

## MASTER SERVICES AGREEMENT

BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OF THESE TRAPP TECHNOLOGY SERVICES (THE "AGREEMENT") OR BY EXECUTING AN SCOPE OF WORK DOCUMENT THAT REFERENCES THIS AGREEMENT OR BY OTHERWISE USING OR ACCESSING THE SERVICES (AS DEFINED BELOW) (THE "ACCEPTANCE"), YOU AGREE YOU HAVE READ AND ARE BOUND BY THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT, IN WHICH CASE THE TERM "CLIENT" WILL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE COMPANY SERVICES.

This Master Services Agreement (the "Agreement") is entered into by and between ("Client") and Trapp Technology, Inc., a Delaware corporation ("Trapp") (each individually referred to as a "party" and collectively as the "parties"), as of the date signed by Client below (the "Effective Date"). In consideration of the mutual representations, warranties, covenants and other terms and conditions in this Agreement, the Parties agree, as follows:

This Agreement and all corresponding schedules, and Statements of Work ("SOW") comprises the entire agreement between the parties and replaces any prior oral or written agreements between Trapp and Client.

### 1. DEFINITIONS

- 1.1 "**Affiliate**" of a Person means any other Person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlled by" and "under common control with") means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by contract or otherwise.
- 1.2 "**Confidential Information**" means any information that is treated as confidential by a party, including, without limitation, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing. Confidential Information shall not include information that: (a) is already known to the Receiving Party without restriction on use or disclosure prior to receipt of such information from the Disclosing Party; (b) is or becomes generally known by the public other than by breach of this Agreement by, or other wrongful act of, the Receiving Party; (c) is developed by the Receiving Party independently of, and without reference to, any Confidential Information of the Disclosing Party; or (d) is received by the Receiving Party from a third party who is not under any obligation to the Disclosing Party to maintain the confidentiality of such information.
- 1.3 "**Deliverables**" means all documents, work product and other materials that are delivered to Client hereunder or prepared by or on behalf of Trapp in the course of performing the Services and as identified in a Statement of Work.

- 1.4 "**Intellectual Property Rights**" means all (a) patents, patent disclosures and inventions (whether patentable or not), (b) trademarks, service marks, trade dress, trade names, logos, corporate names and domain names, together with all of the goodwill associated therewith, (c) copyrights and copyrightable works (including computer programs), and rights in data and databases, (d) trade secrets, know-how and other confidential information, and (e) all other intellectual property rights, in each case whether registered or unregistered and including all applications for, and renewals or extensions of, such rights, and all similar or equivalent rights or forms of protection in any part of the world.
- 1.5 "**Law**" means any statute, law, ordinance, regulation, rule, code, order, constitution, treaty, common law, judgment, decree, other requirement or rule of law of any federal, state, local or foreign government or political subdivision thereof, or any arbitrator, court or tribunal of competent jurisdiction.
- 1.6 "**Losses**" mean all losses, damages, liabilities, deficiencies, actions, judgments, interest, awards, penalties, fines, costs or expenses of whatever kind, including reasonable attorneys' fees and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers.
- 1.7 "**Person**" means an individual, corporation, partnership, joint venture, limited liability company, governmental authority, unincorporated organization, trust, association or other entity.
- 1.8 "**Pre-Existing Materials**" means all documents, data, know-how, methodologies, software and other materials, including computer programs, reports and specifications, provided by or used by Trapp in connection with performing the Services, in each case developed or acquired by the Trapp prior to the commencement or independently of this Agreement.
- 1.9 "**Services**" mean any professional or other services to be provided by Trapp under this Agreement, as described in more detail in each applicable Statement of Work, and Trapp's obligations under this Agreement.
- 1.10 "**Statement of Work**" means each Statement of Work entered into by the parties and attached to this Agreement.

## 2. SERVICES

- 2.1 Trapp shall provide the Services to Client as described in more detail in each Statement of Work in accordance with the terms and conditions of this Agreement.
- 2.2 Each Statement of Work shall include the following information if applicable:
  - 2.2.1 A detailed description of the Services to be performed pursuant to the Statement of Work;
  - 2.2.2 The date on which the Services will commence and the term of such Statement of Work;
  - 2.2.3 The fees to be paid to Trapp under the Statement of Work and associated payment terms;
  - 2.2.4 Any assumptions or criteria for completion of the Services or associated project; and
  - 2.2.5 Any other terms and conditions agreed upon by the parties in connection with the Services to be performed pursuant to such Statement of Work

## 3. TRAPP OBLIGATIONS

3.1 Trapp shall:

- 3.1.1 Assign a primary contact with authority to act on behalf of Trapp and provide personnel who are suitably skilled, experienced and qualified to perform the Services.
- 3.1.2 Comply with, and ensure that all Trapp personnel comply with, all rules, regulations and policies of Client that are communicated to Trapp in writing, including security procedures concerning systems and data and remote access thereto, building security procedures, including the restriction of access by Client to certain areas of its premises or systems for security reasons, and general health and safety practices and procedures.
- 3.1.3 Maintain complete and accurate records relating to the provision of the Services under this Agreement.

3.2 Trapp may engage subcontractors or Affiliates of Trapp to perform certain Services hereunder; provided that such subcontractors are bound to confidentiality and intellectual property assignment or license provisions substantially similar to those set forth in this Agreement.

3.3 Trapp is responsible for all of its personnel and for the payment of their compensation, including, if applicable, withholding of income taxes, and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance payments and disability benefits.

4. **CLIENT OBLIGATIONS**

4.1 Client shall:

- 4.1.1 Appoint a Client employee to serve as the primary contact with respect to this Agreement and who will have the authority to act on behalf of Client with respect to matters pertaining to this Agreement (the "**Client Contract Manager**");
- 4.1.2 Provide such access to Client's premises, and such office accommodation and other facilities as may reasonably be requested by Trapp, and agreed with Client in writing in advance, for the purposes of performing the Services;
- 4.1.3 Respond promptly to any Trapp request to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for Trapp to perform Services in accordance with the requirements of this Agreement;
- 4.1.4 Provide such access, materials, and information as Trapp may reasonably request, in order to carry out the Services, in a timely manner, and ensure that it is complete and accurate in all material respects;
- 4.1.5 Ensure that all client equipment is in good working order and suitable for the purposes for which it is used in relation to the Services; and
- 4.1.6 Comply with all applicable Laws in relation to the Services and use of the Services.

4.2 If Trapp's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Client or its agents, subcontractors, consultants or employees, then

Trapp shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges or losses sustained or incurred by Client, in each case, to the extent arising directly or indirectly from such prevention or delay.

- 4.3 Client is responsible for maintaining the confidentiality of Client's passwords and account access. Client is fully responsible for all activities that occur under Client's password protected accounts. Client agrees to immediately notify Trapp of any unauthorized uses or any other breaches of security. Trapp cannot and will not be liable for any loss or damage from Client's failure to comply with this security obligation. Client acknowledges and agrees that under no circumstances will Trapp be liable, in any way, for any acts or omissions by Client, including any damages of any kind incurred as a result of such acts or omissions.

## 5. TERM

- 5.1 This Agreement shall commence as of the Effective Date and shall continue for the period set forth in each applicable Statement of Work, after which it will automatically renew for successive periods as set forth in the Statement of Work, unless either party provides prior written notice thirty (30) days in advance of the end of the then-current term (the "Term"), or until sooner terminated pursuant to Section 13 of this Agreement.

## 6. FEES AND EXPENSES; PAYMENT TERMS

- 6.1 In consideration of the provision of the Services by Trapp and the rights granted to Client under this Agreement, Client shall pay the fees due on the terms described herein and set forth in the applicable Statement of Work.
- 6.2 Client shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Client hereunder; *provided, that*, in no event shall Client pay or be responsible for any taxes imposed on, or with respect to, Trapp's income, revenues, gross receipts, personnel or real or personal property or other assets.
- 6.3 Client shall provide a valid credit card, from an issuing financial institution that is accepted by Trapp, or active bank account and routing information, as a method of payment. Client authorizes Trapp to charge the credit card or bank account provided by Client for all charges related to the Services provided pursuant to this Agreement. Client agrees to notify Trapp of any change to the billing and payment information. Trapp will not be responsible for any charges made by the credit card issuer or financial institution to Client's credit card or bank account for exceeding the credit limit, insufficient funds, or other reasons. The Services provided to Client shall be subject to credit approval or review by Trapp. Trapp may, at its sole discretion, discontinue credit at any time without notice or require a deposit.
- 6.4 Trapp will issue invoices for the Services and bill Client's account as set forth in the applicable Statement of Work based on the credit card or bank account information provided. Client will have thirty (30) days following each invoice's billing date to dispute any fees charged otherwise such fees will be deemed accepted. If, for any reason, Trapp cannot process Client's credit card on file, Client fails to make a payment or an ACH transaction is denied, either at the time of processing or at any point in time thereafter, Client agrees to pay Trapp's costs of collection, including all reasonable attorneys' fees and expenses. Trapp may charge interest on past-due fees at the lesser of 1.5% per month or the maximum rate permitted by law. It is Client's sole responsibility to provide accurate

billing contact information and to notify Trapp of any changes to billing contact information in accordance with the notice provisions below. NO SUSPENSION OR TERMINATION OF THE SERVICES OR OF THIS AGREEMENT SHALL RELIEVE CLIENT OF ITS LIABILITY FOR ANY AMOUNTS DUE UNDER THIS AGREEMENT. TRAPP SHALL NOT BE LIABLE TO CLIENT FOR ANY LOSS OR DAMAGE CLIENT MAY SUFFER AS A RESULT OF TRAPP'S TERMINATION OF THIS AGREEMENT OR SUSPENSION OF SERVICES UNDER THIS AGREEMENT.

- 6.5 Trapp may increase the Fees on an annual basis by providing Client written notice thirty (30) days before the effective date of the Fee increase.
- 6.6 Credit card payments will be processed by a third-party card processing company. All payment information that Client provides will be transmitted directly to the credit card processing company over a secure connection. Trapp will not record your credit card number, expiration date or CVV number. However, this information may be stored by the credit card processing company in the normal course of its business, or as required or authorized by law, statute, regulation or payment card industry standard.
- 6.7 To the extent Trapp has Client's billing information for other services provided by Trapp, Trapp may, and Client authorizes Trapp to bill and collect the fees due in accordance with the pre-existing billing information provided to Trapp by Client.

## 7. SOFTWARE

- 7.1 Trapp may, in its sole discretion, provide Client with software created or licensed by Trapp ("Provider Software") in combination with Services. Upon payment of all fees due and owing to Trapp under this Agreement and pursuant to any applicable SOW and/or Change Order, Trapp hereby grants, and Client hereby accepts, a nontransferable, revocable, non-sub licensable, and non-exclusive license to use Provider Software and all related documentation for Client's business use during the term of this Agreement. Any rights not expressly granted herein shall be reserved for Trapp. Source code or other information pertaining to the logic design of the Provider Software is specifically excluded from the license granted hereunder.
- 7.2 Client recognizes that Provider Software and all related information, including but not limited to any and all updates, improvements, modifications, enhancements, and information related to installation of Provider Software at Client's home or office, are proprietary, and that all rights thereto, including copyright, are owned by Trapp. Client further acknowledges that Client has been advised that Provider Software, including updates, improvements, modifications, enhancements, and information related to installation, may constitute a trade secret of Trapp, is protected by civil and criminal law, and by the law of copyright, is valuable and confidential to Trapp, and that its use and disclosure must be carefully and continuously controlled. Client will at all times maintain the security of the Provider Software consistent with the standards Client applies to its own proprietary material, and in no event with less security than is commercially reasonable in Client's industry.
- 7.3 Trapp shall at all times retain title to all the Provider Software and all related information, including all updates, improvements, modifications and enhancements, furnished to Client hereunder.

- 7.4 Unless provided otherwise in the specifications for Client's Services, Provider Software supplied hereunder is for business use only. Client shall not permit any third party to use Provider Software. Provider Software is to be used only for the purposes specified in this Agreement.
- 7.5 While this Agreement is in effect, or while Client has custody or possession of any of the Provider Software, Client will not: (a) reproduce, copy or publicly display, or permit anyone else to reproduce, copy or publicly display, any of Provider Software, whether such Provider Software is in written, magnetic or any other form, except pursuant to reasonable backup procedures, or for use in Client's website pursuant to this Agreement, nor; (b) provide or make the Provider Software available to any person or entity other than Client employees or agents who have a need to know consistent with Client's use thereof under this Agreement, nor; (c) create or attempt to create, or permit others to create or attempt to create, by disassembling, reverse engineering or otherwise, the source programs or any part thereof from the object program or from other information (whether oral, written, tangible or intangible) made available to Client under this Agreement, nor; (d) copy for Client's own use or the use of others operator manuals, system reference guides, training materials and other user-oriented materials without the prior written consent of Trapp.
- 7.6 Client agrees to notify Trapp forthwith if Client obtains information as to any unauthorized possession, use or disclosure of any Provider Software by any person or entity, and further agrees to cooperate with Trapp, at Trapp's expense, in protecting Trapp's proprietary rights.
- 7.7 Trapp may provide Client with the ability to obtain certain third-party software ("Third Party Software"), depending on the services ordered. The license conditions governing the use of Third Party Software may differ from Trapp's own software licenses. Client is responsible for entering into any necessary license agreement with the third-party. THE PROVISION AND OFFERING OF SUCH THIRD PARTY SOFTWARE BY TRAPP DOES NOT CONSTITUTE AN ENDORSEMENT OF THE THIRD PARTY SOFTWARE, NOR CAN TRAPP MAKE ANY REPRESENTATIONS OR WARRANTIES REGARDING THE USE AND FUNCTIONALITY OF SUCH THIRD PARTY SOFTWARE.
- 7.8 In the event of termination of this Agreement, or upon any act which shall give rise to Trapp's right to terminate, or upon the expiration of the license for Provider Software which is subject to a limited-duration license, any and all licenses granted under Section 8 shall terminate automatically, and Client will remove, erase or destroy the Provider Software and documentation and all copies thereof, wherever located, without demand or notice.

## 8. INTELLECTUAL PROPERTY RIGHTS; OWNERSHIP

- 8.1 Client is, and shall be, the sole and exclusive owner of all right, title and interest in and to the Deliverables, including all Intellectual Property Rights therein. Trapp agrees, and will cause its personnel to agree, that with respect to any Deliverables that may qualify as "work made for hire" as defined in 17 U.S.C. §101, such Deliverables are hereby deemed a "work made for hire" for Client. To the extent that any of the Deliverables do not constitute a "work made for hire", Trapp hereby irrevocably assigns, and shall cause its applicable personnel to irrevocably assign to Client, in each case without additional consideration, all right, title

and interest throughout the world in and to the Deliverables, including all Intellectual Property Rights therein.

- 8.2 Upon the reasonable request of Client, Trapp shall promptly take such further actions, including execution and delivery of all appropriate instruments of conveyance, as may be necessary to assist Client to prosecute, register, perfect or record its rights in or to any Deliverables. Trapp and its licensors are, and shall remain, the sole and exclusive owners of all right, title and interest in and to the Pre-Existing Materials, including all Intellectual Property Rights therein. Trapp hereby grants Client a limited, irrevocable, perpetual, fully paid-up, royalty-free, non-transferable, non-sublicenseable, worldwide license to use, perform, display, execute, reproduce, distribute, and transmit any Pre-Existing Materials to the extent incorporated in, combined with or otherwise necessary for the use of the Deliverables. All other rights in and to the Pre-Existing Materials are expressly reserved by Trapp.
- 8.3 Client and its licensors are, and shall remain, the sole and exclusive owner of all right, title and interest in and to their materials (“**Client Materials**”), including all Intellectual Property Rights therein. Trapp shall have no right or license to use any Client Materials except solely during the Term of the Agreement to the extent necessary to provide the Services to Client. All other rights in and to the Client Materials are expressly reserved by Client.

## 9. CONFIDENTIAL INFORMATION

- 9.1 The Receiving Party agrees: (a) not to disclose or otherwise make available Confidential Information of the Disclosing Party to any third party without the prior written consent of the Disclosing Party; *provided, however*, that the Receiving Party may disclose the Confidential Information of the Disclosing Party to its officers, employees, affiliates, consultants and legal advisors who have a “need to know”, who have been apprised of this restriction and who are themselves bound by nondisclosure obligations at least as restrictive as those set forth in this Section 9; (b) to use the Confidential Information of the Disclosing Party only for the purposes of performing its obligations under the Agreement or, in the case of Client, to make use of the Services and Deliverables; and (c) to promptly notify the Disclosing Party in the event it becomes aware of any loss or disclosure of any of the Confidential Information of Disclosing Party.
- 9.2 If the Receiving Party becomes legally compelled to disclose any Confidential Information, the Receiving Party shall provide: (a) prompt written notice of such requirement so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other remedy; and (b) reasonable assistance, at the Disclosing Party’s sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If, after providing such notice and assistance as required herein, the Receiving Party remains required by Law to disclose any Confidential Information, the Receiving Party shall disclose no more than that portion of the Confidential Information which, on the advice of the Receiving Party’s legal counsel, the Receiving Party is legally required to disclose.

## 10. REPRESENTATIONS AND WARRANTIES

- 10.1 Each party represents and warrants to the other party that: (a) it is duly organized, validly existing and in good standing as a corporation or other entity as represented herein under the laws and regulations of its jurisdiction of incorporation,

organization or chartering; (b) it has the full right, power and authority to enter into this Agreement, to grant the rights and licenses granted hereunder and to perform its obligations hereunder; (c) the execution of this Agreement by its representative whose signature is set forth at the end hereof has been duly authorized by all necessary corporate action of the party; and (d) when executed and delivered by such party, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms.

10.2 Trapp represents and warrants to Client that: (a) it shall perform the Services using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with commercially reasonable industry standards for similar services and shall devote adequate resources to meet its obligations under this Agreement; and (b) it is in compliance with, and shall perform the Services in compliance with, all applicable Laws.

10.3 Client represents and warrants to Trapp that (a) it will comply with all applicable Laws in connection with this Agreement and use of the Services and any Deliverables; and (b) its content does not infringe the intellectual property rights of any third parties.

10.4 EXCEPT FOR THE EXPRESS WARRANTIES IN THIS SECTION 11, (A) TRAPP HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS AGREEMENT, AND (B) TRAPP SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND TITLE AND NON-INFRINGEMENT. TRAPP EXERCISES NO CONTROL OVER, AND ACCEPTS NO RESPONSIBILITY FOR, THE CONTENT OF THE INFORMATION PASSING THROUGH TRAPP'S HOST COMPUTERS, NETWORK HUBS AND POINTS OF PRESENCE, OR THE INTERNET. ALL SERVICES PERFORMED UNDER THIS AGREEMENT ARE PERFORMED "AS IS" AND WITHOUT WARRANTY AGAINST FAILURE OF PERFORMANCE INCLUDING, ANY FAILURE BECAUSE OF COMPUTER HARDWARE OR COMMUNICATION SYSTEMS, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, AND ANY APPLICABLE STATEMENT OF WORK.

## 11. INDEMNIFICATION

11.1 Each party releases and holds harmless, and agrees to indemnify, the other and such party's affiliates and suppliers (and their respective employees, officers, directors and representatives) against any and all claims, actions, proceedings, suits, liabilities, damages, settlements, penalties, fines, costs or expenses (including, reasonable attorneys' fees and other litigation expenses) incurred by such party or its suppliers, arising out of or relating to: (a) the other party's material violation or breach of any term, condition, representation or warranty of this Agreement, or any applicable policy or guideline; (b) the other party's improper or illegal provision or use of the Services; (c) the other party's violation, alleged violation, or misappropriation of any intellectual property right (including trademark, copyright, patent, trade secrets) or right of a third party (including but not limited to defamation, libel, violation of privacy or publicity); or (d) any suit brought by a third party. Trapp shall have no obligations under this Section 12 with respect to claims arising out of any (i) Client materials or instructions, information, or specifications provided to Trapp, (ii) use of the Deliverables in combination with any materials or equipment not supplied to

Client or approved by Trapp, or any modifications made to the Deliverables by or on behalf of any other Person other than Trapp and its personnel.

- 11.2 The party seeking indemnification hereunder shall promptly notify the indemnifying party in writing of any Action and cooperate with the indemnifying party at the indemnifying party's sole cost and expense. The indemnifying party shall immediately take control of the defense and investigation of such Action and shall employ counsel of its choice to handle and defend the same, at the indemnifying party's sole cost and expense. The indemnifying party shall not settle any action in a manner that adversely affects the rights of the indemnified party without the indemnified party's prior written consent, which shall not be unreasonably withheld or delayed.

## 12. LIMITATION OF LIABILITY

- 12.1 IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGE WAS FORESEEABLE AND WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 12.2 EXCEPT FOR DAMAGES OR OTHER LIABILITIES ARISING OUT OF OR RELATING TO A PARTY'S FAILURE TO COMPLY WITH ITS OBLIGATIONS UNDER SECTION 9 (CONFIDENTIALITY), OR A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY'S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO TRAPP PURSUANT TO THE APPLICABLE STATEMENT OF WORK IN THE TWELVE (12) MONTHS PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.
- 12.3 Trapp and its suppliers are not liable for any temporary delay, outages or interruptions of the Services. Further, Trapp is not liable for any delay or failure to perform its obligations under this Agreement, where the delay or failure results from any act of God or other cause beyond its reasonable control (including, any mechanical, electronic, labor disputes, governmental actions, terrorist actions, domestic unrest, communications or third-party supplier failure).

## 13. TERMINATION; EFFECT OF TERMINATION

- 13.1 Either party may terminate this Agreement as further described below or as provided expressly in each Statement of Work; provided that Client is not entitled to a refund of any prepaid fees.
- 13.2 Unless as expressly stated otherwise, either party may terminate this Agreement, effective upon written notice to the other party (the "Defaulting Party"), if the Defaulting party (a) materially breaches this Agreement and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach; or (b) (i) becomes insolvent or admits its inability to pay its debts generally as they become due; (ii)

becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (iii) is dissolved or liquidated or takes any corporate action for such purpose; (iv) makes a general assignment for the benefit of creditors; or (v) has a receiver, trustee, custodian or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

13.3 Trapp may immediately (and without prior notice) suspend or terminate all or part of the Services or this Agreement by providing notice of termination to Customer following the occurrence of one or more of the following events: (i) Client provides Trapp with false information or lacked the capacity to enter into this Agreement at the time of its execution; (ii) Trapp determines, in its sole discretion, that Customer's use of the Services poses a threat to the security or performance of Trapp's network or to any of Trapp's clients or suppliers; (iii) Trapp determines, in its sole discretion, that Client's use of the Services is illegal, or that it misappropriates or infringes the property rights of a third party; (iv) Trapp reasonably believes that Client's use of the Services has or will subject Trapp to civil or criminal liability; (v) Client fails to make any payment when due, or Client's credit card is declined or any ACH transfer is rejected; or (vi) Client uses cloud resources in an attempt to gain unauthorized access to computer systems (i.e., "hacking").

13.4 Upon expiration or termination of this Agreement for any reason:

13.4.1 Client shall promptly pay all outstanding invoices immediately.

13.4.2 Trapp shall (a) promptly delivery to Client all Deliverables for which Client has paid; and (b) provide reasonable cooperation and assistance to Client, upon Client's written request and at Client's sole expense, in transitioning the Services to an alternate service provider.

13.4.3 Each party shall (a) return to the other party all Confidential Information of the other party; and (b) permanently erase all of the other party's Confidential Information from its computer systems; provided that Client may retain copies of any Confidential Information of Trapp incorporated into the Deliverables or to the extent necessary to make full use of the Deliverables.

13.5 The rights and obligations of the parties set forth in Sections 7, 8, 9, 10, 11, 12, 13, and 14 and any right or obligation of the parties in this Agreement which, by its nature, should survive termination or expiration of this Agreement, will survive.

#### 14. **INSURANCE**

14.1 Trapp shall maintain all necessary insurance with respect to the Services, including without limitation, commercial general liability (including personal injury and professional liability coverage). A copy of the certificate of insurance must be provided to Client upon execution of this Agreement.

#### 15. **NON-SOLICITATION**

15.1 During the Term of this Agreement and for a period of twelve (12) months thereafter, neither party shall, directly or indirectly, in any manner solicit or induce for employment any person who performed work under this Agreement who is then in the

employment or otherwise engaged with the other party. A general advertisement or job listing shall not be construed as a solicitation under this section.

- 15.2 If either party breaches Section 15.1, the breaching party shall, on demand, pay to the non-breaching party a sum equal to one year's basic salary or the annual fee payable by the claiming party to that employee or independent contractor.

## 16. GENERAL TERMS

- 16.1 Neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the actions or inactions of Trapp).
- 16.2 The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
- 16.3 Neither party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement, or otherwise use the other party's trademarks, service marks, trade names, logos, symbols or brand names, in each case, without the prior written consent of the other party.
- 16.4 All notices required or permitted under this Agreement shall be in writing and shall be deemed delivered when delivered in person or on the third day after being deposited in the United States mail, postage paid, addressed as follows:

*If to Trapp:*

Trapp Technology, Inc., a Delaware corporation  
Attn: Legal Dept. and Billing Dept.  
2600 N Central Ave. #1100  
Phoenix, AZ 85004

- 16.5 This Agreement, together with all Statements of Work and any other schedules, exhibits, or documents incorporated herein by reference, constitutes the sole and entire agreement of the parties to this Agreement with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings and agreements, both written and oral, with respect to such subject matter. In the event of any conflict between the terms and provisions of this Agreement and those of any Statement of Work the terms of this Agreement will govern unless expressly superseded in the Statement of Work.
- 16.6 Neither party may assign, transfer or delegate any or all of its rights or obligations under this Agreement, without the prior written consent of the other party; provided, that, upon prior written notice to the other party, either party may assign the Agreement to an Affiliate of such party or to a successor of all or substantially all of the assets of such party through merger, reorganization, consolidation or acquisition. No assignment shall relieve the assigning party of any of its obligations hereunder. Any attempted assignment, transfer or other conveyance in violation of the foregoing shall be null and void. This Agreement

- shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and permitted assigns.
- 16.7 This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit or remedy of any nature whatsoever, under or by reason of this Agreement.
- 16.8 Client and Trapp are responsible for the supervision, direction, control, and compensation of their respective personnel. Trapp reserves the right to determine the assignment of its personnel. Trapp may subcontract a Service, or any part of it, to subcontractors selected by Trapp in its sole discretion.
- 16.9 The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.
- 16.10 This Agreement may only be amended, modified or supplemented by an agreement in writing signed by each party hereto. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the party so waiving. Except as otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any rights, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof; nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.
- 16.11 If any term or provision of this Agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal or unenforceable, the parties hereto shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- 16.12 This Agreement shall be governed by and construed in accordance with the internal laws of the State of Arizona without giving effect to any choice or conflict of law provision or rule that would cause the application of Laws of any jurisdiction other than those of the State of Arizona. Any legal suit, action or proceeding arising out of or related to this Agreement or the Services provided hereunder shall be instituted exclusively in the federal courts of the United States or the courts of the State of Arizona in each case located in the city of Phoenix and County of Maricopa, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action or proceeding. Service of process, summons, notice or other document by mail to such party's address set forth herein shall be effective service of process for any suit, action or other proceeding brought in any such court.
- 16.13 EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.
- 16.14 Each party acknowledges that a breach by a party of Section 8 (Intellectual Property Rights) or Section 9 (Confidentiality) may cause the non-breaching party

irreparable damages, for which an award of damages would not be adequate compensation and agrees that, in the event of such breach or threatened breach, the non-breaching party will be entitled to seek equitable relief, including a restraining order, injunctive relief, specific performance and any other relief that may be available from any court, in addition to any other remedy to which the non-breaching party may be entitled at law or in equity. Such remedies shall not be deemed to be exclusive but shall be in addition to all other remedies available at law or in equity, subject to any express exclusions or limitations in this Agreement to the contrary.

16.15 In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party hereto against the other party arising out of or related to this Agreement, the prevailing party shall be entitled to recover its actual attorneys' fees and court costs from the non-prevailing party.

16.16 This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same agreement. A signed copy of this Agreement delivered by facsimile, e-mail or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

REVISION DATE: 11/22/2021