

## **Redtail Campaigns Platform Agreement**

**This Redtail Campaigns Platform Agreement** (“Agreement”) is made effective as of the date you (the “Customer”) click “I Accept” below (the “Effective Date”). By clicking “I Accept,” Customer agrees to be bound by the terms and conditions of this Agreement by and between Customer and Redtail Technology, Inc., a California corporation (“Redtail”).

**WHEREAS**, Redtail offers a marketing solution designed to drive business growth through personalized content campaigns, marketing execution technology, and self-guided workflows (“Redtail Campaigns”);

**WHEREAS**, Customer desires to utilize Redtail Campaigns and Redtail has agreed to make Redtail Campaigns available to Customer pursuant to the terms and conditions set forth herein; and

**NOW, THEREFORE**, in consideration of the foregoing and the agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

### **1. Description.**

- a. **Redtail Campaigns.** Redtail Campaigns is built around a core suite of marketing functionalities designed to provide a robust marketing experience through marketing campaigns, customized templates, and other services. Redtail Campaigns is designed to drive business growth through personalized content campaigns, top-of-mind planning topics, best-in-class marketing execution technology, as well as self-guided workflows to assist Customer with its business development. Redtail Campaigns has also partnered with its sister affiliate, Orion Advisor Technology, LLC (“Orion”) to offer limited access to Orion’s Orion Planning tool and access to Orion’s BeFi20 tool via Redtail Campaigns for use with Customer’s clients and prospective clients, subject to the terms and conditions herein or embedded in the tool. Customer further acknowledges, understands, and agrees that its use of the data aggregation functionality within the Orion Planning tool shall be subject to the additional terms and conditions found at <https://orion.com/download/third-party-data-terms-and-conditions/>, as maintained and updated by Orion from time to time, and incorporated herein by this reference. Customer’s use of such data aggregation functionality within the Orion Planning tool shall be subject to a fee of ten dollars (\$10.00) per household, per annum, and such fee will be invoiced to Customer quarterly in arrears.
  - b. **Access to Third Party Services.** As part of the Redtail Campaigns offering, Redtail and/or Redtail’s affiliates may make certain third party tools available to Customer through the Redtail Campaigns application. One such third party tool is the proprietary content management and authoring technology of Snappy Kraken, Inc. (“Snappy Kraken”). Customer acknowledges and agrees that access to any such third party tools is subject to availability and will be conditioned on Customer’s acknowledgement of the terms and conditions associated with such third party tools, including (without limitation) the Snappy Kraken terms and conditions available at <https://redtailcampaigns.app.snappykraken.com/terms/>.
- 2. Agreement; Terms of Use.** For purposes hereof, the term “Agreement” shall refer to this Agreement, but shall also include and incorporate herein by this reference the Terms of Use available on Redtail’s web site (the “TOU”). In the event of any conflict between this Agreement and the TOU, this Agreement shall control unless the TOU specifically state that it controls. For the avoidance of doubt, such TOU will apply to Customer’s and Customers’ User’s (as defined below) use of and access

to Redtail Campaigns. For purposes of this Agreement, a “User” shall mean one (1) Customer, investment Customer representative, or registered representative associated with Customer or its affiliated entities and to which Customer provides user access (login credentials) to Redtail Campaigns; provided, however, that each set of login credentials may be supplemented with an additional “marketing admin” login credential to allow for office staff to access the User’s login in accessing the User’s marketing. There will be no User fee associated with such “marketing admin” login credentials. Customer shall be solely responsible for enabling user access to Redtail Campaigns pursuant to the instructions provided by Redtail.

3. **Content; Ownership; Restrictions.** Customer acknowledges and agrees that Customer may have access to content which is the property of Redtail, Redtail’s affiliates, third parties, or their respective licensors, and protected by intellectual property laws. Customer agrees not to further license, copy, sell, rent, lease, distribute, or create derivative works based on such content or to remove any ownership, copyright, or trademark designation on such content, except as expressly authorized in writing. Customer further acknowledges and agrees that it shall not “share” the login associated with their purchased User (outside of permitted “marketing admin” credentials as communicated by Redtail) seats and, if such sharing in violation of the license granted hereunder occurs, Redtail reserves the right to disable Customer’s access to Redtail Campaigns without any prior notice, or charge Customer additional fees hereunder.
4. **Fees.** Fees for access to the Redtail Campaigns services shall be charged monthly (if monthly fee option is selected) or annually (if annual fee option is selected) in advance, depending on the fee option selected by Customer on the Redtail website, for the access and services to be provided during the coming corresponding period, and shall be due and payable as provided in the TOU. Customer acknowledges and agrees that fees and charges due hereunder may be modified as provided in the TOU. Customer understands and agrees that payment information will be provided via the sign-up process on Redtail’s website.
5. **Covenants, Representations and Warranties of Customer.** Customer represents, warrants, and covenants the following:
  - a. Customer is duly organized and validly existing under the laws of the state of its organization and has the necessary authority to enter into this Agreement and perform its duties and obligations hereunder.
  - b. The acknowledgment of this Agreement by Customer and the performance of its duties and obligations hereunder has been duly authorized by all necessary corporate or other action on behalf of Customer and does not conflict with or constitute a breach or default under its organization documents or the terms and conditions of any other agreement or other document to which it is a party or any order, decree, law, or government regulation to which it is subject.
  - c. Customer shall comply with all federal and state securities laws and rules that are applicable to Customer throughout the term of this Agreement.
  - d. Customer shall obtain any required consents, licenses, and approvals for its use of Redtail Campaigns including, but not limited to, the provision of data from third parties, third party licenses necessary for the exporting of data, and regulatory approvals.
  - e. Customer shall: (i) comply with all applicable laws and regulations, including, but not limited to, data privacy and security throughout the term of this Agreement; (ii) maintain appropriate technical and organizational measures to protect personal data against accidental or unlawful

destruction, loss, alteration, unauthorized disclosure of, or access to, data; (iii) notify Redtail in accordance with applicable law upon becoming aware of any accidental, unlawful, or unauthorized destruction, loss, alteration, theft, disclosure, exfiltration, or access involving personal data; (iv) make reasonable efforts to identify the cause of any such data breach; and (v) take steps reasonably necessary to remediate the cause of such data breach.

- f. Customer acknowledges and agrees that Customer is ultimately responsible for activities performed under this Agreement. Customer agrees that Customer remains entirely responsible for Customer's investment advisory services and understands that Redtail is not providing any advice or recommendations or agreeing to enter into any relationship with respect to Customer's clients or prospects.

## **6. Disclaimer.**

- a. Customer acknowledges and agrees that none of the data, services, content, or technology made available to Customer under this Agreement shall constitute: (i) a recommendation, endorsement, offer, or solicitation for any investment advisor, investment manager, or other investment firm or its services; (ii) an offer, purchase, or sale of any security, investment product, or service; (iii) legal, investment, tax, or fiduciary advice; or (iv) any guarantee of compliance with laws, statutes, rules, or regulations of the U.S. Securities and Exchange Commission ("SEC"), Financial Industry Regulatory Authority ("FINRA"), U.S. Department of Labor ("DOL"), or any other applicable local, state, federal, or international regulator. Any financial or investment information made available to Customer, as well as reference materials or links to other web sites, are for general informational purposes only, and are not intended to be relied upon for transactional or other purposes. Past performance of any security, investment manager, financial plan, or strategy is not an indication of future performance.
- b. Customer acknowledges and agrees that neither Redtail nor any of its employees, agents, managers, directors, affiliates, independent contractors, services providers, or third parties shall be deemed to offer advice regarding the quality or suitability of any investment or of any investment manager for Customer and assume no responsibility or liability for any action, investment decisions, advice, treatment, or services rendered by Customer. Customer expressly agrees that Redtail Campaigns services and access, including access to Orion's Orion Planning and BeFi20 tools does not provide Customer or Customer's clients or prospective clients with any financial or investment advice, and that any such action Customer or Customer's user, clients or prospective clients take in reliance on such service offerings are at such person's own discretion.
- c. Customer acknowledges and agrees that Redtail and its employees, agents, managers, directors, affiliates, independent contractors, service providers, and third parties shall not have any liability for investment recommendations or decisions made by Customer, its clients, or prospects based upon, or the results obtained from, Customer's use of Redtail Campaigns.
- d. Customer acknowledges and agrees that Customer is solely responsible for obtaining and/or verifying FINRA, SEC, DOL, or other regulatory or compliance approvals necessary for Customer's use of Redtail Campaigns and any data, services, content, or technology utilized by Customer, as may be applicable or required. Neither Redtail nor any of its employees, agents, directors, managers, independent contractors, service providers, affiliates, or third parties make any representation or warranty that Redtail Campaigns or any data, content, or technology made available to Customer comply with state, federal, or international rules or regulations, and has no direct obligation with respect to regulatory compliance and disclaims all representations, warranties, and liability associated therewith.

- e. CUSTOMER ACKNOWLEDGES THAT CUSTOMER IS ENGAGED IN AN INDUSTRY THAT IS REGULATED BY MULTIPLE STATE AND LOCAL REGULATORY BODIES. ORION AND REDTAIL HEREBY DISCLAIM ALL RESPONSIBILITY FOR CUSTOMER'S COMPLIANCE WITH THEIR FIRM'S COMPLIANCE AND SUPERVISION POLICIES, APPLICABLE FEDERAL, STATE, LOCAL, AND INDUSTRY REGULATORY BODIES. CUSTOMER WILL INDEMNIFY ORION AND REDTAIL AND HOLD ORION AND REDTAIL HARMLESS FROM AND AGAINST ANY LOSS, COST, DAMAGE, OR EXPENSE, INCLUDING WITHOUT LIMITATION LEGAL FEES AND EXPENSES, WITH RESPECT TO ANY CLAIM OR ACTION BROUGHT AGAINST ORION AND/OR REDTAIL BY A REGULATORY BODY OR THIRD PARTY BASED ON CUSTOMER'S USE OR MISUSE OF REDTAIL CAMPAIGNS OR THE CONTENT GENERATED OUT OF REDTAIL CAMPAIGNS OR SNAPPY KRAKEN.
- f. Customer acknowledges and agrees that Redtail Campaigns is being provided "as is", without any warranty or representation regarding its availability, functionality, or results. Customer further acknowledges and agrees that Redtail shall not be liable for the accuracy, timeliness, or completeness of any data, services, content, materials, or technology furnished under this Agreement or for any delays, interruptions, omissions, lost profits, direct, indirect, special, or consequential damages. Customer understands and agrees that the third-party product offering aspect of the Services, including access to Snappy Kraken is subject to the availability of such third party offerings, that such services are not under Redtail's control, and Redtail shall not be responsible for any liability, damage, or loss arising from or in connection with Customer's use of such third-party products or services. Customer further acknowledges that Customer's data may be shared with such third-party partners with Customer's consent (which shall be deemed granted by acknowledgment hereof), and as necessary to allow Customer to utilize such third-parties' services.

## **7. Term and Termination.**

- a. This Agreement shall become effective on the Effective Date and will continue until terminated as provided in the TOU or herein. This Agreement and the services provided hereunder may be terminated by Customer's selection within the Redtail Campaigns application. Redtail specifically reserves the right to terminate this Agreement and/or access to Redtail Campaigns as provided in the TOU.
- b. Upon termination of this Agreement, Redtail shall have no further obligation to provide services to Customer and all outstanding payments due from Customer under this Agreement shall become immediately due and payable to Redtail, including any unpaid fees earned through the date of termination and the balance of all future payments due under the this Agreement. The provisions of Sections 8, 9, and 10 hereof shall survive the termination or expiration of this Agreement pursuant to their terms. In the event of termination, there shall be no refund of any fees paid pursuant hereto, including any setup fees.

## **8. Confidentiality.**

- a. Subject to the duty of Redtail and Customer to comply with applicable laws, including the demand of any regulatory or taxing authority having jurisdiction, Redtail hereby agrees to keep confidential all information concerning the financial affairs and matters of Customer and its agents and shall not reproduce or distribute the same to any party any time, except for the purposes of this Agreement, without Customer's prior written consent.



- b. Customer hereby agrees to keep confidential all information concerning the financial affairs and matters of Redtail, including systems, research, development, products, technology, source codes, trade secrets, forms, procedures or business affairs and shall not disclose, reproduce or distribute the same to any party any time, without the prior written consent of Redtail.
- c. Customer agrees to communicate sensitive information via secured communication channels (i.e. encrypted format). Customer shall be fully responsible and liable for issues or causes of action resulting from Customer's failure to utilize secure methods of communication when transmitting sensitive information under this Agreement.
- d. Both parties agree to conduct themselves in a professional and positive manner in all dealings and communications concerning the other party and this Agreement, and each of their employees will not directly or indirectly publicly disparage, criticize or make or publish (in writing, verbally, on an electronic website, internet site, social media site, web log, message board or otherwise) any critical or derogatory statement about or concerning the other party, this Agreement, or any of their present or former officers, directors, managers, employees, customers, or suppliers.
- e. Redtail takes data privacy and security seriously. In the course of providing services and/or functionality to Customer, Redtail may process or have access to personal data on Customer's behalf. Such personal data may be subject to various domestic and international data protection laws. To that end, we offer a data protection addendum ("DPA") available at <https://orionadvisortech.com/download/data-protection-addendum/> as may be updated by Redtail or its affiliates from time to time. The DPA sets forth important information about our processing activities with respect to personal data, is specifically incorporated into the Agreement, and is therefore legally binding and effective once this Agreement is acknowledged and agreed to below. Please note that because Redtail has so many customers, we are not able to change the DPA for any particular customer. However, if you have any questions about the DPA, please contact us at [privacy@orion.com](mailto:privacy@orion.com).
- f. Customer hereby acknowledges receipt of Redtail's privacy policy, located at <https://corporate.redtailtechnology.com/privacy-policy/>, as may be updated by Redtail from time to time or as required by applicable law.
- g. Upon termination of this Agreement, both parties agree to maintain the confidentiality of all confidential information received from the other party under this Agreement.

## **9. Indemnification; Limitation of Liability.**

- a. To the fullest extent permitted by law, Customer agrees to indemnify, defend, and hold harmless Redtail and each of its officers, directors, managers, shareholders, agents, employees, and third-parties from and against any and all claims, liabilities, losses, damages, and expenses (including, without limitation, all legal and expert witness fees and expenses and all costs of investigation, as they are incurred) relating to or arising out of or based upon: (i) Customer's willful misconduct, criminal activity or gross negligence or material breach of this Agreement; (ii) any instructions provided by Customer and relied upon by Redtail; (iii) decisions or actions made or carried out by Customer; (iv) any claim made by a client or prospect of Customer; (v) any data, services, content, materials, or technology made available to Customer hereunder; and (vi) any data, content, materials, or information supplied by Customer hereunder.

- b. Notwithstanding any other provisions of this Agreement, to the fullest extent permitted by law, Redtail's maximum liability to Customer arising out of the transactions contemplated hereby, whether arising in contract, tort (including, without limitation, negligence) or otherwise, shall not exceed the lesser of the direct loss to Customer or an amount equal to total fees paid to Redtail by Customer hereunder for the immediately preceding six (6) month period. **IN NO EVENT SHALL REDTAIL BE LIABLE FOR ANY LOST DATA, INACCURACIES, SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL OR EXEMPLARY DAMAGES OR LOST PROFITS, WHETHER OR NOT SUCH DAMAGES WERE FORESEEABLE OR REDTAIL WAS ADVISED OF THE POSSIBILITY THEREOF. CUSTOMER ACKNOWLEDGES THAT OTHER PARTS OF THIS AGREEMENT ARE PREMISED UPON THIS LIMITATION.**
- c. Customer understands that access to the services, content, and technology offered under this Agreement may require the use of a password or other unique access code. Customer agrees that it will only allow access to those of its employees or agents who need access to such information to perform their duties. Customer agrees to indemnify and hold Redtail harmless from actions initiated by Customer, its agents or employees or through Customer's own neglect, carelessness, or failure to maintain adequate safeguards to protect the access code. Customer shall immediately notify Redtail if the security of any password or access code is compromised.

**10. Arbitration. PLEASE READ THE FOLLOWING PARAGRAPHS CAREFULLY BECAUSE THEY PROVIDE THAT CUSTOMER AND REDTAIL AGREE TO RESOLVE ALL DISPUTES HEREUNDER THROUGH BINDING INDIVIDUAL ARBITRATION.**

- a. Applicability of Arbitration Agreement. In this Section (the "Arbitration Agreement"), if Customer is a customer in the United States (including its possessions and territories), Customer and Redtail agree that all claims and disputes (whether contract, tort, or otherwise), including all statutory claims and disputes, arising out of or relating to this Agreement or the use of or access to Redtail Campaigns that cannot be resolved in small claims court will be fully and finally resolved by binding arbitration on an individual basis. The phrase "all claims and disputes" also includes claims and disputes that arose between us before the effective date of this Agreement. In addition, all disputes concerning the arbitrability of a claim (including disputes about the scope, applicability, enforceability, revocability, or validity of the Arbitration Agreement) shall be decided by the arbitrator, except as expressly provided below.
- b. Arbitration Rules. Customer agrees that, by entering into this Agreement, the U.S. Federal Arbitration Act, including its procedural provisions, governs the interpretation and enforcement of this dispute-resolution provision, and not state law. Arbitration will be conducted by JAMS, Inc. ("JAMS") (<https://www.jamsadr.com/>) If JAMS is not available to arbitrate, the parties will select an alternative arbitral forum, and if they cannot agree, will ask the court to appoint an arbitrator pursuant to 9 U.S.C. § 5. The rules of the arbitral forum will govern all aspects of this arbitration, except to the extent those rules conflict with this Agreement. The arbitration will be conducted by a single neutral arbitrator. Any claims or disputes where the total amount sought is less than \$10,000 USD may be resolved through binding non-appearance-based arbitration, at the option of the party seeking relief. For claims or disputes where the total amount sought is \$10,000 USD or more, the right to a hearing will be determined by the arbitral forum's rules. Any judgment on the award rendered by the arbitrator may be entered in any court of competent jurisdiction.
- c. Further Arbitration Rules and Process. If Customer elects to seek arbitration, Customer must first send to us, by certified mail, a written Notice of Customer's claim ("Notice"). The Notice

must be addressed to: Redtail Technology, Inc. 3131 Fite Circle, Sacramento CA 95827 (“Notice Address”). If Redtail initiates arbitration, Redtail will send a written Notice to the email address that is associated with Customer’s account. A Notice, whether sent by Customer or Redtail, must (a) describe the nature and basis of the claim or dispute; and (b) set forth the specific relief sought (“Demand”). If Redtail and Customer do not reach an agreement to resolve the claim within 30 days after the Notice is received, Redtail or Customer may commence an arbitration proceeding. The arbitration will take place exclusively through JAMS and any arbitration hearings will take place in New York County, New York, before and in accordance with the arbitration rules of JAMS in existence at that time; provided, however, that the foregoing shall in no way limit or restrict a party’s right to enforce an arbitration award in any court of competent jurisdiction.

- d. **Non-appearance Arbitration.** If non-appearance arbitration is elected, the arbitration will be conducted by telephone, online, written submissions, or any combination of the three; the specific manner will be chosen by the party initiating the arbitration. The arbitration will not involve any personal appearance by the parties or witnesses unless the parties mutually agree otherwise.
- e. **Fees.** JAMS sets forth fees for its services, which are available at <https://www.jamsadr.com/arbitration-fees>. If Redtail is the party initiating an arbitration against Customer, Redtail will pay all costs associated with the arbitration, including the entire filing fee. If Customer are the party initiating an arbitration against Redtail, Customer will be responsible for the first \$100 toward the nonrefundable Initial Filing Fee, and Redtail will pay the remainder of Customer’s Initial Filing fee and both parties’ Administrative Fee.
- f. **Authority of the Arbitrator.** The arbitrator will decide the jurisdiction of the arbitrator and the rights and liabilities, if any, of Customer and Redtail. The dispute will not be consolidated with any other matters or joined with any other cases or parties. The arbitrator will have the authority to grant motions dispositive of all or part of any claim or dispute. The arbitrator will have the authority to award monetary damages and to grant any non-monetary remedy or relief available to an individual under law, the arbitral forum’s rules, and the Agreement. The arbitrator will issue a written award and statement of decision describing the essential findings and conclusions on which the award is based, including the calculation of any damages awarded. The arbitrator has the same authority to award relief on an individual basis that a judge in a court of law would have. The award of the arbitrator is final and binding upon Customer and Redtail.
- g. **Waiver of Jury Trial.** CUSTOMER AND REDTAIL WAIVE ANY CONSTITUTIONAL AND STATUTORY RIGHTS TO GO TO COURT AND HAVE A TRIAL IN FRONT OF A JUDGE OR A JURY. Customer and Redtail are instead electing to have claims and disputes resolved by arbitration. Arbitration procedures are typically more limited, more efficient, and less costly than rules applicable in court and are subject to very limited review by a court. In any litigation between Customer and Redtail over whether to vacate or enforce an arbitration award, CUSTOMER AND REDTAIL WAIVE ALL RIGHTS TO A JURY TRIAL, and elect instead to have the dispute be resolved by a judge.
- h. **Waiver of Class or Consolidated Actions.** ALL CLAIMS AND DISPUTES WITHIN THE SCOPE OF THIS ARBITRATION AGREEMENT MUST BE ARBITRATED OR LITIGATED ON AN INDIVIDUAL BASIS AND NOT ON A CLASS BASIS. CLAIMS OF MORE THAN ONE CUSTOMER OR USER CANNOT BE ARBITRATED OR LITIGATED JOINTLY OR CONSOLIDATED WITH THOSE OF ANY OTHER

CUSTOMER OR USER. Notwithstanding any other provision of this Agreement, the Arbitration Agreement or JAMS' Rules, disputes regarding the interpretation, applicability, or enforceability of this waiver may be resolved only by a court and not by an arbitrator. If this waiver of class or consolidated actions is deemed invalid or unenforceable, neither Customer nor Redtail are entitled to arbitration; instead all claims and disputes will be resolved in a court as set forth in the "Miscellaneous" Section below. The arbitrator may award declaratory or injunctive relief only in favor of the individual party seeking relief and only to the extent necessary to provide relief warranted by that party's individual claim.

- i. **Right to Waive.** Any rights and limitations set forth in this Arbitration Agreement may be waived by the party against whom the claim is asserted. Such waiver will not waive or affect any other portion of this Arbitration Agreement.
  - j. **Small Claims Court.** Notwithstanding the foregoing, either Customer or Redtail may bring an individual action in small claims court.
  - k. **Arbitration Agreement Survival.** This Arbitration Agreement will survive the termination of this Agreement between the parties.
- 11. Notices.** Redtail will send Customer information relating to this Agreement and Redtail Campaigns in writing or in electronic form, for example to your email address provided to Redtail during Customer's registration. Customer agrees that any notices, agreements, disclosures, or other communications that Redtail sends to Customer electronically will satisfy any legal communication requirements, including that such communications be in writing.
- 12. Waiver.** No delay by either party in requiring performance by the other shall affect the right of such party to require performance; no waiver by either party of any breach shall be construed as a waiver of any subsequent breach or as a waiver of the provision itself or any other provision.
- 13. Beneficiaries; Assignment.**
- a. This Agreement shall inure only to the benefit of the parties hereto and their respective successors and assigns and shall not inure to the benefit of, or create any rights on behalf of, any person or entity that is not a party hereto.
  - b. Redtail may assign this Agreement to any affiliated company of Redtail or to any entity that succeeds to all or substantially all of Redtail's business or assets related to Redtail Campaigns.
- 14. Intellectual Property.** Redtail hereby grants to Customer a non-exclusive and non-transferable license (the "License") to access and utilize Redtail Campaigns as described in this Agreement. Customer hereby agrees that neither Redtail nor any third party licensor providing information to Redtail shall have any liability for the accuracy or completeness of the information or technology furnished through the License or for delays, interruptions, or omissions therein, nor for any lost profits, direct, indirect, special or consequential damages. Customer further agrees (i) not to use or permit anyone to use the information or technology provided through the License for any unlawful or unauthorized purpose; (ii) not to furnish such information or technology to any person or firm for reuse or retransmission without prior written approval from Redtail; and (iii) access to some of the services is subject to termination in the event that Redtail is unable to obtain necessary information from its providers.



- 15. Taxes.** In addition to the fees payable to Redtail in connection with the services furnished under this Agreement, Customer shall pay any taxes, however designated or levied, based upon such fees and its receipt of the services, including, without limitation, state and local sales, use, privilege or excise taxes. Customer may, at its expense and by prompt written notice to Redtail, file objection with the appropriate governmental authorities to the payment of any taxes that Customer is obligated to pay pursuant to this Section and shall notify Redtail regarding such governmental authority's response.
- 16. Miscellaneous.** This Agreement and the services provided hereunder shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to the conflict of laws provisions thereof. For any claims not subject to mandatory arbitration pursuant to this Agreement, Customer agrees to submit to the exclusive jurisdiction of the courts of the State of Nebraska located in Omaha, Douglas County, Nebraska or, if appropriate, the United States District Court for the District of Nebraska for resolution of any dispute, action or proceeding arising in connection with this Agreement, and Customer further irrevocably waives any right Customer may have to trial by jury in any such dispute, action or proceeding. Should any provision of this Agreement be held invalid or unenforceable by any court, arbitrator, statute, rule or otherwise, the remaining provisions of this Agreement will not be affected thereby and will continue in full force and effect to the fullest extent practicable. The relationship of the parties hereunder shall be that of independent contractors, and neither party shall be deemed an employee, agent, joint venture, or partner of the other and neither party shall have the power or authority to bind or obligate the other. This Agreement, together with the TOU, constitutes the entire agreement between the parties hereto with respect to the obligations arising hereunder and supersedes and cancels any prior agreements, representations, warranties or communications, whether oral or written, among the parties hereto relating to the subject matter hereof. Redtail may, from time to time, change this Agreement. Such revisions shall be effective immediately; provided however, for existing Customers, such revisions shall, unless otherwise stated, be effective 30 days after posting.