

# End-User License Agreement

## Annual Software & Hardware License Agreement

This End-User License Agreement (this “Agreement”) is a legal contract between you (the party identified on the last page of this Agreement and who has signed this Agreement, referred to herein as “you” or “your”), as either an individual or a single business or government entity, and Java Connections LLC / LaptopsAnytime and its affiliates (“JAVA CONNECTIONS, LLC”).

READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE DOWNLOADING JAVA CONNECTIONS LLC’S PROPRIETARY SOFTWARE1 (the “SOFTWARE”) OR OBTAINING A LICENSE TO THE SOFTWARE OR USING THE SOFTWARE.

THE SOFTWARE IS COPYRIGHTED AND IT IS LICENSED TO YOU UNDER THIS AGREEMENT, NOT SOLD TO YOU. BY DOWNLOADING THE SOFTWARE OR OBTAINING A LAPTOPSANYTIME KIOSK-TO THE SOFTWARE, YOU ACKNOWLEDGE THAT YOU HAVE READ THIS AGREEMENT, THAT YOU UNDERSTAND IT, AND THAT YOU ACCEPT AND AGREE TO BE BOUND BY ITS TERMS. IF YOU ARE NOT WILLING TO BE BOUND BY THE TERMS OF THIS AGREEMENT, YOU SHOULD REFRAIN FROM ACCESSING OR USING THE SOFTWARE. THIS AGREEMENT REPRESENTS THE ENTIRE AGREEMENT BETWEEN YOU AND JAVA CONNECTIONS LLC CONCERNING THE SOFTWARE, AND THIS AGREEMENT SUPERSEDES AND REPLACES ANY PRIOR PROPOSAL, REPRESENTATION, OR UNDERSTANDING YOU MAY HAVE HAD WITH JAVA CONNECTIONS LLC RELATING TO THE SOFTWARE. THE TERMS OF THIS AGREEMENT, THE QUOTATION(S) AND ANY EXHIBITS THERETO SUPERSEDE ANY AND ALL CLICKWRAP OR CLICK-THROUGH AGREEMENTS REQUIRED OF ANY END USER TO ACCESS AND USE THE SOFTWARE AND KIOSK.

### 1. License

- 1.1. Grant of License. Java Connections LLC hereby grants to you, and you accept, a limited, nonexclusive license to use the Kiosk Software in machine-readable, object code form only, and the user manuals accompanying the Software (the “Documentation”), only as authorized in this Agreement. For purposes of this Agreement, the “Software” includes any updates, enhancements, modifications, revisions, or additions to the Software made by Java Connections LLC and made available to end-users through Java Connections LLC’s web site. Java Connections LLC shall provide you any and all updates, enhancements, modifications, revisions, or additions to the Software that it releases to other customers, at no additional cost; any updates, enhancements, modifications, revisions or additions that Java Connections LLC elects to provide will not, however, be provided to you if you fail to pay the applicable license fee.

- 1.2. Scope of Use. You may use one (1) copy of the Software activated by a LaptopsAnytime Kiosk Host on a single server (virtual or physical) owned, leased, or otherwise controlled by you. If you have multiple kiosks and towers connected together, you may make and use as many copies of the Software as permitted in the purchase order. For purposes of this

Agreement, “use” of the software means loading the Software into the temporary or permanent memory of a computer controlling the rental of devices. Installation of the Software on a network server solely for controlling the rental or check out of computers is “use” of the Software, and is permitted, as long as you have a license for each server (virtual or physical) to which the Software is distributed. The Software may not be used on, or distributed to, a greater number of kiosk towers than you have licensed. If you exceed the number of licenses you have obtained you will be in breach of this Agreement.

- 1.3. Copies and Modifications. You may not reverse engineer, decompile, disassemble, or otherwise translate the Software or kiosk hardware material, components, or any kiosk hardware or software you have obtained. You may not modify or adapt the Software or any kiosk hardware that you have obtained in any way. You may not copy the Software, the Documentation, and any kiosk software or hardware that you have obtained, for backup or archival purposes. Except as authorized in this Section, no copies of the Software, Documentation, or kiosk hardware, or any portions thereof, may be made by you or any person under your authority or control.
- 1.4. Assignment of Rights. You will not sublicense, assign, redistribute, encumber, lease, rent, lend, or otherwise transfer your rights and obligations in the Software, Documentation, or kiosk hardware, as granted by this Agreement, to any party without prior written consent of Java Connections LLC. Notwithstanding anything to the contrary in the preceding sentence, you may assign this Agreement to the purchaser of all or substantially all of your assets or to any successor by merger, consolidation, or similar corporate action (“Assignee”) provided, however, the Assignee agrees in writing to this Agreement.

## **2. Intellectual Property and Confidentiality**

- 2.1. Use Reporting, License Violations and Remedies. Java Connections LLC reserves the right to gather only the following data on Kiosk usage: the number of device rentals, server IP addresses, and domain counts necessary to ensure that our products are being used in accordance with the terms of this End-User License Agreement. Notwithstanding the foregoing, Java Connections LLC shall not have access to confidential patron information. Java Connections LLC expressly prohibits simultaneous, multiple installations of our Software and domain count overrides without prior written approval by Java Connections LLC. Any unauthorized use shall be considered by Java Connections LLC to be a violation of this End-User License Agreement. Java Connections LLC reserves the right to remedy violations immediately upon discovery, by charging the then current list price of unauthorized keys to the credit card used to make the original, authorized purchase, or by any other means necessary. You agree not to block, electronically or otherwise, the outgoing transmission of data to an agreed upon IP address or addresses required for compliance with this Agreement. Any blocking of data required for compliance under this Agreement is considered to be violation of this Agreement and will result in immediate termination of this Agreement pursuant to Section 4.
- 2.2. License Automatic Update and Expiration. Your kiosk software may include an expiration date that can result in the termination of the license. For continued annual license renewal, the license updates automatically except if Java Connections LLC determines that a license is used in violation of the terms of this Agreement or the annual fee is not paid. If your kiosk is stolen, or if you suspect any improper or illegal usage of your software outside of your control you should promptly notify Java Connections LLC of such occurrence. A replacement software download will be issued to you and the suspect software will be overwritten. For lease licenses, your monthly or annual payment for each kiosk and tower must be processed prior to the expiration date in order for software to be valid. For your convenience Java Connections LLC provides license expiration warnings in the product interface should there be any issues that would cause the product license to eventually expire. It is your responsibility to contact Java Connections LLC regarding any potential expiration that you deem inappropriate. Java Connections LLC shall not be liable for any damages or costs incurred in connection with the expired licenses or licenses in which the annual fee has not been paid.
- 2.3. Proprietary Rights to Software and Trademarks. You acknowledge that the Software and the Documentation are proprietary to Java Connections LLC, and the Software and Documentation are protected under United States copyright law and international treaties. You further acknowledge and agree that, as between you and Java Connections LLC, Java Connections LLC owns and shall continue to own all right, title, and interest in and to the Software and Documentation, including associated intellectual property rights under copyright, trade secret, patent, or trademark laws. This Agreement does not grant you any ownership interest in or to the Software or the Documentation, but only a limited right of use that is revocable in accordance with the terms of this Agree-

ment. Any and all trademarks or service marks that Java Connections LLC uses in connection with the Software or with services rendered by Java Connections LLC are marks owned by Java Connections LLC. This Agreement does not grant you any right, license, or interest in such marks, and you shall not assert any right, license, or interest in such marks or any words or designs that are confusingly similar to such marks.

- 2.4. Confidentiality. You shall permit only authorized users, who possess rightfully, obtained passwords, to use the Software or to view the Documentation. Except as expressly authorized by this Agreement, you shall not make available the Software, Documentation, or any passwords to any third party. You will use reasonable efforts to cooperate with and assist Java Connections LLC in identifying and preventing any unauthorized use, copying, or disclosure of the Software, Documentation, or any portion thereof.

### **3. License Fees**

The Software will be available to you for use upon receipt of annual or monthly payments to Java Connections LLC. Upon acceptance of this Agreement, you may obtain one or more kiosks by paying the requisite license fees and hardware cost, using the procedure set forth on Java Connections LLC web site and or written documentation. The license fees paid by you are paid in consideration of the license granted under this Agreement.

### **4. Term and Termination**

This Agreement is effective upon your acceptance of the Agreement, or upon your downloading, accessing, and using the Software, even if you have not expressly accepted this Agreement. This Agreement shall continue in effect until terminated in accordance with this paragraph. Without prejudice to any other rights, this Agreement will terminate automatically if you fail to comply with any of the limitations or other requirements described herein. If you are leasing the Software, and fail to pay the applicable license fees, Java Connections LLC shall have the right to shut down your server. You may terminate this License Agreement at any time by: (i) providing written notice of your decision to terminate the Agreement to Java Connections LLC and (ii) either returning the Software, Documentation, all copies thereof, and all license keys that you have obtained to Java Connections LLC or destroying all such materials and providing written verification of such destruction to Java Connections LLC. Java Connections LLC may terminate this License Agreement if you breach any term of the Agreement by giving you written notice of your breach, a reasonable opportunity to cure the breach (not to exceed thirty (30) days), and in the event of your failure to cure the breach, Java Connections LLC' decision to terminate the Agreement; provided, however that Java Connections LLC may automatically terminate the Agreement as specified herein. Upon termination of the Agreement by Java Connections LLC, you agree to either return to Java Connections LLC the Software, Documentation, all copies thereof, and all license keys that you have obtained, or to destroy all such materials and provide written verification of such destruction to Java Connections LLC.

### **5. Indemnification**

You agree to indemnify, defend, and hold harmless Java Connections LLC and its affiliates and their respective officers, employees, directors, agents, licensees (excluding you), sublicensees (excluding you), successors, and assigns from and against any and all liability, costs, losses, damages, and expenses (including reasonable attorneys' fees and expenses) arising out of any claim, suit, or cause of action relating to and/or arising from (a) your breach of any term of this Agreement; (b) your violation of any rights of any third party; or (c) your use or misuse of the Software. Your indemnification obligations set forth in the immediately preceding sentence shall survive the termination of this Agreement.

Java Connections LLC agrees to indemnify, defend, and hold you harmless from and against any and all liability, costs, losses, damages, and expenses (including reasonable attorneys' fees and expenses) arising out of any claim, suit, or cause of action relating to and/or arising from (a) Java Connections LLC's breach of any term of this Agreement; (b) the Software's infringement of any patent, trademark, copyright, service mark, or other intellectual property of a third party. The indemnification obligations set forth in the immediately preceding sentence shall survive the termination of this Agreement.

## **6. Disclaimer**

THE SOFTWARE AND DOCUMENTATION ARE LICENSED "AS IS," AND JAVA CONNECTIONS LLC DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE,

TO THE EXTENT AUTHORIZED BY LAW. WITHOUT LIMITATION OF THE FOREGOING, JAVA CONNECTIONS LLC EXPRESSLY WARRANTS THAT THE SOFTWARE WILL OPERATE IN ACCORDANCE WITH THE REPRESENTATIONS MADE IN DOCUMENTATION PROVIDED TO THE CUSTOMER, BUT DOES NOT WARRANT THAT OPERATION OF THE SOFTWARE WILL BE UNINTERRUPTED OR ERROR FREE. YOU ASSUME RESPONSIBILITY FOR SELECTING THE SOFTWARE TO ACHIEVE YOUR INTENDED RESULTS, AND FOR THE RESULTS OBTAINED FROM YOUR USE OF THE SOFTWARE. JAVA CONNECTIONS SHALL NOT BE RESPONSIBLE FOR THE OPERATION OF SOFTWARE WHICH HAS BEEN MODIFIED OR RECONFIGURED BY YOU.

## **7. Limitation of Liability**

IN NO EVENT SHALL JAVA CONNECTIONS LLC BE LIABLE TO YOU OR ANY PARTY RELATED TO YOU FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OR LOST PROFITS, EVEN IF JAVA CONNECTIONS LLC HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

IN NO EVENT SHALL YOU BE LIABLE TO JAVA CONNECTIONS LLC OR ANY PARTY RELATED TO JAVA CONNECTIONS LLC FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OR LOST PROFITS, EVEN IF YOU HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **8. General Terms**

- 8.1. Governing Law and Choice of Forum. This Agreement shall be governed by and interpreted in accordance with the laws of the state of Texas, without regard to the conflicts of law rules thereof.
- 8.2. Severability. If any term or provision of this Agreement is declared void or unenforceable in a particular situation, by any judicial or administrative authority, this declaration shall not affect the validity of enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation.
- 8.3. Survival. Articles 2, 6, 7, and 8 of this Agreement and all Sections thereof, shall survive the termination of this Agreement, regardless of the cause for termination, and shall remain valid and binding indefinitely.
- 8.4. Headings. The Article and Section headings contained in this Agreement are incorporated for reference purposes only and shall not affect the meaning or interpretation of this Agreement.
- 8.5. No Waiver. The failure of either party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights or subsequent actions in the event of future breaches.
- 8.6. Amendment. Java Connections LLC reserves the right, in its sole discretion, to amend this Agreement from time to time upon at least thirty (30) days advanced notice to you. Notice shall be sent to the individuals named on the Purchase Quotations. If there is a conflict between this Agreement and the most current version of this

Agreement posted on the kiosk management software and must be acknowledged prior to each remote manage session and the most current version will prevail. If you do not accept amendments made to this agreement, then this license will be immediately terminated pursuant to Section 4.

- 8.7. Taxes. You are a tax- exempt entity and shall not pay any applicable sales, use, transfer, or other taxes and all duties, whether national, state, or local, however designated, that are levied or imposed by reason of the transaction contemplated under this Agreement, excluding income taxes on the net profits of Java Connections LLC. You shall provide a tax-exempt certificate to Java Connections LLC upon request.
- 8.8 Notices. Any notice required or permitted to be given under this Agreement shall be in writing and shall be deemed given and received (i) when personally delivered with a receipt obtained, (ii) on the date noted as the date received, refused or uncollected if sent by certified or registered mail, return receipt requested, postage prepaid or (iii) the earlier of receipt or two (2) business days after deposit with a nationally overnight delivery service (e.g., Federal Express), at the addresses set forth below each Party’s name on the signature page, or to such other address that a party provides to the other party pursuant to the provisions of this paragraph.
- 8.9 Counterparts and Facsimiles. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In addition, this Agreement may be executed by facsimile signatures and such signatures shall be deemed an original.
- 8.10 Entire Agreement. The parties agree: (i) that this Agreement contains the entire agreement between the parties with respect to the settlement of the claims and the transactions described herein and supersedes any and all prior oral or written agreements, arrangements, or understandings between the parties relating to the subject matter of this Agreement; (ii) that no oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist, and no evidence of prior, contemporaneous, or future oral agreements may be used to contradict the terms of this Agreement; and (iii) that any reliance on oral agreements or statements in entering into this Agreement will be unjustifiable and unreasonable.

#### 9. United States Government Restricted Rights

The Software, kiosk hardware, and Documentation are provided with Restricted Rights. Use, duplication, or disclosure by the government is subject to restrictions as set forth in subparagraph (c)(f)(ii) of the Rights in Technical Data and Computer Software clause at DFARS 252.227-7013 or subparagraphs (c) (1) and (2) of the Commercial Computer Software-Restricted Rights at 48 C.F.R. S:52.227-19, as applicable.

Any of JAVA CONNECTIONS LLC KIOSK SOFTWARE, JAVA CONNECTIONS LLC KIOSK HARDWARE, JAVA CONNECTIONS LLC BUSINESS AUTOMATION KIOSKS, JAVA CONNECTIONS LLC, JAVA CONNECTIONS LLC SYSTEM AUTOMATION, and any other Java Connections LLC software products as may be offered by Java Connections LLC from time to time on [www.LAPTOPSANYTIME.com](http://www.LAPTOPSANYTIME.com) OR [www.LAPTOP SANYTIME.net](http://www.LAPTOP SANYTIME.net).

IN WITNESS WHEREOF, the parties identified below have executed this Agreement as of \_\_\_\_\_, 2020 (the “Effective Date”).

Java Connections, LLC d/b/a LaptopsAnytime  
By: \_\_\_\_\_ Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_

17304 Preston Road, Suite 800 Dallas, TX 75252

[Legal Name] \_\_\_\_\_  
By: \_\_\_\_\_ Printed Name: \_\_\_\_\_ Title: \_\_\_\_\_  
\_\_\_\_\_ Address: \_\_\_\_\_  
\_\_\_\_\_

## **Kiosk Support Agreement**

This Kiosk Support Agreement (this "Agreement") is a legal contract between [Customer Name] ("Customer" or "You" or "Your"), and Java Connections LLC / Company and its affiliates ("Company", "we", or "our", "Company"). For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### **1. SCOPE OF WORK & FEES FOR SERVICES**

1.1 Initial Setup. Company will install purchased kiosks under the End User License Agreement. Kiosks A trained specialist will complete the Initial Setup, which includes assistance with unpacking the Kiosk(s), laptop/device integration, networking setup, and on-site training for your support staff and administrators.

1.2 Setup Fees. You agree to pay Company for expenses related to installation and Initial Setup. Company will issue an invoice to Customer which is due and payable net thirty (30) days from the date of the invoice. Expenses are based on geographical area, current travel rates, and number of devices, Kiosks, and location. This initial fee is in addition to all other amounts, or which may otherwise be owed to Company from time to time.

1.3 Service Plan. Company offers three service packages or plans ("Service Plan s"), more fully described as set forth on Exhibit A hereto. Company will provide maintenance service and support to the Kiosks in accordance with your Service Plan. To elect a particular Service Plan, complete, sign, and return to Company a copy of Exhibit A.

1.4 Annual Fee. Customer shall pay a non-refundable annual fee for twelve (12) months of service in accordance with Customer's Service Plan ("Service Plan Period"). Company will issue an invoice to Customer which is due and payable net thirty (30) days from the date of the invoice.

#### **1.5 Service Plan.**

A. Replacement parts that are provided to you pursuant to this Agreement are provided on an exchange basis, and the parts that were replaced become the property of Company. Notwithstanding the foregoing, Company owned data storage devices remain property of Company and Company may remove and retain its own data storage devices.

B. The base rate for SmartBay upgrades is one thousand (\$1,000) dollars per bay. The reduced rate for SmartBay upgrades under the Gold Plan or Platinum Plus Plan apply if you purchase (3) consecutive years of the particular plan (e.g., only after you have selected and paid for 3 years of the Gold Plan are you entitled to the Gold Plan price of \$700 per bay for SmartBay upgrades). Should you choose to downgrade your plan after the first or second year, the SmartBay rate will default to the base rate.

C. On-site support is available on regular business days (Monday to Friday and excluding federal holidays) from 7:00 am. to 5:00 pm in the respected timezone. Remote support is available on regular business days (Monday to Friday and excluding federal holidays) from 6:00 am. to 7:00 pm. PST.

## **2. RESPONSIBILITIES**

You agree to:

2.1 Use Kiosks in accordance with Company's specifications.

2.2 Use reasonable efforts to monitor use and promptly correct or remediate non-compliance.

2.3 Provide external electrical hardware for each Kiosk. Kiosks.

2.4 Provide a hazard-free environment for the Kiosks. Hazardous environmental conditions include, but are not limited to, corrosive atmospheres, electrical spikes or noise, or severe ambient temperature changes. Company shall not be liable for any costs, losses, expenses and damages whatsoever and howsoever caused or alleged to be caused directly or indirectly through any action or inaction on the part of Company hereunder or otherwise, by any condition or defect related to the environmental condition of the Kiosk.

2.5 Perform maintenance, routine or otherwise, including external cleaning of the Kiosks, performing operational checks, and replacing parts as recommended by Company.

2.6 Refrain from altering, modifying, or changing the Kiosk, or from reverse engineering the Kiosk, in its entirety or any component thereof.

2.7 Provide Company with access to the Kiosks for purposes of corrective and/or preventive maintenance upon providing prior written notice to Customer.

2.8 Provide safe access to Kiosks, including for the purpose of service and maintenance.

2.9 Abide by the terms of the End User License Agreement.

**3. TERM OF AGREEMENT.** The term begins on the date of installation and shall remain effective until termination of the End-User License Agreement between you and Company. Notwithstanding the foregoing, you may terminate this Agreement at any time upon thirty (30) days written notice to Company. Annual fees are deemed fully earned upon payment and are non-refundable. You will be invoiced for the same or similar Service Plan unless you provide written notice not later than thirty (30) days prior to the expiration of the then current Service Plan Period stating your intent to modify your Service Plan.

#### **4. INDEMNITY AND LIMITATION OF LIABILITY**

4.1 By Company. Company shall indemnify and hold Customer harmless against any third-party claim, suit or action to the extent arising out of the infringement or misappropriation of the Software, or any other services provided by Company of any third-party U.S. patent, copyright, trademark or trade secret. Company shall indemnify and hold Licensee harmless from and against any damages awarded thereunder and any liability assumed in settlement thereof to the extent that such damages and liability arise out of such infringement and/or misappropriation; provided, however, that (i) Customer provides prompt written notice of the applicable claim, suit or action to Company, and further provided that the failure to so notify will only relieve indemnifying part of its obligations under this section to the extent that it is prejudiced thereby; (ii) Company has sole control of the defense and all related settlement negotiations; and (iii) Customer furnishes Company with the assistance, information, and authority reasonably necessary to perform its obligations.

4.2 By Customer. Customer shall indemnify, defend and hold harmless Licensor against any and all liabilities, claims, losses, costs and expenses, including reasonable attorney's fees which Company may incur as a result of any claim or action brought or that may be brought by a third party, to the extent relating to, in connection with, or arising out of (i) Customer's breach of any terms or conditions of this Agreement; (ii) the operation or content of the Software, or any services provided by Company to End-Users; (iii) the violation of third-party intellectual property rights by any materials or software provided by Customer; (iv) the violation of any federal, state or local laws or regulations; or (v) the misuse of the Software. Customer shall pay any award or judgments against Licensor and any costs and attorneys' fees reasonably incurred by Licensor resulting from any such claim or action. Customer shall be relieved of any indemnification obligations contained herein to the extent the claim, loss, cost and expense for which defense and indemnification is sought is the result, in any part, of the acts or omissions of Licensor or any third party acting on behalf of Company.

4.3 No Liability. Company shall have no liability hereunder in respect of any infringement or misappropriation based on (i) any modification of Company products or services, including the Software, that is not performed or authorized by Company but is performed by Customer, or by a third party at the request or direction of Licensee or a party authorized by Customer; or (ii) the combination or use of the products or services, or any portion thereof, by Customer with other products, processes or materials not supplied by Company except to the extent that it relates to third party software or hardware acknowledged by Licensor as necessary, or otherwise approved by Licensor; or (iii) Customer's use of the products and Software not strictly in accordance with the terms of this Agreement.

IN NO EVENT SHALL COMPANY BE LIABLE FOR ANY WARRANTIES THAT ARE NOT SPECIFICALLY SET FORTH HEREIN. TO THE EXTENT PERMITTED BY LAW, YOU AGREE THAT COMPANY IS NOT LIABLE FOR ANY WARRANTIES IMPLIED BY LAW OR OTHERWISE, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT SHALL COMPANY BE LIABLE TO YOU OR ANY PARTY RELATED TO YOU FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, EXEMPLARY, OR PUNITIVE DAMAGES OR LOST PROFITS (EVEN IF RESULTING FROM NEGLIGENCE OR GROSS NEGLIGENCE OF LICENSOR), REGARDLESS OF NOTICE OF THE POSSIBILITY OF SUCH DAMAGES.

4.4 Limitation on Liability. Neither party shall be liable for personal injury or property damage or loss except that resulting from its own negligence or the negligence of its agents.

4.5 Maximum. Total liability for Company's indemnification obligation under this agreement shall not exceed, in the aggregate, US\$2 Million.

**5. CONFIDENTIALITY.** Confidential information means (i) the software; (ii) the technology, ideas, know how, documentation, processes, algorithms and trade secrets embodied in the software; and (iii) any other information, whether disclosed orally, visually or in written or digital media, that is identified as "confidential", "proprietary," or similarly, or ought to be treated as such, at the time of such disclosure. You agree to keep confidential, and to use only for the purposes of this Agreement, such information. You shall permit only authorized users, who possess rightfully, obtained passwords, to use the Software or to view the Documentation. Except as expressly authorized by this Agreement, you shall not make available the Software, Documentation, or any passwords to any third party. You will use your best efforts to cooperate with and assist Company in identifying and preventing any unauthorized use, copying, or disclosure of the Software, Documentation, or any portion thereof. You may disclose confidential information to those of your employees, agents or representatives who need to know such information for the purposes of this Agreement, so long as you cause the confidential information to be treated in a confidential manner and in accordance with the terms hereof, it being understood that you will be responsible for any breach of the terms of this Agreement by any of your representatives.

## **6. MISCELLANEOUS**

6.1 Governing Law and Choice of Forum. This Agreement shall be governed by and interpreted in accordance with the laws of the state of Texas without regard to the conflicts of law rules thereof. Any claim or dispute arising in connection with this Agreement shall be resolved in the federal or state courts situated within the Dallas Texas Metro Area. To the maximum extent permitted by law, you hereby consent to the jurisdiction and venue of such courts and waive any objections to the jurisdiction or venue of such courts.

6.2 Severability. If any term or provision is declared void or unenforceable in a particular situation, by any judicial or administrative authority, this declaration shall not affect the validity or enforceability of the remaining terms and provisions hereof or the validity or enforceability of the offending term or provision in any other situation.



6.3 Survival. Articles 4 and 5 of this Agreement shall survive the termination of this Agreement, regardless of the cause for termination, and shall remain valid and binding indefinitely.

6.4 Headings. The Article and Section headings contained herein are incorporated for reference purposes only and shall not affect the meaning or interpretation of this Agreement.

6.5 No Waiver. Failure of a party to enforce any rights granted hereunder or to take action against the other party in the event of any breach hereunder shall not be deemed a waiver by that party as to subsequent enforcement of rights.

6.6 Amendment. Company reserves the right, in its sole discretion, to amend this Agreement from time to time with written notice to Customer. If you do not accept amendments made to this agreement, then this license will be immediately terminated.

6.7 Taxes. You shall, in addition to the license fees required under this agreement, pay all applicable sales, use, transfer, or other taxes and all duties, whether national, state, or local, however designated, that are levied or imposed by reason of the transaction contemplated under this Agreement, excluding income taxes on the net profits of Licensor. You shall reimburse Licensor for the amount of any such taxes or duties paid or incurred directly by Licensor as a result of this transaction, for which you will be invoiced, payable net 30 days from receipt of invoice.

6.8 Force Majeure. Neither party will be responsible for any losses resulting from delay or failure in performance resulting from any cause beyond the party's control, including without limitation, natural disasters and acts of God.

6.9 Entire Agreement. The parties agree: (i) that this Agreement contains the entire agreement between the parties with respect to the maintenance and support of the Kiosks and supersedes any and all prior oral or written agreements, arrangements, or understandings between the parties relating to the subject matter of this Agreement; (ii) that no oral understandings, statements, promises or inducements contrary to the terms of this Agreement exist, and no evidence of prior, contemporaneous, or future oral agreements may be used to contradict the terms of this Agreement; and (iii) that any reliance on oral agreements or statements in entering into this Agreement will be unjustifiable and unreasonable. This Agreement can be modified or amended only by a writing signed by all of the parties.

6.10, 6.11

Notices. Any notice required or permitted by this Agreement shall be in writing and delivered in person (including delivery by courier, facsimile transmittal or similar means) or sent by mail, postage prepaid, registered or certified, return receipt requested, addressed to the party for whom intended at the address specified below, or at such other address that a party provides pursuant to this paragraph. Any such notice shall be effective on the date of delivery or, if mailed in the manner set forth above, three (3) days after the date of mailing.

Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. In addition, this Agreement may be executed by facsimile signatures and such signatures shall be deemed an original.

IN WITNESS WHEREOF, the parties identified below have executed this Agreement as of \_\_\_\_\_, 2019 (the "Effective Date").

Java Connections, LLC d/b/a Company

By:

Printed Name:

Title:

17304 Preston Road, Suite 800 Dallas, TX 75252

Customer

By:

Printed Name: Title:

Address:

## EXHIBIT A: SERVICE PLANS

**\*\*CHOOSE ONE, INSERT START DATE, AND SIGN TO THE RIGHT WHERE INDICATED\*\***

Client hereby elects the Platinum Plus Plan to start on \_\_\_\_\_ Agreed to by: \_\_\_\_\_ the Platinum Plan to start on \_\_\_\_\_ Agreed to by: \_\_\_\_\_ the Gold Plan to start on \_\_\_\_\_ Agreed to by: \_\_\_\_\_

Platinum Plus Plan: Annual Fee = 15% of the Total Kiosks Cost

This package is the most comprehensive plan, which includes additional services at no cost, and the lowest costs for services:

- o The ability to remotely monitor, trouble shoot, and perform repairs on the Kiosks with remote assistance from one of our knowledgeable support staff
- o A dedicated support engineer assigned to your account
- o Maintenance of on-site inventory for minor spare parts
- o Free installation of newly designed kiosk hardware
- o The ability to remotely monitor, trouble shoot, and perform repairs on the Kiosks with remote assistance from one of our knowledgeable support staff
- o On-site support at \$65/hour
- o Smart-Bay Non-Recurring Engineering (NRE) at \$2,000 per design o Includes free next-day shipping and replacement parts
- o After three consecutive annual terms on the Platinum Plus Plan, kiosk will be replaced with a new kiosk to accommodate new laptop models

Platinum Plan: Annual Fee = 12%  
of the Total Kiosks Cost

This package is the most economical plan with reduced costs for services:

- o The ability to remotely monitor, trouble shoot, and perform repairs on the Kiosks with remote assistance from one of our knowledgeable support staff
- o On-site support at \$100/hour
- o Smart-Bay Non-Recurring Engineering (NRE) at \$4,000 per design
- o Includes free part replacements and shipping via 2-day Air shipping
- o After four consecutive annual terms on the Platinum Plan, kiosk will be replaced with a new kiosk to accommodate new laptop models

Gold Plan: Annual Fee = 9% of the Total Kiosks Cost

Our most affordable plan, the Gold Plan includes:

- o The ability to remotely monitor, trouble shoot, and perform repairs on the Kiosks with remote assistance from one of our knowledgeable support staff
- o On-site support at \$125/hour
- o After five consecutive annual terms on the Gold Plan, kiosk will be replaced with a new kiosk to accommodate new laptop models

