

THE DAVID J. JOSEPH COMPANY

USER ADMINISTRATOR AGREEMENT FOR SCRAPCONNECT

THIS USER ADMINISTRATOR AGREEMENT (“Agreement”) is made effective as of the _____ day of _____, 20____ (“Effective Date”), among The David J. Joseph Company, a Delaware corporation (“DJJ”), _____, a _____ (“Company”) Name of Business Partner Company Business Partner’s State and Type of Legal Entity and _____, Personal Name Of Company’s Designated User Administrator, an individual employee of Company appointed by Company to serve as user administrator on behalf of Company (“User Administrator”).

WHEREAS, DJJ has developed and hosts a proprietary software application and related database (“ScrapConnect”), which serves as a means of communicating, organizing and providing online access to information about business transactions between DJJ and Company;

WHEREAS, Company may gain online access to ScrapConnect if, and only if, Company appoints User Administrator to set up and administer accounts for Company’s ScrapConnect users in accordance with the terms and conditions of this Agreement; and

WHEREAS, User Administrator has agreed to serve in such capacity in accordance with the terms and conditions of this Agreement;

NOW, THEREFORE, in consideration of the premises, the mutual promises set forth below, the ability to access ScrapConnect, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. *Definitions.* As used herein, capitalized terms not otherwise defined in this Agreement shall have the following meanings:

1.1 “Affiliate” means: (a) any direct or indirect parent or subsidiary of DJJ; (b) any predecessor or successor to any direct or indirect parent or subsidiary, by whatever means, including, but not limited to, merger, reorganization, acquisition, assignment, or sale of all or substantially all of the assets; or (c) any entity that controls, is controlled by, or is under common control with DJJ, its predecessors or its successors. “Control” shall mean, with regard to any entity, the equitable ownership, directly or indirectly, of at least fifty percent (50%) of the voting stock or other ownership interest ordinarily having voting rights, if not a corporation.

1.2 “Bona Fide Business Purpose” means activities conducted for the purpose of providing information relevant to business decisions, or analysis underlying business decisions, of Company in connection with the business relationship between Company and DJJ.

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1.3 “ScrapConnect” means: (a) DJJ’s proprietary software application and any derivative works of DJJ’s proprietary software application, (b) the output of DJJ’s proprietary software application, (c) the text, graphics, visual user interface and other content, and (d) the data, compilations of data, methods and processes for compilation and use of data, approaches, and concepts created or generated by DJJ in connection with DJJ’s proprietary software application at any time.

1.4 “User” means a person to whom User Administrator has granted access to ScrapConnect pursuant to this Agreement.

1.5 “Terms of Use” means the ScrapConnect Terms of Use to which User Administrator and all Users must agree in order to gain online access to ScrapConnect.

2. *Procedures for Granting Access.* User Administrator and Company shall limit access to ScrapConnect to persons engaged in activities having a Bona Fide Business Purpose. User Administrator shall identify the position, Bona Fide Business Purpose, and level of access necessary (collectively, the “Role”) of each User to whom User Administrator grants access to ScrapConnect. User Administrator shall create an account for each User. Each User account shall include information concerning the User’s: first name, last name, email address, phone number, Company title, and Role. User Administrator and Company shall insure that such information is accurate, non-duplicative, actively maintained and updated as changes occur or on a monthly basis, whichever is earlier.

3. *Use of ScrapConnect Data and Related Materials.* Company and User Administrator shall ensure that ScrapConnect and all related materials are used solely for Bona Fide Business Purposes and shall not use ScrapConnect for any other purpose, including without limitation, business, educational, research, governmental, or commercial purposes. Company and User Administrator also shall not copy, imitate, disassemble, decompile, reverse engineer, or otherwise recreate ScrapConnect, or allow any other person to do so.

4. *Permissible Disclosure; Indemnification.* User Administrator shall determine when a User with access to ScrapConnect may discuss and share data with another User with equivalent access; provided, however, that such sharing shall occur only in accordance with the Terms of Use. Company shall indemnify and hold harmless DJJ and its Affiliates from and against all losses, costs and damages (including, without limitation, reasonable attorney’s fees) arising out of (a) the use of ScrapConnect by employees and Users of Company, including, without limitation, User Administrator, (b) the misuse of ScrapConnect by employees and Users of Company, including, without limitation, User Administrator, and (c) any breach of this Agreement or the Terms of Use by any employee or User of Company, including, without limitation, User Administrator.

5. *Non-Disclosure of ScrapConnect; Monitoring of Users.* Except with the prior written consent of DJJ, or as provided under this Agreement, ScrapConnect may not be disclosed by Company, User Administrator or any User. Company and User Administrator each shall monitor as necessary all activity of Company’s Users, including, without limitation, logins, IP addresses, content accessed, etc.

6. *Protection of ScrapConnect.* Company and User Administrator shall have the obligation to ensure that access to ScrapConnect is strictly limited as prescribed in this Agreement and the Terms of Use and that all information concerning User accounts is retained in secure storage with limited access. Company and User Administrator also shall have the obligation to ensure that ScrapConnect is used only as provided in this Agreement and the Terms of Use.

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7. *Payment for Special Access.* [Placeholder for description of (a) monetized functionality of ScrapConnect and (b) pricing.] If Company or User Administrator authorizes a User to sign up for paid access or services, Company shall be obligated to pay in full in a timely manner all ScrapConnect fees and charges for such access or services.

8. *No Waiver of Confidentiality.* Disclosure of ScrapConnect as provided herein shall not be deemed a waiver by DJJ of any privilege, trade secret claim or entitlement to confidential treatment of ScrapConnect. Company and User Administrator agree: (a) not to assert any such waiver; and (b) that accidental disclosure of ScrapConnect by DJJ shall not be deemed a waiver of any such privilege, trade secret claim or entitlement.

9. *Subpoena by Courts, Governmental Departments, or Agencies.* If a court or a federal or state department or agency issues a subpoena for or orders the production of ScrapConnect or any data that a party has obtained under terms of this Agreement, such party shall promptly notify DJJ of the pendency of such subpoena or order. Consistent with the independent authority of any court, department or agency, such notification must be accomplished such that DJJ has a full opportunity to oppose such production prior to the production or disclosure of ScrapConnect or any data.

10. *Violations of this Agreement.* Should Company, User Administrator or any User violate any of the terms of this Agreement or the Terms of Use, Company and User Administrator shall immediately communicate that fact to DJJ. Further, should such violation consist of improper access to or disclosure of ScrapConnect, Company and User Administrator shall take all necessary steps, including, without limitation, locking one or more User accounts, to remedy the improper access or disclosure. DJJ shall have the right, but not the obligation, to terminate the ScrapConnect access of Company, User Administrator or any User for violations of this Agreement and the Terms of Use, including but not limited to suspension and denial of further access to ScrapConnect. Nothing in this Agreement shall limit any other rights and remedies available to DJJ at law or in equity against any person using ScrapConnect in a manner not authorized by this Agreement and the Terms of Use.

11. *Termination of Access.* Company and User Administrator shall terminate the access of a User immediately upon discovery of such User's: (a) violation of the Terms of Use, (b) misuse of access to ScrapConnect or any ScrapConnect data, (c) termination of employment with Company, (d) change in Role, (e) activities, conduct, misconduct or any other circumstance that renders such User's access unnecessary, inappropriate or ill-advised.

12. *Company Signatory's Authority to Contract.* By signing this Agreement, User Administrator and the officer signing on behalf of Company represent that each is duly authorized by Company to execute this Agreement and to perform all obligations hereunder on behalf of Company, and Company agrees to be bound by the provisions hereof. If User Administrator's status changes due to death, disability, termination of employment with Company, or for any other reason, Company promptly shall (i) appoint a substitute User Administrator, (ii) notify DJJ of the changes in personnel, and (iii) cause the new User Administrator to enter into an appropriate User Administrator Agreement among DJJ, the Company and the new User Administrator.

13. *Additional Terms*

13.1 Compliance with State Requirements and Other Laws. This Agreement is expressly made subject to any United States and State government laws, regulations, orders or other restrictions regarding the use of software, data, output or products thereof. Notwithstanding anything to the contrary in this Agreement, Company will not directly or indirectly export, or permit the transfer of, any data, output or ScrapConnect access: (a) to any country or destination for which the United States government or a United States governmental agency requires an export license or other approval for export without first having obtained such license or other approval; or (b) otherwise contrary to law, including, without limitation, State policies and regulations.

13.2 No Waivers. No delay or omission by DJJ to exercise any right or power accruing upon any noncompliance or default by Company or User Administrator with respect to any of the terms of this Agreement will impair any such right or power or be construed to be a waiver thereof. A waiver by DJJ of any of the covenants, conditions or agreements to be performed by the Company or User Administrator will not be construed to be a waiver of any succeeding breach thereof or of any other covenant, condition or agreement herein contained. All remedies provided for in this Agreement will be cumulative and in addition to and not in lieu of any other remedies available to DJJ at law, in equity or otherwise.

13.3 Assignments. This Agreement is binding upon and inures to the benefit of the parties hereto and their respective successors and assigns. Neither Company nor User Administrator shall assign this Agreement or sublicense or transfer any rights granted hereunder, in whole or in part, without obtaining the prior written consent of DJJ, and any attempted assignment or transfer in violation of this provision is void.

13.4 Severability and Survival of Obligations. If any provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will not be affected thereby, and each remaining provision of this Agreement will be valid and enforceable to the extent permitted by law.

13.5 Publicity. All media releases, public announcements and public disclosures by Company relating to this Agreement or its subject matter (including but not limited to promotional or marketing material, but not including any announcement intended solely for internal distribution or any disclosure required by legal, accounting or regulatory requirements beyond the reasonable control of Company) will be subject to prior review and written approval by DJJ.

13.6 Governing Law. This Agreement will be governed by and construed in accordance with the laws of the State of Ohio.

13.7 Entire Agreement. This Agreement and the Terms of Use constitute the parties' entire understanding with regard to the matters herein, and there are no other understandings, either written or unwritten, with regard to such matters. This Agreement may not be modified, amended, canceled or waived, in whole or in part, except by a written instrument signed by the parties hereto.

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IN WITNESS WHEREOF, Company, User Administrator, and DJJ have by their respective duly authorized signatories executed this Agreement as of the Effective Date.

The David J. Joseph Company (“DJJ”) Representative



Print Name: Sara K. Clark

Print Title: VP Finance, Brokerage & Services

(“Authorized Officer of Company”)

Print Name: _____

Print Title: _____

(“Designated User Administrator”)

Print Name: _____

Print Title: _____

Print Email Address: _____