

MASTER SERVICES AGREEMENT - PROMANAGE CONSULTING

MASTER SERVICES AGREEMENT

This Master Services Agreement ("Agreement") is entered into as of October 21, 2023 ("Effective Date"), by and between Acme Corp, a Delaware corporation with its principal place of business at 123 Innovation Drive, Techville, CA 94000 ("Buyer"), and ProManage Consulting, a Nevada limited liability company with its principal place of business at 456 Strategy Plaza, Las Vegas, NV 89101 ("Vendor"). Buyer and Vendor may be referred to individually as a "Party" and collectively as the "Parties."

1. RECITALS

WHEREAS, Vendor is in the business of providing professional consulting and management services;

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

NOW, THEREFORE, in consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

2. DEFINITIONS

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

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

2.3 "Deliverables" means the work product, materials, and other deliverables that Vendor is required to provide to Buyer as specified in an applicable Statement of Work.

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

2.5 "Statement of Work" or "SOW" means a written document, executed by both Parties, that describes the specific Services and/or Deliverables to be provided by Vendor, including any applicable fees, timelines, and other details.

3. SCOPE OF SERVICES

3.1 Statements of Work. The specific Services to be performed by Vendor under this Agreement shall be described in one or more SOWs, which shall be executed by both Parties. Each SOW shall be incorporated into and form a part of this Agreement. In the event of a conflict between the terms of this Agreement and the terms of an SOW, the terms of this Agreement shall control

unless the SOW expressly states that it is intended to supersede a specific provision of this Agreement.

3.2 Performance. Vendor shall perform the Services in a professional and workmanlike manner. Vendor shall have sole control over the manner and means of performing the Services, including the selection and supervision of its personnel.

4. FEES AND PAYMENT

4.1 Fees. Buyer shall pay Vendor the fees for the Services as set forth in the applicable SOW ("Fees"). Unless otherwise specified in an SOW, all Fees are exclusive of any applicable taxes.

4.2 Invoicing. Vendor shall invoice Buyer for the Fees on a monthly basis, unless otherwise specified in an SOW. Each invoice shall be sent to the address specified by Buyer and shall reference the applicable SOW.

4.3 Payment. Buyer shall pay all undisputed invoices within thirty (30) days of the invoice date. Late payments shall be subject to an interest charge of one and one-half percent (1.5%) per month, or the maximum rate permitted by law, whichever is less.

4.4 Expenses. Buyer shall reimburse Vendor for all reasonable and pre-approved travel and out-of-pocket expenses incurred in connection with the performance of the Services.

5. TERM AND TERMINATION

5.1 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"). 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.

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

5.3 Termination for Convenience. Buyer may terminate any SOW for convenience 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.

5.4 Effect of Termination. Upon termination or expiration of this Agreement, each Party shall return or destroy all Confidential Information of the other Party. The obligations of the Parties under Sections 6, 7, 8, 9, 10, 11, and 13 shall survive any termination or expiration of this Agreement.

6. CONFIDENTIALITY

6.1 Definition. "Confidential Information" means all non-public information disclosed by one Party ("Disclosing Party") to the other Party ("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.

6.2 Obligations. The Receiving Party agrees to: (i) use the Confidential Information of the Disclosing Party solely for the purpose of performing its obligations under this Agreement; (ii) not disclose such Confidential Information to any third party without the prior written consent of the Disclosing Party; and (iii) protect such Confidential Information from unauthorized use or disclosure using the same degree of care that it uses to protect its own confidential information of a like nature, but in no event less than a reasonable degree of care.

7. INTELLECTUAL PROPERTY

7.1 Pre-Existing IP. Each Party shall retain all right, title, and interest in and to its own pre-existing intellectual property. Vendor grants Buyer a non-exclusive, royalty-free, worldwide license to use Vendor's pre-existing intellectual property to the extent necessary for Buyer to use the Deliverables.

7.2 Deliverables. Subject to Buyer's full 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.

8. INDEMNIFICATION

8.1 Indemnification by Buyer. Buyer shall indemnify, defend, and hold harmless Vendor, its officers, directors, employees, and agents from and against any and all third-party claims, liabilities, damages, losses, costs, and expenses (including reasonable attorneys' fees) arising out of or in connection with (i) Buyer's use of the Services or Deliverables; (ii) any information or materials provided by Buyer to Vendor; (iii) Buyer's breach of this Agreement; or (iv) any claim that Buyer's business or operations infringe upon the intellectual property rights of a third party.

8.2 Indemnification by Vendor. Vendor shall indemnify Buyer from direct damages arising from a third-party claim that the Deliverables, as delivered by Vendor, directly infringe a U.S. patent or copyright. This obligation shall not apply to the extent the claim arises from (i) modifications to the Deliverables not made by Vendor, (ii) combination of the Deliverables with other products or services not provided by Vendor, or (iii) use of the Deliverables in a manner not specified by Vendor.

8.3 Liability Cap. Vendor's total liability for indemnification under this Agreement shall be capped at One Thousand Dollars (\$1,000) regardless of the nature or number of claims. This section states Vendor's sole obligation and Buyer's exclusive remedy for any indemnification claim.

9. WARRANTIES

9.1 Disclaimer. ALL SERVICES AND DELIVERABLES ARE PROVIDED 'AS IS' AND 'AS AVAILABLE' WITHOUT WARRANTY OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NONINFRINGEMENT. VENDOR MAKES NO WARRANTY THAT THE SERVICES WILL MEET BUYER'S REQUIREMENTS OR BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE. BUYER ASSUMES ALL RISK AND RESPONSIBILITY FOR ITS USE OF THE SERVICES AND DELIVERABLES.

10. LIMITATION OF LIABILITY

10.1 Exclusion of Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, OR PUNITIVE DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, LOSS OF DATA, OR BUSINESS INTERRUPTION, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, WHETHER BASED ON WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR ANY OTHER LEGAL THEORY, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10.2 Liability Cap. EXCEPT FOR BUYER'S OBLIGATIONS UNDER SECTION 8.1, 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.

11. INSURANCE

Vendor shall, at its own expense, maintain in full force and effect during the term of this Agreement, Commercial General Liability insurance with a limit of not less than \$1,000,000 per occurrence and Professional Liability (Errors & Omissions) insurance with a limit of not less than \$1,000,000 per claim.

12. GENERAL PROVISIONS

12.1 Governing Law. 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.

12.2 Dispute Resolution. Any dispute arising out of or relating to this Agreement shall be resolved by binding arbitration in Wilmington, Delaware, in accordance with the rules of the American Arbitration Association.

12.3 Notices. All notices under this Agreement shall be in writing and shall be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

12.4 Force Majeure. Neither Party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable) to the extent said failures or delays are proximately caused by causes beyond that Party's reasonable control.

12.5 Entire Agreement. This Agreement, including all SOWs, constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings, whether written or oral.

12.6 Amendment. No amendment or modification of this Agreement shall be effective unless in writing and signed by authorized representatives of both Parties.

13. 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

By: _____ Name: Title: Date:

PROMANAGE CONSULTING

By: _____ Name: Title: Date:

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Warranty Status: RISKY Special Notes: None ---