

This Master Services Agreement (“Agreement”) is made as of the same date as is agreed to in Exhibit A-1 (“Effective Date”), between JM Addington, LLC d/b/a CyberSecureRIA, a Tennessee limited liability company (“Addington”) and the customer as defined in Exhibit A-1 Customer”).

The parties hereby agree as follows:

1. Statements of Work

- a) Addington shall provide Hardware, Deliverables or Services, as defined below, to Customer pursuant to one or more statements of work (collectively “Statements of Work”, each a “Statement of Work”). Each Statement of Work shall be attached to this Agreement as Exhibit A-# (where # is a consecutive number for each Statement of Work). Each Statement of Work must be approved by Customer and Addington by each signing the Statement of Work before Addington begins producing the Deliverables or providing the Services or Hardware in such Statement of Work and before Customer is obligated to pay the fees specified in such Statement of Work. Each approved Statement of Work is incorporated herein by reference and is subject to all the terms and conditions of this Agreement.
- b) “Deliverables” means all items produced as a result of the development specified on a Statement of Work including but not limited to design documentation, wireframes, style guides, requirement lists, database schema, object models, source code, object code, documentation, and any other items specified in a Statement of Work or produced as a result of the development or design of a Deliverable in a Statement of Work.
- c) “Services” means the provision of services by Addington as required by each Statement of Work.
- d) “Hardware” means the hardware Addington is providing for Customer to use during the Term as required by a Statement of Work.

2. Expenses.

The Customer shall reimburse Addington in accordance with its normal reimbursement policy for reasonable travel and other expenses incurred at the Customer’s request in carrying out the Services under this Agreement; provided, however that all expenses must be preapproved by the Customer in order for such expenses to be reimbursed.

3. Hardware.

- a) Ownership. Customer acknowledges that Addington may place Hardware, as specified in a Statement of Work, on Customer's premises in order to assist in providing the Services. All Hardware is owned by Addington and Customer is allowed to use such Hardware for the Term specified in the applicable Statement of Work. Customer does not acquire any ownership interest in the Hardware as a result of Customer's use or the fact that the Hardware is placed on Customer's premises. Addington will service the Hardware as a part of providing the Services.
- b) Warranty; Liability. Customer's sole and exclusive warranty for the Hardware is the warranty provided by the Hardware manufacturer. Customer agrees that only Addington may service or move the Hardware. Customer agrees to immediately notify Addington if the Hardware is exposed to water, excessive heat, or other circumstances that may damage the Hardware. If Customer negligently or intentionally damages the Hardware and such damage is not covered by the Hardware manufacturer's warranty then Customer agrees to pay Addington for the replacement cost of the Hardware.

4. Payment Terms.

Addington shall invoice Customer as specified in each Statement of Work for all amounts owed under this Agreement. Customer shall provide to Addington ACH information, a valid credit card number and associated information, paypal, eCheck, or other payment method acceptable to Addington ("Payment Device"). Customer hereby authorizes Addington to charge to this Payment Device all amounts owed by Customer on the first of each month. Upon cancellation or expiration of the Payment Device, Customer shall immediately provide a new Payment Device and other information requested by Addington pertaining to the Payment Device. If Customer has not paid all sums due Addington in accordance with the terms of this Agreement, a monthly finance charge equal to the lesser of (a) 1.5% per month, or (b) the highest amount permitted by law, shall accrue and be payable each month until paid in full. Customer shall be liable to Addington for any and all costs and expenses incurred by Addington, including without limitation attorneys' fees and expenses, in collection of any past due amounts hereunder. If a Customer does not pay any amounts due under this Agreement on time then, Addington may use any Payment Device Customer has provided to Addington to receive such payment for such amount due.

5. Term and Termination

- a) **Term.** Unless otherwise provided in a Statement of Work, the term of this Agreement begins on the Effective Date and continues for one (1) year (“Initial Term”). After the Initial Term the Agreement automatically renews for an additional one (1) year each year, unless terminated as provided in this Agreement. The Initial Term, and renewal term, and any term specified in a Statement of Work are collectively referred to as the “Term.” Any Statement of Work that survives termination of this Agreement is governed by all of the terms and conditions of this Agreement until termination or expiration of the Statement of Work. If Customer agrees to pay for Services or Hardware for a specific Term, or agrees to have Addington develop certain Deliverables, then Customer agrees to pay for such Services and Hardware for the entire Term and pay for the entire cost of the Deliverables, unless Customer terminates this Agreement pursuant to Section c) in which case Customer shall pay for the Services delivered until the date of termination or the work done on the Deliverables until the date of termination. Regardless of the manner of termination, Customer agrees to pay for Hardware for the entire Term.
- b) **Addington Termination.** Addington may terminate this Agreement immediately upon (1) Customer’s failure to make any payment due under the Agreement, or (2) Customer’s breach of any of the terms of this Agreement if Customer does not cure such breach within thirty (30) days of receiving written notice from Addington.
- c) **Customer Termination.** Customer may terminate this Agreement if Addington commits any material breach of this Agreement and fails to cure such breach within thirty (30) days following receipt of written notice from Customer specifying the nature of such breach; provided that, if any breach is unable to be cured within such period of time, Customer may not terminate this Agreement for such breach so long as Addington has commenced efforts to cure such breach within such period of time and is diligently pursuing the completion thereof.
- d) **Effect of Termination.** Upon the expiration or termination of this Agreement or any Statement of Work, (i) all amounts owing from Customer to Addington shall be immediately due and payable, (ii), Customer shall pay to Addington all amounts owed for Services and Hardware for the current Term, (iii) Addington shall provide all Deliverables that have been paid for to Customer.
- e) **Survival.** The obligations of Section 7, 11, 12, 13, 14 and 20 shall survive the termination of this Agreement.

6. Suspension.

In addition to Addington having the option to terminate this Agreement, upon the occurrence of any of the events set forth in Section 5b), Addington shall also have the option to suspend the Services, remove Hardware from Customer’s premises, or stop work on the Deliverables as a result of any of such events, until the event resulting in such suspension is cured by Customer or otherwise remedied in Addington’s sole and absolute opinion, and other than suspensions which are not the result of any act or omission by Customer, Customer shall remain liable for any and all amounts due under this Agreement applicable to the Hardware, Services or Deliverables during such period of suspension. Addington shall provide five (5) days’ notice prior to any suspension. Addington has no liability for any damages Customer experiences as a result of a suspension under this Section.

7. Warranty.

Addington warrants that the Services will be provided and Deliverables produced in a professional and workmanlike manner. In the performance of the Services, Addington will use its best efforts to diligently and timely deliver the Deliverables specified in each Statement of Work.

8. Ownership.

- a) **Customer IP Rights.** Title and copyright to the Customer IP remains at all time with Customer and nothing in this Agreement transfers any rights in the Customer IP to Addington.
- b) **Addington IP Rights.** Title and copyright to the Addington IP and Addington Developed IP remains at all time with Addington and except for the license provided in this subsection nothing in this Agreement transfers any rights in the Addington IP or Addington Developed IP to Customer. Addington hereby grants Customer a perpetual, non-exclusive license to (i) use, execute, display, and distribute of the Addington Developed (ii) use, execute, display and distribute the Addington IP needed for the Addington Developed IP provided to Customer as a part of the Services. Customer does not receive any rights under this Agreement in Addington IP that is not required by Customer to use the Software.
- c) Definitions.
- d) "IP" means all inventions, ideas, applications, trademarks, service marks, enhancements, modifications, improvements or other processes, methods and designs, technologies, computer hardware or software, electronic code, original works of authorship, formulas, discoveries, patents, copyrights, copyrightable works products, marketing and business ideas, and all improvements, know-how, data, rights, claims and any other creation, whether or not patentable, as well as any original work of authorship fixed in any tangible medium of expression, all documentation, software, creative works, or know-how.
- e) "Customer IP" means all IP that Customer owns or may acquire except for Addington IP or Addington Developed IP.
- f) "Addington IP" means all IP that Addington or any of its licensors own or may acquire or assert any proprietary right anywhere in the world, and which was acquired, licensed, developed, discovered, invented, authored or first reduced to practice by Addington, alone or jointly with others, either: (i) prior to the effective date of this Agreement; or (ii) outside of the scope of performing the Services including but not limited to any software developed by Addington for use with more than one customer of Addington .
- g) "Addington Developed IP" means all IP that Addington may develop, invent, discover, conceive or originate alone or in conjunction with any other person during business hours or otherwise, during any engagement of Addington by the Customer as a direct result of the performance of the Services, excluding any Addington IP or Customer IP.

9. Customer Obligations.

Customer acknowledges that (i) the timely provision of the Services and delivery of the Deliverables often requires Customer to provide text, graphics or other items to Addington, and

(ii) the schedule provided in any Statement of Work depends on Customer providing any materials that Addington requests within one business day of the request. Addington is not responsible for schedules missed due to Customer's delay in providing materials to Addington.

10. Third Party Software.

The Deliverables may contain or require third party software which is either open source software or Addington has obtained the right to use such software. A list of third party software used in or required by the Deliverables is available upon request.

11. Back-up Data.

If Customer requests back-up services, then Addington will provide back-up services as a convenience to Customer and Customer is responsible for verifying the completeness and accuracy of all backups. Customer agrees that prior to Addington servicing any Customer equipment it is Customer's responsibility to remove all videotapes, compact disks, floppy disks, laser disks, cassettes, DVDs, film, or other media from Customer's equipment. Addington shall not be liable under any circumstances for any loss, disclosure, alteration, or corruption of any data, software, information, files, videotapes, compact disks, floppy disks, laser disks, cassettes, DVDs, film, or other media. Customer accepts all risk for the completeness and accuracy of all backups.

12. Liability, Warranty

a) **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL ADDINGTON BE LIABLE UNDER ANY THEORY OF LIABILITY FOR ANY CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OF ANY KIND, INCLUDING, WITHOUT LIMITATION, DAMAGES ARISING FROM LOSS OF PROFITS, REVENUE, DATA OR USE, OR FROM INTERRUPTED COMMUNICATIONS OR DAMAGED DATA, OR FROM ANY DEFECT OR ERROR OR IN CONNECTION WITH CUSTOMER'S ACQUISITION OF SUBSTITUTE GOODS OR SERVICES OR MALFUNCTION OF THE DELIVERABLES, OR ANY SUCH DAMAGES ARISING FROM THE PROVISION OF THE SERVICES, FAILURE OF HARDWARE, BREACH OF CONTRACT OR WARRANTY OR FROM NEGLIGENCE OR STRICT LIABILITY, EVEN IF ADDINGTON OR ANY OTHER PERSON HAS BEEN ADVISED OR SHOULD KNOW OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY REMEDY TO ACHIEVE ITS INTENDED PURPOSE. In any event, Addington's entire liability under or related to this Agreement and Customer's sole and exclusive remedy for any breach of a warranty shall be limited to either, at the election of Addington, (i) the repair or replacement of the Deliverables or Hardware, (ii) the delivery of the Services again in a manner acceptable to the Customer, or (iii) the refund of the fees paid under this Agreement allocable to the Hardware, Deliverables or Services associated with the claim.

b) **Disclaimer of Warranty.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND EXCEPT AS EXPRESSLY SET FORTH HEREIN THE DELIVERABLES, HARDWARE AND SERVICES ARE PROVIDED "AS IS", AND ADDINGTON AND ITS SUPPLIERS AND LICENSORS DO NOT MAKE AND SPECIFICALLY DISCLAIM, ALL EXPRESS AND IMPLIED WARRANTIES OF EVERY KIND RELATING TO THE DELIVERABLES, HARDWARE OR SERVICES (INCLUDING, WITHOUT LIMITATION, ACTUAL AND IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT), AS WELL AS ANY WARRANTIES THAT THE DELIVERABLES (OR ANY ELEMENTS THEREOF) WILL ACHIEVE A PARTICULAR RESULT, OR WILL BE UNINTERRUPTED OR ERROR-FREE.

13. Confidentiality

- a) “Confidential Information” includes without limitation, the terms of this Agreement, all Deliverables, technical, business, pricing and fee schedules, financial and product development plans, customer lists, information regarding distribution channels, forecasts, and strategies, business plans and opportunities, business strategies, future projects or products and any and all data regarding the business operations of either party which has been or will be provided to the other party during the Term or during the six (6) month period before this Agreement was executed.
- b) Each party acknowledges and agrees that Confidential Information is proprietary to and a valuable trade secret of the disclosing party and that any disclosure or unauthorized use thereof will cause irreparable harm and loss to the disclosing party. In consideration of the disclosure of Confidential Information, the receiving party agrees to treat Confidential Information in confidence and to undertake the following additional obligations with respect thereto:
- c) to use Confidential Information for the sole purpose of fulfilling its obligations under this Agreement;
- d) not to copy, in whole or in part, that Confidential Information specified by the disclosing party as not to be copied;
- e) to limit dissemination of Confidential Information to only those employees who have a need to know to perform the limited tasks set forth in this Agreement, and to prevent further dissemination and/or the use of Confidential Information by any employee or agent for any purpose other than that set forth in this Agreement.
- f) Upon termination or expiration of this Agreement, at the disclosing party's request the receiving party will return to the disclosing party or destroy all written materials that contain any Confidential Information. Any destruction of written materials that contains Confidential Information shall be certified to the disclosing party in writing by an authorized officer of the disclosing party supervising such destruction.
- g) Confidential information does not include information that:
- h) The receiving party knew before the disclosing party disclosed it,
- i) Is or becomes public knowledge through no fault of the receiving party, or
- j) The receiving party obtains from sources other than the disclosing party who owe no duty of confidentiality to the disclosing party.

All of the undertakings and obligations relating to confidentiality and non-disclosure, whether contained in this paragraph or elsewhere in this Agreement, shall survive the termination of this Agreement for whatever reason.

14. Non Solicitation of Employees or Contractors.

Customer shall not directly or indirectly, during the Term, and for two (2) years after the Term (a) solicit or hire any employees, contractors, former employees or former contractors of Addington;

or (b) take any inaction to induce an employee or contractor of Addington to terminate such employment or contractor relationship. For purposes of this Section a former employee or former contractor means a person or entity that Addington has employed in the 12 month period before the termination or expiration of this Agreement. The parties acknowledge and agree that the determination of the amount of damages arising from a breach of this Section may be difficult to determine. In the event Customer breaches this Section, Addington shall be entitled to liquidated damages in an amount equal to the money earned by the employee or contractor in the 12 month period preceding the employee or contractor's termination of employment with Addington, or if the employee or contractor was employed for less than 12 months then the amount that would have been earned by that employee or contractor in a 12 month period at the employee or contractor's rate of pay at the time of termination.

15. No Third Party Beneficiaries.

This Agreement is intended for the exclusive benefit of the parties hereto and shall not be for the benefit of, and shall not create any rights in, or be enforceable by, any other Person.

16. Independent Contractors.

The parties to this Agreement are independent contractors. Nothing in this Agreement will be deemed to create any form of partnership, principal-agent relationship, employer-employee relationship, or joint venture between the parties.

17. Waiver.

No party will be deemed to have waived any provision hereof unless such waiver is in writing and executed by a duly authorized officer of the waiving party. No waiver by either party of any provision hereof will constitute a waiver of such provision on any other occasion.

18. Assignment.

Neither party shall assign or otherwise transfer or purport to assign or otherwise transfer this Agreement or any of its rights or obligations hereunder or any part thereof without the prior written consent of the other party, except that Addington may assign any of its rights or obligations to any successor-in-interest or to an entity that acquires all or substantially all of its assets, all of its equity in any form, or to an entity into which Addington is merged; provided, however, that the entity to whom the rights and obligations of Addington are assigned (the "Successor") shall execute a written instrument whereby the Successor agrees to accept all of the rights and obligations of Addington under this Agreement.

19. Severability.

The invalidity or unenforceability, in whole or in part, of any provision, term, or condition hereof will not affect the validity or enforceability of the remainder of such provision, term, or condition or of any other provision, term, or condition.

20. Governing Law, Venue and Jurisdiction.

This Agreement is governed by the laws of the State of Tennessee without regard to its choice of law provisions. The parties expressly agree that jurisdiction and venue for actions under or pursuant to this Agreement shall be solely in any state court in Knox County, Tennessee, or the Federal District Court for the Eastern District of Tennessee, Northern Division, sitting in Knoxville, Tennessee.

21. Counterparts.

This Agreement may be executed in two or more counterparts, each of which shall constitute an original.

22. Headings.

The headings of the Sections of this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement.

23. Notices.

All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be deemed to have been duly given: (a) when received, if personally delivered; (b) two (2) business days after being sent, if sent for next day delivery to a domestic address by a nationally-reputable overnight delivery service (e.g., Federal Express); (c) on the date of transmission, if sent by facsimile, electronic mail or other wire transmission with transmission confirmed; and (d) upon receipt, if sent by certified or registered mail, return receipt requested. In each case, notice shall be sent to the following address or to such other place as may be designated by a party by written notice to the other parties:

If to Addington:

CyberSecureRIA
Jonathan Addington
9111 Cross Park Drive
Bldg E, Ste E-114
Knoxville, TN 37923

With a copy to: Egerton, McAfee,
Armistead & Davis, P.C.

John L. Wood
1400 Riverview Tower
900 S. Gay Street
Knoxville, TN 37902

If to Customer: The Address provided at the end of this Agreement.

24. Entire Agreement.

This Agreement which includes Statements of Work constitutes the entire agreement between the parties hereto, except with respect to subject matter covered in a duly executed Business Associate Agreement. This Agreement may not be amended unless such amendment is in writing, explicitly references this Section, and is signed by all parties hereto.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their respective duly authorized officers as of the date set forth above, through acceptance of executed Exhibits.

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