

# **Master Services Agreement**

**Between: [Customer Name] and [Provider Name]**

**Date: [Effective Date]**

## **Core Document**

**Section 1: Definitions and Interpretations** For purposes of this Agreement, the following terms shall have the meanings set forth below, notwithstanding the context in which they appear: "Customer Data" means all data provided by Customer or its affiliates to Provider in connection with the Services, which shall include without limitation (a) personally identifiable information ("PII"), defined as (i) any data that can reasonably be used to identify a natural person, (ii) financial account information, or (iii) health information; "Provider Systems" means all hardware, software, networks, and other technology components used by Provider in the provision of the Services; "Services" means the communications platform as a service ("CPaaS") offerings provided by Provider to Customer as described in Exhibit A hereto; "Confidential Information" means any non-public information disclosed by one party to the other that is marked as confidential or proprietary, or that is otherwise reasonably understood to be confidential given the nature of the information and the circumstances of disclosure, provided however that Confidential Information shall not include information that (i) was known to the receiving party prior to receipt from the disclosing party, (ii) is or becomes publicly available through no wrongful act of the receiving party, or (iii) is received from a third party without breach of any obligation of confidentiality, notwithstanding any provision herein to the contrary. Notwithstanding the foregoing but subject to Section 3.4(b)(ii)(A)(1)(α), each term herein shall be construed in accordance with its generally accepted meaning in the telecommunications industry unless otherwise defined herein, provided that, except where applicable and unless previously waived (subject to Section 17.3), all interpretations shall be subject to the governing law provisions set forth in Section 22. The Effective Date of this

Agreement is \_\_\_\_\_.

**Section 2: Scope of Services** Provider shall deliver the Services in accordance with the terms and conditions set forth herein and in any applicable Statements of Work ("SOW") that may be executed from time to time, provided however that the Services shall be subject to the availability of Provider Systems and compliance with the Customer's Acceptable Use Policy ("AUP"), incorporated by reference herein, notwithstanding the inclusion of additional terms in any SOW. The Services include but are not limited to (i) messaging services, (ii) voice over internet protocol ("VoIP") services, and (iii) emergency call routing, with technical specifications detailed in Exhibit B. The Provider shall (i) implement appropriate security measures to protect Customer Data, including (A) encryption protocols, (B) access controls, and (C) audit logging, (ii) ensure compliance with applicable telecommunications laws, including the Communications Act of 1934 and subsequent amendments thereto, (iii) provide uptime guarantees as outlined in the Service Level Agreement ("SLA") attached hereto as Exhibit C, provided nevertheless that Provider's obligations under the SLA shall be subject to force majeure events as defined in Section 14. Provider acknowledges that failure to meet the uptime targets may result in service credits as detailed in Section 4.5(a)(iii)(B), provided that Customer's remedies shall be limited to such credits unless otherwise expressly provided herein.

**Section 3: Fees and Payment Terms** The Customer shall pay Provider fees as set forth in the Fee Schedule attached hereto as Exhibit D, subject to Provider's right to increase fees upon thirty (30) days' prior written notice to Customer, notwithstanding any contrary provisions in this Agreement. Fees shall be due and payable within thirty (30) days of invoice receipt, provided that, except where otherwise agreed, all payments shall be made in U.S. dollars. Late payments shall accrue interest 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 submit invoices monthly, detailing the Services provided, the applicable fees, and any service credits due to Customer under the SLA. Customer shall have the right to audit Provider's billing records upon reasonable notice, provided however that such audits shall not occur more than once per calendar year unless discrepancies are found. Provider shall cooperate fully with any audit requests, notwithstanding any other provisions herein. The Parties shall resolve disputed invoices through the dispute resolution process outlined in Section 21.**

**Section 4: Indemnities and Liability Provider shall indemnify, defend, and hold harmless Customer and its affiliates from and against any and all claims, liabilities, damages, losses, and expenses (including reasonable attorneys' fees) arising out of or related to (i) Provider's breach of this Agreement, (ii) Provider's violation of any applicable law, including but not limited to telecommunications regulations, (iii) any claim that the Services infringe or misappropriate any third-party intellectual property rights, provided that Provider's indemnity obligations shall be contingent upon Customer providing Provider with prompt written notice of any claims and reasonable assistance in the defense thereof. Notwithstanding the foregoing, Provider's liability under this Agreement shall be limited to direct damages and shall not exceed the aggregate amount paid by Customer to Provider under this Agreement during the twelve (12) months preceding the event giving rise to the liability, provided however that such limitation shall not apply to damages arising from gross negligence, willful misconduct, or breach of confidentiality obligations, which are subject to Section 6. Provider's indemnification obligations shall survive termination of this Agreement.**

**Section 5: Service Level Agreements (SLAs) Provider shall ensure the Services meet the performance standards set forth in Exhibit C,**

provided that, except where otherwise exempted by force majeure, Provider shall be liable for service credits in the event of failure to meet the uptime targets specified therein. The SLA shall detail key performance indicators ("KPIs"), including (a) minimum uptime percentages, (b) response times for support requests, and (c) incident resolution times, notwithstanding any modifications made in subsequent amendments. Provider shall report SLA metrics on a monthly basis, and Customer shall have the right to audit Provider's performance reports as set forth in Section 3.4(b)(ii)(A)(1)(α). In the event Provider fails to meet any KPI, Customer shall be entitled to service credits, calculated as a percentage of the monthly service fees, as detailed in the Fee Schedule. Provider acknowledges that failure to meet SLA requirements may result in Customer's termination rights under Section 18.3, provided nevertheless that Provider's liability for service credits shall be capped as described in Section 4.5(a)(iii)(B).

**Section 6: Data Privacy and Security** Provider shall comply with all applicable data privacy and security laws, including but not limited to the General Data Protection Regulation ("GDPR"), the California Consumer Privacy Act ("CCPA"), and the Communications Assistance for Law Enforcement Act ("CALEA"), provided that Provider shall implement industry-standard security measures to protect Customer Data, including encryption protocols, access controls, and audit logging. Provider shall notify Customer within twenty-four (24) hours of any data breach involving Customer Data, notwithstanding any conflicting provisions herein. Provider shall cooperate with any data protection impact assessments ("DPIAs") requested by Customer, provided however that such assessments shall not occur more than once per calendar year unless required by law. Provider shall provide Customer with access to its data processing records upon reasonable request, provided that Customer shall maintain the confidentiality of such records in accordance with Section 7. Provider's obligations under this Section

**shall survive termination of this Agreement.**

**Section 7: Intellectual Property and Proprietary Rights** Provider hereby grants Customer a non-exclusive, non-transferable, royalty-free license to use the Services during the term of this Agreement, provided that Customer shall not modify, reverse engineer, or create derivative works based on the Services. Provider retains all right, title, and interest in and to the Services and any intellectual property therein, including any enhancements or modifications made thereto, notwithstanding any contributions made by Customer. Customer shall own all intellectual property rights in its own data and any materials developed independently by Customer, provided that Provider shall have a license to use such materials solely for the purpose of providing the Services to Customer. Provider shall indemnify Customer for any claims of infringement arising from Customer's use of the Services as permitted herein, subject to the limitations set forth in Section 4. Provider's indemnification obligations shall survive termination of this Agreement, notwithstanding any other provisions herein.

**Section 8: Acceptable Use Policies (AUPs)** Customer shall comply with Provider's Acceptable Use Policy ("AUP"), incorporated by reference herein, which shall include but not be limited to prohibitions on (i) sending unsolicited commercial communications, (ii) transmitting harmful code, and (iii) engaging in activities that may harm Provider's systems or reputation. Provider reserves the right to suspend or terminate the Services in the event of Customer's breach of the AUP, provided that Provider shall notify Customer of any such suspension or termination within twenty-four (24) hours. Customer shall indemnify Provider for any claims arising from Customer's violation of the AUP, notwithstanding any limitations set forth in Section 4. Provider shall provide Customer with reasonable notice of any changes to the AUP, provided however that such changes shall not materially alter the scope of

**Services without Customer's prior consent. Provider's rights under this Section shall survive termination of this Agreement.**

**Section 9: Termination and Renewal** Customer shall have the right to terminate this Agreement for convenience upon thirty (30) days' prior written notice to Provider, provided that Customer shall remain liable for any fees incurred up to the date of termination. Provider may terminate this Agreement for cause upon written notice to Customer in the event of (i) Customer's material breach of this Agreement that remains uncured after thirty (30) days' notice, (ii) Customer's insolvency or bankruptcy, or (iii) any force majeure event that prevents Provider from delivering the Services for a period exceeding sixty (60) days. Upon termination, Provider shall cease all use of Customer Data and return or destroy such data as directed by Customer, provided however that Provider may retain copies of Customer Data for archival purposes, subject to the confidentiality obligations set forth in Section 7. This Agreement shall automatically renew for successive one-year terms unless either party provides written notice of non-renewal at least thirty (30) days prior to the end of the then-current term, notwithstanding any conflicting provisions herein.

**Section 10: Dispute Resolution** In the event of any dispute arising out of or related to this Agreement, the parties shall first attempt to resolve the dispute through informal negotiations, which shall commence upon written notice from one party to the other. If the dispute remains unresolved after thirty (30) days, the parties shall submit the dispute to binding arbitration in accordance with the rules of the American Arbitration Association ("AAA"), provided that the arbitration shall be conducted by a single arbitrator and shall take place in [City, State]. The arbitrator's decision shall be final and binding, notwithstanding any rights to appeal under applicable law. Each party shall bear its own costs and expenses in connection with the arbitration, provided however that the arbitrator may award

**reasonable attorneys' fees to the prevailing party. Provider's obligations under this Section shall survive termination of this Agreement, notwithstanding any other provisions herein.**

Confidential – Page X of Y



**Section 11: Miscellaneous Provisions** The headings in this Agreement are for convenience only and shall not affect the interpretation of any provision herein. This Agreement constitutes the entire agreement between the parties and supersedes all prior or contemporaneous agreements, representations, and understandings, whether oral or written, relating to the subject matter hereof. Neither party may assign this Agreement or any of its rights or obligations hereunder without the prior written consent of the other party, provided however that either party may assign this Agreement to an affiliate or successor in interest upon prior written notice. No amendment or modification of this Agreement shall be effective unless in writing and signed by both parties. Each party represents and warrants that it has the right and authority to enter into this Agreement and to perform its obligations hereunder. Provider shall maintain insurance coverage as specified in Exhibit E, provided that such coverage shall be primary and non-contributory with respect to any insurance maintained by Customer. Provider's obligations under this Section shall survive termination of this Agreement.