

**REVTWO, INC.
EMBEDDED SOFTWARE AND SERVICE AGREEMENT**

This Embedded Software and Service Agreement is made and entered into as of the date set forth below by and between RevTwo, Inc., a Delaware corporation, and the customer executing this Agreement below (referred to in the enclosed terms and conditions as “you”).

We agree to license products and provide services on the terms and conditions set forth in the “Embedded Software and Service Agreement - Terms and Conditions” attached hereto. Subject to the provisions contained herein, you may place an order for products and services by submitting a purchase order in the form provided to you with specification of options as specified therein, to us specifying the type of products and services desired, which purchase order will become effective when accepted and signed by us.

IN WITNESS WHEREOF, each of us have caused this Agreement to be duly executed and delivered as of the date set forth below.

REVTWO, INC.:

CUSTOMER:

(insert corporate name above)

By: _____
Name:
Title:
Address:

By: _____
Name:
Title:
Address:

REVTWO, INC.

EMBEDDED SOFTWARE AND SERVICE AGREEMENT - TERMS AND CONDITIONS

Your use of the Product is subject to the terms of this legal agreement between you and us, as amended from time to time (the “Agreement”).

The term “You” or “you” means the company, entity who is executing or otherwise taking action to be bound by this Agreement; “we” or “us” means RevTwo, Inc., a Delaware corporation, and “both of us” means both you and us. Certain other terms have the meanings given them in Section 12.

1. LICENSE FROM US; SERVICES; DELIVERY.

(a) Acquisition of Rights. You acquire the right to use the Embedded Software and related Hosted Service subject to this Agreement by submission of Purchase Order(s) and payment of amounts due thereunder specifying the type, quantity and term of such software and services, as of result of which you are entitled to the rights and services set forth in this Agreement.

(b) Grant of Rights. Subject to the terms and conditions of this Agreement (including without limitation, the provisions under Section 2 and payment of all applicable fees), this Agreement, we grant you a worldwide, non-assignable and non-exclusive right to use the Product in the quantity and for the purposes set forth below.

(i) You may use the Embedded Software in object code form only; the Hosted Service is provided as a service based on our Software, but neither source nor object code of the Software used to provide the Hosted Service is delivered or licensed to you or any End User, nor are you or any End User entitled to access to such programming code.

(ii) You may use the Product solely for the purpose of designing, developing and testing your Application and using such Applications internally or distributing the Applications to third parties. In connection with such use, you may modify the source code versions of sample files, if any, included with the Product for the purpose of creating your Application.

(iii) You may distribute Applications built with our Product to be deployed to “Individual Devices” (defined as a smartphone, tablet, personal computer or similar computing device normally operated by a single person at a time that may have Applications installed that directly, or indirectly, utilize the Product), up to any quantity limits you have paid for as specified in this Agreement.

(iv) Any distribution of Applications you make containing our Embedded Software is subject to the following additional conditions: (i) you may not permit further redistribution of our Embedded Software by your Customers, (ii) you must distribute your applications under a written agreement that prohibits reverse engineering, decompilation or disassembly of the applications(s) and requires your Customers of the Applications to abide by the

conditions stated in this Agreement and (iii) without our consent, or as required in below, you may not use our name, logo or trademarks to market your Application.

(c) Provisions of Hosted Service and Support. During the Subscription Term, we agree to (i) use commercially reasonable efforts to make the Hosted Service available 24 hours a day, 7 days a week, except for: (a) planned downtime, or (b) any unavailability caused by circumstances beyond our reasonable control, including without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems, or Internet service provider failures or delays and (ii) provide to you the Support Services for the Product set forth in Exhibit A.

(d) Delivery of Products. Unless otherwise agreed between the parties, delivery of the Products by us to you will be accomplished by provision by us of the Embedded Software by making such items available for download by you and your access to the Hosted Service directly by web-based interfaces.

(e) U.S. Government End Users. The Software is a “commercial item”, as that term is defined in 48 C.F.R. 12.101 (Oct. 1995), consisting of “commercial computer software” and “commercial computer software documentation”, as such terms are used in 48 C.F.R. 12.212 (Sept. 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (June 1995), all U.S. Government End Users acquire the Software with only those rights set forth herein.

2. LIMITATION ON YOUR USE.

(a) Restrictions on Use. You may not (and you may not permit anyone else, on your behalf or otherwise, to) copy, modify, create a derivative work of, reverse engineer, decompile or otherwise attempt to extract the source code of the Software or any part thereof, unless this is expressly permitted or required by law or expressly permitted hereunder; provided, you may make additional copies (i) when copying is an essential step in the authorized use of the Product (such as copying to transient storage as part of execution of code) or (ii) solely for backup or archival purposes or (iii) you have been specifically told that you may do so by us, in writing.

(b) Restrictions on Access. You agree not to access (or attempt to access or authorize any other party to access) the Product by any means other than through the interface(s) that are provided by us, including but not limited to, using the Product to transmit any computer viruses, worms, trojan horses or other malware, or by trespass or burdening network capacity. You further agree not any manner to harass, abuse, stalk, threaten, defame or otherwise infringe or violate the rights of any other party, and that neither we nor our suppliers are in any way responsible for any such use by you, nor for any harassing, threatening, defamatory, offensive, infringing or illegal messages or transmissions that you may receive as a result of using the Product. Without limiting the generality of the foregoing, you specifically agree not to access (or attempt to access) the Product through any unauthorized automated means (including use of scripts or crawlers). Similarly, you agree that you will not provide any third party access to material on the Product (or facilitate their attempt to access) by any means other than through the interface that is provided by us. You agree that you will not engage in any activity that interferes with or disrupts the Product (or the servers and networks which are connected to the Product); interfere with or disrupt the Product or take any steps to interfere with or in any manner compromise any security measures

with respect to the Product or any data or file transmitted, processed or stored on or through the Product. Further, this Agreement does not allow for exposing of the application programming interface (API) functionality to non-licensed users.

(c) Compliance.

(i) You agree to use the Product only for purposes, and in a manner, permitted by (A) this Agreement and (B) any applicable law, regulation or generally accepted practices or guidelines in the relevant jurisdictions including, without limitation, any regulations of the United States Bureau of Export Administration and other applicable governmental agencies. In addition, you hereby assure us that you will not export directly or indirectly technical data to any country for which a validated license is required under United States law without first obtaining a validated license. Further, you represent and warrant that you are not a national of, or under the control of, any country upon which the United States has then currently imposed an embargo of goods. Without limiting the foregoing, you agree not to use the Product in violation of our standards of conduct posted at www.revtwo.com/conduct.

(ii) You are responsible for maintaining the confidentiality of passwords associated with any account you use to access the Hosted Service. Accordingly, you will be solely responsible to us for all activities that occur under your account. If you become aware of any unauthorized use of password or of accounts, you agree to notify us immediately.

(iii) Restrictions on Sublicense or Assignment. This Agreement and any license granted under this Agreement are personal to you (and your Personnel in the course of their work for you), and do not include the right to sublicense your rights under this Agreement to any third party. You may not transfer or assign, by operation of law or otherwise, this Agreement or your license to any third party without our prior written consent, which may be withheld in our sole discretion for any reason or for no reason. Notwithstanding the foregoing, you may permit your employees, consultants or other third-party service providers (collectively, "Personnel") to access and use the Product on your behalf; provided that you shall be responsible for ensuring that your Personnel comply with this Agreement and any applicable end user license agreement to which they assent. If you acquire a third party entity or acquire substantially all of the assets of a third party entity, or are acquired by a third party, in each case, whether by merger, change of control, sale of assets, consolidation or otherwise, such event shall be considered an assignment of this Agreement for this purpose. Any assignment or attempted assignment in violation of this Agreement shall be of no effect, and shall constitute a breach of this Agreement and result in the immediate and automatic termination of your license rights under this Agreement; any renewal of such rights shall, if then available, be at our sole discretion, and will be on terms and conditions applicable at the time of renewal.

3. PAYMENT.

(a) **Fees.** You agree to pay all charges, recurring fees, applicable taxes and other charges (collectively herein "Charges") at the rates in effect for the billing period in which those charges are incurred based on the applicable Purchase Order.

(b) Payment. All payments shall be made at our address as indicated in this Agreement or at such other address as we may from time to time indicate by proper notice hereunder. For items which are invoiced, the amount invoiced is due and payable within thirty (30) days of our date of invoice. Interest shall be payable at the rate of one and one-half percent (1.5%) per month or at the maximum rate permitted by law, whichever is less, on all overdue and unpaid invoices until paid in full. All fees are denominated and to be paid in United States Dollars and are exclusive of any applicable taxes.

(c) Taxes. You shall pay, indemnify and hold us harmless from all sales, use, value added or other taxes of any nature, other than personal property or taxes on or measured by our net or gross income, including penalties and interest, and all government permit or license fees assessed upon or with respect to any fees.

(d) Billing Disputes. You must inform us of any billing problems or discrepancies within 90 days after they first appear on your account statement or invoice. If you do not bring them to our attention within 90 days, you agree that you waive your right to dispute such problems or discrepancies. Additionally, if any charges are being collected by us on behalf of a supplier, then such supplier shall be an express third party beneficiary of this provision. If your account is delinquent, we may, suspend or cancel your account (and accordingly your use of the Product). If your account is suspended, regular charges will continue to accrue until you cancel your account.

(e) Audit. During the term of this Agreement and for a period of at least three (3) years following any termination, we shall have the right no more than once in any twelve (12) month period to have your books and records relating to the Product audited by us (or by an independent auditor of our choosing and reasonably acceptable to you) to confirm the compliance with the payment and usage requirements hereunder by you. Such audits shall be scheduled on reasonable notice by us to you during your normal business hours in a manner that does not unreasonably interfere with your business. In the event that any audit determines that the payments are less than actual amounts due for the period in question, you shall promptly pay us the amount due plus interest at the above rate for the period from the date such payments were due until the date payment is made. The cost of such audit shall be borne by us unless the audit shows a shortfall of at least \$2,500 which is at least 5% of the amount actually due, in which case the reasonable costs of the audit will be reimbursed by you.

4. PROPRIETARY RIGHTS.

(a) Ownership of Intellectual Property. We (or our licensors) own all legal right, title and interest in and to the Product, including any intellectual property rights that subsist in the Product (whether those rights happen to be registered or not, and wherever in the world those rights may exist). The Product may contain information that is confidential to us (including without limitation any information so designated) and you shall not disclose such information to any third party without our prior written consent.

(b) Suggestions. You may voluntarily provide suggestions, comments or other feedback (“Feedback”) to us with respect to items or information provided by us under this Agreement. We are not required to hold your Feedback in confidence, and your Feedback may be

used by us for any purpose without obligation of any kind. Incorporation of your Feedback into our materials or products does not affect our exclusive ownership of such materials by us.

(c) Notices/Protection of Proprietary Rights. You may not remove, obscure, or alter any proprietary rights notices (including copyright and trade mark notices) that may be affixed to or contained within the Product. In using the Product, you will not use any trade mark, service mark, trade name, logo of any company or organization in a way that is likely or intended to cause confusion about the owner or authorized user of such marks, names or logos. Nothing in this Agreement gives you a right to use any of our trade names, trademarks, service marks, logos, domain names, and other distinctive brand features without obtaining, in each instance, our prior written consent.

(d) Copyright and Trademark Policies. It is our policy to respond to notices of alleged copyright infringement that comply with applicable intellectual property law (including the Digital Millennium Copyright Act) and to terminate the accounts of repeat infringers. Details of our policy can be found at www.revtwo.com/dmca.

5. CONTENT AND DATA.

(a) Rights to Content.

(i) You (or each End User, as the case may be) retains ownership rights in information (such as data files, written text, audio files or other sounds, photographs, videos or other images) (collectively, “Content”) that you (or each End User, as the case may be) submits, posts or displays on or through, the Product.

(ii) You acknowledge that End Users determine what Content they upload to the Product and (solely excepting required identification for registration purposes) We do not request any sensitive personal information which would be subject to special handling (such as the requirement of field-specific encryption or segregation of data). In particular, we do not encrypt or isolate all or any portion of Content. It is possible that End Users may nonetheless include sensitive personal information in Content or other communications, and we are not responsible for identifying the character of that data or ensuring that such communications comply with any particular laws or business requirements that relate to data protection.

(iii) You agree that we collect data and related information—including but not limited to technical information about End User devices, system and application software, and peripherals—periodically to facilitate the provision of software updates, product support, and other services to End Users (if any). Accordingly, in addition to the above right to distribute Content, we may use this information and the Content, as long as it does not personally identify End Users, to improve its products or to provide services or technologies to End Users.

(iv) You represent and warrant to us that you have all the rights, power and authority necessary to grant the above license, including without limitation, obtaining from End Users any agreement necessary to obtain the foregoing.

(b) Data Use Provisions.

(i) Definitions. The following terms have the following meanings:

“Aggregated Data” means any aggregate information, analysis, rule, projection, statistic or similar summary or conclusion that we have obtained through Processing or analysis of any End User Data (but excluding the original End User Data); provided Aggregated Data shall not be in a form which could be used to identify any individual End User. You obtain no ownership right, title or interest from us in or to Aggregated Data.

“End User Data” means data relating to your End Users, which may include Personal Data of End Users and data regarding End Users’ interactions with the Hosted Service.

“Personal Data” means any information relating to an identified or identifiable natural person that is Processed by us pursuant to or in connection with this Agreement, including information which forms part of End User Data and that relating to End Users which is uploaded onto the Hosted Service.

“Process” means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure or destruction and “Processing” and “Processed” shall be interpreted accordingly.

(ii) Our Use of End User Data.

(A) Your use of the Product may involve submission by you or End Users of End User Data to us via the Embedded Software or the Hosted Service from time to time.

(B) You grant to us (with respect to any End User Data supplied by or on your behalf to us), and shall cause each End User to grant to us, a nonexclusive royalty-free license to: (i) use End User Data as required to provide the Product to you and End Users and to internally analyze, enhance or improve the performance of the Product; (ii) disclose End User Data as required by law or the operation of providing the Product; (iii) use End User Data to create Aggregated Data and provide Aggregated Data to third parties; and (iv) disclose End User Data to subcontractors (including their affiliates) and authorize their use of such End User Data for the foregoing purposes (or for other activities expressly permitted under this Agreement).

(C) You covenant that you will only supply to us, and cause End Users and any applicable third parties to supply to us, End User Data that you (or such other source) has the right to supply for the purposes set forth in this Agreement. You will cause each End User to expressly consent to the Processing of their Personal Data by us and in the event that any End User notifies you (or us) that we should stop Processing their Personal Data, you shall immediately inform us and shall stop such Processing promptly upon receipt of such notice.

(D) You are responsible for complying with any applicable laws relating to your use of the Product, including, without limitation, privacy laws governing the collection, use and sharing of End User Data by you, or by us on your behalf, via the Product. Without limiting the generality of the foregoing, you are solely responsible for: (a) ensuring that you, and us acting on your behalf, have the right to collect, use and share End User Data via the Product;

and (b) providing adequate notice to, and obtaining any necessary consents from, your audience, end-users and any other applicable third parties, as required under applicable laws, with respect to the End User Data collected, used and shared by you, or by us on your behalf, via the Product. Notwithstanding any other provision included in this Agreement, neither you nor any End User shall use the Product to collect, upload, retrieve, transmit, send, and/or store any sensitive personally identifiable information, including, without limitation, government issued ID numbers, individual medical or health information (including protected health information under HIPAA), individual financial information, an individual's name (last name plus first name or first initial), birth dates, security codes, passwords, credit or debit card numbers, or "sensitive personal data" under the Directive 95/46/EC. We and our designees shall have the right (but not the obligation) in our sole discretion to refuse or remove any End User Data that violates any of the terms of this Agreement or any applicable law.

6. EXCLUSION OF WARRANTIES. THE PRODUCT IS MADE AVAILABLE "AS IS, AS AVAILABLE". WE EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND RELATING TO THE PRODUCT, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT. WE DO NOT PROMISE THAT YOUR USE OF THE PRODUCT WILL BE UNINTERRUPTED, ERROR-FREE OR COMPLETELY SECURE. YOU ALONE SHALL BEAR THE RISK AND YOU SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER SYSTEM OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM USE OF THE PRODUCT. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM US SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

7. SUPPORT OBLIGATIONS. The following provisions set forth your rights to Support Services regarding the Product. Any such Support Services are provided only during the applicable Subscription Term.

(a) General. Our support obligations for the Product are comprised of the following:

(i) **Maintenance Releases.** We will make available to you, at no additional charge, all Maintenance Releases and Major Releases to the Product which we make generally available to our customers during your Subscription Term.

(ii) **Versions Supported.** We will not be responsible for Support Services for any version of the Product other than the current and previous Major Release of the Product, provided that we will support each Major Release (and the latest Maintenance Release made available with respect thereto) for a period of not less than one year from initial release of the Major Release.

(iii) **Problem and Error Resolution.** We will investigate all potential errors related to the Product's non-conformance to documentation, provided that you have notified us in writing during the Subscription Term. We will make commercially reasonable attempts to substantiate the existence of the problem, evaluate the seriousness of the problem's effect on you and provide a workaround or resolution in a commercially reasonable time frame. This does not

guarantee that the resolution will include a Product update that will resolve or fix the reported issue.

(iv) **Telephone Consultation.** We will provide reasonable telephone consultation to assist in the implementation and utilization of the Product during our Standard Support Hours. We may require that you submit a support request through the web support portal, depending on the classification of assistance required. Telephone consultation for licensing or other sales-related issues may be limited to our Standard Support Hours.

(b) **Your Customers.** Customers who acquire our Product through a reseller or through an OEM partner must go to the entity that they acquired the Product from for their technical support services. Customers who contact our support directly will be directed back to their supplier for support and we will provide support to or through that entity unless (solely at our discretion) our personnel determine that it is necessary or desirable to provide support directly to the customer.

(c) **Services Not Included.** Support Services do not include any of the following: (1) custom programming services; (2) on-site support, including installation of any software; (3) support of any software or other materials not covered by this Agreement; or (4) training.

(d) **Time and Materials Services.** In the event that you notify us of a problem experienced in connection with the operation of the Product, we will respond as provided above. If the cause of such problem is not an error, defect or nonconformity in the Product, you must compensate us for all work performed by our personnel in connection therewith, on a time and materials basis at our then current standard rates, unless otherwise agreed by the parties in writing at the time, plus expenses.

(e) **Non-RevTwo Product.** Upon request and reasonable notice, we may (at our option) provide assistance in the installation or integration of non-RevTwo products on a time and materials basis, plus expenses. Non-RevTwo products consists of any software not created or supplied by us, including the following: new releases and updates to operating systems and other system software, and software you or a third party develop (except third party software embedded in the Product).

8. INDEMNIFICATION. You agree to indemnify, hold harmless and defend us (and our subsidiaries, affiliates, officers, agents, co-branders or other partners, and employees), at your expense, against any and all third party claims or demands, actions, proceedings and suits and all related liabilities, damages, settlements, penalties, fines costs and expenses (including, without limitation, reasonable attorney's fees and other dispute resolution expenses) incurred by us, due to, arising out of or related to your use of the Product, your or your personnel's violation of this Agreement, or you or your personnel's violation of any rights of another.

9. LIMITATION OF LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY LAW, UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY, WHETHER TORT, CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, SHALL WE BE LIABLE TO YOU OR ANY OTHER PERSON FOR (A) ANY DAMAGES RELATING TO THIS AGREEMENT, WHETHER DIRECT, INDIRECT, SPECIAL, INCIDENTAL, COVER, RELIANCE OR CONSEQUENTIAL DAMAGES, EVEN

IF WE SHALL HAVE BEEN INFORMED OF THE POSSIBILITY OF SUCH DAMAGES OR (B) FOR ANY CLAIM BY ANY OTHER PARTY. IN THE EVENT THAT NOTWITHSTANDING THE FOREGOING, WE ARE FOUND LIABLE TO YOU FOR DAMAGES FROM ANY CAUSE WHATSOEVER, AND REGARDLESS OF THE FORM OF THE ACTION (WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE), OUR LIABILITY TO YOU WILL BE LIMITED TO THE GREATER OF \$10,000 OR THE AMOUNT YOU PAID FOR THE PRODUCT ALLEGEDLY CAUSING SUCH DAMAGE. NONE OF OUR (OR OUR SUBSIDIARIES' OR AFFILIATES' OR SUPPLIERS') OFFICERS, DIRECTORS OR EMPLOYEES SHALL HAVE ANY LIABILITY HEREUNDER.

10. ACKNOWLEDGEMENT OF ALLOCATION OF RISK. AS YOU KNOW, THE MATERIALS PROVIDED TO YOU HEREUNDER ARE TO BE INCORPORATED BY YOU INTO PRODUCTS WE HAVE NO CONTROL OVER, AND PROVIDED TO THIRD PARTIES WE HAVE NO RIGHT TO EVALUATE, NEGOTIATE WITH OR COMMUNICATE WITH. YOU, AND NOT WE, THEREFORE, HAVE ESSENTIAL CONTROL OVER CIRCUMSTANCES THAT WILL ENABLE YOU TO ASSESS AND MODERATE RISK ASSOCIATED WITH THE USE OF THE PRODUCT. WE HAVE INCLUDED THE ABOVE PROVISIONS TO ALLOCATE RISK CONSISTENT WITH THESE REALITIES. You accordingly acknowledge that you understand that an essential purpose of the exclusion of warranties, the indemnification and the limitation of liability provided in this Agreement is allocation of risks between both of us, which allocation of risks is reflected in the applicable fees and other arrangements between both of us in the Agreement, and that we would not be willing to enter into this Agreement with you and license the Product to you if we were required to bear any additional risk.

11. TERM.

(a) Term. This Agreement is effective until terminated as set forth in this Section 11. Each Purchase Order is effective for the time period specified in the Purchase Order (or until this Agreement is terminated).

(b) Termination for Cause. Either party may terminate this Agreement for cause upon thirty (30) days written notice in the event the other party breaches a material provision of this Agreement, which breach is not cured within such thirty (30) day period. In the case of termination by us under this Section 11(b) for your breach, there shall be no refund of any pre-paid fees. In the case of termination by you for under this Section 11(b) for our breach, we shall refund the applicable portion of pre-paid fees for any months where services were terminated and not provided.

(c) Termination for No Purchase Orders. Either party may terminate this Agreement for convenience (i.e. without the need to prove breach or cause) upon written notice to the other party if there are no active Purchase Orders under this Agreement.

(d) Effect of Termination. Upon any termination of this Agreement, your right to use the Product terminates, but the provisions in Sections 2, 3(c), 4, 5, 6 and 8 through 13 and 14 continue to apply to both of us even after termination. We maintain your End User data for 90

days post termination. During that period, you may request a copy of your End User Data be delivered via written request to support@revtwo.com. The End User Data will be prepared and made available via electronic download in a standard format selected by us.

12. DEFINITIONS.

The following terms have specific meanings in this Agreement:

“Application” is a software application you make which includes the Embedded Software but adds significant functionality besides that provided by the Product.

“Business Days” means days that occur Monday through Friday, exclusive of observed holidays. If any event occurs during a Business Day, and the response is designated in “Business Days”, the deadline for such event to occur shall be prior to the end of Standard Support Hours on that number of following Business Days. For example, an event occurring on Monday (at any time) for which one Business Day response is committed is due to be responded to by 5:00pm Eastern Time Tuesday. An event occurring on Monday for which five Business Days response is committed is due to be responded to by 5:00pm Eastern time on the subsequent Monday.

“Business Hours” has the following meaning: If any event occurs during Standard Support Hours, and the response is designated in “Business Hours”, such time period shall mean actual hours (even if such period extends beyond the normal end of Standard Support Hours). If any event occurs outside of Standard Support Hours, and the response is designated in “Business Hours”, such time period shall mean actual hours commencing upon the opening of business on the next Business Day.

“Customer” means your customer to whom you sell or license the Application.

“Embedded Software” means the Software included by you in an Application.

“End User” means the individual end user who is provided an Application containing the Product.

“Hosted Service” means the service we provide to you over the web to enable communication with the Embedded Software.

“Software” means the software either supplied by us to you or used by us to provide the Product.

“Product” means the Embedded Software and Hosted Service provided hereunder as defined in the applicable Purchase Order.

“Purchase Order” means the purchase order or other document specifying the quantity of usage and the related Subscription Term for hereunder.

“sale”, “sell” and other similar terms, when used in connection with the marketing and distribution of any of the Product shall mean the licensing of such materials, and shall not be deemed for any purpose to mean a transfer of title or other rights of ownership to the Product.

“Standard Support Hours” means from 9:00am to 5:00pm, Eastern US time, Monday through Friday, exclusive of observed holidays.

“Subscription Term” is set forth in the applicable Purchase Order.

“Support Services” means the maintenance and support service provided hereunder.

“Updates” means both “Major Releases” and “Maintenance Releases”. Maintenance Releases means: (1) bug fixes, (2) enhancements to the Product provided by us to keep current with bug fixes and Major Updates that we make, (3) enhancements to keep current with the current hardware vendor’s operating system releases, as available from us, provided that the current hardware vendor’s operating system release is both binary and source-compatible with the operating system release currently supported by us; and (4) performance enhancements to Products. Maintenance Releases do not include new functions such as (a) new functionality in the Product, (b) new applications, and (c) new presentation tools; all Updates which includes such materials are “Major Releases.”

13. GENERAL TERMS.

(a) Entire Agreement; Amendment. The Agreement constitutes the whole legal agreement between both of us and governs your use of the Product (but excluding any services that we may provide to you under a separate written agreement), and completely replace any prior or contemporaneous written or verbal communications or representations regarding its subject matter. This Agreement may only be modified by an agreement in writing signed by both parties.

(b) Publicity. You (meaning your organization) agree to be identified as a customer of ours and agree that we may refer to you by name, trade name and trademark, if applicable, and may briefly describe your business in our marketing materials and website. You hereby grant us a license to your name and any of your trade names and trademarks solely in connection with the rights granted to us pursuant to this section.

(c) Waiver. In the event either party does not exercise or enforce any legal right or remedy which is contained in this Agreement (or that such party has the benefit of under any applicable law), this will not be taken to be a formal waiver of such party’s rights and those rights or remedies will still be available to such party.

(d) Severability. If any court of law, having the jurisdiction to decide on this matter, rules that any provision of this Agreement is invalid, then that provision will be removed from this Agreement without affecting the rest of this Agreement. The remaining provisions of this Agreement will continue to be valid and enforceable.

(e) Third Party Beneficiaries. You acknowledge and agree that each member of the group of companies of which we are the parent shall be third party beneficiaries to this Agreement and that such other companies shall be entitled to directly enforce, and rely upon, any provision of this Agreement that confers a benefit on (or rights in favor of) them. Other than this, and except as expressly provided otherwise in this Agreement, no other person or company shall be third party beneficiaries to this Agreement.

(f) Governing Law. This Agreement, and your relationship with us under this Agreement, shall be governed by the laws of the Commonwealth of Massachusetts without regard to its conflict of laws provisions. Both of us agree to submit to the exclusive jurisdiction of the courts located within the Commonwealth of Massachusetts to resolve any legal matter arising from this Agreement. Notwithstanding this, you agree that we shall still be allowed to apply for injunctive remedies (or an equivalent type of urgent legal relief) in any jurisdiction.

(g) Acceptance by Electronic Submissions. You acknowledge that any electronic submissions constitute your agreement and intent to be bound by this Agreement. Pursuant to any applicable statutes, regulations, rules, ordinances or other laws, you hereby agree to the use of electronic signatures, contracts, orders and other records and to electronic delivery of notices, policies and records of transactions initiated or completed through the Product. Further, you hereby waive any rights or requirements under any statutes, regulations, rules, ordinances or other laws in any jurisdiction which require an original signature or delivery or retention of non-electronic records.

REVTWO, INC.

PURCHASE ORDER

This is a Purchase Order under the Embedded Software and Service Agreement between REVTWO, INC and the undersigned dated _____, 2017.

PRODUCT	Seats	Price Per SEAT (per month)	Total (per month)
Help Desk Agent Access			
Store Access			

TOTAL: \$_____ per year

Term: One Year

Payment Due: Net 30 / Annual payment due up front

ACKNOWLEDGEMENT:

This Purchase Order is submitted and accepted under the above-referenced Agreement:

REVTWO, INC.:

[NAME OF CUSTOMER]:

By: _____
Name:
Title:

By: _____
Name:
Title: