



DIOGUARDI Consultation Group

Master Services Agreement

This "Master Services Agreement" ("MSA", or this "Agreement") shall govern and control the relationship between Dioguardi Consultation Group, Inc., ("DCG") and you, (the "Client"); with regard to the supply of technology services, consulting services, third party software and services, equipment and supplies provided by DCG to the Client ("Client Services"). Please read this MSA carefully. Return of a completed and signed copy of this MSA to DCG is necessary before any work will commence. The submission by a Client of a completed and signed MSA shall constitute acceptance of the terms and conditions of this MSA.

Client Company Information

COMPANY NAME:

(legal entity)

COMPANY ADDRESS:

AFFILIATED ENTITIES:

COMPANY EIN:

Client Technical Contact

NAME:

TELEPHONE:

EMAIL ADDRESS:

CELL PHONE:

Client Billing Contact

NAME:

TELEPHONE:

EMAIL ADDRESS:

DCG Account Representative

NAME:

TELEPHONE:

EMAIL ADDRESS:

Terms of Service

- INDEPENDENT CONTRACTOR.** DCG is an independent Contractor and DCG is not employed by Client. DCG is hereby contracting with Client for the Client Services that may be described herein or in the Addendums attached hereto. DCG reserves the right to determine the method, manner and means by which Client Services will be performed. DCG is not required to perform Client Services during a fixed hourly or daily time, unless specified in an Addendum. DCG shall not be required to devote full time to the performance of Client Services, and it is acknowledged that DCG has other clients and offers services to the general public. The order or sequence in which the work is to be performed shall be under the control of DCG.

- 2. NON-SOLICITATION OF EMPLOYEES.** During the Term of this MSA and for a period of eighteen months thereafter, Client agrees not to solicit, recruit, or employ any employee of DCG directly or through a subordinate or affiliated entity, without the prior written consent of DCG. If Client violates this restriction, Client shall be liable to DCG for a fee equal to: 50% of the employees first year's compensation as Client's employee, Client agrees that such fees are fair and appropriate compensation to DCG for the cost to recruit and train a new employee.

- 3. WARRANTIES LIMITATION OF LIABILITY.**

DCG MAKES NO WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO ANY CLIENT SERVICES PURSUANT HERETO, COMPUTER HARDWARE OR SOFTWARE OF ANY KIND, DCG PROMOTIONAL MATERIALS OR ITS WEBSITE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF QUALITY, PERFORMANCE, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, OR NON-INFRINGEMENT.

DCG SHALL NOT BE RESPONSIBLE FOR ANY (A) SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, ARISING FROM OR RELATED TO A BREACH OR THIS MSA AND OTHER, ASSOCIATED AGREEMENTS INCLUDING SUCH DAMAGES, WITHOUT LIMITATION, AS ARISING FROM A LOSS OF DATA OR PROGRAMMING, LOSS OF REVENUE OR PROFITS, DAMAGE TO EQUIPMENT, AND CLAIMS AGAINST CLIENT BY ANY THIRD PARTY EVEN IF DCG HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES; (B) DAMAGES (REGARDLESS OF THEIR NATURE) FOR ANY DELAY OR FAILURE TO PERFORM ITS OBLIGATIONS UNDER THIS MSA DUE TO ANY CAUSE BEYOND DCG'S REASONABLE CONTROL; OR (C) CLAIMS MADE A SUBJECT OF A LEGAL PROCEEDING AGAINST DCG MORE THAN ONE YEAR AFTER ANY SUCH CAUSE OF ACTION FIRST AROSE.

NOTWITHSTANDING ANY OTHER PROVISION OF THIS MSA DCG'S LIABILITIES UNDER THIS MSA, WHETHER UNDER CONTRACT LAW, TORT LAW, WARRANTY OR OTHERWISE SHALL BE LIMITED TO DIRECT DAMAGES NOT TO EXCEED THE FEES ACTUALLY RECEIVED BY DCG PURSUANT TO THIS MSA FOR THE THREE MONTH PERIOD PRIOR TO THE FILING OF ANY CLAIM.

DCG PROVIDES NO FURTHER OR ADDITIONAL WARRANTY TO ANY THIRD-PARTY LICENSED SOFTWARE OR EQUIPMENT SUPPLIED TO THE CLIENT AS PART OF CLIENT SERVICES.

DCG WILL NOT BE LIABLE FOR ANY ERRORS OR DEFECTS IN ANY THIRD-PARTY SOFTWARE OR HARDWARE OR THIRD-PARTY PRODUCT OR FOR ANY NON-PERFORMANCE THEREOF. ANY CLAIM BASED ON, RELATED TO, OR ARISING OUT OF THE USE OF ANY THIRD-PARTY SOFTWARE OR THIRD-PARTY EQUIPMENT OR PRODUCT WILL BE GOVERNED EXCLUSIVELY BY THE TERMS OF CLIENT'S AGREEMENT WITH THAT THIRD-PARTY.

WARRANTIES WILL BE VOID IF CLIENT OR ANY THIRD-PARTY AUTHORIZED BY CLIENT USES AND/OR MODIFIES THE CLIENT SERVICES, INCLUDING SOFTWARE, HARDWARE, MODIFICATIONS OR DELIVERABLES, IN ANY MANNER OTHER THAN AS AUTHORIZED BY DCG.

- 4. OWNERSHIP OF DATA.** Any of Client's data being stored on DCG equipment, and at any offsite remote storage facility, remains the sole property of Client. If Client chooses to terminate this MSA, DCG may assist Client in the orderly termination of Client Services as set forth in the Transition Section of this MSA. Client agrees to pay DCG the costs of rendering such assistance in accordance with the then current hourly rate schedule as published on the DCG website.
- 5. DATA INTEGRITY.** Client shall be responsible for the integrity, and security, of Client's data. Daily backups, frequent verification of the validity of the backups and the restoration process are also the responsibility of Client. DCG shall undertake to preserve and protect Client's data while performing Client Services; however DCG shall not be liable for the loss of data, or a breach of its integrity as a result of any Client Services.
- 6. OWNERSHIP OF EQUIPMENT.** Client agrees that any equipment that is: (i) loaned to Client by DCG: or (ii) rented to Client by DCG, whether or not pursuant to a rental agreement that contains an option to purchase, shall remain the property of DCG, and must be returned to DCG upon the earlier of the termination of this MSA or the demand of DCG. Client shall not grant any security interest in this equipment to any third-party or otherwise exercise any indication of legal ownership of the equipment. Client further agrees to cease the use of and return immediately any equipment that remains the property of DCG upon termination of this MSA by expiration or default. If termination or cancellation of any rental or lease falls outside of the existing term, Client shall be responsible for the remainder, in full, of said term. If the equipment is stolen, lost, damaged, destroyed, decommissioned or otherwise not returned to DCG for any reason, Client shall be responsible to pay DCG for replacing the equipment with equipment with the same or equivalent capabilities.
- 7. DEPOSITS.** Any deposits required for individual Clients Services will be set forth on an Addendum. Upon termination of this MSA deposits may be returned to Client after deducting any outstanding fees, including but not limited to any applicable early termination fees. Any deposit shall not be used as payment.

8. **HOURS OF SERVICE.** Except as may be specifically set forth in an Addendum, compensation for Client Services shall be billed at "Regular Consulting Rates", which are deemed to be Client Services performed during any time between the hours of 8:00 AM to 5:00 PM EST/EDT Monday through Friday, excluding the following holidays ("Regular Consulting Hours"):

New Year's Day	Labor Day
Presidents Day	Columbus Day
Good Friday	Thanksgiving Day
Memorial Day	Day After Thanksgiving
July Fourth (observed)	Christmas Day

Regular Consulting Rates shall be provided by employees of DCG as follows:

RESOURCE	STANDARD RATE
Network Architect	\$230/hr.
Senior Consultant	\$210/hr.
Project Manager	\$190/hr.
Network Engineer	\$160/hr.

9. **EXTENDED CONSULTING HOURS.** Extended Consulting Hours consist of any hours outside of the period defined as Regular Consulting Hours. This includes weekends, the period 5:01 PM to 7:59 AM EST/EDT during weekdays, and all holidays. In the event that Client Services are performed by DCG at Clients request, Client shall be liable for an increased hourly rate for Client Services performed during that period. Hourly rates for services performed weekdays from 5:01 PM to 7:59 AM shall be billed at a rate of 150% of the standard hourly rate, and hourly rates for Client Services performed at any time on any weekend or holiday shall be billed at a rate of 200% of the standard hourly rate.
10. **TRAVEL AND EXPENSES.** Reimbursement for fees from Client would include expenses incurred as a result of the projects outlined in the scope of work, plus a 12% processing and handling fee. Travel time to and from Client sites are billed at 50% of Standard rates. All travel by train or air will be via coach class. Mileage to and from Client site will be reimbursed at the prevailing IRS rate for mileage. Ground transportation by rental car, taxicab or car service usage is permitted provided it is the most economical form of transportation. When an overnight stay is required to efficiently provide Client Services at Client locations, Client will reimburse DCG based on standard hotel rates. Expenses which shall be eligible for reimbursement to DCG are any employee overhead expenses, cell phone expenses, photocopies, or faxes. If overnight shipping is required to facilitate the Client Services, overnight shipping costs will be paid by Client. Any and all Federal, State and Local taxes applicable to the Client Services shall be added to each invoice to be submitted and shall be the responsibility of Client.
11. **SUPPORT.** All requests for technical assistance related to the Client Services ("Support Requests") shall be made through the technical support phone line (516) 813-0435 or via email to support@dioguardi.net in order to assure that Support Requests are handled promptly. All Support Requests shall be billed as specified on any Addendum, if no rates are specified, the rates will be at the rates described in section 8. DCG shall use reasonable efforts to respond to Support Requests.

CALLS MADE DIRECTLY TO DCG EMPLOYEES ARE CONSIDERED OUTSIDE OF THE SUPPORT PROCEDURE. ATTEMPTING TO CONTACT DCG EMPLOYEES DIRECTLY MAY RESULT IN SERVICE DELAYS. IF CLIENT FAILS TO DESIGNATE A CLIENT CONTACT, THEN CLIENT SHALL BE RESPONSIBLE FOR ANY CLIENT SERVICES REQUESTS GENERATED BY CLIENT'S EMPLOYEES.

12. **ESCALATION AND RESOLUTION.** Client shall designate a contact for the resolution of all technical support issues (the "Client Contact"). The Client Contact shall be DCG's sole point of communication with Client for the resolution of technical support issues. The Client Contact must have electronic mail addresses accessible from the internet to facilitate communications between Client and DCG technical and administrative personnel. Client represents that the Client Contact has the authority to contractually bind Client with respect to resolving disputes with regard to this MSA. DCG shall designate an account manager for the purpose of administration of this MSA (the "DCG Contact").

In the event that either party determines that resolution of the dispute regarding any matter regarding the Client Services that may have a material impact upon the delivery or completion of the Client Services, the following procedure shall be utilized by the parties to address the resolution of the issue(s).

When a conflict arises, the parties will, first, strive to resolve the problem internally on an informal basis. If the person immediately involved cannot resolve the conflict within 24 hours, the Client Contact and the DCG Contact will meet (in person or via electronic visual media), to resolve the issue.

- 12.1. If after one business day, the issue remains unresolved, either party may insist the issue be raised to the DCG Consultant's next level manager, and his/her Client counterpart.
- 12.2. If the issue remains unresolved for thirty days, either party may elect to terminate this MSA in accordance with the terms hereof. Upon termination, Client shall immediately pay all outstanding invoices and fees. Including, but not limited, to the payment of any early termination fees.

13. **EQUIPMENT & FACILITIES.** DCG may utilize certain items of the Client's equipment and may need to gain access to certain Client facilities. Client retains title and ownership to all of the equipment owned by Client, and shall grant access for DCG to access Client's facility and equipment. Facility access may be denied for any reason at any time, however if access to facilities of equipment is denied, Client acknowledges that DCG may be unable to perform Client Services adequately and, if such a situation should exist, DCG is hereby indemnified and held harmless from any loss, cost or expense that Client may incur as a result of inadequate access to Client facilities.
14. **TERMS OF AGREEMENT.** This MSA shall commence on the date set forth below, and will remain in force for a minimum period of three (3) years (the "Initial Term"), unless terminated in accordance with the terms hereinafter set forth or on any supplemental service or work order (an "Addendum"), attached hereto (the "Term"). This MSA may be supplemented by successive Addendum(s), and such Addendum(s), once initialed or executed and attached, or, in the event that the Client accepts and utilizes the Client Services, shall be incorporated herein by reference in their entirety. The Initial Term shall automatically renew for subsequent one year periods unless Client gives written notice to DCG of its intent not to renew this Agreement ninety (90) days prior to the end of the Initial Term or subsequent extensions thereof.
15. **EARLY TERMINATION.** Client recognizes that in order to provide the Client Services, DCG incurs substantial set-up costs. In the event that the Client terminates this Agreement, for any reason, before the conclusion of the Initial Term or subsequent extensions, Client agrees to pay an early termination fee equal to 100% of the remaining fees that would have been due to DCG had the Client not terminated the Agreement.
16. **FORCE MAJEURE.** Neither Client nor DCG shall be deemed in default of this MSA to the extent that performance of its obligations or attempts to cure any breach are delayed, restricted or prevented by reason of any act of God, fire, natural disaster, act of government, acts of terror, strikes or labor disputes, inability to provide raw materials, power or supplies, or any other act or condition beyond the reasonable control of the parties; provided that the party so affected uses reasonable efforts to avoid or remove the causes of nonperformance and continues performance immediately after those causes are removed.
17. **OTHER OBLIGATIONS.**
- 17.1. Client will: (i) respond to requests from DCG on a timely basis; (ii) have at least one Client Contact available during regular business hours and authorized to approve any change or amendment to Client Services and to approve any disputes related to the Client Services and provide other information and assistance to DCG; (iii) provide DCG with timely and accurate information and documentation; (iv) make available to DCG other Client personnel familiar with the Client's requirements and with the expertise to permit DCG to undertake and complete its obligations; (v) maintain a proper operating environment for the Client Services; (vi) provide a safe area for DCG to perform any Client Services required to be performed on the Client's site; (vii) provide for all power, environmental requirements, supplies, cabling, communications facilities, and all other equipment and facilities required.
- 17.2. Each party will comply with all laws applicable to the performance of its obligations hereunder and to the Client Services, including laws relating to the import or export of software or technical data related thereto, including U.S. Export Administration Regulations and U.S. International Traffic in Arms Regulations, and anti-corruption laws and equivalent statutory obligations under the law of other jurisdictions where goods and services are to be supplied or used under this MSA.
- 17.3. Client represents that it has and will maintain or will acquire sufficient quantities of fully valid licenses (e.g., software licenses, client access licenses, subscription agreements for cloud-based software and/or service plans) for all third party software to fully support its requisite number of users thereof under this MSA and/or the third party software licensor. Client further represents and warrants that Client will not (i) infringe on any third party's copyright, patent, trademark, trade secret or other proprietary rights; or (ii) violate any applicable USA law, statute, ordinance or regulation.
18. **CLIENT SERVICES IN FOREIGN JURISDICTIONS.** In the event that Client shall request that DCG provide Client Services in any jurisdiction besides the United States, DCG may supply Client Services in the foreign jurisdiction in accordance with this MSA, but only to the extent that the terms and conditions of this MSA do not conflict with any statute, rule, regulation, code or ordinance of such foreign jurisdiction. DCG reserves the right to modify and supplement the terms of this MSA in the event that any of the Client Services are to be performed at a location outside of the continental limits of the United States. DCG may, for any reason, refuse to supply the Client Services in any location outside of the territorial boundaries of the United States.
19. **NON-PAYMENT.** Should Client fail to make payments in a timely manner, DCG reserves the right to terminate or suspend providing Client Services until such time as DCG receives the required payment. However DCG may choose to continue providing Client Services, in DCG's sole and reasonable discretion, but Client shall pay a fee equal to: (i) a late service fee of \$25.00 for each overdue invoice; and (ii) 1.5%, applied monthly, to any overdue balance. In the event DCG retains legal counsel to collect any sums that may be due hereunder for the Client Services, Client, in addition to any other sums that are due hereunder, shall pay such reasonable attorney fees and costs of collection.

- 20. TRANSITION.** Within thirty days after the effective date of any termination of this MSA, DCG may, at its discretion cooperate to transition and migrate the technology environment created, serviced and monitored by DCG to a new service provider to be designated by Client. DCG and Client shall, as part of the migration to a new service provider perform the following, if applicable and as the case may be ("Transition Services"):
- 20.1.** Client shall advise DCG of the name and complete contact information for the new vendor designated by Client to provide technology services to Client (the "New Vendor").
 - 20.2.** DCG shall transfer to Client, all licenses purchased and paid for in full by Client for software installed in Client's technology environment purchased through DCG; and
 - 20.3.** If applicable, DCG may assist Client with the termination of the automatic transmission of Client's computer data to the off-site storage facility selected by Client and may request confirmation from the off-site storage provider that any Client data stored by the provider is to be erased and no longer available for retrieval; and
 - 20.4.** DCG shall remove all agents installed by DCG in the Client's technology environment at Client's expense; and
 - 20.5.** Upon the full payment of open invoices, DCG shall provide any and all passwords in the possession of DCG to the Client's technology; and
 - 20.6.** Client shall surrender any rental or loaned equipment provided to Client by DCG; DCG shall retain a security interest in and to any equipment that has not been paid for by Client. DCG shall be able to retrieve said equipment from the Client by any legal means possible.
 - 20.7.** Client shall pay to DCG, at the hourly rates currently in effect, for all Transition Services required to be performed by DCG to effectuate the smooth and cooperative transition to the New Vendor. The Transition Services shall be billed on a weekly basis and, payment shall be made to DCG within 15 days after receipt for Transition Services.
 - 20.8.** DCG shall be deemed a user of the technology environment of Client created by New Vendor and shall be accorded any access or other privileges to enable the DCG and DCG's consultants and employees to perform the Transition Services.
- 21. ABILITY TO DISPUTE INVOICES.** Client waives the right to dispute the validity or amount due for any invoice unless specified in writing to DCG, setting forth the specific amount(s) to which Clients objects, within forty-five (45) days from the submission of such invoice.
- 22. ADDITIONAL SERVICES.** Services requested by Client and performed by DCG that fall outside of the terms and conditions of this MSA, and not covered by a separate addendum will be billed separately on a time and materials basis, or such funds may be taken from any advance payment for Client Services. Any changes to the network environment not made in consultation with DCG may result in a change in any previously agreed upon fee structure.
- 23. CONFIDENTIALITY.** DCG acknowledges that it will receive access to facilities, personnel, information and records of (and of third parties which Client is obligated to treat as confidential), and that information it will acquire through such access and results and concepts it develops for the Client will be considered confidential and proprietary to Client. All information DCG receives from Client, whether it be by direct or indirect communication or observation, or information developed by working independently or jointly with, (hereinafter collectively referred to as the "Information") shall be treated and regarded as confidential, proprietary and trade secret information which is the sole and exclusive property of Client. Except for such Information which, prior or subsequent to disclosure, is published, known publicly, or is otherwise disclosed to the public through no fault of DCG, DCG shall keep the Information strictly confidential, shall not divulge or communicate the Information to any third party, and shall not use, employ or exploit the Information in any manner without Client's express written consent. Additionally, each of DCG and Client shall hold in trust for the other, and shall not disclose to any non-party to this MSA, any Intellectual Property Information (the "IP Information") of the other. IP Information is data, information, processes, information or other such material which relates to research, development, trade secrets, or business affairs, but does not include information which is generally known or easily ascertainable by non-parties of ordinary skill in computer design, programming, networking, information technology, or the specific business interests of either DCG or Client. Any IP Information developed by DCG with respect to Client Services shall remain the sole property of DCG.
- 24. MARKETING.** DCG may use Clients name in describing or promoting DCG's Services on DCG's website and in its marketing materials or other documents listing DCG's qualifications, experience and companies for which DCG has provided professional services. Client also acknowledges its willingness to discuss its participation in case studies with DCG on DCG's request. Client will receive and approve the final version of any and all such materials prior to public release.
- 25. RETURN OF RECORDS AND INFORMATION.** Except as may be reasonably required for statutory or regulatory recording and reporting purposes (the "Retained Material"), DCG shall promptly return to Client all records, memoranda, drawings, blueprints, manuals, letters, notes, notebooks, reports, computer disks, computer files, databases and other materials containing information related to Client and the Client Services (the "Client Information") from the computers and/or servers of DCG. Upon request, and at Client's expense, DCG shall also return, along with Client information, complete and accurate copies of the Retained Material. The Retained Material and the copies of Client Information shall be transmitted and delivered to Client in a form and format that is readily recognized by Client.

26. **MINIMUM STANDARDS.** Client shall implement any additional requirements that are specific to Client's network environment, which may be prescribed by DCG. Client Services required to bring Client's environment up to these Minimum Standards are not included in this MSA.

27. **NOTICES.**

(i) Notices to DCG should be sent to:	(ii) Notices to Client should be sent to:
Dioguardi Consultation Group, Inc.	
338 Jericho Tpke #266	
Syosset, NY 11791	
Email: DCG@dioguardi.net	

Notices hereunder will be effective when received and will be sufficient if given in writing, hand-delivered, sent by telefax or email with confirmation of receipt, sent by first class mail, return receipt requested and postage prepaid, or sent by nationally recognized overnight courier service and addressed to the signatories below at the addresses set forth above.

28. **CONTRACT CONSTRUCTION.** In the event of a conflict in the provisions of any attachments hereto and the provisions set forth in this MSA, the provisions of such attachments shall govern. If the scope of any of the provisions of this MSA is too broad in any respect whatsoever to permit enforcement to its full extent, or if any provisions are otherwise unenforceable as drafted, then such provisions shall be enforced to the maximum extent permitted by law, and the parties hereto consent and agree that such scope may be judicially modified accordingly and that the whole of such provisions of this MSA shall not thereby fail, but that the scope of such provisions shall be curtailed only to the extent necessary to conform to law. The parties agree that the heading of each paragraph of this MSA are for convenience alone and will not affect the construction of the paragraph. In the event that any specific paragraph is deemed unenforceable, the remainder of the paragraphs will remain in full force and effect.
29. **LAW AND FORUM.** The enforcement of this MSA shall be governed and construed by the laws of the State of New York, and any and all disputes stemming from the performance by either DCG or Client under this MSA shall be settled by binding arbitration in the County of Nassau, State of New York. The arbitration shall be conducted on a confidential basis pursuant to the Commercial Arbitration Rules of the American Arbitration Association. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration shall be conducted by an arbitrator experienced in the technology sector and shall include a written record of the arbitration hearing. The parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction. In the event that any dispute regarding this MSA is to be resolved in any judicial proceeding, Client and DCG each waive any right to a jury trial. One party's breach of its obligations hereunder may irreparably injure the other party, and which could not adequately be compensated by monetary damages. Accordingly, each party, may seek and obtain injunctive relief from the breach or threatened breach of such provisions, in addition to and not in limitation of any other remedies.
30. **MODIFICATION, ATTACHMENTS AND AFFILIATES.** It is intended that Addendums will be added to this MSA from time to time. Such Addendums shall be incorporated into this MSA as if expressly stated herein. DCG reserves the right to modify this MSA at any time by updating this MSA on the DCG website. By accepting or requesting services from DCG 30 days after the change in MSA terms are posted, Client is deemed to consent to this MSA as modified on the DCG website. Client may view the most up to date MSA at <http://dioguardi.net/terms>. Client may only modify this MSA in a writing signed by both parties and such modification shall only be effective for the dates outlined therein. This MSA shall apply to, and bind, Client and any of its "Affiliate(s)", which term means, with respect to an entity, any entity that controls, is controlled by, or is under common control with, that entity, where "control" means the possession, directly or indirectly, of the power to direct the management and policies of an entity, whether through the ownership of voting securities, contract or otherwise. For the avoidance of doubt, Client may extend the use and benefit of any Client Services to any of its Affiliates (e.g., authorize its Affiliates to access and benefit from the Client Services without entering into a separate addendum); provided that DCG will have no obligation to provide any Client Services directly to that Affiliate and further provided that Client and its Affiliates are solely responsible for securing any applicable licenses necessary to use any third party software necessary to enable DCG to perform the Client Services.
31. **COMPLETE AGREEMENT.** This MSA and its related Addenda contain the entire agreement between the parties hereto with respect to the matters covered herein. No other agreements, representations, warranties, or other matters, oral or written, purportedly agreed to or represented by or on behalf of DCG by any of its employees or agents, or contained in any sales material or brochures, shall be deemed to bind the parties hereto with respect to the subject matter hereof. Client acknowledges that it is entering into this MSA solely on the basis of the representations contained herein, and that the

provisions of this MSA shall inure to the benefit of any successor or assigns. The captions used herein are inserted for convenience only and are not intended to affect the meaning or interpretation of this Agreement.

32. **WAIVER.** No consent or waiver, express or implied, by either Client or DCG, or of any breach or default by either party in the performance by any party its respective obligations hereunder shall be deemed or construed to be a consent to or waiver of any other breach or default in the performance by such party of the same or any other obligation of such party hereunder. Failure on the part of a party to complain of any act or failure to act of any other party to declare such other party in default (except for the obligation of the Client to dispute any invoice within forty-five (45) days after submission), irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.
33. **COUNTERPARTS.** This MSA may be executed via facsimile or PDF and in counterparts, each of which shall be deemed an original and all of which, when taken together, shall constitute a single instrument.

Signatures Upon Acceptance of MSA

Client:

Dioguardi Consultation Group

Signature: _____

Signature: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____