



Software Agreement

This Software Agreement is made on [AGREEMENT DATE] (the “**Effective Date**”) between OnScreen Solutions, Inc. (“**OnScreen**”), a Florida corporation with its principal place of business at 36181 East Lake Road Suite 181, Palm Harbor, FL, 34685, and [PARTY B NAME] (“**Licensee**”), a [CORPORATE JURISDICTION] corporation with its principal place of business at [PARTY B ADDRESS].

(Capitalized terms shall have the meaning assigned within the body of the Agreement or as set forth in Section 18 below.)

1. Grant of License to Access and Use Service. Grant of License

1.1 Grant of License In exchange for the Subscription Fee, OnScreen hereby grants to Licensee a non-exclusive, non-sublicensable (except to Authorized Users as described below), non-assignable, royalty-free (except with regard to any compensation payable hereunder), and worldwide license during the Term to access and use the OnScreen Platform (the “**Service**”), solely for Licensee's internal business operations (the “**License Grant**”). Licensee shall have the limited right to sublicense its right to access and use the Service solely for Licensee's internal business operations, to its Authorized Users during the Term.

1.2 Authorized Users Licensee shall be responsible for identifying those employees, contractors, and other service providers of Licensee who are authorized by Licensee to access and use the Service (“**Authorized Users**”). The maximum number of permitted Authorized Users as specified in the applicable Order Form. All Authorized Users must agree to OnScreen's terms and policies listed in Appendix A prior to any use of the Service. Licensee is responsible for misuse of the Service by its Authorized Users.

2 Support Services

2.1 Provision of Support Services OnScreen will provide applicable OnScreen standard support for the Service to Licensee at no additional charge, and/or upgraded support if purchased.

2.2 Standard Support Services OnScreen shall provide Licensee with

- a) Email support during OnScreen's normal business hours in order to help Licensee locate and correct problems with the Service and any related software, and
- b) internet-based ticketing support system generally available seven days a week, twenty-four hours a day.

3 Fees and Payment.

3.1 Fees. Licensee shall pay OnScreen the annual subscription fee set forth in the applicable Order Form (the “**Subscription Fee**”) for the License Grant provided under this agreement.

3.2 Payment. Licensee shall pay the Subscription Fee to OnScreen within 30 days of receipt of an accurate invoice from OnScreen. The Subscription Fee will be paid in U.S. dollars in immediately available funds to the OnScreen's account identified by OnScreen. In the event Licensee disputes any amount in an invoice, Licensee will provide advance written notice to OnScreen of the amount in dispute prior to the date such payment is due. Licensee will pay any undisputed amount and work with OnScreen in good faith to resolve the dispute.

3.3 Taxes. Payment amounts under this agreement do not include Taxes, and Licensee shall pay all Taxes applicable to payments between the parties under this agreement.

3.4 Interest on Late Payments. Any amount not paid when due will bear interest from the due date until paid at a rate equal to 1% per month (12.68% annually) or the maximum allowed by Law, whichever is less.

- 4 System Maintenance.** OnScreen will use commercially reasonable efforts to keep the Service active and operational on a 24-hour basis, 365 days a year. Notwithstanding the foregoing, OnScreen may, without liability to Licensee, (i) take the Service offline for scheduled maintenance of which it provides Licensee advance written notice within 2 Business Days of the scheduled maintenance; or (ii) take the Service offline for emergency maintenance without prior written notice to Licensee but will provide written notice within 2 hours of emergency maintenance activities.
- 5 Data Privacy.** OnScreen may collect, use, and process Licensee's Data only according to OnScreen's Privacy Policy, available in Appendix B. Licensee shall be responsible for ensuring that it has sufficient rights to disclose any Licensee Data that it discloses to OnScreen pursuant to this Agreement.
- 6 Back-Up Data.** On Licensee's written request and advanced payment of \$2,500 USD, OnScreen shall deliver to Licensee a full back-up of Licensee's Data, in a format the parties agree on in writing.

7 Logo and Trademark

7.1 Licensee hereby grants to OnScreen a worldwide, royalty-free, non-exclusive, non-transferable, nonsublicensable right and license during the Term to use Licensee's name, trademark and/or logos (the "Licensee Marks") in (a) sales presentations and (b) marketing materials including OnScreen's website (www.onscreen.us) and press releases, in each case only to accurately indicate that Licensee is a customer of OnScreen. OnScreen's use of the Licensee Marks will be consistent with Licensee's standard trademark usage guidelines as provided to OnScreen from time-to-time. OnScreen agrees to modify its use of the Licensee Marks upon reasonable request from Licensee. Other than the preceding license, Licensee retains all right, title, and interest in the Licensee Marks.

8 Representations

8.1 Mutual Representations

- a) **Existence.** The parties are legal entities organized and existing under the Laws of the jurisdictions of their respective organization.
- b) **Authority and Capacity.** The parties have the authority and capacity to enter into this agreement.
- c) **Execution and Delivery.** The parties have duly executed and delivered this agreement.
- d) **Enforceability.** This agreement constitutes a legal, valid, and binding obligation, enforceable against the parties according to its terms.

8.2 OnScreen's Representations

- a) **Ownership.** OnScreen owns, or has sufficient rights, in the Service to provide the License Grant.
- b) **No Conflicting Grant** OnScreen has not granted and is not obligated to grant any license to the Service to a third party that would conflict with the License Grant.
- c) **Performance.** During the Term, the Service shall materially conform to the specification and documentation provided by OnScreen to Licensee; provided that in the event the Service does not materially conform to the specifications or documentation, Licensee's

recourse shall be to have OnScreen modify, repair, or replace the Service according to its support obligations set forth in Section 2.

d) EXCEPT AS EXPRESSLY STATED IN THIS AGREEMENT, THE SERVICE, DOCUMENTATION AND ALL RELATED SERVICES, COMPONENTS, AND INFORMATION ARE PROVIDED BY ONSCREEN ON AN “**AS IS**” AND “**AS AVAILABLE**” BASIS WITHOUT ANY WARRANTIES OF ANY KIND, AND WE EXPRESSLY DISCLAIM ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT WE DO NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE.

9 User Obligations

9.1 Hardware Obligations. Licensee shall be responsible for

- a) obtaining and maintaining all computer hardware, software, and communications equipment needed to internally access and use the Service, and
- b) paying all third-party access charges incurred while using the Service.

9.2 Anti-Virus Obligations. Licensee shall be responsible for implementing, maintaining, and updating all necessary and proper procedures and software for safeguarding against computer infection, viruses, worms, Trojan horses, and other code that manifest contaminating or destructive properties (collectively “**Viruses**”).

9.3 Licensee's Use of Services. Licensee shall:

- a) abide by all local and international Laws and regulations applicable to its use of the Service,
- b) use the Service only for legal purposes, and
- c) comply with all regulations, policies and procedures of networks related to the Service.

10 Restricted Uses. Licensee will not, and will not permit its Authorized Users to:

- 10.1** upload or distribute any files that contain Viruses, corrupted files, or any other similar software or programs that may damage the operation of the Service,
- 10.2** modify, disassemble, decompile, or reverse engineer the Service,
- 10.3** probe, scan, test the vulnerability of, or circumvent any security mechanisms used by, the sites, servers, or networks connected to the Service,
- 10.4** take any action that imposes an unreasonably or disproportionately large load on the sites, servers, or networks connected to the Service,
- 10.5** copy, distribute, or reproduce the Service,
- 10.6** access or use any other clients' or their users' data through the Service,
- 10.7** maliciously reduce or impair the accessibility of the Service,
- 10.8** use the Service to post, promote, or transmit any unlawful, harassing, libelous, abusive, threatening, harmful, hateful, or otherwise objectionable material, or
- 10.9** transmit or post any material that encourages conduct that could constitute a criminal offense or give rise to civil liability.

11 Confidentiality.

11.1 Confidential Information. "Confidential Information" means any non-public, information or data (including without limitation any formula, pattern, compilation, computer program, device, method, technique, or process), that is disclosed by one Party (a "Disclosing Party") to the other Party (a "Receiving Party") pursuant to this Agreement that is marked as confidential or that because of its nature would reasonably be considered confidential by the Receiving Party. Confidential Information does not include information that the Receiving Party can show: (a) is or has become publicly known or available without breach of this Agreement or any prior obligation of confidentiality; (b) is received by a Receiving Party from a third party without breach of any obligation of confidentiality; or (c) was previously known by the Receiving Party as shown by its written records.

11.2 Nondisclosure Obligations. The Receiving Party will not use Confidential Information for any purpose other than to facilitate the performance of such Party's obligations pursuant to this Agreement (the "Purpose"). The Receiving Party: (i) will not disclose Confidential Information to any employee or contractor of the Receiving Party unless, in the reasonable opinion of the Receiving Party, such person needs access in order to facilitate the Purpose and executes a nondisclosure agreement with the Receiving Party, with terms no less restrictive than those of this Section 11; and (ii) will not disclose Confidential Information to any other third party without the Disclosing Party's prior written consent. Without limiting the generality of the foregoing, the Receiving Party will protect Confidential Information with at least the same level and manner of security with which it protects its own Confidential Information and in no event with less than a commercially reasonable level of security used in the software industry. The Receiving Party will promptly notify the Disclosing Party of any unauthorized disclosure, misuse or misappropriation of Confidential Information that comes to the Receiving Party's attention. Notwithstanding the foregoing, the Receiving Party may disclose Confidential Information as required by applicable Law or by proper legal or Governmental Authority. The Receiving Party will give the Disclosing Party prompt notice of any such legal or governmental demand, if permitted by applicable Law, and reasonably cooperate with the Disclosing Party in any effort to seek a protective order or otherwise to contest such required disclosure, at the Disclosing Party's expense.

11.3 Injunction. The Receiving Party agrees that breach of this Section 11 may cause the Disclosing Party irreparable injury, for which monetary damages would not provide adequate compensation, and that in addition to any other remedy, the Disclosing Party will be entitled to seek injunctive relief against such breach or threatened breach, without proving actual damage or posting a bond or other security.

11.4 Termination and Return. The obligations of Subsection 11.2 above will terminate five (5) years after the expiration or earlier termination of this Agreement, except the trade secrets of a Party shall remain confidential until such time as they no longer are trade secrets. Upon termination of this Agreement or upon the Disclosing Party's written request, the Receiving Party will return all copies of Confidential Information to the Disclosing Party or certify, in writing, the destruction thereof.

11.5 Retention of Rights. This Section 11 does not transfer ownership of Confidential Information or grant a license thereto. Except to the extent that another section of this Agreement specifically provides to the contrary, the Disclosing Party retains all rights, title, and interest in and to all of the Disclosing Party's Confidential Information.

12 Ownership of Intellectual Property Rights

12.1 Except for the limited license granted to Licensee in this Agreement, OnScreen owns all rights, title, and interest in and to the Service and documentation and all Intellectual Property in the foregoing. Any rights not expressly granted by this agreement are hereby retained.

12.2 Except for the limited license granted to OnScreen in this Agreement, Licensee owns all rights, title, and interest in and to the Licensee Marks, and all Intellectual Property therein.

13 Term and Renewal

13.1 Term. This agreement will commence on the Effective Date and continue, unless earlier terminated as provided herein, for the initial term specified in the applicable Order Form (the “**Initial Term**”).

13.2 Renewals. Upon expiration of the Initial Term, this agreement will automatically renew for additional 12-month periods (each a “**Renewal Term**”) unless either party provides written notice to the other party of its intent not to renew at least 30 days prior to the end of the then current Term. OnScreen reserves the right to increase the Subscription Fee due for any Renewal Term, provided that OnScreen provides advance written notice of the increase at least 60 days prior to the end of the then current Term. As used herein, the Initial Term and each Renewal Term may be collectively referred to as the “Term.”

14 Termination

14.1 Termination for Material Breach. Either party may terminate this agreement in the event the other party materially breaches this Agreement and fails to remedy such breach within 30 days of written notice from the non-breaching party identifying the nature of the breach.

14.2 Termination for Failure to Pay. OnScreen may terminate this agreement with immediate effect by delivering written notice of the termination to Licensee if Licensee fails to pay the annual Subscription Fee within 3 months of the due date.

14.3 Effect of Termination

a) **Subscription Fees.** Except in the event of a termination due to the uncured material breach of OnScreen, upon termination of this Agreement for any reason, Licensee shall promptly pay to OnScreen any unpaid amounts due under the Agreement and all Subscription Fees are non-refundable.

b) **Cease Use.** Licensee and its Authorized Users shall cease all use of the Service upon the effective date of the termination and shall no longer have any right to access or use the Service.

c) **Data Retrieval.** Licensee will have 30 days from the date of termination to retrieve any of data that Licensee wishes to keep. OnScreen shall not be liable for deletion of any data after the 30-day period.

15 Indemnification

15.1 Indemnification by OnScreen.

a) **Indemnification for Infringement Claims.** OnScreen (as an indemnifying party) shall indemnify Licensee (as an indemnified party) against all losses and expenses arising out of any proceeding brought by a third party and arising out of a claim that Licensee’s use of the Services in a manner consistent with this agreement infringe the third party’s Intellectual Property rights.

b) **Qualifications for Indemnification.** OnScreen will be required indemnify Licensee under paragraph 18.1(a) only if: (i) Licensee's use of the Services complies with this Agreement and all documentation related to the Services, (ii) the infringement was not caused by Licensee modifying or altering the Services or documentation related to the Services, unless OnScreen consented to the modification or alteration in writing, (iii) the infringement was not caused by Licensee combining the Services with products not supplied by OnScreen, unless OnScreen consented to the combination in writing, and (iv) OnScreen has had a reasonable opportunity to modify the system to be non-infringing or secure a license.

c) **Certain Remedies.** If a third-party claim arises, or is reasonably likely to arise, asserting that the Services infringe the Intellectual Property rights of a third-party, OnScreen shall, at its sole cost and expense, have the right to (i) procure for Licensee the right to continue using the Services; (ii) modify or replace the Services to make them non-infringing while retaining the original functionality; or (iii) if options (i) or (ii) are not available on a commercially reasonable basis, terminate this Agreement and refund to Licensee any Subscription Fees for the period of time Licensee was not able to use the Service.

15.2 Mutual Indemnification. Each party (as an indemnifying party) shall indemnify the other (as an indemnified party) against all losses arising out of any proceeding brought by a third party and arising out of the indemnifying party's willful misconduct or gross negligence.

15.3 Notice and Failure to Notify

a) **Notice Requirement.** Before bringing a claim for indemnification, the indemnified party shall: (i) notify the indemnifying party of the indemnifiable proceeding, and (ii) deliver to the indemnifying party all legal pleadings and other documents reasonably necessary to indemnify or defend the indemnifiable proceeding.

b) **Failure to Notify.** If the indemnified party fails to notify the indemnifying party of the indemnifiable proceeding, the indemnifying will be relieved of its indemnification obligations to the extent it was prejudiced by the indemnified party's failure.

15.4 Exclusive Remedy. The parties' right to indemnification is the exclusive remedy available in connection with the indemnifiable proceedings described in this Section 15.

16 Limitation on Liability. IN NO EVENT WILL ONSCREEN'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THE CONTRACT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) EXCEED THE AMOUNT OF FEES PAYABLE TO ONSCREEN IN THE YEAR PRECEDING SUCH EVENT. IN NO EVENT WILL ONSCREEN HAVE ANY LIABILITY TO YOU OR TO ANY THIRD PARTY FOR ANY LOST PROFITS OR REVENUES OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, AND WHETHER OR NOT YOU OR THE THIRD PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW.

THE LIMITATIONS UNDER THIS "LIMITATION ON LIABILITY" SECTION APPLY WITH RESPECT TO ALL LEGAL THEORIES, WHETHER IN CONTRACT, TORT OR OTHERWISE, AND TO THE EXTENT PERMITTED BY LAW. THE PROVISIONS OF THIS "LIMITATION ON LIABILITY" SECTION ALLOCATE THE RISKS UNDER THIS AGREEMENT BETWEEN THE PARTIES, AND THE PARTIES HAVE RELIED ON THESE LIMITATIONS IN DETERMINING WHETHER TO ENTER INTO THE AGREEMENT.

17 General Provisions

17.1 Entire Agreement. The parties intend that this Agreement, together with the Order Form(s), represent the final expression of the parties' intent relating to the subject matter of this

agreement, contain all the terms the parties agreed to relating to the subject matter, and replace all of the parties' previous discussions, understandings, and agreements relating to the subject matter of this agreement.

17.2 Amendment. The terms and conditions of this Agreement may only be amended by a written instrument signed by each party hereto.

17.3 Assignment. Neither party may assign this Agreement or any of their rights or obligations under this agreement without the other party's written consent, except that OnScreen may assign this agreement without consent, but with written notice, to a successor in the event of any sale of all or substantially all of the business of the company whether by sale of assets, merger, reorganization or otherwise. The terms and conditions of this Agreement shall inure to the benefit of and be binding upon the respective successors and assigns of the parties. Nothing in this Agreement, express or implied, is intended to confer upon any party other than the parties or their respective successors and assigns any rights, remedies, obligations or liabilities under or by reason of this Agreement, except as may be expressly provided in this Agreement.

17.4 Notices

a) **Method of Notice.** The parties shall give all notices and communications between the parties in writing by (i) personal delivery, (ii) a nationally recognized, next-day courier service, (iii) first-class registered or certified mail, postage prepaid, or (iv) electronic mail to the party's address specified in this agreement, or to the address that a party has notified to be that party's address for the purposes of this section.

b) **Receipt of Notice.** A notice given under this agreement will be effective on the other party's receipt of it, or if mailed, the earlier of the other party's receipt of it and the fifth Business Day after mailing it.

17.5 Governing Law. This agreement shall be governed, construed, and enforced in accordance with the laws of the State of Florida, without regard to its conflict of laws rules. Each of the parties agrees that any suit, action, or proceeding arising out of this agreement may be instituted against it in the state or federal courts located in Pinellas County, Florida. Each of the parties hereby waives any objection that it may have to the venue of any such suit, action, or proceeding, and each of the parties hereby irrevocably consents to the personal jurisdiction of any such court in any such suit, action, or proceeding.

17.6 Severability. If any part of this agreement is declared unenforceable or invalid, the remainder will continue to be valid and enforceable.

17.7 Waiver

a) **Affirmative Waivers.** Neither party's failure or neglect to enforce any rights under this agreement will be deemed to be a waiver of that party's rights.

b) **Written Waivers.** A waiver or extension is only effective if it is in writing and signed by the party granting it.

c) **No General Waivers.** A party's failure or neglect to enforce any of its rights under this agreement will not be deemed to be a waiver of that or any other of its rights.

d) **No Course of Dealing.** No single or partial exercise of any right or remedy will preclude any other or further exercise of any right or remedy.

17.8 Force Majeure. Neither party will be liable for performance delays nor for non-performance due to causes beyond its reasonable control, except for payment obligations including but not limited to war, sabotage, insurrection, riot, or other act of civil disobedience, strikes, act of any government affecting the terms hereof, acts of terrorism, accident, fire, explosion, flood, hurricane, severe weather, epidemic, pandemic, or other act of God.

17.9 Relationship of the Parties

a) **No Relationship.** Nothing in this agreement creates any special relationship between the parties, such as a partnership, joint venture, or employee/employer relationship between the parties.

b) **No Authority.** Neither party will have the authority to, and will not, act as agent for or on behalf of the other party or represent or bind the other party in any manner.

17.10 Counterparts. Counterparts may be delivered via facsimile, electronic mail (including pdf or any electronic signature complying with the U.S. federal ESIGN Act of 2000, e.g., www.docusign.com) or other transmission method and any counterpart so delivered shall be deemed to have been duly and validly delivered and be valid and effective for all purposes.

18 Definitions

18.1 “Business Day” means a day other than a Saturday, a Sunday, or any other day on which the principal banks located in New York, New York are not open for business.

18.2 “Data” means all of the data Licensee creates with, or uses with the Service, or otherwise related to Licensee's use of the Services.

18.3 “Governmental Authority” means any federal, state, local, or foreign government, and any political subdivision of any of them, any agency or instrumentality of any such government or political subdivision, any self-regulated organization or other non-governmental regulatory authority or quasi-governmental authority (to the extent that its rules, regulations, or orders have the force of law), and any arbitrator, court, or tribunal of competent jurisdiction.

18.4 “Intellectual Property” means any and all of the following in any jurisdiction throughout the world: (i) trademarks and service marks, including all applications and registrations, and the goodwill connected with the use of and symbolized by the foregoing, (ii) copyrights, including all applications and registrations related to the foregoing, (iii) trade secrets and confidential know-how, (iv) patents and patent applications, (v) websites and internet domain name registrations, and other intellectual property and related proprietary rights, interests and protections (including all rights to sue and recover and retain damages, costs and attorneys' fees for past, present, and future infringement, and any other rights relating to any of the foregoing).

18.5 “Law” means any law (including the common law), statute, bylaw, rule, regulation, order, ordinance, treaty, decree, judgment, and any official directive, protocol, code, guideline, notice, approval, order, policy, or other requirement of any Governmental Authority having the force of law.

18.6 “Taxes” includes all taxes, assessments, charges, duties, fees, levies, and other charges of a Governmental Authority, including income, franchise, capital stock, real property,

personal property, tangible, withholding, employment, payroll, social security, social contribution, unemployment compensation, disability, transfer, sales, use, excise, gross receipts, value-added and all other taxes of any kind for which a party may have any liability imposed by any Governmental Authority, whether disputed or not, any related charges, interest or penalties imposed by any Governmental Authority, and any liability for any other person as a transferee or successor by Law, contract or otherwise.

IN WITNESS WHEREOF, the Parties have each caused this Agreement to be signed and delivered by their respective duly authorized officers, all as of the Effective Date.

OnScreen Solutions, Inc.

Signature: _____

Name: _____

Title: _____

[LICENSEE NAME]

Signature: _____

Name: _____

Title: _____

ONSCREEN ORDER FORM

Software Service and Pricing

This OnScreen Order Form, along with the Software Agreement, form the complete agreement between the parties relating to Licensee's access and use of the Services described below:

1. Services

The License Grant to the OnScreen Platform described in Section 1 of the Agreement will include access to the: OnScreen Web Application, OnScreen Helper, and OnScreen Recorder.

2. Setup and Installation

OnScreen will provide reasonable electronic or phone assistance during Licensee's normal business hours for initial setup required to enable Licensee's use of the Service. OnScreen will enable access to the Authorized Users identified by Licensee, subject to the usage restrictions set forth in this Order Form.

3. License Count

OnScreen will provide access to Authorized Users as determined by Licensee for the term of the Agreement up to a maximum number of [License Count].

4. Term

The Initial Term begins upon the Effective Date of the Agreement and, unless earlier terminated as set forth in the Agreement, ends 12 months thereafter.

5. Subscription Fee

The annual Subscription Fee for the Service is \$[Subscription Amount]. Upon execution of this Schedule, the Company shall issue an invoice in accordance with the Agreement.

5. Customer Billing Information

Billing Department Name:

Billing Department Address:

Contact Name:

Contact Phone number:

Contact email:

Appendix A - Terms of Use

Reference <https://onscreen.us/privacy-policy/>

Appendix B - Privacy Policy

Reference <https://onscreen.us/privacy-policy/>