

## # Master Services Agreement

This Master Services Agreement (the "Agreement") is entered into by and between [Customer Name], a corporation organized and existing under the laws of the State of [State], with its principal place of business at [Address] ("Customer"), and [Provider Name], a corporation organized and existing under the laws of the State of [State], with its principal place of business at [Address] ("Provider"), effective as of [Effective Date: \_\_\_\_\_].

## **## Section 1: Definitions**

For the purposes of this Agreement, the following terms shall have the meanings set forth below, provided however that unless the context otherwise requires and notwithstanding the possibility of ambiguity or overlap with other sections herein which shall not be construed to limit or modify the applicability thereof in any manner unless expressly stated in this section or elsewhere herein:

**1.1 "Affiliate" shall mean any entity that directly or indirectly controls, is controlled by, or is under common control with a party hereto; control for purposes of this definition shall mean the possession of the power to direct or cause the direction of the management and policies of an entity, whether through ownership of voting securities, by contract, or otherwise.**

**1.2 "Confidential Information" means any and all information disclosed by one party to the other party which is marked as confidential or proprietary, or which under the circumstances surrounding disclosure ought to be treated as confidential, including, but not limited to, business plans, product plans, financial information, customer lists, and marketing information provided however that notwithstanding the foregoing shall not include any information that is (i) publicly available or becomes publicly available through no act or omission of the receiving party, (ii) independently developed by the receiving party without reference to or use of the disclosing party's Confidential Information, or (iii) rightfully obtained from a third party without breach of any obligation of confidentiality.**

**1.3 "Customer Data" shall include but is not limited to all data provided by Customer to Provider or that Provider collects, receives, processes, or stores on behalf of Customer in connection with the services provided hereunder, including personal data, sensitive data, and any other data related to Customer's business**

**operations.**

**1.4 "Services" shall refer to any and all services provided by Provider to Customer pursuant to the terms of this Agreement, including any services described in any Statement of Work ("SOW") executed by the parties hereto.**

**1.5 "Statement of Work" or "SOW" shall mean a document that is executed by the parties from time to time which describes the specific Services to be provided by Provider to Customer, including the scope of work, deliverables, timelines, and pricing.**

## **## Section 2: Scope of Services**

The Provider shall provide the Services described in this Agreement and any applicable SOWs. The scope of Services shall not be limited beyond the express terms of this Agreement and any SOW, provided that, except where applicable and unless previously waived, subject to Section 17.3, the Services shall be performed in accordance with the highest professional standards and conforming with all applicable laws and regulations. The Provider shall (a) ensure that all personnel engaged in the performance of Services are qualified and competent (i) utilize necessary resources to deliver the Services (ii) adhere to the timelines set forth in each SOW, and (b) cooperate with Customer's personnel to facilitate the successful completion of Services. Customer retains the right to audit Provider's compliance with the terms herein, including but not limited to (i) inspecting Provider's facilities and records (ii) reviewing security practices employed by Provider (iii) monitoring Provider's performance metrics and deliverables.

## **## Section 3: Fees and Payment Terms**

**3.1 The fees for Services shall be set forth in each applicable SOW, payable in accordance with the terms therein. Provider shall invoice Customer monthly in arrears for Services rendered, and Customer shall pay undisputed invoices within thirty (30) days of receipt. All fees are exclusive of taxes, which shall be the responsibility of Customer except for taxes based on Provider's net income. Tables detailing the fee schedules are attached hereto as Exhibit A.**

**3.2 Notwithstanding the foregoing but subject to Customer's audit rights, Provider shall provide a detailed breakdown of fees, including any additional costs incurred, with each invoice. Customer reserves the right to withhold payment for services deemed unsatisfactory or non-compliant with the terms of this Agreement or applicable SOW.**

**3.3 Provider shall maintain complete and accurate records of all charges incurred in connection with the Services provided hereunder, including time logs and expense reports, for a period of not less than three (3) years from the date of each invoice. Customer shall have the right to audit such records at any time upon reasonable notice to verify compliance with this Agreement.**

#### **## Section 4: Service Level Agreements (SLAs)**

The performance of Services shall meet or exceed the standards and service levels set forth in Exhibit B attached hereto, which includes uptime targets, response times, and resolution times. Provider shall promptly notify Customer of any service level failures and shall provide a remedial plan within two (2) business days. Failure to meet SLAs shall result in credits issued to Customer as outlined in Exhibit B, notwithstanding any other remedies available under this Agreement.

#### **## Section 5: Data Privacy and Security**

Provider shall implement and maintain administrative, physical, and technical safeguards to protect the confidentiality, integrity, and availability of Customer Data. Provider shall comply with all applicable data protection laws, including but not limited to the California Consumer Privacy Act (CCPA) and the General Data Protection Regulation (GDPR). Provider shall ensure that any processing of Customer Data is performed in accordance with Customer's instructions and shall not process Customer Data for any purpose other than as necessary to provide the Services. Provider shall promptly notify Customer of any data breaches involving Customer Data, and shall take immediate steps to mitigate any impact and prevent further unauthorized access.

#### **## Section 6: Intellectual Property Rights**

Except as expressly provided herein, each party retains all rights, title, and interest in and to its respective intellectual property. Provider hereby grants Customer a non-exclusive, non-transferable, royalty-free license to use any intellectual property embedded in the deliverables provided under this Agreement solely for Customer's internal business purposes.

Provider shall indemnify, defend, and hold harmless Customer from any claims alleging infringement of third-party intellectual property rights arising from the Services provided hereunder.

#### **## Section 7: Acceptable Use Policies (AUPs)**

Provider shall adhere to Customer's AUPs as communicated from time to time and shall ensure that all Services provided hereunder comply with any applicable AUPs. Provider shall immediately notify Customer of any breaches or violations of AUPs and shall cooperate fully in any investigation or remediation efforts. Provider shall be solely responsible for any misuse or unauthorized use of Services by its personnel or subcontractors.

#### **## Section 8: Liability and Indemnification**

**8.1 Provider shall indemnify and hold harmless Customer, its Affiliates, and their respective directors, officers, employees, and agents from any and all claims, losses, liabilities, damages, costs, and expenses, including reasonable attorneys' fees, arising out of or in connection with Provider's performance of Services under this Agreement, including but not limited to claims of bodily injury, property damage, and infringement of intellectual property rights, provided however that such indemnity shall not apply to the extent that such claims result from the gross negligence or willful misconduct of Customer.**

**8.2 In no event shall either party be liable for any indirect, incidental, consequential, or punitive damages, including lost profits, even if advised of the possibility thereof. The total aggregate liability of Provider under this Agreement shall not exceed the total fees paid by Customer to Provider under this Agreement during the twelve (12) month period preceding the event giving rise to the claim.**

**8.3 As Customer's complete and exclusive remedy under the circumstances described in the preceding three sentences but subject to the limitations set forth in Section 8.2, Customer may terminate this Agreement for cause upon written notice to Provider**

**if Provider fails to cure any material breach within thirty (30) days of receiving notice thereof.**

## **## Section 9: Termination**

**9.1 Either party may terminate this Agreement for convenience upon sixty (60) days' prior written notice to the other party. In the event of termination, Provider shall cease all Services and return or destroy all Customer Data in its possession, subject to Customer's written instructions.**

**9.2 Customer may terminate this Agreement immediately for cause if Provider fails to comply with any material term of this Agreement, including but not limited to failure to meet SLAs, breach of data privacy obligations, or violation of AUPs. Provider shall remain liable for any damages incurred by Customer as a result of such breach.**

**9.3 Upon termination of this Agreement, the provisions of Sections 1, 5, 6, 8, 10, and 11 shall survive and remain in effect in accordance with their terms.**

## **## Section 10: Dispute Resolution**

In the event of any dispute arising out of or relating to this Agreement, the parties shall first attempt to resolve the dispute through good faith negotiations. If the dispute cannot be resolved within thirty (30) days, either party may initiate binding arbitration in accordance with the rules of the American Arbitration Association. The arbitration shall be conducted by a single arbitrator in the State of [State], and the arbitrator's decision shall be final and binding upon the parties.

## **## Section 11: Miscellaneous**

**11.1 This Agreement constitutes the entire agreement between the parties and supersedes all prior agreements, understandings, and communications, whether written or oral, relating to the subject**

**matter hereof.**

**11.2 Any amendments or modifications to this Agreement must be in writing and signed by authorized representatives of both parties.**

**11.3 This Agreement shall be governed by and construed in accordance with the laws of the State of [State], without regard to its conflict of law principles.**

**11.4 Provider shall not assign or transfer any rights or obligations under this Agreement without the prior written consent of Customer.**

**11.5 Notices required under this Agreement shall be in writing and delivered to the addresses set forth above, either by hand, certified mail, or overnight courier.**

[Signature Block]

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

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