working sessions will be scheduled using Outlook invitations and performed using web conferencing screen sharing (WebEx, GoToMeeting, or similar).

(ii) ONSITE: A Globalscape consultant is assigned to work physically at Customer's facility for the scheduled duration of the Services. The onsite working sessions shall be arranged and scheduled between the Parties. The fees for each Service listed as "ONSITE" includes travel and expenses ("T&E") for up to one (1) trip. In the event in that any Deliverable cannot be completed during the onsite visit for any reason, Globalscape will schedule a consultant to complete the remaining Deliverables listed in the SOW via the remote delivery method as defined in Section 2(h)(i), unless Customer agrees to pay additional T&E for the additional trip.

(i) Service hours:

Services are provided during normal business hours, Monday through Friday, 8 a.m. – 5p.m. Central Standard Time, excluding U.S. Holidays. Globalscape may be able to accommodate Customer-requested Services outside of normal business hours based on resource availability. Onsite hours will be 8 a.m. – 5p.m. in Customer's time zone.

(j) Technical Support:

Globalscape and/or Customer may need to open a case support ticket with Globalscape Technical Support in connection with the Services in the SOW, for example: product issues or troubleshooting for solving usage problems or fulfilling service desk requests that may need IT involvement. Product troubleshooting support for product issues will be provided by Globalscape Technical Support team according to Customer's existing M&S Plan. Technical Support resolution terms and conditions are defined in the Customer's applicable Maintenance and Support Plan ("**M&S Plan**") available at the following link: <https://www.globalscape.com/support-packages>.

Case support tickets in connection with the Services will be created and determined by Globalscape during the Services engagement and delivery under the SOW and will be treated as "Preferred cases" by the Globalscape Technical Support team. Specifically:

- (i) Case support tickets will be escalated to the highest priority in the queue; and
- (ii) The Technical Support team will expedite hotfixes on product issues to the currently supported EFT software version when workarounds are not an option.

3. Intellectual Property.

a) Grant of Copyright in the Deliverables. Subject to Customer's payment of the amounts due under the Agreement and to Customer's compliance with the Agreement, Customer will own all copyrights to the portion of the Deliverables consisting solely of written reports, analyses, and other working papers (other than Globalscape Retained Materials), prepared and delivered by Globalscape to Customer under the SOW covered by this Agreement.

(b) Grant of License Rights in the Deliverables. For Globalscape Retained Materials incorporated in the Deliverables or otherwise provided by Globalscape in connection with the Services, subject to the terms and conditions of the Agreement Globalscape grants Customer a non-exclusive, non-transferable, irrevocable (except in case of breach of the Agreement), perpetual license, without the right to sublicense, to use and copy such Globalscape Retained Materials for Customer's internal business operations only (and not for resale or distribution to any third party) (the "Deliverables License"). The Deliverables License does not apply to (i) Customer Materials, and (ii) any other products or items licensed, or otherwise provided, under a separate written agreement.

(c) Customer Materials. Any Customer Materials used by Globalscape in connection with the Agreement remain Customer's property. Pursuant to Customer's Intellectual Property Rights in Customer Materials, Customer grants Globalscape a non-exclusive right to use Customer Materials solely for the benefit of Customer in fulfillment of Globalscape's obligations under the Agreement. Customer warrants that it has the necessary rights to provide Customer Materials to Globalscape, so that Globalscape can access, use, and modify Customer Materials as necessary for Globalscape's performance of the Services.

(d) Reservation of other Intellectual Property Rights. Each Party reserves for itself all other Intellectual Property Rights that it has not expressly granted to the other. All rights in Globalscape Retained Materials remain Globalscape's sole property. Globalscape will not be limited in developing, using or marketing services, materials or products that are similar to or related to the Deliverables (other than those portions of the Deliverables where ownership of the copyright has been granted to Customer) or the Services, or, subject to Globalscape's confidentiality obligations to Customer, in using the Deliverables in or performing similar Services for any other projects and/or third parties.

4. Confidentiality.

(a) Definition. "**Confidential Information**" means information or materials provided by one Party ("**Discloser**") to the other Party ("**Recipient**") which are in tangible form and labeled "confidential" or the like, or information that a reasonable person knew or should have known to be confidential under the circumstances. The following information will be considered Confidential Information whether or not it has been marked or identified as confidential: any personally identifiable information (such as the name of Discloser's customers), or the physical address of any equipment contained in any information collected about Discloser's computer environment, Discloser's business operations, pricing, discounts, source code, product roadmaps or strategic marketing plans.

(b) Protection. Recipient may use Confidential Information of Discloser: (i) to exercise its rights and perform its obligation under the SOW; and (ii) in connection with the Parties' on-going business relationship. Recipient will not use any Confidential Information of Discloser for any purpose not expressly permitted by the Agreement, and will disclose the Confidential Information of Discloser only to Recipient's employees or contractors who have a need to know the Confidential Information for purposes of the Agreement and who are under a duty of confidentiality no less restrictive than Recipient's duty under the Agreement. Recipient will protect Discloser's Confidential Information from unauthorized use, access, or disclosure in the same manner as Recipient protects its own confidential or proprietary information of a similar nature, but with no less than reasonable care.

(c) Exceptions. Recipient's obligation under this Section 4 with respect to any of Discloser's Confidential Information will terminate if Recipient can show by written records that such information: (i) was already rightfully known to the Recipient at the time of disclosure without any confidentiality restrictions; (ii) was disclosed to Recipient by a third party who had the right to make the disclosure without any confidentiality restrictions; (iii) is, or through no fault of Recipient, has become, generally available to the public; or (iv) was independently developed by Recipient without use of Discloser's Confidential Information. In addition, Recipient is permitted to disclose Discloser's Confidential information to the extent that the disclosure is required by law or by order of a court or similar judicial or administrative body, provided that Recipient notifies (to the extent permitted by law) Discloser of that required disclosure promptly and in writing and cooperates with Discloser, at Discloser's request and expense, in any lawful action to contest or limit the scope of that required disclosure.

(d) Permitted Disclosure. Notwithstanding anything to the contrary in this Agreement, neither Party will disclose the terms and conditions of the Agreement (including, without limitation, the Quotation and SOW) to any third party without prior written consent of the other Party. Notwithstanding the foregoing, each Party may disclose the terms and conditions of the SOW without the prior written consent of the other Party (i) as required by any court or other governmental body, (ii) as otherwise required by law, (iii) to legal counsel of the Parties, (iv) in confidence, to their respective accountants, banks, and financing sources and other professional advisors, (v) in

connection with the enforcement of the Agreement or the Party's rights under the Agreement; (vi) in confidence, in connection with an actual or proposed merger, acquisition, or similar transaction; or (vii) if required by law or by order of a court or similar judicial or administrative body, in which case the Party compelled to make the disclosure will use its commercially reasonable efforts to give the other Party advance notice of the requirement.

5. Warranties; Disclaimer and Limitation of Liability.

(a) Globalscape Warranty. Globalscape warrants that the Services will be performed in a workmanlike manner in accordance with the standards of the industry. Customer must notify Globalscape of any alleged breach of this warranty before the end of the Acceptance Period. Globalscape's entire liability and Customer's sole remedy for Globalscape's breach of this warranty will be for Globalscape, at its option, to (i) use reasonable efforts to correct that breach, or (ii) terminate the Agreement and refund that portion of any fees paid by Customer that corresponds to that breach.

(b) Disclaimer of Warranties. THE EXPRESS WARRANTY SET FORTH IN SECTION 5(a) ABOVE IS IN LIEU OF ALL OTHER WARRANTIES, AND, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, GLOBALSCAPE DISCLAIMS, ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, TITLE, NONINFRINGEMENT, AND ANY WARRANTIES ARISING FROM COURSE OF DEALING OR COURSE OF PERFORMANCE REGARDING OR RELATING TO THE SERVICES OR DELIVERABLES, OR ANY OTHER MATERIALS FURNISHED OR PROVIDED TO CUSTOMER UNDER THE AGREEMENT. GLOBALSCAPE WILL NOT BE LIABLE FOR ANY THIRD PARTY SERVICES OR PRODUCTS IDENTIFIED OR REFERRED TO CUSTOMER BY GLOBALSCAPE. NO EMPLOYEE, AGENT, REPRESENTATIVE OR AFFILIATE OF GLOBALSCAPE HAS THE AUTHORITY TO BIND GLOBALSCAPE TO ANY REPRESENTATIONS OR WARRANTIES OUTSIDE OF THE AGREEMENT.

(c) Limitation of Liability.

(i) Limitation on Direct Damages. Except as provided in Section 5(c)(iii) below, Globalscape's total aggregate liability to Customer for damages in connection with this Agreement and the Services or any Deliverable provided pursuant to this Agreement, regardless of the form of action giving rise to such liability (under any theory, whether in contract, tort, statutory or otherwise) will not exceed the aggregate fees paid by Customer to Globalscape pursuant to the SOW giving rise to such damages.

(ii) Disclaimer of Liability. To the maximum extent permitted by applicable law, neither Party will be liable to the other Party for any indirect, incidental, special, punitive or consequential damages of any kind, including, without limitation, loss of profits, business opportunity, revenue, goodwill or data, even if advised of the possibility of those damages.

(iii) Limitation of Liability Exclusions. The limitation of liability in Section 5(c)(i) above will not apply to (a) Customer's payment obligations under the Agreement; (b) either Party's liability for death or personal injury caused by its negligence; (c) either Party's liability for any fraudulent misrepresentations made by one Party on which the other Party can be shown to have relied; or (d) any liability which may not be excluded by applicable law.

(iv) Further Limitations. Globalscape's licensors will have no liability of any kind under the Agreement, and Globalscape's liability with respect to any third party software embedded in the Deliverables will be subject to the limitations in this Section 5. Customer may not bring a claim arising out of the Agreement, regardless of form, more than twelve (12) months after the cause of action has accrued.

6. Fees and Payment.

(a) Payment. Globalscape will provide the Services (i) for a fixed fee or (ii) on a T&M basis, as described in Quotation, plus applicable Taxes and travel expenses in accordance with Globalscape's travel and expense policy. As Globalscape performs work on the SOW, Globalscape will invoice Customer for the portion of the Services for which such work on the SOW has been performed with payment of such invoice due within thirty (30) days of the date of invoice. Customer is responsible for ensuring that its purchase order ("**PO**") issued to Globalscape for the Services reflects the pricing set forth in the Quotation. Once Globalscape fulfills its obligations under a PO from Customer, Globalscape will have no liability for any pricing in Customer's PO that is inconsistent with the pricing set forth in the Quotation. Customer agrees that POs do not have to be signed by Customer to be valid and enforceable. Subject to the Agreement, all fees paid by Customer are non-refundable.

(b) Taxes. Fees are exclusive of Taxes, and Customer will pay or reimburse Globalscape for all Taxes arising out of the Agreement. If Customer is required to pay or withhold any Taxes in respect of any payments due to Globalscape, Customer will gross up payments actually made such that Globalscape will receive sums due in full and free of any deduction for any Taxes. Customer confirms that Globalscape can rely on the Customer address set forth in the Quotation as being the place of supply for Tax purposes.

(c) Late Payments. All amounts not paid when due will incur a late charge equal to the lesser of one and one-half percent (1.5%) per month, or the maximum amount allowed by applicable law. Globalscape may suspend performance of the Services while any payment is delinquent.

(d) Currency. All charges and fee provided for in the SOW will be in United States Dollars (USD), unless otherwise specified in the Quotation.

(e) Canceling/Rescheduling SOW before Commencement. A minimum of fifteen (15) business days' written notice must be provided by Customer for rescheduling or canceling the SOW prior to the commencement of the Services. Only incurred expenses (e.g., airfare), if any, will be owed and invoiced if that notice is given. The entire payment and any incurred expenses are owed if the SOW is cancelled with less than that notice.

7. Term and Termination.

(a) Term. The term of the Agreement begins on the date stated in the SOW and continues until (i) Customer's acceptance of the final Deliverables pursuant to the process in the Agreement, (ii) terminated in accordance with the provisions of the Agreement, or (iii) the Parties mutually terminate the Agreement in writing.

(b) Termination. Either Party may terminate the Agreement immediately upon written notice if: (i) the other Party breaches any provision of the SOW and does not cure the breach within thirty (30) days after receiving written notice from the other Party; or (ii) the other Party commits a breach of the SOW that is not capable of being cured. Globalscape may terminate the Agreement in its entirety effective immediately upon written notice to Customer if Customer: (a) terminates or suspends its business; (b) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the benefit of creditors, or becomes subject to control of a trustee, receiver or similar authority; or (c) becomes subject to any bankruptcy or insolvency proceeding. Notwithstanding anything to the contrary in the Agreement, the Services covered by the Quotation or SOW shall automatically expire ("**SOW Expiration Date**") **twelve** (12) months after the execution of the Quotation for the SOW, regardless of the Services being completed and the Deliverables delivered and accepted. The SOW Expiration Date may be extended by written mutual agreement by both Parties or the Parties may execute a new SOW. Globalscape will refund any pre-paid Services fees paid by Customer in the event of the SOW's expiration.

(c) Survival. Any provision of the Agreement will survive any termination or expiration of the Agreement if by its nature and context it is intended to survive, including provisions related to the payment of outstanding fees, confidentiality, intellectual property, warranties, disclaimers and limitation of liability.

8. Miscellaneous

(a) General. The laws of the State of Texas, excluding its conflicts laws, will govern this Agreement, the rights and obligations of the Parties hereto, the entire relationship between the Parties hereto, and all matters arising out of or relating to this Agreement. The Parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods. Customer agrees that this Agreement will be fully performable in Bexar County, Texas and submits to the exclusive jurisdiction of, and agrees that venue is proper in the state or federal courts located in Bexar County, Texas in any legal action or proceeding relating to this Agreement. Globalscape may seek injunctive relief in any court to prevent imminent harm. This Agreement may only be modified by a written document signed by Globalscape and Customer. No Globalscape authorized provider, marketplace, dealer or distributor is authorized to change the terms of this Agreement. If any provision of this Agreement is found to be void or unenforceable, then such provision will be reformed without further action by the Parties to the extent necessary to make such provision valid and enforceable when applied to such facts or circumstances, with the objective of achieving as nearly as legally possible the same effect, and the remainder of this Agreement will continue in full force and effect. No waiver of any term or right in this Agreement will be effective unless in writing, signed by an authorized representative of the waiving Party. The titles and subtitles used in this Agreement are used for convenience only and are not to be considered in construing or interpreting this Agreement. Failure to exercise or delay in the exercise of any right or remedy under this Agreement will not operate as a present or future waiver thereof. The express waiver by either Party of any provision, condition or requirement of this Agreement will not constitute a waiver of any future obligation to comply with such provision, condition or requirement. This Agreement is in the English language only, which language will be controlling in all respects. No translation, if any, of this Agreement into any other language for convenience or to meet local requirements will be of any force or effect in the interpretation of this Agreement or in determination of the interests of either Party hereto. Furthermore, all correspondence, notices, claims, suits and other communication between the Parties hereto will be written or conducted in English. It is the express wish of the Parties that this Agreement and/or any related documents have been drawn up in a language other than French. French translation: Les parties aux présentes confirment leur intention que cette convention ainsi que tous les documents afférents soient rédigés dans la langue anglaise. (Translation: "The Parties confirm that this Agreement and all related documentation is and will be in the English language.")

(b) Force Majeure. Except with respect to any payment to be made to Globalscape hereunder, neither Party will be liable for any failure, deficiency or delay in the performance of its obligations under this Agreement due to any force majeure, which will include but not be limited to any storm, flood, fire, aircraft damage, explosion, electrical or communication line failure, disturbance, war or military action, acts of terrorism, Government act or administrative delay, equipment failure or non-delivery, inability to obtain materials or any cause or matter whatsoever not within the reasonable control of such Party. In the event of such a force majeure, the affected Party will be entitled to a reasonable extension of time for the performance of its obligations under this Agreement.

(c) Independent Contractors. The Parties are independent contractors. Nothing contained herein or done pursuant to this Agreement will constitute either Party the agent of the other Party for any purpose or in any sense whatsoever, or constitute the Parties as partners or joint venturers.

(d) Construction. This Agreement will be construed without regard to any presumption or rule requiring construction against the drafting Party. Each of the individuals executing this Agreement on behalf of a Party individually represents and warrants that he or she has been authorized to do so and has the power to bind the Party for whom they are signing.

(e) Assignment. Customer will not have the right or ability to assign or transfer (whether by merger, operation of law or otherwise) this Agreement, in whole or in part, including without limitation any obligations or rights under this Agreement without the prior written consent of Globalscape, which consent will not be unreasonably withheld. A change of control of Customer will be deemed an assignment for purposes of this Section. Globalscape may assign or transfer its rights and obligations under this Agreement, without Customer's consent, to a Globalscape affiliate or in connection with any merger, consolidation, sale of all or substantially all of Globalscape's assets or equity, reorganization, or any similar transaction (whether by merger, operation of law or otherwise).

(f) Notices. Unless otherwise set forth in the SOW, any notice regarding the Agreement or required by law must be in writing and delivered to the other Party's legal department at the address listed below via: (i) personal delivery confirmed in writing by the recipient; (ii) certified mail, return receipt requested; or (iii) recognized commercial courier offering confirmation of delivery. Notices will be deemed received upon the date of delivery shown by the corresponding confirmation or refusal to accept. Either Party may change its address by notice to the other Party. All notices will be directed to Customer to the address set forth in the Quotation or SOW, and to Globalscape as follows: GlobalSCAPE, Inc., 4500 Lockhill-Selma Road, Suite 150, San Antonio, Texas, USA 78249, Attention: Contracts Department.

(g) Counterparts. This Agreement may be executed in one or more counterparts, either manually or via electronic or digital signature, each copy of which will be deemed an original and all of which, when taken together, will constitute one and the same instrument.

(h) Entire Agreement. This Agreement, including the Quotation and SOW, and the exhibits/appendices attached or incorporated herein or therein by reference, constitute the complete and exclusive agreement between Globalscape and Customer with respect to the subject matter hereof, and supersede all previous and contemporaneous agreements and understandings, whether oral or written, between the Parties with respect to the subject matter hereof.

(i) Insurance. Globalscape will, for the term of the Agreement, carry general and professional liability, automobile, and workers compensation insurance, for claims for bodily injury (including death) or damage to tangible or real property, which may arise or result from Globalscape's performance under the Agreement. Globalscape will provide Customer with its then-current Certificate of Insurance upon reasonable request.

(j) Non-Solicitation. During the period of the performance and one year from the completion of the Services under the SOW covered by the Agreement, neither Party will solicit directly or indirectly the employment or services of the employees or contractors of the other Party who were involved in the performance under the SOW. Both Parties acknowledge that (i) any newspaper or other public solicitation not directed specifically to that person will not be deemed to be a solicitation for purpose of this provision, and (ii) this provision is not intended to limit the individual's right to change jobs.

(k) Compliance with Laws; Export Control; Government Regulations. Each Party will comply with all laws applicable to the actions contemplated by the Agreement. All content, including the Services and the Technology included therein (collectively the "**Materials**") provided under the Agreement are subject to governmental restrictions on (i) exports from the United States; (ii) exports from other countries in which the Materials may be produced or located; (iii) disclosure of Technology to non-U.S. persons; (iv) exports from abroad of products derivative of the Materials; (v) the importation and/or use of the Materials outside of the United States or other countries (collectively, "**Export Laws**"). Customer must comply with all Export Laws. Diversion contrary to United States law or other Exports Laws is expressly prohibited.

(l) License Agreement. If the Services involve Globalscape software products licensed or provided to Customer under a separate written agreement, unless otherwise provided in the SOW or Quotation, the terms set out in the separate written agreement will apply with respect to each Globalscape software product.

(m) Acknowledgement. Unless otherwise stated in the SOW, Customer acknowledges that the Services do not include significant modification or customization of Globalscape licensed software, and that all EFT software application bugs, issues, changes, or new features shall be governed by the Customer's applicable M&S Plan.

(n) Reference. Notwithstanding anything in this Agreement to the contrary, Globalscape may identify Customer as a customer of Globalscape and reference Customer's company name, logos and other marks in press releases, general advertising materials, case studies, and other promotional materials, provided that Globalscape will include protective legends necessary to protect Customer's rights in and to Customer's trademarks, service marks, or copyrighted materials. Any other use made by Globalscape will only occur upon the receipt of prior written approval from Customer.