

Council Letter No. 5004

Meeting Date: February 1, 2021

Mayor and City Commission
City of Ardmore, Oklahoma

RE: Master Services Agreement – Getac Body Worn Cameras

Dear Commission Members:

The Ardmore Police Department is requesting approval to accept the attached Master Services Agreement on the thirty (30) Getac body worn cameras approved by the City Commission on October 19, 2020.

This agreement ensures Brite Computers will perform professional services, managed IT services and/or managed security services on the thirty (30) Getac body worn cameras for a period of three (3) years from the execution of the agreement with a month to month renewal after the initial term.

Staff respectfully recommends acceptance of the Master Services Agreement with services being delivered by Brite Computers of Victor, New York.

Respectfully,



Kevin Norris
Deputy Chief of Police

Reviewed by: _____


City Manager

MASTER SERVICES AGREEMENT
(Professional Services, BRITEPROTECT, BRITESTAR)

This Master Services Agreement (the “**MSA**”) is effective as of the ___ day of _____, 2021 (the “**Effective Date**”) between Upstate Wholesale Supply Company, Inc. D/B/A Brite (“**Brite**”), a New York corporation having a principal place of business at 7647 Main Street, Victor, NY 14564, on behalf of itself and its affiliates and _____ (“**Customer**”), a(n) _____ company with offices at _____, on behalf of itself, its subsidiaries, and affiliates. Brite and Customer are individually referred to as a “**Party**” and collectively as the “**Parties**”.

1. SERVICES/STATEMENTS OF WORK. Brite shall provide Customer with certain professional services, managed IT services and/or managed security services (the “**Work**”) as specified on each executed Statement of Work. On and subject to the terms and conditions of this MSA and each executed Statement of Work, Brite shall perform and deliver the Work, and Customer shall accept and pay for the Work as described in each executed Statement of Work. Each Statement of Work shall be signed by the authorized signatory of each Party. Each Statement of Work shall be referenced by date and shall be deemed to be incorporated into this MSA. In the event of a conflict between the terms of this MSA and any Statement of Work entered into after the Effective Date of this MSA, the terms of the Statement of Work shall govern.

2. TERM. This MSA shall be effective the Effective Date and, unless sooner terminated as provided herein, this MSA shall continue for three (3) years (the “**Initial Term**”). Upon expiration of the Initial Term, this MSA shall continue a month to month basis (the “**Renewal Term**” and collectively with the Initial Term, the “**Term**”), terminable by either Party on thirty (30) days prior written notice to the other Party. This MSA shall continue to apply to any Statement of Work in effect beyond the expiration of this MSA.

It is understood and agreed that, by virtue of the Article 10, Section 26 of the Oklahoma Constitution, the payment of City's funds in the future will be limited to appropriations and available funds in the then current City fiscal year.

3. CHARGES. Brite shall submit to Customer periodic invoices for the Work rendered. Unless contrary payment terms are specified in the applicable Statement of Work, (i) monthly recurring charges for subscription services shall be billed in advance of the service period and non-recurring charges shall be billed in arrears; and (ii) the entire amount of such invoices shall be paid within thirty (30) days from the invoice date (the “**Due Date**”). A late charge equal to the lesser of 1.5% per month or the maximum amount permitted under applicable law shall be paid on any invoice past due until such delinquent invoice is paid. All invoices and payments shall be in U.S. dollars. If amounts due under the Invoice are not paid by the Due Date, Brite may, at its option, upon ten (10) days written notice, immediately suspend all Work under all Statement(s) of Work until payment is received in full (including without limitation suspension of access to any Licensed Software) and/or, upon thirty (30) days written notice, terminate all Statement(s) of Work for breach. In addition to the late charge, Customer shall be responsible for all Brite's collection costs, including reasonable attorneys' fees, incurred in connection with any breach or threatened breach of this MSA or its exercise of any remedies hereunder. Customer shall use all commercially reasonable efforts to notify Brite of any objection within thirty calendar days of the invoice date, identifying the reasons there for in writing and timely paying that portion of the invoice not in dispute. Invoices will be considered acceptable to Customer if no such objections are made with 180 days of the invoice date. The rates for Work do not include any federal, state, county, local, or other taxes howsoever designated and whether levied or based upon such charges, this MSA, or any other service supplied hereunder (“**Taxes**”). Any Taxes or amounts in lieu thereof paid or payable under this MSA, exclusive of personal property taxes and taxes based on the net income of Brite, shall be borne by Customer. Unless otherwise specified in a Statement of Work, Customer shall reimburse Brite for all reasonable travel and living expenses incurred by Brite in the course of performing any Work under this MSA, in accordance with the Customer's travel policies which the Customer shall provide to Brite prior to the commencement of any Work. Customer shall reimburse Brite for all pre-approved third party charges for software, hardware or other materials procured by Brite for Customer, which equipment shall, upon payment for the same to Brite, become the property of the Customer.

4. CONFIDENTIALITY AND SECURITY

- A. During the Term of this MSA and for a period of three (3) years thereafter, the receiving Party (“**Recipient**”) shall not, without the prior written consent of the disclosing Party (“**Disclosing Party**”), use, exploit, reveal

or disclose to any person or entity the existence of this MSA (other than as provided in Section 18 below), its terms, any nonpublic technical or business information, whether in oral, written or other tangible form that the Disclosing Party designates as being confidential or which, under the circumstances surrounding disclosure, the Recipient knows or has reason to know should be treated as confidential, including but not limited to financial or customer data, the processing system, programs, files, specifications, drawings, sketches, models, samples, tools or other data, oral, written or otherwise or any information relating to the Disclosing Party's business, customers or confidential affairs of the Disclosing Party ("Information"); provided that (i) the Information may be disclosed to such of Recipient's or Recipient's affiliate companies' employees and contractors who have a need to know for the purpose of fulfilling Recipient's obligations under this MSA, and (ii) this MSA and the Information may be disclosed to either of the Party's respective outside auditors, financial advisors, lenders, attorneys or professional advisors on a need to know basis with respect to any financing, audit or other engagement of such Party's professional advisors. Recipient shall advise any such individuals that the Information is confidential and that by receiving such information such individuals are agreeing to be bound by the terms of this Section 4 ("Confidentiality") and are agreeing not to use such information for any purpose other than described herein. Without the Disclosing Party's prior written consent, Recipient shall not, and shall direct such individuals not to, disclose the Information in whole or in part, except to the extent compelled by law.

- B. The provisions of this Section 4 shall not apply to information of the Disclosing Party which: (i) is or becomes through no fault of the Recipient part of the public domain; (ii) was already known to the Recipient at the time of disclosure as evidenced by written documents; (iii) was independently developed by the Recipient without reference to or use of information received from the Disclosing Party; or (iv) is rightfully obtained by the Recipient from a third party outside of this MSA. The Recipient acknowledges that all information of the Disclosing Party shall be and remain the property of the Disclosing Party. The Recipient shall return to the Disclosing Party all documents received from the Disclosing Party promptly after a request by the Disclosing Party.
- C. The Recipient shall protect the information of the Disclosing Party with the same degree of care as the Recipient employs for the protection of the Recipient's own trade secrets and confidential information (but in no event shall such care be less than that which is commercially reasonable). In furtherance thereof, the Recipient shall establish and maintain commercially reasonable administrative, physical and technical safeguards to protect against the unauthorized access, use or disclosure of the other Party's Information. Each Party agrees to promptly notify the other Party of any unauthorized use or disclosure of the Information and to provide assistance to such other Party, and its licensors, in the investigation and prosecution of such unauthorized use and disclosure.
- D. It is further understood and agreed that money damages may not be a sufficient remedy for any breach of Recipient's obligations under this Section 4 ("Confidentiality") by Recipient, or any employees, contractors or advisors under Recipient's supervision and that the Disclosing Party shall be entitled to seek specific injunctive relief as a remedy for any such breach. Such remedy shall not be deemed to be the exclusive remedy for the breach of obligations under this Section 4 ("Confidentiality") but shall be in addition to all other available legal or equitable remedies.
- E. If the Parties have previously executed a Nondisclosure Agreement then the terms and conditions of such Nondisclosure Agreement are hereby incorporated into this MSA by reference. To the extent that there is a conflict between the terms and conditions of this MSA and such Nondisclosure Agreement, the more restrictive terms and conditions shall apply. Nothing in this paragraph shall be construed to limit the ability of the customer to comply with the Oklahoma Open Records Act.

5. LIMITATION OF LIABILITY. To the extent permitted by Oklahoma law as pertains to subdivisions of the state, neither Customer nor Brite shall be liable to the other Party or to any third party for any lost profits; any loss of business; any cost of replacement services; or any indirect, consequential, incidental, or special losses or damages of any kind or nature whatsoever, howsoever caused, including without limitation loss of equipment, software, data or information. The Parties agree that the terms in this Limitation of Liability section represent a reasonable allocation of risk given the nature of the Work to be provided hereunder. The sole and exclusive remedy of Brite and of Customer for any claim, loss, or damages in any way related to, or arising out of, this MSA or any Work provided or anticipated

to be provided hereunder shall be limited to such Party's actual, direct damages; provided, however, subject to the provisions of subsections (i) and (ii) below hereof, the aggregate amount of all such actual, direct damages that arise out of, or relate to, any and all events and occurrences shall not exceed the amounts due and owing under the applicable Statement of Work under which the dispute arose for the one year prior the event giving rise to the claim (the "Cap Amount"):

- (i) The Cap Amount shall not apply to or limit the liability of Customer for any claims for payment of the full invoiced amounts due or for payment of any Minimum Purchase Commitments or Early Termination Fees as specified in any Statement(s) of Work (hereinafter the "ETF"). The ETF shall not be deemed to be a consequential damage but a reasonable approximation of Brite's damages for early termination of the Work.
- (ii) The Cap Amount shall not apply to or limit either Party's liability for actual, direct damages for any claims of a breach of its confidentiality obligations under Section 4 above or for any claims for indemnification under Section 8 below.

The limitations expressed in this section shall not preclude either Party from seeking injunctive relief. Any cause of action or claim brought by either Party against the other Party for breach of this MSA, for tortious conduct or for any other cause or claim, must be commenced within one (1) year after such cause or claim has accrued or shall thereafter be completely and forever barred.

6. WARRANTY. Brite represents and warrants to Customer that it shall perform the Work using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with generally recognized industry standards for similar services and shall devote adequate resources to meet its obligations under this MSA. Nothing in this MSA (including any Statement of Work) or any materials provided to Customer by Brite in connection with the Work shall be construed as a promise or guarantee as to the outcome of the Work. Brite makes no warranties for any third-party equipment, software and the like furnished by Brite and such warranties shall be limited to those warranties provided by the third-party equipment manufacturers and the software licensors. EXCEPT AS SPECIFICALLY SET FORTH IN THIS SECTION 6, BRITE MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, WITH RESPECT TO THE WORK AND EXPLICITLY DISCLAIMS THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT (WHETHER OR NOT BRITE KNOWS, HAS REASON TO KNOW, HAS BEEN ADVISED, OR IS OTHERWISE IN FACT AWARE OF ANY SUCH PURPOSE), WHETHER ALLEGED TO ARISE BY LAW, BY REASON OF CUSTOM OR USAGE IN THE TRADE, OR BY COURSE OF DEALING.

7. COMPLIANCE WITH LAW. Each Party is responsible for ensuring that all materials and information provided to the other Party to be used in connection with the Work under this MSA, and the Work provided under this MSA, shall comply with all applicable laws and regulations in the jurisdictions in which the Work is provided hereunder. Each Party will be responsible for compliance with all laws, rules, and regulations involving, but not limited to, employment of labor, hours of labor, working conditions, payment of wages, and payment of taxes, such as unemployment, Social Security, and other payroll taxes, including applicable contributions from such persons when required by law. In accordance with data privacy laws and regulations applicable to this MSA, which may include, but not be limited to, the Gramm-Leach-Bliley Act ("GLBA") and the Health Insurance Portability and Accountability Act ("HIPAA"), Brite shall not disclose or permit access to or use the non-public personal information of Customer or its customers made available by Customer to Brite for any purposes other than those specifically required to fulfill Brite's contractual obligations with Customer.

8. INTENTIONALLY OMITTED.

9. **ASSIGNMENT.** Neither Party may assign the MSA (including any Statement of Work) without the prior written consent of the other Party, which consent shall not be unreasonably withheld, delayed or conditioned, provided that either Party may assign its rights and obligations under the MSA without the approval of the other Party to (i) an entity which acquires all or substantially all of the assets of the assigning Party or (ii) to any entity affiliated with, controlling, controlled by or under common control with such Party, provided that such assignee affirmatively assumes in writing the obligations of the assigning Party hereunder. In such event, the assigning Party thereafter shall be released from any obligation or liability hereunder which accrues after the effective date of such assignment.

10. **FORCE MAJEURE.** No Party shall be liable for any default or delay in the performance of its obligations under the MSA, excluding obligations for the payment of any invoices, if and to the extent the default or delay is caused, directly or indirectly, by fire, flood, elements of nature, acts of God, acts of war, terrorism or civil unrest, or any other similar cause beyond the reasonable control of the Party. In such event, the non-performing Party is excused from further performance for as long as such circumstances prevail and the Party continues to use commercially reasonable efforts to recommence performance. Any Party so delayed shall promptly notify the other and describe the circumstances causing the delay.

For the avoidance of doubt, each Party understands and agrees that this contract is being entered into during a period of a COVID-19 pandemic and while each Party shall use all reasonable efforts to mitigate delays, the timing of deliverables under this agreement may be impacted by COVID-19 events

11. **LICENSED SOFTWARE AND INTELLECTUAL PROPERTY.** To the extent that the Work includes the license of software for the Customer's use during the Term (either on a licensed basis or through a software for services application) (collectively the "Licensed Software"), the Name and Version of the Licensed Software, the Name of the Licensor (the "Licensor") and the number of Permitted Users shall be specified on the applicable Statement of Work. As applicable to any Licensed Software specified on a Statement of Work, Brite, (as the Licensor or the sub-licensor), hereby grants to Customer a non-exclusive, limited, revocable, non-transferable license to allow the Permitted Users to use the Licensed Software for its intended purposes, and, as applicable, in accordance with any end user license terms and conditions of the Licensor (the "EULA") Customer may not, nor permit any third party to, copy the Licensed Software; modify, translate or otherwise create derivative works of the Licensed Software, or; reverse-engineer the Licensed Software. Customer understands and agrees that no title to the Licensed Software, or any improvement, modification or enhancement thereto, shall pass to the Customer under this MSA. Customer's rights in the Licensed Software are limited to the limited license expressly granted herein. As between the Customer and Brite, Brite exclusively owns all intellectual property rights, title and interest in any ideas, concepts, know-how, documentation or techniques Brite provides under this MSA, and all technology available on the Brite servers and equipment (other than those components which are licensed from others). Brite shall have the right to use the techniques, methodologies, tools, ideas and other know-how gained during the performance of the Work in the furtherance of its own business and to perfect all intellectual property rights related thereto, subject to Brite's obligations of confidentiality as set forth in Section 4 hereof with respect to the Customer's Information. Notwithstanding any other provision of this MSA to the contrary, including the provisions of Section 17 (Dispute Resolution), Brite and/or its Licensors shall be entitled to pursue any and all remedies available at law or in equity in the event of a breach or threatened breach by Customer of the provisions of this Section 11 and/or the EULA, including preliminary and permanent injunctions.

12. **APPLICABLE LAW AND BINDING EFFECT.** This MSA shall be governed by and construed in accordance with the laws of the State of New York and shall inure to the benefit of and be binding upon the parties hereto and their heirs, personal representatives, successors, and permitted assigns. Subject to the provisions of Section 16 ("Dispute Resolution and Arbitration"), the forum for any action brought under or arising out of this MSA shall be the federal or state courts of Oklahoma sitting in Ardmore, Oklahoma or Oklahoma City, Oklahoma.

13. TERMINATION. Notwithstanding the provisions regarding the term of this MSA set forth in Section 2 above, and in addition to the parties' rights of termination specifically provided elsewhere in this MSA, the following shall apply:

- A. Except during the term of any Statement(s) of Work, this MSA may be terminated by either Party for convenience on thirty (30) days advance written notice to the other Party, subject to payment of all amounts due for Work rendered prior to termination.
- B. In the event that one Party breaches any material obligation under this MSA or any Statement(s) of Work (other than payment obligations, which are governed by Section 3 above), the aggrieved Party shall give the breaching Party written notice of the breach and request that the breach be cured ("Cure Notice"). If the breaching Party fails to implement a reasonable corrective action plan and take reasonable action steps to accomplish the plan within thirty (30) days of receipt of the Cure Notice (or such other mutually agreed upon time), the aggrieved Party shall have the right to terminate this MSA and any or all applicable Statement(s) of Work immediately upon providing written notice to the breaching Party. The aggrieved Party shall have the sole discretion to determine whether the aforementioned corrective action plan and action steps are reasonable. If Brite's performance of its obligations are prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants or employees, Brite shall not be deemed in breach of its obligations under this MSA.
- C. A Party may, at its option, terminate this MSA effective immediately upon written notice upon the occurrence of an "Insolvency Event of Default" (as defined below) with respect to the other Party. The occurrence of any one or more of the following events shall constitute an "Insolvency Event of Default": the other Party admits in writing its inability to pay its debts generally or makes a general assignment for the benefit of creditors; any affirmative act of insolvency by the other Party or the filing by or against the other Party (which is not dismissed within ninety (90) days) of any petition or action under any bankruptcy, reorganization, insolvency arrangement, liquidation, or dissolution; or the subjecting of a material part of the other Party's property to any levy, seizure, assignment or sale for or by any creditor.
- D. In the event of termination of this MSA and/or any Statement(s) of Work by Brite for Customer's uncured breach, or by Customer for its convenience, Customer shall pay Brite the EFT, if any, specified in the applicable Statement(s) of Work, which EFT shall be due and payable on the termination date.
- E. Upon termination of any Statement(s) of Work, Customer shall discontinue its use of any Licensed Software and return all equipment provided by Brite for Customer's use in connection with the Work. Customer's rights to any Brite Information or the Licensed Software shall immediately terminate.

14. NONSOLICITATION. Neither Party to this MSA shall, without the prior written consent of the other Party, solicit, attempt to solicit, hire, or offer employment to any employee of the other Party, directly or indirectly, for the Term of this MSA and for a period of twelve (12) months after the expiration of the last Statement of Work entered into hereunder (the "Restriction Period"). The foregoing prohibition shall not apply to solicitations by means of general advertisements or media of general circulation that are not specifically targeted at the other Party's employees, nor shall it apply to any employee applying for any such generally advertised or circulated position. Customer recognizes that the services provided by Brite's employees require special training and expertise developed by Brite in recruiting and training its employees, and Brite shall be entitled to pursue any and all remedies available at law or in equity in the event of a breach or threatened breach by Customer of the provisions of this Section 14, including preliminary and permanent injunctions.

15. NOTICE. All notices and other communications under this MSA shall be in writing and addressed by name and address to the Party intended as follows:

To Brite:

with a copy to:

Point of Contact

Justin Smith
President & COO
Brite

7647 Main Street
Victor, NY 14564
Fax: 585-758-0237

To Customer:

with a copy to:

Point of Contact

Fax: _____

or at such other address as a Party hereto may designate by written notice. Notice shall be deemed duly given (i) when delivered in person; (ii) upon confirmation of a facsimile transmission to the intended recipient; (iii) upon delivery of electronic mail to the host email system of the intended recipient; or (iv) upon delivery by registered or certified U.S. mail, return receipt requested, postage prepaid, or by other prepaid delivery service offering proof of delivery.

16. INTENTIONALLY OMITTED.

17. NO EXCLUSIVE AGREEMENT. Unless otherwise explicitly stated in an applicable Statement of Work, nothing in this MSA or any Statement of Work shall be deemed to grant to Brite an exclusive right or privilege to provide any Work to Customer or any Customer affiliate. Customer acknowledges that Brite provides a variety of services to other parties, and agrees that nothing in this MSA or any Statement of Work shall be deemed or construed to prevent Brite from (i) providing work or services to any other party, or (ii) developing for itself, or for others, materials that may be or are competitive to those produced as a result of the Work provided under this MSA, subject to Brite's confidentiality obligations with respect to Customer Information in accordance with the provisions of Section 4 ("Confidentiality") hereof.

18. PUBLICITY. Neither Party shall issue any press release or make any other public disclosure concerning the parties' relationship, or the existence or terms and conditions of this MSA or any Statement of Work, without the prior written consent of the other Party; provided, however, that the foregoing shall not prohibit any disclosure to the extent required by applicable securities laws or the rules of any stock exchange where a Party's securities are traded or as required under the Oklahoma Open Records Act. Notwithstanding the foregoing, Customer agrees that as further consideration for the Work, Brite may use the Customer's name in Brite's marketing and promotional materials (including listing the Customer as a customer of Brite on the Brite website), provided that Brite restricts such usage to identification of the Customer as a customer of Brite and makes no representation about the quality, quantity or type of work performed by Brite without the Customer's written consent.

19. INSURANCE. Brite agrees to carry, at its sole expense, insurance policies as specified in Exhibit A of this MSA. Prior to or contemporaneously with the execution of this MSA, Brite shall furnish Customer certificates of the insurance required under this Section.

20. RELATIONSHIP OF THE PARTIES. Neither the making of this MSA nor the performance of provisions of this MSA or any Work shall be construed to constitute either Party hereto as an agent, employee or legal representative of the other Party for any purpose, nor shall this MSA be deemed to establish a joint venture or partnership between the Parties. Neither Party shall have any right or authority to create any obligation, warranty, representation or responsibility, express or implied, on behalf of the other Party, nor to bind the other Party in any manner whatsoever. The relationship of Brite to Customer under this MSA shall be deemed to be that of an independent contractor.

21. INVALID PROVISION. The invalidity or unenforceability of any term or provision of this MSA or the nonapplication of any such term or provision to any person or circumstance shall not impair or affect the remainder of this MSA, and the remaining terms and provisions hereto shall not be invalidated, but shall remain in full force and effect and shall be construed as if such invalid unenforceable, or nonapplicable provisions were omitted.

22. WAIVER OR MODIFICATION. No waiver or modification of this MSA or of any covenant, condition or limitation herein contained shall be valid unless in writing and duly executed by the Party to be charged therewith. Furthermore, no evidence of any waiver or modification shall be offered or received in evidence in any proceeding, arbitration or litigation between the parties arising out of or affecting this MSA, or the rights or obligations of any Party hereunder, unless such waiver or modification is in writing and duly executed as aforesaid. The provisions of this paragraph may not be waived except as herein set forth.

23. SURVIVAL OF RIGHTS AND OBLIGATION. The provisions of Sections 4 (Confidentiality), 5 (Limitation of Liability), 6 (Warranty), 8 (Indemnification), 11 (Intellectual Property), 12 (Applicable Law), 13 (E) (Termination Damages), 14 (Nonsolicitation), 16 (Dispute Resolution and Arbitration) and 20 (Relationship of the Parties) shall survive the termination or expiration of this MSA.

24. NO THIRD-PARTY BENEFICIARIES. This MSA is for the sole benefit of the Parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

25. COUNTERPARTS. This MSA (including any Statement of Work) may be executed in multiple original, facsimile or electronic counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument.

26. ENTIRE AGREEMENT. This MSA constitutes the entire agreement of the parties hereto with respect to the subject matter of this MSA and except as specifically stated herein, supersedes any and all prior negotiations, understanding and agreements with respect hereto. Section and paragraph headings used throughout this MSA are for reference and convenience and in no way define, limit or describe the scope or intent of this MSA or affect its provisions.

IN WITNESS WHEREOF, the parties hereto have caused this MSA to be executed by their duly authorized representatives as of the day and year first above written.

**UPSTATE WHOLESALE SUPPLY, INC.
D/B/A BRITE**

[_____]

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

EXHIBIT A
Insurance Requirements

Commercial General Liability Insurance - Including Products and Completed Operations with coverage at least equivalent to the following except standard industry exclusions are permitted.

Bodily Injury and Property Damage: \$1,000,000 per occurrence
 Personal Injury: \$1,000,000
 General Aggregate: \$2,000,000

The policy shall include an Additional Insured Endorsement including Customer as an Additional Insured for liability arising out of this MSA including ongoing operations, products liability and completed operations. This insurance shall be primary and not seek contribution from any other insurance or self-insurance available to Customer or its affiliates.

Automobile Liability Insurance - Including owned, leased and non-owned vehicles with coverage at least equivalent to the following:

Bodily Injury and Property Damage: \$1,000,000 per occurrence

This insurance shall be primary and not seek contribution from any other insurance or self-insurance available to Customer or its affiliates.

Workers' Compensation and Employers' Liability -

Workers' Compensation - Statutory
 Employers' Liability - \$1,000,000 per person (In states where workers compensation is provided by monopolistic insurance funds, Stop Gap Employers Liability must be provided.)

Crime Insurance – Including employee dishonesty coverage with an endorsement to provide third party fidelity coverage.

Limit Each Occurrence: \$1,000,000

Umbrella Liability – This policy shall provide an additional limit over Commercial General Liability Insurance, Auto Liability Insurance and Employers' Liability with coverage at least as broad as the aforementioned underlying policies, including with respect to any additional insured status.

Limit: \$3,000,000

Professional/Errors & Omissions Liability Insurance – This policy shall cover errors or omissions related to the projects undertaken through this MSA including but not limited to claims for the loss or misuse of personal information, infringement of copyright, trade dress or other intellectual property and damage to Customer's network or data. If written on a claims-made basis, this policy must remain in effect for thirty six (36) months after the conclusion of the work described herein.

Annual Aggregate Limit: \$3,000,000