IMPORTANT-READ CAREFULLY: THIS MASTER SERVICES AGREEMENT ("MSA") IS BINDING AND ENFORCEABLE BETWEEN YOU ("**CLIENT**") AND GALE Technology Inc., A FLORIDA CORPORATION HAVING ITS PRINCIPAL PLACE OF BUSINESS AT 10597 165TH ST WEST LAKEVILLE, MN 55044 FOR ITSELF AND ITS AFFILIATES ("**GALE TECH**"). "**CLIENT**" REFERS TO THE ENTITY OR ORGANIZATION USING THE SERVICES AND/OR PRODUCTS DESCRIBED IN THIS AGREEMENT. **BY EXECUTING A SERVICE ORDER THAT REFERENCES THIS MSA, YOU ARE ACCEPTING AND AGREEING TO BE BOUND BY THIS MSA.** IF YOU ARE ENTERING INTO THIS MSA ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS MSA AND MAY NOT USE THE SERVICES.

THIS MSA INCLUDES the general terms and conditions set forth on the following pages and all terms and conditions set forth in all Order Documentation specific to the services purchased as part of Client's order. Service descriptions, as well as the most current version of this MSA, are available for review at https://deltapayments.com/agreements-terms-msa The parties' complete agreement with respect to the subject matter set forth in the Order Documentation executed by the parties during the term includes this MSA and all related Service Orders (including all applicable Service Descriptions) and/or statements of work all of which shall collectively be referenced as this "Agreement". Client expressly agrees that the terms and conditions of this Agreement shall govern all services and products provided to Client during the term and are a material part of ControlScan's agreement to provide such services and products, whether or not the same is made express at the time of provision.

GENERAL TERMS AND CONDITIONS

1. **Format of Agreement.** GALE TECH shall offer the managed security and/or consulting services (the "Services") as set forth in a physical, electronic or online service order ("Service Order") executed (or, if online, accepted pursuant to an online order process) by the parties. The Service Order, service description(s) and/or statement of work ("SOW") and any attachments thereto are hereinafter collectively referred to as the "Order Documentation". A detailed description of the Services being provided shall be set forth in a service description ("Service Description") provided online or set forth in an SOW. This MSA and each addendum thereto including the Order Documentation and any additional terms and conditions now or hereafter agreed to by the parties are a part of this Agreement. All Order Documentation is subject to the general terms and conditions of this MSA and will include the following (i) the particular Services and/or products to be provided; (ii) the specific documentation, reports, materials or objects to be delivered in connection with the Services ("Deliverables"); (iii) the term of the Services; (iv) the pricing, compensation and billing method for the Services; and (v) any other applicable information agreed to by the parties. If a term in the Order Documentation conflicts with this MSA, the MSA will prevail unless the Order Documentation specifically states that the term in the Order Documentation will prevail. This MSA shall apply each time Client engages GALE TECH to provide Services.

2. **Services.**

   2.1. Provision of Services. ControlScan shall use commercially reasonable efforts to provide to the Client the Services and/or products set forth on any Service Order under the rates, terms and conditions described in such Service Order. ControlScan shall perform its obligations under this Agreement in compliance with all federal, state, local or other laws, rules or regulations.

   2.2. Changes to Services. GALE Tech reserves the right to update this MSA at any time, effective upon posting an updated version at https://deltapayments.com/agreements-terms-msa however, Client's rights and obligations shall be as provided in the version of the MSA executed by Client or available to Client at the time of Client's purchase of Services. If Client requests a change to a Service, the Parties shall negotiate the terms for such change and GALE Tech will provide to the Client an appropriate Addendum or Attachment which will specify the terms and conditions under

which GALE TECH will provide such Services. The Client shall signify acceptance of such terms and conditions by signing the Addenda or Attachment and returning to GALE TECH.

2.3. Client Responsibilities.

2.3.1. Client may only use the Services in accordance with the Order Documentation and as explicitly set forth in this Agreement. Client is solely responsible for determining whether the Services are sufficient for its purposes, including but not limited to, whether the Services satisfy Client's legal and/or regulatory requirements.

2.3.2. Client acknowledges that GALE TECH'S performance and delivery of the Services are contingent upon Client providing timely delivery of, and safe and hazard-free access to its personnel, facilities, equipment, hardware, network and/or other information and resources necessary for the provision of the Service and upon Client's timely compliance with any reasonable directions provided by GALE Tech to Client in relation to Client's use of the Services.

2.3.3. Client further acknowledges that Client will be responsible for, and assumes the risk of any problems resulting from, the content, accuracy, completeness and consistency of all such data, materials and information supplied by Client. Client will use Services only for the purposes as promoted by GALE Tech, and not for any other purpose, and in particular, not for any abusive, fraudulent, illegal, or inappropriate purpose. Client shall comply with all federal, state and local laws, rules and regulations applicable to Client's business and its use of a Service.

3. **Third-Party Purchases.** If Client is purchasing any third-party products or services ("Third-Party Purchases"), whether such product or service is requested or required by Client or is otherwise specified in this Agreement as a service or product that is provided by a third party, the following subsections also apply:

3.1. Client acknowledges that GALE Tech is not the provider of any Third-Party Purchases, and Client agrees that it will comply with any third-party flow down terms and conditions, including but not limited to, any third-party end user license agreement- attached to the Order Documentation relating to such Third-Party Purchases or accessed online through a web portal provided to Client by GALE Tech.

3.2. GALE Tech makes no warranties or representations of any kind regarding the correctness, accuracy, completeness, merchantability or fitness of any Third-Party Purchases or any associated data, information or system.

3.3. If a Third-Party Purchase is terminated prior to the end of its term either (i) by Client or by GALE Tech at Client's request, or (ii) as a result of Client's action or inaction, Client shall pay GALE Tech, in addition to any other amounts owed, any termination costs and fees incurred or owing by GALE Tech as a result of such termination. Client shall not be entitled to a refund of any pre-paid amounts.

4. **Fees, Invoices, Taxes.**

4.1. Service Fees. Client will pay the monthly recurring charges and nonrecurring charges shown in the applicable Order Documentation based upon the Services and products ordered. The rates and fees for each Service and products are set forth in the applicable Order Documentation.

4.2. Taxes. All charges and fees to be paid by Client under this Agreement are exclusive of any applicable withholding, sales, use, excise, value added or other taxes. Client agrees to pay any sales, uses, excise, value added and other taxes or duties and any other taxes arising out of this Agreement, excluding taxes based on GALE Tech's net income. If GALE Tech has the legal obligation to pay or collect taxes for which Client is responsible under this Section, the appropriate amount shall be invoiced to and paid by Client, unless Client provides GALE Tech with a valid tax exemption certificate authorized by the appropriate taxing authority.

4.3. Invoices and Payment.

4.3.1. Fees and Payment. All charges and fees for GALE Tech's Services will be charged in U.S. dollars on the terms and at the rates specified in the applicable Order Documentation. If Client has provided credit card, debit card or charge card account information to GALE Tech, Client is authorizing GALE Tech to charge said card to settle Client's fees under this Agreement. If Client has provided GALE Tech with an authorization agreement for recurring electronic ACH debit, Client is also authorizing GALE Tech to initiate ACH debits from the account/depository listed on such authorization agreement to settle Client's fees under this Agreement. If applicable, the one-time setup fee paid to setup the firewall device or wireless access point is non-refundable.

4.3.2. Security. GALE Tech may at any time impose a credit limit on Client's account along with any related restriction on the Service(s) Client may receive, and Client must adhere to those

restrictions, provided Client will remain liable for any charges incurred in excess of that credit limit if that occurs.

4.3.3. <u>Credit Checks</u>. Client authorizes GALE Tech, in the reasonable exercise of its discretion, to conduct a credit check of Client for the purposes of this Agreement.

4.3.4. <u>Accrual of Charges</u>. Except as otherwise stated in this Agreement or Order Documentation, GALE Tech will accrue and invoice the charges as follows: (i) charges for each Service subscription accrue from the date the Services commence and are invoiced in advance and (ii) one-time product fees or set-up charges accrue from the date that the Service Order is accepted and are invoiced at any time thereafter. GALE Tech reserves the right to invoice immediately upon ControlScan's acceptance of an online Service order.

4.3.5. Except as otherwise stated in this Agreement or Order Documentation, if Service is delayed because Client (i) has not met its obligations or done all that is necessary on its part to activate the Services, then GALE Tech may deem a date to be the Service commencement date (whether the Services are ready for use or not) by notice to Client and charges shall commence to accrue in accordance with this clause or (ii) requests a delay, Client shall be liable for any third party costs and expenses incurred by GALE Tech, including but not limited to charges for third-party related services or service equipment during the period of delay. For purposes of computing the daily share of a monthly charge, a month consists of thirty (30) days.

4.3.6. All invoices are due upon delivery, subject to any additional payment terms set forth in the Order Documentation and become past due thirty (30) days later without demand or set off by Client. If any invoice is not paid to GALE Tech within thirty (30) days of delivery, GALE Tech reserves the right, without prejudice to any other remedy, to charge interest on such overdue sum from the due date until paid in full at the rate of 1.5% per month or the maximum rate permitted by law, whichever is less. Any and all disputed claims not submitted within said thirty (30) day period are deemed waived. GALE Tech shall have the right, at its election and without obligation, in addition to all of its other rights and remedies, to immediately terminate this Agreement and/or suspend performance in the event of any undisputed overdue payment in excess of thirty (30) days and/or if payment has not been received by the expiration of the term of this Agreement. GALE Tech reserves the right to charge Client's credit card on file if Client's account is past due at the expiration of the term of this Agreement. In the event of suspension of the Services, GALE Tech shall not be liable for any resulting loss, damage or expense connected with such suspension.

5. **Representations and Warranties.**

5.1. GALE Tech represents warrants and covenants as follows that GALE Tech has full power and authority to (i) enter this Agreement and provide the Services, Deliverables, works and information thereunder and (ii) GALE Tech will provide the Services in a professional and workmanlike manner and that it will use its best efforts not to change or amend any applications, data, programs or components of the Client's network or computer system (including hardware and software).

5.2. EXCEPT AS SPECIFICALLY PROVIDED IN THIS MSA, AN ADDENDUM, OR A SERVICE ORDER/SOW, GALE Tech DISCLAIMS ANY AND ALL OTHER WARRANTIES, CONDITIONS, OR REPRESENTATIONS (EXPRESS OR IMPLIED, ORAL OR WRITTEN) WITH RESPECT TO THE SERVICES, THIRD PARTY PURCHASES, SOFTWARE, DELIVERABLES, EQUIPMENT, AND MATERIALS PROVIDED UNDER THIS AGREEMENT, INCLUDING, BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND/ OR NON-INFRINGMENT. IF CLIENT'S SERVICE INCLUDES WEBSITE OR NETWORK SCANNING CONTROLSCAN DOES NOT WARRANT THAT (I) SUCH SCAN(S) WILL DETECT ALL MALWARE AND/ OR VULNERABILITIES, THAT (II) THE SERVICES WILL BE ERROR-FREE, OR (III) THAT THE SERVICES WILL BE COMPATIBLE WITH THE CLIENT'S EQUIPMENT, SOFTWARE CONFIGURATIONS; OR THE INFORMATION CONTENT, MATERIALS, OR APPLICABLE PRODUCTS INCLUDED ON CLIENT'S WEBSITE. TO THE EXTENT JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF CERTAIN REPRESENTATIONS, WARRANTIES OR GUARANTEES, SOME OF THE ABOVE EXCLUSIONS MAY NOT APPLY TO CLIENT.

6. **Term and Termination.**

6.1. <u>Term</u>. The term of this MSA shall commence on the effective date of the first Service Order between GALE Tech and Client and shall continue until the earlier of all Service Orders have expired or been terminated, or until this Agreement is terminated pursuant to the provisions hereof (the "Term"). Upon termination of this MSA, all rights and obligations of the parties under this

MSA will automatically terminate except for rights of action accruing prior to termination, payment obligations, any obligations that expressly or by implication are intended to survive termination and any obligations as they relate to an existing Service Order, service description or SOW.

6.2. Prices and Fees.

Unless otherwise stated in the applicable Order Documentation, the prices and fees provided under any Service Order will not be increased by GALE Tech during the initial Term. For any renewal terms, as may be provided in the applicable Order Documentation, prices and fees will not be increased by GALE Tech more than once annually.

6.3. Termination.

6.3.1. Either party may terminate this Agreement or a Service Order/SOW on thirty (30) days advance written notice if the other party (i) fails to cure a material breach within thirty (30) days of receiving written notice to do so (ii) is the subject of a dissolution, reorganization, insolvency or bankruptcy action that is not dismissed within forty-five (45) days of being filed; (iii) suffers the appointment of a receiver, conservator or trustee; (iv) commits any act related to the Service with the intent to defraud the other party; or (v) discontinues performance under this Agreement because of a binding order of a court or regulatory body.

6.3.2. GALE Tech may terminate this Agreement or an addendum if (i) Client sells, transfers or assigns all or substantially all of its Service-related accounts to a third party that does not agree in writing to be bound by the terms of this Agreement or (ii) Client does not obtain prior written consent of GALE Tech to such sale, transfer or assignment.

6.3.3. If this Agreement or a Service Order/SOW is terminated for any reason other than GALE Tech's breach, Client agrees to pay to GALE Tech all unpaid Service fees as set forth on the Service Order/SOW or attached pricing sheet accrued or performed as of such termination date. In such an event, Client shall be liable for all charges incurred as of the date of termination plus any termination charges. If Client terminates this Agreement or any unexpired Service Order/SOW as a result of GALE Tech's breach, then to the extent that Client has prepaid any Service fees, GALE Tech shall refund to Client such prepaid fees on a pro-rata basis to the extent such fees accrued as of, and are attributable to the period after, such termination date.

6.3.4. In addition to the termination rights set forth above, GALE Tech may terminate a Service, in whole or in part, without penalty, if GALE Tech's agreement to use any third-party software or service upon which the Service relies expires or is terminated; provided, however, that prior to any such termination, GALE Tech shall use commercially reasonable efforts to either (i) extend the applicable expiration or termination date so that its provision of the Service hereunder is not interrupted; (ii) procure a third-party software or service similar to the expired or terminated software or service in order to continue to deliver the Service without interruption and without reduction in quality or increase in cost to Client; or (iii) develop another workaround that allows Client to continue to receive the Service without interruption and without reduction in quality or increase in cost. In the event that GALE Tech terminates a Service pursuant to this Section 6.4, then GALE Tech shall provide Client thirty (30) days advance written notice of such termination.

7. **Proprietary Rights.**

7.1. GALE Tech and its licensors have and retain all right, title and interest in the Services, any modifications to, enhancements or derivative works of any of the foregoing, and all intellectual property rights in any of the foregoing. Except as provided for herein and unless an addendum, Service Order, SOW or other document signed by the parties expressly states otherwise, Client is not acquiring a copyright, patent or other intellectual property right in any Service, Third-Party Purchases, software, Deliverable, specifications or materials, or in any data, modifications, customizations, enhancements, changes or work product related thereto. "Deliverable" means any work product or other item (whether tangible or intangible) created by GALE Tech or provided by GALE Tech to Client pursuant to the Services, Third-Party Purchases, or software, and which may be described more particularly in an Addendum, Service Order, SOW, or other document signed by the parties. GALE Tech acquires no intellectual property rights in Client intellectual property incorporated into any Services or Deliverables provided by GALE Tech to Client, except as required for GALE Tech to perform its obligations under this Agreement.

7.2. Any intellectual property rights that existed prior to the effective date of an addendum shall belong solely to the party owning them at that time. Neither party shall be entitled to any copyright, trademark, trade name, trade secret or patent of the other party.

7.3. Client shall not in relation to the Services: (i) sell, lease, license the Services (except as expressly provided in this Agreement); (ii) modify alter, repair, attempt to repair, reverse engineer, disassemble, de-compile, translate the Services and/or accompanying documentation, or grant any other third party the right to do so; (iii) attempt to obtain, receive, review, or otherwise use or have access to the source codes of the Service (or any part thereof); (iv) make available any content that is illegal, including without limitation: infringing, defamatory or that otherwise violates any laws, rules, regulations or policies of any competent jurisdiction; (v) breach any applicable laws.

7.4. Client shall not alter, obscure or revise any proprietary, restrictive, trademark or copyright notice included with, affixed to, or displayed in, on or by a Service, Third-Party Purchase, software, Deliverable or specifications.

7.5. Client Reports.

7.5.1. Client shall own all right, title and interest in and to any written summaries, reports, analyses, and findings or other information or documentation prepared exclusively for Client in connection with the consulting services (the "Client Reports"). The provision by Client of any Client Report or any information therein to any unaffiliated third party shall not entitle such third party to rely on the Client Report or the contents thereof in any manner or for any purpose whatsoever, and GALE Tech specifically disclaims all liability for any damages whatsoever (whether foreseen or unforeseen, direct, indirect, consequential, incidental, special, exemplary or punitive) arising from or related to reliance by any third party on any Client Report or any contents thereof.

7.5.2. Notwithstanding the foregoing, GALE Tech shall be entitled to retain any and all Client Reports, and any information provided by Client and incorporated therein, for a time period as obligated by law, regulation or requirement of the PCI SSC. The use of said Client Reports shall be restricted solely to the purposes of addressing issues of compliance with the terms of this Agreement, applicable regulatory requirements, and requirements of the PCI SSC, provided, however, that the use of such Client Reports to meet PCI requirements shall not include information identifying Client or any other party.

8. **Confidentiality.**

8.1. For purposes of this Agreement, the term "Confidential Information" means any business, technical or other confidential, non-public and/or proprietary information, regardless of the medium of conveyance (whether in oral, written, graphic, electronic, or any other form, or effected through inspection, review, or analysis), obtained in the course of negotiating or performing this Agreement which originates with a party (the "Disclosing Party") and comes into the possession of the other party (the "Receiving Party"), including without limitation: the terms, conditions and existence of this Agreement, software, code, trade secrets, inventions, pricing, algorithms, know-how, business systems, technical and financial information and practices, plans, proposals, forecasts, personnel files and information, lists, statistics, passwords and other access codes or other such information of a Disclosing Party.

8.2. Unless the Disclosing Party agrees in writing, the Receiving Party agrees that all such Confidential Information shall be treated in confidence, shall be used by the Receiving Party only for the purposes of performing the Receiving Party's obligations and shall be disclosed only to those employees or contractors whose duties reasonably require access to such information and have agreed to comply with the terms of this section. The Receiving Party shall protect such Confidential Information from unauthorized disclosure with the same degree of care, which care shall not be less than reasonable care, that the Receiving Party exercises to protect its own Confidential Information.

8.3. Confidential Information shall remain the property of the party from or through whom it was provided. Notwithstanding the foregoing restrictions in this Section 8, neither party shall be obligated to preserve the confidentiality of any information that: (i) was previously known; (ii) is a matter of public knowledge; (iii) was or is independently developed without reference to the Disclosing Party's Confidential Information; (iv) is released for disclosure with the Disclosing Party's written consent; or (v) is received from a third party to whom it was disclosed without restriction. Disclosure of Confidential Information shall be permitted if it is: (a) required by law; (b) in connection with the tax treatment or tax structure of this Agreement; or (c) in response to a valid order of a U.S. court or other governmental body, provided the owner of the Confidential Information receives written notice and is afforded a reasonable opportunity to obtain a protective order.

8.4. This Section 8 shall survive for three (3) years following any termination or expiration of this Agreement; provided that with respect to Confidential Information remaining the Receiving Party's possession following any termination or expiration of this Agreement, the obligations under this Section 8 shall survive for as long as such Confidential Information remains in such party's possession.

9. **Client Data.**

   9.1. Client Data shall mean information provided to GALE Tech by Client to use the Services, including but not limited to Network Data and Personal Information, as defined below.

   9.2. Client acknowledges and accepts that in order to provide the Services, GALE Tech may receive, collect and process information relating to activities on Client's network (the "Network Data") including, but not limited to, network configuration, TCP/IP packet headers and contents, log files, malicious codes, and Trojan horses. GALE Tech retains the right to use aggregations of the Network Data for purposes of providing public reports or other marketing disclosures about data security generally, provided such data does not contain information provided to GALE Tech by Client, or collected by GALE Tech on behalf of Client, in connection with the Services that either (a) relate to an identified or identifiable natural person or (b) are protected under applicable data protection laws, ("Personal Information"). Personal Information shall be deemed Confidential Information and shall be used, processed and stored by GALE Tech in compliance with the confidentiality and data security provisions as set forth in Section 8 above.

   9.3. Client warrants that it has obtained or will obtain all legally required consents and permissions from relevant parties (including data subjects) for the use, processing and transfer of Client Data as described in this Section 9.

10. **Indemnification.**

   10.1. Client shall defend, indemnify and hold GALE Tech harmless from, any third-party claim or action arising out of the failure of Client to obtain the appropriate license, intellectual property rights, or any other permissions, regulatory certifications or approvals associated with Client-provided technology, software or other components related to the Services, as well as software directed or requested by Client to be installed or integrated as part of the Services.

   10.2. GALE Tech shall defend, indemnify and hold harmless Client against any and all liability, damages, costs, expenses, including reasonable legal fees and expenses, for any third party claim against Client arising out of or related to any claim that any product, Deliverable and/or Services constitutes an infringement, misappropriation or unlawful use or disclosure of any intellectual property right of any third party; provided that GALE Tech shall not be liable for any infringement or alleged infringement that results from: (i) use of a Service, software or Deliverable in a manner or for a purpose not specifically described in this Agreement (including the Order Documentation); (ii) use of a Service, software or Deliverable in combination with computer programs, processes, hardware, software, data, systems, or services owned, licensed or provided by someone other than GALE Tech; (iii) Client's products or services not provided by GALE Tech or a third party acting on its behalf; (iv) modification, change, amendment, customization, or adaptation of any Service, software, or Deliverable not made by GALE Tech or a third party acting on its behalf; or (v) Client's failure to implement corrections or changes provided by GALE Tech. If a claim of infringement has been asserted, or in GALE Tech's opinion is about or likely to be asserted, GALE Tech may, at its option either: (a) procure for Client the right to continue using the Service, Software or Deliverable; (b) replace or modify the Service, software, or Deliverable so that it becomes non-infringing; (c) terminate the applicable addendum or SOW and refund all pre-paid fees covering future use of the Service, software or Deliverable; or (d) defend the action on Client's behalf and pay any associated costs or damages.

   10.3. Each party agrees to indemnify and hold harmless the other party from any third-party claim or action for personal bodily injuries, including death, or tangible property damage resulting from the indemnifying party's gross negligence or willful acts or omissions resulting from the Services (excluding third-party services) provided hereunder.

   10.4. Indemnification Procedure. If any claim is asserted against any indemnified party by any person who is not a party to this Agreement in respect of which the indemnified party may be entitled to indemnification above or pursuant to any indemnification provision in any Service Order or SOW written notice of such claim shall promptly be given to the indemnifying party from whom indemnification may be sought. The indemnifying party shall assume the defense of any claim with counsel reasonably satisfactory to the indemnified party. The indemnified party may employ its own counsel in any such case, and shall pay such counsel's fees and expenses. The indemnifying party shall have the right to settle any claim for which indemnification is available; provided, however, that to the extent that such settlement requires the indemnified party to take or refrain from taking any action of purports to obligate the indemnified party, then the indemnifying party shall not settle such claim without the prior written consent of the indemnified party, which consent shall not be unreasonably withheld, conditioned or delayed.

11. **Limitation of Liability.** EXCEPT FOR LIABILITY ARISING FROM A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS PURSUANT TO SECTION 8 OF THIS AGREEMENT OR A PARTY'S

INDEMINIFICATION OBLIGATIONS PURSUANT TO SECTION 10, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY CONTRACT, TORT, NEGLIGENCE, STRICT LIABILTY OR OTHER THEORY FOR ANY PUNITIVE, SPECIAL, CONSEQUENTIAL, EXEMPLARY, INCIDENTAL OR OTHER INDIRECT DAMAGES, INCLUDING WITHOUT LIMITATION, LOST PROFITS, LOSS OF BUSINESS OPPORTUNITY, BUSINESS INTERRUPTION OR DOWNTIME, OR LOSS OF OR DAMAGE TO DATA OR SOFTWARE, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EACH PARTY'S AGGREGATE LIABILITY TO THE OTHER FOR ALL CLAIMS ARISING OUT OF THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT OF FEES ACTUALLY PAID BY CLIENT FOR THE CORRESPONDING SERVICE DURING THE TWELVE (12) MONTHS PRECEDING THE DATE OF THE EVENT THAT IS THE BASIS FOR THE FIRST CLAIM. Without limiting the foregoing, except to the extent arising from ControlScan's gross negligence or intentional misconduct, GALE Tech shall not have any liability for losses, claims or damages for any harm or disruption of Client's systems or applications arising out of any penetration tests which may be provided by GALE Tech as part of the Services in accordance with the terms of this Agreement.

12. **Use of Names and Trademarks**. Neither party shall have the right to use the other party's name, logo, trademark or other proprietary marks in connection with this Agreement, except as expressly authorized in writing by the other party.

13. **Export Restrictions and Unlawful Activity.** GALE Tech Services may be subject to export controls under applicable law. Accordingly, Client shall: (i) remain in compliance with all requirements associated with these laws; (ii) cooperate fully with any audit related to these laws; and (iii) not utilize GALE Tech Services in any country that is embargoed by the United States government. Client represents that neither Client, nor any of its directors, officers, agents, employees, or other persons associated with or acting on its behalf: (a) have received or will receive any unlawful contribution, gift, entertainment, or other payment from GALE Tech; (b) is a governmental entity; or (c) is in violation of, or will violate any applicable anti-corruption or anti-bribery law. GALE Tech shall have an irrevocable right to immediately terminate this Agreement if this subsection is breached.

14. **Disaster Recovery.** GALE Tech will implement appropriate technical and organizational measures designed to minimize the risks associated with a disaster affecting ControlScan's ability to provide the Services under this Agreement. GALE Tech shall back up and otherwise protect any programs, data, and equipment necessary to provide the Services.

15. **Relationship of the Parties.** GALE Tech is an independent contractor. Neither GALE Tech nor any of its representatives are an employee, partner or joint venturer of Client. GALE Tech has the sole obligation to supervise, manage and direct the performance of its obligations under this Agreement. GALE Tech reserves the right to determine who will be assigned to perform its obligations, and to make replacements or reassignments as it deems appropriate. Each party shall be solely responsible for payment of compensation to its respective personnel, and assumes full responsibility for payment of all federal, state, local and foreign taxes or contributions imposed or required under unemployment insurance, social security and income tax laws with respect to such personnel. To the extent that GALE Tech engages a subcontractor, GALE Tech shall remain solely responsible for the performance of the subcontracted work. Without in any way limiting the foregoing, GALE Tech shall require each subcontractor with access to Confidential Information to maintain adequate policies, procedures and controls designed to protect Confidential Information in a manner substantially similar to GALE Tech's obligations to maintain Confidential Information under this Agreement. Except as expressly stated in this Agreement, neither party shall be an agent of the other, nor have any authority to represent the other in any matter.

16. **Miscellaneous.**

    16.1. Successors and Assigns. Client shall not assign, subrogate or transfer any interest, obligation or right arising out of this Agreement without prior written consent from GALE Tech, which shall not be unreasonably withheld or delayed. Any dissolution, consolidation, or merger where Client is not the surviving entity, or any transfer or reorganization of a majority of the assets or stock of Client (other than in the ordinary course of business) shall constitute an attempted assignment that is prohibited hereunder. Subject to the foregoing, the terms of this Agreement shall be binding upon and inure to the benefit of permitted successors and assigns.

    16.2. Governing Law and Forum. This Agreement shall be governed by the laws of the state of Florida, without regard to internal principles relating to conflict of laws.

    16.3. Dispute Resolution. Any dispute, difference, controversy or claim arising out of or relating to this Agreement shall be settled by binding arbitration before a single arbitrator in Atlanta, Georgia in accordance with the Commercial Arbitration Rules (including Procedures for Large, Complex Commercial Disputes) of the American Arbitration Association. Judgment on any resulting award may be entered into by any court having jurisdiction over the parties or their respective property. The arbitrator shall decide any issues submitted in accordance with the provisions and commercial

purposes of this Agreement, and shall not have the power to award damages other than those described in this Agreement. The prevailing party in any dispute arising out of this Agreement shall be entitled to, and the arbitrator shall have jurisdiction to award, the recovery of reasonable attorneys' fees, costs and expenses.

16.4. <u>Notice</u>. Notices to GALE Tech under this Agreement must be in writing and sent by postage prepaid first-class mail or receipted courier service at the address below or to such other address (including facsimile or electronic) as specified in writing and will be effective upon the earlier of receipt or the fifth business day following mailing.

> GALE Tech | Delta Payments IDS
> 10597 165th St W
> Lakeville, MN 55044

This Section 16.4 shall apply for formal contract notices only and shall not limit the parties' ability to communicate via electronic mail or other methods as agreed to by the parties for routine communication.

16.5. <u>Insurance</u>. GALE Tech shall maintain, at its expense, at all times during this Agreement, insurance of such type and level as is reasonable and prudent in the circumstances. Such insurance shall be carried with responsible insurance companies of recognized standing and are rated A- or better by A.M. Best. Upon Client's request, GALE Tech shall furnish Client with a certificate of insurance providing evidence of its insurance coverages.

16.6. <u>Non-Solicitation</u>. Neither party will directly or indirectly solicit, hire, contract with, or engage the employment or services of any employee of the other with whom their personnel has had contact in the course of performance of the Services and for a period of twelve (12) months after termination of this Agreement or twelve (12) months after employee ceases to be employed by such party, whichever is earlier, without the prior written consent of the employing party.

16.7. <u>Force Majeure</u>. Neither party shall be liable for any loss, damage or failure due to causes beyond its control, including strikes, riots, earthquakes, epidemics, terrorist actions, wars, fires, floods, weather, power failure, telecommunications outage, acts of God or other failures, interruptions or errors not directly caused by the applicable party.

16.8. <u>Entire Agreement</u>. This Agreement constitutes the entire agreement between the parties with respect to its subject matter and supersedes all prior proposals, agreements, negotiations, correspondence and other communications, whether written or oral, between GALE Tech and Client.

16.9. <u>Severability</u>. If any provision(s) of this Agreement, including any addenda, attachments and exhibits hereto, is determined to be invalid, illegal, void, or unenforceable by reason of any law, rule or regulation, administrative order, judicial decision, or public policy, such provision(s) shall not affect any other provision of this Agreement, and this Agreement shall be interpreted and construed as if the invalid, illegal, void, or unenforceable provision had not been included to the extent necessary to bring this Agreement within the requirements of such law, rule or regulation, administrative order, judicial decision, or public policy. In addition, in such event, the parties agree to negotiate in good faith to modify this Agreement to carry out the parties' original intent as closely as possible and to the extent lawful. This Agreement shall not be construed more strongly against either party, regardless of who is more responsible for its preparation.

16.10. <u>Headings.</u> The headings that appear in these general terms are inserted for convenience only and do not limit or extend its scope.