

MASTER SERVICES AGREEMENT

This Master Services Agreement (the “**Agreement**”) sets forth terms under which ERP App Marketplace, LLC, a Delaware LLC (“**Company**”) shall provide services to you (“**User**”, “**you**”). This Agreement is effective as of the date the software order (“**Order Form**”) is signed (“**Effective Date**”).

1. Services. Company shall provide Consulting (“**Services**”) to the Client as described on one or more Statements of Work signed by Company and Client that reference this Agreement (“**Order Form**”, “**SOW**” or “**Statement of Work**”). In the event of any conflict between the terms and conditions of a Statement of Work or Order Form and the terms and conditions of this Agreement, the terms and conditions of the Statement of Work or Order Form shall control. This due date is subject to change in accordance with the Change Order process defined in the applicable SOW. Client shall assist Company by promptly providing all information requests known or available and relevant to the Services in a timely manner.

2. Compensation. In consideration of Company’s Services under this Agreement, the Client shall pay Company the contract price and any deposits set forth in each applicable Statement of Work or Order Form. Company will invoice Client for all such Services, including recurring payment details, payment terms, payment methods, taxes and other fees. Client shall pay travel and other expenses incurred by Company in performing the Services. In the event of a good faith dispute with regard to an item appearing on an invoice, Company shall have the right to withhold any deliverables until the parties attempt to resolve the disputes.

3. Deposit. An initial payment (the “**Deposit**”) is required to be made by the Company at signing of this Agreement. Company may also require separate Deposits at the time of executing subsequent SOWs or Order Forms. Each Deposit shall be non-refundable in the event that Client cancels the project described in a SOW or Order Form prior to its completion.

4. Performance.

4.1 Company will begin performing services upon receipt of signed Agreement and Deposit. Unless terminated as provided in this Agreement, Company will complete Services by the Completion Date.

4.2 Client acknowledges that Company may obtain services used in providing the Services from, and otherwise delegate obligations hereunder to, its Affiliates or other third-party contractors. “**Affiliates**” in this agreement means any subsidiary or commonly-owned company that Company may have today or in the future.

5. Change in Services. If Client desires changes to the SOW or Order Form, Client shall submit to Company a written request in accordance with the change order process defined in the applicable SOW. The parties may execute additional Statements of Work describing Services, which will become part of this Agreement upon execution by Company and the Client. If

additional SOWs are executed, then Client shall pay Company for all services performed prior to the additional SOW before Company begins work on the new SOW.

6. Term and Termination.

6.1 Term and termination of this Agreement. This Agreement's term begins on the Effective Date and terminates on termination of the last SOW or Order Form that incorporates this Agreement, unless this Agreement's term is renewed or terminated as provided herein (the "Term").

6.2 Termination and modification of SOWs and Order Forms. Company shall have the right to modify, reject, or terminate any SOW and any related work in process with five days written notice to Client. In the event Company terminates a SOW prior to completion of the Services described in that SOW, the Client shall pay Company the fees due under the SOW with respect to Services completed as of the date of termination. Payment for completed work will be deducted from the deposit. Company will retain the non-refundable Deposit. Any amount due for services performed by Company above the deposit will be billed to Client and Client shall promptly pay the same. Upon settlement of funds due to Company, all Client provided materials will be returned to Client and all Client use rights in the work in process as described in Section 9 will be transferred to Client.

7. Confidentiality.

7.1 Definition. "Confidential Information" in this Agreement means all proprietary information owned by the Parties and not generally known to the public or in the relevant trade or industry that is communicated orally, written, printed, electronically or any other form or medium, or which was learned, discovered, developed, conceived, originated, or prepared by the Parties in the scope and course of their relationship, relating directly or indirectly to business processes, technical data, trade secrets, know-how, advice, consultations, proprietary information, client lists, client instructions, assets, business operations, specifications, designs, plans, drawings, hardware, software, data, prototypes or other business and technical information belonging to any client or potential client of the Parties, operational methods, economic and business analyses, models, strategies, and projections, promotion methods, trade show information and contacts, and other proprietary information relating to the business of the Parties and any and all other concepts, as such Confidential Information pertains personally to principals or other information that has independent economic value.

7.2 Non-Disclosure. A Party (as "Recipient") receiving Confidential Information from the other Party, or from a client or potential client of that other Party, shall not (a) use the Confidential Information for the Recipient's personal gain or detrimentally to the other Party or to the client or potential client (b) disclose the Confidential Information to third parties except as the Parties may separately agree in writing, unless and until such Confidential Information becomes publicly available other than as a consequence of a breach by the Recipient of its confidentiality obligations hereunder.

7.3 Exceptions to Confidential Information. “**Confidential Information**” does not include, and this Agreement does not restrict Parties from disclosing or using, information that (a) was in the public domain, or in the possession of the Party using or disclosing it, at the time it was communicated between the Parties; (b) subsequently came to the public domain through no fault of the Recipient disclosing or using it; (c) is independently developed by the Party so using or disclosing it, or that Party’s representatives, without reference to any information communicated to or by the Parties; or (d) is provided by a Party in response to a valid order by a court or other governmental body, as otherwise required by law.

7.4 **Notice of Disclosure.** In the event that a Party receives a request or is required (by law enforcement or subpoena or other legal process) to disclose all or any part of the Confidential Information, the Party receiving such request or process will, except to the extent that applicable law may preclude it, (a) promptly notify the other Party of the existence, terms and circumstances surrounding such request or requirement, (b) consult with the other Party on the advisability of taking legally available steps to resist or narrow such request or requirement and (c) assist the other Party if requested by that Party in seeking a protective order or other appropriate remedy; provided, however, that the disclosing Party shall not be required to take any action in violation of applicable laws.

In the event that such protective order or other remedy is not obtained or that one of the Parties waives compliance with the provisions hereof, the disclosing Party shall not be liable for such disclosure unless disclosure to any such tribunal was caused by or resulted from a previous disclosure by the disclosing party not permitted by this Agreement.

7.5 **Return of Confidential Information.** Within a reasonable period of time after written request by the other Party after termination of this Agreement, a Party will promptly deliver to that other Party all originals and copies that it possesses of (a) all documents, records, software programs, media and other materials containing any Confidential Information and (b) equipment, files, and other personal property belonging to the requesting Party. The returning Party shall not make, retain, or distribute copies of any Confidential Information and shall not create any other documents, records, or materials in any form whatsoever that includes the Confidential Information.

7.6 **Additional terms.** The Parties agree that the restrictions in this Section 7 are necessary to protect the business goodwill, business interests and proprietary rights of the Parties and have independently discussed, reviewed and had the opportunity of legal counsel to consider this Agreement. The Parties acknowledge and agree that due to the unique and sensitive nature of the Confidential Information, any breach of this Agreement would cause irreparable harm for which damages and or equitable relief may be sought. The violated Party shall be entitled to all remedies available at law.

7.7 **Survival.** This Section 7 shall survive and continue for five years after any expiration or termination of this Agreement and shall bind the Parties, its employees, agents, representatives, successors, heirs and assigns.

8. Representations and Warranties.

8.1 Company's Representations and Warranties: Company represents and warrants that any materials used while performing services will not knowingly (a) infringe on the intellectual property rights of any third party or any rights of publicity or privacy or (b) violate any law, statute, ordinance or regulation.

8.2 Client's Representations and Warranties: Client represents and warrants that (i) any materials provided to Company by Client while performing services will not (a) infringe on the intellectual property rights of any third party or any rights of publicity or privacy or (b) violate any law, statute, ordinance or regulation; and (ii) any necessary approval, authorization or consent of a third party that may be required in order for Company to view or access materials relating to that third party will have been secured by Client before Client invites Company to participate in communications with that third party in connection with this Agreement.

8.3 Warranty Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS AGREEMENT AND ANY SOW OR ORDER FORM, EACH PARTY EXPRESSLY DISCLAIMS ANY AND ALL OTHER WARRANTIES OF ANY KIND OR NATURE, WHETHER EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

9. Non-Solicitation. During the Term and for two years after it, each Party and its owners, directors, officers, employees and contractors (as "Restricted Parties") will not without written consent of the other party (as a "Protected Party"), directly or through third parties, solicit for employment or otherwise induce, influence, or encourage to terminate employment with the Protected Party or any of that Protected Party's Affiliates, or engage as an independent contractor, any current or former employee or independent contractor of the Protected Party, except (i) through a general solicitation through the media (including social media postings) or by a search or recruiting firm that is not directed specifically to any employees of the Protected Party or (ii) if the Protected Party terminated the employment or contractor relationship of that person before that person was solicited by the Restricted Party.

10. Indemnification.

Each Party (as an "Indemnifying Party") will defend and indemnify the other Party and its Affiliates (as "Indemnitees") and hold each Indemnitee harmless from any and all claims, losses, liabilities, damages, expenses and costs (including attorneys' fees and court costs) arising from or relating to a breach by an Indemnifying Party of any express warranty herein.

Additionally, Company will defend and indemnify Client and each Affiliate and hold each of them harmless from any and all claims, losses, liabilities, damages, expenses and costs (including attorneys' fees and court costs) arising from or relating to any claims regarding Client's unauthorized use of any music, images, or other materials comprising Company's deliverables.

11. Limitation of Liability. COMPANY WILL NOT BE LIABLE FOR ANY LOSS OF USE, INTERRUPTION OF BUSINESS, LOST PROFITS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND REGARDLESS OF THE FORM OF ACTION WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT PRODUCT LIABILITY, OR OTHERWISE, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN NO EVENT SHALL COMPANY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT EXCEED THE FEES PAID TO COMPANY HEREUNDER.

12. Compliance with Laws. Each party shall perform all of its obligations under this Agreement in compliance at all times with all foreign, federal, state and local statutes, orders and regulations, including those relating to privacy and data protection.

13. General. Neither party may assign this Agreement without the prior written consent of the other party and any attempt to do so will be void. Any notice or consent under this Agreement will be in writing to the address specified below. If any provision of this Agreement is adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect. Any waivers or amendments shall be effective only if made in writing signed by a representative of the respective parties. Both parties agree that this Agreement is the complete and exclusive statement of the mutual understanding of the parties, and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. Both parties agree that the Agreement is signed by a duly, authorized company representative authorized to bind the company to its terms and services and no consent from any third party is required.

14. Choice of Law. This Agreement will be deemed to have been made in, and shall be construed pursuant to the laws of the State of Delaware and the United States without regard to conflicts of laws provisions thereof. Any suit or proceeding arising out of or relating to this Agreement shall be commenced in a federal or state court in Delaware, and each party irrevocably submits to the jurisdiction and venue of such courts.

15. Remedies. The company reserves all remedies available at law or equity for any disputes that arise under this Agreement. In the event of a suit or proceeding under this Agreement, Client agrees to pay all attorneys' fees if the federal or state court renders judgment substantially in Company's favor.

Accepted and agreed to as of the Effective Date by the authorized representative of each party:

User

ERP App Marketplace, LLC

Signature:

Signature:

Print Name:

Print Name:

Print Title:

Print Title:

Date:

Date:

Email:

Email: