

## SECOND AMENDMENT TO MASTER CUSTOMER AGREEMENT

This Second Amendment ("**Amendment**") is made and entered on this 26th day of May, 2021, by and between Rock Solid Technology, Inc. ("**Company**") and the City of Gainesville, Florida ("**Customer**") (hereinafter collectively referred to as the "Parties").

WHEREAS, the Parties entered into a Master Customer Agreement dated March 31, 2020; and

WHEREAS, the Parties wish to amend the Agreement.

NOW, THEREFORE, the Parties hereby agree as follows:

1. The following is hereby inserted as Section 1.8 of the Agreement:

1.8 Developers. In addition to the Application and the Software and at the request of the Customer, Company may make available to Customer access to integrate with the Software. In order to be granted such access:

1.8.1 Customer shall become a Developer by registering for a Partner Account via the Developer program page.

1.8.2 The use of such software shall be governed by the terms and conditions provided in Exhibit B. Customer will be required to accept such terms and conditions prior to their use of the additional software. Such software is provided "As Is".

2. The following shall be added as Exhibit B (Developer Attachment) to the Agreement:

### EXHIBIT B - DEVELOPER ATTACHMENT

#### 1. Developer Applications

1.1. Any software or tool developed by Customer to interact either directly or indirectly with Software and/or Data is considered a developer application ("Developer Application"). Any Developer Application will be installed and run on Customer's server or another server, but will not be run on Company's servers.

1.2. Customer is (i) solely responsible for the Developer Application; (ii) Company is not liable for any fault in the Developer Application or any harm that may result from its installation or use; (iii) except where expressly stated by Company, Company cannot provide assistance with the installation or use of the Developer Application; and (iv) Customer is solely responsible for any liability which may arise from: (a) the development, use, marketing or distribution of or access to the Developer Application, including support of the Developer Application; and (b) Customer's access, use, distribution or storage of Customer Data.

#### 2. Unauthorized and Prohibited Customer Activities

2.1. In addition to the restrictions outlined in the Master Customer Agreement, Customer is prohibited from soliciting reviews of a Developer Application by offering a financial incentive or free access to Developer Application in exchange for the review. Customer shall not develop or distribute the Developer Application in any way in furtherance of criminal, fraudulent, or other unlawful activity.

2.2. Access to Company Software may not be assigned or access granted to a third-party without prior written notice to Company and the third-party's acceptance of the Company's Partner Development Program Agreement, which may be held at Company's discretion.

### 3. License to Provider Platform

3.1. Subject to the terms and conditions of this Agreement, Company grants to Customer a worldwide, non-exclusive, royalty-free, non-transferable, non-sub licensable, revocable and limited license during the term of this Agreement to use and make calls to the Software to develop, implement and distribute Developer Applications solely for use by Customer in connection with the Software and solely in the manner described in the documentation contained in the Software and in accordance with the terms and conditions of this Agreement.

3.2. Company reserves the right to require Customer to install or update any and all software to continue using the Software.

3.3. In order to use and access the Software, Customer must obtain credentials from Company (an "Auth Key") by registering for a Subscriber Account and agreeing to the terms of this Agreement. Customer may not share its Auth Key with any third party, shall keep such Auth Key and all login information secure and shall use the Auth Key as Customer sole means of accessing the Software. Customer's access to an Auth Key is in Company's sole discretion.

3.4. Customer's license to the Software granted in the Master Customer Agreement is explicitly conditioned on Customer's adherence to the following restrictions and compliance with the responsibilities herein. Customer shall:

- a) use the Software only to develop and distribute Developer Applications for the Customer's use of the Software;
- b) restrict disclosure of the Software, or any part thereof, to agents, employees or independent contractors of Customer who require such access in order to use, maintain, implement, correct or update the Developer Application in accordance with this Agreement, and who are subject to confidentiality obligations the same as or greater than those contained herein;
- c) not distribute, sell, lease, rent, lend, transfer or sublicense any rights granted by this Agreement to any third party except as permitted herein;
- d) not use or access the Software in order to monitor the availability, performance, or functionality of the Software or any portion thereof or for any similar benchmarking purposes;
- e) not remove or destroy any copyright notices, proprietary markings or confidential legends placed upon or contained within the Software;
- f) not engage in any activity with the Software that interferes with, disrupts, damages, or accesses in an unauthorized manner the servers, security, networks, data, or other properties or services of Company or any third party;
- g) not circumvent technological measures intended to prevent direct database access, or manufacture tools or products to that effect;
- h) not modify, translate, reverse engineer, disassemble, reconstruct, decompile, copy, or create derivative works of the Software, or any aspect or portion thereof;

- i) not bypass Software restrictions for any reason, including but not limited to automating administrative functions of the Customer (Subscriber) admin;
- j) not substantially replicate products or services offered by Company. Subject to the preceding sentence and the Parties' other rights and obligations under this Agreement, including confidentiality obligations, each Party agrees that the other Party may develop and publish applications that are similar to or otherwise compete with such Party's Applications; and
- k) not develop Developer Applications that excessively burden the Company system, distribute spyware, adware or other commonly objectionable programs, fail to respect the privacy of Subscribers, or infringe the intellectual property or privacy rights of any third party.

3.5. Access to the Software may be terminated or suspended by Company at any time and at Company's sole discretion. Without limiting the foregoing, Company may terminate Customer's right to use the Software if the Customer breaches any term of this Agreement or any documents incorporated by reference in the Agreement.

Termination or suspension of Customer's access to the Software will negatively affect Subscribers who use Customer's Application, and Customer is responsible to ensure that all Subscribers who install Customer's Applications are aware of this risk.

#### 4. Limitation of Liability

4.1. Company shall have no liability with respect to the Company's Subscriber Program, the Software, the Company's Trademarks, the Company's obligations under this Agreement or otherwise for any direct, indirect, incidental, special, consequential, or exemplary damages, including but not limited to, damages for losses of profits, goodwill, use, data or other intangible losses resulting in any way from the Company's Platform, the Company's Trademarks, the Company's or Customer's participation or inability to participate in the Company's Subscriber Program even if Company has been advised of the possibility of such damages. In any event, Company's liability to Customer under this Agreement for any reason will be limited to the Fees paid to Company by Customer during the six (6) month period immediately preceding the event giving rise to the claim for damages.

This limitation applies to all causes of action in the aggregate, including, but not limited to, breach of contract, breach of warranty, negligence, strict liability, misrepresentations, and other torts. The relationship between Customer and a Subscriber is strictly between the Customer and the Subscriber, and Company is not obligated to intervene in any dispute arising between the Customer and the Subscriber. Under no circumstances shall Company be liable for any direct, indirect, incidental, special, consequential, punitive, extraordinary, exemplary or other damages whatsoever, that result from the Customer's relationship with any Subscriber. These limitations shall apply even if Company has been advised of the possibility of such damages. The foregoing limitations shall apply to the fullest extent permitted by applicable law.

#### 5. Customer Indemnification

5.1. Customer agrees to indemnify, defend and hold harmless Company and any Company Related Entities and the directors, officers, employees, subcontractors and agents thereof (each, an "Indemnified Party", and collectively, the "Indemnified Parties"), with respect to any claim, demand, cause of action, debt or liability, including reasonable attorneys' fees (collectively, "claims"), to the extent that such claim is based upon or arises out of: (a) Customer's breach of any representation, warranty, obligation or covenant under this Agreement; (b) Customer's gross negligence or willful misconduct; (c) any warranty, condition, representation, indemnity or

guarantee relating to Company granted by Customer to any Subscriber, prospective Subscriber or other third party; (d) Customer's use of the Company's Platform; (e) Customer's breach of any term of this Agreement or the Subscriber Agreement; (f) any third party claim that Customer's products or services, including without limitation any Application, infringes the intellectual property or other rights of a third party; (g) the performance, nonperformance or improper performance of the Customer's products or services, including without limitation, any Application; and (h) Customer's relationship with any Subscriber.

## 6. Notice of Indemnification

6.1. In claiming any indemnification hereunder, the Indemnified Party shall promptly provide Customer with written notice of any claim which the Indemnified Party believes falls within the scope of the indemnifications provided under this agreement. The Indemnified Party may, at its own expense, assist in the defense if it so chooses, provided that Customer shall control such defense and all negotiations relative to the settlement of any such claim and further provided that in settling any claim the Customer will not make any admission on behalf of the Indemnified Party or agree to any terms or conditions that do or reasonably could result in any admission by, or the imposition of any liability upon, the Indemnified Party without the prior written approval of the Indemnified Party.

## 7. Non-exclusive remedies

7.1. In the event of any breach or threatened breach by Customer of any provision of Sections 2, 5 and/or 6 above, in addition to all other rights and remedies available to Company under this Agreement and under applicable law, Company shall have the right to (a) immediately enjoin all such activity, without the necessity of showing damages or posting bond or other security, (b) immediately terminate this Agreement and Customer's engagement hereunder, and (c) be indemnified for any losses, damages or liability incurred by Company in connection with such violation, in accordance with the provisions of this Section 7.

### Company

*Jennifer Mabe*  
Jennifer Mabe (Dec 23, 2020 13:31 CST)

Chris Detrich

Title: CFO

Date: Dec 23, 2020

### Customer

*Lee Feldman*

Lee Feldman, City Manager

Date: May 26, 2021

Approved as to Form and Legality:

*David C. Schwartz*  
David C. Schwartz (May 26, 2021 11:43 EDT)

City Attorney

**FIRST AMENDMENT TO MASTER CUSTOMER AGREEMENT**

This First Amendment ("**Amendment**") is made and entered between Rock Solid Technology, Inc. ("**Company**") and the City of Gainesville, Florida ("**Customer**") and is effective as of August 21, 2020 ("Effective Date"). Each of Company and Customer is a "Party" and together, the "Parties."

WHEREAS, the Parties entered into a Master Customer Agreement dated March 31, 2020 for contract management software; and

WHEREAS, the Parties wish to amend the Agreement.

NOW, THEREFORE, the Parties agree to the following:  
the

1. The subscription start date as outlined in the Order Document as the Term Start Date defined by being within 30 days of the Project Start is hereby amended to be the "Project End Date" or December 1, 2020 whichever comes first.

"Project End Date" means the date in which the Project Plan has been completed as defined in the Statement of Work Customer Relationship Management Solution -Phase 1 document.

If the Project End Date does not occur prior to December 1, 2020 and the project delay is materially caused by the Company, the subscription start date will begin at the Project End Date. Otherwise, the subscription will start on December 1, 2020.

2. Except as modified by this Amendment, all terms and conditions of the Master Customer Agreement shall remain in full force and effect.

3. This Amendment, together with the original Master Customer Agreement dated March 31, 2020, constitutes the entire agreement between the Parties.

**ROCK SOLID TECHNOLOGY, INC.**

**CITY OF GAINESVILLE**

  
Chris Detrich (Aug 19, 2020 10:05 CDT)

*Lee R. Feldman*  
\_\_\_\_\_

Name: Chris Detrich

Lee Feldman, City Manager

Title: General Manager, North America

Date: Aug 21, 2020

Date: Aug 19, 2020

**Approved as to Form and Legality:**

David C. Schwartz  
*David C. Schwartz (Aug 20, 2020 13:20 EDT)*

City Attorney

## MASTER CUSTOMER AGREEMENT

This Master Customer Agreement (this "**Agreement**") is made and entered into between Rock Solid Technology, Inc. ("**Company**") and the City of Gainesville, Florida ("**Customer**") and is effective as of March 31, 2020 ("**Effective Date**"). Each of Company and Customer is a "**Party**" and together, the "**Parties**."

BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE, EXECUTING AN ORDER FORM OR OTHER DOCUMENT THAT REFERENCES THIS AGREEMENT, USING (OR MAKING ANY PAYMENT FOR) ANY PRODUCTS (DEFINED BELOW), ENGAGING COMPANY TO PROVIDE PROFESSIONAL SERVICES, OR OTHERWISE AFFIRMATIVELY INDICATING YOUR ACCEPTANCE OF THIS AGREEMENT, YOU: (A) AGREE TO THIS AGREEMENT ON BEHALF OF THE ORGANIZATION, COMPANY, OR OTHER LEGAL ENTITY FOR WHICH YOU ACT; AND (B) REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND CUSTOMER AND ITS AFFILIATES TO THIS AGREEMENT. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE ANY PRODUCT OR RECEIVE ANY PROFESSIONAL SERVICES.

### DEFINITIONS

"Addendum" means a reference in an Order Form to one or more additional documents that contain terms relevant to a particular Product or Professional Services.

"Affiliate" means any entity which is directly or indirectly controlling, controlled by, or under common control with a party to this Agreement.

"APIs" means the application programming interface provided by Company.

"Authorized Users" means employees, contractors, and agents of Customer who are registered by Customer to use the Products

"Customer Data" means any data or information that Customer or any of its Authorized Users uploads or inputs into a Product or otherwise makes available to Company in connection with Customer's use of a Product or receipt of Professional Services

"Deliverables" means any work product or other materials created by Company in connection with its performance of Professional Services

"Order Form

"Documentation" means Company-provided user manuals, help files, specification sheets, or other documentation, in whatever form, relating to a Product.

"Hosted Services" means the provision of Software as a service as asset forth on an Order Form which is hosted by Company or its hosting providers and which is access by Customer via the internet.

"Order Form" means a written order executed by the parties which defines the respective order parameters and information, such as, modules purchased, term and associated fees.

"Product" means the APIs, Software, Hosted Services, and Deliverables.

"Professional Services" means implementation, installation, configuration, customization, or other professional services expressly identified on an Order Form (which may be in the form of a SOW).

"Software" means a Company provided license to downloadable software including any mobile applications and downloadable add-ins to other Products).

"SOW" (Statement of Work) means a written order executed by the parties which identifies the Professional Services ordered by Customer, including the description, and associated fees.

"Third Party Products" means third-party software or other products (e.g., cloud hosting instances or data analysis tools) that Company provides to Customer or that is otherwise identified in the Documentation as being required to use properly such Product

### PRODUCT RIGHTS AND RESTRICTIONS

Products and Services: Order Forms. This Agreement sets forth the terms and conditions on which Company may make available to Customer the APIs, Software, Hosted Services, or Deliverables or provides the Professional Services, each as expressly identified in an **Order Form**.

### Licenses

*Hosted Services.* If an Order Form indicates that Customer will receive access to Hosted Services, then Customer may access and use such Hosted Services solely (i) for the Term set forth in such Order Form, and (ii) in accordance with all applicable Documentation and the restrictions set forth in this Agreement.

*API.* If an Order Form indicates that Customer will receive access to an API, or if Company provides credentials to Customer that enable Customer to access an API with another Product, then Company hereby grants Customer a non-exclusive, non-transferable and non-sublicensable right and license under Company's rights in that API to access and use such API solely (i) for the Term set forth in such Order Form and (ii) in accordance with all applicable Documentation and the restrictions set forth in this Agreement. Without limiting the foregoing, Customer will comply with any volume or other usage-based restrictions described in an Order Form, Addendum, or Documentation.

*Software.* If an Order Form indicates that Customer will receive a license to Software, then Company hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable right and license under Company's rights in such Software to install and operate such Software in accordance with all applicable Documentation and the restrictions set forth in this Agreement (including the applicable Order Form). Such license will continue for the Term set forth in the applicable Order Form. Any Company-provided mobile applications acquired by Customer in connection with another Product licensed under this Agreement is deemed Software licensed to Customer pursuant to this Section.

*Geographical Files.* If an Order Form indicates that Customer will receive a license to Company's mobile app, promptly following the Effective Date, Customer shall provide to Company the geographic boundary file for the applicable covered area in the form of an ESRI shape files. Additionally, any geographic data including, but not limited to, municipal district boundaries, school board boundaries, shall be provided by the Customer at the Company's request if such data exists.

Additional Features. Customer acknowledges that not all of the features or functionality of a Product may be available at Customer's subscription level irrespective of whether such feature or functionality is described in the Documentation, and that access to such features or functionality may require payment of additional fees or the purchase of additional licenses.

Evaluation Products. If an Order Form indicates that Customer will receive a Product for evaluation or proof-of-concept purposes, then Customer may use the Product only for the purpose of evaluating the functions and performance of the Product, solely for the designated time period for the evaluation or trial, and subject to any additional usage restrictions specified on the applicable Order Form. Customer acknowledges that evaluation or proof-of-concept versions of the Products may be automatically disabled upon expiration of the designated trial period (at the end of which Customer's right to use the Product under the applicable Order Form also expires), and that any data stored in such Products may become unavailable at that time.

Authorized Users. Company will ensure that its Authorized Users comply with all of Customer's obligations under this Agreement. Customer is strictly responsible for all acts and omissions of Authorized Users as though they were those of Customer. Customer will prevent any

unauthorized use of, or access to, the Products and Documentation and will immediately notify Company in writing of any unauthorized use or access of which Customer becomes aware. Customer will immediately terminate any unauthorized use by persons having access to a Product or Documentation through Customer.

**Use Restrictions.** Except as otherwise explicitly provided in this Agreement or as may be expressly permitted by applicable law, Customer will not, and will not permit or authorize third parties to: a) rent, lease, or otherwise permit third parties (or other persons not authorized by this Agreement) to use a Product or the Documentation; b) use a Product to provide services to third parties (e.g., as a service bureau); c) use a Product for any benchmarking activity or in connection with the development of a competitive product; d) circumvent or disable any security or other technological features or measures of a Product or use the product in a manner that Company reasonably believes poses a threat to the security of Company-controlled computer systems; e) modify, translate, reverse engineer, decompile, disassemble, or otherwise derive the source code or the underlying ideas, algorithms, structure, or organization from a Product (except to the extent that applicable law prevents the prohibition of such activities); f) use or access any Product in a manner that materially impacts or burdens Company or Company's servers and other computer systems, or that interferes with Company's ability to make available any Product to any third party; or g) use a Product in violation of Company's then-current published acceptable use policy applicable to that Product.

**Documentation.** To the extent that a Product is accompanied by any Documentation, Company hereby grants to Customer a non-exclusive, non-transferable, non-sub licensable right and license under Company's rights in the Documentation to use such Documentation solely to enable Customer to exercise its rights under the applicable license to or grant of access and usage rights for such Product.

**Third-Party Products.** To the extent that a Product includes or is accompanied Third-Party Products, the Third-Party Products and their use by Customer are subject to all license and other terms that accompany such Third-Party Products. Without limiting the foregoing, if Company enables Customer to access a hosted environment offered by a third-party cloud or platform service provider, then Customer must agree to the applicable service provider's terms and conditions prior to accessing such hosted environment, and Customer will comply at all times with such terms and conditions.

**Ownership: Data.** As between Company and Customer, Customer retains all right, title, and interest, including all intellectual property rights, in and to Customer Data. Customer hereby grants Company a non-exclusive, worldwide, royalty-free, license to use, process, transmit, store, and disclose the Customer Data (including personal data): (a) during the Term, for the purpose of exercising Company's rights and performing its obligations under this Agreement and (b) in perpetuity, in a form that does not identify Customer as the source thereof, for developing and improving Company's and its Affiliates' products and services, industry analysis, benchmarking, analytics, marketing, and other business purposes. As between the Parties, Company owns all right, title, and interest, including all intellectual property rights, in and to the Products, Documentation, Deliverables, and any improvements to any Company products or services made as a result of Company's use, processing, or generation of Customer Data. During the Term, Customer may request that Company make available to Customer a copy of Customer Data stored in certain Products, and Company may agree to do so for an additional fee.

**Customer Data.** Customer is responsible for all Customer Data that Customer or its Authorized Users provide in connection with the Products and Professional Services. Customer is solely responsible for complying with: (a) all privacy and data protection laws and regulations applicable to the Customer Data and (b) Customer's and its Authorized Users' use of the Products and Professional Services.

**Feedback.** If Customer provides any feedback to Company concerning the functionality and performance of a Product, any Documentation, or the Professional Services (including identifying potential errors and improvements), Customer hereby assigns to Company all right, title, and interest in and to the feedback, and Company is free to use the feedback without payment or restriction.

**Audit.** Customer will create and maintain complete and accurate records containing all information necessary to enable Company to verify Customer's compliance with this Agreement. During the Term and for a period of one year thereafter, Company will have the right, at its own

expense, upon at least 5 calendar days' prior notice, to periodically inspect and audit Customer's use of the Product for purpose of determining Customer's compliance with the terms and conditions of this Agreement. Customer will cooperate with Company in the performance of any such audit, and will provide to Company or a third party designated by Company such access to Customer's relevant records, data, information, personnel, computer systems and / or facilities as Company may reasonably request for such limited purposes. Company will bear the costs of any such audit unless such audit determines that Customer has violated the terms and conditions of this Agreement, in which case (a) Customer will reimburse Company for all expenses incurred in connection with the audit, (b) Customer will pay Company all fees that are applicable to Customer's unauthorized use (e.g., additional seat licenses to cover use in excess of Customer's previously purchased seat licenses), and (c) Company may immediately terminate this Agreement for cause, in addition to any and all remedies available to Company in law or equity. Additionally, to the extent possible, Company may, at its expense, automatically audit Customer's use of the Product, provided that any such audit shall not interfere with Customer's business activities.

## PROFESSIONAL SERVICES

**Provision of Professional Services.** Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Professional Services. Company shall perform the Professional Services in a professional manner in accordance with industry standards.

**Deliverables.** Company retains all right, title, and interest, including all intellectual property rights, in and to any Deliverables. If Company provides any Deliverables to Customer pursuant to the applicable Order Form, Company hereby grants to Customer a non-exclusive, royalty-free, fully paid up, worldwide license under Company's rights in the Deliverables to use and exploit such Deliverables in connection with the Products and Professional Services during the Term.

**Modifications.** Either party may propose a change order to add to, reduce or change the work order in the SOW, such as for subsequent phases or additional features or functionality. Each change order shall specify the change(s) to the Professional Services or Deliverables, and the effect on the time of performance and on the fees owed, due to the change. Once executed by both parties, a change order shall become a part of the SOW.

## Personnel

**Suitability.** Company will assign employees and subcontractors with qualifications suitable for the work described in the relevant Order Form. Company may replace or change employees and subcontractors in its sole discretion with other suitably qualified employees or subcontractors.

**Customer Responsibilities.** Customer will make available in a timely manner at no charge to Company all technical data, computer facilities, programs, files, documentation, test data, sample output, or other information and resources of Customer required by Company for the performance of the Professional Services. Customer is responsible for, and assumes the risk of, any problems resulting from, the content, accuracy, completeness, and consistency of all such data, materials, and information. Customer will provide, at no charge to Company, office space, services, and equipment as Company reasonably requires to perform the Professional Services.

**Non-solicitation.** The employees and consultants of Company who perform the Professional Services are a valuable asset to Company and are difficult to replace. Accordingly, Customer agrees that, during the Term of the Agreement, and for a period of one year after completion of the Professional Services under an Order Form, it shall not solicit for employment or engagement (whether as an employee, independent contractor or consultant) any Company employee or consultant who performed any of the Professional Services under that Order Form. Customer is not restricted from hiring any personnel that respond to public job advertisements or similar general solicitations.

## FEES AND PAYMENT

**Fees and Payment Terms.** Customer will pay Company the fees and any other amounts owing under this Agreement as specified in the applicable Order Form and/or SOW. Unless otherwise specified in such Order Form or SOW, Customer will pay all undisputed amounts due within

30 days of the date of the applicable invoice. Any amount not paid within fifteen (15) days of the due date will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less. Additionally, in the event any amount is more than thirty (30) days overdue, Company may suspend its performance until it receives all amounts due. Customer will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by Company to collect any amount that is not paid when due. Amounts due from Customer under this Agreement may not be withheld or offset by Customer against amounts due to Customer for any reason. Customer may withhold payment of any fees that are the subject of a good faith dispute of which Customer has provided Company written notice within five (5) business days of invoice receipt; provided that all fees which are not disputed shall be timely paid, and the disputed fees shall be paid within ten (10) days of resolution of the dispute

**Taxes.** Other than net income taxes imposed on Company, Customer will bear all taxes, duties, and other governmental charges (collectively, "Taxes") resulting from this Agreement. Customer will pay any additional Taxes as are necessary to ensure that the net amounts received by Company after all such Taxes are paid are equal to the amounts to which Company would have been entitled in accordance with this Agreement if such additional Taxes did not exist.

## TERM AND TERMINATION

**Term.** The term of this Agreement will begin on the Effective Date and continue until expiration or termination of all Order Form's and/or SOW's (the "Term"). Each Order Form and SOW will have its own term as stated in such document.

**5.2 Termination for Convenience.** Either party may terminate this Agreement without cause upon 30 days' written notice to the other party.

**5.3 Termination for Lack of Funding.** To the extent that funding for a particular Order Form or SOW is derived from public funding and Customer has made a good faith effort to procure such funding, Customer shall have the ability at the end of any committed period to terminate the Order Form or SOW in the event that such funding is not received.

**1.4 Termination for Material Breach.** Either Party may terminate this Agreement or one or more Order Forms if the other Party does not cure its material breach of this Agreement or the applicable Order Form(s) within 30 days of receiving written notice of the material breach from the non-breaching Party.

**Termination for Bankruptcy or Insolvency.** Either Party may terminate this Agreement or one or more Order Forms if the other Party ceases to do business in the ordinary course or is insolvent (i.e., unable to pay its debts in the ordinary course as they come due), or is declared bankrupt, or is the subject of any liquidation or insolvency proceeding which is not dismissed within one hundred twenty (120) days, or makes any assignment for the benefit of creditors.

**Post-Termination Obligations.** Upon expiration or termination of this Agreement: (i) in the event of termination due solely to a breach by Company, then Company shall refund any prepaid fees for Products or Professional Services that would have been rendered after the date of termination; (ii) in the event of termination due solely to a breach by Customer, then Customer shall pay all fees through the date of termination, plus all fees through the remainder of the term of the applicable Order Form and/or SOW; (iii) all rights to use the Products immediately cease and provision of Professional Services immediately ends; (iv) within thirty (30) days, each party will return or destroy at the disclosing party's request the other party's Confidential Information.

**Survival.** Notwithstanding anything to the contrary herein, Sections 2 and 6-11 as well as any other provisions which by their terms or sense are intended to survive, will survive termination or expiration of this Agreement.

## CONFIDENTIALITY

**Definition.** As used herein, "Confidential Information" means all confidential information disclosed by or otherwise obtained from a Party ("Disclosing Party") to or by the other Party ("Receiving Party"), whether orally, visually, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. "Confidential Information"

of a Disclosing Party includes such Disclosing Party's business and marketing plans, technology and technical information, product plans and designs, and business processes. Without limiting the foregoing, Company's "Confidential Information" includes each Product, all Documentation, all Company technical information, and all information concerning Product-related database structure information and schema. However, "Confidential Information" does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, (d) was independently developed by the Receiving Party; or (e) is required by law or court order to be disclosed.

**Protection of Confidential Information.** Except as otherwise permitted in writing by the Disclosing Party, the Receiving Party will (a) use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) not to disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (b) limit access to Confidential Information of the Disclosing Party to those of its employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Notwithstanding the foregoing, Company is permitted to disclose Confidential Information of Customer on a need to know basis to employees, contractors, and agents of its Affiliates. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

## WARRANTIES AND DISCLAIMER

**Limited Company Warranties.** Company hereby warrants, for the benefit of Customer only, that each Product will materially conform to the applicable Documentation, provided that this warranty will not apply to failures to conform to the applicable Documentation to the extent such failures arise, in whole or in part, from any modification of the applicable Product by Customer or any third party or any combination of the applicable Product with APIs, software, hardware, or other technology not provided by Company under the applicable Order Form. If any defect or error covered by this warranty occurs, Customer will provide Company with sufficient detail to allow Company to reproduce the defect or error. If notified in writing by Customer, Company will, at its sole option, either (a) correct such error or defect in the Product, at no cost to Customer and within a reasonable time, by issuing corrected instructions, a restriction, or a bypass or (b) accept return of the Product and refund any license or subscription fees previously paid by Customer in connection with such Product from the date of notification of the warranty claim, and Customer's right to use the Product will terminate. The foregoing sentence sets forth Customer's sole and exclusive remedy for Company's breach of this warranty. Company is not responsible for any defect or error caused by a Product that Customer has modified, misused, or damaged.

**Mutual Warranties.** Each Party represents and warrants to the other that: 1.5 this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such Party in accordance with its terms and 1.6 it shall comply with all applicable laws.

**Disclaimer.** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION OR AN ORDER FORM OR ADDENDUM, COMPANY MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. COMPANY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. COMPANY DOES NOT WARRANT AGAINST INTERFERENCE WITH THE

ENJOYMENT OF THE PRODUCTS OR PROFESSIONAL SERVICES. COMPANY DOES NOT WARRANT THAT THE PRODUCTS, DOCUMENTATION, OR PROFESSIONAL SERVICES ARE ERROR-FREE OR THAT OPERATION OF THE PRODUCTS OR PROVISION OF THE PROFESSIONAL SERVICES WILL BE SECURE OR UNINTERRUPTED. COMPANY DOES NOT WARRANT THAT ANY INFORMATION PROVIDED BY A PRODUCT OR DOCUMENTATION, OR IN CONNECTION WITH THE PROFESSIONAL SERVICES, IS ACCURATE OR COMPLETE OR THAT ANY SUCH INFORMATION WILL ALWAYS BE AVAILABLE. COMPANY EXERCISES NO CONTROL OVER, AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON THE RESULTS OF, CUSTOMER'S USE OF THE PRODUCTS OR DOCUMENTATION OR RECEIPT OF THE PROFESSIONAL SERVICES.

## INDEMNIFICATION

**Defense by Company.** Company will, at its expense, indemnify, defend and hold harmless Customer from any third party claim, proceeding, or suit ("Claim") brought by a third party against Customer alleging that Customer's use of a Product in accordance with the terms of the Agreement, infringes or misappropriates any patent, copyright, or trademark; provided that: 1.7 Customer gives Company prompt written notice of the Claim; 1.8 Customer grants Company full and complete control over the defense and settlement of the Claim; and 1.9 Customer provides assistance in connection with the defense and settlement of the Claim as Company may reasonably request. Customer will not defend or settle any Claim subject to indemnification under this Section without Company's prior written consent. Customer will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing, but Company will have sole control over the defense and settlement of the Claim. If Company becomes aware of, or anticipates, a Claim subject to indemnification under this section, Company may, at its option (a) modify the Products that are the subject of the Claim so that they become non-infringing, or substitute functionally equivalent products; (b) obtain a license to the third-party intellectual property rights giving rise to the Claim; or (c) terminate the affected Order Form(s) on written notice to Customer and refund to Customer any pre-paid but unused fees.

**Defense by Customer.** Customer will, at its expense, indemnify, defend and hold harmless Company from any third-party Claim arising out of or based upon Customer's provision of the Customer Data, or breach of Section 2.6 (Use Restrictions); provided that: 1.10 Company gives Customer prompt written notice of the Claim; 1.11 Company grants Customer full and complete control over the defense and settlement of the Claim; and 1.12 Company provides assistance in connection with the defense and settlement of the Claim as Customer may reasonably request. Company will not defend or settle any Claim subject to indemnification under this Section without Customer's prior written consent. Company will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing, but Customer will have sole control over the defense and settlement of the Claim.

1.2 **Exclusions from Obligations.** Company will have no obligation under this Section for any infringement or misappropriation to the extent that it arises out of or is based upon any of the following (a) use of a Product in combination with other products or services not provided by Company if such infringement or misappropriation would not have arisen but for such combination; (b) the Product was provided to comply with designs, requirements, or specifications required by or provided by Customer, if the alleged infringement or misappropriation would not have arisen but for the compliance with such designs, requirements, or specifications; (c) use of a Product by Customer for purposes not intended or outside the scope of the license granted to Customer; or (d) any modification of a Product not made or authorized in writing by Company where such infringement or misappropriation would not have occurred absent such modification.

THIS SECTION STATES EACH PARTY'S ENTIRE LIABILITY TO THE OTHER AND EACH PARTY'S SOLE REMEDY FOR ANY THIRD-PARTY CLAIM DESCRIBED IN THIS SECTION.

## LIMITATIONS OF LIABILITY

**Disclaimer of Indirect Damages.** NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, NEITHER PARTY WILL, UNDER ANY CIRCUMSTANCES, BE LIABLE TO THE OTHER FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, ARISING OUT OF OR RELATED TO

THE SUBJECT MATTER OF THIS AGREEMENT, EVEN IF COMPANY IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

**Cap on Liability.** EXCEPT FOR (I) EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; (II) THE PARTIES' INDEMNIFICATION OBLIGATIONS; AND/OR (III) A BREACH OF SECTION 2.6, UNDER NO CIRCUMSTANCES WILL EITHER PARTY'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID AND/OR PAYABLE BY CUSTOMER TO COMPANY UNDER THE ORDER FORM OR SOW WITH RESPECT TO WHICH THE LIABILITY AROSE DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE CLAIM (DETERMINED AS OF THE DATE OF ANY FINAL JUDGMENT IN AN ACTION).

1.2 **Independent Allocations of Risk.** EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY COMPANY TO CUSTOMER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

## GENERAL

**Relationship.** Company will be and act as an independent contractor (and not as the agent or representative of Customer) in the performance of this Agreement.

**Assignability.** Neither Party may assign its right, duties, or obligations under this Agreement without the other Party's prior written consent, which consent will not be unreasonably withheld or delayed, except that either party may assign this Agreement to an Affiliate or a successor, or in connection with the sale of all of the assets or business to which this Agreement relates.

**Export.** Customer will comply with all applicable export and import laws, rules, and regulations in connection with Customer's activities under this Agreement. Customer acknowledges that it is Customer's responsibility to obtain any required licenses to export and re-export Products. The Products, including technical data, are subject to U.S. export control laws, including the U.S. Export Administration Act and its associated regulations, and may be subject to export or import regulations in other countries. Customer represents and warrants that the Products are not being and will not be acquired for, shipped, transferred, or re-exported, directly or indirectly, to proscribed or embargoed countries or their nationals and persons on the Table of Denial Orders, the Entity List or the List of Specifically Designated Nationals, unless specifically authorized by the U.S. Government for those purposes.

**U.S. Government Restricted Rights.** The Software is commercial computer software, as that term is defined in 48 C.F.R. §2.101. Accordingly, if the Customer is the U.S. Government or any contractor therefor, Customer will receive only those rights with respect to the Software and Documentation as are granted to all other end users under license, in accordance with (a) 48 C.F.R. §227.7201 through 48 C.F.R. §227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. §12.212, with respect to all other U.S. Government licensees and their contractors.

**Subcontractors.** Company may utilize subcontractors or other third parties to perform its duties under this Agreement so long as Company remains responsible for all of its obligations under this Agreement.

**Notices.** Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by certified or registered mail, or insured courier, return receipt requested, to the appropriate Party at the address set forth on the applicable Order Form and with the appropriate postage affixed. Either Party may change its address for receipt of notice by notice to the other Party. Notices are deemed given

2 business days following the date of mailing or 1 business day following delivery to a courier.

**Force Majeure.** Neither Party will be liable for, or be considered to be in breach of or default under this Agreement (except for failure to make payments when due) on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond its reasonable control, so long as that Party uses all commercially reasonable efforts to avoid or remove the causes of non-performance.

**Governing Law.** This Agreement will be interpreted, construed, and enforced in all respects in accordance with the laws of the State of Florida, notwithstanding its conflicts of laws provisions. Each Party hereby irrevocably consents to the exclusive jurisdiction and venue of the federal, state, and local courts in Alachua County, Florida in connection with any action arising out of or in connection with this Agreement.

**Waiver.** The waiver by either Party of any breach of any provision of this Agreement does not waive any other breach. The failure of any Party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such Party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement.

**Severability.** If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect. If any material limitation or restriction on the use of a Product under this Agreement is found to be illegal, unenforceable, or invalid, Customer's right to use Products will immediately terminate.

**Order of Precedence.** Any conflict between an Order Form, an Addendum, or this Agreement will be resolved according to the following order of precedence: (1) the Order Form; (2) the Addendum; and (3) the Master Terms.

1.12 **Notice Regarding Apple.** This Section applies to the extent that the Product licensed to Customer is a mobile application on an iOS device. Customer acknowledges that this Agreement is between Customer and Company only, not with Apple Inc. ("Apple"), and Apple is not responsible for the Product or the content thereof. Apple has no obligation to furnish any maintenance and support services with respect to the Product. If the Product fails to conform to any applicable warranty, Customer may notify Apple and Apple will refund any applicable purchase price for the mobile

application to Customer; and, to the maximum extent permitted by applicable law, Apple has no other warranty obligation with respect to the Product. Apple is not responsible for addressing any claims by Customer or any third party relating to the Product or Customer's possession and / or use of the Product, including: (a) product liability claims; (b) any claim that the Product fails to conform to any applicable legal or regulatory requirement; or (c) claims arising under consumer protection or similar legislation. Apple is not responsible for the investigation, defense, settlement, and discharge of any third party claim that the Product and / or Customer's possession and use of the Product infringes a third party's intellectual property rights. Customer agrees to comply with any applicable third party terms when using the Product. Apple and Apple's subsidiaries are third party beneficiaries of this Agreement, and upon Customer's acceptance of this Agreement, Apple will have the right (and will be deemed to have accepted the right) to enforce this Agreement against Customer as a third party beneficiary of this Agreement. Customer hereby represents and warrants that: (a) Customer is not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a "terrorist supporting" country; and (b) Customer is not listed on any U.S. Government list of prohibited or restricted parties.

**Entire Agreement.** This Agreement, including all exhibits, is the final and complete expression of the agreement between these Parties regarding the subject matter hereof. This Agreement supersedes, and the terms of this Agreement govern, all previous oral and written communications regarding these matters, all of which are merged into this Agreement, except that this Agreement does not supersede any prior nondisclosure or comparable agreement between the Parties executed prior to this Agreement being executed, nor does it affect the validity of any agreements between the Parties relating to other products or services of Company that are not described in an Order Form and with respect to which Customer has executed a separate agreement with Company that remains in effect. No employee, agent, or other representative of Company has any authority to bind Company with respect to any statement, representation, warranty, or other expression unless the same is specifically set forth in this Agreement. This Agreement may be changed only by a written agreement signed by an authorized agent of the Party against whom enforcement is sought. Company will not be bound by, and specifically objects to, any term, condition, or other provision that is different from or in addition to this Agreement (whether or not it would materially alter this Agreement) that is proffered by Customer in any receipt, acceptance, confirmation, correspondence, or otherwise, unless Company specifically provides a written acceptance of such provision signed by an authorized agent of Company.

**Company**

Executed by  
Name: Chris Detrich  
Title: GM, VP of North America  
Date: Mar 30, 2020  
Signature:   
Chris Detrich (Mar 30, 2020)

**Customer**

Executed by  
Name: Lee R. Feldman  
Title: City Manager  
Date: Mar 31, 2020  
Signature:   
Lee R. Feldman

Approved as to Form and Legality  
  
David C. Schwartz (Mar 31, 2020)  
Asst. City Attorney

**ROCK SOLID TECHNOLOGY, INC. ORDER FORM**

<b>Customer:</b>	City of Gainesville, FL	<b>Order Effective Date:</b>	Effective date of MCA	
<b>Primary Contact:</b>		<b>Primary Contact Phone:</b>		
<b>Dollar Values:</b>	All quoted in USD	<b>Term :</b>	5 Years	
<b>Payment Terms:</b>	Net 30 Days	<b>Term Start Date :</b>	Project Start Date **	
<b>Billing Cycle:</b>	Annual in advance	<b>Automatic Renewal :</b>	Yes	
<i>** The Project Start Date will be set to no later than 30 days after the Order Effective Date</i>				
<b>SOFTWARE AS A SERVICE (SaaS) FEES</b>				
<b>Technology Fees</b>	<b>Quantity</b>	<b>Unit Price</b>	<b>Price per Month</b>	<b>Total per Year</b>
Base Fee (Hosting Costs and 30 Light Users)	1	\$1999	\$1999	\$23,988
Power User 1-25 (Tier 1)	12	\$89	\$1,068	\$12,816
Power User 26-50 (Tier 2)	0	\$99	\$0	\$0
Power User 51-125 (Tier 3)	0	\$79	\$0	\$0
Power User Over 125 (Tier 4)	0	\$69	\$0	\$0
Additional Light User	0	\$15	\$0	\$0
Power BI User & Dashboards	1	\$0	\$0	\$0
OneLink with Service Requests	1	\$850	\$850	\$10,200
<b>Total Annual SaaS Fees:</b>				<b>\$47,004</b>
<i>The first annual SaaS fees will be invoiced in the calendar month that the Project Start Date falls in</i>				
<i>Additional users can be added at any time throughout the term. Charges for additional users will be invoiced the following month prorated until the end of the year based on the unit prices listed above</i>				

**TERMS AND CONDITIONS**

- By signing this Order Form or submitting a purchase order or other ordering document to Company pursuant to this Order Form, Customer hereby orders from Rock Solid Technology, Inc. ("Company") the Products and other goods or services described in this Order Form. All payments are non-cancelable and non-refundable. Customer may not cancel any portion of this Order Form during the Initial Subscription Term. If Company terminates this Order Form due to Customer's non-payment, all unpaid Software as a Service (SaaS) fees for the remainder of the Term will be immediately due. Fees do not include any taxes, duties, or other governmental charges, all of which are Customer's responsibility.

This Order Form is incorporated into the Master Customer Agreement dated 03/31/2020 between the parties (the "Agreement"). The Agreement is incorporated by reference, in its entirety, and together with this Order Form constitutes the Agreement relating to the products and services under this Order Form. Company objects to any other additional or different terms in the Customer's purchase order or acceptance. All capitalized terms not defined in this Order Form shall have the meanings given in the Agreement. In the event of any conflicts or inconsistencies among this Order Form and the Agreement, this Order Form shall prevail.