

**Master Services Agreement**

**Between**

**Customer: [Customer Name]**

**Provider: [Provider Name]**

**Effective Date: \_\_\_\_\_**

**1. Definitions and Interpretation** This Agreement, herein referred to as "Agreement," shall govern the terms and conditions between Customer and Provider, collectively referred to as "Parties," whereas the term "Customer" shall mean [Customer Name], a corporation organized and existing under the laws of the State of [State], with its principal place of business at [Address], and the term "Provider" shall mean [Provider Name], a corporation providing Communication Platform as a Service ("CPaaS") solutions. The definitions ascribed herein shall apply throughout the Agreement unless the context otherwise requires, including but not limited to, "Services" which shall mean the suite of CPaaS offerings including, without limitation, messaging, voice communication, video conferencing, and related technical support, "Fees" which shall refer to the compensation structure detailed in Exhibit A, "Confidential Information" which shall be any non-public information disclosed by one Party to the other, whether orally or in writing, designated as confidential or a reasonable person would understand to be confidential given the nature of the information and the circumstances of disclosure, "Force Majeure" which constitutes an event beyond the reasonable control including acts of God, war, terrorism, government action, labor disputes, and "Data" which encompasses all information inputted into Provider's systems by Customer in the course of using the Services. The Parties further acknowledge that this Agreement is to be interpreted in accordance with the laws of the State of [State] and any ambiguities shall not be construed against either Party, provided however that any reference to statutes, regulations, or other legislative enactments shall be interpreted as those in effect at the time of execution, subject to amendments. All references to sections, clauses, and exhibits shall be construed as references to sections, clauses, and exhibits of this Agreement unless otherwise stated herein.

**2. Scope of Services and Obligations** Provider shall render Services to Customer in accordance with the terms set forth in this Agreement, whereby Provider shall maintain an uptime of no less than 99.9% as delineated in the Service Level Agreement ("SLA") attached hereto as Exhibit B, notwithstanding the exclusions set forth herein, including scheduled maintenance and Force Majeure events which shall be notified to Customer at least seventy-two (72) hours prior to commencement. Provider shall ensure compliance with all applicable telecommunications laws, including the Communications Act of 1934, the Telecommunications Act of 1996, and regulations promulgated thereunder, particularly those pertaining to Customer Proprietary Network Information ("CPNI"), which Provider shall safeguard per the requirements set forth in Section 222 of the Communications Act. Provider shall log access to all systems containing Customer Data that involve Personally Identifiable Information ("PII"), which for purposes hereof means any data that could reasonably be used to identify a natural person, financial account information, or health information, and notify changes within twenty-four (24) hours of occurrence. Provider shall implement technical and organizational security measures appropriate to the risk, including encryption and anonymization techniques, and shall promptly notify Customer of any data breaches as defined under applicable data protection laws. As Customer's complete and exclusive remedy under the circumstances described in the preceding three sentences but subject to the limitations set forth herein, Customer may suspend payments until such breach is resolved to Customer's satisfaction.

**3. Fees and Payment** Customer shall pay Provider the Fees in accordance with the fee schedule set forth in Exhibit A, subject to the terms and conditions herein, provided that any discrepancies in invoicing shall be reported to Provider within thirty (30) days of receipt, failing which the invoice shall be deemed accepted by Customer, notwithstanding any subsequent disputes. All Fees shall

be payable in United States Dollars via electronic funds transfer to the account designated by Provider. Interest on overdue payments shall accrue at a rate of one and one-half percent (1.5%) per month or the maximum rate permitted by law, whichever is lower. Provider shall bear all taxes, levies, duties, or similar charges arising from or in connection with the performance of this Agreement, excluding taxes based on Customer's income. Customer reserves the right to audit Provider's records related to Fee calculation and Provider agrees to provide all necessary documentation within five (5) business days of request. Provider shall indemnify Customer against any liability arising from Provider's failure to remit taxes, provided however that Customer shall not be liable for any penalties assessed against Provider for late payment of taxes. Provider agrees to notify Customer of any changes in the tax status that may affect Fee calculations.

**4. Indemnification and Limitation of Liability** Provider shall indemnify, defend, and hold harmless Customer and its affiliates, officers, directors, employees, agents, and representatives from and against any and all claims, demands, suits, damages, losses, liabilities, costs, and expenses (including reasonable attorney's fees) arising out of or in connection with Provider's breach of this Agreement, negligence, or willful misconduct, except to the extent that such claims arise from Customer's gross negligence or willful misconduct. Notwithstanding the foregoing but subject to Section 9.3, Provider's liability hereunder shall be limited to direct damages only and in no event shall Provider be liable for any indirect, incidental, consequential, special, punitive, or exemplary damages, including but not limited to loss of profits, revenue, or data, even if Provider has been advised of the possibility of such damages. The aggregate liability of Provider to Customer under this Agreement shall not exceed the total Fees paid by Customer to Provider in the twelve (12) months preceding the event giving rise to the claim. The limitations of liability set forth herein shall not apply to Provider's indemnification obligations, breach of confidentiality, or infringement of intellectual property rights. Customer shall promptly notify Provider of any claim subject to indemnification and Provider shall assume control of the defense of such claim, provided that Customer shall have the right to participate in the defense at its own expense. Provider shall not settle any claim without Customer's prior written consent, which shall not be unreasonably withheld.

**5. Intellectual Property Rights** The Parties acknowledge that all intellectual property rights related to the Services shall remain the exclusive property of Provider, provided however that Customer shall have a non-exclusive, non-transferable, revocable license to use the Services during the term of this Agreement solely for its internal business purposes. Provider represents and warrants that it

has all necessary rights and licenses to grant the rights set forth herein and that the Services do not infringe any third-party intellectual property rights. Customer agrees not to reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the Services, except to the extent expressly permitted by applicable law. Provider shall indemnify Customer against any claims of infringement arising from Customer's use of the Services in accordance with the terms of this Agreement, excluding any claims arising from modifications made by Customer or use in combination with products not provided by Provider. Provider shall have the right, at its option and expense, to modify the Services to avoid infringement or to replace the infringing component with a non-infringing one, provided such modifications or replacements do not materially affect the functionality of the Services. Customer shall promptly notify Provider of any claim of infringement and Provider shall assume control of the defense of such claim, provided that Customer shall have the right to participate in the defense at its own expense. Provider shall not settle any claim without Customer's prior written consent, which shall not be unreasonably withheld.

**6. Confidentiality and Data Protection** Each Party shall maintain the confidentiality of all Confidential Information disclosed by the other Party and shall not disclose such information to any third party without the prior written consent of the disclosing Party, except as required by law or as necessary to perform its obligations under this Agreement. The receiving Party shall use the same degree of care to protect the Confidential Information as it uses to protect its own confidential information, but in no event less than reasonable care. Each Party shall implement appropriate technical and organizational measures to protect Customer Data against unauthorized access, loss, or destruction. Provider shall comply with all applicable data protection laws, including the General Data Protection Regulation ("GDPR") and the California Consumer Privacy Act ("CCPA"), and

shall process Customer Data solely for the purposes of providing the Services. Provider shall promptly notify Customer of any data breaches as defined under applicable data protection laws and shall cooperate with Customer in mitigating the effects of such breaches. Customer reserves the right to audit Provider's data protection practices and Provider agrees to provide all necessary documentation within five (5) business days of request. Provider shall indemnify Customer against any liability arising from Provider's breach of data protection obligations, provided however that Customer shall not be liable for any penalties assessed against Provider for late notification of breaches. Provider agrees to notify Customer of any changes in data protection laws that may affect the processing of Customer Data.

**7. Term and Termination** This Agreement shall commence on the Effective Date and shall continue for a term of one (1) year, automatically renewing for successive one-year terms unless either Party provides written notice of termination at least ninety (90) days prior to the expiration of the then-current term. Either Party may terminate this Agreement for cause if the other Party breaches any material term of this Agreement and fails to cure such breach within thirty (30) days of receipt of written notice from the non-breaching Party. Upon termination, Customer shall pay Provider for all Services rendered up to the effective date of termination and Provider shall cease all use of Customer Data and return or destroy such data as directed by Customer. Termination rights include the right of Customer to terminate the Agreement immediately upon written notice to Provider if Provider becomes insolvent, makes an assignment for the benefit of creditors, or is subject to bankruptcy proceedings. Provider shall indemnify Customer against any liability arising from Provider's failure to comply with termination obligations, provided however that Customer shall not be liable for any penalties assessed against Provider for late compliance. Provider agrees to notify Customer of any changes in the termination process that may affect the Parties' obligations.

**8. Dispute Resolution and Governing Law** In the event of any dispute arising out of or in connection with this Agreement, the Parties shall attempt to resolve such dispute through good-faith negotiations. If the Parties are unable to resolve the dispute within thirty (30) days, either Party may submit the dispute to binding arbitration in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted by a single arbitrator mutually agreed upon by the Parties, and the arbitrator's decision shall be final and binding. The arbitration shall take place in [City, State] and the arbitrator shall apply the laws of the State of [State] in rendering



the decision. Each Party shall bear its own costs and expenses in connection with the arbitration, provided however that the arbitrator may award costs and expenses to the prevailing Party. The Parties agree that any arbitration award may be entered as a judgment in any court of competent jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of [State], without regard to its conflict of laws principles. Provider agrees to notify Customer of any changes in the dispute resolution process that may affect the Parties' rights.

**9. Miscellaneous Provisions Entire Agreement; Amendments.** This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, negotiations, and discussions, whether oral or written. No amendment or modification of this Agreement shall be effective unless in writing and signed by both Parties. **Severability.** If any provision of this Agreement is held to be invalid or unenforceable, such provision shall be severed from the Agreement and the remaining provisions shall continue in full force and effect. **Waiver.** No waiver of any breach or default under this Agreement shall be deemed to be a waiver of any preceding or subsequent breach or default. **Assignment.** Neither Party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other Party, except that either Party may assign this Agreement to an affiliate or in connection with a merger, acquisition, or sale of substantially all of its assets. **Notices.** All notices required or permitted under this Agreement shall be in writing and shall be deemed given when delivered personally, sent by confirmed facsimile, sent by recognized overnight courier service, or mailed by registered or certified mail, postage prepaid, return receipt requested, to the addresses set forth at the beginning of this Agreement or such other addresses as may be designated by a Party in writing. **Force Majeure.** Neither Party shall be liable for any

**failure or delay in performance under this Agreement due to circumstances beyond its reasonable control, including but not limited to acts of God, war, terrorism, government action, labor disputes, and failure of or delays in transportation or telecommunications. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.**

## Signature Blocks

Customer: \_\_\_\_\_

Date: \_\_\_\_\_

Provider: \_\_\_\_\_

Date: \_\_\_\_\_

## Exhibit A: Fee Schedule

The fee schedule shall be as follows:

Service Type	Monthly Fee	Annual Fee
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Messaging	\$ _____	\$ _____
Voice	\$ _____	\$ _____
Video	\$ _____	\$ _____

## Exhibit B: Service Level Agreement

Provider shall ensure a minimum uptime of 99.9% for all Services, excluding maintenance windows and Force Majeure events. The SLA metrics shall be measured on a monthly basis and Provider shall provide monthly reports to Customer detailing performance metrics. In the event Provider fails to meet the SLA metrics, Customer shall be entitled to service credits as detailed below:

Uptime Percentage	Service Credit
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99.0% - 99.9%	5% of monthly fee
95.0% - 98.9%	10% of monthly fee
Below 95.0%	20% of monthly fee