

VIP Software Corporation
Software as a Service Subscription Agreement
Terms and Conditions

These Software as a Service Subscription Agreement Terms and Conditions (“**Terms and Conditions**”) govern the procurement and use by Subscriber (defined below) of SAAS Services (defined below) from VIP Software Corporation, a Delaware corporation registered in the State of Florida, with an address of 360 Central Avenue, Suite 1210, St. Petersburg, FL 33701 (“**Service Provider**”) pursuant to the SAAS Subscription Order (defined below) between Subscriber and Service Provider. The agreement between Subscriber and Service Provider is comprised of the SAAS Subscription Order, these Terms and Conditions, and any related agreement between the parties, collectively referred to as “**this Agreement.**” These Terms and Conditions are effective as of the date (the “**Effective Date**”) stated in the SAAS Subscription Order.

1. Defined Terms. In addition to the terms defined above, the following terms have the following meanings:

A. “**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the applicable Party.

B. “**Claims**” (and each a “**Claim**”) means any claims, losses, damages, demands, causes of action, suits, judgments, and liabilities of every kind and character, litigation, court costs, expert fees, and reasonable attorneys’ fees and any other associated costs of defense or resolution.

C. “**Confidential Information.**” See Subsection 13.1.

D. “**Disclosing Party.**” See Subsection 13.2.

E. “**Fees**” and “**Additional Fees.**” See Subsection 7.1.

F. “**Laws.**” See Section 12.

G. “**Notice**” and “**Notices.**” See Section 18.

H. “**Parties**” (and each a “**Party**”) means Subscriber and Service Provider.

I. “**Personal Information.**” See Subsection 13.1.

J. “**Receiving Party**” and “**Receiving Party’s Personnel.**” See Subsection 13.2.

K. “**SAAS**” means software as a service.

L. “**SAAS Services**” mean the services related to the Software provided by Service Provider to Subscriber pursuant to this Agreement, including access to the Software, management services, any other services specified in this Agreement, reasonable technical support, training, and storage services, all as generally described on

Attachment A to these Terms and Conditions.

M. **“SAAS Subscription Order”** means the Software as a Service Subscription Order and Agreement executed by Subscriber and Service Provider that provides Subscriber’s contact information, the start date, renewal terms, fee, payment terms, and additional terms and conditions for the SAAS Services provided pursuant to this Agreement.

N. **“Service Capacity”** means the Service Capacity agreed to in the SAAS Subscription Order.

O. **“Service Provider Group”** means (1) Service Provider; (2) its parents, subsidiaries, and Affiliates; (3) the successors and assigns of (1) and (2); and (4) the officers, directors, employees, agents, contractors, consultants, vendors, insurers, and subcontractors of (1), (2), and (3).

P. **“Service Provider Materials”** means any software, programs, tools, systems, data, or other materials made available by Service Provider to Subscriber in the course of Service Provider’s provision of the SAAS Services, all of Service Provider’s manuals, guides, and software or service support documentation supplied by Service Provider.

Q. **“Software”** means Service Provider’s BAP™ software which is a claim-auditing SAAS offering for insurance carriers, which includes modifications, enhancements, improvements, updates, additions, derivative works, documentation, and related material.

R. **“Subscriber’s Authorized Users.”** See Section 4.

S. **“Subscriber Data”** means all electronic data and information that Subscriber and Subscriber’s Authorized Users and Third-Party Organizations process or submit to the SAAS Services in the course of using the SAAS Services, including any Personal Information (as defined below).

T. **“Subscriber Group”** means: (1) Subscriber; (2) its parents, subsidiaries, and Affiliates; (3) the successors and assigns of (1) and (2); (4) the Third-Party Organizations; (5) their parents, subsidiaries, and affiliates; (6) the successors and assigns of (4) and (5) and (7) the officers, directors, employees, agents, contractors, vendors, insurers, subcontractors, all of Subscriber’s Authorized Users, and all others acting on behalf of either (1), (2), (3), (4), (5), or (6).

U. **“Term,” “Initial Term,” and “Renewal Term.”** See Subsection 8.1.

V. **“Third Party”** means any person or entity that is not a member of Service Provider Group or Subscriber Group.

W. **“Third Party Organizations.”** See Section 4.

2. Acceptance of this Agreement; No Additional Terms. Any subscription or license for any SAAS Services is expressly conditioned on Subscriber’s acceptance of and agreement

to this Agreement. By executing the SAAS Subscription Order, Subscriber consents to these Terms and Conditions and agrees to pay for the SAAS Services and to comply with this Agreement. This Agreement governs all transactions between the Parties related to the SAAS Services. No additional terms or different terms and conditions will apply or be binding on Service Provider. Service Provider objects to any proposal or document provided by Service Provider that contains different or additional terms that vary from this Agreement, and any such proposal or document is disallowed and will be of no effect. Subscriber waives any terms or conditions additional to or different from this Agreement by ordering, accepting, and/or using the SAAS Services.

3. The SAAS Services. Subject to this Agreement, Service Provider grants to Subscriber, solely for its internal business operations, a nonexclusive, nontransferable, terminable, non-assignable, limited right to use the SAAS Services during the Subscription Term. Service Provider will use commercially reasonable efforts to provide Subscriber with the SAAS Services in accordance with this Agreement. This Agreement is a license to use, and not a contract of sale, for the SAAS Service. All right, title, and interest in and to the SAAS Services will remain vested in Service Provider, except that Subscriber will have the license rights to the SAAS Services as granted pursuant to this Agreement. Service Provider retains complete ownership of all modifications and derivative works provided to Subscriber as part of any maintenance, support or otherwise. The SAAS Services, any support, maintenance or other intellectual property provided to Subscriber pursuant to this Agreement will not be deemed based on a “work made for hire” agreement.

4. Subscriber’s Users of the SAAS Services. The SAAS Services may be accessed and used only by the users authenticated and identified by Subscriber. Specifically, Subscriber must authenticate and identify administrative user names and passwords for all of Subscriber’s personnel (“**Subscriber’s Authorized Users**”) and any third-party organizations (“**Third-Party Organizations**” and each a “**Third-Party Organization**”) that Subscriber wishes to authorize access to the SAAS Services on Subscriber’s behalf. Subscriber’s Authorized Users and its Third-Party Organizations must access the SAAS Services through the secure Web portal provided through the Software. Subscriber must approve access to the SAAS Services by all such users and must use its best efforts to avoid any unauthorized access to the SAAS Services by them. Service Provider will make every effort to maintain the confidentiality of user names, passwords, and account information stored in Service Provider’s servers with its platform provider. However, Service Provider will not be liable for any harm resulting from use and access of the Software and the SAAS Services by Subscriber, Subscriber’s Authorized Users or any Third-Party Organization.

5. Subscriber’s Representations, Covenants, Warranties, Restrictions, and Responsibilities. In addition to the provisions set out elsewhere in this Agreement, the following terms apply to Subscriber’s use of the SAAS Services. All uses not permitted by this Section are prohibited.

5.1. Subscriber represents, covenants, and warrants that it will use the SAAS Services only: (1) in compliance with this Agreement, including the Minimum System Requirements set out in Attachment B and Service Provider’s published “Acceptable Use Policy” then in effect; (2) in compliance with all applicable Law; (3) in a manner and for the purpose for which the SAAS Services were designed; and (4) only with respect to Subscriber Data and for Subscriber’s own internal purposes. Service Provider will not be held responsible for any errors, performance issues or other issues if the Minimum System Requirements are not followed. **Unless otherwise**

explicitly permitted by this Agreement, Subscriber may not copy any portion of the SAAS Services.

5.2 Subscriber will not: (1) directly or indirectly reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the SAAS Services or any Service Provider Materials; (2) modify, translate or create derivative works based on the SAAS Services or the Software (except to the extent expressly permitted by this Agreement or authorized by Subscriber's use of the SAAS Services); or (3) remove, deface or destroy any proprietary marks, notices, labels or the like.

3. Subscriber acknowledges that complex software is never wholly free from defects, errors, and bugs. Subject to the other provisions of this Agreement, Service Provider gives no warranty or representation that the SAAS Services and the Software will be wholly free from defects, errors and bugs.

5.4 Subscriber acknowledges that Service Provider will not provide any legal, financial, accountancy or taxation advice under this Agreement or in relation to the SAAS Services. Except to the extent expressly provided otherwise in this Agreement, Service Provider does not warrant or represent that the use of the SAAS Services by Subscriber will not give rise to any legal liability of Subscriber Group.

5.5 Subscriber will not make the SAAS Services or the Software available to anyone other than Subscriber and will not use any of the SAAS Services for the benefit of anyone other than Subscriber. Subscriber will not sell, resell, license, sublicense, distribute, make available, rent or lease any SAAS Service or use the SAAS Services for the benefit of any Third Party.

5.6 Subscriber will not use the SAAS Services to store or transmit infringing, libelous or otherwise unlawful or tortious material, or to store or transmit material in violation of any Third Party's privacy rights.

5.7 Subscriber will not remove or export and will not allow the export or re-export of the SAAS Services, the Software or anything related to or any direct product of the SAAS Services and the Software from the United States in violation of applicable Law.

5.8 Subscriber is solely responsible for obtaining and maintaining the security of any equipment and ancillary services it needs to connect to, access or otherwise use the SAAS Services, including hardware, software, modems, servers, operating systems, networking, web servers and the like. Subscriber is also solely responsible for maintaining the security of its account, passwords, and files, and all uses of its account with or without its knowledge or consent.

5.9 Subscriber is responsible for the compliance with this Agreement by those members of Subscriber Group who have access to the SAAS Services.

5.10 Subscriber represents and warrants that as of the Effective Date, it had evaluated, tested, and examined the SAAS Services and determined independently that the SAAS Services are suitable for Subscriber's requirements and needs. Subscriber assumes all responsibility and risk of selection and suitability of the SAAS Services. Subscriber is solely responsible for all data provided by it or on its behalf to Service Provider or incorporated into or stored within the SAAS Services by Subscriber or on its behalf.

5.11 Subscriber owns and accepts all responsibility for all Subscriber Data. Subscriber will separately back up all Subscriber Data. Subscriber at all times retains ownership of all Subscriber Data. Subscriber will have sole responsibility for the accuracy, quality, security, integrity, legality, reliability, appropriateness, and intellectual property rights in all Subscriber Data. Subscriber is solely responsible for ensuring that any processing of Subscriber Data by Service Provider via the SAAS Services is in compliance with all applicable Laws.

6. Suspension of the SAAS Services. In addition to its other rights under this Agreement, Service Provider may suspend any further use of the SAAS Services by Subscriber Group if Service Provider reasonably believes that Subscriber is in violation of any provision of this Agreement or if Subscriber fails to pay any undisputed Fee by providing Notice of such reason for suspension to Subscriber. If the SAAS Services are so suspended and this Agreement is not thereafter terminated as allowed by this Agreement, Service Provider will promptly restore Subscriber's use of the SAAS Services as soon as the event giving rise to the suspension has been resolved to Service Provider's satisfaction.

7. Payment of the Fees.

7.1 Payment and Invoicing. Subscriber will pay Service Provider the applicable fees (the "**Fees**") for the SAAS Services as set out in the SAAS Subscription Order in accordance with these Terms and Conditions. Service Provider will invoice Subscriber monthly on the last day of the month for all charges incurred in the previous month. All Fees, any additional fees set out in the SAAS Subscription Order ("**Additional Fees**"), and other amounts due under this Agreement will be due and payable in full in U.S. currency net 30 calendar days from the invoice date. All payments will be subject to Service Provider's then-current billing, invoicing, and order acceptance policies. Subscriber will have no right of offset or deduction under this Agreement. Subscriber is responsible for all taxes associated with the SAAS Services other than U.S. taxes based on Service Provider's income. If Subscriber believes that Service Provider has billed Subscriber incorrectly, Subscriber must contact Service Provider no later than 60 calendar days after the closing date on the first billing statement in which the alleged error or problem appeared in order to receive an adjustment or credit. Inquiries should be directed to Service Provider's customer support department.

7.2 Nonpayment. All Fees, Additional Fees, and other amounts due under this Agreement not paid in full within the 30-day period will bear interest at the lesser of two percent or the highest rate allowed by applicable Law. Further, Subscriber's failure to pay Service Provider's invoices in accordance with this Agreement will represent a breach of Subscriber's obligations under it and will entitle Service Provider to immediately terminate Subscriber's use of the SAAS Services.

7.3 Use of the SAAS Services Exceeding the Service Capacity. If Subscriber's use of the SAAS Services exceeds the Service Capacity, Subscriber will be so notified and will have the opportunity to acknowledge the need for the Service Capacity to be increased. In any event, Subscriber will be billed for such usage, and Subscriber agrees to pay for such additional usage. If Subscriber's acknowledgement is not received within 72 hours from the notification, Service Provider will have the right to suspend Subscriber's use of the SAAS Services.

7.4 Service Provider's Rights. Service Provider reserves the right to change the Fees, the Additional Fees or other applicable charges and to institute new charges, Fees, and Additional Fees at the end of the Initial Term or then-current renewal term upon providing Subscriber with 30 calendar days' Notice of such change.

8. Term and Termination.

8.1 Term. This Agreement commences on the Effective Date and, unless earlier terminated as set out in this Agreement, continues for the Initial Term specified in the SAAS Subscription Order (the “Initial Term”). Unless otherwise stated in the SAAS Subscription Order, this Agreement will be automatically renewed for additional periods of the same duration as the Initial Term (each a “Renewal Term”) unless either Party provides Notice to the other Party of its desire to terminate this Agreement at least 30 calendar days prior to the end of the Initial Term or the then-current Renewal Term. References in this Agreement to the “Term” include the Initial Term and any Renewal Terms. All of these Terms and Conditions will apply to any Renewal Term.

8.2 Termination. In addition to any other termination rights set out in this Agreement, either Party may terminate this Agreement (except for provisions that survive termination of it as set out in the subsection entitled *Survival*) upon Notice to the other Party as follows:

A. If the other Party breaches this Agreement in any material respect and such breach: (1) is incapable of cure; or (2) being capable of cure, remains uncured 30 calendar days after the non-breaching Party provides the breaching Party with Notice of such breach; or

B. If the other Party becomes insolvent or unable to pay its debts as they become due, is adjudicated bankrupt, has an involuntary petition in bankruptcy filed against it, makes an assignment for the benefit of creditors, files a petition for an arrangement or composition of compromise with its creditors under the applicable Laws or has a trustee or other officer appointed to take charge of its assets.

In addition, Service Provider may, directly or indirectly, and by any lawful means, suspend, terminate or otherwise deny Subscriber’s use (and the use of Subscriber’s Authorized Users and its Third Party Organizations) of the SAAS Services, without incurring any resulting obligation or liability if: (1) Service Provider receives a judicial or other governmental demand or order, subpoena or law enforcement request that expressly or by reasonable implication requires Service Provider to do so; or (2) Service Provider believes in good faith that: (a) Subscriber or any of Subscriber’s Authorized Users or its Third Party Organizations have failed to comply with any term of this Agreement; (b) any member of Subscriber Group is, has been, or is likely to be involved in any fraudulent, misleading or unlawful activities; or (c) this Agreement expires or is terminated. This Section does not limit any of Service Provider’s other rights or remedies, at law or in equity.

8.3 Actions on Termination. In addition to all other responsibilities of the Parties upon termination of this Agreement, upon any termination, Service Provider will make the Subscriber Data available to Subscriber for electronic retrieval for 30 calendar days from the date of termination. Thereafter, Service Provider may, but is not obligated to, delete or destroy all copies of the Subscriber Data in its systems or otherwise in its possession or control.

9. Warranty and Disclaimer. Service Provider will use reasonable efforts consistent with prevailing industry standards to provide and maintain the SAAS Services in a manner that minimizes errors and interruptions in the SAAS Services and will perform the SAAS Services in a good and workmanlike manner. The SAAS Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, whether by Service Provider or its third-party providers, or because of causes beyond Service Provider’s control.

When reasonably possible, Service Provider will use reasonable efforts to provide advance Notice of any scheduled disruption to the SAAS Services. HOWEVER, SERVICE PROVIDER DOES NOT WARRANT THAT THE SAAS SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE. SERVICE PROVIDER DOES NOT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SAAS SERVICES. THE SAAS SERVICES ARE PROVIDED "AS IS," AND SERVICE PROVIDER GROUP DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT.

10. LIMITATION OF LIABILITY AND LIMITATION OF DAMAGES. IN NO EVENT WILL ANY MEMBER OF SERVICE PROVIDER GROUP BE LIABLE FOR ANY DIRECT, INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, INCLUDING DAMAGES FOR LOST PROFITS, LOSS OF GOOD WILL, LOSS OF DATA OR USE, DAMAGES TO SOFTWARE OR FIRMWARE, SYSTEM DOWNTIME, SERVICE INTERRUPTION, INABILITY TO ACCESS DATA OR SERVICES, COSTS OF PROCURING AND TRANSITIONING TO SUBSTITUTE SERVICES OR ANY BUSINESS INTERRUPTION, HOWEVER CAUSED AND UNDER ANY THEORY OF LIABILITY, INCURRED BY ANY MEMBER OF SUBSCRIBER GROUP OR ANY THIRD PARTY, WHETHER IN AN ACTION SOUNDING IN CONTRACT, TORT, WARRANTY, FIDUCIARY DUTY, STATUTORY CLAIM UNDER ANY FEDERAL, STATE, LOCAL LAW OF THE UNITED STATES OF AMERICA OR ANY OTHER JURISDICTION OR ANY OTHER TYPE OF CLAIM, EVEN IF ANY MEMBER OF SERVICE PROVIDER GROUP IS AWARE OF THE POSSIBILITY OF SUCH CLAIM.

FURTHER, NO MEMBER OF SERVICE PROVIDER GROUP WILL BE RESPONSIBLE FOR ANY CLAIM ARISING IN CONNECTION WITH: (1) ANY MEMBER OF SUBSCRIBER GROUP'S INABILITY TO USE THE SAAS SERVICES, INCLUDING AS A RESULT OF ANY: (A) TERMINATION OR SUSPENSION OF THIS AGREEMENT OR SUBSCRIBER'S USE OF THE SAAS SERVICES; (B) SERVICE PROVIDER'S DISCONTINUATION OF ANY OR ALL ACCESS TO THE SAAS SERVICES; OR (C) ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF THE SAAS SERVICES FOR ANY REASON WHATSOEVER, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS; (2) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (3) ANY INVESTMENTS, EXPENDITURES OR COMMITMENTS BY SUBSCRIBER GROUP TO ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT OR SUBSCRIBER'S USE OF THE SAAS SERVICES; OR (4) ANY UNAUTHORIZED ACCESS TO, ALTERATION OR THE DELETION, DESTRUCTION, DAMAGE, LOSS, DENIAL OF ACCESS OR FAILURE TO MAINTAIN OR STORE ANY OF THE SUBSCRIBER DATA OR OTHER DATA.

FURTHER, SERVICE PROVIDER GROUP'S TOTAL AND AGGREGATE LIABILITY UNDER THIS AGREEMENT FOR ANY CLAIM WILL NOT EXCEED THE AMOUNT OF THE FEES ACTUALLY PAID BY SUBSCRIBER TO SERVICE PROVIDER UNDER THIS AGREEMENT THAT GAVE RISE TO THE CLAIM DURING THE 12 MONTHS PRECEDING THE DATE ON WHICH THE CLAIM AROSE. IF SUCH DAMAGES RELATE TO PARTICULAR PORTION OF THE SAAS SERVICES, SUCH LIABILITY WILL BE LIMITED TO THE FEES ACTUALLY PAID BY SUBSCRIBER TO SERVICE PROVIDER FOR THOSE PARTICULAR PORTION OF THE SAAS SERVICES.

SUBSCRIBER ACKNOWLEDGES THAT THE FEES APPLICABLE FOR THE SAAS SERVICES REFLECT THE ALLOCATION OF RISK SET OUT IN THIS AGREEMENT AND THAT SERVICE PROVIDER WOULD NOT HAVE ENTERED INTO THIS AGREEMENT WITHOUT THE DISCLAIMERS OF WARRANTY AND LIMITATIONS OF BOTH LIABILITY AND DAMAGES IN THIS AGREEMENT.

11. Indemnification.

11.1 Indemnification by Service Provider. To the maximum extent allowed by law and except to the extent caused by the gross negligence or willful misconduct of any member of Subscriber Group, Service Provider will indemnify, defend, and hold Subscriber harmless from and against any and all Claims suffered or incurred by Subscriber Group in connection with any U.S. patent, or any copyright or other intellectual property infringement claim by

any Third Party with respect to the SAAS Services. This indemnity obligation will apply only to the extent that Subscriber promptly notifies Service Provider after any member of Subscriber Group becomes aware of such Claim, grants to Service Provider the authority to defend, compromise or settle the Claim, and provides Service Provider any Subscriber Data relevant to the Claim. Service Provider will not be liable for any Claims of infringement based on or caused by: (1) a modification to the SAAS Services; (2) the use of a prior or modified release of the SAAS Services if the infringement Claim could have been avoided by the use of a current unmodified release; (3) use of the SAAS Services in a manner not contemplated by this Agreement; (4) Subscriber Group's use of the SAAS Services in connection with any hardware, software or information not owned or developed by Service Provider; or (5) information, specifications, software or materials provided by Subscriber Group or a Third Party. If, due to a Claim of infringement, the SAAS Services, or any part of them, are held by a court of competent jurisdiction to be infringing, Service Provider may, at its option and expense: (a) replace or modify the SAAS Services to be non-infringing provided that such modification or replacement contains substantially similar features and functionality; (b) obtain for Subscriber a license to continue using the SAAS Services; or (c) if neither of the foregoing is commercially practicable, terminate this Agreement, and Subscriber's rights under this Agreement and return to Subscriber all funds paid to Service Provider pursuant to this Agreement for which actual services have not been provided as of the termination date, disregarding the applicability of any minimum payment obligations of Subscriber under this Agreement. This provision constitutes Service Provider Group's entire obligation to Subscriber Group with respect to any Claims related to the SAAS Services.

11.2 Indemnification by Subscriber. To the maximum extent allowed by law and except to the extent caused by the gross negligence of willful misconduct of Service Provider, Subscriber will indemnify, defend, and hold Service Provider Group harmless from and against any and all Claims arising out of or relating to: (1) Subscriber Group's use of the SAAS Services in a manner not permitted by this Agreement or not in conformance with this Agreement; (2) any Subscriber Data provided by any member of Subscriber Group to Service Provider or uploaded by any member of Subscriber Group into the SAAS Services; (3) the actions, omissions or Claims by Subscriber's customers and clients; (4) Subscriber Group's failure to comply with applicable Law, including privacy and data security laws; (5) Subscriber Group's instructions regarding Personal Information; (6) an infringement on any right resulting in any way from Subscriber Group's use of the SAAS Services with other software or materials not licensed to Subscriber by or not approved by Service Provider; (7) any Claim arising out of the malfunction of the SAAS Services caused by any member of Subscriber Group; (8) Subscriber Group's gross negligence, willful misconduct, malicious act or any breach of any representation, warranty, restriction or other obligation under this Agreement; or (9) any personal injury (including death) or damage to property resulting from the Subscriber Group's acts or omissions. Service Provider will promptly send Notice of any such Claim to Subscriber.

12. Compliance with Laws. The Parties will comply with all applicable laws, statutes, rules, regulations, restrictions, court orders, and ordinances, including all licensing, fair claims practices, privacy, security, non-disclosure or disclosure requirements, and all other federal, state or international law, rule or regulation governing, limiting or prohibiting disclosure of non-public personal information and personal information (collectively "Laws").

13. Confidentiality.

13.1 "Confidential Information" defined. "Confidential Information" means each Party's proprietary information, including its knowledge; proprietary data; materials; specifications; standards; processes; trade secrets; all information related to its licenses, computer systems and programs, software, data, techniques, developments, financial information, "know-how," improvements, and inventions; other business information that is, or may be, produced in the course of the Party's operations; any other information not

generally known concerning the Party or its operations that, if used or disclosed, could adversely affect the Party's business or give its competitors an advantage; and any other information designated as confidential by the Party. Confidential Information includes information that results from the Parties' performance of this Agreement, including any and all reports, information, and data relating to, obtained by, prepared or assembled by, or given by one Party to the other Party or developed as a result of information supplied by or on behalf of either Party, under this Agreement; and any materials, presentations, records, loss notices, assignment records from receipt through closure, assignment action and status records, loss scopes and estimates, photographs in digital or other format, progress reports, and inquiries. Confidential Information also includes any information maintained by either Party about an individual person (whether a Party's employee, client or otherwise), including information that can be used to distinguish or trace an individual's identity, such as name, social security number, date and place of birth, mother's maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information (collectively "**Personal Information**"). Confidential Information also includes all copies of Confidential Information.

Except for Personal Information, Confidential Information does not include information that: (1) is or becomes publicly available other than as a result of a disclosure that violates this Section; (2) was already known to the non-disclosing Party prior to that information becoming made known to the disclosing Party pursuant to this Agreement (as evidenced by dated documentation); (3) is obtained by the non-disclosing Party from a source that rightfully acquired and disclosed the information (as evidenced by dated documentation); or (4) is independently developed by the non-disclosing Party without reliance on any of the disclosing Party's Proprietary Information.

13.2 Confidentiality Obligations. Each Party (the "**Receiving Party**") must maintain in strict confidence and safeguard all Confidential Information of the other Party (the "**Disclosing Party**") pursuant to this Section. Specifically, each Receiving Party agrees that it will:

A. safeguard all Confidential Information of the Disclosing Party and not disclose any of it without consent, except as expressly allowed by this Section.

B. use the Disclosing Party's Confidential Information only in the proper performance of this Agreement and will not disclose any of the Disclosing Party's Confidential Information or the details of the Services to any Third Party.

C. make the Confidential Information available only to those of its directors, officers, attorneys, consultants, financial institutions, personnel, and representatives (collectively the "**Receiving Parties' Personnel**") who have a specific need to know it for purposes of this Agreement and who are advised of and agree to the requirements in this Section. The Receiving Party is responsible for any breach of this Section by the Receiving Party's Personnel.

D. destroy or return any tangible items of the Disclosing Party's Confidential Information to Disclosing Party immediately when it is no longer needed for purposes of this Agreement or when requested to do so by [Company].

13.3 Security Measures and Safeguards. The Parties will implement and maintain and administer commercially reasonable security measures and safeguards and a security

policy with physical and technical safeguards designed to protect, the security, integrity, and confidentiality of the Disclosing Party's Confidential Information and the Subscriber Materials, including the following: (1) requiring employees, subcontractors, independent contractors, and agents to maintain the strict security and confidentiality of Confidential Information; (2) immediately reporting to the other Party any use, data breach, or unauthorized disclosure of Confidential Information and documenting responsive actions taken and post-incident review of events; (3) immediately reporting to the Disclosing Party any use or disclosure of its Confidential Information prohibited by this Agreement; (4) regularly maintaining and monitoring a security plan to protect against unauthorized access to both physically and electronically maintained information or use of such information that could result in violation of local, state, federal and international privacy laws, and this Section; (v) reviewing the scope of such security measures annually; and (vi) cooperating with the other Party to provide any accounting of disclosures, breaches, or for any other purpose in accordance with any applicable Law.

13.4 Requested or Required Disclosures of Confidential Information. If either Party is requested or required to disclose any Confidential Information by Laws or legal process, that Party must send Notice of the request or requirement to the other Party as soon as practicable so that such Party may seek an injunction, protective order, or grant a waiver regarding compliance with this Section. If an injunction or protective order is not entered, and the Party owning the subject Confidential Information does not waive compliance with this Section, and the Party requested or required to disclose is compelled by Laws or legal process in the reasonable opinion of its counsel to do so, then only such of the Confidential Information as is required may be disclosed. The Party requested or required to disclose must also take all available steps to obtain an order or other reliable assurance that the disclosed Confidential Information will be held in confidence to the maximum extent possible under the circumstances.

13.5 Specific Performance and Injunctive Relief. Because money damages would not be a sufficient remedy for an actual or threatened breach of this Section, the nonbreaching Party is entitled to specific performance and injunctive relief in its favor without proof of immediate, irreparable, or actual damages and without any bond or other security required. These remedies are not the nonbreaching Party's exclusive remedies for any such breach, but rather, are in addition to all other remedies available at law or in equity. The nonbreaching Party is also entitled to recover attorneys' fees and costs in any action or proceeding against the breaching Party to enforce this Section.

13.6 Notwithstanding the foregoing, Service Provider has the right to collect and analyze data and other information related to the provision, use, and performance of the various aspects of the SAAS Services and related systems and technologies, including information regarding Subscriber Data and data derived from Subscriber Data. Service Provider will be free at all times during and after the Term to: (1) use such information and data to improve and enhance the SAAS Services and for other development, diagnostic and corrective purposes in connection with the SAAS Services and other Service Provider offerings; and (2) disclose such data solely in aggregate or other de-identified form in connection with its business.

14. Non-solicitation of Service Provider's Employees. During the Term and for two years after the termination of this Agreement, Subscriber will not engage in or assist others in hiring, soliciting, referring, recruiting, or attempting to recruit, any person employed by Service Provider or any of its Affiliates, whether directly or indirectly and whether on Subscriber's own behalf or on behalf of any other person or entity.

15. Use of Service Provider's Name, Trademarks, and Logos; Press Releases. Subscriber will not and must ensure that all members of Subscriber Group do not: (1) use Service Provider's name, trademarks, service marks, or logos, or the names or trademarks or logos of Service Provider's parent, subsidiaries, Affiliates, or related entities in any announcements, advertisements, internal or external promotional materials, or the like in any form whatsoever without Service Provider's prior written consent, which consent may be given or withheld in Service Provider's sole discretion; or (2) disseminate any materials, information, public announcement, or press release regarding this Agreement, the SAAS Services, or its business relationship with Service Provider's prior written consent, which consent may be given or withheld in Service Provider's sole discretion.

16. Changes to the SAAS Services and these Terms and Conditions.

16.1 Service Provider's Rights. Service Provider reserves the right to, in its sole discretion, make any changes to the SAAS Services and these Terms and Conditions that it deems necessary, desirable, or useful, including changes to maintain or enhance the quality or delivery of the SAAS Services to its customers, changes to maintain or enhance the cost efficiency or performance of the SAAS Services, and changes required to comply with applicable Law. Service Provider may modify these Terms and Conditions at any time by posting a revised version of these Terms and Conditions on its website: or by otherwise providing Notice to Subscriber.

16.2 Changes Not Substantially Changing the SAAS Services. If such changes would not result in a substantial change to the SAAS Services, such modified version of these Terms and Conditions will become effective upon posting or as otherwise provided in the Notice to Subscriber. By continuing to use the SAAS Services after the effective date of the modification to these Terms and Conditions, Subscriber agrees to be bound by the modified version of these Terms and Conditions. It is Subscriber's responsibility to check Service Provider's website regularly for modification to these Terms and Conditions.

16.3 Changes Substantially Changing the SAAS Services. If such changes would result in a substantial change to the SAAS Services, Service Provider will provide Notice to Subscriber of such changes, and such changes will become effective 30 calendar days following such Notice unless Subscriber provides Notice to Service Provider within that 30-day period that it desires to terminate this Agreement. If Subscriber provides such a Notice to terminate, this Agreement will terminate as of the end of the 30-day period.

17. Assignment; Binding Effect.

17.1 Assignment by Subscriber. Subscriber may not assign this Agreement, in whole or in part, by assignment or operation of law, (including its license to the SAAS Services) and may not assign any of its rights or delegate any of its obligations under this Agreement without Service Provider's consent, which consent may be given or withheld in Service Provider's sole discretion. An assignment or delegation in violation of this Section will be null, void, and of no effect.

17.2 Assignment by Service Provider. Service Provider may assign this Agreement, in whole or in part, by assignment or operation of law, at any time without Subscriber's consent.

17.3 Binding Effect. To the extent there are successors or assigns permitted under this Section, this Agreement is binding on and benefits the Parties and their respective successors and assigns.

17.4 Mergers and the Like. Notwithstanding the foregoing, each Party consents to the other Party assigning all of its rights and delegating all of its duties to one or more of its Affiliates, or to an acquiring or surviving entity in a merger or acquisition in which such assigning party is the acquired entity (whether by merger, reorganization, acquisition, or sale of stock) or to the purchaser of all or substantially all of the assigning Party's assets.

18. Notices. All notices and other communications required, permitted, or contemplated by this Agreement ("Notices" and each a "Notice") must be in writing, signed by the Party giving the Notice, and sent using the contact information as set out in the SAAS Subscription Order. Notices must be sent by either: (1) hand-delivery in return for a receipt; (2) United States mail with postage prepaid; (3) bonded, nationally recognized overnight courier service; or (4) email, so long as the intended recipient acknowledges by email or other writing as having received the Notice (with an automatic "read receipt" not constituting acknowledgment).

A Notice is effective on the earlier of: (1) the date of actual delivery; or (2) for mailed Notices (without a return receipt), three days after the date of mailing. However, if the receipt of Notice is refused, the Notice is effective upon attempted delivery. Either Party may change its contact information by giving Notice as required by this Section.

Notwithstanding the foregoing, Notices advising the other Party of a breach of this Agreement must be sent by: (1) hand-delivery in return for a receipt; (2) certified United States mail, return receipt requested with postage prepaid; or (3) bonded, nationally recognized overnight courier service. Such Notices are effective on the date of actual delivery. However, if receipt of the Notice is refused, the Notice is effective upon attempted delivery.

19. Miscellaneous Provisions.

19.1 Relationship of the Parties; No Third-Party Beneficiaries. This Agreement does not create and will not be construed as creating an agency, partnership, joint venture, or employment relationship between the parties. This Agreement is for the benefit only of the parties and their respective successors and permitted assigns. No other person or entity is entitled to rely on this Agreement, receive any benefit from it, or enforce any provision of it against any Party to it.

19.2 Interpretation of this Agreement. The Parties intend for this Agreement to be read as a whole such that the requirements in one part and not mentioned in another will be executed to the same extent and purpose as though required by all. The misplacement, addition or omission of a word or character will not change the intent of any part from that set out in this Agreement as a whole. The titles and headings in this Agreement are for convenience of reference only and do not constitute a part of it or affect its interpretation. The Attachments to this Agreement will be construed with and as an integral part of this Agreement to the same extent as if they had been set out in the Agreement. The use of the words "including," "include," "included," and "includes" is intended to imply that the list or words following it are illustrative and not exclusive. All Attachments to this Agreement are incorporated into this Agreement by reference and are an integral part of this Agreement.

19.3 Applicable Law; Jurisdiction and Venue. This Agreement will be deemed to be a contract made under, and governed by, the laws of the State of Florida, and for all purposes will be construed in accordance with the internal laws of the State of Florida. The Parties agree that any and all disputes between them under or relating to this Agreement will be fully and completely adjudicated in the federal or state courts of the State of Florida, Pinellas County. Each Party completely and entirely waives any and all jurisdictional defenses it may have now or in the future to the jurisdictional reach of such courts.

19.4 Essence of this Agreement. The restrictive covenants in this Agreement for Service Provider's benefit are the essence of this Agreement, and each covenant will be construed as independent of any other provision. The existence of any claim or cause of action by Subscriber against Service Provider, whether predicated on this Agreement or not, will not constitute a defense to the enforcement by Service Provider of any of the restrictive covenants in this Agreement.

19.5 Entire Agreement. This Agreement, which is comprised of the SAAS Subscription Order, these Terms and Conditions, any related agreement between the parties, and the Attachments to this Agreement, constitutes the Parties' sole agreement and supersedes all understanding, promises, representations, warranties, oral negotiations, prior writings, and arrangements relating to the subject matter of this Agreement.

19.6 Services Limited. This Agreement covers only the SAAS Services. If Subscriber desires for Service Provider to provide other services or goods, a separate agreement must be entered into by the Parties.

19.7 No Liability for Certain Delays and Nonperformance. Service Provider will not be liable for any delay or nonperformance resulting from circumstances or causes beyond its reasonable control, including acts of God; fire or other casualty; strike or labor disputes; systemic electronic, telecommunication, or other utility failure; cyberattacks; war or other violence; acts or orders of government; and the like.

19.8 Conflict. In the event of any conflict between this Agreement and any Attachment to it or any other type of instrument used by either Party in the normal course of business (whether oral or written, signed or unsigned), this Agreement will control.

19.9 Waiver. No waiver of any of the provisions of this Agreement will be deemed, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the Party making the waiver. The failure of either Party to insist upon strict compliance with any provision of this Agreement, or to exercise any right or remedy under this Agreement, will not constitute a waiver by such Party of the provision or prevent such Party from exercising such right or remedy in the future.

19.10 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, such impediment will attach only to such provision and will not render invalid or unenforceable any other provision of this Agreement. In the event a court of competent jurisdiction modifies any provision of this Agreement, then the stricken provision will be replaced, to the extent possible pursuant to applicable Florida law, with a legal, enforceable, and valid provision that is as similar in tenor to the stricken provision as is legally possible, and the remaining provisions of this Agreement will remain in full force and effect and the Parties will abide by the provision as so modified by the court.

19.11 No Presumption. This Agreement was prepared by counsel for Service Provider. However, Subscriber acknowledges that it has had the opportunity to retain its own independent legal and financial counsel with respect to the negotiation and execution of this Agreement. The Parties have independently, separately, and freely negotiated this Agreement and therefore waive any statutory or common-law presumption that a document is to be construed most strictly against the party who prepared it.

19.12 Survival. The following Sections will survive termination of this Agreement: Section titled Independent Operator Status; Section titled Indemnification; Section titled

Confidentiality and proprietary information; and any other Section that by its nature is intended to survive termination.

19.13 Attorneys' Fees. In any suit, action or other proceeding, including arbitration or bankruptcy, arising out of or in any manner relating to this Agreement, the prevailing party, as determined by the court or arbitrator, will be entitled to recover from the losing party reasonable attorneys' fees, court costs, and expenses incurred.

19.14 Counterparts. This Agreement may be executed in one or more counterparts, all of which, when combined, will constitute a single instrument. Copies (whether facsimile, pdf (portable document format), photostatic or otherwise) of signatures to this Agreement, and any amendment of it, will be deemed to be originals and may be relied on and will be enforceable to the same extent as if they were originals. Copies may be electronically transmitted via email, facsimile, or other electronic means.

19.15 Authority. Each Party represents and warrants to the other that: (1) it has full authority and power to enter into and perform its obligations under this Agreement; (2) the person executing this Agreement is fully empowered to do so; and (3) no consent or authorization is necessary from any Third Party. Either Party may request that the other Party provide the requesting Party evidence of such Party's authority.

**VIP Software Corporation
Software as a Service Subscription Agreement
Terms and Conditions**

Attachment A - Description of the SAAS Services

1. The SAAS Services.

The SAAS Services include:

- Subscriber's Third-Party Organizations will have the ability to query the estimating tool for the designated claim information for preparing invoices for the purpose of submission to Subscriber for approval and payment. The Software will provide automated query to claims for the purpose of analyzing the rules based on the type and amount of the claim.
- Third-Party Organizations will have the ability to prepare invoices for the purpose of submission to Subscriber.
- A Cost Per Invoice fee will be charged and is defined as any invoice submitted to Subscriber within the Software application, including supplemental and third-party invoices. The Cost Per Invoice will be agreed upon in advance by the Parties following the completion of the Pilot Program.
- Subscriber can elect to install a business rule to be added to the system that deducts the Cost Per Invoice Fee on every invoice submitted from a Third Party. For every invoice submitted to Subscriber by the third-party provider, the Software will auto-generate an invoice equal to the cost per invoice fee which will allocate the per invoice fee to the claim file. The SAAS Services return that auto-generated invoice to the claim file of record in the estimating tool.
- Subscriber will have the ability to access the Software to review, approve, change status, email third party users, and view dashboards and reports of invoices prepared and entered by third party organizations.
- No changes to the Software will be considered as part of the SaaS configuration. In case changes have been discussed and Subscriber requires software or services outside of the scope of this Agreement, Service Provider may initiate a Statement of Work as a separate agreement.

2. Support Services.

Service Provider will make available to Subscriber telephone numbers ("HOTLINE ") for Subscriber to call requesting service related to the SAAS Services. Service Provider's Support HOTLINE numbers operate during business hours, 8:00 a.m. to 5:00 p.m. EST, Monday through Friday, excluding legal holidays. In addition, Subscriber can submit a support request via Service Provider's web site at <https://vipsoftware.zendesk.com> after business hours. Service Provider provides customers with an automated acknowledgement of the support request via email. The online support system provides status and event log information for each support request tracked by call number.

Technical calls and emails are logged by Subscriber and its Affiliates through Service Provider's telephone and ticket submission process. Zendesk is the system utilized by Service Provider for Service capturing and reporting issues and their resolutions.

Subscriber login info: Subscriber can create an account and login information at <https://vipsoftware.zendesk.com> or create a support ticket by email to support@vipsoftware.com

HOTLINE: (813) 837-4347

Upon receipt by Service Provider of notice from Subscriber through a Support HOTLINE number of an error, defect, or user malfunction within the SAAS Services, Service Provider will respond as follows:

- Severity **“High/Critical”**: Produces an emergency in which the SAAS Services are inoperable, produce incorrect results, or fail catastrophically.
 - **RESPONSE:** Service Provider will provide a response by a qualified member of its staff to begin to diagnose and to correct a Severity “High” problem as soon as reasonably possible, but in any event a response via email or telephone will be provided within two hours. Service Provider will continue to provide best efforts to resolve Severity “High/Critical” problems within one business day.
- Severity **“Medium”**: Produces a detrimental situation in which performance (throughput or response) of the SAAS Services degrade substantially under reasonable loads, such that there is a severe impact on use, one or more functions is inoperable, or the use is otherwise significantly impacted.
 - **RESPONSE:** Service Provider will provide a response by a qualified member of its staff to begin to diagnose and to correct a Severity “Medium” problem as soon as reasonable possible, but in any event a response via email or telephone will be provided within four hours. Service Provider will exercise best efforts to resolve Severity “Medium” problems within two business days.
- Severity **“Low”**: Produces an inconvenient situation in which the SAAS Services are usable but do not provide a function in the most convenient or expeditious manner, and Subscriber suffers little or no significant impact.
 - **RESPONSE:** Service Provider will exercise best efforts to resolve Severity “Low” problems in a reasonable amount of time.

All support requests will be tracked on Service Provider's Support website.

3. Storage Services.

Storage of Subscriber Data is provided at no additional charge to Subscriber.

Service Provider will provide adequate storage for Subscriber's Data to be stored within secured, encrypted servers at no additional charge to Subscriber. Service Provider will add storage based on periodic service capacity planning processes followed by Service Provider and its third-party provider of infrastructure services. In addition, Service Provider will adhere to back up, fail over, and retention policies as outlined by Service Provider's product descriptions. Storage procedures will be reviewed and changed from time to time for optimization of the Software and the SAAS Services based on performance and storage accessibility. Retention policy is based on the policies for industry standards of financial data and performance indicators. Online storage of data on Subscriber's behalf will be retained for

one year and then stored and maintained in archived data bases within Service Provider's secure servers hosted at Service Provider's third-party facilities. Service Provider will provide at least 30 days prior written Notice to Subscriber before any Subscriber information is deleted or removed by Service Provider.

4. Training

Service Provider will provide a Train-the-Trainer program to Subscriber, Subscriber's Authorized Users, and its Third-Party Organizations at no additional cost. Training media and presentation are available to Subscriber in the following formats:

- **Web-based trainer-led training.** This training is solely online but with an online trainer remotely accessing a shared environment with the trainees. The sessions are recorded and may be used by Subscriber throughout the duration of the Subscription Term.
- **Self-led Web-based Training.** This training is offered with online materials to follow and is self-paced for the convenience of the trainee.

**VIP Software Corporation
Software as a Service Subscription Agreement
Terms and Conditions**

Attachment B - Minimum System Requirements

1. Servers.

No minimum service requirements are necessary for Subscriber. Servers are Subscriber's responsibility and will be monitored accordingly.

2. Web Browser requirements.

Minimum service requirements for Subscriber and Subscriber Authorized Users and Third-Party Organizations:

Priority	Browser Name	Version
1	Mozilla Firefox	any
2	Google Chrome	any
3	Internet Explorer	8 and Above
4	Apple Safari	any