COBALT MASTER SERVICES AGREEMENT

This agreement ("Agreement") is entered into, to be effective as of _____ ("Effective Date"), by and between _____ ("Customer"), with its principal place of business located at _____, and The Cobalt Company ("Cobalt"), with its principal place of business located at 2550 South Clark Street, Suite 850, Arlington, VA 22202.

RECITALS

WHEREAS, Cobalt is in the business of designing, developing and modifying computer software and;

WHEREAS, Customer has engaged Cobalt to design, develop and/or modify computer software ("Engagement") and;

WHEREAS, Customer has the expertise and personnel necessary to define its requirements and specifications and;

WHEREAS, Customer will provide the information regarding its requirements and specifications to Cobalt in a timely manner and;

WHEREAS, Cobalt will utilize the information provided by the Customer regarding its requirements and specifications for the purposes of the design, development and modification of computer software to meet those specifications and;

WHEREAS, this Agreement shall provide the framework for this Engagement and any work authorizations or other service agreements entered into between the parties related to this Engagement;

NOW, THEREFORE, in consideration of the mutual covenants and representations set forth in this Agreement, the parties hereby agree as follows:

1. **Customer Acknowledgments and Responsibilities.**
    1.1. <u>Customer's Responsibilities</u>. Without limiting Customer's obligations and responsibilities under this Agreement, the Customer acknowledges that:
        a. the Customer is responsible for the overall project management of the engagement. This includes the establishment of the appropriate internal committees, the correct allocation of resources, the facilitation of the decision-making process and the monitoring of the project timeline;
        b. all services requested by the Customer under any and all work authorizations or other service agreements represent a service for which the Customer will be billed unless explicitly excluded in the work authorizations or other service agreements;
        c. the Customer is responsible for review and/or acceptance testing of all work products resulting from any work authorizations or other service agreements and will be required to sign final project acceptance agreements in the form of **Exhibit A** attached hereto, at the conclusion of each work authorization or other service agreement in order for Cobalt to release the work product. In the event Customer has not signed a final project acceptance agreement but is using any work product in a production capacity for 30 days then the Customer will be deemed to have executed a final

project acceptance agreement and have released Cobalt from any obligations under any work authorizations;

    d.   the Customer's activities, including projects in relation to which Cobalt is providing services, in which Cobalt personnel assist, shall be the responsibility of and shall remain under the supervision, management and control of, the Customer;

1.2.   <u>Profitability</u>. The Customer acknowledges by acceptance of these terms, that no promise, representation, warranty or undertaking has been made or given by Cobalt or any person or company on its behalf in relation to the profitability of or any other consequences of or benefits to be obtained from the delivery or use of the Software and that the Customer has relied on its own skill and judgment in deciding to enter into this Agreement and developing the specifications for all software to be developed hereunder.

1.3.   <u>Personnel</u>.

    a.   All Cobalt personnel, assignees and subcontractors, if any, shall obey the rules of conduct and comply with the reasonable and lawful directions of the Customer's responsible officers whilst on the Customer's premises;

    b.   Customer agrees that for a period of three years following the termination of this Agreement it shall not solicit, offer employment to or otherwise engage in any capacity whatsoever any employee of Cobalt;

1.4.   Non-Exclusive Engagement. The Customer acknowledges that nothing in this Agreement shall prevent Cobalt from performing services or restrict Cobalt from using the personnel supplying services to the Customer under this Agreement from performing services for other customers.

2. Warranties and Liabilities.

2.1.   <u>Proper Manner</u>. Cobalt warrants that all services to be provided by Cobalt under this Engagement shall be provided in a proper and workmanlike manner. The Customer assumes exclusive responsibility for the consequences of any properly executed instructions it may give to Cobalt.

2.2.   <u>Other Liabilities</u>. Except for the specific warranty set forth in Section 2.1, all warranties which would or might otherwise be implied in this Agreement are hereby excluded to the extent permitted by law. In addition, in no event shall Cobalt be liable for any special, incidental, indirect or consequential loss or damages including, without limitation to any of the foregoing, any loss of profit, exemplary or punitive damages or damage to personal property.

2.3.   <u>Maximum Liability</u>. Notwithstanding anything to the contrary, the maximum liability of Cobalt for any and all loss, damage or injury arising under this Engagement shall be the total amount paid to Cobalt by the Customer for the specific services in question under a single work authorization or service agreement (as may be specifically provided therein) but not to exceed in any event the sum of fifty thousand dollars ($50,000.00).

2.4.   <u>Survival</u>. This clause shall survive the termination of this Agreement.

3. Term and Termination.

3.1.   <u>Term</u>. Unless this Agreement is terminated earlier in accordance with the terms set forth in this Section, the initial term of this Agreement shall commence as of the date hereof and shall continue for one year. Following the Initial Term, this Agreement shall automatically renew for successive one-year terms (each, a "Renewal Term") until such time as Customer or Cobalt provides the other party with written notice of termination; provided, however, that:

    a.   such notice must be given no fewer than thirty (30) calendar days prior to the last day of the then current term; and,

    b.   any such termination shall be effective as of the date that would have been the first day of the next Renewal Term.

3.2. <u>Outstanding Work Authorizations</u>. Notwithstanding the above, this Agreement cannot be terminated until all work agreed to under any currently outstanding work authorizations or other service agreements that have been executed by the parties hereto has been completed by Cobalt.

3.3. <u>Term Definition</u>. "Term" shall collectively mean and include the Agreement terms represented by the Initial Term and all Renewal Terms.

3.4. <u>Termination for Cause</u>. Either Party may terminate this Agreement at any time after material breach by the other of any term of this Agreement, provided such breach has not been remedied by the breaching party, or the breaching party is not diligently pursuing a cure, within thirty (30) days of written notification of such breach by the non-breaching party to the breaching party.

3.5. <u>Insolvency</u>. Either party may terminate this Agreement if the other party becomes insolvent, has a receiver, manager or administrator appointed to the whole of its business or assets, or where an order or resolution is made for its dissolution or liquidation provided that this Clause shall not apply where there is any change in the business, activities or name of the party.

3.6. <u>Payments Upon Termination</u>. In the event of termination of this Agreement or any of the services provided under this Agreement by either party, Customer must pay all amounts outstanding or accrued as of the date of termination and Cobalt shall have no obligation to pay any refund or rebate of any monies paid for services provided or to be provided by Cobalt under this Agreement so long as Cobalt is not in default under the terms of this Agreement.

3.7. <u>Return of Materials</u>. Upon expiration or earlier termination of this Agreement, each party shall:
   a. promptly return to the other party, or destroy all of the following of the other party held in connection with the performance of this Agreement or the Software:
      i. all Confidential Information; and,
      ii. any other data, programs, and materials; and,
   b. return to the other party, or permit the other party to remove, any properties of the other party then situated on such party's premises. In the case of Customer Data, Cobalt shall, upon termination of this Agreement, provide Customer with a final export of the Customer Data. The parties agree to work in good faith to execute the foregoing in a timely and efficient manner. This Section shall survive the termination of this Agreement.

4. **Fees and Expenses.**
   4.1. <u>Payment Terms</u>. Customer shall be responsible for and shall pay to Cobalt the fees as further described on any and all work authorizations or other service agreements, subject to the terms and conditions contained therein. Any sum due Cobalt for services performed for which payment is not otherwise specified shall be due and payable thirty (30) days from the date of the invoice from Cobalt.

   4.2. <u>Reimbursement for Expenses</u>. Customer will reimburse to Cobalt such expenses as may have been reasonably and properly incurred by Cobalt in the provisioning of the services. Such expenses shall be paid within thirty (30) days after being invoiced.

   4.3. <u>Suspension of Services</u>. If an invoice is not paid within sixty (60) days of the date of the invoice, Cobalt may suspend performance of all or any of its obligations with respect to services to be performed under this Engagement as it may elect, and, in addition, Cobalt may charge interest on such unpaid amounts at a rate of two (2) percent per month or such lesser amount as is the maximum allowed by law. Cobalt may also charge Customer the cost of collection and reasonable related costs incurred by Cobalt for invoices which remain unpaid for thirty (30) days from their due date.

   4.4. <u>Billing Procedures</u>. Unless otherwise provided for in any work authorizations or other service agreements, Cobalt shall bill to Customer the sums due pursuant to any work authorizations or other service agreements by Cobalt's invoice, which shall contain:
      a. an invoice number;
      b. description of services rendered;
      c. the services fee or portion thereof that is due;

     d.   out of pocket expenses;

     e.   taxes, if any; and,

     f.   total amount due.

4.5. <u>Taxes</u>. Cobalt represents and warrants that it is an independent contractor for purposes of federal, state, and local employment taxes. Cobalt agrees that Customer is not responsible to collect or withhold any such taxes, including income tax withholding and social security contributions, for Cobalt. Any and all taxes, interest or penalties, including any federal, state, or local withholding or employment taxes, imposed, assessed, or levied as a result of this Agreement shall be paid or withheld by Cobalt.

5. Representations and Warranties.

5.1. <u>Mutual Representations and Warranties</u>. Each of Customer and Cobalt represent and warrant that:

     a.   it is a business duly incorporated, validly existing, and in good standing under the laws of its state of incorporation;

     b.   it has all requisite corporate power, financial capacity, and authority to execute, deliver, and perform its obligations under this Agreement;

     c.   this Agreement, when executed and delivered, shall be a valid and binding obligation of it enforceable in accordance with its terms;

     d.   the execution, delivery, and performance of this Agreement has been duly authorized by it and this Agreement constitutes the legal, valid, and binding agreement of it and is enforceable against it in accordance with its terms, except as the enforceability thereof may be limited by bankruptcy, insolvency, reorganizations, moratoriums, and similar laws affecting creditors' rights generally and by general equitable principles;

     e.   it shall comply with all applicable federal, state, local, international, or other laws and regulations applicable to the performance by it of its obligations under this Agreement and shall obtain all applicable permits and licenses required of it in connection with its obligations under this Agreement; and,

     f.   there is no outstanding litigation, arbitrated matter or other dispute to which it is a party which, if decided unfavorably to it, would reasonably be expected to have a potential or actual material adverse effect on its ability to fulfill its obligations under this Agreement.

6. Non-Disclosure of Confidential Information.

6.1. <u>Exposure to Confidential Information</u>. The parties acknowledge that each party may be exposed to or acquire communication or data of the other party that is confidential, privileged communication not intended to be disclosed to third parties.

6.2. <u>Meaning of Confidential Information</u>. For the purposes of this Agreement, the term "Confidential Information" shall mean all information and documentation of a party that:

     a.   has been marked "confidential" or with words of similar meaning, at the time of disclosure by such entity;

     b.   if disclosed orally or not marked "confidential" or with words of similar meaning, was subsequently summarized in writing by the disclosing entity and marked "confidential" or with words of similar meaning;

     c.   with respect to information and documentation of Customer, whether marked "Confidential" or not, consists of Customer information and documentation included within any of the following categories:

          i.   policyholder, payroll account, agent, customer, supplier, or contractor information;

          ii.   information regarding business plans (strategic and tactical) and operations (including performance);

          iii.   information regarding administrative, financial, or marketing activities;

          iv.   pricing information;

          v.   personnel information;

          vi.   products and/or and services offerings (including specifications and designs); or,

          vii.   processes (e.g., technical, logistical, and engineering); or,

    d.   any Confidential Information derived from information of a party.

6.3.   <u>Confidential Information Exclusions</u>. The term "Confidential Information" does not include any information or documentation that was:

    a.   already in the possession of the receiving entity without an obligation of confidentiality;

    b.   developed independently by the receiving entity, as demonstrated by the receiving entity, without violating the disclosing entity's proprietary rights;

    c.   obtained from a source other than the disclosing entity without an obligation of confidentiality; or,

    d.   publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through or on behalf of, the receiving entity).

6.4.   <u>Obligation of Confidentiality</u>. The parties agree to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than employees, agents, or subcontractors of a party who have a need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement. The parties agree to advise and require their respective employees, agents, and subcontractors of their obligations to keep such information confidential.

6.5.   <u>Cooperation to Prevent Disclosure of Confidential Information</u>. Each party shall use its best efforts to assist the other party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, each party shall advise the other party immediately in the event either party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each party will cooperate with the other party in seeking injunctive or other equitable relief against any such person.

6.6.   <u>Remedies for Breach of Obligation of Confidentiality</u>. Cobalt acknowledges that breach of Cobalt's obligation of confidentiality may give rise to irreparable injury to Customer and the customers of Customer, which damage may be inadequately compensable in the form of monetary damages. Accordingly, Customer or customers of Customer may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available, to include, at the sole election of Customer, the immediate termination, without penalty to Customer, of this Agreement in whole or in part.

6.7.   <u>Survival</u>. This clause shall survive the termination of this Agreement.

7. **Proprietary Rights.**

7.1.   <u>Pre-existing Materials</u>. Customer acknowledges that, in the course of performing the services, Cobalt may use software and related processes, instructions, methods, and techniques that have been previously developed by Cobalt (collectively, the "Pre-existing Materials") and that same shall remain the sole and exclusive property of Cobalt.

7.2.   <u>Data of Customer</u>. Customer's information, or any derivatives thereof, contained in any Cobalt repository (the "Customer Data," which shall also be known and treated by Cobalt as Confidential Information) shall be and remain the sole and exclusive property of Customer. Customer shall be entitled to an export of Customer Data, without charge, upon the request of Customer and upon termination of this Agreement. Cobalt is provided a license to Customer Data hereunder for the sole and exclusive purpose of providing the services, including a license to store, record, transmit, maintain, and display Customer Data only to the extent necessary in the provisioning of the services.

7.3.   <u>No License</u>. Except as expressly set forth herein, no license is granted by either party to the other with respect to the Confidential Information, Pre-existing Materials, or Customer Data. Nothing in this Agreement shall be construed to grant to either party any ownership or other interest, in the Confidential

Information, Pre-existing Materials, or Customer Data, except as may be provided under a license specifically applicable to such Confidential Information, Pre-existing Materials, or Customer Data.

7.4. Survival. This clause shall survive the termination of this Agreement.

8. **General.**

8.1. Relationship between Customer and Cobalt. Cobalt represents and warrants that it is an independent contractor with no authority to contract for Customer or in any way to bind or to commit Customer to any agreement of any kind or to assume any liabilities of any nature in the name of or on behalf of Customer. Under no circumstances shall Cobalt, or any of its staff, hold itself out as or be considered an agent employee, joint venture, or partner of Customer.

8.2. Intellectual Property. This Agreement does not grant Cobalt any intellectual property rights to any business approach, process, technique, or functionality created by Customer which is patented.

8.3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Commonwealth of Virginia and the federal laws of the United States of America. Both Cobalt and the Customer hereby consent and submit to the jurisdiction and forum of the state and federal courts in the Commonwealth of Virginia in all questions and controversies arising out of this Agreement. Notwithstanding the foregoing, the parties agree that the Uniform Computer Information Transactions Act as enacted in Virginia, Va. Code §§ 59.1-501.1 et seq. ("UCITA") or in any other Commonwealth or State of the United States shall not apply to this Agreement or any performance hereunder and the parties expressly opt-out of the applicability of UCITA to this Agreement.

8.4. Dispute Resolution. The parties shall attempt to resolve any dispute, controversy, claim or disagreement between the parties hereto arising from, relating to or in connection with this Agreement including questions regarding the interpretation, meaning or performance of the Agreement (herein referred to as a "Dispute") via face-to-face or telephone negotiations. Either party shall be entitled to initiate such negotiations by giving written notice to the other party that a Dispute exists ("Notice of Dispute"). Upon either party giving a Notice of Dispute, the parties agree to promptly commence a negotiation session within 10 business days. If such negotiations prove to be unsuccessful within 60 (sixty) days after a Notice of Dispute is given, then the Dispute shall be settled through arbitration by the American Arbitration Association under it Commercial Arbitration Rules, which shall be the sole and exclusive remedy of the parties hereto for any Dispute resolution. Except as may be specifically provided in the Agreement, any arbitrator(s) in any arbitration proceeding pursuant to this provision may not award non-monetary or equitable relief of any sort and shall have no power or authority to award damages inconsistent with the provisions of this Agreement.

8.5. Compliance With Laws; Customer Policies and Procedures. Both parties agree to comply with all applicable federal, state, and local laws, executive orders and regulations issued, where applicable. Cobalt shall comply with Customer policies and procedures where the same are posted, conveyed, or otherwise made available to Cobalt.

8.6. Cooperation. Where agreement, approval, acceptance, consent or similar action by either party hereto is required by any provision of this Agreement, such action shall not be unreasonably delayed or withheld. Each party will cooperate with the other by, among other things, making available, as reasonably requested by the other, management decisions, information, approvals, and acceptances in order that each party may properly accomplish its obligations and responsibilities hereunder. Cobalt will cooperate with any Customer supplier performing services, and all parties supplying hardware, software, communication services, and other services and products to Customer, including, without limitation, the Successor Service Provider. Cobalt agrees to cooperate with such suppliers, and shall not commit or permit any act which may interfere with the performance of services by any such supplier.

8.7. Force Majeure. Neither party shall be liable for delays or any failure to perform the services of this Agreement due to causes beyond its reasonable control. Such delays include, but are not limited to, fire, explosion, flood or other natural catastrophe, governmental legislation, acts, orders, or regulation, strikes

or labor difficulties, to the extent not occasioned by the fault or negligence of the delayed party. Any such excuse for delay shall last only as long as the event remains beyond the reasonable control of the delayed party. However, the delayed party shall use its best efforts to minimize the delays caused by any such event beyond its reasonable control. Where Cobalt fails to use its best efforts to minimize such delays, the delays shall be included in the determination of Service Level achievement. The delayed party must notify the other party promptly upon the occurrence of any such event, or performance by the delayed party will not be considered excused pursuant to this Section, and inform the other party of its plans to resume performance. A force majeure event does not excuse Cobalt from providing services and fulfilling its responsibilities relating to the requirements of backup and recovery of Customer Data.

8.8. <u>Advertising and Publicity</u>. Cobalt shall not refer to Customer directly or indirectly in any advertisement, news release, or publication without prior written approval from Customer.

8.9. <u>No Waiver</u>. The failure of either party at any time to require performance by the other party of any provision of this Agreement shall in no way affect that party's right to enforce such provisions, nor shall the waiver by either party of any breach of any provision of this Agreement be taken or held to be a waiver of any further breach of the same provision.

8.10. <u>Notices</u>. Any notice given pursuant to this Agreement shall be in writing and shall be given by standard commercial delivery service to the addresses appearing at the end of this Agreement, or as changed through written notice to the other party. Notice given by personal service shall be deemed effective on the date it is delivered to the addressee, and notice mailed shall be deemed effective on the third day following its placement in the mail addressed to the addressee.

8.11. <u>Counterparts; Facsimile; Scan; Electronic Signature</u>. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Agreement. The parties agree that a facsimile, scanned or electronic signature may substitute for and have the same legal effect as the original signature.

8.12. <u>Entire Agreement</u>. All approved Work Authorizations, schedules, addenda and attachments to this document signed by the Parties shall be read with and form part of this Agreement. This Agreement constitutes the entire agreement between the parties and supersedes any and all previous representations, understandings, or agreements between Customer and Cobalt as to the subject matter hereof. This Agreement may only be amended by an instrument in writing signed by the parties.

Executed on the dates set forth below by the undersigned authorized representatives of the parties to be effective as of the later of the dates below.

Customer ("Customer")	The Cobalt Company ("Cobalt")
Signed: _____	Signed: _____
By: _____	By: _____
Title: _____	Title: _____
Date: _____	Date: _____

Address for Notice:

Address
City, State Zip

Attention: Contracts

Address for Notice:

2550 South Clark Street, Suite 850
Arlington, VA 22202

Attention: Contracts

EXHIBIT A

SAMPLE COBALT FINAL PROJECT ACCEPTANCE AGREEMENT

This Agreement is made this __ day of __, 20__ by The Cobalt Company ("Cobalt") and the _____ ("Customer"), Cobalt and Customer are sometimes collectively referred to as the "Parties."

The Parties hereto agree as follows:

1.   Customer and Cobalt executed that certain _____ work authorization dated _____, 20__, which is referred to as the "Work Authorization".

2.   Cobalt has completed all of the services under the Work Authorization.

3.   Customer has had the opportunity to test the Cobalt Software Products ("Cobalt Software") as developed and/or implemented for Customer pursuant to the Work Authorization and in accordance with the relevant documented specifications ("Implemented Cobalt Software") and hereby agrees as follows:

(1)   Customer is completely satisfied with the performance of the Implemented Cobalt Software and;

(2)   Customer hereby accepts the Implemented Cobalt Software as provided by Cobalt and agrees that Cobalt has fulfilled all of its obligations under the Work Authorization and;

(3)   Customer has elected to start using the Implemented Cobalt Software with the functionality as it exists as of the date of the execution of this Agreement and;

(4)   Customer agrees to pay for all hours spent by Cobalt for the work done pursuant to the Work Authorization and any subsequent instructions received from the Customer;

(5)   Cobalt is released from any and all obligations under the Work Authorization and;

(6)   Customer acknowledges that all future warranties of Cobalt related to the Implemented Cobalt Software shall be only as provided under the Cobalt Software License Agreement or Cobalt Software-as-a-Service Agreement as applicable to this Engagement and;

(7)   Customer understands that any non-warranty work performed by Cobalt on the Implemented Cobalt Software after the date of this Agreement will be billable pursuant to the terms of the Cobalt Support Agreement or Cobalt Software-as-a-Service as applicable to this Engagement.

4.   Customer hereby authorizes Cobalt to release the current Customer code base as it tested in the UAT environment to the Cobalt production services to be available at _____ and _____.

5.   Customer hereby acknowledges that all data conversion is not subject to any warranty by Cobalt and all data changes will be billed at Cobalt's current hourly rates. Customer also acknowledges that the data conversion logic performs the conversion accurately, completely and exactly as required by the Customer.

In Witness, the Parties hereto have executed this Agreement as of the date first above written.

Customer
("Customer")

The Cobalt Company
("Cobalt")

Signed: _____

Signed: _____

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____