

Master Services Agreement

This Master Services Agreement, dated as of June 02, 2023 is between AAA Club Alliance Inc. ("**Client**"), and 3Cloud, LLC ("**3Cloud**").

3Cloud provides cloud computing solutions and related technical services to clients. Client desires to obtain such services from 3Cloud as described in this Master Services Agreement (the "**Agreement**") and in one or more Statements of Work ("**SOW**") which are hereby incorporated into this Agreement. Therefore, in mutual consideration of the terms and conditions contained herein, Client and 3Cloud hereby agree as follows:

1. Definitions

- 1.1 Capitalized terms used in this Agreement have the meanings set forth in Schedule 1 (Definitions) or as otherwise defined in the context of the provision.

2. Term and Termination

- 2.1 Term. This Agreement shall be for a one (1) year term (the "**Term**"), becoming effective immediately upon execution. This Agreement shall automatically renew unless a ninety (90) day notice of non-renewal is provided to the other Party prior to the renewal date.
- 2.2 Termination for Convenience. Either Party may terminate this Agreement without cause and without penalty by providing the other Party one hundred and eighty (180) days advance written notice of termination.
- 2.3 Termination for Cause. Either Party may terminate this Agreement if at any time (i) the other Party materially breaches this Agreement and the breaching Party fails to cure such breach within thirty (30) days following receipt of written notice of breach; or (ii) further, either Party becomes insolvent, makes a general assignment for the benefit of creditors, suffers or permits the appointment of a receiver for its business or assets, or becomes subject to any proceeding under any applicable bankruptcy or insolvency Laws.
- 2.4 Events on Termination.
- (A) Upon any termination or expiration of a Statement of Work, provided that Client has paid all amounts then due under the Agreement, 3Cloud will reasonably assist Client with the transition of the Services to Client

("Transition Assistance Services"). 3Cloud will bill Transition Assistance Services to Client on a time and materials basis at 3Cloud's rates for such Services in effect at such time.

- (B) Except as otherwise expressly provided in this Agreement, all rights, licenses, and authorizations granted by either Party to the other hereunder will immediately terminate.
- (C) If a Statement of Work contains early termination fees, and the said SOW is terminated prior to completion, Client shall pay those termination fees set forth in the Statement of Work within 30 days of the effective date of termination.

3. Services

3.1 Statements of Work.

- (A) 3Cloud will provide the Services in accordance with this Agreement and with any executed Statements of Work.
- (B) An authorized Representative of each Party must sign each Statement of Work in order to become effective. Unless otherwise specified by the SOW, once executed by both Parties, the new Statement of Work will be effective immediately and is hereby incorporated into the Agreement.
- (C) All Statements of Work incorporated by reference, are subject to the terms and conditions of this Agreement. Upon execution, each Statement of Work will become a part of Schedule 2 (Executed Statements of Work).
- (D) Notwithstanding that each Statement of Work is a Schedule to this Agreement, this Agreement and each Statement of Work are to be interpreted as a single agreement so that all of the provisions are given as full effect as possible. Any term of this Master Services Agreement that conflicts with any Statement of Work, addendum, amendment, or Schedule to this Agreement, the order of precedence is as follows shall control (items with a lower number having priority over, and controlling in the event of a conflict with, items having a higher number): (i) the Statement of Work, including the Exhibits and other attachments incorporated therein (but only with respect to Services to be performed under such Statement of Work); (ii) any addendum or amendment to this Master Services Agreement; (iii) this Master Services Agreement; and (iv) any Schedules or other attachments incorporated in this Master Services Agreement.
- (E) Change Orders. The Parties will memorialize any modifications or changes to the Services following execution of a Statement of Work in a mutually agreed upon change order (a "**Change Order**") signed by both Parties.

3.2 Governmental Approvals and Consents.

- (A) 3Cloud will, at its own expense, (i) obtain, maintain, and comply with all of the 3Cloud Consents; and (ii) comply with the Client Consents that are identified in a Statement of Work and made available to 3Cloud.
- (B) Client will, at its own expense, (i) obtain, maintain, and comply with all Governmental Approvals required for 3Cloud to provide the Services; (ii) obtain, maintain, and comply with the Client Consents; and (iii) comply with the 3Cloud Consents made available to Client.
- (C) Each Party will cooperate with the other Party, as reasonably requested by the other Party, to obtain the Governmental Approvals and the Consents that such other Party is required to obtain pursuant to this Section 3.2 and/or any applicable Statement of Work.

- 3.3 Representatives. Each Party will designate, for each Statement of Work, an individual to whom all communications may be addressed, and who has the authority to act for the Party in connection with such Statement of Work (the "**Representative**"), but any written notice, demand or other communication in respect of

matters other than the day-to-day provision of the Services under such Statement of Work shall be addressed to the person or persons specified in Section 14.2 (Notice). Each Representative may designate an alternate or deputy to act in his or her place in case of illness, vacation, or other absence.

- 3.4 Cooperation with Third Parties. The performance of Services may involve working with third-party companies, consultants, advisors, and contractors of Client. If requested by Client in a Statement of Work, 3Cloud will work with such third Parties for the purposes of the fulfillment/delivery of the Services, provided that such third Parties sign a confidentiality agreement with 3Cloud. In no event will 3Cloud be obligated to disclose to or allow a third party to Use 3Cloud's Intellectual Property Rights or Confidential Information. If 3Cloud elects to disclose, or permit a third party to Use, any of its Intellectual Property Rights or Confidential Information, 3Cloud may condition any such disclosure or Use to licensing, confidentiality and other terms as 3Cloud deems appropriate.
- 3.5 Qualifications and Training of Project Staff. 3Cloud will assign an adequate number of Project Staff to perform the Services. 3Cloud will ensure the Project Staff are appropriately educated, trained, and qualified for the Services they are to perform.
- 3.6 Subcontractors. 3Cloud shall not engage any third party to perform its obligations under this Agreement without the prior written consent of Client. If 3Cloud engages a subcontractor to perform obligations under this Agreement, 3Cloud shall be responsible for each subcontractor's acts, omissions, and/or breach of this Agreement to the same extent as if 3Cloud has committed the act, omission, and/or breach. It is 3Cloud's sole obligation to fulfill all obligations within any agreements with its subcontractors. 3Cloud will promptly cause any 3Cloud Agent to remove any lien on Client's property that may be attached by and through this Agreement.

4. Client Resources and Responsibilities

- 4.1 Client Resources. Client will make available to 3Cloud the facilities, equipment, furnishings, and fixtures ("**Client Resources**") set forth in each Statement of Work in accordance with the following provisions:
- (A) 3Cloud will use the Client Resources for the sole and exclusive purpose of providing the Services under that Statement of Work to Client;
 - (B) 3Cloud's use of the Client Resources does not constitute a leasehold interest in favor of 3Cloud or any 3Cloud Agents;
 - (C) 3Cloud will use the Client Resources in a reasonably efficient manner;
 - (D) 3Cloud will (and will ensure that 3Cloud Agents) keep the Client Resources in good order, not commit or permit waste or damage to Client Resources, and not use the Client Resources for any unlawful purpose;
 - (E) 3Cloud will not make any improvements or changes involving structural, mechanical, or electrical alterations to any Client Resources without Client's approval; and
 - (F) When a Client Resource is no longer needed to perform the Services, 3Cloud will return such resource to Client in substantially the same condition as when 3Cloud began using such resource, except for ordinary wear and tear.
- 4.2 Client Responsibilities.
- (A) Client will perform its obligations set forth in this Agreement and any other obligation set forth in each Statement of Work (collectively, the "**Client Responsibilities**").
 - (B) Delays, increased costs and other charges, to the extent attributable to (i) 3Cloud's own resources (including, without limitations, 3Cloud's subcontractors) not completing tasks assigned to them accurately or in a timely fashion; and/or (ii) events within the control of 3Cloud, are the responsibility of 3Cloud and

shall not entitle 3Cloud to any adjustment of the applicable Statement of Work, whether through Change Order, amendment or otherwise. The failure or delay of 3Cloud in the performance of its obligations under this Agreement or any Statement of Work is excused if such failure is a result of: (x) any act or omission of Client or any entity or individual acting on Client's behalf (other than 3Cloud, its Affiliates and their respective employees and subcontractors), including Client's failure to perform (or cause to be performed) its obligations under this Agreement or any Statement of Work; (y) the reasonable reliance of 3Cloud on instructions, authorizations, approvals or other information from Client's employees or representative(s); or (z) any act or omission of a third party (other than 3Cloud's subcontractors) not under the control of 3Cloud ("**Excused Performance**"). 3Cloud will use commercially reasonable efforts to perform the Services notwithstanding such circumstances. If an Excused Performance causes 3Cloud to incur any delay in performance, or to incur additional expenses or charges, the Parties will negotiate a Change Order to reflect the impact of such delay or additional charges. Change Orders are not required for circumstances giving rise to an Excused Performance to the extent affected Services are billed on a time and materials basis, in which event 3Cloud will provide Client with notice of the impact on its performance and invoice Client for the increased effort required by 3Cloud.

- (C) Client is responsible for providing, in a timely manner, all data, information and assistance that 3Cloud requires to provide the Services. Client shall ensure that all provided data and information is true, complete, and not misleading. Client acknowledges that the ability of 3Cloud to provide the Services in accordance with the terms of the Agreement and the associated Statement(s) of Work, including the agreed pricing and delivery models, are contingent upon the accuracy and completeness of information and data provided by Client, as well as Client's cooperation and timely performance of its obligations. In the event any such data or information is found to be inaccurate or incomplete or Client fails to perform its obligations, the Parties agree to negotiate in good faith equitable changes to the impacted Statements of Work, which may include, without limitation, changes to the Fees to Client, except that where Services may be billed on a time and materials basis, 3Cloud will provide Client with notice of the impact on its performance and invoice Client for the increased effort required by 3Cloud. In addition, except as provided in the applicable Statement of Work, Client agrees to timely furnish or make available, at its own expense, all personnel, hardware, third party services, Software, data, and related materials necessary for 3Cloud to perform the Services.
- (D) Client will deliver all data provided to 3Cloud in the agreed format as required in the Statement of Work.

5. Fees, Payment Terms, and Taxes

- 5.1 General. In consideration of the Services under each Statement of Work, Client will pay 3Cloud the Fees set forth in the applicable Statement of Work in accordance with any payment-related terms of that SOW ("**Fee Terms**"). 3Cloud will invoice the Fees as set forth in the Fee Terms, including such detail as reasonably requested by Client. If a Statement of Work does not specify Fee Terms, Client will pay any undisputed Fees within thirty (30) days after receipt of invoice from 3Cloud.
- 5.2 Travel Expenses. 3Cloud will seek Client pre-approval and Client will reimburse 3Cloud for the reasonable travel and living expenses incurred by Project Staff who are required to travel. 3Cloud will submit monthly travel expense reports to Client, including receipts or other reasonable evidence of such travel expenses, provided that a receipt will not be required for any expense less than \$25 (twenty-five dollars). Air travel will be coach class on scheduled commercial flights. Any travel expenses that have not been pre-approved by Client are the sole responsibility of 3Cloud.
- 5.3 Disputed Fees. Client may dispute invoiced fees, provided that such dispute is in good faith, provided in writing and received by 3Cloud within ten (10) business days following Client's receipt of the invoice. Client's written statement will provide reasonable detail describing which fees are disputed and the basis for the dispute. Client will pay any undisputed amounts by the invoice's due date. The Parties will meet (which may be via phone call)

within five (5) business days of Client's notification of the dispute to resolve the dispute. The Parties agree to use good faith efforts to resolve the dispute quickly and promptly.

- 5.4 Late Payment. If any undisputed (in accordance with Section 5.3 (Disputed Fees)) Fees or expenses remain unpaid by Client for more than thirty (30) days after the receipt of an invoice, Client will pay interest on such unpaid amounts at a rate equal to the lower of one and one half (1.5%) per month or the highest rate permitted by applicable law.
- 5.5 Suspension. Without limiting its termination rights herein, 3Cloud may suspend its provision of the Services if (i) 3Cloud suspects that the Services are being used by Client for any illegal purpose (ii) Client's actions will cause 3Cloud irreparable harm or (iii) any amounts due under the Agreement are past due for more than 30 days after 3Cloud provides Client written notice of such amounts being past due.
- 5.6 Client's Tax Responsibility. Client is liable for any sales tax, use tax, service tax, value added tax, transfer tax, excise tax, tariff, duty, or any other similar tax imposed by any Governmental Authority arising from the performance or furnishing by 3Cloud of Services or 3Cloud's Fees to Client under this Agreement. Such taxes will be invoiced by 3Cloud to Client for all taxing jurisdictions where 3Cloud is permitted or required by law to collect such taxes unless Client provides a valid resale certificate or other documentation required under applicable law to evidence tax exemption. 3Cloud invoices will separately state any Fees that are subject to taxation and separately identify the tax jurisdiction and the amount of taxes invoiced therein.
- 5.7 3Cloud Tax Responsibility. 3Cloud is responsible for any sales tax, use tax, service tax, value added tax, transfer tax, excise tax, tariff, duty, or any other similar tax imposed on 3Cloud with respect to any labor, equipment, materials, goods or services acquired, used or consumed by 3Cloud in providing the Services to Client under this Agreement.
- 5.8 Excluded Tax Responsibilities. Neither Party is responsible for any franchise, privilege, income, gross receipts, or business activity taxes based on the other Party's gross or net income, net worth or business activities. Neither Party is responsible for any real or personal property taxes assessed on tangible or intangible property owned or leased by the other Party.
- 5.9 Tax Cooperation. Client and 3Cloud will cooperate to segregate the Fees into the following separate payment streams: (1) those for taxable Services; (2) those for nontaxable Services; (3) those for which a sales, use or other similar tax has already been paid; and (4) those for which 3Cloud functions merely as a paying agent for Client in receiving goods, supplies or services (including leasing and licensing arrangements) that otherwise are nontaxable or have previously been subject to tax. In addition, each Party will cooperate as reasonably requested by the other Party to determine the requesting Party's tax liability more accurately and to minimize such liability, to the extent legally permissible. Each Party will provide and make available to the other Party any resale certificates, information regarding out-of-state sales or use of equipment, materials or services, and any other exemption certificates or information requested by the other Party.

6. Intellectual Property Rights

- 6.1 Background IP. Any Intellectual Property Rights held by a Party as of the Effective Date, or acquired/developed by a Party after the Effective Date, other than Intellectual Property Rights expressly referenced herein ("**Background IP**") will remain vested in such Party. Neither Party grants a right to Background IP to the other Party except for those rights expressly granted in this Agreement. To the extent that Background IP of 3Cloud is embedded or incorporated in any Work Product, 3Cloud will not be deemed to have transferred or assigned any rights therein to Client; subject to any other limitations in this Agreement, and contingent upon Client's full payment of Fees, 3Cloud hereby grants to Client a global, perpetual, revocable to the extent restrictions on use are violated, non-transferable, royalty-free, fully paid-up, non-exclusive license to Use all Background IP only as embedded or incorporated in any such Work Product, and only to the extent necessary to use or maintain such

Work Product as anticipated by this Agreement. Notwithstanding any other term or provision to the contrary, any and all derivatives, modifications, enhancements or improvements to 3Cloud's Background IP by 3Cloud will not be considered Client-Owned Work Product (as defined below) and will be owned exclusively by 3Cloud and regarded as 3Cloud's Background IP. 3Cloud will be free to use its general knowledge, skills and experience, and any ideas, concepts, know-how, and techniques that are acquired or used while providing the Services.

6.2 Work Product.

(A) Subject to and excluding 3Cloud's Intellectual Property Rights in Background IP and any third-party Intellectual Property Rights in and restrictions applicable to any third-party materials embedded or incorporated in the Work Product, and subject to Client's full payment of Fees, 3Cloud hereby assigns, transfers and conveys, and will cause its Affiliates and 3Cloud Agents to assign, transfer and convey to Client, without further consideration, all right, title and interest in and to any Work Product that is specifically described in a Statement of Work to be owned by Client ("**Client-Owned Work Product**"). 3Cloud agrees to execute any documents or take any other actions, at Client's expense, as may reasonably be necessary, or as Client may reasonably request, to perfect Client's ownership in any such Client-Owned Work Product.

(B) For the purposes of 3Cloud's continued development of similar or equivalent Services to other clients, and to avoid unnecessary future conflict or claims, it is agreed and understood that some portion of the Client-Owned Work Product may be used in the future by 3Cloud. Therefore, Client hereby grants to 3Cloud a global, perpetual, irrevocable, royalty-free, fully paid-up, non-exclusive license under all Intellectual Property Rights to Use Client-Owned Work Product, including, without limitation, the right to make, have made, use, import, offer for sale and sell or otherwise provide or dispose of products and services using or incorporating Client-Owned Work Product or to practice any process or other Intellectual Property Right in connection therewith, with the right to sublicense the same; provided that such license rights will not include the right to Use or license any Client Background information, Client Data, or Client Confidential Information embedded or incorporated in the Client-Owned Work Product, except as necessary to provide the Services to Client.

(C) 3Cloud will exclusively own all right, title, and interest in and to all Work Product (including all Intellectual Property Rights therein) that does not constitute Client-Owned Work Product. Subject to the 3Cloud's rights in Background IP, and any third-party Intellectual Property Rights embedded or incorporated in the Work Product; upon Client's full payment of the Fees, 3Cloud hereby grants to Client a global, perpetual, revocable to the extent restrictions on use are violated, non-transferable, royalty-free, fully paid-up, non-exclusive license to Use such Work Product only for Client's use as anticipated by this Agreement or its internal business purposes only.

- 6.3 3Cloud Obligations Upon Infringement/Misappropriation. If Client-Owned Work Product or any Background IP becomes, or in 3Cloud's reasonable opinion is likely to become, the subject of an infringement or misappropriation claim, 3Cloud will promptly take one or more of the following actions, at no charge to Client and at 3Cloud's sole discretion: (i) promptly secure the right to continue using the item; (ii) replace or modify the item to avoid the infringement or misappropriation at no cost to Client; or (iii) revoke Client's license to the item and refund to Client the Fees associated with the item and any other items affected by the actual or potential infringement or misappropriation. In no event will 3Cloud have any liability or responsibility for any actual or potential infringement or misappropriation claims related to Client Software, 3Cloud Third-Party Software or any Services, Work Product or Deliverables based on the requirements, designs, Confidential Information, systems, or Intellectual Property Rights of Client.

7. Confidentiality

- 7.1 Use and Disclosure. Neither Party will disclose the other Party's Confidential Information to, or use the other Party's Confidential Information, for the benefit of, any third party without the other Party's prior written consent. All Confidential Information relating to a Party will be protected against unauthorized use or disclosure by the

other Party to the same extent, and with at least the same degree of care, as such Party protects its own confidential or proprietary information, but in no event using less than a reasonable degree of care. Each Party may disclose the other Party's Confidential Information to its officers, agents, subcontractors, and employees to the extent not prohibited by Law and only as necessary to perform or receive the Services. Client may disclose 3Cloud's Confidential Information to its Affiliates, subject to the same obligations of confidentiality as applicable to Client.

- 7.2 Required Disclosure. If a Party (a "**Receiving Party**") is required, by any Governmental Authority to disclose any of the other Party's Confidential Information (the "**Disclosing Party**"), the Receiving Party may disclose the Confidential Information; provided that such Receiving Party promptly provides prior notice of such disclosure to the Disclosing Party. If the Disclosing Party contests with such disclosure, the Disclosing Party, at its own expense shall obtain an appropriate protective order, injunctive relief, or other similar relief as required to prevent said Disclosure.
- 7.3 Right to Injunctive Relief. Each Party acknowledges that, due to the unique nature of the other Party's Confidential Information, the Disclosing Party will not have an adequate remedy in money or damages in the event of any unauthorized use or disclosure of its Confidential Information. In addition to any other remedies that may be available in law, equity, or otherwise, the Disclosing Party will be entitled to seek injunctive relief to prevent the unauthorized use or disclosure of its Confidential Information.
- 7.4 Unauthorized Acts. Without limiting either Party's rights in respect of a breach of this Article 7.4, each Party, in its capacity as a Receiving Party, will: (i) refrain from removing or altering any proprietary markings (e.g., copyright or trademark notices) on the Disclosing Party's Confidential Information; (ii) promptly notify the Disclosing Party of any unauthorized possession, use or knowledge of the Disclosing Party's Confidential Information of which it becomes aware; (iii) promptly furnish to the Disclosing Party known details of the unauthorized possession, use or knowledge, and reasonably assist the Disclosing Party in investigating or preventing the recurrence of any unauthorized possession, use or knowledge of the Disclosing Party's Confidential Information in the Receiving Party's possession; (iv) reasonably cooperate, at the Disclosing Party's expense, with the Disclosing Party in any litigation and investigation against third parties deemed necessary by the Disclosing Party to protect its rights in Confidential Information to the extent such litigation or investigation relates to the Services; and (v) use diligent efforts to prevent a recurrence of any such unauthorized possession, use or knowledge of the Disclosing Party's Confidential Information.
- 7.5 Rights in Confidential Information. Nothing contained in the Parties' obligations with respect to Confidential Information will be construed as obligating a Party to disclose its Confidential Information to the other Party, or as granting to or conferring on a Receiving Party, expressly or implicitly, any rights or license to the Confidential Information of the Disclosing Party, and any such obligation, or grant, are subject other provisions of this Agreement.
- 7.6 Rights in Client Data. 3Cloud acknowledges and agrees that Client owns all right, title, and interest to the Client Data. 3Cloud hereby irrevocably assigns and will cause 3Cloud Agents to assign, to Client without further consideration, any right, title, and interest in and to Client Data that might attach by and through this Agreement.
- 7.7 Return of Confidential Information. Upon expiration or termination of this Agreement, each Party will (i) promptly return to the Disclosing Party all copies of the Disclosing Party's Confidential Information in its possession or control; or (ii) as requested by the Disclosing Party, permanently erase, or destroy copies of the Disclosing Party's Confidential Information in its possession or control. Notwithstanding the foregoing, to the extent that the Disclosing Party's Confidential Information is stored in backup storage media (e.g., data tapes), the Receiving

Party is permitted to destroy such Confidential Information in the ordinary course of the destruction or reuse of such storage media.

8. Representations, Warranties and Disclaimers

- 8.1 Representations and Warranties by Client. Client represents and warrants that as of the Effective Date and during the Term: (i) Client is duly incorporated or organized, validly existing and in good standing in the state of its incorporation and authorized to conduct business in which Services are being delivered; (ii) Client has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement; (iii) the execution, delivery, and performance of this Agreement by Client (A) has been duly authorized by Client and (B) will not conflict with, result in a breach of or constitute a default under any other agreement to which Client is a party or by which Client is bound; and (iv) Client has obtained all Client Consents.
- 8.2 Representations and Warranties by 3Cloud. 3Cloud represents and warrants that as of the Effective Date and during the Term: (i) 3Cloud is a limited liability company duly organized, validly existing and in good standing under the Laws of Delaware and authorized to do business in every jurisdiction it provides Services; (ii) 3Cloud has all requisite power and authority to execute, deliver and perform its obligations under this Agreement; (iii) the execution, delivery and performance of this Agreement by 3Cloud (A) has been duly authorized by 3Cloud and (B) will not conflict with, result in a breach of or constitute a default under any other agreement to which 3Cloud is a party or by which 3Cloud is bound.
- 8.3 Non-Conforming Deliverables. 3Cloud warrants that it will perform the Services substantially in accordance with the applicable Statement of Work and in a competent and workmanlike manner. As Client's sole and exclusive remedy for breach of the foregoing warranty, 3Cloud will exercise commercially reasonable efforts to re-perform any non-conforming Services. Client waives its re-performance rights if written notice is not provided to 3Cloud within ten (10) business days of Services being delivered. If 3Cloud concludes that conformance is impracticable, then 3Cloud will refund Fees paid by Client to 3Cloud under the applicable Statement of Work, if any, allocable to such nonconforming Services.
- 8.4 DISCLAIMER OF OTHER WARRANTIES. EXCEPT FOR THE WARRANTIES EXPRESSED IN SECTION 8.3, ABOVE OR EXPRESSLY PROVIDED IN A STATEMENT OF WORK, 3CLOUD DISCLAIMS ANY AND ALL OTHER WARRANTIES, WHETHER ORAL, EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, 3CLOUD MAKES NO ADDITIONAL WARRANTY OF ANY KIND THAT THE SERVICES OR RELATED THIRD-PARTY SERVICES, OR RESULTS OF THE USE THEREOF, WILL MEET CLIENT'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

9. Indemnification

- 9.1 Indemnities by Client. Client will defend and indemnify 3Cloud and its Affiliates, employees, and 3Cloud Agents against any Losses resulting from, arising out of or relating to, any third-party claim: (i) relating to any amounts assessed against 3Cloud that are the obligation of Client pursuant to Article 5 (Fees, Payment Terms and Taxes); (ii) relating to a breach by Client of Article 7 (Confidentiality) or 11 (Compliance with Laws); (iii) relating to Client's use of the Services in violation of this Agreement; (iv) relating to a claim that the Client Software, any services or Software provided by a third party, or the Services (to the extent based on the Processing of Client Data or the use of other items, information, specifications, requirements, or materials supplied by Client) infringes any

Intellectual Property Right of such third party. Client will indemnify 3Cloud against any Losses incurred in connection with the enforcement of this Section 9.1.

- 9.2 Indemnities by 3Cloud. 3Cloud will defend and indemnify Client and its Affiliates, employees, and Client Agents against any Losses resulting from, arising out of or relating to, any third-party claim: (i) relating to any amounts assessed against Client that are the obligation of 3Cloud pursuant to Article 5 (Fees, Payments and Taxes); (ii) relating to a breach by 3Cloud of Article 7 (Confidentiality); (iii) relating to a claim that the Work Product, 3Cloud-Owned Software or 3Cloud-Branded Materials infringes any Intellectual Property Right of such third party. 3Cloud shall have no indemnification obligation that results from the use of the Work Product, 3Cloud-Owned Software, or 3Cloud-Branded Materials that are: (A) in excess of the rights granted in this Agreement; (B) in conjunction with any other software or equipment not provided by 3Cloud; or (C) due to the Client's failure to implement an update or enhancement to such materials that would have reduced or prevented the infringement. 3Cloud will indemnify Client against any Losses incurred in connection with the enforcement of this Section 9.2.
- 9.3 Indemnification Procedures. If any third-party claim is commenced against a Party entitled to indemnification under this Agreement (the "**Indemnified Party**"), notice thereof will be given to the Party that is obligated to provide indemnification (the "**Indemnifying Party**") as promptly as practicable. The Indemnifying Party will promptly, and in no event, not less than ten (10) days before the date on which a response to such claim is due, assume and diligently pursue the defense and settlement of such claim, engaging attorneys with appropriate expertise to handle and defend the same, at the Indemnifying Party's sole cost and expense. The Indemnified Party will cooperate, at the cost of the Indemnifying Party, in all reasonable respects with the Indemnifying Party and its attorneys in the investigation and defense of such claim and any appeal arising therefrom; provided that the Indemnified Party may, at its own cost and expense, participate, through its attorneys or otherwise, in such investigation and defense of such claim and any appeal arising therefrom. The Indemnifying Party will not settle a claim that involves a remedy other than the payment of money by the Indemnifying Party without the consent of the Indemnified Party. So long as Indemnifying Party timely assumes, and diligently pursues, the defense of any such claim, the Indemnifying Party will not be liable to the Indemnified Party for any legal expenses incurred thereafter by such Indemnified Party in connection with the defense of that claim. If the Indemnifying Party fails to timely assume, or ceases to diligently pursue, such defense, the Indemnified Party may defend or settle the claim in such manner as it may deem appropriate at the cost of the Indemnifying Party.

10. Limitation of Liability

- 10.1 Damages Cap. The aggregate liability of a Party to the other Party for all claims and damages related to this Agreement, whether based on an action in contract, equity, negligence, tort, indemnification or other theory, will not exceed the greater of two hundred fifty thousand dollars (\$250,000) or the total Fees incurred by Client to 3Cloud under the applicable Statement of Work giving rise to the liability during the twelve (12) months preceding the initial event giving rise to such liability.
- 10.2 Consequential Damages. IN NO EVENT WILL EITHER PARTY OR ITS DIRECTORS, OFFICERS, SHAREHOLDERS, MEMBERS, EMPLOYEES, ATTORNEYS, AGENTS, ASSIGNS OR SUCCESSORS-IN-INTEREST BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, AGGRAVATED, EXEMPLARY OR CONSEQUENTIAL DAMAGE, LOSS, COST OR EXPENSE OF ANY KIND WHATSOEVER (INCLUDING, WITHOUT LIMITATION, LOSS OF USE, LOSS OF BUSINESS, LOSS OF PROFITS OR REVENUE, OPPORTUNITY COSTS, GOODWILL OR SAVINGS, DOWNTIME, OR DAMAGE TO, LOSS OF OR REPLACEMENT OF DATA OR TRANSACTIONS, COST OF PROCUREMENT OF

SUBSTITUTE SERVICES) WHETHER ARISING IN CONTRACT, TORT, WARRANTY, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

11. Compliance with Laws

- 11.1 Client Compliance. Client will perform its obligations under this Agreement and use the Services in a manner that complies with all applicable Laws.
- 11.2 3Cloud Compliance. 3Cloud will perform the Services in compliance with all Laws applicable to 3Cloud in its performance and delivery of the Services. Client acknowledges that it is solely responsible for determining whether the Services meet its compliance obligations. 3Cloud is not responsible for the Client's compliance obligations with any Laws applicable to Client, Client's industry, or Client's customers. 3Cloud's performance of the Services is based on Client's representation that the provision of these Services will not breach, or have the potential to cause the breach, any Law in any country. Client will inform 3Cloud in writing of the applicability of any Laws outside the United States that apply to 3Cloud or its performance of the Services. If changes are required to the Services (as then currently performed) to comply with Laws outside the U.S., the Parties will negotiate changes to the Statement of Work in good faith and issue a Change Order.
- 11.3 Export. This Agreement is expressly made subject to any United States and other applicable Laws or other restrictions regarding export from the United States or another country, and import into any country, of computer hardware, software, technical data or other items, or derivatives of such hardware, Software, technical data, or other items. Except as otherwise provided in this Agreement or a Statement of Work, neither Party will directly or indirectly export (or re-export) any computer hardware, Software, technical data or any other item provided to or by it for purposes of this Agreement, or any derivative of the same, or permit the shipment of the same: (a) into (or to a national or resident of) Cuba, Burma, North Korea, Iran, Sudan, Syria or any other country with respect to which the United States has imposed sanctions; (b) to anyone on the U.S. Treasury Department's List of Specially Designated Nationals, List of Specially Designated Terrorists or List of Specially Designated Narcotics Traffickers, or the U.S. Commerce Department's Denied Parties List; or (c) to any person, country or destination for which the United States or another country with jurisdiction, or any agency of the same, requires an export license or other authorization for export, without first having obtained any such license or other authorization required. Client will provide to 3Cloud not less than ten (10) days' prior written notice in the event that any of technical data, hardware, Software or other items provided by Client that will be used or accessed by 3Cloud in providing the Services is controlled for export under the International Traffic in Arms Regulations or other applicable Laws (unless such items are controlled for export under United States law only as ECCN EAR99) and, if requested by 3Cloud, will provide the ECCN classification of any such item, or the similar classification as appropriate under other applicable Law. Unless otherwise expressly agreed, Client will be the importer of record of any items for which import is required for delivery of any portion of the Services outside the United States. Each Party will reasonably cooperate with the other and will provide to the other promptly upon request any end-user certificates, affidavits regarding re-export or other certificates or documents as are reasonably requested to obtain authorizations, consents, licenses and/or permits required for any payment or any export or import of items or Services under this Agreement. The provisions of this Section will survive the expiration or termination of this Agreement or any Statement of Work for any reason. 3Cloud may suspend performance under this Agreement: (i) if the Client is in violation of applicable Laws; or (ii) to the extent necessary to assure compliance under U.S. or other applicable export or similar regulations.
- 11.4 Changes in Law. 3Cloud and Client will work together to identify the effect of changes in Laws on the provision and receipt of the Services and will promptly discuss the changes to the Services, if any, required to comply with all Laws. If a change to the Services is required for 3Cloud to comply with a change in any Laws and 3Cloud can reasonably demonstrate that the change will materially increase 3Cloud's costs, Client will by notice to 3Cloud either: (i) direct 3Cloud to implement the required change to the Services, in which case Client will pay any

additional Fees that may be determined to be payable as a result of the change in Law, or (ii) terminate this Agreement or the portion of the Services affected by the change in Law.

- 11.5 Notice of Non-Compliance. If a Governmental Authority notifies either Party that the Party is not in compliance with any applicable Laws relating to the performance of this Agreement, the Party will promptly notify the other Party of the same in writing.

12. Data Handling and Security

12.1 Data Handling.

- (A) Client will not provide Personal Data to 3Cloud in connection with the Services except (i) where necessary and agreed in the applicable Statement of Work; and (ii) where business contact information and related business information of individuals are related to the Services and necessary for 3Cloud to perform the Services.
- (B) Client will remain the controller of its Personal Data at all times, and 3Cloud will always be the processor of Client's Personal Data. To the extent 3Cloud has access to Client Personal Data, 3Cloud agrees to Process Personal Data subject to the requirements of this Agreement and applicable Law. 3Cloud's Processing of Personal Data is further limited to such Processing that is (a) in furtherance of performing the Services pursuant to this Agreement and the relevant Statements of Work; (b) pursuant to a lawful subpoena, service of process, or otherwise required or permitted by Law; and (c) as directed or instructed by Client.
- (C) Client represents and warrants that 3Cloud's Processing of Personal Data and other Client Data as directed by Client will comply with applicable Law. Client will indemnify 3Cloud from any claim, losses, damages, fines, costs, and expenses based on 3Cloud's Processing of Client Data in accordance with Client's instructions or requirements.
- (D) HIPAA DISCLAIMER: Unless specifically agreed to by the Parties in a separate addendum, Client represents and warrants that in no event will any Protected Health Information be Processed in Systems that would subject 3Cloud to the obligations of a Business Associate under HIPAA.
- (E) Payment Card Industry ("PCI") DISCLAIMER: Client agrees and acknowledges that 3Cloud does not, and will not, process, store or utilize credit card data for the delivery of its Services, and therefore 3Cloud expressly disclaims compliance with PCI rules and regulations.

- 12.2 Insurance, Risk Management and Security Protocols. It is agreed and understood that the Parties agree to maintain substantial risk management policies, insurance, and adequate security protocols.

- (A) Insurance. 3Cloud maintains (i) commercial general liability insurance coverage, with minimum limits of at least Two Million Dollars (\$2,000,000) per occurrence and Four Million Dollars (\$4,000,000) in the aggregate; (ii) professional liability (errors and omissions) insurance coverage of at least Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) in the aggregate to cover claims arising from acts or omissions of the 3Cloud and 3Cloud Agents; and (iii) professional and technology/cyber insurance coverage of at least Five Million Dollars (\$5,000,000) in the aggregate, in connection with this Agreement. Upon request, 3Cloud shall provide Client with evidence of insurance for such coverages. 3Cloud shall also maintain workers' compensation insurance as required by law.
- (B) Risk Management Policies and Security Protocols. 3Cloud maintains a formal, documented risk management plan that a third-party firm reviews and audits no less than annually.
 - (1) Organizational Security Policy

- (a) 3Cloud maintains a documented information security policy that is approved by 3Cloud management and reviewed no less than annually. All employees acknowledge and agree to comply with the policy as a matter of the course of their employment.
 - (b) 3Cloud maintains a code of conduct, privacy policy, and non-disclosure policy, all of which are documented in its corporate handbook. 3Cloud requires its employees to sign their acknowledgement and agreement to comply with these policies upon hire, and on an annual basis thereafter.
- (2) Asset Management
 - (a) 3Cloud maintains a formal asset management policy and associated procedures for ensuring that 3Cloud can track its technology hardware and software assets.
 - (b) 3Cloud maintains a formal records management policy that defines the classification of information and the retention periods and data controls for each.
- (3) Personnel Security & Training
 - (a) 3Cloud performs background screening on all employees and contractors as a condition to employment.
 - (b) 3Cloud conducts information security training for its employees no less than annually, and ongoing weekly anti-phishing training and drills.
 - (c) 3Cloud conducts HIPAA training and testing for all employees no less than annually, whether those individuals will be handling PHI.
 - (d) 3Cloud maintains an auditable onboarding and offboarding process for all employees to ensure proper access to assets, systems, and data.
- (4) Physical & Environmental Security
 - (a) 3Cloud controls its offices with auditable, physical security. Only regular employees at those offices are granted access, and management of that access is governed by standard onboarding and offboarding procedures.
 - (b) 3Cloud does not store Client data or information in any 3Cloud facility. All 3Cloud software systems are SaaS-based with physical security governed by the respective third-party cloud vendor.
- (5) Communications & Operations Management
 - (a) All 3Cloud employees are issued 3Cloud-owned laptops, and 3Cloud uses remote management and policies to ensure the use of updated antivirus software, device encryption, and password policy adherence.
 - (b) 3Cloud employees participate in a BYOD (bring your own device) program for mobile devices, but organizational data access is only permitted through specific controlled apps that allow remote management, including remote data wipe. This data is remotely wiped for departing employees as part of the documented offboarding procedure.
 - (c) 3Cloud monitors all its office networks and controls them with dedicated firewall devices.
 - (d) All 3Cloud user and administrative accounts require the use of multi-factor authentication (MFA).
 - (e) 3Cloud uses Microsoft Active Directory Advanced Threat Protection to detect, log, and conditionally block suspicious access attempts by 3Cloud accounts.
- (6) Access Control

- (a) 3Cloud retains a documented access control and access management policy that it reviews no less than annually.
 - (b) 3Cloud performs a monthly audit of all user permissions to ensure proper assignment.
 - (c) 3Cloud has a documented password policy that requires complex passwords and password changes both regularly and as needed.
- (7) Information Security Incident Management. 3Cloud maintains a detailed incident response plan that is reviewed and approved no less than annually.
- (8) Business Continuity Management. 3Cloud maintains a detailed disaster recovery and business continuity plan that is reviewed, tested, and approved no less than annually.
- (9) Information Systems Management. 3Cloud uses only Software as a Service (SaaS) applications to run its business and does not maintain on-premises servers normally.
- (C) 3Cloud has disclosed to Client, which Client acknowledges, access to 3Cloud insurance policies and its compliance with the SOC II Type 2 audit. Client represents to 3Cloud that it has reviewed the risk management/security protocols and deems such security as proper and adequate for the performance of the Services. 3Cloud represents to Client that the foregoing risk management and security protocols shall be in place and observed by 3Cloud during the Term of this Agreement.

13. Breach Notification

13.1 3Cloud acknowledges that Client might be subject to certain Laws requiring the issuance of notifications, and compliance with other procedures, upon any unauthorized or illegal use or disclosure of certain types of Personal Data ("**Notification Obligations**"). 3Cloud will comply with the obligations in this Section 13.1 in connection with any actual unlawful, unauthorized access, use or disclosure of Personal Data arising from an intrusion or unauthorized access into 3Cloud's systems and that gives rise to a Notification Obligation. Incidents or events affecting Personal Data in Client's environment or those of its third-party service providers will remain the obligation of Client. 3Cloud shall take all commercially reasonable steps to assist Client with its Notification Obligation, but in no event shall 3Cloud be liable for fulfillment, cost, delivery, or compliance of Client's Notification Obligation.

- (A) 3Cloud will promptly report to Client each Notification Obligation of which it becomes aware. 3Cloud shall make the initial report of a Notification Obligation by telephone call to the Client Representative and will follow with a written report to Client. The written report of the Notification Obligation will include, to the extent known: (i) the date(s) the Notification Obligation is believed to have occurred; (ii) a description of the unauthorized uses or disclosures involved in the Notification Obligation; (iii) the number of individuals affected by the Notification Obligation; (iv) the types of Personal Data involved in the Notification Obligation.

13.2 Audits. The Parties will agree in the applicable Statement of Work if and to what extent any audits, assessments, penetration testing, system scans, certifications, or other independent reports or reviews (e.g., SSAE18 SOC 1 or SOC 2) are required of 3Cloud, the systems managed or operated by 3Cloud, or the Services. 3Cloud is only obligated to permit, obtain or maintain such measures to the extent expressly provided in the applicable Statement of Work.

14. Miscellaneous Provisions

14.1 Assignment. Neither Party may transfer nor assign any of its rights or obligations under this Agreement to a third party without the prior written consent of the other Party, which consent shall not be unreasonably

withheld. Notwithstanding the foregoing, a Party may, without consent of the other Party, make such an assignment to (i) an affiliate, or (ii) any successor in connection with a merger, acquisition, reorganization, or sale or transfer of substantially all of the Party's assets, business or products. This Agreement is binding on the Parties and their successors and permitted assigns. Any assignment in contravention of this subsection is void.

- 14.2 Notices. Except as otherwise specified in this Agreement, all notices, requests, consents, approvals, agreements, authorizations, acknowledgements, waivers, and other communications required under this Agreement will be in writing and will be deemed given when delivered to the physical or electronic address specified below, which is the respective Party's principal place of business.

In the case of Client:

AAA Club Alliance, Inc.

ATTENTION: Neil Kaufman, Managing Director Enterprise Infrastructure
1 River Place
Wilmington, DE 19801

EMAIL: nkaufman@aca.aaa.com

In the case of 3Cloud:

3Cloud, LLC

Attention: Legal Department
3025 Highland Parkway, Suite 525
Downers Grove, IL 60515
notices@3Cloudsolutions.com

Either Party may change its address for notification purposes by giving the other Party notice of the new address and the date on which it will become effective.

- 14.3 Counterparts. This Agreement may be executed in any number of counterparts, each of which is deemed an original, but all of which taken together constitute one single agreement between the Parties.
- 14.4 Relationship. The Parties intend to create an independent contractor relationship, and nothing contained in this Agreement will be construed to make the Parties partners or joint venturers, or principals, agents, or employees of each other. Neither Party has any right, power, or authority, express or implied, to bind the other. Actual direction and control of the personnel actions and the terms and conditions of employment between 3Cloud and its employees or agents will always be 3Cloud's responsibility.
- 14.5 Consents, Approvals and Requests. Except consents, approvals, or requests that this Agreement expressly provides are in a Party's sole discretion, (i) all consents and approvals to be given by either Party under this Agreement will be in writing and will not be unreasonably withheld or delayed and (ii) each Party will make only reasonable requests under this Agreement. However, where this Agreement does not expressly require a Party's consent or approval (e.g., a right to terminate), this provision will not be construed as requiring such consent or approval, or as limiting a Party's discretion to exercise any right under this Agreement or applicable Law.
- 14.6 Waivers. No delay or omission by either Party to exercise any right or power it has under this Agreement will impair or be construed as a waiver of such right or power. A waiver by any Party of any breach or covenant will

not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be signed by the Party waiving its rights.

- 14.7 Force Majeure. If and to the extent that a Party's performance is prevented or delayed by fire, flood, earthquake, riot, war, terrorism, malicious acts of nation states, pandemic, acts of God, strikes, foreign enemies, or other events beyond such Party's reasonable control (a "**Force Majeure Event**"), then the affected performance will be excused for so long as the Force Majeure Event continues to prevent or delay performance and the Party continues efforts to recommence performance to the extent possible without delay. The affected Party will promptly notify the other Party, describing the Force Majeure Event in reasonable detail. If any Force Majeure Event delays performance of the Services for more than twenty (20) days, either Party may terminate this Agreement or the applicable Statement of Work as of a date specified by the Party in a termination notice to the other Party.
- 14.8 Survival. The following Sections of this Agreement will survive the termination or expiration of this Agreement: (excluding non-perpetual or revocable licenses): Fees, Payment Terms, and Taxes; Intellectual Property Rights; Confidentiality; Limitation of Liability; Indemnification; Compliance with Laws; and Miscellaneous Provisions.
- 14.9 Remedies Cumulative. Except as provided in Section 8.3 (Non-Conforming Deliverables), no right or remedy herein conferred on or reserved to either Party is intended to be exclusive of any other right or remedy, and each and every right and remedy is cumulative and in addition to any other right or remedy under this Agreement, or under applicable law, whether now or hereafter existing.
- 14.10 Amendments. No amendment, or waiver of any provision of this Agreement, and no addition of provisions to this Agreement, is valid unless executed by the duly authorized representatives of both Parties. Neither the course of dealings between the Parties nor any trade practices will act to modify, vary, supplement, explain or amend this Agreement.
- 14.11 Third-Party Beneficiaries. Neither Party intends this Agreement to benefit or create any right or cause of action in or on behalf of, any person or entity other than the Parties.
- 14.12 Non-Solicitation. During the Term of this Agreement neither Party will solicit or hire any individual while that individual is engaged in the employ of the other Party. Client nor Client Affiliates shall not hire any Project Staff for a period commencing on the Effective Date and ending one (1) year after the date that such Project Staff stops providing Services to Client under this Agreement. Nothing in this paragraph shall prohibit a Party from hiring an individual who responds to a general advertisement or solicitation for employment not directed at such individual.
- 14.13 Publicity, Branding and Co-Branding. Neither Party will use the other Party's name or mark or use language from which the connection of such name or mark may be inferred, without that Party's consent.
- 14.14 Incorporation and References. In this Agreement and the Schedules to this Agreement: (i) the Schedules to this Agreement are hereby incorporated into and deemed part of this Agreement and all references to this Agreement include the Schedules to this Agreement; (ii) references to a Schedule, Section or Article are to such Schedule, Section or Article of this Agreement unless otherwise specified; (iii) references to any Law means such Law as in force at the time in question, including any changes, supplements or replacements of such Law enacted after

the Effective Date; and (iv) references to and mentions of the word “including” or the phrase “e.g.” means “including, without limitation.”

14.15 Headings. The Article and Section headings and Table of Schedules are for reference and convenience only and will not be considered in the interpretation of this Agreement.

14.16 Severability. If a court of competent jurisdiction holds any provision of this Agreement to be contrary to Law, then the remaining provisions of this Agreement, if capable of substantial performance, will remain in full force and effect.

14.17 Governing Law. This Agreement and the rights and obligations of the Parties under this Agreement are governed by and will be construed in accordance with the laws of the State of Delaware, without giving effect to the principles thereof relating to the conflicts of laws. Except to the extent expressly required by Law, neither the United Nations Convention on Contracts for the International Sale of Goods 1980, nor any international and domestic legislation implementing such Convention, applies to this Agreement. The Parties’ rights and obligations under this Agreement are solely and exclusively as set forth in this Agreement and the Uniform Computer Information Transactions Act (“**UCITA**”), whether enacted in whole or in part by any state or applicable jurisdiction, regardless of how codified, does not apply to this Agreement and is hereby disclaimed. The Parties will amend this Agreement as may be necessary to comply with any mandatory disclaimer language required by UCITA in any applicable jurisdiction.

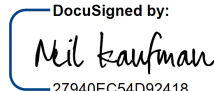
14.18 Venue. Any legal suit, action or proceeding arising out of or related to this Agreement or the Services provided hereunder must be instituted exclusively in the federal courts of the United States or the state courts of Delaware, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding. Service of process, summons, notice, or other document by mail to such Party’s address set forth herein will be effective service of process for any suit, action, or other proceeding brought in any such court.

14.19 Entire Agreement. This Agreement sets forth the complete and final expression of the Parties’ agreement and understanding and supersedes all prior agreements and understandings, whether oral or written, relating to the subject matter hereof. The Parties acknowledge that neither of them, nor any agents or attorneys of the Parties, has made any promise, representation, or warranty whatsoever, and that the Parties have not executed or authorized the execution of this Agreement in reliance upon any promise, representation, or warranty, that is not expressly contained.

SIGNATURE PAGE FOLLOWS

Each of Client and 3Cloud has caused this Agreement to be signed and delivered by its duly authorized representative.


Client

By: 
27940EC54D92418

Name: Neil Kaufman

Title: Managing Director - Ent. Infrastructure


3Cloud, LLC Signatory

By: 
850B3CDD567424...

Name: Matt Morse

Title: COO

3Cloud, LLC President & Chief Revenue Officer

Initials: 

Schedule 1 – Definitions

"3Cloud" is defined in the introductory paragraph.

"3Cloud Agents" means the agents, subcontractors, and representatives of 3Cloud and includes Affiliates of 3Cloud to which 3Cloud subcontracts any of the Services under this Agreement.

"3Cloud-Branded Materials" means Deliverables and other documents or materials that are 3Cloud-branded or marked as being authored by 3Cloud or that, based on the circumstances, context, or any related communications, would lead a reasonable reader to understand that 3Cloud produced, authored, or contributed to such Deliverables, documents, or materials.

"3Cloud Consents" means all licenses, consents, permits, approvals and authorizations that are identified in a Statement of Work and are necessary to allow (A) 3Cloud and 3Cloud Agents to Use the 3Cloud Software and any assets owned or leased by 3Cloud and used by 3Cloud to provide the Services; and (B) 3Cloud and 3Cloud Agents to (1) Use any third-party services retained by 3Cloud to provide the Services during the Term, (2) grant the licenses contemplated by Article 9 (Intellectual Property Rights) and (3) assign to Client the Intellectual Property Rights required by Article 9 (Intellectual Property Rights).

"3Cloud Equipment" means any Equipment leased or owned by 3Cloud and 3Cloud Agents that is used by 3Cloud and 3Cloud Agents to provide the Services.

"3Cloud-Owned Software" means the software, software tools and related documentation that are owned by 3Cloud or Affiliates of 3Cloud (excluding Work Product) and used in connection with the Services or with any 3Cloud Third Party Software or Client Software.

"3Cloud Software" means the 3Cloud-Owned Software and the 3Cloud Third-Party Software.

"3Cloud Third-Party Software" means the software, software tools and related documentation licensed, leased, or otherwise obtained by 3Cloud from a third party (other than Affiliates of 3Cloud) that is used in connection with the provision of the Services.

"Affiliate" means, for any entity, any other entity that, directly or indirectly, Controls, is Controlled by, or is under common Control with such entity.

"Agreement" means this Master Services Agreement between Client and 3Cloud, including the Schedules hereto and their Exhibits.

"Business Associate" has the meaning defined by HIPAA.

"Confidential Information" of a Party means all information and documentation of that Party, whether disclosed to or accessed by the other Party in connection with this Agreement both before and after the Effective Date, including (A) with respect to Client, all Client Data and the Client Software; (B) with respect to 3Cloud, the 3Cloud Software and the 3Cloud-Branded Materials; and (C) with respect to Client or 3Cloud, the terms of this Agreement, the Background IP, and any other non-public information or materials relating to a Party's or its Affiliate's products, business, Intellectual Property Rights, personnel, clients, suppliers, business partners, marketing, trade secrets, or other information that, based on the circumstances, context, or any related communications, would lead a reasonable person to understand that the information or material is confidential; provided that, except to the extent otherwise provided by Law, the term "Confidential Information" does not include information that (1) is independently developed by the recipient without using the disclosing Party's Confidential Information, as demonstrated by the recipient's written records, (2) is or becomes publicly known (other than through unauthorized disclosure), (3) is disclosed by the owner of such information to a third party free of any obligation of confidentiality, (4) is already known by the recipient at the time of disclosure, as

demonstrated by the recipient's written records, and the recipient has no obligation of confidentiality other than pursuant to this Agreement or any confidentiality agreements between Client and 3Cloud entered into before the Effective Date or (5) is rightfully received by a Party free of any obligation of confidentiality, provided that (a) such recipient has no knowledge that such information is subject to a confidentiality agreement and (b) such information is not of a type or character that a reasonable person would have regarded it as confidential.

"Consents" means the Client Consents and 3Cloud Consents, collectively.

"Control" means, with respect to any entity, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities (or other ownership interest), by contract or otherwise.

"Client Agents" means the agents, subcontractors, and representatives of Client, other than 3Cloud and 3Cloud Agents.

"Client Consents" means all licenses, consents, permits, approvals and authorizations that are identified in a Statement of Work or are necessary to allow 3Cloud and 3Cloud Agents to access and (A) Use Client's owned and leased assets; (B) Use the services provided for the benefit of Client under Client's third-party services contracts; or (C) Use the Client Software, all to the extent necessary for 3Cloud to perform the Services. Client Consents do not include 3Cloud Consents.

"Client Data" means all data and information that are submitted, directly or indirectly, to 3Cloud by Client or obtained or learned by 3Cloud in connection with the Services and Deliverables provided by 3Cloud under this Agreement and any Statement of Work.

"Client-Owned Software" means the software, software tools and related documentation owned by Client or its Affiliates and used by 3Cloud in connection with the provision of the Services.

"Client Software" means the Client-Owned Software and the Client Third-Party Software.

"Client Third-Party Software" means the software and software tools that are licensed, leased, or otherwise obtained by Client from a third party (other than Affiliates of Client) and used by 3Cloud in connection with the provision of the Services.

"Data Subject" means individuals to whom Personally Identifiable Information relate.

"Deliverable" means the completion of a defined portion of the Services, such as the provision of materials embodying an agreed solution, process, report or other document, or the delivery of Equipment or other tangible items.

"Equipment" means tangible mechanical and electronic equipment intended for the processing, input, output, storage, manipulation, communication, transmission and retrieval of information and data.

"Fees" means all amounts payable by Client to 3Cloud pursuant to this Agreement.

"Governmental Approvals" means all licenses, consents, permits, approvals and authorizations from any Governmental Authority, or any notice to any Governmental Authority, that is required by Law, including any regulatory schemes to which Client is required to submit or voluntarily submits from time to time, for the consummation of the transactions contemplated by this Agreement.

"Governmental Authority" means any federal, state, municipal, local, territorial, or other governmental department, regulatory authority, judicial or administrative body, whether domestic, foreign or international.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended by the Health Information Technology for Economic and Clinical Health Act provisions of the American Recovery and Reinvestment Act of 2009, and as otherwise may be amended from time to time, and any and all implementing regulations, as in effect from time to time, including, the Privacy Standards (45 C.F.R. Parts 160 and 164), the Electronic Transactions Standards (45 C.F.R. Parts 160 and 162), and the Security Standards (45 C.F.R. Parts 160, 162 and 164) promulgated under the Administrative Simplifications subtitle of the Health Insurance Portability and Accountability Act of 1996, as amended.

“Intellectual Property Right(s)” means any and all intellectual property rights existing from time to time under any Law including patent law, copyright law, semiconductor chip protection law, moral rights law, trade secret law, trademark law (together with all of the goodwill associated therewith), unfair competition law, publicity rights law, or privacy rights law, and any and all other proprietary rights, and any and all applications, renewals, extensions and restorations of any of the foregoing, now or hereafter in force and effect worldwide. For purposes of this definition, rights under patent law shall include rights under any and all patent applications and patents (including letters patent and inventor's certificates) anywhere in the world, including, without limitation, any provisions, substitutions, extensions, supplementary patent certificates, reissues, renewals, divisions, continuations in part (or in whole), continued prosecution applications, requests for continued examination, and other similar filings or stages thereof provided for under any applicable Laws.

“Law” means all applicable laws, statutes, codes, rules, and regulations of the United States, any foreign country or any domestic or foreign state, county, city or other political subdivision, including those promulgated, interpreted or enforced by any governmental or regulatory authority, and any order of a court or governmental agency of competent jurisdiction in effect as of the Effective Date and as they may be amended, changed or modified from time to time.

“Losses” means any and all damages, fines, penalties, deficiencies, losses, liabilities (including settlements and judgments) and expenses (including interest, court costs, reasonable fees and expenses of attorneys, accountants and other experts and professionals or other reasonable fees and expenses of litigation or other proceedings or of any claim, default or assessment).

“Open Source Software” means any software, programming, or other Intellectual Property Rights that are subject to (i) the GNU General Public License, GNU Library General Public License, Artistic License, BSD License, Mozilla Public License, or any similar license including but not limited to those licenses listed at www.opensource.org/licenses (as that list is updated or modified from time to time) or (ii) any agreement with terms requiring any Intellectual Property Rights owned or licensed by Client to be (a) disclosed or distributed in source code or object code form; (b) licensed for the purpose of making derivative works; or (c) redistributable.

“Parties” means Client and 3Cloud.

“Party” means either Client or 3Cloud.

“Personal Data” means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. Personal Data provided by Client is Client Data.

“PHI” or “Protected Health Information” has the meaning defined by HIPAA.

“Process(ed)” means any operation or set of operations which is performed upon data, whether or not by automatic means, such as viewing, hosting, printing, backing up, collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, blocking, erasure, disposal or destruction.

“Project Staff” means the personnel of 3Cloud and 3Cloud Agents who provide the Services.

“Software” means any computer programming code consisting of instructions or statements in a form readable by individuals (source code) or machines (object code), and related documentation and supporting materials therefore, in any form or medium, including electronic media.

“SOW Effective Date” is defined separately in and for each Statement of Work.

“Services” means any and all services to be performed by 3Cloud under this Agreement, including the Schedules and other attachments to this Agreement, and the Statements of Work, including the Exhibits and other attachments to such Statements of Work.

“Use” means the right to use, load, execute, store, transmit, display, copy, maintain, modify, enhance, create derivative works, make, and have made.

“Work Product” means the specifications, design documents, flow charts, software programs, documentation, reports, and other similar work product that 3Cloud develops specifically for Client pursuant to this Agreement or any Statement of Work; provided, however, that except as expressly provided herein or in a Statement of Work, Work Product does not include any Background IP, 3Cloud Software, or Third-Party IP.

Schedule Index

Master Schedule Index

Schedule 1 (Definitions)

Schedule 2 (Executed Statements of Work)