

MASTER SERVICES AGREEMENT - APEX FINANCIAL

MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement") is entered into as of August 20, 2020 ("Effective Date"), by and between Acme Corp., a Delaware corporation with its principal place of business at 123 Innovation Drive, Future City, DE 19901 ("Buyer"), and Apex Financial Services, a New York corporation with its principal place of business at 456 Wall Street, New York, NY 10005 ("Vendor").

RECITALS

WHEREAS, Buyer is engaged in the business of [Description of Acme's Business];

WHEREAS, Vendor has expertise in providing financial consulting, data analysis, and related professional services; and

WHEREAS, Buyer desires to retain Vendor to provide certain services, and Vendor is willing to provide such services, all under the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. DEFINITIONS

1.1 "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with a party.

1.2 "Agreement" means this Master Services Agreement, including all exhibits and Statements of Work.

1.3 "Confidential Information" has the meaning set forth in Section 7.

1.4 "Deliverables" means the work product, reports, and other materials to be created and delivered by Vendor to Buyer as specified in a Statement of Work.

1.5 "Services" means the professional services to be performed by Vendor for Buyer as described in one or more Statements of Work.

1.6 "Statement of Work" or "SOW" means a written document, mutually executed by the parties, that describes the specific Services and/or Deliverables to be provided by Vendor, including any applicable fees, timelines, and other details. Each SOW shall be incorporated into and form a part of this Agreement.

2. SCOPE OF SERVICES

2.1 Services. Vendor shall perform the Services and provide the Deliverables as described in detail in one or more SOWs executed by both parties. In the event of a conflict between the

terms of this Agreement and an SOW, the terms of this Agreement shall prevail unless the SOW expressly states its intent to supersede a specific provision of this Agreement.

2.2 Performance. Vendor will perform all Services in a professional and workmanlike manner, consistent with generally accepted industry standards.

3. FEES AND PAYMENT

3.1 Fees. Buyer shall pay Vendor the fees set forth in the applicable SOW ("Fees"). Unless otherwise specified in an SOW, all Fees are quoted and payable in United States dollars.

3.2 Invoicing. Vendor shall invoice Buyer on a monthly basis, or as otherwise specified in the applicable SOW. Each invoice will reference this Agreement and the relevant SOW and will provide a reasonable level of detail regarding the Services performed.

3.3 Payment Terms. Buyer shall pay all undisputed invoices within thirty (30) days of the invoice date.

3.4 Late Payments. Any undisputed amounts not paid when due will be subject to a late fee of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is less.

3.5 Taxes. Buyer is responsible for all sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Buyer hereunder, excluding any taxes imposed on Vendor's income.

4. TERM AND TERMINATION

4.1 Initial Term. The initial term of this Agreement shall commence on the Effective Date and shall continue for a period of two (2) years (the "Initial Term").

4.2 Renewal. Upon expiration of the Initial Term, this Agreement shall automatically renew for successive one (1) year periods (each, a "Renewal Term"), unless either party provides written notice of its intent not to renew at least sixty (60) days prior to the end of the then-current term.

4.3 Termination for Cause. Either party may terminate this Agreement or any SOW upon written notice if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days of receiving written notice thereof.

4.4 Termination for Convenience. Buyer may terminate this Agreement or any SOW for any reason upon thirty (30) days' prior written notice to Vendor. In such event, Buyer shall pay Vendor for all Services performed and expenses incurred up to the effective date of termination.

4.5 Effect of Termination. Upon termination or expiration of this Agreement, each party shall promptly return or destroy all Confidential Information of the other party. The obligations under Sections 3, 7, 8, 9, 10, 11, and 13 shall survive the termination of this Agreement.

5. CONFIDENTIALITY

5.1 Definition. "Confidential Information" means any non-public information disclosed by one party ("Disclosing Party") to the other ("Receiving Party"), whether orally or in writing, that is

designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure.

5.2 Obligations. The Receiving Party agrees to: (a) use the Confidential Information solely for the purpose of performing its obligations under this Agreement; (b) not disclose the Confidential Information to any third party without the Disclosing Party's prior written consent; and (c) protect the Confidential Information with the same degree of care it uses to protect its own confidential information of like kind, but in no event less than a reasonable degree of care.

5.3 Exclusions. Confidential Information does not include information that: (a) is or becomes publicly known through no wrongful act of the Receiving Party; (b) was in the Receiving Party's lawful possession prior to the disclosure; or (c) is lawfully disclosed to the Receiving Party by a third party without restriction on disclosure.

6. INTELLECTUAL PROPERTY

6.1 Vendor's Pre-Existing IP. Vendor shall retain all right, title, and interest in and to its pre-existing intellectual property, including any software, tools, methodologies, and know-how used in the performance of the Services ("Vendor IP").

6.2 Buyer's Pre-Existing IP. Buyer shall retain all right, title, and interest in and to its pre-existing intellectual property provided to Vendor.

6.3 Ownership of Deliverables. Upon full and final payment of all applicable Fees, all right, title, and interest in and to the Deliverables specifically created for Buyer under an SOW shall be the sole property of Buyer. Vendor hereby assigns to Buyer all of its rights in such Deliverables.

7. INDEMNIFICATION

7.1 Indemnification by Vendor. Vendor shall indemnify, defend, and hold harmless Buyer and its officers, directors, employees, and agents from and against any and all third-party claims, losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or related to the gross negligence, willful misconduct, or material breach of this Agreement by Vendor.

7.2 Indemnification by Buyer. Buyer shall indemnify, defend, and hold harmless Vendor and its officers, directors, employees, and agents from and against any and all third-party claims, losses, damages, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or related to the gross negligence, willful misconduct, or material breach of this Agreement by Buyer.

7.3 Cap on Indemnity. The total liability of either party under this Section 7 shall not exceed the total fees paid or payable by Buyer to Vendor under this Agreement in the twelve (12) months immediately preceding the event giving rise to the claim.

8. WARRANTIES

[Intentionally Omitted]

9. LIMITATION OF LIABILITY

9.1 Exclusion of Consequential Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

9.2 Liability Cap. EXCEPT FOR OBLIGATIONS UNDER SECTION 7 (INDEMNIFICATION) OR A BREACH OF SECTION 5 (CONFIDENTIALITY), EACH PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT SHALL NOT EXCEED THE TOTAL FEES PAID BY BUYER TO VENDOR IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

10. INSURANCE

During the term of this Agreement, Vendor shall maintain, at its own expense, the following insurance coverages: (a) Commercial General Liability insurance with limits of not less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate. (b) Professional Liability (Errors & Omissions) insurance with limits of not less than \$2,000,000 per claim and in the aggregate. (c) Workers' Compensation insurance as required by applicable law. Upon request, Vendor shall provide Buyer with certificates of insurance evidencing such coverage.

11. GENERAL PROVISIONS

11.1 Force Majeure. Neither party shall be liable for any failure or delay in performance due to causes beyond its reasonable control, including but not limited to acts of God, war, terrorism, civil unrest, or government action.

11.2 Notices. All notices under this Agreement shall be in writing and sent to the addresses of the parties set forth above or to such other address as may be designated in writing.

11.3 Governing Law and Dispute Resolution. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflict of laws principles. Any dispute arising out of this Agreement shall be resolved exclusively through binding arbitration in Wilmington, Delaware, under the rules of the American Arbitration Association.

11.4 Assignment. Neither party may assign this Agreement, in whole or in part, without the prior written consent of the other party, except in the case of a merger, acquisition, or sale of all or substantially all of its assets.

11.5 Entire Agreement. This Agreement, together with all SOWs, constitutes the entire agreement between the parties and supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter.

11.6 Amendment. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by authorized representatives of both parties.

12. SIGNATURES

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

ACME CORP. ("Buyer")

By: _____ Name: Title: Date:

APEX FINANCIAL SERVICES ("Vendor")

By: _____ Name: Title: Date:

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Warranty Status: MISSING Special Notes: None ---