

## **Master Services Agreement**

**Between:**

**Customer: [Customer Name], a corporation organized under the laws of the United States, having its principal place of business at [Customer Address].**

**Provider: [Provider Name], an IT vendor, specializing in Communications Platform as a Service (CPaaS) solutions, having its principal place of business at [Provider Address].**

**Date: [Effective Date]**

## **Section 1: Definitions**

For the purposes of this Agreement, unless the context otherwise requires, the following terms shall have the meanings set forth herein: “Agreement” shall mean this Master Services Agreement including all exhibits, schedules, and amendments hereto; “Services” shall refer to the CPaaS solutions provided by Provider including, but not limited to, messaging, voice, and video services; “Customer Data” shall mean all data including confidential information provided by Customer to Provider in connection with the Services, including but not limited to personally identifiable information (PII), financial data, and health-related information; “Confidential Information” shall refer to all non-public information disclosed by either party to the other which is designated as confidential or which, by its nature, ought to be considered confidential. The term “CPNI” or “Customer Proprietary Network Information” shall have the meaning ascribed to it under 47 U.S.C. § 222, which encompasses information related to the quantity, technical configuration, type, destination, location, and amount of use of telecommunications services subscribed to by any customer of a telecommunications carrier, and made available to the carrier by the customer solely by virtue of the carrier-customer relationship. Any reference herein to “Sections” shall include all subsections thereto unless the context indicates otherwise; “Emergency Calls” shall mean calls to designated emergency services numbers, subject to technical constraints herein specified; “Uptime” shall refer to the percentage of time the Services are operational and accessible, excluding scheduled maintenance and Force Majeure events; “Force Majeure” shall mean any act, event, omission, or accident beyond the reasonable control of the impacted party including natural disasters, government actions, and telecommunications outages.

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

Provider agrees to provide Services to Customer subject to the terms and conditions set forth herein and as further detailed in Exhibit A attached hereto. Provider shall perform the Services in accordance with industry standards and practices, ensuring compliance with all applicable laws, regulations, and codes including, but not limited to, U.S. telecommunications law and CPNI regulations. Provider shall implement reasonable security measures to protect Customer Data from unauthorized access, use, disclosure, and destruction, including but not limited to access controls, encryption technologies, and secure data transmission protocols. Provider shall maintain an incident response plan to promptly address any security breaches affecting Customer Data. The Services shall include support and maintenance as specified in Exhibit B, provided however that Provider shall not be obligated to perform any tasks not explicitly outlined in this Agreement or Exhibits hereto unless mutually agreed to in writing by the parties. Provider shall ensure that all personnel providing Services are adequately trained and possess the requisite qualifications and expertise. Notwithstanding the foregoing but subject to Customer's audit rights detailed herein, Provider shall furnish all necessary equipment, software, and materials required to perform the Services.

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

Customer shall pay Provider the fees set forth in Exhibit C, which shall include itemized charges for each component of the Services. Fees shall be invoiced monthly in arrears and shall be payable within thirty (30) days from the date of invoice. Provider reserves the right to suspend Services in the event of Customer's failure to remit payment as required herein, provided that Provider delivers written notice of non-payment to Customer at least ten (10) days prior to suspension. Any disputes regarding invoiced amounts must be raised by Customer within fifteen (15) days of receipt of the invoice, failing which the invoice shall be deemed accepted by Customer. All payments under this Agreement shall be made in U.S. dollars by wire transfer or other mutually agreed upon method. Interest on overdue payments shall accrue at a rate of one and a half percent (1.5%) per month or the maximum rate permitted by law, whichever is lower. Provider shall be entitled to reimbursement for reasonable expenses incurred in the provision of Services, provided such expenses are pre-approved by Customer in writing, and detailed in accordance with Exhibit D. 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 9 herein, Provider shall refund any overpayments made by Customer, following verification and reconciliation of the disputed amounts.

### **Section 4: Indemnities**

Provider shall indemnify, defend, and hold harmless Customer and its affiliates, officers, directors, employees, agents, and representatives from and against any and all claims, actions, suits, proceedings, damages, liabilities, costs, and expenses, including reasonable attorneys' fees, arising out of or in connection with (i) Provider's breach of any representation, warranty, or covenant contained herein, (ii) Provider's negligence or willful misconduct in the performance of the Services, and (iii) any claim that the Services infringe or misappropriate any third party's intellectual property rights. Customer shall indemnify, defend, and hold harmless Provider from and against any and all claims, actions, suits, proceedings, damages, liabilities, costs, and expenses, including reasonable attorneys' fees, arising out of or in connection with Customer's breach of any representation, warranty, or covenant contained herein or Customer's negligence or willful misconduct. Notwithstanding anything to the contrary in this Agreement, neither party shall be liable for indirect, incidental, consequential, special, or punitive damages, including lost profits, arising out of or in connection with this Agreement, except where such damages are the result of a party's gross negligence or willful misconduct. The indemnification obligations set forth herein shall survive the termination or expiration of this Agreement.

### **Section 5: Service Level Agreements (SLAs)**

Provider shall ensure the Services meet or exceed the service levels set forth in Exhibit E. Uptime shall be measured on a monthly basis, excluding Scheduled Downtime as defined herein. Provider shall provide Customer with monthly performance reports detailing service availability, incident response times, and resolution timelines. In the event Provider fails to meet the SLAs, Customer shall be entitled to service credits as calculated in Exhibit F. Such service credits shall be applied to future invoices issued by Provider. Provider shall implement continuous monitoring and reporting mechanisms to ensure real-time detection and resolution of service disruptions. Provider shall notify Customer of any planned maintenance activities at least seventy-two (72) hours in advance, and such activities shall be conducted during non-peak hours to minimize impact on Customer operations. Emergency maintenance may be performed without prior notice, provided that Provider informs Customer as soon as practicable thereafter. The remedies set forth in this Section shall constitute Customer's sole and exclusive remedy for Provider's failure to meet the SLAs.

## **Section 6: Data Privacy and Security**

Provider shall comply with all applicable data protection and privacy laws, including the General Data Protection Regulation (GDPR) and the California Consumer Privacy Act (CCPA), in its handling of Customer Data. Provider shall implement appropriate technical and organizational measures to ensure the security of Customer Data, including encryption, access controls, and regular security audits. Provider shall inform Customer of any data breaches affecting Customer Data within twenty-four (24) hours of discovery. Provider shall cooperate with Customer in the investigation and remediation of any data breaches, including providing access to relevant logs and records. Customer shall have the right to audit Provider's data processing activities to ensure compliance with this Section, provided that such audits are conducted at reasonable times and intervals. Provider shall ensure that all subcontractors engaged in data processing activities are subject to data protection obligations no less stringent than those contained herein. Provider shall not transfer Customer Data outside the United States without Customer's prior written consent.<sup>1</sup> Subject to residency requirements set forth herein which shall include mandatory encryption protocols for data in transit and at rest, compliance with local data protection regulations, and execution of standard contractual clauses where applicable.

## **Section 7: Intellectual Property Rights**

The parties acknowledge that all intellectual property rights, including but not limited to patents, copyrights, trademarks, and trade secrets, existing prior to the Effective Date shall remain the sole and exclusive property of the party owning such rights. Provider shall grant to Customer a non-exclusive, non-transferable, royalty-free license to use the Services during the Term of this Agreement solely for Customer's internal business purposes. Customer shall not reverse engineer, decompile, or disassemble the Services or any component thereof, nor shall Customer remove any proprietary notices from the Services. Any improvements, modifications, or enhancements to the Services made during the Term shall be the sole and exclusive property of Provider. Provider represents and warrants that it has all necessary rights to grant the licenses contemplated herein and that the Services do not infringe upon any third party's intellectual property rights. Provider shall indemnify Customer against any claims arising from Provider's breach of this warranty. Customer shall promptly notify Provider of any claims of infringement and shall cooperate with Provider in the defense thereof. Provider shall have sole control over the defense and settlement of any such claims, provided however that Provider shall not settle any claim in a manner that imposes liability or obligations upon Customer without Customer's prior written consent.

## **Section 8: Acceptable Use Policies (AUPs)**

Customer shall comply with Provider's Acceptable Use Policies as set forth in Exhibit G, which may be updated from time to time. Customer shall not use the Services to engage in any unlawful activities, including but not limited to spamming, hacking, and distribution of malware. Provider reserves the right to suspend or terminate the Services in the event of Customer's violation of the AUPs, provided that Provider delivers written notice of such violation to Customer. Customer shall be responsible for ensuring that its employees, agents, and subcontractors comply with the AUPs. Provider shall have the right to monitor Customer's use of the Services to ensure compliance with the AUPs, and Customer agrees to cooperate with Provider in any investigations related to suspected violations. Any suspension of Services due to violation of the AUPs shall not relieve Customer of its payment obligations under this Agreement. Provider shall notify Customer of any updates to the AUPs at least thirty (30) days prior to implementation, and Customer shall have the right to terminate this Agreement if such updates materially affect Customer's use of the Services.

## **Section 9: Limitation of Liability**

Except as otherwise provided herein, the total liability of Provider to Customer for any claims arising out of or related to this Agreement, whether in contract, tort, or otherwise, shall not exceed the total fees paid by Customer to Provider under this Agreement during the twelve (12) months preceding the event giving rise to such liability. In no event shall Provider be liable for indirect, incidental, consequential, special, or punitive damages, including lost profits, even if Provider has been advised of the possibility of such damages. This limitation of liability shall not apply to damages resulting from Provider's gross negligence or willful misconduct. Customer acknowledges that the limitations of liability set forth herein are a fundamental element of the basis of the bargain between the parties, and Provider would not be able to provide the Services on the terms set forth herein without such limitations.

## **Section 10: Term and Termination**

The Term of this Agreement shall commence on the Effective Date and shall continue for a period of three (3) years unless earlier terminated in accordance with the provisions set forth herein. Either party may terminate this Agreement for convenience upon ninety (90) days written notice to the other party. Either party may terminate this Agreement for cause upon written notice to the other party in the event of a material breach of this Agreement by the other party, provided that the breaching party fails to cure such breach within thirty (30) days of receipt of notice thereof. Upon termination of this Agreement, Provider shall cease all Services and Customer shall pay all outstanding fees due and payable under this Agreement. Provider shall return or destroy all Customer Data in its possession in accordance with Customer's instructions within thirty (30) days following termination. The rights and obligations of the parties under Sections 4, 6, 7, 9, 11, and 12 shall survive termination of this Agreement.

## **Section 11: 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 between senior executives of each party. If the dispute is not resolved within thirty (30) days of the commencement of such negotiations, either party may submit the dispute to binding arbitration in accordance with the rules of the American Arbitration Association. The arbitration shall take place in [City, State], and the arbitrator(s) shall have the authority to award any relief that would be available in a court of law, provided however that the arbitrator(s) shall not have the authority to award punitive damages. The decision of the arbitrator(s) shall be final and binding upon the parties, and judgment on the award may be entered in any court of competent jurisdiction. Each party shall bear its own costs and expenses of the arbitration, and the parties shall equally share the fees and expenses of the arbitrator(s).

## **Section 12: Miscellaneous**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, representations, and understandings, whether oral or written. This Agreement may be amended only by a written agreement signed by both parties. The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver of such provision or any other provision of this Agreement. If any provision of this Agreement is held to be invalid or unenforceable, the

remaining provisions shall remain in full force and effect. 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. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts located in [City, State] for purposes of any legal action arising out of or relating to this Agreement. Provider shall not assign or transfer this Agreement or any rights or obligations hereunder without Customer's prior written consent, provided however that Provider may assign this Agreement to an affiliate or in connection with a merger, acquisition, or sale of substantially all of its assets without Customer's consent.

## Signature Block

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

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

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

## Exhibit A: Scope of Services

[Detailed description of services provided]

## Exhibit B: Support and Maintenance

[Detailed description of support and maintenance services]

## Exhibit C: Fee Schedule

| Service Component | Monthly Fee |

|-----|-----|

| Messaging | \$\_\_\_\_\_ |

| Voice | \$\_\_\_\_\_ |

| Video | \$\_\_\_\_\_ |

## Exhibit D: Expense Reimbursement

[Details of reimbursable expenses]

## Exhibit E: Service Level Agreements



[Detailed description of service levels and uptime targets]

## **Exhibit F: Service Credits**

[Calculation and application of service credits]

## **Exhibit G: Acceptable Use Policies**

[Details of acceptable use policies and prohibited activities]