MASTER SERVICES AGREEMENT

(SAAS AND PROFESSIONAL SERVICES)

This Master Services Agreement (SaaS and Professional Services) (this “**Agreement**”) is made effective as of {{EffectiveDate}}(the “**Effective Date**”),between {{Customer}}, with its principal place of business at {{CustomerAddress}} (“**Customer”**), and {{Contractor}} with its principal place of business at {{ContractorAddress}} (“**Vendor**”). Customer and Vendor may each be referred to herein as a “**Party**” and collectively as the “**Parties**.”

**RECITALS**

1. Vendor wishes to provide the Services, including the Vendor Service, (as such terms are defined below) to Customer and Customer wishes to retain Vendor to provide such Services. For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

**TERMS AND CONDITIONS**

1. **Services.** During the Term (as defined below) Vendor will (a) make available to Customer and Customer Affiliates and their respective temporary and statutory employees, agents, contractors, or suppliers of services (collectively, the “**Customer Parties**”) the Vendor Service (as defined in **Exhibit 1 (Description of Vendor Service)**) pursuant to one or more Orders; and (b) perform all professional and ancillary services required under this Agreement or an Order ((a) and (b) collectively, the “**Services**”). “**Affiliates**” means any entity controlling or controlled by or under common control with a Party, where “control” is defined as the ownership of more than 50% of the equity or other voting interests of such entity or the power to direct or cause the direction of the management or policies of such entity, whether through ownership, voting securities, contract or otherwise.
   1. Orders. Customer and Customer Affiliates may order Services under this Agreement in one or more order forms or work orders (each an “**Order**”). The terms and conditions of this Agreement will apply to each Order. In the event of a dispute between the terms and conditions of this Agreement and any Order, the terms and conditions of the Order will control but solely with respect to such Order and provided that the Order expressly references the particular term or condition in this Agreement to be varied by the Order. Terms not defined in an Order have the meaning given in this Agreement.
   2. No Exclusivity; No Volume Commitment. Nothing herein will be deemed to preclude Customer or any Customer Affiliates from procuring similar products or services from third parties. This Agreement does not obligate Customer or Customer Affiliates to order any Services and Customer and Customer Affiliates will not become obligated in any way to Vendor until Customer or a Customer Affiliate has executed an Order with Vendor.
   3. Customer Affiliates. In the event any Customer Affiliate enters into an Order with Vendor, (a) all references to “Customer” in this Agreement will refer to the Customer Affiliate executing that Order; and (b) only the Customer Affiliate executing that Order will incur any obligation or liability to Vendor under that particular Order.
   4. Local Country Agreements. The Parties acknowledge and agree that it may be desirable to have a Customer Affiliate acquire and pay for Services directly from a Vendor Affiliate or unaffiliated subcontractor of Vendor (a **“Local** **Vendor Provider**”) in order to eliminate tax inefficiencies or to facilitate compliance with local law in the country where the Services will be provided. Accordingly, in such circumstances, the Parties agree to cooperate in good faith to enter into transactions in which the Local Vendor Provider and the local Customer Affiliate will enter into a local country agreement (a “**Local Country Agreement**”), in substantially the format of **Exhibit 4** (Local Country Agreement) attached hereto. The Local Vendor Provider and the local Customer Affiliate agree to provide the Services and pay for the Services in accordance with the terms and conditions of this Agreement and the Local Country Agreement. The Parties shall also cooperate in good faith to include in such Local Country Agreements any amendments to this Agreement that may be necessary to ensure compliance with local law in the country where the Services will be provided. Any Local Country Agreement that includes amendments to this Agreement shall only apply to the parties thereto and the Services provided under Orders arising out of the specific Local Country Agreement.
2. **Vendor Service.** Vendor will provide the Vendor Service pursuant to one or more Orders. Each Order for the Vendor Service will set forth: (a) a detailed description of the Vendor Service to be provided by Vendor; (b) the term of the Order; (c) all fees applicable for the Vendor Service; (d) any additional restrictions of use for the Vendor Service; and (e) any additional material terms. In addition to the express terms of the Order, Vendor will provide the following Vendor Service:
   1. Hosting. Vendor will provide hosting for the Vendor Service in accordance with **Exhibit 1** (Description of Vendor Services). Such hosting Services will include sufficient communications bandwidth, server computing power and storage resources as necessary to permit to the access and use of the Vendor Service.
   2. Support. Vendor will provide technical support in accordance with **Exhibit 2 (Support and Service Levels)**.
   3. Maintenance. Vendor will develop and provide updates, upgrades, enhancements, bug fixes and workarounds for the Vendor Service (“**Updates**”). Updates are deemed a part of the Vendor Service and are included at no additional charge.
   4. Monitoring and Reporting. Vendor will monitor the Vendor Service for availability and performance and will report to Customer concerning outages, performance degradations and the specific service levels in **Exhibit 2**.
   5. Data Protection and Privacy. Vendor acknowledges and agrees that it shall be responsible for establishing and maintaining an information security program that is designed to: (a) ensure the security and confidentiality of Customer Data, including, without limitation, implementing and maintaining backup, security and business continuity measures and other technical and organizational measures; (b) protect against any anticipated threats or hazards to the security or integrity of Customer Data; (c) protect against unauthorized access, accidental, or unlawful alteration, loss or destruction of or use of Customer Data; (d) ensure the proper disposal of Customer Data; and, (e) ensure that all permitted subcontractors of Vendor, if any, comply with all of the foregoing, all in accordance with best industry practices. In addition to the foregoing, Vendor agrees to and will comply with the additional terms and conditions set forth in **Exhibit 3 (Data Protection)** and **Exhibit 6** (**Information Security**), which will be deemed obligations of confidentiality under this Agreement. As used herein, “**Customer Data**” means all electronic data and information, or any derivatives thereof, uploaded, submitted or otherwise transmitted to or through the Vendor Service which shall also be known and treated as Customer Confidential Information. Customer Data shall be and remain the sole and exclusive property of Customer.
   6. Disaster Recovery. Vendor will use best practices for redundancy, robustness and scalability in order to maintain the availability of the Vendor Service. In addition, Vendor will implement, maintain and continuously improve upon a disaster recovery and business continuity plan (“**Disaster Recovery Plan**”) for its own operations and the Vendor Service. As of the Effective Date, Customer has approved the Disaster Recovery Plan. Vendor will not make any changes to any Disaster Recovery Plan that could materially decrease the protections offered by such Disaster Recovery Plan. Vendor will perform disaster recovery testing at least once per year and will provide testing results to Customer no later than thirty (30) days after Vendor obtains the results.
   7. Back-Up Services. Vendor will provide back-up services for its own operations and the Vendor Service permitting rapid restoration of the Vendor Service within two (2) hours. Additionally, no less frequently than weekly, Vendor will store a backup of Customer Data in an off-site “hardened” facility to maintain the security of Customer Data, the security requirements of which are further described herein.
   8. Training. Vendor will provide training concerning the Vendor Service to personnel designated by Customer under the applicable Order.
   9. Artificial Intelligence**.** If Vendor is providing an AI Solution (as defined in ***Exhibit 5*** ), Vendor will comply with ***Exhibit 5 (Artificial Intelligence Exhibit***) .
3. **Professional Services.** If requested by Customer, Vendor’s Resources will perform professional services in accordance with the terms and conditions of a mutually executed Order for professional Services. Each such Order will be sequentially numbered and include: (a) the professional Services and Deliverables (as defined below) to be provided by Vendor; (b) the work schedule, including delivery and completion dates; (c) all applicable fees for such professional Services, including a not-to-exceed amount for Orders performed on a time and expense basis; and (d) any additional material terms such as special warranty terms. As used herein, “**Vendor Resource**” means each of Vendor’s employees, temporary workers, and approved subcontractors who perform Services or works on Deliverables, and each such individual working for one of Vendor’s approved subcontractors.
4. **Fees.** In consideration for the provision of the Services and Deliverables, Customer will pay all undisputed amounts under this Agreement and any applicable Order within sixty (60) days of receipt of invoice. Except for the fees specified in this Agreement and any applicable Order, Vendor will provide the Services and deliver the Deliverables at its own cost and expense.
   1. Invoicing. Vendor will invoice: (a) Orders for the Vendor Service monthly in arrears; and (b) Orders for professional Services monthly following the provision of the professional Services.
   2. Expenses. Subject to Customer’s then-current Travel Expense Reimbursement Policy, a copy of which has been provided to Vendor, Customer will pay undisputed travel and expenses costs solely if such costs are pre-approved in writing, email acceptable, reasonable, well-documented, out-of-pocket expenses actually incurred in the provision of Services under this Agreement.
   3. Taxes. Vendor’s fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and Customer will pay to Vendor, all applicable federal, state and local sales and use taxes, ad valorem taxes, value added taxes, tariffs and duties associated solely with fees due from Customer related to Customer’s use of the Services as documented in any Orders under this Agreement. Vendor will timely remit to the appropriate governmental authorities any such taxes, tariffs or duties. Vendor will be responsible for any taxes imposed upon Vendor based upon Vendor’s income, gross receipts or assets, and payroll taxes in respect of Vendor’s employees.
   4. Credits. Any amounts due from Vendor may be applied by Customer against any fees due to Vendor. Any such amounts that are not so applied will be paid to Customer by Vendor within thirty (30) days following Customer’s request.
   5. Auditable Records and Report. Vendor will maintain accurate records concerning Vendor’s financial health and concerning all fees billable to, and payments made by, Customer in a format that will permit audit by Customer for a period of not less than three (3) years. Once each year Customer will have the right, at any time during ordinary business hours, to audit (or to cause its designated representative to audit) Vendor's records with respect to any amount payable to Vendor under this Agreement and Vendor’s financial health. Those audits will be conducted at Customer’s expense. However, if an audit discloses that Customer overpaid Vendor, Vendor will refund to Customer the amount of that overpayment and, if that audit discloses that Vendor invoiced Customer for five percent (5%) or more than the amount actually due to Vendor during the period covered by the audit, Vendor will also reimburse Customer for the costs of that audit.
   6. Fee Increases. The fees under any Order may not increase for three (3) years from that Order’s effective date. Following the third anniversary of the applicable Order’s effective date, Vendor may increase the fees by an amount not exceed three percent (3%), no more than once per year upon written notice to Customer at least ninety (90) days prior to the anniversary of that Order’s effective date; provided that Customer may terminate this Agreement or any Order upon written notice to Vendor in the event Customer does not agree to the fee increase.
5. **Term and Termination.** This Agreement will commence on the Effective Date and will continue until terminated as permitted herein (“**Term**”).
   1. Term of an Order. The initial term of any Order shall be as stated in the applicable Order (the “**Initial Term**”); following the Initial Term, an Order may be renewed by Customer for successive one (1) year periods (unless a different duration is set forth in the Order) (each a “**Renewal Term**” and together with the Initial Term the “**Order Term**”) by (a) providing Vendor with notice of its intent to renew or (b) paying a Renewal Term invoice, in either case, prior to the expiration of the then-current Order Term.
   2. Termination of Agreement and Orders for Material Breach. This Agreement and any Orders may be terminated immediately by either Party if the other Party: (a) materially breaches this Agreement or any Order and fails to cure the material beach within thirty (30) days of receiving written notice of such breach; (b) breaches its confidentiality or data protection obligations or the publicity restrictions of this Agreement or any term of Exhibit 5 (Artificial Intelligence); or (c) becomes insolvent, files a voluntary petition in bankruptcy, is adjudicated bankrupt, has a receiver appointed for the operation of its business, makes an assignment for the benefit of creditors, abandons its business or makes a material liquidation of its assets. Additionally, If Customer becomes aware of a material deficiency in Vendor’s and/or any Vendor Resource’s security practices, which constitutes a material breach of the security requirements of this Agreement, Customer may (i) immediately terminate this Agreement and any and all Orders, or (ii) give Vendor a cure period to remedy such deficiency to Customer’s reasonable satisfaction. As used herein, “**material breach**” means any breach of this Agreement and/or any Order that (i) causes or may cause substantial harm to the non-breaching Party, or (ii) will substantially deprive that Party of the benefit it reasonably expected under the Agreement and/or any Order, or (iii) together with other breaches or a series of breaches has the cumulative effective of causing substantial harm to the non-breaching Party, or substantially depriving that Party of the benefit it reasonably expected under this Agreement and/or the Order.
   3. Termination of Orders for Convenience by Customer. Without payment of any early termination fees or liquidated damages to Vendor, Customer may terminate for convenience any Order (a) for Professional Services, at any time by notifying Vendor; or (b) for the Vendor Service, upon the annual anniversary date of the Order’s Effective Date.
   4. Termination of Agreement for Convenience by Either Party. Either Party may terminate this Agreement when there are no outstanding Orders by providing written notice to the other Party.
   5. Payments upon Termination. Upon the expiration or termination of this Agreement or any Order for any reason, within thirty (30) days following termination, Vendor will (a) promptly refund any credits which remain unpaid or uncredited, together with any unused pre-paid fees for the Vendor Service; (b) deliver to Customer any finished Deliverables; and (c) invoice Customer for Services and Deliverables accepted by Customer. Within thirty (30) days following termination and receipt of a valid invoice from Vendor, Customer will pay to Vendor all undisputed amounts due and payable for Services rendered by Vendor prior to the effective date of termination. For time and materials professional Services Orders, Customer will pay for productive hours actually worked through the effective date of termination. For fixed price professional Services Orders, Customer will pay the pro-rated amount based on milestones completed or the percentage of professional Services completed as of the effective date of the termination. For Vendor Service Orders, Customer will pay applicable Vendor Service fees up to the effective date of termination.
   6. Return of Materials. Subject to any express retention provisions and/or Transition Extension Period (as detailed in Section 5.7 below), upon termination of this Agreement, each Party will: (a) promptly return to the other Party or certify the destruction of any of the following of the other Party: (i) all Confidential Information; and, (ii) any other data, programs, and materials delivered by Customer to Vendor for purposes of performing this Agreement; and, (b) return to the other Party, or permit the other Party to remove, any properties of the other Party then-situated on such Party’s premises.
   7. Transition Term Extension and Termination Assistance Services. In the event of a termination or expiration of this Agreement or any Order for any reason the following terms and conditions will apply:
      1. Extension of Order Term. Customer will be entitled to extend the Term of this Agreement and/or any Order for a period of up to six (6) months (“**Transition Extension Period**”) upon notice to Vendor in order to affect the orderly transition of the applicable Services in whole or in part. During the Transition Extension Period, (a) the terms and conditions of the Agreement and the applicable Order will remain in full force and effect; and (b) the Parties will perform all obligations under the Agreement and the applicable Order (e.g., the provision of the Vendor Service by Vendor and the timely payment of all undisputed amounts owed by Customer).
      2. Termination Assistance Services. Vendor will provide to Customer and/or to the supplier selected by Customer (the “**Successor Provider**”), at Customer’s sole cost and expense, assistance reasonably requested by Customer in order to affect the orderly transition of the applicable Services, in whole or in part, to Customer or to Successor Provider (such assistance will be known as the “**Termination Assistance Services**”) during the Transition Extension Period and prior to or following the expiration or termination of this Agreement or an Order. Vendor will provide the Termination Assistance Services at an hourly blended rate of $150/hour without need for an Order. Without limiting the foregoing sentence, the Parties may elect to document the Termination Assistance Services in a mutually agreed professional Services Order (Vendor’s consent not to be unreasonably withheld, conditioned or delayed).
   8. Survival. This Section 5, together with the confidentiality, data protection, indemnity, limitation of liability and each other provision of this Agreement that by its nature has covenants, rights and obligations that extend beyond the expiration or earlier termination of this Agreement, will survive and continue in full force and effect after this Agreement expires or is earlier terminated.
6. **Representations, Warranties & Covenants.** Vendor represents, warrants and covenants that:
   1. Vendor has the right to enter into this Agreement and any Order, doing so will not interfere with Vendor’s contractual obligations to any third party and the executed Agreement or Order shall constitute a valid binding obligation of Vendor;
   2. Vendor and the Vendor Service will comply with applicable law in performing obligations under this Agreement;
   3. The Vendor Service and all Deliverables will conform to all documentation, specifications, and service level commitments and the Vendor Service completely and accurately describes the features, functions and service level capacity of the Vendor Service;
   4. Vendor will use well-trained and well-qualified Vendor Resources to perform the Services in a professional, timely and workmanlike manner in accordance with the highest professional standards;
   5. The Services and all Deliverables will be free from all liens, encumbrances or claims, Customer may use the Services and all Deliverables without payment other than as set forth in the applicable Order and Vendor has not and will not assign any right, title, or interest to the Services or Deliverables that would conflict with Vendor’s obligations or rights granted under this Agreement;
   6. The Services and Deliverables provided by Vendor or any Vendor Resources will be original and will not infringe upon any copyright, patent, trade secret, or other intellectual property right, or misappropriate any trade secret, of any third party; and that
   7. Vendor (a) will run anti-virus and vulnerability scans on all Deliverables and the Vendor Service; and (b) will not knowingly include in any Deliverables or the Vendor Service any malicious code designed to disrupt or otherwise impair the operation of any systems or networks or to permit the surreptitious collection of information.

Customer may accept or reject all Services and Deliverables that do not conform to Customer requirements. If in Customer’s reasonable discretion, Customer does not accept the Services or Deliverables and Vendor is unable to correct the nonconformity within a reasonable period of time, not to exceed thirty (30) days (unless the Parties agree to a longer period in writing), Customer will be entitled to a refund of any pre-paid fees and may elect to terminate the applicable Order and this Agreement.

1. **Intellectual Property.**
   1. Vendor Ownership. Subject to the licenses granted in this Agreement, Vendor owns all right, title and interest, including all intellectual property rights, in and to the Vendor Property. “**Vendor Property**” means all intellectual property rights that (a) were in existence and owned by Vendor before the Effective Date, including the Vendor Service, or (b) were made or discovered by Vendor after the Effective Date and constitute a derivative of intellectual property rights that were in existence and owned by Vendor before the Effective Date.
   2. License to Vendor Service. Vendor hereby grants to Customer a non-exclusive, worldwide, enterprise-wide, non-sublicensable, non-transferable (except as otherwise set forth in Section 16.5 (Assignment)), license to use the Vendor Service (including any documentation and Updates), for Customer and Customer Affiliates’ business purposes during the Term set forth in the applicable Order. The foregoing license right permits the Customer Parties the right to access and use the Vendor Service in accordance with the terms and conditions of this Agreement and any applicable Order; provided that Customer remains liable to Vendor for the acts and omissions of any Customer Parties related thereto.
   3. License to Vendor Property in Deliverables. Unless expressly provided otherwise in an Order, if Vendor includes any Vendor Property in any Deliverables, Vendor will designate the Vendor materials in writing and hereby grants to Customer a perpetual, irrevocable, fully paid-up, royalty free worldwide license to make, have made, use, sell directly or indirectly, market, import, copy, modify, publicly display and perform as necessary for the beneficial enjoyment of the Deliverables solely for the benefit of Customer and Customer Affiliates.
   4. Customer Ownership. Customer owns all right, title and interest, including all intellectual property rights, in and to (a) Customer Confidential Information; (b) Customer Data, including personal information of any Customer personnel, customer or end user of any Customer products or services collected by Vendor or on Vendor’s behalf; (c) all Customer Property and revisions, modifications or other works derived from Customer Property which will be deemed Deliverables. “**Customer Property**” means (i) all intellectual property rights that were in existence and owned by Customer before the Effective Date; (ii) all intellectual property rights that were made or discovered by Customer after the Effective Date and constitute a derivative of intellectual property rights that were in existence and owned by Customer before the Effective Date; and (iii) Customer Data.
   5. Deliverables. Customer owns all right, title and interest, including all intellectual property rights, in and to all Deliverables which will be deemed works made for hire. In addition, Vendor hereby irrevocably assigns to Customer, without any additional compensation, all right, title and interest, including all intellectual property rights, in and to the Deliverables (excluding any Updates unless otherwise agreed by the Parties). All works derived from Customer Property will be deemed Deliverables. “**Deliverables**” means all work product and materials developed by Vendor for Customer pursuant to an Order excluding any Updates, Vendor Property and derivatives of the Vendor Property, unless otherwise agreed by the Parties.
   6. Trademarks. Each Party owns its respective trademarks, service marks, logos, business names or other designating marks (“**Trademarks**”). Each use of a Party’s Trademarks by the other Party will inure to the benefit of the Trademark holder and comply with the Trademark holder’s acceptable use and quality control guidelines.
   7. Publicity Restrictions. Except as otherwise expressly permitted under this Agreement, neither Party may, without the prior written consent of an officer of the other Party, which consent may be withheld in such officer’s sole discretion: (a) use the other Party’s or any of its Affiliates’ names or any trademarks, service marks, logos or copyright protected works (whether or not registered) in any of a Party’s promotional materials, marketing activities or elsewhere; (b) identify the other Party or any of its Affiliates on a Party’s customer lists or websites (or on any other person's website that identifies such Party or in any metatags or key words for those websites; or (c) include a hyperlink from any website maintained by a Party to any website of the other Party or its Affiliates.
   8. No Implied Licenses. Except as expressly set forth herein, no license is granted by either Party to the other Party with respect to Confidential Information, Vendor Property, or Customer Property.
2. **Limitations on Liability.** 
   1. EXCEPT FOR DAMAGE AND LOSSES ARISING OUT OF: (A) A PARTY’S THIRD PARTY INDEMNIFICATION OBLIGATIONS; (B) A PARTY’S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; (C) DAMAGE TO REAL AND/OR PERSONAL PROPERTY, INCLUDING BODILY INJURY (AND DEATH); OR (D) A PARTY’S BREACH OF ITS CONFIDENTIALITY OR DATA PROTECTION OBLIGATIONS OR ANY TERMS IN RESPECT OF ARTIFICIAL INTELLIGENCE (THE “**EXCEPTIONS**”), WHICH ARE NOT LIMITED, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, PUNITIVE, EXEMPLARY OR INCIDENTAL DAMAGES OF ANY KIND, HOWEVER CAUSED, ARISING OUT OF OR RELATED TO THIS AGREEMENT OR SERVICES TO BE PROVIDED UNDER THIS AGREEMENT, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.
   2. EXCEPT FOR DAMAGES AND LOSSES ARISING OUT OF THE EXCEPTIONS IN SECTION 8.1 WHICH ARE NOT LIMITED, EACH PARTY'S MAXIMUM LIABILITY FOR DAMAGES AND LOSSES ARISING UNDER THIS AGREEMENT, SHALL NOT EXCEED ONE AND ONE HALF TIMES THE FEES PAID OR PAYABLE UNDER THIS AGREEMENT. THE FOREGOING LIMITATIONS OF LIABILITY SHALL REMAIN IN FULL FORCE AND EFFECT REGARDLESS OF WHETHER EITHER PARTY'S REMEDIES HEREUNDER ARE DETERMINED TO HAVE FAILED OF THEIR ESSENTIAL PURPOSE AND REGARDLESS OF THE LEGAL THEORY OF LIABILITY, WHETHER UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE AND STRICT LIABILITY), OR ANY OTHER THEORY WHATSOEVER.
3. **Indemnity.** 
   1. Indemnity by Vendor. Vendor agrees to indemnify, defend, and hold Customer, its Affiliates and their respective directors, agents, and employees (each, a “**Customer Indemnitee**”) harmless from and against any and all liabilities, damages, losses, expenses, fines, penalties, and/or judgments, including reasonable attorneys' fees, costs, and expenses incidental thereto (“**Losses**”), which may be suffered by, accrued against, charged to, or recoverable from any Customer Indemnitee, by reason of any third party demand, proceeding (including proceedings under the U.S. Bankruptcy Code), action, regulatory action, lawsuit, and/or claim (collectively, “**Claim**”) arising out of or relating to any negligent act, error or omission, or willful misconduct of Vendor and/or any Vendor Resource during the performance of this Agreement and any Orders, including, but not limited to: Claims arising out of or relating to: (a) bodily injury (including death) or damage to personal or real property; (b) violation of any applicable law; or, (c) breaches of any representations, warranties or covenants made under this Agreement, including, without limitation, breach of any terms related to confidentiality, data protection, or artificial intelligence.
   2. Intellectual Property Right Indemnification. Vendor agrees to indemnify, defend, and hold the Customer Indemnitees harmless from and against any and all Claims and Losses which may be suffered by, accrued against, charged to, or recoverable from any Customer Indemnitee, arising out of a third party Claim that the Services infringe or misappropriate any patent, copyright, trade secret, trademark, or other intellectual property right. In the event that Vendor is enjoined or Vendor reasonably believes that the Services are likely to become the subject of such a Claim, then Vendor will, at its expense: (a) obtain for Customer the right to continue using such Services (b) replace or modify the Services so that they do not infringe upon or misappropriate such intellectual property right and are free to be delivered to and used by Customer with substantially similar functionality and performance; or (c) in the event that Vendor is unable or determines, in its reasonable judgment, that it is commercially unreasonable to do either of the aforementioned, Vendor will terminate the affected Orders and promptly reimburse to Customer any prepaid Fees for which Services have not been rendered or provided. Neither Vendor’s election to proceed under subsections (a) or (b) nor Customer’s election to terminate shall relieve Vendor of indemnification obligations that arose prior to such election.
   3. Indemnification Procedures. Promptly after receipt by Customer of a threat of any Claim, or a notice of the commencement, or filing of any Claim against Customer or any Customer Indemnitee, Customer will give notice thereof to Vendor, provided that failure to give or delay in giving such notice to Vendor will not relieve Vendor of any liability it may have to Customer or any Customer Indemnitee except to the extent that Vendor demonstrates that the defense of such Claim is prejudiced thereby. Customer will not independently defend or respond to any such Claim; provided, however, that: (a) Customer may defend or respond to any such Claim, at Vendor’s expense, if Customer’s counsel determines, in its sole discretion, that such defense or response is necessary to preclude a default judgment from being entered against Customer; and (b) Customer will have the right, at its own expense, to monitor Vendor’s defense of any such Claim. Vendor will have sole control of the defense and of all negotiations for settlement of such Claim. At Vendor’s request, Customer will cooperate with Vendor in defending or settling any such action; provided, however, that Vendor will reimburse Customer for all reasonable out-of-pocket costs incurred by Customer (including, without limitation, reasonable attorneys’ fees and expenses) in providing such cooperation and Vendor may not settle any Claim without Customer’s prior written consent unless such settlement include a complete and final release of liability and losses against all Customer Indemnitees and does not impose any obligations on any Customer Indemnitees.
4. **Confidentiality.**
   1. Meaning of Confidential Information. For the purposes of this Agreement, the term “**Confidential Information**” will mean and include, without limitation, all such information, material and data of the Party disclosing Confidential Information (the “**Disclosing Party**”) (a) labeled or designated in writing as confidential or proprietary, (b) which the Party receiving the Confidential Information (the “**Receiving Party**”) is advised is proprietary or confidential or (c) which, in view of the nature of such information and/or the circumstances of its disclosure the Receiving Party knows or reasonably should know is confidential or proprietary relating to the Disclosing Party or the Disclosing Party’s Affiliates, and solely by way of illustration and not in limitation will include the following information: financial data, plans, forecasts, intellectual property, methodologies, algorithms, agreements, market intelligence, technical concepts, customer information, strategic analyses, internal developments, publications, accountings or any other activities conducted or planned by a Disclosing Party or its Affiliates. The term “**Confidential Information**” does not include any information or documentation that was: (i) already in the possession of the Receiving Party or its Representatives (defined below) without an obligation of confidentiality; (ii) developed independently by the Receiving Party or its Representatives, as demonstrated by the Receiving Party or its Representatives, without violating the Disclosing Party’s proprietary rights; (iii) obtained from a source other than the Disclosing Party without an obligation of confidentiality; or, (iv) publicly available when received, or thereafter became publicly available (other than through any unauthorized disclosure by, through, or on behalf of the Receiving Party or its Representatives). Customer Data is the Confidential Information of Customer.
   2. Obligation of Confidentiality. The Receiving Party agrees to hold all Confidential Information in strict confidence and not to copy, reproduce, sell, transfer, or otherwise dispose of, give or disclose such Confidential Information to third parties other than its Affiliates, employees, directors, agents, subcontractors or professional advisers (e.g., attorneys, auditors, financial advisors, accountants and other professional representatives) (collectively, “**Representatives**”) who have a legitimate need to know in connection with this Agreement or to use such Confidential Information for any purposes whatsoever other than the performance of this Agreement; provided that such Representatives are bound by confidentiality restrictions no less restrictive and protective than those contained in this Agreement and those Representatives are not direct competitors of the Disclosing Party. The Receiving Party and its Representatives will use all reasonable care in handling and securing the Disclosing Party’s Confidential Information and will employ all security measures used for their own proprietary information of similar nature. The Receiving Party agrees to advise its Representatives of their obligations to keep such information confidential and will be liable to the Disclosing Party for any acts and omissions of the Receiving Party’s Representatives related thereto.
   3. Authorized Disclosure and Cooperation to Prevent Disclosure of Confidential Information. If a Receiving Party or any of its Representatives to whom it has becomes subject to an order that requires it to disclose Confidential Information, the Receiving Party will, to the extent permitted by law: (a) promptly notify the Disclosing Party of the order's terms and the circumstances surrounding its issuance; and (b) disclose only the Confidential Information that it is legally required to disclose, consistent with a reasonable interpretation of the order. Each Party will use its best efforts to assist the other Party in identifying and preventing any unauthorized use or disclosure of any Confidential Information. Without limitation of the foregoing, each Party will advise the other Party immediately in the event either Party learns or has reason to believe that any Representative or other person who has had access to Confidential Information has violated or intends to violate the terms of this Agreement and each Party will cooperate with the other Party in seeking injunctive or other equitable relief against any such person.
   4. Remedies for Breach of Obligations of Confidentiality, Data Protection, Information Security or Artificial Intelligence. The Receiving Party acknowledges and agrees that the breach of its obligation(s) of confidentiality, data protection, or in respect of artificial intelligence may give rise to irreparable injury to the Disclosing Party, which damage may be inadequately compensable in the form of monetary damages. Accordingly, the Disclosing Party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings without the requirement of posting a bond or other form of security, in addition to any other legal remedies which may be available.
   5. Cumulative Remedies. All rights and remedies of a Party herein will be in addition to all other rights and remedies available at law or in equity, including, without limitation, specific performance for the enforcement of this Agreement, and temporary and permanent injunctive relief.
5. **Notices**. Any notice given pursuant to this Agreement will be in writing and will be given by personal service or by United States certified mail, return receipt requested, postage prepaid to the addresses appearing in the preamble to this Agreement, or as changed through written notice to the other Party. Notice given by personal service will be deemed effective on the date it is delivered to the addressee, and notice mailed will be deemed effective on the fourth (4th) Business Day following its placement in the mail.
6. Insurance.
   1. Insurance Requirements. Without limiting Vendor’s obligation to indemnify Customer or any other obligations under this Agreement, Vendor shall, at its own cost and expense, procure and maintain in full force and effect during the Term of any Orders under this Agreement and for the statutory period for which Vendor may be liable for defects or other liabilities arising out of its Services, policies of insurance, of the types and in the minimum amounts stated herein, with responsible insurance carriers which are S&P A rated or higher, duly qualified in those states (locations) where the Services are to be rendered, covering the operations of Vendor, pursuant to this Agreement. All policies except workers’ compensation will include a waiver of subrogation in favor of Customer and its Affiliates, officers, directors and employees. In addition, Vendor warrants that its subcontractors shall either be covered by Vendor’s insurance policies or shall ensure that each of its subcontractors shall procure and maintain in effect at all times during this period of time, insurance policies complying with this insurance section with at least the limits of insurance as described below. The limits specified below may be achieved through a combination of primary and umbrella policies. Vendor is responsible for and shall pay all deductible payments and self-insured retentions that are applicable to Vendor’s insurance policies. Each policy shall be written on an occurrence form (excepting Errors & Omissions “E&O”).
   2. Certificates of Insurance. Upon execution of this Agreement, Vendor will provide Customer with certificates of insurance evidencing all of the above coverage, including all special requirements specifically noted above, and will provide Customer with certificates of insurance evidencing renewal or substitution of such insurance thirty (30) days prior to the effective date of such renewal or substitution, together with thirty (30) days’ prior written notice of cancellation or material modification to the policies.
   3. Copies of Policies. Vendor will, upon request, provide Customer with copies of any insurance policies required to be maintained by Vendor. For the term of the Agreement and for the required period thereafter, Vendor shall maintain insurance coverages in the amounts required under Customer’s standard insurance policy requirements for providers such as Vendor as provided to Vendor by Customer from time to time during the term of this Agreement.
   4. Professional Liability (Errors & Omissions) Insurance. Vendor’s E&O insurance will include coverage for all errors, omissions or negligent acts in the delivery of Service contemplated under this Agreement.
   5. Network Liability Insurance. Vendor’s Network Liability Insurance will include coverage for Vendor’s liability associated with: (a) unauthorized use, access, or disclosure of confidential or private information, transmission of a computer virus, or denial of service that results from a failure of security; (b) identity theft; (c) cyber extortion; and (d) cyber terrorism.
   6. Additional Insureds. Vendor’s Commercial General Liability, Business Automobile Liability and Excess Liability insurance policies shall name Customer and its Affiliates as additional insureds via endorsement with respect to the negligence of the Vendor, its subsidiary and affiliated companies, directors, officers, subcontractors of each and every tier, employees, and agents. The policies shall also be primary without right of contribution from any insurance by Customer. The Errors and Omission Insurance and Network Liability Insurance coverages shall be maintained until the termination of this Agreement, and thereafter Vendor will maintain an active policy, or purchase an extended reporting period providing for Claims first made and reported to the insurance company within two (2) years after final payment for the Service.
7. **Data Center Providers.** Customer has approved \_\_\_\_\_\_\_\_\_\_\_\_ located in \_\_\_\_\_\_\_\_, Vendor's current data center provider, for backup and hosting of the Vendor Service. Customer has no right to prohibit Vendor from changing data centers or the hosting provider of the Vendor Service. However, in the event Vendor desires to make such a change, Vendor will provide Customer with at least ninety (90) days prior notice (except in exigent circumstances) of such change, and Customer may terminate this Agreement and/or any applicable Order, without penalty or payment of any liquidated damages or early termination fees, effective upon written notice to Vendor if, in Customer's reasonable judgment, the new data center and hosting provider of the Vendor Service would be unable to satisfactorily perform Vendor’s obligations. Vendor shall pay Customer any refunds and/or credits due as set forth in Section 5.5 above.
8. **Subcontractor Approvals.** Except as expressly permitted in this Section 14, Vendor shall not enter into any subcontracts for the performance of the Services (other than retaining temporary employees who work at one or more Vendor locations). Customer’s consent to Vendor’s right to subcontract any of the Services shall not relieve Vendor of any of its duties or obligations under this Agreement, and Vendor shall indemnify, defend and hold Customer harmless from any payment required to be paid to any such subcontractors.
9. **Vendor Resources and Access to Premises and Network.** 
   1. Access to Premises. Whenever Vendor’s Resources perform professional Services and provide Deliverables at any location owned or controlled by Customer (the “**Premises**”), Customer will provide adequate and safe office space at, and will arrange for those Vendor Resources to receive temporary access to, those Premises, subject at all times to those Vendor Resources’ compliance with Customer’s reasonable safety and security guidelines that are applicable to the Premises and that have been provided to Vendor before entering the Premises, as the same may be amended from time to time. At Customer’s request, Vendor Resources will attend one or more training sessions with respect to on-site rules of behavior, work schedule, security procedures and such other policies and procedures as Customer, in its sole discretion, may deem appropriate. If Vendor has to replace any of its Vendor Resources before completion of a Project under a time and materials Order for any reason, Vendor will, at no cost to Customer, ensure an effective transition so that each replacement has a thorough knowledge of the purpose, status, issues and requirements of the Order before Vendor begins charging for the Services of that replacement. If a Vendor Resource ceases to perform due to illness, resignation or any other reason, Vendor will promptly provide a substantially equivalent replacement.
   2. Use of Customer’s Computer Network. If any Vendor Resources access Customer's computer network, Vendor agrees they will (a) do so only for the purpose of providing Services to Customer and not for any other purpose; (b) not access any information that is confidential or proprietary to Customer, its employees, agents, customers or suppliers unless the Vendor Resources has a “need to know” in order to perform Vendor's obligations hereunder; (c) not disclose any of that confidential or proprietary information to any other person other than to Customer and/or other Resources with a “need to know” in order to perform Vendor's obligations hereunder; and (d) not knowingly introduce any malicious code into Customer’s computer network.
10. **Miscellaneous Terms and Conditions.** 
    1. Relationship of the Parties. The Parties will act as independent contractors. Neither Party will represent that it has any authority to assume or create any obligation, express or implied, on behalf of the other Party, or to represent the other Party as agent, employee, or in any other capacity. No other document, agreement, circumstance or understanding will be construed to entitle Vendor or Vendor’s employees to any insurance or benefits of any kind from Customer.
    2. Amendments. The Parties may amend this Agreement only by a written instrument signed by an authorized representative of each Party.
    3. Waiver. A Party's delay or failure to enforce or insist on strict compliance with any provision of this Agreement will not constitute a waiver or otherwise modify this Agreement. Any waiver must be express and in writing.
    4. Entire Agreement. This Agreement, and any exhibits or attachments hereto constitutes the entire agreement between the Parties concerning its subject matter and supersedes all prior and contemporaneous oral and written agreements, commitments, and understandings concerning that subject matter. Any terms and conditions that are included in a Vendor invoice will be deemed to be solely for the convenience of the Parties, and no such term or condition will be binding upon Customer.
    5. Assignment. Neither Party may assign any right or delegate any duty under this Agreement except as set forth in this Section 16.5 or Section 14. Customer may assign, transfer or delegate its rights and obligations in whole or in part to (a) any Customer Affiliate; or (b) to any entity that acquires all or substantially all of the Customer’s assets or capital stock relating to this Agreement or results from one or more mergers or initial public offerings or any other corporate reorganization. Vendor may not assign or transfer this Agreement, whether by transfer, merger, operation of law or otherwise, without the prior written consent of an authorized representative of Customer. This Agreement will bind and inure to the benefit of each of the Parties and their respective permitted successors, assigns, and delegates.
    6. Construction. The Parties agree that this Agreement is the product of negotiation and that neither Party will be deemed to be the drafter thereof. In this Agreement headings are inserted for convenience only and will not affect the meaning of the text and references to the singular include the plural and vice versa.
    7. Disputes. This Agreement will be interpreted under, and any disputes arising out of this Agreement will be governed by, the laws of the State of {{GoverningLaw}}, without reference to its conflicts of law principles. **The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act will not apply to the interpretation or enforcement of this Agreement.** Each Party irrevocably consents to the jurisdiction of the state and federal courts located in the State of {{GoverningLaw}}, USA, in connection with all actions arising out of or in connection with this Agreement, and waives any objections that venue is an inconvenient forum. Each Party further agrees that it will not initiate any action against the other Party in any other jurisdiction. Each Party agrees that a final judgment in any such action or proceeding will be conclusive and may be enforced in any other jurisdiction (including the appropriate courts of the jurisdiction in which the other Party is a resident or in which any property or an office of such Party is located) by suit on the judgment or in any other manner provided by law.
    8. Force Majeure. Neither Party will be liable for delays or any failure to perform the Services due to causes beyond its reasonable control (a “**Force Majeure Event**”); provided that Vendor’s performance will not be excused unless Vendor has fulfilled its obligation to use redundancy, robustness and scalability in order to maintain the availability of the Vendor Service. In addition, a Force Majeure Event does not excuse Vendor from fulfilling its responsibilities relating to the requirements of backup and recovery of Customer Data. Such Force Majeure Events include, but are not limited to, acts of God, terrorism, fire, explosion, flood or other natural catastrophe, acts, orders, or regulation, strikes or labor difficulties, or acts of terrorism, in each case to the extent not occasioned by the fault or negligence of the delayed Party. Any such excuse for delay will last only as long as the event remains beyond the reasonable control of the delayed Party and the delayed Party will use its best efforts to minimize the delays caused by any such event beyond its reasonable control.
    9. Severability. If any court, arbitrator, or arbitration panel finds any provision of this Agreement to be invalid or otherwise unenforceable, that provision will be void to the extent it is contrary to applicable law. However, that finding will not affect the validity of any other provision of this Agreement, and the rest of this Agreement will remain in full force and effect unless enforcement of this Agreement without the invalidated provision would be grossly inequitable under all of the circumstances or would frustrate the primary purposes of this Agreement. Alternatively, if a court, arbitrator, or arbitration panel determines that any provision of this Agreement is not enforceable as expressly written, it is the intention of the Parties that those provisions be modified by the court, arbitrator, or arbitration panel only as is necessary for them to be enforceable.
    10. **Electronic Signature**. Customer may make available a digital solution to streamline follow-on contracting related to this Agreement (a “**Digital Transaction Platform**”). Notwithstanding anything to the contrary in this Agreement, any follow-on contracting to this Agreement, including without limitation Orders, statements of work, other ordering document, change orders, amendments, local country agreements, addendums, and the like, that is transacted via the Digital Transaction Platform and approved by both Parties via a digital approval mechanism of the Digital Transaction Platform shall be deemed to be in writing, acceptable and binding for purposes of this Agreement. Electronic approvals submitted to the Digital Transaction Platform by a Party (such as clicking on an acceptance button or checkbox) shall be deemed to constitute the electronic signature of that Party’s authorized representative. By way of example, and without limitation, the Parties may use the Digital Transaction Platform to (i) amend the Agreement to establish standardized terms and conditions that shall be applicable to specified categories of products or services that may be procured under Orders (“**Default Work Order Terms**”), or (ii) enter into simplified electronic orders for products or services that are deemed for all purposes to constitute ordering documentation under the Agreement and are deemed to include such Default Work Order Terms.
    11. Counterparts. This Agreement may be executed in counterparts (including via electronic signatures) each of which will be considered an original, and all of them, taken together, will constitute a single agreement.

IN WITNESS WHEREOF, authorized signatories for the Parties have caused this Agreement to be executed effective as of the Effective Date.

|  |  |
| --- | --- |
| **{{CUSTOMERSIGNATUREBLOCK}}** | **{{CONTRACTORSIGNATUREBLOCK}}** |
| By:  Signature | By:  Signature |
| Name:  (Print or Type) | Name:  (Print or Type) |
| Title:  (Print or Type) | Title:  (Print or Type) |
| Date: | Date: |

***EXHIBIT 1***

**DESCRIPTION OF VENDOR SERVICE**

|  |  |
| --- | --- |
| **Vendor Service** | [*At a minimum, answer each of the following questions:*  *In one or two sentences, insert detailed description of Vendor Technology.*  *Is the technology physical or electronic?*  *If software related, is the software locally installed or provided on a Software as a Service basis?*  *If cloud or SaaS related, where is the technology hosted (e.g., AWS, vendor infrastructure, etc.)*?  *What integrations with Customer or third-party systems and networks are necessary for the operation of solution?*] |
| **Fees** | [*List all applicable fees here, including a rate card for professional services. Additional fees not described here or fees listed as “then-current” fees are not acceptable. If the Parties plan to use an order form, fees and rates should be specified here and the order form.*] |
| **Vendor Service Restrictions of Use** | The Customer Parties will use the Vendor Service solely in accordance with this Agreement and solely for the benefit of Customer and Customer Affiliates. The Customer Parties will not, without Vendor's consent, disassemble, reverse engineer or replicate in any way products or prototypes embodying except as permitted by law. |

***EXHIBIT 2***

**SUPPORT AND SERVICE LEVELS**

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| --- | --- |
| **Support** | Vendor will provide technical support for the Vendor Service in English via telephone, email and web-based interface (a) twenty-four (24) hours per day seven (7) days a week for emergency support requests such as Vendor Service outages; and (b) during Business Hours for all other support requests. “**Business Hours**” means Monday through Friday from 8 a.m. to 6 p.m. Pacific Standard Time, excluding United States federal court holidays. |
| **Support Resolution Service Levels** | Vendor will use commercially reasonable efforts to respond to and resolve all support incidents or queries within (a) one hour for emergency support requests such as Vendor Service outages; and (b) four Business Hours for all other support requests. |
| **Service Levels** | Vendor will make the Vendor Service available 99.9% of the time, excluding Scheduled Maintenance.  In order to qualify as “**Scheduled Maintenance**”, a particular maintenance period must (a) be the subject of commercially reasonable efforts to avoid and minimize downtime; (b) not exceed two (2) hours per occurrence or four (4) hours per month in the aggregate; (c) be the subject of seven (7) days advance written notice to Customer. |
| **Service Credits** | In the event that Vendor does not achieve the service levels, Customer will be entitled to the following service credits:  [*Specify service credits*]  Vendor shall automatically apply service credits accrued in one month to the next invoice or refund the credit to Customer within thirty (30) days following the effective date of termination or expiration of the Agreement or Order. |
| **Chronic Service Outages** | Customer may terminate this Agreement and/or the applicable Order in the event of the following occurrences: (a) Vendor fails to meet a Vendor Service or Support Resolution Service Levels on two (2) successive months or any three (3) months out of any six (6) month rolling period; (b) Customer experiences emergency support incidents more than three (3) times during any rolling twelve (12) month period; (c) the Vendor Service experiences availability of less than 95% in any given month. |
| **Monitoring** | Vendor will monitor the Vendor Service and provide reporting to the Customer Parties. |
| **Root Cause Analysis** | In the event of a material failure of the service levels, Vendor will conduct a root cause analysis of the causes of the service level failure and deliver to Customer a written report (email acceptable) concerning its findings. The report shall include a detailed summary of the incident, summary of its resolution and a plan for preventing similar outages in the future. |
| **Escalations** | In the event of an emergency support incident or other exceptional circumstances, the Customer Parties may escalate a support incident or query to the following individuals:  [*Specify escalation names and contact information*] |

***EXHIBIT 3***

**DATA PROTECTION EXHIBIT**

[*To Be Inserted.*]

***EXHIBIT 4***

**LOCAL COUNTRY AGREEMENT**

This Local Country Agreement (the “**Local Agreement**”), which includes any of its attachments, is made and entered into effective as of \_\_\_\_\_\_\_ (the “**Local Agreement** **Effective Date**”), by and between \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, a Customer Affiliate (“**Customer Affiliate**”), with its principal place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, and \_\_\_\_\_\_\_\_ (“**Local Vendor Provider**), with its principal place of business at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_. Customer Affiliate and Local Vendor Provider may each be referred to herein as a “**Party**” and collectively as the “**Parties**.”

**BACKGROUND:**

A. {{CustomerName}} (“**Customer**”) and \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Vendor**”) signed the Master Services Agreement (SaaS and Professional Services) dated effective as of \_\_\_\_\_\_\_\_\_\_\_ (the “**Agreement**”) for the provision of certain Services detailed therein. Capitalized terms used herein and not defined shall have the meaning ascribed to them in the Agreement.

B. Under the terms of the Agreement, Customer and Vendor contemplated that Customer and/or its Affiliates may desire to engage a Local Vendor Provider to provide Services primarily outside the United States of America under a separate agreement based substantially upon the terms of the Agreement with variations to accommodate local law and practice.

**AGREED TERMS:**

In consideration of the mutual promises contained in this Local Agreement, the Parties agree as follows:

1. **Included Terms.** All Sections of the Agreement, other than those Sections (if any) referenced below in Section 2 and any other Sections which clearly by their nature are intended to only apply to the Agreement, shall, in accordance with the terms of this Section 1, be incorporated into this Local Agreement by reference as if set out in full in this Local Agreement. Such sections shall apply except to the extent expressly excluded or varied by this Local Agreement. If there is any inconsistency or conflict between the incorporated terms of the Agreement and this Local Agreement the latter shall prevail for the purposes of this Local Agreement.
2. **Interaction with the Agreement.** 
   1. The Parties acknowledge and agree that this Local Agreement constitutes a stand-alone agreement between the Parties without any intent to modify, and without any such effect upon, the Agreement as between Customer and Vendor.
   2. **Excluded Terms.** The Parties agree that the Sections of the Agreement listed below are not incorporated into this Local Agreement and any Orders executed hereunder.

[List here any Sections of the Agreement that are not to apply to this Local Agreement and any Orders]

* 1. **Additional Terms.** The Parties agree that the provisions set out below shall apply to this Local Agreement only to the extent applicable to any Services to be provided under any Orders executed hereunder.

[List here any terms not in the Agreement that should apply to this Local Agreement and any Orders]

* 1. **Modified Terms.** The Parties agree that the provisions of the Agreement set out below shall be modified under the terms of this Local Agreement and any Orders executed hereunder.

[List here any modifications to the terms of the Agreement that are to apply to this Local Agreement and any Orders]

1. **Notices.** Whenever under this Local Agreement or any Order notice is required or permitted to be given, such notice shall be in writing, shall be effective if made in accordance with the notices provisions of the Agreement and addressed to the addressee at its address specified below.

|  |  |
| --- | --- |
| **If to Customer Affiliate**:  Attn: \_\_\_\_\_\_\_\_\_\_\_\_\_\_  Address  City, State Zip Code | **If to Local Vendor Provider:**  Attn: \_\_\_\_\_\_\_\_\_\_\_\_  Address  City, State Zip Code |

A Party may change its address for notices by giving prior written notice of the new address in conformity with this Section.

1. **Governing Law.** Notwithstanding any contrary provisions of the Agreement, this Local Agreement and each Order entered into pursuant to this Local Agreement, and all matters relating to this Local Agreement and each Order shall be governed by, and construed in accordance with, the laws of [add governing law] (without giving effect to its choice of law principles).
2. **Entire Agreement.** This Local Agreement constitutes the entire understanding and agreement of the Parties with respect to its subject matter and supersedes all other oral or written communications, understandings, or agreements relating to the Local Agreement. Each Order constitutes the entire understanding and agreement of the Parties with respect to its subject matter and supersedes all other oral or written communications, understandings, or agreements relating to that Order.
3. **Jurisdiction and Venue.** Any proceeding, claim or action arising out of or in connection with this Local Agreement or each Order entered into pursuant to this Local Agreement or any Services provided or to be provided under any such Order shall be brought and maintained exclusively in the courts of [add the jurisdiction and venue that applies]. Each Party expressly and irrevocably submits to the jurisdiction of such courts for the purposes of any such proceeding, claim or action.
4. **Headings.** The headings contained in this Local Agreement are for convenience only and shall not affect its meaning or interpretation.
5. **Language.** The Parties agree that this Local Agreement, each Order and all related communications, notices and documents shall be expressed in the English language. This Local Agreement and/or each Order may be translated into any language other than English but the English text shall be the prevailing text.

Agreed by the Parties through their authorized representatives effective as of the Local Agreement Effective Date.

|  |  |
| --- | --- |
| **CUSTOMER AFFILIATE:** | **LOCAL VENDOR PROVIDER:** |
| *EXAMPLE ONLY – DO NOT SIGN* | *EXAMPLE ONLY – DO NOT SIGN* |
| By:  Signature | By:  Signature |
| Name:  (Print or Type) | Name:  (Print or Type) |
| Title:  (Print or Type) | Title:  (Print or Type) |
| Date: | Date: |

***EXHIBIT 5***

**ARTIFICIAL INTELLIGENCE**

**1. Definitions and Scope.** Capitalized terms not defined herein shall have the meanings ascribed to them in the Agreement. Capitalized terms which are not otherwise defined in the Agreement shall have the following meanings:

* 1. **Definitions**:

1. **"AI Solutions"** means any products, goods, services (including SaaS), work product, or deliverables created, developed, licensed, sold, or otherwise provided (or to be provided) under the Agreement that include or use AI Technology, including, without limitation any feature, functionality, customization, or component of any product, good, service or deliverable procured or provided under the Agreement that incorporates, uses, depends on, is supported by, or employs any AI Technology.
2. **“AI Technology”** means any and all machine learning, deep learning, and other artificial intelligence technologies, including statistical learning algorithms, models (including large language models), neural networks, and other artificial intelligence tools or methodologies, all software implementations of any of the foregoing, and related hardware or equipment.
3. **“Applicable Rules”** means all present or future laws, regulations, standards, and regulatory guidance related to AI Technology in any jurisdiction, and includes, without limitation, (i) the EU AI Act, (ii) the UK AI Strategy and Guidelines, (iii) OECD Principles on AI, (iv) United States federal, state, or local laws, regulations, rules, and agency guidance, (v) other analogous international, federal, state, or local laws, regulations, rules and agency guidance, and (vi) industry standards and standards implemented, promulgated, published, adopted, or recommended by any governmental authority, recognized standards organization, or recognized industry group, whether binding or non-binding.
4. **“Training Data”** means all content and other information, other than Restricted Data, used to train any AI Technology that is used for or included in any AI Solution.

**1.2** **Scope.** These terms apply to all AI Solutions provided, or to be provided, by the Vendor under the Agreement. Vendor represents and warrants that the Agreement or applicable Order Document includes a complete and accurate list of all AI Technology and AI Solutions used or incorporated in the products, goods, services, work product or deliverables provided thereunder.

**2. Compliance with Applicable Rules.** The Vendor shall comply with Applicable Rules and be responsible for ensuring that all AI Solutions provided under the Agreement comply with the requirements of all Applicable Rules.

**3. Restriction.** Vendor shall not process or otherwise in any way use (a) the Confidential Information of Customer or its Affiliates, or (b) any other information, materials, works, or other content input, provided or otherwise made available to Vendor, its Affiliates, or any of their sub Vendors or representatives by or on behalf of Customer, its Affiliates or any of their users (collectively, “**Restricted Data**”), for purposes of training, creating, or otherwise modifying any AI Solution or AI Technology without Customer’s prior written authorization in each instance. If Vendor becomes aware of any use of Restricted Data in violation of the foregoing restriction, Vendor shall promptly notify Customer and take steps in cooperation with Customer to remediate and/or mitigate such unauthorized use.

**4. Representations and Warranties.** Vendor represents, warrants, and covenants to Customer that:

(a) neither Vendor’s grant of the rights or licenses under the Agreement nor its provision of any AI Solutions or performance of other obligations under the Agreement, nor Customer's use of any AI Solution or exercise of its rights in accordance with the Agreement, does or at any time will: (i) conflict with or violate any Applicable Rules, including any Applicable Rules relating to the development, creation, training, fine-tuning, use, implementation, or provision of AI Technology; (ii) require the consent, approval, or authorization of any governmental authority or other third party; or (iii) require the provision of any payment or other consideration by Customer or any user to any third party;

(b) it has obtained and will maintain all licenses, consents, and permissions, and otherwise has all rights, including in each case as required under Applicable Rules, to collect and use all Training Data, including to train AI Technology, and for Provider to grant the rights and licenses granted to Customer under the Agreement;

(c) it has complied, and will remain in compliance, with all applicable laws and regulations and other third-party contractual or other rights or requirements (including any use restrictions and other requirements of any license, consent, permission, or other contract and any website terms of use, terms of service, or other terms) applicable to: (x) collection and use of such Training Data; (y) the development, creation, training, fine-tuning, use, implementation, and provision of AI Technology; and (z) Customer's use of the AI Solutions and AI Technology as contemplated under the Agreement; and

(d) it regularly monitors, measures, and assesses the AI Solutions for accuracy and reliability, considering computational-centric measures (for example, false positive and false negative rates), human-artificial intelligence teaming, and external validity (generalizable beyond the training conditions), in accordance with Applicable Rules.

**5. Documentation, Transparency, and Data Quality**

5.1 **Documentation**. Vendor shall provide comprehensive documentation for all AI Solutions, including details of the AI’s functionality, risk assessments, and compliance with Applicable Rules. Such documentation shall be updated regularly and made available to Customer upon its request.

5.2 **Transparency**. Vendor shall maintain transparency in the functioning of AI Solutions, including the algorithms used, data sources, and any potential biases or limitations of the AI Solutions. Vendor will also provide clear information about how the AI Solution makes decisions, including details on the logic and criteria used in its decision-making processes. Vendor shall retain information in human-readable form that explains or could be used to explain the decisions made or facilitated by the AI Solutions.

5.3 **Data Quality**. Vendor shall ensure that all data used in the development, training, and operation of the AI Solution is of high quality, accurate, and representative. Vendor shall implement robust data management practices, including data validation, regular updates, and documentation of data sources.

**6. Risk Management and Mitigation**

1. Vendor shall conduct regular risk assessments of the AI Solution to identify and mitigate potential risks associated with its deployment and use. Vendor agrees to implement appropriate risk management measures, including but not limited to, safety features, error handling mechanisms, and contingency plans.
2. Vendor must not use or supply any AI Solution that includes or makes use of Prohibited AI. As used herein, “**Prohibited AI**” means any AI Technology that: (i) deploys subliminal, manipulative or deceptive techniques which materially distort a person's behavior by impairing informed decision-making or autonomy in a way that is reasonably likely to cause significant harm; (ii) exploits vulnerable groups (such as children or religious minorities) to materially distort their behavior in a way that is reasonably likely to cause significant harm; (iii) evaluates or classifies people based on their social behavior or personality characteristics to create a 'social score' which leads to defined detrimental or unfavorable treatment of those people; (iv) assesses or predicts the risk of an individual committing a criminal offence based solely on profiling or assessing personality traits and characteristics; (v) creates facial recognition databases through the untargeted scraping of facial images from the internet or CCTV footage; (vi) enables emotional recognition in the workplace or educational institutions (other than for medical or safety purposes expressly permitted under Applicable Rules); (vii) categorizes people based on biometric data to infer race, political opinions, trade union membership, religious or philosophical beliefs or sex life or orientation; or (viii) uses "real-time" biometric identification in publicly accessible spaces for law enforcement purposes.

**7. Ethical and Responsible AI Use**

**7.1** **Ethical Standards**. The Vendor shall adhere to ethical AI guidelines, standards and best practices, ensuring that AI Solutions do not perpetuate discrimination, bias, or any other unethical practices.

**7.2** **Human Oversight**. The Vendor shall ensure that appropriate human oversight mechanisms are in place for all AI Solutions, allowing for intervention and review in cases where AI decisions have significant impacts. Customer will have the ability to override or correct decisions made by the AI Solution. Vendor will provide the necessary tools and interfaces to facilitate effective human oversite.

**7.3** **Bias and Fairness**. The Vendor shall actively work to identify and mitigate biases in AI Solutions, ensuring fairness in outcomes and compliance with ethical guidelines.

**8. Audit and Monitoring**

**8.1 Regular Audits**. The Vendor shall cooperate in Company’s vendor AI assessment program, and permit regular audits and inspections by the Company or an appointed third party to verify compliance with Applicable Rules and this Exhibit. Vendor agrees to cooperate with such audits, respond to questionnaires from Company, provide necessary documentation, and address any identified issues promptly.

**8.2** **Reporting Obligations**. The Vendor shall promptly report any issues, failures, or breaches related to the AI Solutions, including non-compliance with Applicable Rules or the Exhibit.

**9. Termination**

**9.1 Termination for Non-Compliance**. Without limiting any other right or remedy of Company, Company may terminate the Agreement on written notice to Vendor if the Vendor fails to comply with the terms and conditions of this Exhibit in any material respect.

**9.2 Termination for Changes**. Vendor shall not implement any changes to the AI Solution that impact its functionality or performance in any material respect. Without limiting any other right or remedy of Company, Company may terminate the Agreement on written notice to Vendor if the Vendor implements any changes to the AI Solution that impact its functionality, performance, or compliance with Applicable Rules.

**10. Notification of Incidents and Updates.** Vendor agrees to promptly notify Customer of any incidents, failures, or breaches related to the AI Solution that could affect its compliance with Applicable Rules. Vendor will also provide advance written notice of any planned changes to the AI Solution that may impact its functionality or compliance with Applicable Rules or this Exhibit.

**11. Training and Support.** At no additional cost to Customer, Vendor shall provide Customer with training on the use and management of the AI Solution, including all training necessary to ensure compliance with Applicable Rules. This includes training on interpreting AI outputs, managing system updates, and handling any issues related to the AI Solution’s performance.

**12. Indemnification.** Vendor agrees to indemnify, defend, and hold Customer, its Affiliates and their respective employees, directors, agents, successors and permitted assigns (“Customer Parties”) harmless from and against any and all liabilities, damages, losses, expenses, fines, penalties, and/or judgments, including reasonable attorneys' fees, costs, and expenses incidental thereto, awarded against any Customer Parties or agreed in settlement by Vendor, by reason of any demand, proceeding, action, regulatory action, lawsuit, and/or claim, in each case asserted against a Customer Party by a third party, to the extent arising out of or relating to any breach by Vendor of this Exhibit or any breach of Applicable Rules by Vendor.

**13. Liability.** Notwithstanding anything to the contrary in the Agreement or any Order Document, any limitation of liability and/or waiver of damages set forth in the Agreement or any Order Document will not apply to Vendor’s obligations as they relate to this Exhibit.

**14. General.** Vendor certifies that it understands the requirements and limitations of the Agreement, this Exhibit, and Applicable Rules. In the event of conflict between or among the provision(s) in any Agreement, Order Document, or this Exhibit, the parties will endeavor to interpret any such conflicting provision(s) in a consistent manner. In the event of an irreconcilable conflict, the provision(s) of the aforementioned documents (to the extent applicable) will govern in the following order of precedence: (i) this Exhibit, (ii) the Agreement, and (iii) the applicable Order Document.

**EXHIBIT 6**

**INFORMATION SECURITY**