



Purchase Agreement & Letter of Intent

XOS DIGITAL
 119 Boardwalk Street
 Wilmington, MA 01887
 Phone #: (978) 447-5220

ORDER PROCESSING CENTER:
 Fax #: (321) 226-6089

Sales Order Number:	Renew (19-22)
Date:	9/3/2019
Sales Rep:	Hester
Install Target Date:	9/1/2019
Service Contract End Date:	August 31 of 2022
XOS Job #:	

Bill To:
 Company: University of North Texas
 Contact: [Redacted]
 Title: [Redacted] Operations
 Email: [Redacted]@gmail.com
 Street: 1155 Union Circle
 City: Denton
 State: TX
 Zip: 76203
 Phone#: 940-565-3079
 Fax#:

Ship To:
 Company: University of North Texas
 Contact: [Redacted]
 Title: [Redacted] Operations
 Email: [Redacted]@gmail.com
 Street: 1155 Union Circle
 City: Denton
 State: TX
 Zip: 76203
 Phone #: 940-565-3079
 Fax #:

4/1/2019

Item	QTY	Description	License Verification	Product Unit Price	Product Extended
9990	3	Gold XOS Thunder HD Service & Support Package - \$28,119 Annually		\$28,119	\$84,357
1420	3	XOS ThunderCloud Distribution Service - 700 Hours - \$ 16,492 Annually		\$16,492	\$49,476
9999	3	Corporate Authorized Discount		(\$7,992)	(\$23,976)

Payment Schedule
 September 1 2019 - \$ 36,619
 September 1 2020 - \$ 36,619
 September 1 2021 - \$ 36,619

An Invoice has been requested. Please send invoice to email address: _____

Subtotal	\$109,857
Standard Shipping	
Installation & Training	
Total (US Dollars)	\$109,857

TERMS: (All terms are subject to credit approval)

1. Payment is due Net 30 days from invoice date; after 30 days, simple interest of 2% per month applies.
2. All sales are F.O.B. XOS Digital factory. XOS Digital will use reasonable efforts to meet requested delivery dates, but will not be liable for its failure to do so.
3. State or Local sales taxes will be assessed if valid tax exemption certificate (EC) is not provided. Fax EC to 407-404-5741
4. Shipping Charges are based on Standard shipping rates. Expedited shipping requires an addition 25% shipping charge.
5. This Purchase Agreement is valid for thirty (30) days from date shown above.
6. The 'Install Target Date' is not guaranteed. Exact dates will be arranged by an XOS Support Representative upon the receipt of the signed purchase order.

THIS AGREEMENT IS INTENDED ONLY FOR THE USE OF ADDRESSEE AND CONTAINS INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL, AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW. THE APPROVED PURCHASING AGENT UNDERSTANDS AND AGREES THAT THE TERMS OF THIS PURCHASE AGREEMENT AND THE TERMS FOUND AT THE PDF LINKED AT <http://www.xosdigital.com/Overview/Legal.aspx> (TERMS) OVERRIDE AND RENDER NULL AND VOID ANY OTHER TERMS AND CONDITIONS PERTAINING TO THE SOFTWARE AND/OR GOODS, INCLUDING BUT NOT LIMITED TO PURCHASE ORDERS AND CUSTOMER/CLIENT TERMS AND CONDITIONS AND THAT SIGNATURE BELOW OR DELIVERY OF GOODS OR SERVICES HEREUNDER SHALL BIND BOTH PARTIES TO THIS PURCHASE AGREEMENT AND TERMS.

XOS Digital hereby acknowledges and agrees that the University of North Texas' *Standard Addendum to Agreement* applies and is incorporated herein for all purposes. XOS Digital hereby acknowledges and agrees that, in the event of a conflict between the University of North Texas *Standard Addendum to Agreement* and the XOS Digital Purchase Agreement & Letter of Intent or the XOS Digital Terms and Conditions, the University of North Texas *Standard Addendum to Agreement* Terms and Conditions shall prevail.

Signature by XOS Digital Representative/Agent: [Redacted]
 Date: 9/27/2019

Signature of Approved Purchasing Agent: [Redacted] Print Name: [Redacted]

Title: [Redacted] Date: 10/2/19

If the reader of this agreement is not the intended recipient, or the employee or agent responsible for delivering the agreement to the intended recipient, you are hereby notified that any access, dissemination, distribution, forwarding, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify the sender immediately by e-mail or telephone, and delete the original message immediately.



ABOUT US PRODUCTS & SERVICES CONTENT LICENSING NEWS CONTACT



TERMS & CONDITIONS

XOS DIGITAL, INC.

PRODUCT & SOFTWARE TERMS AND CONDITIONS ("Agreement")

****IF YOU ARE RECEIVING THE THUNDER VR PRODUCT GO TO SCHEDULE 4 (THUNDERVR SUPPORT TERMS) OF THESE TERMS. THIS SCHEDULE IS PART OF THIS AGREEMENT****

These Product and Software TERMS AND CONDITIONS (this "Agreement") are between the entity that accepts this agreement ("You," "Your," or "Client") and XOS Technologies, Inc. d/b/a XOS Digital a Delaware corporation ("XOS," "us," "we").

This Agreement consists of: (1) the below terms and conditions; (2) the Schedules; and, as applicable (3) the Order issued to you by XOS; (4) any invoice(s) delivered to you by XOS for Products or Services; and (5) any Non-Disclosure Agreement. References to the "Agreement" herein shall be interpreted hereunder to include all of (1) –

(4) above. You enter into this Agreement for business purposes only.

BY USING AN XOS PRODUCT, SERVICE, OR XOS PROGRAMS, YOU AGREE TO FOLLOW AND BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY, ORGANIZATION, EDUCATIONAL INSTITUTION, OR OTHER ENTITY, YOU REPRESENT THAT

YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THE TERMS AND CONDITIONS OF THIS AGREEMENT AND, IN SUCH EVENT, "YOU," "YOUR," "CLIENT" OR YOUR ENTITY'S NAME AS USED IN THE ORDER SHALL REFER TO SUCH ENTITY.

1. CERTAIN DEFINITIONS.

1.1 "Client Software" means those elements of the XOS Programs intended for installation on Client Devices.

1.2 "Client Data" means Client's team or player video clips, playbook, plays, coaches' comments, play diagrams, descriptions, formations, football operations, game analysis processes, and scouting techniques, and other data related thereto, including all Intellectual Property Rights therein.

1.3 "Client Use Covenants" means the Client Use Covenants in Schedule 3 to this Agreement.

1.4 "Devices" means laptops or other personal computers, and IPADs or other tablets.

1.5 "Documentation" means the standard user, operations and training manuals that XOS makes generally available to all of its Clients

(including Client) in connection with the XOS Programs, as well as any written software specifications provided to Client.

1.6 "End Users" means only Client's players, members of its coaching staff, scouting staff, and team officials.

1.7 "Enhancements" means updates, fixes, or version upgrades which offer enhancements to the functionality, performance or reliability of the XOS Programs and that are made generally available by XOS to all of its Clients who have a paid-up License to use the XOS Programs.

1.8 "Hardware" means the web, application and/or server(s) provided by XOS hereunder and set forth on an Order.

1.9 "Intellectual Property Rights" means any rights under any patent (including patent applications and disclosures), copyright, trademark, trade secret,

trade names, service marks, rights of authorship, moral rights, or other intellectual property or proprietary rights therein or other intellectual property right recognized in any country or jurisdiction in the world.

1.10 "Order" means the form whereby XOS specifically sets out the nature of the XOS Programs, Services, and/or Products which will be provided to Client, which is to be signed by Client. An Order may also be referred to herein or in other documents and communications as a "Purchase Agreement" or "PA."

1.11 "Products" means any item(s) provided to Client by XOS which is not an XOS Program, including but not limited to Hardware.

1.12 "Separate Terms" refers to separate license terms that are both (a) specified in the Documentation, service specifications, readme or notice files, and (b) apply to Separately Licensed Third Party Technology.

1.13 "Separately Licensed Third Party Technology" refers to third party technology that is licensed under Separate Terms and not under the terms of this Agreement.

1.14 "Server Software" means those elements of the XOS Programs intended for use on the Hardware.

1.15 "Services" means the provision of XOS Programs hereunder as well as any other efforts of XOS specifically set forth herein. For the avoidance of doubt, "Services" shall always include "XOS Programs."

1.16 "Services Environment" refers to the combination of Hardware and software components owned, licensed or managed by XOS to which XOS grants You and Your Users access as part of the Services which You have ordered. As applicable and subject to the terms of this Agreement and Your Order, XOS Programs, Third Party Content, Your Content and Your Applications may be hosted in the Services Environment.

1.17 "XOS Programs" refers to the software products owned or licensed by XOS to which XOS grants You access as part of the Services, including Documentation, and any Enhancements provided as part of the Services. The XOS Programs licensed to you under this Agreement are only those XOS Programs set forth in an Order. The term "XOS Programs" does not include Separately Licensed Third Party Technology. XOS Programs shall include the Client Software and the Server Software.

2. LICENSES.

2.1 Grant of License. Subject to this Agreement and the Client Use Covenants detailed in Schedule 3, XOS grants to Client, for the Term of this Agreement, the non-exclusive, non-transferable, non-assignable, revocable, limited license to use the XOS Programs only as set forth in the License Grant in Schedule 1.

2.2 Ownership of XOS Programs. As between XOS and Client, XOS owns or has a valid license to all Intellectual Property Rights in the XOS Programs, including all worldwide Intellectual Property Rights therein. XOS reserves all rights and licenses in and to the XOS Programs not expressly granted to Client as specifically set forth in this Agreement and Client shall take no action in a manner inconsistent with this Section. Client will not delete or in any manner alter the copyright, trademark, and other proprietary rights and notices appearing on the XOS Programs as delivered to or accessed by Client.

2.3 Ownership of Client Data. As between XOS and Client, Client owns or has a valid license to all Intellectual Property Rights in the Client Data. Client hereby grants XOS a non-exclusive, non-transferable, royalty-free right to use and copy the Client Data for the Term of this Agreement only as necessary to perform the Services.

2.4 Copies. Except as otherwise expressly set forth in Your Order you acknowledge that XOS has no delivery obligation for XOS Programs and will not ship copies of such XOS Programs to You as part of the Services.

2.5 Third Party Software. The Services may contain or require the use of Separately Licensed Third Party Technology. You are responsible for complying with the any separate terms that govern your use of Separately Licensed Third Party

Technology. XOS may provide certain notices to You in specifications, Documentation, readme, or notice files in connection with such Separately Licensed Third Party Technology. The third party owner, author or provider of such Separately Licensed Third Party Technology retains all ownership and intellectual property rights in and to such Separately Licensed Third Party Technology.

2.6 Third Party Content. XOS may provide You with access to content provided by third parties ("Third Party Content") within the Services Environment. The type and scope of any Third Party Content is defined in the service specifications applicable to Your Order. The third party owner, author or provider of such Third Party Content retains all ownership and intellectual property rights in and to that content, and Your rights to use such Third Party Content are subject to, and governed by, the terms applicable to such content as specified by such third party owner, author or provider.

2.7 Patches. You are required to accept all patches, bug fixes, updates, maintenance and service packs (collectively, "Patches") necessary for the proper function and security of the Services, including for the XOS Programs, in a timely manner after such Patches are generally released, published, or provided by XOS.

3. SUPPORT.

3.1 Support. XOS will provide Client with the maintenance and support, installation and training services for the XOS Programs as specifically set forth on an Order, including Enhancements, subject to Client's payment of the fees set forth on the same Order in the manner prescribed by Section 5 of this Agreement and such Order. Client agrees that XOS will have the right to charge in accordance with its then-current policies for any support service resulting from problems, errors, or inquiries relating to Client systems or any other network, equipment, service, or software which is not within the sole control of XOS. XOS reserves the right to modify or discontinue any Service (in whole or in part) at any time by giving ninety (90) days written notice of such change to Client.

4. INSTALLATION AND TRAINING.

4.1 Installation. Shall occur as set forth in an Order.

4.2 Training. XOS will provide the training to Client in the use, operation and maintenance of the XOS Programs as set forth on an Order. All training will be subject to Client's security procedures, as applicable. Client agrees to facilitate all training and gather End Users into optimally sized groups (in XOS's discretion) to facilitate optimized training efficiency.

5. PAYMENT.

5.1 Fees. Client will pay XOS the fees set forth on an Order. Fees will be due and payable upon receipt of XOS's invoice therefor, unless a different payment schedule is set out on an Order. If Client requests additional services or deliverables not specifically set out in an appropriate Order, or in this Agreement, the parties may execute an addendum to this Agreement or Order relating to the specific services to be added. In the absence of such an addendum, XOS will invoice Client for such additional services at its then-current rates for such additional services.

5.2 Payment Terms and Taxes. Client will pay all amounts due under this Agreement in U.S. currency. All fees payable under this Agreement are net amounts and are payable in full, without deduction for taxes of any kind. Client will be responsible for, and will promptly pay, all taxes and duties of any kind (including but not limited to sales and use taxes) associated with this Agreement or Client's receipt or use of the Software, except for taxes based on XOS's net income. Restrictive endorsements or other statements on checks accepted by XOS will not apply. Client will reimburse XOS for reasonable fees of attorneys and any other costs associated with the collection of delinquent payments. Any amounts payable by Client under this Agreement that remain unpaid after the due date shown on any invoice will be subject to a late charge equal to the lesser of two percent (2.0%) per month or the maximum rate permitted by law from the due date until such amount is paid in full.

Notwithstanding anything to the contrary herein or in any Order, Client agrees that the prompt payment of amounts due is a material term of this Agreement. XOS may, without breach, immediately suspend any provision of Services and Products in the event payment for any invoice which is past due and for which Client has been given not less than ten (10) days written notice of such failure to pay, and payment in full has not been received by XOS at the end of such ten (10) day notice period. Further, XOS shall have the right to retain all materials and data until all such invoices are paid in full in accordance with the Order and this Agreement.

~~5.3 Orders. After the term which is stated on an Order expires ("Initial Order Term") or any Renewal Term (as defined hereunder) expires, all Order(s) hereunder shall automatically renew for three (3) in one (1) year periods (each a "Renewal Term") unless one party delivers notice that such party does not wish to extend the Agreement ("Non-Renewal Notice"). Non-Renewal Notice must be received by the receiving party no less than thirty (30) calendar days before the beginning of the next Renewal Term.~~

Signature by XOS Digital Representative/Agent:

Date: 9/27/2019

All Renewal Terms shall be subject to an increase in the fees and charges in the Order(s) ("Annual Increase"). Such Annual Increase shall adjust the fees and charges for the Products and Services contained in the Order(s). In the event that a material change is made to the number of End Users, or the scope or nature of the Products, Services, or XOS Programs is expanded beyond what is contemplated in the applicable Order(s) therefor (each, a "Material Change"), Client will pay amounts due in an invoice delivered by XOS which accounts for the new fees and costs associated with such Material Change.

6. WARRANTY.

The following Warranties shall apply so long as Client's fees have been paid in accordance with this Agreement:

6.1 Harmful Code Warranty. XOS warrants that, the XOS Programs will not contain any known computer code designed to disrupt, disable, harm, or otherwise impede the operation of the XOS Programs.

6.2 Video Editing and Capture Systems and Client Data Warranty. XOS warrants that, during the Term (i) XOS's access to Client's video editing and capture systems (except for video editing and capture systems licensed to Client by XOS) shall be limited to read-only access to Client's data generated from such systems, which data is included within the definition of "Client Data" hereunder and, therefore, subject to the confidentiality provisions of Section 8; (ii) XOS shall neither attempt to gain further access to such systems nor to decompile or otherwise reverse engineer such systems; (iii) XOS shall not remove any intellectual property rights or other legal notices with regard to Client Data; and (iv) to the extent Client discloses or makes available any information concerning Client's video editing and capture systems to XOS, such information shall be considered "Confidential Information" hereunder.

6.3 Disclaimer. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.1 AND 6.2 OF THIS AGREEMENT, XOS DISCLAIMS ALL WARRANTIES, INCLUDING IMPLIED WARRANTIES, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING, USAGE OR TRADE, AS WELL AS ANY STATUTORY WARRANTIES. CLIENT AGREES (A) THAT IT HAS NOT EXECUTED OR AUTHORIZED THE EXECUTION OF THIS AGREEMENT IN RELIANCE UPON ANY ADVICE, INFORMATION, OR REPRESENTATIONS, WHETHER ORAL OR WRITTEN, OBTAINED FROM XOS OR ELSEWHERE, AND (B) THAT NO WARRANTY OR WARRANTIES EXISTS BEYOND THOSE EXPRESSLY STATED IN 6.1 AND 6.2 OF THIS AGREEMENT. XOS DOES NOT GUARANTEE THAT (A) THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED, (B) THE SERVICES WILL OPERATE IN COMBINATION WITH YOUR CONTENT OR YOUR APPLICATIONS, OR WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEMS OR DATA NOT PROVIDED BY XOS, OR THAT (C) THE SERVICES WILL MEET YOUR REQUIREMENTS, SPECIFICATIONS OR EXPECTATIONS. YOU ACKNOWLEDGE THAT XOS DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET AND CLOUD- BASED SERVICES, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. XOS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES,

OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. XOS IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PERFORMANCE, OPERATION OR SECURITY OF THE SERVICES THAT ARISE FROM YOUR CONTENT, YOUR APPLICATIONS OR THIRD PARTY CONTENT. XOS DOES NOT MAKE ANY REPRESENTATION OR WARRANTY REGARDING THE RELIABILITY, ACCURACY, COMPLETENESS, CORRECTNESS, OR USEFULNESS OF THIRD PARTY CONTENT, AND DISCLAIMS ALL LIABILITIES ARISING FROM OR RELATED TO THIRD PARTY CONTENT.

7. INDEMNIFICATION.

7.1 XOS Indemnity. XOS will defend or settle any action in a United States Court of Law brought against Client to the extent that such action is solely based upon a claim that the XOS Programs, as such XOS Programs are provided by XOS to Client under this Agreement and used within the scope of this Agreement, infringe any U.S. patent or any copyright or misappropriates any trade secret with regard to any third party (including with regard to Client's video editing and capture system(s)), and pursuant to the above, XOS will pay any costs, damages and reasonable attorneys' fees attributable to such claim that are awarded against Client, provided that Client:

- (a) promptly notifies XOS in writing of the claim;
- (b) grants XOS sole control of the defense and settlement of the claim, provided, however, that XOS shall not settle any claim that admits any fault or liability of, or imposes any liability or obligation on, Client without Client's prior written consent.; and
- (c) provides XOS with all assistance, information and authority reasonably required for the defense and settlement of the claim. XOS shall not be required to defend or settle any action brought against Client to the extent the infringing use is due, in whole or in part, to the negligent or willful conduct of Client.

XOS to the fullest extent permitted by law, shall defend with competent counsel, indemnify and hold harmless Client and Client's trustees, directors, officers, employees, agents and representatives from and against any and all claims, demands, actions, suits and proceedings, judgments (whether civil, criminal or administrative), and any and all liability, loss, expense (including reasonable attorneys' fees and professional expenses), costs or damages, which are directly caused by (i) XOS's breach of its obligations

under this Agreement, or (ii) the intentional or grossly negligent act or omission of XOS or any of its directors, officers, employees, servants, agents, representatives or contractors. The indemnification obligations of XOS in this paragraph shall only apply if Client (a) promptly notifies XOS in writing of the claim; (b) grants XOS sole control of the defense and settlement of the claim; and (c) provides XOS with all assistance, information and authority reasonably required for the defense and settlement of the claim. XOS shall not be required to defend or settle any action brought against Client to the extent the infringing use is due, in whole or in part, to the negligent or willful conduct of Client.

7.2 Injunctions. If Client's use of any of the XOS Programs hereunder is, or in XOS's opinion is likely to be, enjoined due to the type of claim specified in Section 7.1 above ("Enjoinment"), XOS may, at its sole option and expense, either:

(a) procure for Client the right to continue using such XOS Programs under the terms of this Agreement; or
(b) replace or modify such XOS Programs so that they are non-infringing and substantially equivalent in function to the enjoined XOS Programs. If options (a) and (b) above cannot be accomplished despite XOS's commercially reasonable efforts, then XOS may terminate Client's rights and XOS's obligations hereunder with respect to such XOS Programs and no new fees or charges shall be invoiced to Client regarding the enjoined XOS Programs. If the Software is found to infringe upon the intellectual property rights of others and Client is forced to discontinue its use of same, XOS agrees to refund Client any prepaid fees less a pro rata portion for services rendered prior to the date of termination pursuant to this Section.

7.3 Exclusions. Notwithstanding the terms of Section 7.1, XOS will have no liability for any infringement or misappropriation claim of any kind to the extent that it results from: (a) modifications to the XOS Programs made by a party other than XOS;

(b) the combination, operation or use of the XOS Programs with equipment, devices, software or data not supplied by XOS (other than Client's video editing and capture systems); (c) Client's failure to use an Enhancement, Patch, or a new version of the XOS Programs(s) provided by XOS or in any way made available to Client by XOS; (d) use of the XOS Programs by Client which is not the intended use of

the XOS Programs (as reflected herein and within the Documentation); (e) any use of the XOS Programs that is in violation of Schedule 3 of this Agreement; (f) Client's continued use of the XOS Programs after the license granted hereunder to use such XOS Programs terminates; (g) the use of any information, design, specification, instruction, software, service, data, hardware, or Material not furnished by XOS; (h) the use of Third Party Content or any Material from a third party portal or other external source that is accessible to You within or from the Services; (i) Your redistribution of the Product to, or use for the benefit of, any unaffiliated third party; (j) Your use of XOS's trademark(s) without express written consent to do so; or your use of the Product after We notify You to discontinue that use due to a third party claim; or (k) use of the XOS Programs subsequent to any breach of this Agreement by Client.

In addition to the foregoing, XOS will not indemnify You for infringement caused by Your actions against any third party if the Services as delivered to You and used in accordance with the terms of this Agreement would not otherwise infringe any third party intellectual property rights. XOS will not indemnify You for any intellectual property infringement claim(s) known to You at the time Services rights are obtained.

You will reimburse XOS for any costs or damages that result from any of the above actions listed in this Section 7.3.

The term "Material" defined above does not include Separately Licensed Third Party Technology. Solely with respect to Separately Licensed Third Party Technology that is part of or is required to use the Services and that is used: (a) in unmodified form; (b) as part of or as required to use the Services; and (c) in accordance with the usage grant for the relevant Services and all other terms and conditions of this Agreement, XOS will indemnify You for infringement claims for Separately Licensed Third Party Technology to the same extent as XOS is required to provide infringement indemnification under the terms of the Agreement.

7.4 Sole Remedy. THE INDEMNIFICATION PROVISIONS OF SECTION 7.1 AND THE REFUND PROVISIONS OF SECTION 7.2, SUBJECT TO THE EXCLUSIONS OF SECTION 7.3, SET FORTH XOS'S SOLE AND EXCLUSIVE OBLIGATIONS, AND CLIENT'S SOLE AND EXCLUSIVE REMEDIES, WITH RESPECT TO INFRINGEMENT OR MISAPPROPRIATION OF INTELLECTUAL PROPERTY RIGHTS OF ANY KIND.

7.5 Client Indemnification. Client will defend or settle any action in a United States Court of Law brought against XOS to the extent that such action is based upon a claim arising in any way out of XOS's use of the Client Data, provided that XOS: (a) promptly notifies Client in writing of the claim; (b) grants Client sole control of the defense and settlement of the claim; and (c) provides Client, at Client's expense, with all assistance, information and authority reasonably required for the defense and settlement of the claim.

8. CERTAIN PROPRIETARY RIGHTS.

8.1 Definition. "Confidential Information" means: (a) the XOS Programs, including all portions, parts, and components thereof; (b) the Client Data; (c) any other business or technical information of XOS or Client; and (d) the specific terms and pricing set forth in this Agreement or Order.

8.2 Exclusions. Confidential Information does not include information that: (a) is or becomes generally known to the public through no fault of or breach of this Agreement by the receiving party; (b) is rightfully known by the receiving party at the time of disclosure without an obligation of confidentiality;

(c) is independently developed by the receiving party without use of the disclosing party's Confidential Information; or (d) the receiving party rightfully obtains from a third party without restriction on use or disclosure.

8.3 Use and Disclosure Restrictions. Each party will not use the other party's Confidential Information except as necessary for the performance of this Agreement and will not disclose such Confidential Information to any entity, person, or third party except to those of its employees and subcontractors that need to know such Confidential Information for the purpose of performing under this Agreement, provided that each such employee and subcontractor is subject to a written agreement that includes binding use and disclosure restrictions that

are at least as protective as those set forth herein. Each party will use all reasonable efforts to maintain the confidentiality of all such Confidential Information in its possession or control, but in no event less than the efforts that such party ordinarily uses with respect to its own proprietary information of similar nature and importance. The foregoing obligations will not restrict either party from disclosing Confidential Information of the other party:

(a) pursuant to the order or requirement of a court, administrative agency, or other governmental body, provided that the party required to make such a disclosure gives reasonable notice to the other party to contest such order or requirement; (b) on a confidential basis to its legal or financial advisors; or

(c) pursuant to applicable open records laws or regulations. In addition, each party may disclose the terms and conditions of this Agreement only: (i) as required under applicable securities regulations; and

(ii) on a confidential basis to present or future providers of venture capital and/or potential private investors in or acquirers of such party.

8.4 Injunctive Relief. A breach, or threatened breach, by a party of its obligations under this Section 8 may result in irreparable harm for which the other party may not have an adequate remedy at law. The parties intend that if such a breach occurs under Section 8, then for purposes of determining whether to grant an equitable remedy and/or injunctive relief any court will assume that such a breach would cause the other party irreparable harm.

8.5 General Learning. Client agrees that XOS is free to reuse all generalized knowledge, experience, know how, and technologies (including ideas, concepts, processes, and techniques) related to or acquired during provision of the XOS Programs (including without limitation, that which it could have acquired performing the same or similar services for another client).

9. LIMITATION OF LIABILITY. EXCEPT FOR XOS'S LIABILITY PURSUANT TO SECTION 7.1 OR A BREACH OF SECTION 8, XOS'S TOTAL CUMULATIVE LIABILITY TO CLIENT FROM ALL CAUSES OF ACTION AND UNDER ALL THEORIES OF LIABILITY WILL NOT EXCEED THE SOFTWARE FEES (DOES NOT INCLUDE FEES FOR PROFESSIONAL SERVICES OR HARDWARE) PAID TO XOS BY CLIENT PURSUANT TO THIS AGREEMENT IN

THE THREE (3) MONTH PERIOD PRIOR TO CLIENT'S DISCOVERY OF SUCH A BREACH, ACTION, OR INACTION BY XOS WHICH GIVES RISE TO ANY XOS LIABILITY HEREUNDER. LIABILITY UNDER THIS SECTION, AND THE CALCULATION OF DAMAGES HEREUNDER SHALL BE LIMITED SOLELY TO THE PRODUCT, SERVICES, OR XOS PROGRAMS FROM WHICH LIABILITY ARISES AND SUCH CALCULATION SHALL NOT APPLY TO ANY OTHER PRODUCTS, SERVICES, OR XOS PROGRAMS DELIVERED TO CLIENT UNDER THIS AGREEMENT.

IN NO EVENT WILL XOS BE LIABLE TO CLIENT FOR ANY SPECIAL, INCIDENTAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF USE, DATA, REVENUES, BUSINESS, PROFITS, INDIRECT LOSS OF REVENUES, INDIRECT LOSS OF PROFITS, OR BUSINESS INTERRUPTION) OR FOR THE COST OF PROCURING SUBSTITUTE PRODUCTS OR SERVICES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR PERFORMANCE OF THE XOS PROGRAMS.

XOS WILL NOT BE LIABLE FOR NOR RESPONSIBLE FOR ANY FAILURE IN THE XOS PROGRAMS IN ANY WAY RESULTING FROM OR ATTRIBUTABLE TO (A) CLIENT'S SYSTEMS; (B) UNUSUALLY HIGH USAGE VOLUMES; (C) FAILURES OUTSIDE OF XOS'S FACILITIES, OTHER THAN VENDORS USED BY XOS TO PROVIDE THE SOFTWARE;

(D) CLIENT'S OR ANY THIRD PARTY'S PRODUCTS, SERVICES, OR SOFTWARE; (E) SCHEDULED MAINTENANCE; OR (F) UNAUTHORIZED ACCESS, BREACH, OF FIREWALLS OR OTHER HACKING EFFORTS BY THIRD PARTIES.

THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION WILL APPLY REGARDLESS OF WHETHER SUCH DAMAGES ARE SOUGHT BASED ON BREACH OF WARRANTY, BREACH OF CONTRACT, NEGLIGENCE, STRICT LIABILITY IN TORT, OR OTHER LEGAL THEORY, WHETHER OR NOT XOS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER OCCURRENCE.

THE PARTIES ACKNOWLEDGE THAT THE LIMITATIONS OF LIABILITY AND ALLOCATION OF RISK IN THIS SECTION AND IN THE OTHER PROVISIONS OF THIS AGREEMENT ARE AN ESSENTIAL ELEMENT OF THE BARGAIN BETWEEN THE PARTIES, WITHOUT WHICH

XOS WOULD NOT HAVE ENTERED INTO THIS AGREEMENT. XOS'S PRICING AND TERMS REFLECT THIS ALLOCATION OF RISK AND THE LIMITATIONS OF LIABILITY SPECIFIED. THIS SECTION WILL SUPERSEDE ANY OTHER VERBIAGE IN THE AGREEMENT PERTAINING TO XOS'S LIABILITY, OTHER THAN INDEMNIFICATION PROVISIONS CONTAINED IN THIS AGREEMENT. AS A CONDITION PRECEDENT TO RECOVERY, CLAIMS

FOR LOSS OR DAMAGE CAUSED BY XOS MUST BE MADE IN WRITING BY CLIENT WITHIN THIRTY (30) DAYS AFTER LOSS OR DAMAGE. THESE LIMITATIONS ARE INDEPENDENT FROM ALL OTHER PROVISIONS OF THIS AGREEMENT AND SHALL APPLY NOTWITHSTANDING THE FAILURE OF ANY OTHER REMEDY PROVIDED IN THIS AGREEMENT.

10. TERM AND TERMINATION.

10.1 Term. The term of this Agreement shall be the period commencing upon the date that Client executes an Order (either manually or electronically) ("Order Execution Date") or the date when Client first uses any Product, XOS Program, or Service furnished by XOS, whichever is earlier ("Commencement Date"). This Agreement shall conclude upon the expiry of all Orders hereunder or the date when Client discontinues its use of all Products, XOS Programs, and Services and returns all required hardware or other items to XOS, whichever is later (the "Term"). Once placed or signed by You, Your Order is non-cancelable and the sums paid nonrefundable, except as provided in this Agreement.

10.2 Termination for Breach. Either party may terminate this Agreement if the other party materially breaches any term of this Agreement and fails to cure such breach within thirty (30) days after the breaching party receives written notice of such alleged breach.

10.3 Effect of Termination. Upon termination of this Agreement, all licenses hereunder shall immediately terminate, and Client will promptly return the Hardware to XOS (unless Client has purchased and fully paid for said Hardware), remove the Client Software from all Devices, and remove and delete all other copies of the XOS Programs. Client will also discontinue the use of any other Services and Products provided hereunder. If requested by XOS, Client shall certify (via an officer of Client's

organization) as to Client's compliance with the foregoing.

10.4 Survival. The rights and obligations of the parties contained in Sections 2.2, 2.3, 2.4, 2.5, 2.6, 5.1, 5.2, 5.3, 6.3, 7.4, 7.5, 8.1, 8.2, 8.3, 8.4, 8.5, 9, 10.3, and 11 (as well as Schedules 2 and 3) will survive the expiration, conclusion and any termination of this Agreement, along with any amounts payable.

11. GENERAL.

11.1 Assignment. Client will have no right to assign this Agreement, in whole or in part, by operation of law or otherwise, without XOS's express prior written consent. Any attempt to assign this Agreement, without such consent, will be null and void and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of each party's successors and assigns. This Agreement may be assigned or transferred by XOS without Client's prior consent (a) in the event of an acquisition (by merger, sale, consolidation or otherwise) of all or substantially all of its assets; (b) in the case of the acquisition of the XOS Program set/division set out in an Order; or (c) in the case of any other change in control of XOS.

11.2 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the Commonwealth of Massachusetts, excluding that body of laws known as 'conflicts of law.' The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

11.3 Venue. Any permitted legal action or proceeding with respect to this Agreement and all contemplated transactions hereunder (including amendments thereof and successor agreements) must be brought in any state or U.S. federal court of competent jurisdiction in the Commonwealth of Massachusetts (without giving effect to its conflicts of laws principles). By execution and delivery of this Agreement, the Parties irrevocably consent to and accept, for themselves and in respect of their property, generally and unconditionally the exclusive jurisdiction of such courts. Each party further irrevocably waives any objection, including any objection to the laying of venue, lack of personal

jurisdiction, or based on the grounds of forum non conveniens, or otherwise, which it may now or hereafter have to the bringing of any action or proceeding in such jurisdiction in respect of this Agreement (including amendments thereof and successor agreements).

11.4 Severability. If for any reason a court of competent jurisdiction or arbitrator finds any provision of this Agreement invalid or unenforceable, that provision of the Agreement will be stricken only to the extent necessary and the remaining provisions of this Agreement will continue in full force and effect, if the essential terms and conditions of this Agreement for each party remain valid, binding, and enforceable.

11.5 Waiver. The failure by either party to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision.

11.6 Notices. All notices required or permitted under this Agreement will be in writing and delivered by confirmed facsimile or email transmission, by courier or overnight delivery services, or by certified mail, and in each instance will be deemed given upon receipt. All non-electronic communications will be sent to the addresses set forth on the signature page hereto or to such other address as may be specified by either party to the other in accordance with this Section. Either party may change its address for notices under this Agreement by giving written notice to the other party by the means specified in this Section.

11.7 Force Majeure. Neither party will be responsible for any failure or delay in its performance under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, including, but not limited to, labor disputes, strikes, lockouts, shortages of or inability to obtain labor, energy, or supplies, war, terrorism, riot, acts of God or governmental action. This shall not apply to Client's failure to remit payments as set forth herein.

11.8 Relationship of Parties. The parties to this Agreement are independent contractors and this Agreement will not establish any relationship of partnership, joint venture, employment, franchise, or

agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent.

11.9 Jury Waiver/Fees. The parties waive a trial by jury of any or all issues arising in any action or proceeding between the parties hereto or their successors, under or connected with this Agreement, or any of its provisions. In any action or proceeding to enforce or interpret this Agreement, the prevailing party will be entitled to recover from the other party the prevailing party's costs and expenses (including reasonable attorneys' fees) incurred in connection with such action or proceeding and enforcing any judgment, order, or result thereby obtained.

11.10 Entire Agreement/Order of Precedence and Control. This Agreement, including the Schedules attached hereto and any applicable Orders, invoices, and Non-Disclosure Agreements, constitutes the complete and exclusive understanding and agreement between the parties regarding its subject matter and supersedes all prior or contemporaneous agreements or understandings, written or oral, relating to its subject matter. Any waiver, modification or amendment of any provision of this Agreement will be effective only if in writing and signed by duly authorized representatives of both parties, and only if such document identifies itself as an amendment to this Agreement. ~~This Agreement controls and supersedes all other documents issued by either party, delivered to any party, referenced by any party in its standard purchasing documentation processed, or signed by any party concerning the services contemplated hereunder.~~ The sole exceptions to the foregoing shall be any pricing and payment terms contained in an Order and any Non-Disclosure Agreement(s) between the parties.

Signature by XOS Digital Representative/Agent:

Date: 9/27/2019

11.11 Headings. Section headings are for convenience only and do not modify or affect the meaning of any provision in nor be the basis for interpretation or construction of this Agreement. A reference to a Section in this Agreement shall be interpreted to include any subsections thereunder.

11.12 Negotiated Terms. The provisions of this Agreement are the result of negotiations between the parties and this Agreement will not be construed

in favor of or against any party by reason of the extent to which any party or its professional advisors participated in the preparation of this Agreement or based on a party's undertaking of an obligation under this Agreement. Any principle of construction or rule of law that provides that, in the event of any inconsistency or ambiguity in such agreement, an agreement shall be construed against the drafter of the agreement, shall not apply to the terms and conditions of this Agreement. Both Parties acknowledge and agree they have read and understand the terms of this Agreement, or that they have had the opportunity to discuss the terms of this Agreement with their attorney.

11.13 Definitions. The definitions found in this Agreement shall govern all Order and other documents between the Parties unless otherwise specifically set forth in such Order or other documents between the Parties.

11.14 Further Assurances. The parties shall each from time to time, at the request of the other, and without further consideration, execute and deliver such instruments, and take such actions, as may be reasonably necessary to effect the transactions contemplated by this Agreement.

11.15 Schedules. The parties agree and understand that the rights, responsibilities, permissions, and obligations set out in all Schedules apply to this Agreement and are incorporated herein by reference thereto.

11.16 Third Party Consents. You shall obtain at Your sole expense any rights and consents from third parties necessary for Client Data, Your applications, and Third Party Content, as well as other vendor's products provided by You that You use with the Services, including such rights and consents as necessary for XOS to perform the Services under this Agreement.

11.17 Audit. XOS may audit Your use of the Services (e.g., through use of software tools) to assess whether Your use of the Services is in accordance with Your Order. You agree to cooperate with XOS's audit and provide reasonable assistance and access to information. You agree to pay within 30 days of written notification any fees applicable to Your use of

the Services in excess of Your rights under this Agreement or any Order(s) hereunder. If You do not pay, XOS may terminate Your Services and/or Your Order, and You will be required to pay to XOS the full amount listed in Your Order within 30 days of this Agreement's termination. You agree that XOS shall not be responsible for any of Your costs incurred by You in cooperating with the audit.

11.18 Security. XOS agrees to perform all services under this Agreement in compliance with industry and security standards and norms, and to be prepared to demonstrate to Client the methods for meeting said standards and norms, including use of Client approved VPN or other controlled encryption method for remote access of data, systems or network.

~~11.19 Relationship to Other Terms. The Parties agree and understand that the terms and provisions contained herein shall override and supersede all provisions and terms contained in any other document pertaining hereto, including any terms found on XOS's website, a Client purchase order, or similar items.~~

Signature by XOS Digital Representative/Agent:
Date: 9/27/2019

11.20 Insurance. XOS maintains the following insurance policies:

a) Commercial General Liability:

\$1,000,000 per occurrence/\$2,000,000 General Aggregate. Covers products and completed operations;

b) Technology Errors and Omissions:

\$10,000,000 Aggregate;

c) Business Auto: \$1,000,000;

d) Workers Compensation: \$1,000,000 Each Accident;

e) Umbrella (Auto, CGL, EPL) \$10,000,000 in total (aggregate).

As a matter of policy, XOS does not name clients as additional insured, nor will XOS waive subrogation regarding the foregoing policies.

11.21- No Third Party Beneficiaries. This Agreement does not and is not intended to confer any rights or remedies upon any person or entities other than the Parties hereto.

Schedule 1 – License Grant

A. LICENSE GRANT:

The following license grants ("License Grants") apply to any and all Services and Products ordered hereunder (including but not limited to XOS Programs) and all licenses granted hereunder are subject to the limitations and restrictions set forth in this Agreement (including but not limited to the Client Use Covenants detailed in Schedule 3):

1. For all XOS Programs in which any portion of the XOS Program is hosted by Client or a third party designated or controlled by Client), XOS hereby grants Client, subject to the restrictions set forth in this Agreement and conditioned upon full payment of all fees due XOS hereunder, a license to: (a) distribute and install the Client Software solely for use by End Users on Devices; (b) install and use internally the Server Software on the Hardware; and (c) make two (2) copies of the XOS Programs solely for internal backup and archival purposes ("License") in accordance with the Order, which such copies must be returned to XOS immediately after You do not have an active Order for such software contained in any portion of such copies. For the purposes of this section, the term "active" shall mean fully paid up, unexpired, and not terminated.

2. For the XOS Programs which are Cloud-based and of which no portion is hosted by Client or a third party designated or controlled by Client, XOS hereby grants Client, subject to the restrictions set forth in this Agreement and conditioned upon full payment of all fees due XOS hereunder, a license to allow all End Users to access and use the XOS Programs in the manner set forth herein via the internet (such End Users being limited in number as set forth in an Order, Purchase Agreement, or other document issued by XOS to Client, as applicable ("License").

B. Hardware:

Unless otherwise specified in an Order, Client shall obtain and operate all systems needed to connect to, access or otherwise use the XOS Programs, and provide all corresponding backup, recovery and maintenance services. Client shall ensure that Client's systems are compatible with the XOS Programs and comply with all configurations and specifications set out in the Documentation or otherwise supplied by XOS to Client. Client shall also maintain the integrity and security of its systems (physical, electronic, and otherwise).

ADDITIONAL REQUIREMENT FOR THUNDERCLOUD SCOUT: The data feeds or services that link into the Thundercloud Scout XOS Programs are the responsibility of Client.

Schedule 2

Certain Partner Terms

1. Communication and Support.

(a) Client shall designate at least one individual to serve as a "program manager" with regard to the XOS Programs, to whom XOS may address operational communications regarding this Agreement and the XOS Programs and who shall participate in meetings or conference calls at such intervals or times as the Parties may agree.

(b) Client shall coordinate a meeting or conference call at least once during Client's off-season for the purpose of providing feedback on the XOS Programs, and Client shall use reasonable efforts to make available for such purpose such Client personnel, including players and coaches, as the Parties may agree. Client shall make its information technology and video staff reasonably available during term of this Agreement to provide feedback.

(c) If XOS develops any Enhancements, software, programs, or products as a result of communications between the Parties, this Agreement, or at Client's request, Client hereby assigns all right, title and interest in and to any and all Intellectual Property Rights therein to XOS provided that such assignment does not extend to any Client Data.

2 Promotional Rights.

(a) XOS may issue a press release to announce Client as a new Client and upon any renewals; provided, however, that XOS shall provide prior notice of such press release and provide Client an opportunity to review and approve such press release, which approval shall not be unreasonably withheld or delayed.

(b) Upon Client's prior consent, which consent shall not be unreasonably withheld or delayed, XOS may display on XOS's website and promotional materials a video and written case study or other Client usage scenario referencing or featuring Client. XOS may prepare and utilize testimonials of a reasonable number of End Users, subject to Client's prior consent (to the extent Client is entitled to grant such consent).

(c) XOS shall obtain Client's prior written approval, which approval shall not be unreasonably withheld or delayed, to use Client's designated name, trademark, or logo ("Marks") during the term of this Agreement on XOS's website and promotional materials for the limited purpose of this section. All such use of the Client's Marks shall be in accordance with Client quality standards and specifications and shall inure to the benefit of Client, and XOS shall have no implied right to any other intellectual property of Client.

(d) To the extent parts of this Schedule require Client's approval, XOS shall make such request by notice addressed to Client's designated employee, who is hereby authorized to grant such approvals on Client's behalf and who be such person as Client may designate by notice to XOS. Such approvals must be communicated by Client in writing, but may be by email.

Schedule 3

Client Use Covenants

NOTWITHSTANDING ANYTHING HEREIN OR IN ANY OTHER DOCUMENT BETWEEN THE PARTIES TO THE CONTRARY: (A) THIS SCHEDULE SHALL SURVIVE THE EXPIRATION, CONCLUSION AND TERMINATION OF THIS DOCUMENT; (B) THE FOLLOWING RESTRICTIONS WILL APPLY TO THE XOS PROGRAMS, INCLUDING BUT NOT LIMITED TO THE DOCUMENTATION; (C) THE RESTRICTIONS APPLY TO CLIENT AND ALL EMPLOYEES AND AFFILIATES OF CLIENT, AS WELL AS ANY PERSONS OR THIRD PARTIES ENGAGED BY CLIENT TO INTERACT WITH THE XOS PROGRAMS IN ANY FASHION; and (D) EXCEPT AS OTHERWISE PROVIDED IN THIS SCHEDULE, BREACHES AND VIOLATIONS OF THIS SECTION SHALL NOT BE SUBJECT TO ANY NOTICE REQUIREMENT OR CURE PERIOD. BREACH OF ANY ONE OF THESE RESTRICTIONS (A) WILL ALLOW XOS TO TERMINATE ANY EXISTING LICENSE OF CLIENT TO THE XOS PROGRAMS; (B) WILL REQUIRE CLIENT TO PAY TO XOS THE FULL AMOUNT LISTED IN THE ORDER WITHIN 30 DAYS OF THIS AGREEMENT'S TERMINATION; AND (C) SHALL ALLOW XOS TO PURSUE ACTIONS SET FORTH IN THIS DOCUMENT AND ANY RELEVANT AGREEMENT FOR SUCH BREACH.

Restrictions:

(i) CLIENT may not reverse engineer, disassemble, decompile, or otherwise attempt to derive the source code of the XOS Programs (the foregoing prohibition includes but is not limited to review of data structures or similar materials produced by XOS Programs), or access or use the Services in order to build or support, and/or assist a third party in building or supporting, products, programs, or services competitive or performing the same function(s) as the XOS Programs;

(ii) CLIENT shall not use the portions of the XOS Programs that are development tools for general software development purposes;

(ii) CLIENT shall not disclose in writing the results of any performance, functional or other evaluation or benchmarking of the XOS Programs to any third party, other than consultants and XOS working on CLIENT's behalf, without the prior written permission of XOS;

(iii) CLIENT shall not remove or modify any program markings or any notice of XOS's proprietary rights in the XOS Programs;

(iv) CLIENT shall restrict access to the XOS Programs and Documentation to End Users and prevent disclosure of images, or copies of any portion of the XOS Programs or Documentation to any third party;

(v) any export of the XOS Programs shall be subject to U.S. Export Control laws (XOS represents that the XOS Programs is classified under U.S. export control laws as EAR99);

(vi) CLIENT may not sublicense or use the XOS Programs for commercial time-sharing, rental, outsourcing, application or managed service provision, or service bureau use, or to train persons other than End Users, unless previously agreed to in writing by XOS and any such attempted sublicense, transfer, or assignment by CLIENT in violation of this Section shall be null and void; and

(vii) CLIENT shall not sell, transfer, assign, distribute, display, host, outsource, disclose, re-sell or in any way distribute the XOS Programs unless such use is defined in or in accordance with this Agreement.

Any and all License Grants hereunder shall solely be for Your internal business purposes. You do not acquire under this Agreement any right or license to use the Services, Products, or XOS Programs in excess of the scope and/or duration of the Services, Products, or XOS Programs stated in Your Order.

Notwithstanding anything in the foregoing to the contrary, CLIENT shall not be deemed to have breached any of the foregoing restrictions if CLIENT's conduct, acts or omissions are in response to a subpoena or other legal process (including a demand by regulators or representatives of governmental entities), in which case, unless prevented by law or lawful order, CLIENT will promptly notify XOS of such request and reasonably cooperate with the efforts of XOS to seek a protective order or other relief at the sole expense of XOS.

The Parties understand and agree that CLIENT breach of the restrictions contained in this Section, will lead to immediate and irreparable harm to XOS and damage for which money alone cannot fully compensate XOS. The parties intend that if such a breach occurs, then for purposes of determining whether to grant an equitable remedy and/or injunctive relief any court will assume that such a breach would cause XOS irreparable harm.

CLIENT therefore agrees that upon such breach or threatened breach of any obligation under this Schedule, XOS shall be entitled to seek a temporary restraining order, preliminary injunction, permanent injunction or other injunctive relief, without posting any bond or other security, compelling CLIENT to comply with any or all such provisions. This shall not be construed as an election of any remedy or as a waiver of any right available to XOS under this Agreement or the law, including without limitation the right to seek damages from CLIENT for a breach of any provision of this Agreement, nor shall this Section be construed to limit the rights or remedies available under applicable law for any violation of any other provision of this Agreement.

Schedule 4

Thunder VR Support Terms

With the addition of the XOS ThunderVR product, we wanted to address how your new ThunderVR will be covered under your Maintenance and Support agreement.

The following terms will control with respect to ThunderVR support, regardless of anything to the contrary in an Agreement, Purchase Order, Purchase Agreement, or Order, and your acceptance of ThunderVR hardware and software shall serve as your acceptance of these terms:

VR Support Model

- Standard XOS M&S Support Model
 - o Thunder 2016 VR Software
 - o Thunder VR System & OS
- Time and Material Support
 - o GoPro Camera Assembly Realignment
 - GoPro iZugar Camera Assembly will need to be shipped to XOS for Re-alignment
 - This is not a task that a Customer can be performed
 - o GoPro Camera Assembly & iZugar Mount Repair
 - Failing units will need to be send back to XOS for evaluation and realignment/repair based on a time and material model
- Upon receipt of the iZugar & GoPro Unit XOS will estimate the cost to repair/align and communicate such to the Customer for approval/authorization BEFORE proceeding.
- XOS will then invoice the Customer upon completion.
 - If the Camera assembly is severely damaged beyond repair then the customer will need to purchase a replacement

- Other VR Related Items
 - o XOS will warranty that items supplied will function at time of delivery or they will be replaced at no charge.
 - o Support Model is that Customer will purchase replacement HW at cost or send items out themselves for repair
 - Oculus Goggles – DK2
- o Purchase Replacements
 - GoPro Remote
 - Batteries
 - X-Box Remote



[TECH SUPPORT](#) [TUTORIALS](#) [CONTACT](#) [PRIVACY POLICY](#) [TERMS & CONDITIONS](#)

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STANDARD ADDENDUM TO AGREEMENT

Contracts with the University of North Texas System and the University of North Texas (collectively, "UNT") are subject to the following terms and conditions, which are incorporated for all purposes into the Agreement to which they are attached. In the event of a conflict between the Agreement and this Addendum to Agreement, this Addendum shall govern. Any term or condition of the Agreement that is not superseded by a term or condition of this Addendum shall remain in full force and effect.

Payment. In accordance with Chapter 2251 of the Texas Gov't Code: (a) payment shall be made no later than thirty days following the later of (i) delivery of the goods or completion of the services and (ii) delivery of an invoice to UNT; and (b) interest, if any, on past due payments shall accrue and be paid at the maximum rate allowed by law. Vendor must be in good standing, not indebted to the State of Texas, and current on all taxes owed to the State of Texas for payment to occur. Invoices and any required supporting documents must be presented to: University of North Texas – Business Service Center, 1112 Dallas Dr. Ste. 4000, Denton, TX 76205.

Eligibility to Receive Payment. By entering into and performing under this Agreement, Vendor certifies that under Section 231.006 of the Texas Family Code and under Section 2155.004 of the Texas Gov't Code, it is not ineligible to receive the specified payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

Tax Exempt. UNT is exempt from the payment of taxes and will provide necessary documentation confirming its tax exempt status.

Breach of Contract Claims Against UNT. Chapter 2260 of the Texas Gov't Code establishes a dispute resolution process for contracts involving goods, services, and certain types of projects. To the extent that Chapter 2260, Texas Gov't Code, is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by the parties to attempt to resolve any claim for breach of contract against UNT that cannot be resolved in the ordinary course of business.

Governing Law and Venue. This Agreement shall be construed and enforced under and in accordance with the laws of the State of Texas. The Agreement is made and entered into, and is performable in whole or in part in Denton County, Texas, and venue for any suit filed against UNT shall be subject to the mandatory venue statute set forth in § 105.151 of the Texas Education Code.

No Excess Obligations. In the event this Agreement spans multiple fiscal years, UNT's continuing performance under this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the contract by the Texas State Legislature. If the Legislature fails to appropriate or allot the necessary funds, or if such appropriation is reduced by the veto of the Governor or by any means provided in the appropriations act, UNT shall issue written notice to Vendor that UNT may terminate the Agreement without further duty or obligation.

Travel Expenses. Reasonable travel, meals, and lodging expenses shall be charged in accordance with and shall not exceed State of Texas travel, meal, and lodging reimbursement guidelines applicable to employees of the State of Texas.

Insurance. UNT, as an agency of the State of Texas, is insured for general liability insurance under a self-insurance program covering its limits of liability. The parties agree that such self-insurance by UNT shall, without further requirement, satisfy all insurance obligations of UNT under the Agreement.

Public Information. UNT shall release information to the extent required by the Texas Public Information Act and other applicable law. If requested, Vendor shall make public information available to UNT in an electronic format.

Required Posting of Contracts on Website. Vendor acknowledges and agrees that UNT is required by Section 2261.253 of the Texas Gov't Code to post each contract it enters into for the purchase of goods or services from a private vendor on its Internet website, including any terms and conditions otherwise marked confidential and/or proprietary.

Israel Non-Boycott Verification. If the Agreement is subject to Texas Gov't Code Section 2270.002, Vendor hereby represents, verifies, and warrants that it does not boycott Israel and will not boycott Israel during the term of the Agreement.

Limitations. UNT is subject to constitutional and statutory limitations on its ability to enter into certain terms and conditions of the Agreement, which may include those terms and conditions relating to: liens on UNT property; disclaimers and limitations of warranties; disclaimers and limitations of liability for damages; waivers, disclaimers, and limitations on legal rights, remedies, requirements, and processes; limitations of time in which to bring legal action; granting control of litigation or settlement to another party; liability for acts or omissions of third parties; payment of attorney's fees; dispute resolution; and indemnities. Terms and conditions relating to these limitations will not be binding on UNT, except to the extent not prohibited by the Constitution and the laws of the State of Texas.

Date: 9/27/2019

Date: 10/2/2019

Declaration of Procurement Method

The attached contract document has been issued as a result of either a sole source or proprietary justification approved by the University of North Texas System Procurement Department.

The approved justification form is on file with the UNT System Procurement Department records.