PROJECT ORDER No. XXXXX

UNDER

MASTER APPLICATION DEVELOPMENT AND MAINTENANCE AGREEMENT

FOR

**[program\_name]**

This Project Order No. XXXXXX (the “**Project Order**”) is made effective as of {IF [!deleted\_square\_bracket] IS ##yes## THEN ##[!deleted\_square\_bracket|MMMM d, yyyy]## ELSE ##\_\_\_\_\_\_\_##}(the “**Order Effective Date**”), between **NIKE, Inc**., an Oregon corporation located at One Bowerman Drive, Beaverton, OR 97005-6453 (“**NIKE**”) and **[!deleted\_square\_bracket]** a \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_incorporated in \_\_\_\_\_\_\_\_\_\_\_\_\_ (“**\_\_\_\_\_\_\_\_\_**”) located at \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (“**Service Provider**”). Each of NIKE and Service Provider is referred to individually as a “**Party**,” and together they are referred to as the “**Parties**.”

This Project Order is incorporated into, forms a part of, and is in all respects subject to the terms of, the [msacheck] between NIKE and Service Provider dated December 11, 2012 (as amended, collectively, the “**Master Agreement**”). All capitalized terms that are not defined in this Project Order have the meanings assigned to those terms in the Master Agreement.

NIKE desires to engage Service Provider to provide development services and certain deliverables in support of a project (as further described on **Exhibit A**, “**Description of Programs, Domain and Project Services”** the “**Project**”) led by NIKE’s \_\_\_\_\_\_\_\_\_\_ domain (the “**Domain**”) included in NIKE’s [program\_name] (as further described on **Exhibit A**, the “**Program**”), and to provide expert management counseling and delivery assistance for the Project (collectively, “**Project Services**”). Service Provider desires to provide such Project Services.

The Parties therefore agree as follows:

# Project Services.

## Overview.

Service Provider will provide the Project Services in support of NIKE’s Domain team (the “**Domain Team**”) and the Project as further described on **Exhibit A**. Service Provider’s responsibilities under this Project Order include the accountabilities described in Section 1.3 of this Project Order.

## Service Provider’s Strategic Role.

NIKE also wishes to engage Service Provider to provide strategic consulting to the Domain Team. NIKE and Service Provider agree that Service Provider’s responsibilities in this respect will include, without limitation, (a) the presentation of proposals to the Domain Team for enhancements to program performance, productivity and the management capabilities of the Domain Team, (b) providing management, leadership and direction for Service Provider’s personnel who will be performing services under this Project Order, and (c) engaging with NIKE’s leaders of the Domain Team to help drive the delivery of the strategic goals and objectives of the Project.

## Service Provider Accountabilities.

Service Provider’s responsibilities under this Project Order include (a) identifying Service Provider’s personnel that are appropriately experienced and otherwise qualified to participate in Sprint teams and the delivery of the Project Services; (b) orienting such qualified personnel to the goals and objectives of the Project and the Domain Team; (c) managing the performance of Service Provider’s personnel who will be performing Project Services, and providing training to such personnel; (d) providing Service Provider’s personnel with any equipment, supplies and other materials that may be necessary or appropriate for them to perform the Project Services and that are not otherwise provided by NIKE; (e) recommending to NIKE the appropriate location for the performance of the Project Services (whether at NIKE’s location or some other location); (f) jointly developing with NIKE, as requested by NIKE from time to time, an effective strategy for the performance of Sprint teams providing the Project Services; (g) advising NIKE regarding best practices in automation, artificial intelligence and other delivery technologies; (h) otherwise teaming with NIKE as a strategic provider to help drive the performance of Project functionality; (i) managing personnel turnover to avoid disruption of Project objectives; (j) providing budgeting, cost and resource utilization reporting and analysis to NIKE from time to time; (k) managing output and successful delivery by each Resource provided by Service Provider for the Sprint teams; and (l) developing a skills continuity strategy for the Project Services reasonably satisfactory to NIKE.

## Scope of Work.

In accordance with the Agile delivery methodology, work on the Project will be highly iterative. Service Provider will provide its expertise in support of Project work planning and other scope management processes and will cooperate with NIKE to develop appropriate records of work completed.

## Service Provider Leadership.

Service Provider will designate a senior leader (the “**Team Leader**”) in consultation with NIKE, who will be responsible for ensuring the effective performance by Service Provider of its obligations under this Project Order, including without limitation Service Provider’s strategic responsibilities under Section 1.2 of this Project Order. The responsibilities of Service Provider’s Team Leader will include, without limitation, (a) leading, managing and guiding the performance of Service Provider’s Resources, (b) monitoring and improving the skills of Service Provider’s personnel, (c) developing and implementing a plan and framework for the deployment of such Service Provider personnel, (d) monitoring the productivity of such personnel, (e) ensuring the satisfaction of Service Provider’s accountabilities under Section 1.4 of this Project Order, and (f) reviewing Service Provider’s compliance with any key performance indicators and service level obligations agreed in accordance with this Project Order. Service Provider will be entitled to provide from time to time during the Order Term (as defined below) a new leader to fill the Team Leader role. Service Provider will give NIKE an opportunity to offer comment on the qualifications of each prospective Team Leader for overseeing the Service Provider's compliance with obligations under this Project Order before Service Provider confirms the appointment of any such prospective Team Leader.

## Reporting.

Service Provider will track and report on time expended by each of its Resources who performs services under this Project Order and will provide all reasonable documentation required by NIKE to support appropriate accounting analysis (including capitalization analysis) of the Charges under this Project Order. Service Provider will provide such reporting and documentation in systems identified to Service Provider by NIKE from time to time during the Order Term, in addition to maintaining such data on Service Provider's own systems and devices.

## General Standards of Performance.

Service Provider will perform and ensure that its personnel perform the Project Services (a) with the highest professionalism consistent with the standards of quality, timeliness, diligence and innovation prevailing in the information technology industry, and (b) in accordance with the requirements of the Master Agreement and this Project Order.

## Governance Framework.

The Parties will work together to design, develop and implement a governance framework for the effective management of the Project Services within a reasonable period after the Order Effective Date unless such governance framework is agreed upon as part of this Project Order and attached to **Exhibit A**.

## No Exclusivity.

NIKE’s appointment of Service Provider to perform the Project Services is not exclusive, and NIKE has the right in its sole discretion to source any part of the Project Services from any other provider.

## Rules of Interpretation.

The Project Services are “Designated Services” within the meaning of the Master Agreement and are delivered by Service Provider under the terms of this Project Order, and the Master Agreement. This Project Order is a “Work Order” entered into by the Parties under the terms of the Master Agreement and is governed in all respects by the Master Agreement and will be deemed to be a part of, and construed in accordance with, the Master Agreement.

## Indemnification.

Service Provider acknowledges and agrees that the indemnifiable claims included within the scope of its indemnification obligations under the Master Agreement shall include any claim that any employee, principal, contractor or subcontractor of Service Provider is an employee of NIKE or any Affiliate of NIKE.

# Resources.

## Personnel Assignment.

As part of its accountabilities under Section 1.3, Service Provider will select the personnel it desires to use to perform the Project Services. As part of the governance framework for the Project Services, Service Provider will consult with NIKE to determine the criteria that Service Provider should use in selection of Service Provider’s personnel for the performance of the Project Services under this Project Order.

## Personnel Reassignment.

In order to avoid disruption of the Project Services, Service Provider will use reasonable commercial efforts not to reassign during the Order Term any personnel assigned to perform any Project Services. If any Resource stops providing Project Services under this Project Order for any reason, Service Provider will promptly provide an equivalent replacement in accordance with its obligations under Section 1.3 of this Project Order. Time spent transitioning work to a replacement Resource, including time spent by that Resource learning about the Project, will not be charged to NIKE.

## Personnel Qualifications.

Service Provider will ensure that its Resources have appropriate professional qualifications to serve in the corresponding roles to be performed by each such Resource. NIKE and Service Provider shall develop and incorporate appropriate procedures for review and approval of Resource qualifications as part of the governance framework for the Project Services.

## Personnel Management.

To the extent required to render Project Services under this Project Order, to provide various Deliverables under this Project Order and to meet its other commitments under this Project Order, Service Provider will receive direction from NIKE, identify for its personnel performance requirements that are responsive to such direction and manage compliance with such requirements by its personnel. Service Provider acknowledges and agrees that (a) personnel of Service Provider will work in close coordination with personnel of NIKE, (b) personnel of both NIKE and Service Provider may be organized into teams under the management of a team leader provided by NIKE, (c) it therefore may be efficient and appropriate from time to time for NIKE to provide instructions on performance objectives directly to personnel of Service Provider and (d) such team structures and team management by NIKE will not establish any employment relationship between NIKE and Service Provider's personnel, entitle personnel of Service Provider to any employment rights or other benefits from NIKE or imply that such personnel are subject as a general matter to the direct control or supervision of NIKE.

## Personnel Selection.

NIKE may review and provide feedback on Service Provider’s personnel identified as key lead Resources prior to Service Provider placing such Resource with NIKE; however, Service Provider solely is the party responsible for determining a Resource’s qualifications and ensuring that all Resources are appropriately experienced, capable, qualified, skilled, and trained. NIKE may ask Service Provider to replace Resources who are not, in NIKE’s reasonable determination, qualified for their positions.

# TERM AND TERMINATION.

## Order Term.

The term of this Project Order begins on the Order Effective Date and ends on {IF [!deleted\_square\_bracket] IS ##yes## THEN ##[!deleted\_square\_bracket|MMMM d, yyyy]## ELSE ##\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_##}, unless earlier terminated by either Party as provided in Sections 3.2 and 3.3 below or in accordance with the applicable provisions of the Master Agreement. The period from the Order Effective Date through the effective date of expiration or termination of this Project Order constitutes the “**Order Term”**.

## Termination for Cause.

NIKE may terminate this Project Order for cause if Service Provider breaches any material provision of this Project Order or the Master Agreement as it applies to this Project Order, and fails to cure such breach within thirty (30) days after written notice thereof by NIKE to Service Provider.

## Termination for Convenience.

NIKE may terminate this Project Order for convenience at any time upon prior written notice to Service Provider. In the event of any such termination, NIKE will pay Service Provider for any Project Services performed by Service Provider through the effective date of termination, and for any transition services performed by Service Provider for NIKE at the direction of NIKE.

# Price.

## Charges.

The charges for the Project Services provided under this Project Order (the “**Charges**”) will be calculated in accordance with **Exhibit B** to this Project Order, “**Charges**”. Unless and until this Project Order is amended in a writing that specifically references this Section 4.1, Charges under this Project Order that are calculated as an hourly charge shall not exceed the “**Not-to-Exceed Caps”** established under **Exhibit B** to this Project Order, and Charges under this Project Order that are calculated as a fixed fee shall not exceed the Charge Total Established under **Exhibit B** to this Project Order.

## Invoicing and Payment.

The Charges shall be invoiced in accordance with **Exhibit B** to this Project Order and the terms of the Master Agreement. In the event of any conflict or inconsistency between **Exhibit B** and the terms of the Master Agreement, **Exhibit B** shall govern.

## Expenses.

Unless otherwise specifically provided on **Exhibit B**, the Charges for the Project Services shall cover all expenses incurred by Service Provider in performing the Project Services, and Service Provider shall not invoice NIKE separately for such expenses.

## Taxes.

### **Taxes imposed on NIKE.** In addition to the Charges, Service Provider will invoice NIKE for, collect from NIKE, and timely remit to the appropriate governmental authorities, all central, national, state, local and foreign taxes (including sales and use taxes, ad valorem taxes and value added taxes), tariffs, duties and similar charges, however designated (collectively, **“Taxes”**), that Service Provider is legally required to collect from NIKE relative to NIKE’s purchase of the Project Services from Service Provider. Service Provider is solely responsible for any miscalculation of Taxes, for any failure to invoice NIKE for Taxes, and for any failure to remit Taxes to the appropriate governmental authority when due, and any resulting interest or penalties as a result thereof.

### **Taxes Imposed on Service Provider.** Service Provider is solely responsible for all: (a) Taxes imposed upon Service Provider’s income, gross receipts or assets; (b) Taxes in respect of Service Provider’s employees or payroll; and (c) Taxes assessed on the provision of Project Services resulting from Service Provider’s relocating or rerouting the delivery of Project Services to, from or through a location other than the service delivery locations recommended by Service Provider to NIKE at the beginning of the Order Term in accordance with Section 1.3 of this Project Order.

### **Withholding of Taxes.** As and to the extent required by applicable law, NIKE may withhold from the payment of Charges any Taxes on Service Provider’s income payable to the country from which Service Provider performs, provides or invoices the Project Services, except to the extent Service Provider submits to NIKE a certificate from the appropriate governmental authority expressly exempting NIKE from such tax withholding obligation. NIKE will remit any withheld Taxes to the appropriate governmental authority and will provide Service Provider with such evidence of payment as may be required for Service Provider to claim the payment as a deduction or credit against Service Provider’s Taxes.

### **Payroll Taxes and Employment Benefits.** NIKE will not provide workers’ compensation coverage for Service Provider or any of Service Provider’s personnel, and will not withhold or pay for any employment benefits under central, national, state or local laws, including income taxes (domestic or foreign), social security contributions, Medicare, holiday, vacation or sick pay, health and welfare benefits, profit sharing, any employee stock option or stock purchase plans, unemployment or disability insurance, workers’ compensation insurance, or other similar social taxes or assessments on account of NIKE’s payments made pursuant to this Project Order. Service Provider will be solely responsible to pay all applicable taxes and tax withholdings with respect to Service Provider’s revenues or income, or associated with any payments, benefits or other actual or imputed compensation made to any of Service Provider’s personnel arising out of the Project Services under this Project Order and NIKE shall not be liable for any such obligations for any reason.

## Apportionment of Charges, Expenses and Taxes.

If any of Service Provider’s personnel provide services to NIKE or its Affiliates under contracts other than this Project Order, any compensation payable to Service Provider or its personnel in respect of such other services shall not be included in the Charges under this Project Order.

## Volume Discounts.

The Charges payable by NIKE under this Project Order will be included in any calculation of any volume discount or similar benefit provided to NIKE by Service Provider under the terms of the Master Agreement

# amendments.

NIKE and Service Provider may amend this Project Order only by a written instrument that expressly refers to the provisions of this Project Order and this Article 5, provides the full text of the amendment, and is signed by an authorized representative of each Party.

# Additional Terms.

## Integration.

This Project Order, together with the Master Agreement, constitutes the entire agreement between the Parties concerning the subject matter of this Project Order, and supersedes all prior and contemporaneous oral and written agreements, commitments and understandings concerning such subject matter.

## Counterparts and Delivery.

This Project Order may be executed in counterparts. Each counterpart will be considered an original, and all of them, taken together, will constitute a single agreement. Facsimile and electronic signatures will be deemed original signatures for all purposes under this Project Order. When properly signed, this Project Order may be delivered by facsimile or electronically, and any such delivery will have the same effect as physical delivery of a signed original.

## Supersession of Prior Agreements.

This Project Order replaces and supersedes the prior contracts and ordering documents identified on **Exhibit C**, “**Prior Agreements**”, if any (the “**Prior Agreements**”). From and after the Order Effective Date, any performance and payment obligations that would have arisen under the Prior Agreements after the Order Effective Date shall be deemed to arise under this Project Order, and the payment terms and other provisions of this Project Order shall apply to all such obligations. The payment obligations and other liabilities of the Parties that arose under the Prior Agreements prior to the Order Effective Date shall survive and shall be paid, performed or discharged by the Parties in accordance with the Prior Agreements and applicable law.

# GOVERNING LAW AND DISPUTE RESOLUTION.

This Project Order shall be interpreted under and governed by the law provided for under the Master Agreement. Any disputes under this Project Order shall be resolved in accordance with the dispute resolution provisions of the Master Agreement.

NIKE and Service Provider have executed and delivered this Project Order as of the Order Effective Date.

*(Signatures on Following Page)*

**Accepted and Agreed**:

**NIKE, Inc.**  [!deleted\_square\_bracket]

By: By:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: Title:

Date: Date:

**EXHIBIT A**

**DESCRIPTION OF PROGRAMS, DOMAINS AND PROJECT SERVICES**

1. **NIKE Domain.**

NIKE’s [N\_domain\_name\_lu] domain whose purpose and goals are:

[N\_domain\_desc\_lu]

1. **Program**.

NIKE’s [program\_name] will deliver [program\_desc].

1. **Project Scope and Management.**
   * + - 1. **Project Scope.** The scope of Project Services to be performed by Service Provider under this Project Order shall include the following activities:

|  |  |
| --- | --- |
| **#** | **Activities** |
| 1 | Project Scope (system, geography, process) |
| 2 | Project artifacts |
| 3 | Project Plan |
| 4 | Identify Team |
| 5 | Data List (master data and transaction data) |
| 6 | Data Discovery |
| 7 | Project Kick off presentation and schedule |
| 8 | Requirement Workshop schedule |
| 9 | RACI matrix |
| 10 | Project Governance |
| 11 | As-Is process documentation |
| 12 | Project documentation, templates and protocols |
| 13 | Testing |
| 14 | Integration Testing |
| 15 | Training Documentation in Powerpoint / MS Word / PDF |
| 16 | Data integration/interfaces |
| 17 | UAT |
| 18 | Project deliverables by phase |
| 19 | Change Control |
| 20 | Cutover |
| 21 | Hypercare |

* + - * 1. **Project Deliverables:** The Deliverables to be provided by Service Provider under this Project Order are as follows:

|  |  |  |
| --- | --- | --- |
| **#** | **Deliverables** | **Brief Description** |
| 1 |  |  |
| 2 |  |  |
| 3 |  |  |
| 4 |  |  |
| 5 |  |  |
| 6 |  |  |
| 7 |  |  |

1. **Governance Framework**. The relationship of NIKE and Service Provider under this Project Order shall be managed in accordance with the Governance Framework set forth on **Appendix 1** to this **Exhibit A** or as otherwise agreed under this Project Order.
2. **Project Schedule**. Service Provider will perform the Services in accordance with the Project Timeline set forth on **Appendix 2** to this **Exhibit A**.
3. **Project Location.** Service Provider will provide the Project Services from the following locations:

**APPENDIX 1**

**GOVERNANCE FRAMEWORK**

[NTD: Insert the Governance Framework here if it has been agreed; otherwise insert the following language:

“Service Provider and NIKE will agree upon the Governance Framework that will apply to this Project Order in accordance with the provisions of this Project Order.”]

**APPENDIX 2**

**PROJECT TIMELINE**

The following table identifies the key milestones for the Project:

EXHIBIT B

CHARGES AND INVOICING

1. **Management and Leadership Charges*.*** The Charges include fees for services to be provided by leadership Resources in managing the Project Services and leading Service Provider’s development teams.
2. **Charges for Project Services**:

**CLAUSE HOURLY RATE PROJECT ORDER**

NIKE shall pay Service Provider a monthly payment for the Project Services based on actual service hours provided by Service Provider’s Resources under this Project Order during each such month in the Order Term calculated in accordance with the rate card established under the Master Agreement with any adjustments contemplated by **Appendix I** “**Adjustments to Master Agreement Rate Card**” to this **Exhibit B**.  The “**Not-to Exceed Cap” f**or each month in the Order Term and for the entire Order Term are as set forth on **Appendix II** “**Staffing Plan for Project Order”** and are calculated by applying the rate card in effect for this Project Order to the hours anticipated to be provided by Service Provider’s Resources as presented on **Appendix II** “**Staffing Plan for Project Order**” to this **Exhibit B**.

**CLAUSE FOR FIXED FEE PROJECT ORDER**

**Charges for Project Services.** NIKE shall pay Service Provider in arrears fixed fees for the Project Services in monthly milestones (the **“Milestone Payments”)** in accordance with the milestone table set forth in this Part II. The Milestone Payments are calculated by applying the rate card established under the Master Agreement with any adjustments contemplated by **Appendix I “Adjustments to Master Agreement Rate Card”** to this **Exhibit B** to the hours anticipated to be provided by Service Provider’s Resources as presented on **Appendix II** “**Staffing Plan for Project Order**” to this **Exhibit B**. The **“Charge Total”** for the total Charges under this Project Order during the Order Term is USD [zzTotal\_project\_cost|C,d0-b$].

**PLEASE INSERT MILESTONE TABLE PROVIDED BY INFOSYS**

|  |  |  |  |
| --- | --- | --- | --- |
| # | Date | Name | Amount (USD) |
| 1 | XX-Month-Year | \_\_\_\_\_\_ Milestone | $\_\_\_\_\_\_\_ |
| *2* | XX-Month-Year | \_\_\_\_\_\_ Milestone | $\_\_\_\_\_\_\_ |
| *3* | XX-Month-Year | \_\_\_\_\_\_ Milestone | $\_\_\_\_\_\_\_ |
| *4* | XX-Month-Year | \_\_\_\_\_\_ Milestone | $\_\_\_\_\_\_\_ |
| *5* | XX-Month-Year | \_\_\_\_\_\_ Milestone | $\_\_\_\_\_\_\_ |
| Total – Not-to-Exceed | **$\_\_\_\_\_\_\_\_** | | |

1. **Payment Terms.** The Charges provided for in this **Exhibit B** shall be invoiced in arrears within forty five (45) days following the last day of the month for which such invoice is issued, and NIKE shall pay such Charges under undisputed invoices within sixty (60) days from the date of receipt of invoice.
2. **Expenses.**  Unless approved by NIKE in writing in advance, NIKE will not reimburse Service Provider for any expenses related to the Project Services.

APPENDIX I

ADJUSTMENTS TO MASTER AGREEMENT RATE CARD

|  |  |
| --- | --- |
| **Role** | **Hourly Rate Adjustments** |
| Product Owner |  |
| ScrumMaster |  |
| Technical Lead |  |
| Business System Analyst |  |
| Senior Data Engineer |  |
| Data Engineer |  |
| System Architect |  |
| Product Owner |  |

**APPENDIX II**

**STAFFING PLAN FOR PROJECT ORDER**

**SAMPLE DATA - NOT DYNAMIC YET**

|  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| **Role** | **# of Resources** | **Work Location** | **Hourly Rate Per Resource** | **Monthly hours** | | | | | **Total Hours** |
| **Jan-24** | **Feb-24** | **Mar-24** | **Apr-24** | **May-24** |
| Lead ML Engineer | 1 | USA | 139.86 | 168.00 | 168.00 | 168.00 | 168.00 | 168.00 | **840** |
| Senior ML Engineer | 10 | India | 40 | 183.75 | 183.75 | 183.75 | 183.75 | 183.75 | **918.75** |
| Senior Data Engineer | 1 | India | 38 | 183.75 | 183.75 | 183.75 | 183.75 | 183.75 | **918.75** |
| Project Manager | 1 | India | Wipro Investment | 183.75 | 183.75 | 183.75 | 183.75 | 183.75 | **918.75** |
| **TOTAL** | **13** | **--** | **--** | **719.25** | **719.25** | **719.25** | **719.25** | **719.25** | **3596.25** |

EXHIBIT C

PRIOR AGREEMENTS

[List existing orders and agreements to be superseded as described in Section 6.3]

or

None