



## DirectLaw.com Law Firm Web Hosting and Web Services Agreement

This Agreement reflects the terms and conditions agreed upon between the firm of \_\_\_\_\_ (“the FIRM”) whose registered office is at \_\_\_\_\_ and Epoq US, Inc. (“EPOQ”), incorporated in the State of Delaware, whose offices are at 800 Village Square Crossing, Suite 318, Palm Beach Gardens, Florida 33410.

### 1 BACKGROUND

1.1 EPOQ provides an online and offline range of legal document templates and web services, including the *ClientSpace* Application, for delivery over the Internet, via the World Wide Web, in conjunction with the use of the Software and provides Technical Support in respect of such activities.

1.2 EPOQ is the owner of the forms, *ClientSpace* Application, and the legal content.

1.3 The FIRM wishes to procure the Service and to engage EPOQ to develop, host and maintain the FIRM Site in order to facilitate the provision of Client Services to Clients, and EPOQ has agreed to permit Clients access to the Client Services subject to the conditions contained herein and to provide Technical Support to the FIRM and Clients in respect of the Software, Service and the Client Services respectively in accordance with this Agreement.

1.4 In consideration of EPOQ providing the Service, the FIRM agrees to pay EPOQ the Monthly Fee in accordance with clause 10.1 and such Additional Charges, if any, according to the Schedules.

### 2 INTERPRETATION AND DEFINITIONS

2.1 In this Agreement, the following expressions shall, save where the context otherwise requires, have the following meanings:

“**Acceptance Date**” means the date the Firm Site is accepted by the FIRM.

“**Access Period**” means the period of time during which a Client is entitled access to a Subscription or individual Client Services;

“**Additional Charges**” means the charges detailed in Schedule 1;

“**Advice Component**” means the provision of a limited amount of legal advice in conjunction with the provision of Legal Forms;

“**Affiliate**” means in the case of a company any subsidiary or holding company, or any other subsidiary of any holding company, of a party;

“**Agreement**” means this Agreement;

“**Availability**” means the FIRM Site is available to be accessed by the FIRM and Clients.

“**Case**” means a legal service provided by the FIRM to a Client using the Service;

“**Client(s)**” means the individual or organization to whom the FIRM provides legal services in respect of a Case;

“**Client Services**” means the services referred to in Section 2;

“**Confidential Information**” means information of a confidential nature disclosed by or on behalf of one Party to the other and includes information relating to a Party’s technology, technical processes, know-how, business affairs, finances, customer, client and supplier lists, and any such similar information relating to an Affiliate;

“**Data**” means any personal and any other data relating to the FIRM that is processed by or stored on EPOQ’s computer system in relation to the performance of the Service;

“**Day**” means any day between 9:30 EST and 5:30 EST other than a Saturday, Sunday or U.S. federal holiday;

“**ClientSpace.com**” means the EPOQ Administrative System, a web-based system provided by EPOQ used to manage the workflow of assembling and reviewing EPOQ Legal Forms, Client registration and payment facilities.

“**EPOQ Content**” means the law guide content available from and as published by EPOQ from time to time;

“**EPOQ IPR**” means all copyright, database rights, domain names, rights in trade marks (whether registered or otherwise), patents and rights to apply therefore, know how and all other related rights whatsoever in existence and in any country in relation to the Software, EPOQ Content, EPOQ FORMS, Marks, Software Marks and the general content and appearance of the FIRM Site including the Client journey on the FIRM Site and any graphics used on the FIRM Site, (other than graphics or content owned by the FIRM).

“**EPOQ Form(s)**” means the interactive legal document preparation services published by EPOQ created using RO and assembled using RA, RA (AX) or RA (J) available from and as published by EPOQ from time to time;

“**Force Majeure**” means any event or circumstance beyond the reasonable control of either Party by the exercise of all reasonable diligence which prevents or impedes due performance of the obligations of such Party being acts of God, decrees or restraints of government, strikes (other than strikes by the employees of the party claiming force majeure only), war, sabotage and terrorism, provided that the mere shortage of labor materials equipment or supplies shall not constitute an event of force majeure unless caused by events or circumstances which are themselves an event of force majeure;

“**Go-live Date**” means the Working Day immediately following the Acceptance Date;

“**Hosting Services**” means those services set out in Clause Part 2 of Schedule 2;

“**Initial Period**” means the period of one year commencing from the Go-live Date;

“**Marks**” means the word marks ‘RAPIDOCs’ ‘DIRECT LAW’ and ‘EPOQ’ and any device marks previously notified to the FIRM relating thereto (whether registered or not);

“**Media**” means the method of delivery of Client Services over the Internet;

“**Month**” means any full calendar month for the duration of this Agreement or, upon commencement or termination of this Agreement, part of the relevant calendar month;

“**Monthly Fee**” means the Monthly Subscription Fee as specified in Schedule 1;

**“Net Sales Price”** means the price paid to the FIRM by a Client less deductions as appropriate for credit card processing fees and refunds;

**“New Release(s)”** means any improved modified or corrected version of any of the Software or Software documentation from time to time issued by EPOQ during the term of this Agreement;

**“Party” and “Parties”** means and refers to the FIRM and EPOQ individually and any one or more of them taken together;

**“Firm Content”** means the law guide content created by the FIRM or by EPOQ for the FIRM and provided to EPOQ from time to time to be uploaded to the FIRM Site, when available;

**“Firm Forms”** means the interactive legal document preparation services created by the FIRM or by EPOQ for the FIRM using RO and assembled using RA, RA (AX) or RA (J) and provided to EPOQ from time to time to be uploaded to the FIRM Site;

**“Firm IPR”** means all copyright, database rights, domain names, rights in trade marks (whether, registered or otherwise), patents and rights to apply therefore, know-how and all other related rights whatsoever in existence and in any country in the FIRM Content and the FIRM Forms and in any material provided by the FIRM and any intellectual or industrial property rights in relation to the trade marks of the FIRM;

**“Firm Site”** means a dedicated web site located at clientspace.com at which EPOQ will host and electronically manage the Service and the Client Services branded in accordance with Schedule 5. This is not the FIRM's external web site. It is the *ClientSpace* Application that integrates with the FIRM's external web site;

**“Project Plan”** means the plan of development and the timetable for completion of the FIRM Site to be agreed following the Start Date between the parties based on the Specification as may reasonably be altered, amended or modified by the parties from time to time;

**“RA”** means a client version of the Rapidocs document assembly software, installable on a PC that meets the requirements set out in Schedule 6;

**“RA (AX)”** means a client version of the Rapidocs document assembly software delivered via Microsoft Internet Explorer on a PC that meets the requirements set out in Schedule 6;

**“RA (J)”** means either (i) A client version of Rapidocs, using an encoded Java executable file delivered via a web browser that meets the requirements set out in Schedule 6, or (ii) A client version of Rapidocs, using asynchronous JavaScript and XML, that runs in a web browser that meets the requirements set out in Schedule 69;

**“RO or Rapidocs Solo”** means Epoq's Rapidocs document editor software which enables the creation of template files for EPOQ Forms containing all the necessary logic and text for complete interactive assembly of a document by RA, RA (AX) and RA(J);

**“Client Agreement”** means the Client engagement letter to be provided by the FIRM to a Client;

**“Relationship Manager”** means a member of staff within the FIRM responsible for managing the relationship with EPOQ;

**“Server(s)”** means the dedicated server and telecommunications equipment (as enhanced from time to

time) belonging to or used by EPOQ in the provision of the Hosting Services and which provides a link to the world wide web;

**“Software”** means RO, RA, RA (AX), RA (J) and *ClientSpace*, or other such systems employed by EPOQ in the creation and management of the EPOQ Forms, EPOQ Content, FIRM Content using the Media;

**“Software License”** means the form of the software license for the use of RA and RA(J) by Clients which appear on the [www.directlaw.com](http://www.directlaw.com) web site, and are incorporated by reference, as may reasonably be varied from time to time by EPOQ;

**“Software Marks”** means the word marks 'EPOCH', 'EPOQ' 'DIRECTLAW' and 'RAPIDOCs' and any device marks previously notified to the FIRM relating thereto (whether registered or not);

**“Start Date”** means the date of this Agreement;

**“Subscription(s)”** means Services provided to the FIRM annually or by monthly instalments by EPOQ;

**“Technical Support”** means the technical assistance supplied by EPOQ to provide help and guidance to the FIRM and Clients specified in clause 2 of Part 2 of Schedule 2;

**“URL”** means a Uniform Resource Locator;

**“Working Day”** means a day other than a Saturday, Sunday, U.S. federal holiday or any shut down period of the FIRM between Christmas Day and New Year's Day (if any);

**“Working Hours”** means the hours between 9.30 a.m. EST and 5.30 p.m. EST on a Working Day.

2.2 References to clauses, schedules, paragraphs and appendices are to clauses, paragraphs, schedules and appendices of this Agreement unless otherwise stated.

2.3 Headings are for convenience only and shall not affect the construction or interpretation of this Agreement.

### 3 PROVISION OF THE SERVICE

3.1 The FIRM and EPOQ warrant to each other that they each have full power and authority to enter into and perform this Agreement.

### 4 EPOQ'S OBLIGATIONS

4.1 EPOQ shall prior to the Go-live Date:

4.1.1 develop the FIRM Site to ensure that the Service is available to the FIRM and the Client Services are available to Clients on and from the Go-live Date on the Media in accordance with Project Plan and of this Agreement;

4.1.2 brand the FIRM Site as detailed in Schedule 5;

4.1.3 upload of the EPOQ Forms and EPOQ Content as the FIRM shall request and the FIRM Content and FIRM Forms which either the FIRM has developed itself or EPOQ has agreed to provide.

4.2 EPOQ shall from the Go-live Date:

4.2.1 permit the download by Clients (subject to the Service Terms and the Software Licence) from the FIRM Site of RA and RA(J) during the Access Period;

4.2.2 permit the use by the FIRM of RA(AX) and ClientSpace in accordance.

4.2.3 enable the FIRM to access and use the EPOQ FORMS and the EPOQ Content and the FIRM Forms and the FIRM Content from the FIRM Site using the Media;

4.2.4 enable Clients to access and use the EPOQ Forms and the EPOQ Forms and the FIRM Forms and the FIRM



Content from the FIRM Site using the Media during the Access Period;

4.3 EPOQ shall pay the FIRM promptly any funds it collects on the FIRM's behalf using the *ClientSpace* Application on a bi-weekly basis. Funds shall be paid by check on the Monday for revenues collected for the two weeks preceding.

4.4 EPOQ shall:

4.4.1 provide and manage the Web Service in accordance with the Agreement;

4.4.2 insure the Web Service is of satisfactory quality or is to industry standard if such standard is superior;

4.4.3 insure that the EPOQ Content and EPOQ Forms are of a high standard of professionalism in terms of content and form and accurately reflect the current law of the State in which the FIRM is located, at the date on which the same are consistently available on the FIRM Site;

4.4.4 insure the FIRM Site is operational and available in all material respects to the FIRM and Clients from the Go-live Date forward in accordance with the Agreement;

4.4.5 insure that the FIRM Site is hosted on a secure server and is adequately backed-up on a daily incremental basis by suitably qualified personnel in accordance with best IT industry FIRM;

4.4.6 manage and maintain the FIRM Site in accordance with the Agreement;

4.4.7 prior to the Go-live Date to provide appropriate personal training to FIRM Staff by telephone and over the Internet for a period of up to 2 hours with additional training provided on a paid basis according to the Charges in Schedule 1.

4.4.8 assist the FIRM in any matter in relation to the Service as reasonably requested by the FIRM from time to time;

4.4.9 notify the FIRM immediately upon notification by any person of any matter arising out of the operation of or in connection with this Agreement which has resulted or could result in a complaint to any regulatory authority or give rise to proceedings, investigations or complaints against the FIRM;

4.4.10 Technical Support shall in addition to those matters referred to in Part 2 of Schedule 2 comprise all or any of the following categories:

4.4.10.1 advice by telephone or email on the use of the Software to the FIRM during regular business hours;

4.4.10.2 information and advice by telephone or email to the FIRM on forthcoming New Releases of the Software;

4.4.10.3 upon request by the FIRM, the diagnosis of faults in the Software and the rectification of such faults remotely by the issue of fixes in respect of the Software, and the making of all necessary consequential amendments (if any) to the Software documentation;

4.4.10.4 the creation and dispatch to the FIRM from time to time at the sole discretion of EPOQ of fixes in respect of the Software;

4.4.11 Technical Support shall not include the diagnosis and rectification of any fault resulting from:

4.4.11.1 the improper use, operation or neglect of the Software or the hardware on which the Software is being run or accessed;

4.4.11.2 any hardware used by the FIRM not in conformity with the minimum requirements in Schedule 9;

4.4.11.3 the modification of the Software or their merger (in whole or in part) with any other software;

4.4.11.4 the failure by the FIRM to implement reasonable recommendations in respect of, or solutions to, faults previously advised by EPOQ;

4.4.11.5 any repair, adjustment, alteration or modification of the Software by any person other than EPOQ without EPOQ's prior written consent;

4.4.11.6 the failure by the FIRM to install and use in substitution for the previous release any New Release of the Software; or

4.5 EPOQ shall not:

4.5.1 use the Service for illegal purposes;

4.5.2 vary, amend or terminate a Client's access to the Client Services without the FIRM's prior written consent;

4.5.3 make any representations relating to the Service that are not in accordance with the terms of the Agreement;

4.5.4 include advertising material for third parties on the FIRM Site without the FIRM's prior written consent;

4.5.5 incur any liability or indebtedness on behalf of the FIRM;

4.5.6 start any legal action in the FIRM's name or accept service of any legal proceedings on the FIRM's behalf.

4.6 As soon as reasonably practicable after the date of the execution of this Agreement, EPOQ will issue a Project Plan (subject to the provisions of clause 8.2), setting out the proposed timetable for completion of the FIRM Site in accordance with the Specification.

4.7 EPOQ will use its reasonable efforts to complete the required development work in accordance with any dates specified in the Project Plan however time shall not be of the essence. EPOQ shall provide the FIRM with Project Plan updates from time to time indicating progress of work being performed, issues and risks, and latest estimated completion dates for remaining tasks.

4.8 Following delivery to the FIRM of the FIRM Site by the EPOQ, the FIRM shall promptly test the FIRM Site to ensure compliance with the Specification and shall notify EPOQ of any failure to pass such tests. In default of notice to EPOQ of any material failure the FIRM Site will be deemed to be accepted by the FIRM twenty (20) Working Days after such delivery (the "Acceptance Date").

4.9 In the event of any material failure, EPOQ shall at its own cost and within a reasonable time undertake such further work as may be required to rectify such failure, and shall resubmit the revised FIRM Site for re-testing. In default of notice to EPOQ of any material failure the FIRM Site will be deemed to be accepted by the FIRM ten (10) Working Days after such delivery (the "Acceptance Date").

4.10 In the event that the revised FIRM Site fails materially in the course of such further re-testing then the FIRM may at its sole option, either:

4.10.1 Require further remedial work and re-testing;;

4.10.2 Accept the revised FIRM Site (which shall be deemed to be accepted) as is subject to a reasonable deduction of part of the Monthly Fee, such deduction to be reasonable in the circumstances until EPOQ shall have completed such further work as may reasonably be required to the FIRM Site ("the Acceptance Date") in which case the full Monthly Fee shall thereafter become payable; or

4.10.3 Terminate this Agreement forthwith; however in such circumstances the FIRM shall not have any claim whatsoever against EPOQ in respect of such termination.

4.11 EPOQ shall make available to the FIRM all current and future EPOQ Content and EPOQ Forms for upload to the FIRM Site. In respect of any EPOQ Content or EPOQ Form that has been uploaded to the FIRM Site, if the FIRM wishes to suggest any amendment, variation or alteration to such content it shall provide EPOQ with full details thereof for review.

4.12 Any such review by EPOQ in accordance with clause 4.12.5 shall be conducted in the following manner:

4.12.1 If urgent, within five (5) Working Days.

4.12.2 If non urgent, which within fifteen (15) Working Days.

4.13 If EPOQ approves such proposed amendment, variation or alteration then in respect of a Category 1 request such changes as are required to the EPOQ Content or EPOQ Precedent shall be made within fifteen (15) Working Days and in respect of a Category 2 request within thirty (30) Working Days.

4.14 In the event of a dispute between the Parties in respect of such amendment, variation or alteration EPOQ shall instruct a suitable counsel with appropriate experience in the subject matter to review the proposed amendment, variation or alteration and his decision on any such changes shall be final.

## **5 EPOQ Warranty**

5.1 EPOQ, on behalf of itself and its Affiliates warrants that EPOQ has all right and title to grant the licences (including any licences of EPOQ IPR) and perform the obligations set out in this Agreement.

5.2 EPOQ AND EPOQ will indemnify and hold harmless the FIRM against any loss, injury or damage (including any legal costs and expenses and any compensation costs and disbursements paid by the FIRM to compromise or settle any claim) occasioned to the FIRM in consequence of any claim made against the FIRM in respect of any claim or action that the normal operation possession or use of the Software by the FIRM infringes the patent copyright registered design or trade mark rights of any third party (an 'Intellectual Property Infringement') provided that the FIRM:

5.2.1 gives notice to EPOQ of any Intellectual Property Infringement forthwith upon becoming aware of the same;

5.2.2 gives EPOQ the sole conduct of the defense to any claim or action in respect of an Intellectual Property Infringement and does not at any time admit liability or otherwise settle or compromise or attempt to settle or compromise the said claim or action except upon the express instructions of EPOQ; and

5.2.3 acts in accordance with the reasonable instructions of EPOQ and gives to EPOQ such assistance as it shall reasonably require in respect of the conduct of the said defense including without prejudice to the generality of the foregoing the filing of all pleadings and other court process and the provision of all relevant documents.

5.3 EPOQ shall reimburse the FIRM its reasonable costs incurred in complying with the provisions of clause 5.2 above.

5.4 EPOQ shall have no liability to the FIRM in respect of an Intellectual Property Infringement if the same solely results from any breach of the FIRM's obligations under this Agreement.

5.5 In the event of an Intellectual Property Infringement EPOQ shall be entitled at its own expense and option either to:

5.5.1 procure the right for the FIRM to continue using the Software; or

5.5.2 make such alterations modifications or adjustments to the Software so that they become non-infringing without incurring a material diminution in performance or function; or

5.5.3 replace the Software with non-infringing substitutes provided that such substitutes do not entail a material diminution in performance or function.

5.6 If EPOQ in its reasonable judgement is not able to exercise any of the options set out at clauses 5.5.1 to 5.5.3 above within ninety (90) days of the date it received notice of the Intellectual Property Infringement then the FIRM without prejudice to any other rights or remedies it may have hereunder or at law shall be entitled to terminate this agreement by 30 days' notice upon EPOQ.

5.7 EPOQ warrants that all intellectual property rights in the EPOQ IPR (including but not limited to the EPOQ Content, the Software, the EPOQ Forms and any source code in the Software and/or the FIRM Site or to be incorporated into FIRM Site) is owned or licensed by EPOQ and that none of the foregoing infringes the intellectual property rights of any third party.

## **6 CHANGE CONTROL**

6.1 At any time during the term of this Agreement, the FIRM may request, or EPOQ may recommend, additional services or variations to the Service.

6.2 While EPOQ shall not be obliged to accept any change to this Agreement, EPOQ will not unreasonably withhold or delay its consent to any change requested under this Clause 6. No request for additional services, recommendation by EPOQ or a variation to the Service shall have any effect unless, and until, it is set out in writing and signed on behalf of the FIRM and EPOQ.

6.3 The FIRM shall be entitled to the following changes to the FIRM Site free of charge each month, provided the changes to do not require more than 3 hours of labor per month. Additional required time will be billed to the firm according to the Charges listed in Schedule 1:

6.3.1 upload/deletion of EPOQ Content and FIRM Content topics;

6.3.2 upload/deletion of EPOQ Forms and FIRM Forms;

6.3.3 pricing alterations;

6.3.4 urgent changes to FIRM Content and FIRM Forms;

6.3.5 scheduled changes by EPOQ;

6.3.6 provision of any New Release.

## **7 COMPLIANCE WITH LAWS**

7.1 The Parties shall comply with all applicable laws, rules, regulations and codes of FIRM in respect of all activities conducted under this Agreement.

## **8 COOPERATION BETWEEN PARTIES**

8.1 The Parties will use all reasonable efforts to procure that their representatives discuss (either in person, by telephone or by email), and within 20 Days of the Start Date produce a document agreeing a process for the exchange of Client related data between the Site and the FIRM



8.2 As soon as reasonably practical after receipt by the FIRM of the Project Plan the FIRM shall consider such Project Plan and if required by it make such reasonable additions and/or modifications as it may reasonably require and provide the same to EPOQ for approval.

## 9 MARKETING BY THE FIRM

9.1 EPOQ grants to the FIRM effective on and from the Start Date a non-exclusive, royalty-free license during the term of this Agreement to market the Forms and EPOQ Content to current and potential Clients. For the avoidance of doubt, the rights granted to the FIRM in this Clause 9.1 shall only apply to **[STATE OF FIRM, e.g. Texas]** and no other jurisdiction or territory.

9.2 The FIRM may use the DirectLaw logo and describe itself as a member of the DirectLaw Network on its website.

9.3 It is the intent of the Parties that the appointment of the FIRM to market the Client Services hereunder is deemed not to constitute an appointment of an agent for the purposes of the any bar regulations.

## 10 FINANCIAL TERMS

10.1 In consideration of the provision of the Service by EPOQ, the FIRM will pay to EPOQ the Monthly Fee, and any Additional Charges as agreed.

10.2 EPOQ shall pay to the FIRM any Client Charges that are paid by credit card using the EPOQ credit card facility, less any credit card charges and less any refunds, on a weekly basis, on the first day of the week for charges collected during the prior week, by check or by PayPal electronic exchange.

10.3 Within ten (10) Working Days of the end of each Month, EPOQ will provide to the FIRM an EPOQ Report relating to the Monthly Fee and any Additional in respect of the Month just ended.

10.4 The Monthly Fee shall be payable by the FIRM by standing order payable on the 1st day of the Month. The FIRM shall on the signing of this Agreement provide EPOQ with a signed standing order form authorizing EPOQ to debit from the FIRM's bank account the Monthly Fee.

10.5 The first payment by standing order in accordance with Clause 10.2 shall be on the 1st day of the Month immediately following the Go-live Date.

10.6 The parties agree:

10.6.1 sums payable under this Clause 10 will be made in dollars;

10.6.2 in addition, sales tax at the prevailing rate shall be added to any sums payable in clause 9 when required.

10.7 Either Party shall be entitled to charge interest on all overdue amounts from twenty (20) Days after the date any payment falls due to the date of actual payment at the rate of 2% per annum above the base-lending rate at Bank of America from time to time.

10.8 Upon the FIRM giving ten (10) Days' written notice, its appointed representatives (or any qualified person representing such Party) will have the right to examine during any Working Day EPOQ's records and/or other information in relation to the calculation of Net Revenues owed to the FIRM. ("an Audit").

10.9 Such Audit shall be conducted causing the minimum possible disruption to that Party's commercial operations and

shall be limited to such information as may reasonably be required to carry out such audit effectively and efficiently.

10.10 If it shall be determined that EPOQ shall not have properly accounted to the FIRM in respect of any net Client Charges, EPOQ shall either make such under payment or rebate any such over payment to the other Party within ten (10) Working Days of completion of the Audit and its findings having been provided to the other Party and shall pay the other Party interest at the rate specified in clause 10.14 hereof from the date when such underpayment or over payment shall have arisen to the date of payment of the sum found to be due.

10.11 The Parties agree that any disputed sums in any invoice shall be agreed using the mechanisms set out in Clause 23.

10.12 Before any Additional Charges shall be incurred, the FIRM shall identify in writing which of the services forming part of the Additional Charges it wishes to EPOQ to provide. EPOQ shall provide in writing details of the actual cost of the Additional Charges (if known) or an estimate of the Additional Charges based on the information then available to it. If the estimated cost is or is likely to be exceeded EPOQ shall not carry out any further work until the FIRM shall have approved any additional costs estimated by EPOQ. Development of FIRM Forms, Changes to FIRM Site technical consultancy and custom website development shall be treated as an additional service or variation of service .

## 11 IPR

11.1 Nothing in this Agreement confers upon:

11.1.1 the FIRM any right, title or interest in EPOQ IPR or the Software and the FIRM may only use such EPOQ IPR and the Software as is expressly detailed in this Agreement;

11.1.2 EPOQ any right, title or interest in the FIRM IPR, and EPOQ may only use such FIRM IPR as is expressly detailed in this Agreement.

11.2 EPOQ warrants to the FIRM that:

11.2.1 EPOQ's provision of the Service under this Agreement;

11.2.2 EPOQ's hosting of the EPOQ Content, the EPOQ Forms and the Form Content and FIRM Forms (authored by EPOQ as at the date of acceptance by the FIRM) at the FIRM Site; and

11.2.3 EPOQ's provision of the EPOQ Content, the EPOQ Forms and the FIRM Content and FIRM Forms (authored by EPOQ as at the date of acceptance by the FIRM) to Clients in connection with the Client Services will not infringe the rights of any third party.

11.3 In the event that EPOQ is in breach of the warranty detailed in Clause 11.2, EPOQ shall indemnify the FIRM against any claims, loss or damage (including costs) arising from such a breach.

11.4 EPOQ grants the FIRM a non-exclusive and non-transferable license to use the RA(AX) and ClientSpace software during the term of this Agreement to provide legal document support and review as well as legal document drafting by telephone for Clients in relation to the Service, subject to the license agreement that appear within RA (AX) and which appears on the [www.directlaw.com](http://www.directlaw.com) web site.

11.5 EPOQ grants the FIRM a non-exclusive and non-transferable license to use the RO software during the term of this Agreement to develop FIRM Forms for EPOQ to



upload to the FIRM Site but not for any other reason or purpose, subject to the license agreement which appears within RO and on the [www.directlaw.com](http://www.directlaw.com) web site.

11.6 The FIRM will not use the Marks or the Software Marks in any way without the prior written approval of EPOQ or EPOQ as the case may be (except in the performance of this Agreement) and will not claim any right of property therein or register or cause to be registered or apply for a materially similar trade mark or imitation of the trade mark (other than to the extent that the FIRM has prior rights in relation to any mark other than the Marks or the Software Marks as at the Start Date).

11.7 EPOQ shall not use or claim any right of property therein in any intellectual property, including but not limited to any trade marks, copyright, data, know how, design rights (whether registered or unregistered) or other proprietary rights existing anywhere in the world, which are owned by or vested in the FIRM without the FIRM's prior written consent (other than use as detailed or required under the terms of this Agreement).

11.8 The FIRM shall not use or claim any right of property therein in any intellectual property, including but not limited to any trade marks, copyright, data, know how, design rights (whether registered or unregistered) or other proprietary rights existing anywhere in the world, which are owned by or vested in EPOQ without EPOQ's prior written consent (other than use as detailed or required under the terms of this Agreement).

## 12 CONFIDENTIALITY

12.1 Except as required by law, the Parties shall procure that Confidential Information shall:

12.1.1 remain confidential;

12.1.2 not be used to gain a commercial advantage over the other party or for any purposes other than those required or permitted by this Agreement; and

12.1.3 not be disclosed to any third party except insofar as this may be required for the proper operation of this Agreement and then only under appropriate confidentiality provisions approved by the other party.

12.2 These obligations of confidentiality shall cease to apply to any particular item of Confidential Information once it becomes public knowledge other than by any act or default of either party.

12.3 EPOQ acknowledges that EPOQ and its Affiliates will in the course of the Agreement acquire Confidential Information in the nature of trade secrets including, but not limited to:

12.3.1 Confidential Information about Clients which is not in the public domain;

12.3.2 Profiles of Client queries and requirements.

12.4 EPOQ acknowledges that it is required to protect such Confidential Information and agrees that EPOQ and its Affiliates will not during the term of this Agreement (unless such Confidential Information shall enter the public domain otherwise by an act or omission of EPOQ) utilize any such confidential information.

12.5 The FIRM acknowledges that it will in the course of the Agreement acquire Confidential Information in the nature of trade secrets, including but not limited to:

12.5.1 Confidential Information about EPOQ's marketing techniques and approaches.

12.5.2 Confidential Information about the Software which is not in the public domain;

12.6 The FIRM acknowledges that it is reasonable to protect such Confidential Information and agrees that it will not during the term of this Agreement (unless such Confidential Information shall enter the public domain otherwise by an act or omission of the FIRM) utilize any such Confidential Information.

## 13 DATA PROTECTION

13.1 Client Data and Records shall at all times remain the property of the FIRM. EPOQ undertakes that it shall not use such Client Data or Records otherwise than for a purpose contemplated by this Agreement. This Agreement incorporates by reference the Privacy Statement which appears on the <http://www.directlaw.com> web site.

13.2 EPOQ further agrees to have in place an agreement in writing with the Server Host prior to the use of such servers which provides that the Server Host undertakes:

13.2.1 not to access, process or use any FIRM Introduced Client Data contained on EPOQ's servers for any other reason than for technical maintenance, backup and support; and

13.3 EPOQ shall be responsible for the storage of Client Data and shall ensure at all times during the term of this Agreement that it has appropriate technical and organizational measures in place to protect any Client Data processed by it against unauthorised or unlawful processing and against accidental loss, destruction, or damage. Client Data is kept free from any non-inherent computer viruses or corruption.

13.4 EPOQ will indemnify the FIRM in respect of any liability suffered and/or claims made as a result of any breach by EPOQ of clauses 13.1 to 13.4.

13.5 If any Client Data is corrupted or lost as a result of any default by EPOQ, the FIRM shall have the option without prejudice to its other remedies to:

13.5.1 require EPOQ at its own expense to restore or procure the restoration of that Client Data, or

13.5.2 itself restore or procure the restoration of that Client Data and recover the reasonable costs of doing so from EPOQ.

## 14 WARRANTIES, INDEMNITY AND LIMITATION OF LIABILITY

14.1 EPOQ warrants that the Software and any equipment, systems, machinery or software employed by it in connection with the Service and Client Services are fit for its purpose and will perform at all times to the reasonable satisfaction of the FIRM.

14.2 Throughout the period of this Agreement EPOQ will maintain with a reputable insurance company or underwriters sufficient indemnity insurance (but in no event less than 1 million per claim [as herein under defined]) to cover its liabilities in respect of the Service and the Client Services to be provided under this Agreement, and EPOQ shall exhibit evidence of such insurance to the FIRM when requested.

14.3 Neither Party shall be liable to the other for loss of profits, goodwill or any type of indirect or consequential loss.

14.4 The following losses shall not be treated as indirect or consequential loss:



14.4.1 bank charges, interest and reasonable operational and administrative costs and expenses necessarily incurred by the FIRM, its Affiliates or third parties as a result of a breach of this Agreement or negligent act or omission of EPOQ, its agents, employees or sub-contractors;

14.4.2 the taking of emergency measures, including hand over to other computer/content systems or engaging third parties.

14.5 The total liability of each party to the other under the terms of this Agreement shall be limited to \$1,000,000 per any one Claim, and in all, including costs and expenses. For the avoidance of doubt, a Claim shall be defined as a claim, or a series of claims (whether by one or more claimant) arising from, or in connection with, or attributable to, any one act, error, omission or originating cause or source or the dishonesty of any person or group of persons acting together, and any such series of claims shall be deemed to be one claim for all purposes under this Clause.

14.6 Nothing in this agreement shall exclude or limit:

14.6.1 liability arising from death or injury to persons caused by negligence;

14.6.2 EPOQ's liability arising from a breach of Clause 5.7; and

14.6.3 either party's liability arising as a result of fraud or gross negligence to which no limit applies.

## 15 FIRM OBLIGATIONS

15.1 The FIRM agrees and undertakes to:

15.1.1 conduct any Cases which have been accepted by it in accordance with legal best practice and at all times abide by all statutes, rules, orders, regulations, codes, guidance and the common law and rules of the appropriate Professional Body which, from time to time, regulate and govern conduct or apply to the FIRM generally.

15.1.2 maintain a dedicated point of contact person having with sufficient qualifications with adequate and appropriate experience in respect of the Service and Client Services;

15.1.3 maintain professional indemnity insurance cover at a level of at least \$300,000 or such higher level of cover as may be required by the FIRM's Professional Body from time to time and provide copies of its certificates of insurance from time to time to EPOQ if requested;

15.1.4 provide EPOQ with a Limited Legal Services Engagement letter to display on the FIRM Site for Clients to electronically sign before being able to finalize any of the Client Services available from the FIRM Site in a form that is similar to the sample Engagement Letter that appears in the Appendix to this Agreement.

15.2 Unless otherwise agreed between the FIRM and EPOQ in writing, no Subscription shall exceed twelve (12) months in length.

15.3 The FIRM agrees to provide EPOQ with a royalty free right for all purposes under this Agreement to provide at the FIRM Site the FIRM Forms and FIRM Content and warrants to EPOQ that EPOQ's hosting of the FIRM Content and the FIRM Forms at the FIRM Site and the provision of the FIRM Content and the FIRM Forms to Clients in connection with Client Services will not infringe the rights of any third party.

15.4 In the event that the FIRM is in breach of the warranty detailed in Clause 15.4, the FIRM shall indemnify EPOQ against any claims, loss or damage (including costs) arising from such a breach.

15.5 The FIRM will fully and promptly indemnify EPOQ in respect of any damages, costs, and expenses which the FIRM may suffer or incur due to, or arising out of, a Client's use of the Client Services in relation to the FIRM Content and FIRM Forms, following authoring by EPOQ and acceptance by the FIRM, or authored by the FIRM (including, for the avoidance of doubt, any breach of the above warranties).

## 16 FIRM RULES

16.1 The FIRM shall satisfy itself that it can carry out its obligations hereunder in accordance with its Bar's FIRM rules and shall be responsible for, and shall indemnify and keep indemnified EPOQ against, any liability, losses, damages, awards, expenses or fees (including, without limitation, legal and professional fees and expenses) suffered or incurred by EPOQ in connection with, or arising out of, any claim that the FIRM or any of its employees, partners, consultants, workers, agents or contractors has breached, or acted contrary to any of the rules of its Professional Body or any other statutes, rules, orders, regulations, codes, guidance or common law which may, from time to time, regulate or govern an attorney's conduct.

## 17 TERM AND TERMINATION

17.1 This Agreement will commence on the Start Date and will continue for the Initial Period and thereafter until either party terminates this Agreement in accordance with Clause 18.0.

17.2 This Agreement shall take effect from the Start Date notwithstanding its later execution by the Parties.

17.3 Without prejudice to this Section 17.0 the FIRM may terminate this Agreement by giving three (3) months' written notice following the Initial Period. In the event such notice is given, the Agreement will terminate upon the expiration of the period of such notice.

17.4 Without prejudice to this Section 17.0 EPOQ may terminate this Agreement by giving three (3) months' written notice following the Initial Period. In the event such notice is given, the Agreement will terminate upon the expiration of the period of such notice.

17.5 Notwithstanding Clauses 18.1, 18.3, 18.4 and 18.5, this Agreement may be terminated with immediate effect at any time by notice in writing in any of the following events:

17.5.1 by either Party, if the other Party commits a material breach of any of the provisions of this Agreement and, in the case of a breach capable of remedy, fails to remedy the same within 30 Days after receipt of a written notice giving reasonable particulars of the breach and requiring it to be remedied. For the purposes of this Clause, a breach will be considered capable of remedy if the Party in breach can comply with the provisions in question in all respects other than as to the time for performance;

17.5.2 by either Party, if the other ceases, threatens to cease or otherwise takes steps to cease to carry on the whole or any material part of its business;

17.5.3 by either Party, if the other gives notice to its creditors or any of them that it has suspended or is about to suspend payment, or if the other shall be unable to pay its debts within the meaning of U.S. Bankruptcy Code or if an order shall be made or resolution passed for the winding up of the other (otherwise than for the purpose of and followed by a



solvent reconstruction or amalgamation), or if an administration order shall be made in respect of the other or if the other shall become insolvent or shall make any assignment for the benefit of creditors, or has a receiver appointed over all or any part of its assets, or takes or suffers any similar action in consequence of debt;

17.6 The Parties shall inform each other immediately upon becoming aware of the occurrence of any of the events set out in Clauses 17.5.1 to 17.5.3 above.

## 18 EFFECT OF TERMINATION

18.1 EPOQ will, unless otherwise agreed in writing, remain liable to perform its obligations in accordance with the terms and conditions of this Agreement in respect of all Services contractually bound by the FIRM prior to the termination, until every such Service has been completed, expired or has otherwise been terminated subject to continuing payment by the FIRM of the Subscription Fee and any Additional Charges.

18.2 As soon as practicable upon termination of EPOQ's obligations under Clause 18.1 above, the FIRM will cease to use the Software except to the extent that it continues to be entitled to do so under any other Agreement it may have with EPOQ.

18.3 Termination of this Agreement will not affect the rights and remedies of the Parties accrued before such termination nor will it affect the coming into force or the continuance in force of any provision which is expressly or by implication intended to come into or continue in force on or after such termination.

18.4 Within thirty (30) days of the termination of this Agreement, the FIRM may require EPOQ to carry out one or more of the following:

18.4.1 store on magnetic, optical or other media all Data as is stored on-line and deliver the same to the FIRM;

18.4.2 deliver to the FIRM the Records and any off-line copies of the Data; and

18.4.3 produce and deliver to the FIRM such printouts of the Data as the FIRM may reasonably require.

18.4.4 Upon termination of this Agreement, EPOQ shall provide all reasonable cooperation to the FIRM and any New Supplier of the Service at the full cost and expense of the FIRM

18.5 Any termination of this Agreement pursuant to this clause shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into or continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.

18.6 Clauses 18.1-18.6 shall survive the termination of this Agreement.

## 19 NOTICES

19.1 Any notice under or in connection with this Agreement will be in writing and will be delivered by hand, or sent by Registered Mail, Restricted Delivery (or by airmail if sent abroad) as follows:

19.1.1 EPOQ, to the address detailed above (marked for the attention of the company secretary);

19.1.2 FIRM, to \_\_\_\_\_, (marked for the attention of \_\_\_\_\_);

19.1.3 or to such other person, address or fax number as either Party may specify to the other from time to time by notice given in accordance with this Agreement, provided that any Party giving any notice by fax shall also send a copy of that notice by post, which shall be placed in the post by that Party on the date of transmission of the fax or the next Day thereafter.

19.2 In the absence of evidence of earlier receipt, any properly addressed notice will be deemed to have been duly given:

19.2.1 if sent by mail, five (5) Days after posting;

19.2.2 if sent by fax, on completion of its transmission (if during a Day of the recipient) or at 10:00 a.m. on the next Day (if any part of the fax was not transmitted during a Day).

## 20 GENERAL

20.1 The Parties agree that either Party may at its absolute discretion assign or delegate this Agreement (in whole or part) to any of its Affiliates however such assignment or delegation shall not release such Party from any of its obligations under this Agreement;

20.2 This Agreement together with the Schedules sets out the entire understanding of the Parties in relation to the matters with which it deals and supersedes and invalidates all previous agreements and understandings in relation to those matters.

20.3 Each of the Parties acknowledges that it has not relied upon, or been induced to enter into, this Agreement by any representation other than a representation expressly set out in this Agreement, and neither party shall be liable to the other in equity, contract, tort or in any other way for any representation not expressly set out in this Agreement, provided that nothing in this Agreement shall affect a party's liability in respect of any fraudulent misrepresentation.

20.4 Any amendment to this Agreement shall be in writing, signed by an authorized representative of each of the Parties and expressed to be for the purpose of such amendment.

20.5 Nothing in this Agreement will create, or be deemed to create, a partnership or the relationship of employer and employee between the Parties.

20.6 All rights, remedies and powers conferred upon the Parties are cumulative and will not be deemed or construed to be exclusive of any other rights, remedies or powers now or hereafter conferred upon the Parties by law or otherwise and any failure at any time to insist upon or enforce any such right, remedy or power shall not be construed as a waiver thereof.

20.7 The terms of this Agreement are agreed between the Parties to be reasonable but if any Clause or part thereof of this Agreement becomes or is declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other Clause or part thereof all of which will remain in full force and effect.

## 21 LAW AND JURISDICTION

21.1 This Agreement will be governed by and construed in accordance with the law of the State of Florida and the Parties hereby submit to the non-exclusive jurisdiction of the Florida courts.



**22 FORCE MAJEURE**

22.1 If either Party is prevented or impeded from performing any of its obligations as a result of an event of Force Majeure it shall promptly give notice to the other Party stating the circumstances consisting of such event of Force Majeure and the extent and likely duration whereupon such obligations shall be suspended for as long as the event of Force Majeure continues.

22.2 A Party affected by an event of Force Majeure shall make every reasonable effort to minimise the effects thereof and shall promptly resume performance as soon as reasonably possible after removal of the event of Force Majeure.

22.3 Where the period of non-performance in relation to any event of Force Majeure exceeds sixty (60) Days from the date of notice of such event of Force Majeure, either Party may by written notice terminate this Agreement forthwith.

**23 DISPUTE RESOLUTION**

23.1 Any matter which may arise concerning the construction, meaning or effect of this Agreement or concerning the rights or liabilities of either Party, shall in the first instance be referred to appointed relationship managers, who shall discuss and attempt to resolve the same in good

faith between themselves with a view to recommending the proposed resolution to the Party they each respectively represent for written agreement.

23.2 In the event that the relationship managers are unable to resolve any matter within five (5) Days of the matter having been referred to them, the dispute shall be referred to the highest level of each Party's management (such person as the statutory board of directors or senior/managing partner of each Party may nominate in relation to any specific dispute).

23.3 If any dispute arises in connection with this Agreement which is not settled using the mechanisms set out in Clauses 23.1 and 23.2, the parties will attempt to settle it by mediation. To initiate the mediation a party must give notice in writing ("ADR notice") to the other party to the dispute requesting mediation. The mediation will start not later than fourteen days after the date of the ADR notice.

23.4 Neither party shall be able to recover any costs from the other in relation to the mediation notwithstanding the subsequent issue of proceedings.

23.5 Nothing in this Clause 23 shall prevent either Party seeking resolution of any contractual or other dispute with the other Party in any court or tribunal it deems appropriate.

**24 COUNTERPARTS**

24.1 This Agreement may be executed in counterparts all of which together shall constitute one and the same instrument and all counterparts shall be deemed to be originals. Both parties may execute this Agreement electronically.

SIGNED by \_\_\_\_\_ for and on behalf of **THE LAW FIRM OF** \_\_\_\_\_.

SIGNED by \_\_\_\_\_ for an on behalf of **EPOQ US, Inc.**