



DISTRIBUTOR PURCHASE TERMS AND CONDITIONS

IMPORTANT: PLEASE READ THESE DISTRIBUTOR PURCHASE TERMS AND CONDITIONS CAREFULLY.

THESE DISTRIBUTOR PURCHASE TERMS AND CONDITIONS (“AGREEMENT”) ARE LIMITED TO THOSE CONTAINED HEREIN. THESE TERMS APPLY TO YOUR (“YOU” or “YOUR” or “DISTRIBUTOR”) PURCHASE OF CERTAIN PRODUCTS, SERVICES, SOFTWARE, AND/OR HOSTING SERVICES (ALL OF WHICH ARE DEFINED BELOW) PROVIDED AND SOLD BY STANLEY INDUSTRIAL & AUTOMOTIVE, LLC (“CRIBMASTER”), AS DESCRIBED IN YOUR CRIBMASTER ORDER FORM(S) (DEFINED BELOW). BY PLACING AN ORDER FOR PRODUCTS, SERVICES, SOFTWARE, AND/OR HOSTING SERVICES AS DESCRIBED IN YOUR CRIBMASTER ORDER FORM, YOU AGREE TO BE BOUND BY AND ACCEPT THIS AGREEMENT UNLESS YOU AND CRIBMASTER HAVE SIGNED A SEPARATE AGREEMENT THAT EXPRESSLY OVERRIDES THIS AGREEMENT, IN WHICH CASE THAT SEPARATE AGREEMENT WILL CONTROL.

YOU MAY ISSUE A PURCHASE ORDER OR OTHER FORM FOR ADMINISTRATIVE PURPOSES ONLY. ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS CONTAINED IN ANY SUCH PURCHASE ORDER OR ANY FORM DELIVERED BY YOU (I) WILL BE NULL AND VOID AND (II) ARE HEREBY DEEMED TO BE MATERIAL ALTERATIONS AND NOTICE OF OBJECTION TO THEM AND REJECTION OF THEM IS HEREBY GIVEN. CRIBMASTER’S FULFILLMENT OF YOUR ORDER DOES NOT CONSTITUTE ACCEPTANCE OF ANY OF YOUR TERMS AND CONDITIONS AND DOES NOT SERVE TO MODIFY OR AMEND THIS AGREEMENT. YOU AGREE THAT THIS AGREEMENT AND ANY CRIBMASTER ORDER FORMS ISSUED IN CONNECTION HEREWITH WILL CONTROL. NO COURSE OF PRIOR DEALINGS BETWEEN THE PARTIES AND NO USAGE OF TRADE WILL BE RELEVANT TO DETERMINE THE MEANING OF THE TERMS OF THIS AGREEMENT OR ANY CRIBMASTER ORDER FORM.

1. Definitions.

(a) “CribMaster Order Forms” means collectively, any invoice, sales quote, purchase order form, Statement of Work, or other documentation provided by CribMaster in connection with the Products and/or Services provided hereunder.

(b) “Deliverables” means the documents, work product, and other materials that are delivered to Distributor hereunder or prepared by or on behalf of CribMaster in the course of performing the Services, each of which shall be set forth in one or more Statements of Work or other CribMaster Order Form.

(c) “Effective Date” means the date specified on the cover page of this Agreement as the Effective Date.

(d) “Hosting Services” means integrated application and data hosting services including the required infrastructure, operating systems, licenses, software, network and IT administration, security, and servers to deliver the CribMaster application, sold by CribMaster.

(e) “Products” means, collectively, (i) the tangible products, including, without limitation, any machines, component parts, hardware, accessories and other tangible items sold by CribMaster to Distributor hereunder, (ii) Software, and (iii) Hosting Services.

(f) “Minimum Commitment” means the goals agreed to by the parties with respect to the dollar amount of license fees to be received by CribMaster annually as a result of Distributor’s resale of CribMaster Products as specified on the cover page hereof and as may be amended from time to time.

(g) “Resultant Data” means data and information related to Distributors or an end customer’s use of the Products and/or Services that is collected, developed and/or used by CribMaster in an aggregate and anonymized manner, including without limitation to compile statistical and performance information related to the provision and operation of the Products and/or Services.

(h) "Services" means certain customized professional services to be provided by CribMaster hereunder and as more specifically set forth in Exhibit A.

(i) "Shipping Date" means the date a Product is delivered to a carrier at CribMaster's facility.

(j) "Software" means collectively CribMaster-owned software, software embedded in products that is provided by CribMaster, and software provided by CribMaster under a license from a third party supplier (whether operating on a single computer, network or web hosted environment).

(k) "Statement of Work" or "SOW" means each Statement of Work entered into by the parties and attached to this Agreement, substantially in the form of Exhibit A.

2. **Grant of Rights.**

(a) Subject to the terms of this Agreement, CribMaster hereby grants to Distributor, and Distributor hereby accepts from CribMaster, a nonexclusive, worldwide right to market, distribute and support the Products set forth in the CribMaster Order Forms. All rights not specifically granted to Distributor are reserved by CribMaster and nothing herein shall prevent CribMaster from directly or indirectly marketing, distributing or supporting the Products or from exercising any other rights of ownership.

(b) Distributor's end customers' use (or Distributor's use, if Distributor is an end user) of all Software and related documentation provided by CribMaster or Distributor is governed by the terms and conditions set forth in Exhibit C. Distributor must pass through Exhibit C to its end customers and inform its end customers that the use or installation of any Software is an agreement to be bound by the terms of Exhibit C. Notwithstanding the foregoing, in some cases Distributor or Distributor's end customers may license software directly from a third party other than CribMaster. In those instances, such third party may require Distributor or those end customers to agree to the third party's terms and conditions, such as an end user license agreement, and that applicable agreement will exclusively govern Distributor's and/or Distributor's end customers' use of such third-party software. Distributor and Distributor's end customers will look solely to that third party for any loss, claims or damages arising from or related to the provision of such third-party software.

3. **Obligations of Distributor.** During the term of this Agreement and as a condition of the rights granted herein, Distributor shall:

(a) Use its best efforts to market, promote the Products, and provide reasonable technical support (including, but not limited to, the technical support set forth in Section 5(h) and other assistance appropriate for the marketing, promotion and distribution of the Products;

(b) Not alter, modify, remove, obscure or cover any copyright notices or trademark notices or other proprietary rights legends placed on or embedded by CribMaster in the Products;

(c) Distribute only CribMaster Products and no other competing products (tool-crib management software, point-of-use distribution equipment) unless agreed upon in writing by the parties prior to the signing of this Agreement by Distributor;

(d) Continuously satisfy the Minimum Commitment as set forth on the cover page hereof. Distributor understands that in the event Distributor fails to meet the Minimum Commitment, CribMaster may, in its sole discretion, terminate or elect not to renew this Agreement upon the anniversary date hereof;

(e) Not misrepresent CribMaster Products or their features for any reason; and

(f) Only resell any software or accessories sold, bundled, or packaged with any Product on those terms and conditions as Seller may, from time to time, require.

4. **Obligations of CribMaster.** During the term of this Agreement, and for so long as Distributor is in compliance with the terms hereof (including, but not limited to, its payment obligations), CribMaster shall:

(a) Provide reasonable technical support to Distributor's technical personnel by telephone or electronic mail between the hours of 8 a.m. and 6 p.m. (EST) Monday through Friday to resolve problems relating to the use and operation of the Products, with the understanding that CribMaster may interface directly with Distributor's end customer if CribMaster deems such direct communication is the most expedient way to solve the problem;

(b) Make available to Distributor upgrades and modifications to the Products and will advise Distributor of new products that may be available to Distributor under the terms of this or a separate agreement;

(c) Provide reasonable assistance to Distributor's sales and marketing personnel in their preparation of literature and advertising material to the extent that it pertains to the Products;

(d) Provide guidance to Distributor to assist in giving an accurate presentation of the Products to its end customers.

5. **Orders, Pricing, Delivery and Installation, Technical Support.**

(a) *Orders.* All purchase orders are subject to acceptance by CribMaster and will be deemed to specifically incorporate this Agreement by reference. Distributor may issue a purchase order or other form for administrative purposes only. Additional or different terms and conditions contained in any such purchase order or any form delivered by Distributor (i) will be null and void and (ii) are hereby deemed to be material alterations and notice of objection to them and rejection of them is hereby given. CribMaster's fulfillment of Distributor's order does not constitute acceptance of any of Distributor's terms and conditions and does not serve to modify or amend this Agreement. Distributor agrees that this Agreement and any CribMaster Order Form(s) issued in connection herewith will control. No course of prior dealings between the parties and no usage of trade will be relevant to determine the meaning of the terms of this Agreement or any CribMaster Order Form(s).

(b) *Pricing.* Distributor may obtain Products and Services at the prices set forth in the applicable CribMaster Order Form(s).

(c) *Delivery.* CribMaster will ship Products F.O.B. Origin (CribMaster's facilities), according to standard shipping policy. CribMaster will make every reasonable effort to meet scheduled shipping dates, but those dates are not contract commitments, and CribMaster will not be liable for its failure to meet any shipping date.

(d) *Installation.* Installation of the Products is the exclusive responsibility of the Distributor, unless installation is purchased as a separate line item on the purchase order.

(e) *Keys.* Distributor acknowledges that end customers will be given a key code which will give it access to certain Products for the permitted number of users for which license fees have been paid. In the event an end customer desires to increase the maximum number of users, end customer or Distributor, on end customer's behalf, shall first obtain CribMaster's prior authorization and pay additional license fees to CribMaster as determined by CribMaster's then current pricing structure with Distributor.

(f) *Maintenance Renewal Fees.* After the first year of this Agreement and with respect to the Products, Distributor must pay the maintenance renewal fees as specified in the applicable CribMaster Order Form(s) ("Maintenance Renewal Fees") to attain access to (a) customer support for the Products and (b) any CribMaster proprietary software upgrades. The Maintenance Renewal Fees will be automatically billed following the end of the first year of this Agreement, and annually on the anniversary thereof, unless Distributor gives written notice of non-renewal to CribMaster no later than sixty (60) days prior to the end of the current contract year. In the event Distributor elects not to pay the Maintenance Renewal Fees but subsequently requests such services, Distributor must first repay the Maintenance Renewal Fees that would have been due had Distributor not terminated such services.

(g) *Third-Party Fees.* CribMaster may immediately pass-through to Distributor any fees and fee increases by third-party resellers for any third-party resold services identified in the applicable CribMaster Order Form ("Third-Party Resold Services").

(h) *Technical Support.* Distributor shall provide technical support to its end customers, without CribMaster's assistance, with respect to the following case types: (i) data maintenance support (items, employees, bins), (ii) facility networking/connectivity, (iii) hardware (unless related to manufacturer defect), (iv) reporting and reporting best practices, (v) performing imports and gathering import data, (vi) SMTP setup and configuring, (vii) purchasing-related support, (viii) cellular, and (ix) hardware and software from Distributor or third party providers.

(i) *Professional Services.* In the event that Distributor purchases Services from CribMaster, such Services shall be provided to Distributor pursuant to and in accordance with the Agreement and the Statement of Work for Professional Services, attached as Exhibit A and incorporated herein by reference.

(j) *Hosting Services.* In the event that Distributor purchases Products that require CribMaster to provide Hosting Services as a part thereof, such Hosting Services shall be provided to Distributor pursuant to and in accordance with the Agreement and the Hosting Services Terms and Conditions, attached as Exhibit D and incorporated herein by reference.

6. **Payments.** Unless otherwise set forth in the applicable CribMaster Order Form: (i) all terms are net 30 days, (ii) payment must be made via acceptable form such as credit card, check, wire transfer, or other electronic method. In the event of partial shipments, CribMaster will invoice and Distributor will pay the pro-rata price applicable to the items shipped. If an invoice remains unpaid for thirty (30) days from its due date, CribMaster may at its sole option impose a late fee on the unpaid balance at the rate of one and one-half percent (1 1/2%) per month from the due date, not to exceed the highest interest rate permitted by law. Failure to pay within specified terms may, at the option of CribMaster result in (a) the suspension of the Services and/or any customer support with respect to Products, (b) the suspension or withholding from Distributor, without liability, of software updates to CribMaster-owned Software by CribMaster, and/or (c) the termination of this Agreement by CribMaster effective immediately upon written notice to Distributor. All reasonable travel, lodging, car rentals, and meal expenses will be billed to the Distributor unless otherwise specified in the applicable SOW. Any sales and use taxes shall be added to the invoice. In the event Distributor claims exemption from sales and use taxes, Distributor must promptly provide CribMaster with the appropriate tax exemption certificate from the taxing authority.

7. **Warranties.**

(a) *Mutual Warranties.* Each party represents to the other party that: (i) it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation, organization, or chartering; (ii) it has the full right, power, and authority to enter into this Agreement and to perform its obligations hereunder; (iii) the execution of this Agreement by its representative whose signature is set forth on the cover page hereof has been duly authorized by all necessary corporate action of the party; and (iv) when executed and delivered by such party, this Agreement will constitute the legal, valid, and binding obligation of such party, enforceable against such party in accordance with its terms.

(b) *Warranties by CribMaster.* CribMaster warrants and represents to Distributor that the Products: (i) will, at the time of delivery, conform substantially to their specifications; and (ii) do not knowingly violate or infringe any valid U.S. patent, trademark, copyright, or other intellectual property right of any third party. The knowing non-infringement warranty shall not apply to any infringement which results from (x) any modifications or derivatives developed by Distributor or its customer(s) or their employees or contractors, (y) any unit or copy of the Products, or any part thereof manufactured and produced by Distributor, or (z) any combination by Distributor of the Products, or any unit or copy thereof, with equipment or software or other items not supplied by CribMaster, and Distributor shall indemnify CribMaster for damages suffered by CribMaster resulting solely from subsections (x), (y), and (z) of this Section 7(b). Additional Product-specific warranties may be listed in the applicable CribMaster Order Forms.

(c) *Exclusive Remedy.* In the event that a Product is nonconforming with the limited warranties set forth in Section 7(b) above, CribMaster will use commercially reasonable efforts to repair, replace, re-perform, or otherwise correct, as applicable, any such nonconforming Product. If CribMaster is unable to repair, replace, reperform, or otherwise correct such nonconforming Product within a reasonable time after receiving written notice thereof, CribMaster shall reimburse to Distributor the payments made to CribMaster for such Product. With respect to the warranty set forth in Section 7(b)(ii), if the Product becomes, or in CribMaster's opinion is likely to become,

the subject of such an infringement or similar claim, CribMaster may, at CribMaster's option and expense, either procure the right for Distributor to continue using the Product, or replace or modify such Product so that it becomes non-infringing. If neither of the foregoing alternatives is available on terms that CribMaster, in its sole discretion, deems reasonable, CribMaster shall reimburse to Distributor the payments made to CribMaster for such Product. In such event, Distributor will cease distributing and reselling the infringing Product under this Agreement. The remedies set forth in this Section 7(c) constitute the Distributor's sole remedy for any warranty claims hereunder.

(d) *Warranties to Distributor's Distributors.* CribMaster may pass through to its end customers all warranties granted by CribMaster under this Section 7 (including any additional Product-specific warranties may be listed in the applicable CribMaster Order Forms).

(e) *Warranty Disclaimer.* EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION, CRIBMASTER DISCLAIMS ALL OTHER WARRANTIES, CRIBMASTER HEREBY EXPRESSLY DISCLAIMS ALL WARRANTIES EITHER EXPRESS OR IMPLIED, RELATED TO THE PRODUCTS SOLD, SERVICES, RENDERED, AND/OR DELIVERABLES PROVIDED, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF TITLE, ACCURACY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND/OR NONINFRINGEMENT.

(f) *Warranties by Distributor.* Distributor represents and warrants that: (a) on the Effective Date and during the term of this Agreement, Distributor is and shall be capable of performing its duties and obligations as set forth herein; (b) with respect to its distribution of the Products, Distributor will not extend warranties to end customers which are broader in their substance and duration than those set forth in this Section 7. If Distributor does extend warranties to end customers which are broader in their substance and duration than those set forth therein, CribMaster shall have no liability to such end customers for any breach thereof.

8. **Limitation of Liability.** CRIBMASTER WILL NOT UNDER ANY CIRCUMSTANCES BE LIABLE FOR ANY SPECIAL, INDIRECT, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO, PROPERTY DAMAGE, LOSS OF PROFIT, LOST TIME, LOSS OF DATA, LOSS OF USE OF ANY EQUIPMENT, COST OF PROCUREMENT OF SUBSTITUTE PRODUCTS, TECHNOLOGY OR SERVICES, REGARDLESS OF WHETHER CRIBMASTER HAS BEEN ADVISED OF THE LIKELIHOOD OF SUCH DAMAGES, WHETHER SUCH DAMAGES ARE OTHERWISE FORESEEABLE, AND THE THEORY UPON WHICH SUCH LIABILITY IS PREMISED. IN THE EVENT OF ANY LIABILITY INCURRED BY CRIBMASTER HEREUNDER, THE ENTIRE LIABILITY OF CRIBMASTER FOR DAMAGES FROM ANY CAUSE WHATSOEVER WILL NOT EXCEED THE DOLLAR AMOUNT PAID BY DISTRIBUTOR FOR THE PRODUCT(S) OR SERVICES OR PORTION THEREOF GIVING RISE TO THE CLAIM.

9. **Indemnity.**

(a) *By CribMaster.* CribMaster shall indemnify Distributor against all claims, demands, actions, costs, expenses (including, but not limited to reasonable legal costs and disbursements), losses and damages arising out of or in connection with the infringement by the Product of a valid patent, copyright or trade secret right of a third party, provided Distributor notifies CribMaster promptly upon Distributor's receipt of any notice or claim in writing of any claim or threatened claim against Distributor and thereafter co-operates with CribMaster so that CribMaster will not be prejudiced in the defense, settlement or other handling of such claim or threatened claim.

(b) *By Distributor.* Distributor shall indemnify CribMaster against all claims, demands, actions, costs, expenses (including, but not limited to, reasonable legal costs and disbursements), losses and damages arising out of or with respect to (i) the activities of Distributor unrelated to or not approved by this Agreement, (ii) the failure of Distributor to perform any obligation of Distributor under this Agreement, and/or (iii) any warranty or guarantee granted by Distributor on the Products or any services to be provided to Distributor's customer or any of the foregoing. Distributor shall indemnify CribMaster for damages suffered by CribMaster resulting solely from Distributor's use of (including use by Distributor's customers) revisions, additions to, derivatives or modifications of the Products which are developed by Distributor. Distributor's obligation to indemnify CribMaster for claims in this section is contingent upon CribMaster notifying Distributor promptly upon CribMaster's receipt of any notice or claim against CribMaster and thereafter co-operating with Distributor so that Distributor will not be prejudiced in the defense, settlement or other handling of such claim or threatened claim.

10. **Trademarks.**

(a) *Ownership.* CribMaster has registered, uses, and/or is licensed to use and sublicense to third parties, certain marks in various countries around the world. Distributor undertakes to faithfully reproduce all such trademarks, trade names, copyright and other proprietary notices, logos, slogans, designs and distinctive advertising (herein separately and collectively referred to as the “CribMaster Marks”) as may appear on or with the Products or Services. Distributor shall not tamper with or modify any of the CribMaster Marks. Distributor is not allowed to use the CribMaster Marks except as provided for herein.

(b) *Use.* Distributor must employ the CribMaster Marks in accordance with the terms and conditions of the “Trademark Guidelines” attached hereto as Exhibit B as may be modified by CribMaster from time to time in its advertising and promotional materials. Distributor shall not use the CribMaster Marks in any manner that in CribMaster’s discretion is likely to confuse, mislead or deceive the public, or be injurious to the best interests of CribMaster. Any rights granted by CribMaster to Distributor pursuant to this section shall be terminable at any time if Distributor fails to use the CribMaster Marks in accordance with the terms of any written instructions from CribMaster and shall terminate immediately upon the termination of this Agreement.

11. **Term and Termination.**

(a) The initial term of this Agreement shall begin on the Effective Date and continue for a two (2) year period thereafter (the “Initial Term”). Upon the conclusion of the Initial Term, the Agreement will automatically renew thereafter for successive one year terms (each a “Successive Term” and, collectively with the Initial Term, the “Term”) unless and until earlier terminated in accordance with this Agreement. If the term of any CribMaster Order Form extends beyond the termination or expiration date of this Agreement, the applicable terms and conditions of this Agreement will extend automatically for such CribMaster Order Form until such CribMaster Order Form’s termination or expiration date.

(b) *Termination without Breach.* Either party may terminate this Agreement at any time without cause, upon sixty (60) days’ prior written notice to the other party, but such termination shall not affect orders placed and accepted prior to the termination date.

(c) *Termination for Breach.* CribMaster may terminate this Agreement immediately upon material breach of any term of this Agreement by providing Distributor with thirty (30) days’ written notice of such termination, including the nature of the breach upon which such notice is based, and Distributor fails to cure such breach within such thirty (30) day period.

(c) *Termination for Insolvency.* CribMaster may terminate this Agreement immediately by providing notice in writing to Distributor, should any of the following events occur: (a) Distributor shall make an assignment for the benefit of creditors; (b) Distributor shall admit in writing its inability to pay its debts as they mature; (c) a trustee or receiver of Distributor is appointed by court; (d) a federal bankruptcy act which is acquiesced in or results in final adjudication in bankruptcy; or (e) Distributor fails to perform any obligation herein.

(d) *Effect of Termination.* Upon expiration or termination of this Agreement for any reason, Distributor shall return all materials and information relating to the marketing, promotion, distribution and support of the Products. Nothing contained herein shall affect any rights or licenses granted to end customers to use the Products previously granted by or under the authority of Distributor in accordance with the terms of this Agreement, but no further resales shall be made by or under authority of Distributor.

12. **Confidentiality.** “Confidential Information” means information that is provided to or obtained by one party from the other that is valuable, not generally known by the public but which does not rise to the level of a Trade Secret and may include, without limitation, computer software programs, documentation, data, reports, records, verbal communication, and/or materials related to either party’s company or products. “Trade Secrets” means information which derives economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use. Confidential Information and Trade Secrets are collectively referred to herein as “Information.” Information includes all such information which has not been in the public domain prior to receiving this Information from the other party, including any affiliations, contracts, and knowledge that either party may have access to or which may be disclosed to the receiving party as a consequence of the business relationship entered into by the parties. In consideration for

each party furnishing the Information to the other party, each party hereto agrees to the following: (a) All Information is considered highly sensitive and strictly confidential. Accordingly, each party shall maintain such Information in the utmost confidence. With respect to CribMaster Confidential Information, the Distributor shall not use or exploit the Information for any purpose other than evaluating and providing recommendations to a prospect or customer regarding CribMaster solutions. (b) The receiving party shall limit disclosure and transfer of Information to the receiving party's employees, officers, representatives, and agents that have a legitimate need to review or have access to the Information. In the event Distributor wishes to employ independent professionals for the sole purpose of assisting Distributor in analyzing the supply chain and inventory management structure and recommending solutions to Distributor, then Distributor may divulge the Information to such third parties provided that prior to doing so, CribMaster is notified and approves all such third parties. Distributor shall require all such third parties to be bound by the non-disclosure obligations of this Agreement. (c) The actions of negligence of the receiving party's employees, officers, agents or other representatives referred to herein shall be deemed the actions of the receiving party with respect to the Confidential Information, and any unauthorized use or disclosure of Confidential Information shall constitute a material breach hereof and shall cause irreparable harm and loss to the disclosing party. The terms set forth above shall survive with respect to (i) Confidential Information for a period of five (5) years following expiration or termination of this Agreement for any reason; and (ii) Trade Secrets for so long as the respective information qualifies as a trade secret under applicable law. The rights of the parties set forth in this Section 12 shall be in addition to and not an abrogation of any existing non-disclosure and/or confidentiality agreement between the parties; provided, however, that in the event of any conflict between the terms of this Section 12 and any such existing agreement, this Section 12 shall prevail.

13. **Resultant Data Aggregation.** Distributor acknowledges and agrees, and shall ensure its end customers acknowledge and agree, that CribMaster is entitled to collect and utilize Resultant Data for the purposes of improving the performance of the Products and/or general marketing purposes. Any collection and use of Resultant Data hereunder shall be conducted in accordance with all applicable laws.

14. **Personal Identifiable Information.** Unless otherwise set forth in the applicable CribMaster Order Form, Distributor represents and warrants to CribMaster that the Products and/or Services contemplated hereunder do not in any way involve CribMaster's handling of, access or exposure to information that can be used to distinguish or trace an individual's identity, either alone or when combined with other personal or identifying information that is linked or linkable to a specific individual ("PII"). In the event that the Products or Software will involve PII in any way, you shall provide CribMaster with fifteen (15) days' prior written notice. Pursuant to Exhibit D to this Agreement, the parties will then decide if Standard Contractual Clauses or other documentation is necessary under relevant privacy laws. Any such required documentation shall be in effect prior to CribMaster's receipt of PII. The terms of Exhibit D shall apply to any PII received by CribMaster.

15. **Compliance with Law.** Distributor shall at all times comply with all federal, state, and local laws, ordinances, regulations, and orders that are applicable to the operation of its business and to this Agreement and its performance hereunder, including, but not limited to, the U.S. Foreign Corrupt Practices Act and regulations from the Office of Foreign Assets Control. Without limiting the generality of the foregoing, Distributor shall at all times, at its own expense, obtain and maintain all certifications, credentials, authorizations, licenses, and permits necessary to conduct its business as it relates to the exercise of its rights and the performance of its obligations under this Agreement.

16. **General.**

(a) *Binding Agreement and Assignments.* This Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns. This Agreement is not transferable or assignable without the prior written consent of the other party and any purported transfer or assignment in violation hereof shall be void and of no force and effect, provided that CribMaster may at any time assign or transfer any or all of its rights or obligations under this Agreement without Distributor's prior written consent to any affiliate or to any entity acquiring all or substantially all of CribMaster's assets.

(b) *Waiver.* No waiver of any provision or breach shall be implied by failure to enforce any rights or remedies herein provided, and no express waiver shall affect any provision or breach other than that to which the waiver is applicable and only for that occurrence.

(c) *Force Majeure.* Neither party shall be liable for any failure, inability or delay to perform hereunder (except the payment of money), if such failure, inability or delay is due to circumstances beyond its reasonable control, including, but not limited to, acts of God, war, terrorism, strike, lockout, labor disturbance, epidemic or pandemic, social conflict, fire, explosion, earthquake or sabotage.

(d) *Governing Law.* This Agreement shall be interpreted and governed by the laws of the State of Delaware without giving effect to choice of law provisions. The parties agree that the venue for any actions brought pursuant to this Agreement shall be either the Courts of the State of Delaware, or the U.S. District Court for the District of Delaware.

(e) *Disputes.* If any dispute arises in connection with this Agreement, the parties will attempt to settle it by mediation in accordance with the Judicial Arbitration & Mediation Services, Inc. ("JAMS"). The mediation will start, unless otherwise agreed between the parties, within fifteen (15) days of one party issuing a written request to mediate to the other. The mediation will take place in Hartford, Connecticut. Any agreement reached through mediation shall be governed by, construed, and interpreted in accordance with the laws of the State of Delaware. If the dispute is not settled by mediation within fifteen (15) days of commencement of the mediation or within such further period as the parties may agree in writing either party may issue arbitration or court proceedings in Hartford, Connecticut. JAMS shall be the appointing body and administer the arbitration. The JAMS rules in force at the time the arbitration is initiated shall be applied in any arbitration commenced pursuant to this clause.

(f) *Independent Contractor.* Nothing in this Agreement, and no course of dealing between the parties, shall be construed to create an employment or agency relationship or a partnership between a party and the other party. Each party shall be solely responsible for payment of its employees' salaries (including withholding of income taxes and social security), workers' compensation, and all other employment benefits. Neither party is authorized to, or will, make any representation, contract, or commitment on behalf of the other party.

(g) *Entire Agreement.* This Agreement sets forth the entire Agreement and understanding between the parties with respect to the subject matter hereof, and replaces any prior oral or written communications. For the avoidance of doubt, the attached Exhibits hereto are made a part of this Agreement. This Agreement shall not be supplemented, modified or amended except by a written instrument signed by duly authorized representatives of Distributor and CribMaster, respectively, and no other person has or shall have the authority to supplement, modify or amend this Agreement in another manner.

(h) *Severability.* In the event any term or provision of this Agreement is determined to be invalid, illegal or unenforceable, the remaining terms and provisions will continue in full force and effect if the essential terms and conditions of this Agreement for each party remain valid, binding and enforceable.

(i) *Headings and Interpretations.* The headings of the sections of this Agreement are intended solely for convenience or reference, and shall be given no effect in the construction or interpretation of this Agreement. Each party has been or has had the opportunity to be represented by counsel in connection with this Agreement and, accordingly, any rule of law or legal doctrine that would require interpretation of any claimed ambiguities in this Agreement against the drafting party has no application and is expressly waived. The use of the masculine pronoun herein shall, where the context so indicates, be deemed to include the feminine and the neuter and vice versa, and the use of the singular shall be deemed to include the plural and vice versa.

(j) *Order of Precedence.* In the event of any conflict or inconsistency of terms among the various documents that, at any given time, constitute this Agreement, the order of precedence that shall apply is as follows, with each listed document or type of document superseding and prevailing over any subsequently listed document or type of document, and with later executed documents prevailing over earlier documents of the same type, each solely to the extent of any irreconcilable conflict or inconsistency of the terms and conditions thereof: (i) change orders or other modifications to CribMaster Order Forms that are executed by the parties after the Effective Date of this Agreement; (ii) CribMaster Order Forms executed after the Effective Date of this Agreement; and (iii) this Agreement (including its exhibits). Any preprinted terms and conditions on Distributor purchase orders or other documents shall be deleted and be void and of no effect.

(k) *Counterparts.* This Agreement may be executed in duplicate counterparts. Each such counterpart, if executed by both parties, shall be an original and all such counterparts together shall constitute but one and the same document. This Agreement shall not be deemed executed unless and until at least one counterpart bears the signature of each party's designated signatory.

(l) *Remedies.* CribMaster's remedies shall be cumulative and remedies specified herein do not exclude any remedies allowed by law.

EXHIBIT A – STATEMENT OF WORK FOR PROFESSIONAL SERVICES (if applicable)

This SOW is issued pursuant to, adopts, and incorporates by reference the terms and conditions of the Agreement, which was entered into on the Effective Date set forth on the cover page thereto, by and between CribMaster and Distributor.

This SOW is effective beginning on [DATE] ("**SOW Effective Date**") and will remain in effect until [DATE/CONTINGENCY], unless earlier terminated in accordance with the Agreement. Transactions performed under this SOW will be conducted in accordance with and be subject to the terms and conditions of this SOW, the Agreement, and any applicable CribMaster Order Form. Capitalized terms used but not defined in this SOW shall have the meanings set out in the Agreement.

1. Scope of Work. [PROJECT SUMMARY].

2. Work Schedule and Deliverables. The relevant milestones, completion dates, and terms associated with this SOW are as follows:

Line Item	Task	Completion Date
1		
2		
3		

The relevant Deliverables associated with this SOW are as follows:

Line Item	Quantity	Deliverable	Delivery Date	Delivery Location
4				
5				
6				

3. Pricing. All costs listed below are based on the scope and assumptions included in this SOW.

Item	Price [per unit/[OTHER]]	[Cost Structure]

Total:	
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4. Proprietary Rights and Ownership of Deliverables. CribMaster does not convey or transfer, nor does Distributor obtain, any right or interest in any of the software programs, systems, tools, data, materials, or processes utilized or provided by CribMaster in connection with the performance of this SOW. Unless otherwise expressly set forth herein and only to the extent that any such software is owned by CribMaster, CribMaster grants to Distributor a limited, revocable, non-exclusive, non-transferable, non-sublicensable, royalty-free license to use the technology embedded in the Services provided under this Agreement. Ownership rights in the Deliverables shall transfer from CribMaster to Distributor only upon Distributor's payment in full therefor.

5. Distributor Responsibilities. Distributor, at its sole expense, shall:

- (a) Allow employees or agents of CribMaster reasonable access to the premises and facilities where the Services are to be provided. Distributor shall not require CribMaster's personnel to sign any document as a condition of gaining access to Distributor's premises and facilities that has not been approved in advance by CribMaster.
- (b) Provide for the installation, maintenance, and proper functioning of all products not provided by CribMaster which are necessary for CribMaster to perform the Services or provide the Deliverables, including, without limitation, electric power, electrical wiring, cabling, telephone equipment, computers, modems, printers, tables, etc. shall be Distributor's sole responsibility.
- (c) Ensure the timely backup, removal, protection, and restoration, as applicable, of any programs, data and removable storage media contained in the computer products, hardware or software, before rendering same for Services and the restoration of all data after the completion of the Services.
- (d) Provide suitable environmental conditions for performance of the Services and delivery of the Deliverables.
- (e) Provide reasonable assistance to CribMaster as requested or as set forth herein.
- (f) Use the Services and the Deliverables only as intended and with equipment and software recommended by Distributor, or the applicable manufacturers and software providers.
- (g) Encrypt data before transmission via the internet to any cloud-based data storage or other service (minimum 256 bit encryption) and undertake reasonable security and backup precautions while using Third-Party Resold Services, including but not limited to cloud services.
- (h) Comply with all applicable law and use policies.
- (i) Ensure that only its authorized personnel have access to Confidential Information, PII (each as defined herein), other data, or use of Third-Party Resold Services, including but not limited to cloud services.
- (j) Pay, discharge, and be responsible for, all licensee fees, business, sales, use, or other similar taxes or assessments charged or levied by reason of the services performed or Deliverables provided to Distributor under this Agreement; provided, however, that if CribMaster is required to remit any fee, tax, or duty on behalf of or for the account of Distributor, Distributor will reimburse CribMaster within ten (10) days after CribMaster notifies Distributor in writing of such remittance.

Upon the failure of Distributor to comply with the responsibilities set forth in this Section 5 ("Non-compliance"), CribMaster may, at its option, refuse to perform any service where Non-compliance has occurred until such Non-compliance has been cured to the reasonable satisfaction of CribMaster without any liability or obligation under this Agreement or any applicable law; provided further, that CribMaster may charge Distributor at its then current labor rates for any service call at which no service was performed by CribMaster as a result of Non-

compliance. Third-Party Resold Services may be suspended for Non-compliance, during which time Distributor may not have access to data.

6. Time/Days/Place for Service/Service Level Agreement. CribMaster agrees to provide the Services during local service hours of 9:00 a.m. to 5:00 p.m. Eastern Time, Monday through Friday, excluding holidays. Local legal holidays will apply. All Service completion and Deliverable delivery schedules provided by CribMaster are estimates and are provided for planning purposes only.

7. Limited Warranties.

(a) The Services shall be performed in a good workmanlike and professional manner. The Deliverables shall materially conform with the specifications set forth on Exhibit A hereto at the time they are delivered to Distributor. The foregoing limited warranties are expressly contingent upon Distributor fulfilling the Distributor responsibilities set forth above and any other conditions that may be specified herein. In the event Distributor finds any Services or Deliverables provided hereunder to be nonconforming with the foregoing limited warranties, CribMaster shall promptly correct such Services or Deliverables to conform with such limited warranties. In the event that CribMaster is unable to correct such Services or Deliverables after three (3) opportunities to do so in accordance with this Section 7(a), CribMaster shall reimburse to Distributor the payments made to CribMaster for such Services or Deliverables. To the extent CribMaster is supplying third party hardware or software as part of the Services or Deliverables, such hardware and software shall be provided solely with the manufacturers' or publishers' standard end user warranties, if any. CribMaster makes no independent warranties whatsoever with regards to third party hardware or software. The foregoing constitutes Distributor's sole remedy for Service or Deliverable warranty claims.

(b) Third-Party Resold Services are provided "AS IS."

8. Disclaimer of All Other Warranties. WITH THE EXCEPTION OF THE LIMITED WARRANTIES EXPRESSLY SET FORTH IN THIS AGREEMENT, CRIBMASTER DISCLAIMS ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED UNDER LAW, INCLUDING THE WARRANTIES OF NON-INGRIMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. CRIBMASTER DOES NOT PROMISE THAT THE SERVICES OR DELIVERABLES PROVIDED, INCLUDING THIRD-PARTY RESOLD SERVICES, WILL BE ERROR-FREE OR THAT DISTRIBUTOR'S COMPUTER PRODUCTS, HARDWARE OR SOFTWARE, OR ACCESS TO THIRD-PARTY RESOLD SERVICES, WILL OPERATE WITHOUT DIMINISHMENT OR INTERRUPTION.

9. Acceptance Criteria. Distributor shall accept Services and Deliverables that materially conform to the specifications set forth on Exhibit A hereto.

10. Subcontracting. CribMaster may subcontract Services, including on-site Services to be provided to Distributor under the applicable SOW. Such subcontracting will not release CribMaster from any of its obligations in this Agreement.

11. Independent Contractor. Nothing in this SOW, and no course of dealing between the parties, shall be construed to create an employment or agency relationship or a partnership between a party and the other party. Each party shall be solely responsible for payment of its employees' salaries (including withholding of income taxes and social security), workers' compensation, and all other employment benefits. Neither party is authorized to, or will, make any representation, contract, or commitment on behalf of the other party.

12. Governing Law. This Agreement shall be interpreted and governed by the laws of the State of Delaware without giving effect to choice of law provisions. The parties agree that the venue for any actions brought pursuant to this SOW shall be either the Courts of the State of Delaware, or the U.S. District Court for the District of Delaware.

13. Severability. In the event any term or provision of this SOW is determined to be invalid, illegal or unenforceable, the remaining terms and provisions will continue in full force and effect if the essential terms and conditions of this SOW for each party remain valid, binding and enforceable.

14. Counterparts. This SOW may be executed in duplicate counterparts. Each such counterpart, if executed by both parties, shall be an original and all such counterparts together shall constitute but one and the same document. This SOW shall not be deemed executed unless and until at least one counterpart bears the signature of each party's designated signatory.

Exhibit B
Trademark Guidelines

1. OWNERSHIP OF CRIBMASTER MARKS.

1.1. **Ownership Rights.** Distributor acknowledges that CribMaster is the registered and/or common law owner of all right, title and interest in and to the CribMaster Marks. Distributor acknowledges that nothing in the Agreement or herein shall be construed to grant to Distributor any rights in any of the CribMaster Marks, except as expressly provided in this Agreement. Distributor acknowledges that neither the license granted herein nor its use of the CribMaster Marks will not create in Distributor any right, title or interest in the CribMaster Marks and that all such use of the CribMaster Marks and the goodwill generated thereby will inure solely to the benefit of CribMaster.

1.2. **Trademark License Grant.** Subject to the terms and conditions of this Exhibit, CribMaster hereby grants to Distributor a non-exclusive, non-sublicenseable, non-transferable license to use the CribMaster Marks for and in connection with normal business activities relating to the marketing, distribution and support of the Products as permitted in the Agreement. Distributor may be provided with certain marketing and advertising materials as may be made available from CribMaster from time to time. If Distributor chooses to reproduce such materials, it shall first notify CribMaster in writing of its intent and shall specify the materials and quantities to be reproduced. The trademark license grant is intended to permit Distributor the right to use and distribute materials containing CribMaster Marks for purposes of promoting the distribution of the Products and continuing to build the branding and goodwill of the CribMaster Marks. This trademark license grant does not permit Distributor the right to hold itself out as an affiliate or subsidiary of CribMaster or in any way to imply that there is any legal connection between Distributor and CribMaster, other than an authorized distributor. This Exhibit expressly permits Distributor to hold itself out as "an authorized distributor of CribMaster" but expressly prohibits Distributor from using materials that imply otherwise. Distributor shall indicate on all materials, including, but not limited to, its business cards, letterhead, marketing material, etc., that it is "an authorized distributor of CribMaster® products". The only permissible use of CribMaster's name and logo is if the following is clearly stated:

"An Authorized Distributor of CribMaster Products"

1.3. **Indemnification by Distributor.** Distributor shall defend, indemnify and hold harmless CribMaster, its subsidiaries and affiliates, and their respective successors and assigns from all losses, costs, liabilities, damages, claims, and expenses of every kind and description, including reasonable attorneys' fees, arising out of or resulting from any act or omission of Distributor or any agent of Distributor relating to the marketing, distribution, or support services provided with respect to any of the Products in connection with which the CribMaster Marks are used, including, but not limited to (i) breach of the trademark license grant stated above; (ii) breach of any warranties stated herein; (iii) failure to comply with trademark and other laws relating to trademark usage; (iv) unfair or fraudulent advertising claims, warranty claims, and product defect or liability claims pertaining to the Products; and (v) claims for unauthorized use or misuse of any patent, trademark, copyright or other proprietary right owned, used or controlled by any third party pertaining to the marketing, distribution or support of the Products.

2. QUALITY GUIDELINES.

2.1. **Quality.** In the course of marketing, distributing and supporting the Products under the CribMaster Marks,

Distributor shall maintain and adhere to standards of quality and technical specifications that conform to those quality standards and specifications published by CribMaster, communicated by CribMaster to Distributor in training classes, or such other standards and specifications that may be adopted from time to time by CribMaster during the term of this Agreement. Such guidelines are designed to ensure that the quality of any of the services provided by Distributor relating to the marketing, distribution and support of the Products are consistent with the quality of similar services provided by CribMaster under the CribMaster Marks or with the reputation enjoyed by the CribMaster Marks.

- 2.2. **Inspection of Samples.** CribMaster may, from time to time, request that Distributor deliver to CribMaster, samples of materials utilized by Distributor in its marketing, distribution and support of the Products.

3. OBLIGATIONS OF DISTRIBUTOR.

- 3.1. **Marking; Compliance with Trademark Laws.** Distributor shall (a) cause the appropriate designation “™” or the registration symbol “®” to be placed adjacent to the CribMaster Marks in connection with each use or display thereof and to indicate such additional information as CribMaster shall reasonably specify from time to time concerning the rights under which Distributor uses the CribMaster Marks; and (b) comply with all laws pertaining to trademarks and trademark usage.
- 3.2. **Display of the CribMaster Marks.** Distributor shall display the CribMaster Marks, in a manner consistent with CribMaster’s standards, with respect to the materials prepared by Distributor, including visual displays and in marketing activities respecting the Products.
- 3.3. **Objections by CribMaster.** Distributor shall not use the CribMaster Marks on or in connection with any materials, including but not limited to, packaging or marketing material to which CribMaster at any time objects.

4. WARRANTIES BY DISTRIBUTOR. Distributor

- 4.1. Will not at any time challenge or object to CribMaster’s right, title or interest in the CribMaster Marks or the validity of any of the CribMaster Marks or any registration thereof;
 - 4.2. Will not do or cause to be done or omit to do anything if such action or inaction would contest or in any way impair or tend to impair the rights of CribMaster in the CribMaster Marks;
 - 4.3. Will not represent that it has any ownership in or rights with respect to the CribMaster Marks other than the rights granted by this Agreement;
 - 4.4. Will not, during or subsequent to the term of this Agreement, use or register any trademark, service mark, trade name, insignia or logo that is confusingly similar to or a colorable imitation of any of the CribMaster Marks; and
 - 4.5. Will not, during or subsequent to the term of this Agreement, register or use any domain name that incorporates or is confusingly similar to any of the CribMaster Marks.
5. **Changes and Modifications to the CribMaster Marks.** CribMaster expressly reserves the right from time to time to modify and change the CribMaster Marks. The CribMaster Marks, as modified or changed, shall for all purposes be deemed to be the CribMaster Marks referred to in this Agreement. Any and all such modifications or changes in the CribMaster Marks developed or adopted by CribMaster shall be the sole and absolute property of CribMaster and CribMaster may incorporate such modifications and changes in the CribMaster Marks and shall have the exclusive right to register such modified or changed marks as CribMaster deems appropriate. Distributor shall incorporate all such modifications or changes to the CribMaster Marks within a reasonable period of time after receiving notice of such modifications or changes.

6. PROTECTION OF CRIBMASTER MARKS.

- 6.1. **Notice and Prosecution of Infringement of CribMaster Marks.** Distributor shall provide CribMaster with

prompt written notice of any apparent infringement of the CribMaster Marks or any attempted use of or any application to register any mark confusingly similar to, or a colorable imitation of, any of the CribMaster Marks of which it becomes aware. CribMaster shall have primary responsibility to (i) institute and prosecute any actions for such infringement of the CribMaster Marks; and (ii) oppose any attempted use of or any application to register any mark confusingly similar to, or a colorable imitation of, any of the CribMaster Marks.

- 6.2. **Fees Relating to Infringement Actions.** Any damages and costs recovered through such proceedings shall belong exclusively to CribMaster, and CribMaster shall be solely responsible for all costs and expenses of prosecuting such actions. However, at CribMaster's election, if CribMaster requests that Distributor contribute its proportionate share to the costs and expenses (including attorneys' fees) to the recovery of such damages and CribMaster recovers damages in an action for infringement of the CribMaster Marks, Distributor shall receive an equitable share of the damages recovered and paid to CribMaster. Distributor shall provide CribMaster with reasonably requested assistance in connection with such proceedings. CribMaster shall keep Distributor informed of the status of any such proceedings.
7. **RELATIONSHIP OF PARTIES.** It is the express intention of the parties hereto that Distributor and CribMaster are and shall be separate legal entities. This Agreement shall not be construed to make Distributor the agent or legal representative of CribMaster, and Distributor is not granted any right or authority to assume or create any obligations for, on behalf of, or in the name of CribMaster. Distributor agrees, and shall require its agents to agree, not to incur or contract any debt or obligation on behalf of CribMaster, or commit any act, make any representation, or advertise in any manner that may adversely affect any right of CribMaster, including CribMaster's ownership of the CribMaster Marks, or be detrimental to CribMaster's good name and reputation.
8. **TERM AND EVENTS OF TERMINATION.** The rights to use CribMaster Marks shall terminate on the effective date of expiration or termination of the Agreement. Immediately upon the effective termination or expiration date of this Agreement, Distributor shall cease all use of CribMaster Marks and shall, at CribMaster's option, return to CribMaster or destroy all materials bearing any CribMaster Marks, including, but not limited to, brochures, advertising materials, demonstration materials, marketing collateral and any other documentation, in all forms.

EXHIBIT C – CRIBMASTER APPLICATION SOFTWARE EXHIBIT

THE FOLLOWING TERMS AND CONDITIONS APPLIES TO YOUR USE OF ALL SOFTWARE AND RELATED DOCUMENTATION PROVIDED BY CRIBMASTER, INCLUDING CRIBMASTER OWNED SOFTWARE, SOFTWARE EMBEDDED IN HARDWARE ("EMBEDDED SOFTWARE") THAT IS PROVIDED BY CRIBMASTER, AND SOFTWARE PROVIDED BY CRIBMASTER UNDER A LICENSE FROM A THIRD PARTY SUPPLIER (COLLECTIVELY, THE "SOFTWARE") WHETHER OPERATING ON A SINGLE COMPUTER, NETWORK OR WEB HOSTED ENVIRONMENT, AND SUPPLEMENTS THE TERMS OF THE AGREEMENT. READ THE TERMS AND CONDITIONS OF THIS EXHIBIT CAREFULLY BEFORE CONTINUING USE OF THE SOFTWARE. YOU (EITHER AN INDIVIDUAL OR A SINGLE ENTITY) MUST AGREE TO THE TERMS OF THIS EXHIBIT BEFORE USING THE SOFTWARE. BY INSTALLING OR OTHERWISE USING THE SOFTWARE, YOU ARE ACCEPTING AND AGREEING TO THE TERMS OF THIS EXHIBIT. IF YOU ARE NOT WILLING TO BE BOUND BY THE TERMS OF THIS EXHIBIT, YOU SHOULD PROMPTLY RETURN ALL SOFTWARE TO CRIBMASTER.

1. **License Grant.** CribMaster hereby grants to you, and you accept, a limited, non-exclusive, non-transferrable, non-sublicensable license to access and use the Software in object-code-only form, and the accompanying user documentation, only for your internal business purposes and only as otherwise authorized in this Exhibit. The maximum number of users authorized to simultaneously access and use the Software is set forth in the applicable CribMaster Order Form. Embedded Software may only be used with the hardware in which it is embedded, and may not be transferred or otherwise removed from such hardware. You agree that you will not assign, sublicense, transfer, pledge, lease, rent, or share your rights to the Software. You may not modify, adapt, alter, translate, or create derivative works of the Software, and may not merge the Software with any other software or code. Upon loading or accessing the Software, other than Embedded Software, into or on your computer, you may retain the media on which the Software was delivered to you (if any) for backup purposes. No copies of the Software or any portion thereof may be made by you or any person under your authority or control.

2. Licensor's Rights. You acknowledge and agree that all intellectual property rights in the Software are owned by CribMaster and its suppliers, or each of their licensors, and is protected under U.S. copyright law and trade secret laws of general applicability. You further acknowledge and agree that all right, title, and interest in and to the Software are and shall remain with CribMaster or its suppliers, as applicable. This Exhibit nor the Agreement convey to you any interest in or to the Software. Instead, you are granted only a revocable, limited right to use the Software in accordance with the terms of this Exhibit and the Agreement.

3. Limitation on Reverse Engineering. You may not reverse engineer, decompile, disassemble or otherwise attempt to derive the source code of the Software unless such activity is expressly permitted by applicable law.

4. Term. This License Agreement becomes effective upon your use of the Software and shall continue until termination. You may terminate this License Agreement at any time by ceasing use of the Software and, at CribMaster's sole discretion, returning the Software and all copies thereof (if any) and extracts therefrom to CribMaster (if and as applicable). CribMaster may terminate this License Agreement upon breach by you of any term hereof. Upon such termination, you agree to cease all use of the Software and return to CribMaster the Software and all copies and portions thereof (if any).

5. Copyright. All title and copyrights in and to the Software (including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the Software), the accompanying printed materials, and any copies of the Software are owned by CribMaster or its suppliers, or each of their respective licensors. The Software is protected by copyright laws and international treaty provisions. You may copy the printed materials accompanying the Software for your internal use only.

EXHIBIT D – HOSTING SERVICES TERMS AND CONDITIONS

These Terms and Conditions (the "**Terms and Conditions**") shall govern any Hosting Services (as defined below) required by any of the Products and/or purchased under the Distributor Agreement, to which these Terms and Conditions are attached and made a part thereof.

1. Definitions. Solely for the purposes of these Terms and Conditions, the terms below shall have the meaning ascribed to them below:

- (a) "Access Credentials" means any user name, identification number, password, license or security key, security token, PIN, or other security code, method, technology, or device used, alone or in combination, to verify an individual's identity and authorization to access and use the Hosting Services.
- (b) "Action" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.
- (c) "Affiliate" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the direct or indirect power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract, or otherwise.
- (d) "Authorized User" means Distributor's customers (a) who are authorized by Distributor to access and use the Hosting Services under the rights granted to Distributor pursuant to these Terms and Conditions; and (b) for whom access to the Hosting Services has been purchased hereunder.
- (e) "CribMaster Materials" means the Hosting Services, Documentation and CribMaster Systems and any and all other information, data, documents, materials, works and other content, devices, methods, processes, hardware, software and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by CribMaster or any Subcontractor in connection with the Hosting Services or otherwise comprise or relate to the Hosting

Services or CribMaster Systems. For the avoidance of doubt, the term “CribMaster Materials” includes Resultant Data and any information, data, or other content derived from CribMaster’s monitoring of Distributor’s or Distributor’s end customers’ access to or use of the Hosting Services, but does not include Distributor Data.

- (f) “CribMaster Personnel” means all individuals involved in the performance of Services as employees, agents, or independent contractors of CribMaster or any Subcontractor.
- (g) “CribMaster Systems” means the information technology infrastructure used by or on behalf of CribMaster in performing the Hosting Services, including all computers, software, hardware, databases, electronic systems (including database management systems) and networks, whether operated directly by CribMaster or through the use of third-party services.
- (h) “Distributor Data” means information, data, and other content, in any form or medium, that is collected, downloaded, or otherwise received, directly or indirectly from Distributor or an Authorized User by or through the Services or that incorporates or is derived from the Processing of such information, data, or content by or through the Services. For the avoidance of doubt, Distributor Data does not include Resultant Data or any other information reflecting the access or use of the Services by or on behalf of Distributor or any Authorized User.
- (i) “Documentation” means any manuals, instructions, or other documents or materials that CribMaster provides or makes available to Distributor in any form or medium and which describe the functionality, components, features, or requirements of the Services or CribMaster Materials, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.
- (j) “Harmful Code” means any software, hardware, or other technology, device, or means, including any virus, worm, malware, or other malicious computer code, the purpose or effect of which is to (a) permit unauthorized access to, or to destroy, disrupt, disable, distort, or otherwise harm or impede in any manner any (i) computer, software, firmware, hardware, system, or network; or (ii) any application or function of any of the foregoing or the security, integrity, confidentiality, or use of any data Processed thereby; or (b) prevent Distributor or any Authorized User from accessing or using the Hosting Services or CribMaster Systems as intended by these Terms and Conditions.
- (k) “Intellectual Property Rights” means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyright, trademark, trade secret, database protection, or other intellectual property rights laws and all similar or equivalent rights or forms of protection, in any part of the world.
- (l) “Losses” means any and all losses, damages, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including reasonable attorneys’ fees and the costs of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- (m) “Permitted Use” means any use of the Hosting Services by an Authorized User for the purpose of storing Distributor Data collected through the Distributor’s, or its Authorized Users’, use of CribMaster software.
- (n) “Person” means an individual, corporation, partnership, joint venture, limited liability entity, governmental authority, unincorporated organization, trust, association, or other entity.
- (o) “Personal Information” means any information that identifies an individual or relates to an identifiable individual that is collected through use of the Hosting Services.
- (p) “Process” means to take any action or perform any operation or set of operations that the Hosting Services are capable of taking or performing on any data, information, or other content. “Processing” and “Processed” have correlative meanings.

- (q) “Representatives” means, with respect to a party, that party’s and its Affiliates’ employees, officers, directors, consultants, agents, independent contractors, CribMaster’s, sublicensees, subcontractors and legal advisors.
- (r) “Resultant Data” means data and information related to Distributor’s use of the Hosting Services that is collected, developed or used by CribMaster in an aggregate and anonymized manner, including without limitation to compile statistical and performance information related to the provision and operation of the Hosting Services.
- (s) “Security Incident” means any accidental or unauthorized access, acquisition, use, modification, disclosure, loss, destruction of, or damage to Distributor Data, or any other unauthorized Processing of Distributor Data.
- (t) “Sensitive Personal Information” means any of the following types of Personal Information: (i) social security number, taxpayer identification number, passport number, driver’s license number or other government-issued identification number; (ii) credit or debit card details or financial account number, with or without any code or password that would permit access to the account or credit history; or (iii) information on race, religion, ethnicity, sex life or practices or sexual orientation, medical or health information, genetic or biometric information, biometric templates, political or philosophical beliefs, political party or trade union membership, background check information or judicial data such as criminal records or information on other judicial or administrative proceedings.
- (u) “Hosting Services” means the data hosting services described in the Pricing Terms Sheet attached hereto as Schedule A and incorporated herein.
- (v) “Service Level Failure” means a material failure of the Hosting Services to meet the Availability Requirement.
- (w) “Service Unavailability” means the Hosting Services are not available for access and use by Distributor and its Authorized Users over the Internet and the unavailability is not due, in whole or in part, to any: (a) act or omission by Distributor or any Authorized User that does not strictly comply with these Terms and Conditions; (b) Distributor Failure; (c) Distributor’s or its Authorized User’s Internet connectivity; (d) Force Majeure Event; (e) failure, interruption, outage, or other problem with any software, hardware, system, network, facility, or other matter not supplied by CribMaster pursuant to these Terms and Conditions; (f) Scheduled Downtime; (g) disabling, suspension, or termination of the Hosting Services pursuant to 2.7 (Suspension or Termination of Services); or (h) Harmful Code.
- (x) “Third-Party Materials” means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, equipment, or components of or relating to the Hosting Services that are provided by CribMaster and are not proprietary to CribMaster.

2. Services.

- 2.1. **Access and Use.** Subject to and conditioned on Distributor’s and its Authorized Users’ compliance with these Terms and Conditions, CribMaster hereby grants Distributor a non-exclusive, non-transferable right to access and use the Hosting Services during the Term for the Permitted Use, solely for use by Distributor or its Authorized Users in accordance with the terms and conditions herein and pursuant to validly issued Access Credentials. The total number of Authorized Users will not exceed the number set forth in **Schedule A**, except as expressly agreed to in writing by the parties and subject to any appropriate adjustment of the Fees payable hereunder.
- 2.2. **Documentation License.** CribMaster hereby grants to Distributor a non-exclusive, non-transferable license to use the Documentation during the Term solely for Distributor’s or its Authorized Users’ internal business purposes in connection with its use of the Hosting Services.
- 2.3. **Service and System Control.** Except as otherwise expressly provided in these Terms and Conditions, as between the parties with respect to the Hosting Services:

- (a) CribMaster has and will retain sole control over the operation, provision, maintenance and management of the CribMaster Materials; and
- (b) Distributor has and will retain sole control over the operation, maintenance and management of and all access to and use of, the Distributor Systems (as defined in Section 8.3 below) and sole responsibility for all access to and use of the CribMaster Materials by any Person by or through the Distributor Systems or any other means controlled by Distributor or any Authorized User, including any: (i) information, instructions, or materials provided by any of them to the Hosting Services or CribMaster; (ii) results obtained from any use of the Hosting Services or CribMaster Materials; and (iii) conclusions, decisions, or actions based on such use.

2.4. Reservation of Rights. Nothing in these Terms and Conditions grants to Distributor or any Authorized User any right, title, or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Hosting Services, CribMaster Materials, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title and interest in and to the Hosting Services, the CribMaster Materials and the Third-Party Materials are and will remain with CribMaster and the respective rights holders in the Third-Party Materials.

2.5. Changes. CribMaster reserves the right, in its sole discretion, to make any changes to the Hosting Services and CribMaster Materials that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of CribMaster's services to its customers; (ii) the competitive strength of or market for CribMaster's services; or (iii) the Hosting Services' cost efficiency or performance; or (b) to comply with applicable law. Without limiting the foregoing, either party may, at any time during the Term, request in writing changes to the Hosting Services. No requested changes will be effective unless and until memorialized in a written change order signed by both parties. Notwithstanding any other provision in these Terms and Conditions, CribMaster shall not be liable for any Service Unavailability or disruption to the Hosting Services arising from a custom program or script written or provided by Distributor or an Authorized User, regardless of whether such custom program or script is accepted and/or implemented by CribMaster.

2.6. Subcontractors. CribMaster may from time to time in its discretion engage third parties to perform Services that will have access to Personal Information (each, a "Subcontractor"), subject to the following conditions: (a) CribMaster will maintain a list of the Subcontractors and will provide this list to Distributor upon Distributor's request; (b) CribMaster will provide Distributor prior notice of the addition of any Subcontractor to this list and the opportunity to object to such addition(s); and (c) if Distributor makes such an objection on reasonable grounds and CribMaster is unable to modify the Hosting Services to prevent access to Distributor Data by the additional Subcontractor, Distributor will have the right to terminate the relevant Processing. CribMaster will, prior to engaging any Subcontractor, enter into an agreement with such third party that is at least as restrictive as these Terms and Conditions.

2.7. Suspension or Termination of Services. CribMaster may, directly or indirectly, suspend, terminate, or otherwise deny Distributor's, any Authorized User's, or any other Person's access to or use of all or any part of the Hosting Services or CribMaster Materials, without incurring any resulting obligation or liability, if: (a) CribMaster receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires CribMaster to do so; or (b) CribMaster believes, in its good faith and sole discretion, that: (i) Distributor or any Authorized User has failed to comply with any term of these Terms and Conditions, or accessed or used the Hosting Services beyond the scope of the rights granted or for a purpose not authorized under these Terms and Conditions or in any manner that does not comply with any instruction or requirement of the specifications; (ii) Distributor or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Hosting Services; (iii) these Terms and Conditions expire or is terminated; or (iv) suspension, termination, or any other denial of access is reasonably required to address Harmful Code. This Section 2.7 (Suspension or Termination of Services) does not limit any of CribMaster's other rights or remedies, whether at law, in equity, or under these Terms and Conditions. If Distributor or any Authorized User's access to the Hosting Services is suspended under this Section 2.7 and later reinstated, CribMaster reserves the right to charge Distributor a reconnection fee, in addition to the Fees.

3. Use Restrictions; Service Usage and Data Storage.

3.1. **Use Restrictions.** Distributor shall not and shall not permit any other Person to, access or use the Hosting Services or CribMaster Materials except for the Permitted Use and as expressly permitted by these Terms and Conditions and, in the case of Third-Party Materials, the applicable third-party license agreement. For purposes of clarity and without limiting the generality of the foregoing, Distributor shall not, except as these Terms and Conditions expressly permits:

- (a) exceed any bandwidth or storage space limitations for Distributor's account, if any, or attempt to circumvent or alter the processes or procedures to measure time, bandwidth, utilization, or other methods to document use of the Hosting Services;
- (b) rent, lease, lend, sell, sublicense, assign, distribute, publish, transfer, or otherwise make available any Services or CribMaster Materials to any Person other than Authorized Users;
- (c) bypass or breach any security device or protection used by the Hosting Services or CribMaster Materials or access or use the Hosting Services or CribMaster Materials other than by an Authorized User through the use of his or her own then valid Access Credentials;
- (d) input, upload, transmit, or otherwise provide to or through the Hosting Services or CribMaster Systems, any information or materials that are unlawful or injurious, or contain, transmit, or activate any Harmful Code;
- (e) access or use the Hosting Services or CribMaster Materials in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any third party (including by any unauthorized access to, misappropriation, use, alteration, destruction, or disclosure of the data of any other CribMaster customer), or that violates any applicable law; and
- (f) otherwise access or use the Hosting Services or CribMaster Materials beyond the scope of the authorization granted under these Terms and Conditions or in an unlawful or illegal manner.

3.2. **Service Usage and Data Storage.** Any Fees for designated levels of usage and data storage (each a "**Service Allocation**") will be set forth in the applicable CribMaster Order Form, beginning with the Fees payable by Distributor for the levels of usage and data storage in effect as of the Effective Date. CribMaster will notify Distributor in writing if Distributor has reached eighty (80) percent of its then current Service Allocation and Distributor may increase its Service Allocation and corresponding Fee obligations in accordance with this Agreement and **Schedule A**. If Distributor exceeds its Service Allocation for any relevant period, Distributor shall also pay to CribMaster the applicable excess usage and storage Fees set forth in the applicable CribMaster Order Form. Distributor acknowledges that exceeding its then-current Service Allocation may result in service degradation for Distributor and other CribMaster customers and agrees that (i) CribMaster has no obligation to permit Distributor to exceed its then-current Service Allocation and (ii) no denial of service by CribMaster as a result of Distributor voluntarily or involuntarily exceeding its then-current Service Allocation shall be deemed to be an event of Service Unavailability.

4. Distributor Obligations.

4.1. **Distributor Systems and Cooperation.** Distributor shall at all times during the Term: (a) set up, maintain and operate in good repair all Distributor Systems on or through which the Hosting Services are accessed or used; and (b) provide all cooperation and assistance as CribMaster may reasonably request to enable CribMaster to exercise its rights and perform its obligations under and in connection with these Terms and Conditions.

4.2. **Effect of Distributor Failure or Delay.** CribMaster is not responsible or liable for any delay or failure of performance caused in whole or in part by Distributor's delay in performing, or failure to perform, any of its obligations under these Terms and Conditions (each, a "**Distributor Failure**").

4.3. **Corrective Action and Notice.** If Distributor becomes aware of any actual or threatened activity prohibited by Section 3.1 (Use Restrictions), Distributor shall and shall cause its Authorized Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the activity or threatened activity and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Hosting Services and CribMaster Materials); and (b) notify CribMaster of any such actual or threatened activity.

4.4. **Notice.** Distributor will be responsible for: (i) providing any necessary notices to individuals with respect to the Processing by and transfer of Personal Information to CribMaster pursuant to these Terms and Conditions, and (ii) ensuring it has the right to share Personal Information with CribMaster for the purposes described in these Terms and Conditions.

5. Service Levels; Support.

5.1. **Service Levels.** Subject to the terms and conditions of these Terms and Conditions, CribMaster will use commercially reasonable efforts to limit Distributor's Service Unavailability to less than ninety consecutive minutes as measured over the course of each calendar month during the Term (each such calendar month, a "Service Period") (the "Availability Requirement").

5.2. **Scheduled Downtime.** CribMaster will use commercially reasonable efforts to: (a) schedule downtime for routine maintenance of the Hosting Services during hours which are intended to minimize the adverse impact of such downtime on CribMaster's customers; and (b) give Distributor at least thirty-six (36) hours prior notice of all scheduled outages of the Hosting Services ("Scheduled Downtime").

5.3. **Service Support.** Subject to Distributor's satisfying its payment obligations under the Agreement, support for the Hosting Services is available by telephone and email during the hours of eight (8) a.m. and six (6) p.m. Eastern Standard Time, Monday through Friday, excluding holidays. CribMaster may provide notifications of Service Level Failures to Distributor by telephone.

6. **Data Backup.** The CribMaster Systems are programmed to perform routine data backups consistent with CribMaster's Hosting Services Backup Strategy document, which is available upon the Distributor's request. Distributor may request its then most current back-ups of Distributor Data from CribMaster, which CribMaster shall provide to Distributor at Distributor's expense. In the event of any loss, destruction, damage, or corruption of Distributor Data caused by the CribMaster Systems or Services, CribMaster will, as its sole obligation and liability and as Distributor's sole remedy, use commercially reasonable efforts to restore the Distributor Data from CribMaster's then most current backup of such Distributor Data. EXCEPT AS SET FORTH HEREIN CRIBMASTER HAS NO OBLIGATION OR LIABILITY FOR ANY LOSS, ALTERATION, DESTRUCTION, DAMAGE, CORRUPTION, OR RECOVERY OF CUSTOMER DATA.

7. Privacy & Data Protection.

To the extent that CribMaster obtains, Personal Information from Authorized users through the Hosting Services, CribMaster agrees to the following:

7.1. **Use.** CribMaster will Process Personal Information on behalf of Distributor to deliver Services in accordance with these Terms and Conditions or other documented instructions of Distributor, whether in written or electronic form, or as otherwise required by applicable law. The scope, classification, purposes and details of Processing are described in the Description of Transfer attached hereto as **Schedule B**.

7.2. **Confidentiality.** CribMaster will hold Personal Information in strict confidence and impose confidentiality obligations on CribMaster personnel who will be provided access to, or will otherwise Process, Personal Information, including requiring personnel to protect all Personal Information.

7.3. **Information Security Program.** CribMaster will maintain a written information security program that contains appropriate administrative, technical, and physical safeguards to protect Personal Information against anticipated threats or hazards to its security, confidentiality or integrity.

- 7.4. **Cross-Border Transfers.** In connection with the performance of these Terms and Conditions, CribMaster may transfer Personal Information to various locations. CribMaster will protect Personal Information in accordance with these Terms and Conditions regardless of the jurisdiction in which it is located. If required by applicable law, the parties will enter into EU Standard Contractual Clauses (Controller to Processor) or other similar agreements to facilitate transfer of Personal Information cross border.
- 7.5. **Requests or Complaints from Individuals.** CribMaster will promptly notify Distributor, unless specifically prohibited by laws applicable to CribMaster, if CribMaster receives: (i) any requests from an individual with respect to Personal Information Processed, including but not limited to opt-out requests, requests for access and/or rectification, erasure, restriction, requests for data portability, and all similar requests; or (ii) any complaint relating to the Processing of Personal Information, including allegations that the Processing infringes on an individual's rights. CribMaster will not respond to any such request or complaint, will cooperate with Distributor with respect to any action taken relating to such request or complaint, and will seek to implement appropriate processes (including technical and organizational measures) to assist Distributor in responding to requests or complaints from individuals. Distributor is responsible for ensuring the accuracy of any Personal Information provided to CribMaster.
- 7.6. **Regulatory Requests.** At Distributor's request, CribMaster will assist Distributor in the event of an investigation by a competent regulator, including a data protection regulator or similar authority, if and to the extent that such investigation relates to the Processing of Personal Information by CribMaster on behalf of Distributor in accordance with these Terms and Conditions. CribMaster reserves the right to charge a reasonable fee to Distributor for such requested assistance, to the extent permitted by applicable law.
- 7.7. **Unauthorized Access.** CribMaster will take appropriate actions to address incidents of unauthorized access to PII, including notifying CribMaster as soon as possible following any such incident. In the event of an incident of unauthorized access, CribMaster will allow Distributor to determine whether any reports are required to be made or notices given (to public officials, data subjects, or any other person) and CribMaster will assist Distributor with filing any such reports and giving any such notices.
- 7.8. **Audit.** CribMaster will provide to Distributor, its authorized representatives, and such independent inspection body as Distributor may appoint, on reasonable notice, a copy of our most recent independent audit. Audits are the expense of the Distributor.
- 7.9. **Return or Disposal.** Upon termination or expiration of these Terms and Conditions for any reason or upon Distributor's request and expense, CribMaster will return or destroy Personal Information, except as otherwise required by law applicable to CribMaster.

8. Security; Use of Distributor Data.

8.1. **CribMaster Systems and Security Obligations; Use of Distributor Data.** CribMaster will employ reasonable security measures in accordance with standard industry practice. This may include troubleshooting to prevent, find and fix problems with the operation of the Hosting Services. CribMaster will not use Distributor Data or derive information from it for any advertising or other commercial purposes without your consent. CribMaster may use Resultant Data to improve the Hosting Services, or for any other lawful purpose.

8.2. Security Incident Procedures.

8.2.1. **Discovery by CribMaster.** In the event CribMaster confirms a Security Incident caused by CribMaster, CribMaster shall notify Distributor within forty-eight (48) hours and shall, subject to applicable laws, regulations, or a governmental request, provide Distributor with details of the Security Incident, to the extent available, including any information relating to the cause of the Security Incident. In the event of a Security Incident, CribMaster and Distributor shall cooperate in good faith to resolve any privacy or data security issues involving Distributor Data and to make any notifications to individuals affected by the Security Incident as required by law and equally share the cost of the same. If the

Security Incident resulted from the negligence or malicious activity of Distributor, any legally required notifications and actions shall be made at Distributor's expense.

8.2.2. **Discovery by Distributor.** In the event Distributor becomes aware of a Security Incident related to the Hosting Services, Distributor shall, in the most expedient time possible under the circumstances, notify CribMaster of the Security Incident and shall, subject to applicable laws, regulations, or a governmental request, provide CribMaster with details to the extent available about the Security Incident, including information related to the cause of the Security Incident. In the event of a Security Incident, Distributor and CribMaster shall cooperate in good faith to resolve any privacy or data security issues involving Distributor Data and to make any notifications to individuals affected by the Security Incident as required by law. If the Security Incident resulted from the negligence of Distributor, any legally required notifications and actions shall be made at Distributor's expense.

8.3. **Distributor Control and Responsibility.** Distributor has and will retain sole responsibility for: (a) all Distributor Data, including its content and use; (b) all information, instructions and materials provided by or on behalf of Distributor or any Authorized User in connection with the Hosting Services; (c) Distributor's information technology infrastructure, including computers, software, databases, electronic systems (including database management systems) and networks, whether operated directly by Distributor or through the use of third-party services ("**Distributor Systems**"); (d) the security and use of Distributor's and its Authorized Users' Access Credentials; (e) all access to and use of the Hosting Services and CribMaster Materials directly or indirectly by or through the Distributor Systems or its or its Authorized Users' Access Credentials, with or without Distributor's knowledge or consent; and (f) all results obtained from and all conclusions, decisions and actions based on access or use of the Hosting Services and CribMaster Materials.

8.4. **Access and Security.** Distributor shall employ physical, administrative and technical controls, screening and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Hosting Services; and (b) control the content and use of Distributor Data, including the uploading or other provision of Distributor Data for Processing by the Hosting Services.

8.5. **Prohibited Data.** Distributor acknowledges that the Hosting Services are not designed with security and access management for Processing the following categories of information: (a) Sensitive Personal Information; (b) data that is classified and or used on the U.S. Munitions list, including software and technical data; (c) articles, services, and related technical data designated as defense articles or defense services; and (d) ITAR (International Traffic in Arms Regulations) related data; (e) or any other data the handling and/or storage of which is restricted pursuant to applicable law (each of the foregoing, "**Prohibited Data**"). Distributor shall not, and shall not permit any Authorized User or other Person to, provide any Prohibited Data to, or Process any Prohibited Data through, the Hosting Services, the CribMaster Systems, or any CribMaster Personnel. Distributor is solely responsible for reviewing all Distributor Data and shall ensure that no Distributor Data constitutes or contains any Prohibited Data.

8.6. **Use of Information of Distributor Representatives.** Distributor acknowledges that CribMaster will use information relating to Distributor Representatives for its administrative purposes, such as administering these Terms and Conditions, billing, product updates and other similar uses.

9. Fees and Payment.

9.1. **Fees.** Distributor shall pay CribMaster the fees set forth in the applicable CribMaster Order Form ("**Fees**") in accordance with this Section 9 (**Fees and Payments**).

9.2. **Taxes.** All Fees and other amounts payable by Distributor under these Terms and Conditions are exclusive of taxes and similar assessments. Without limiting the foregoing, Distributor is responsible for all sales, use and excise taxes and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental or regulatory authority on any amounts payable by Distributor hereunder, other than any taxes imposed on CribMaster's income.

- 9.3. **Payment.** Distributor shall pay all undisputed Fees within thirty (30) days after the date of the invoice therefor. Distributor shall make all payments hereunder in U.S. dollars by the payment methods set forth in the invoice.
- 9.4. **Late Payment.** If Distributor fails to make any payment when due then, in addition to all other remedies that may be available:
- (a) CribMaster may charge interest on the past due amount at the rate of 1.5% per month, calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law;
 - (b) Distributor shall reimburse CribMaster for all reasonable costs incurred by CribMaster in collecting any late payments or interest, including attorneys' fees, court costs and collection agency fees; and
 - (c) if such failure continues for thirty (30) days following written notice thereof, CribMaster may suspend performance of the Hosting Services until all past due amounts and interest thereon have been paid, without incurring any obligation or liability to Distributor or any other Person by reason of such suspension.
- 9.5. **No Deductions or Setoffs.** All amounts payable to CribMaster under these Terms and Conditions shall be paid by Distributor to CribMaster in full without any setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason or any deduction or withholding of tax as may be required by applicable law).
- 9.6. **Fee Increases.** CribMaster may increase Fees by providing written notice to Distributor at least thirty (30) calendar days prior to the date the Fees are to increase, at which time the applicable CribMaster Order Form shall be deemed amended accordingly.
- 9.7. **Reimbursable Expenses.** Distributor shall reimburse CribMaster for out-of-pocket expenses incurred by CribMaster in connection with performing the Hosting Services as set forth in the applicable CribMaster Order Form ("**Reimbursable Expenses**").

SCHEDULE B - DESCRIPTION OF TRANSFER

Individuals

The Personal Information transferred concern the following categories of individuals:

Categories of data

The Personal Information transferred concerns the following categories of data:

Sensitive Personal Information (if appropriate)

The Personal Information transferred concerns the following types of Sensitive Personal Information:

Processing operations

The Personal Information transferred will be subject to the following basic Processing activities: