

## Master Service Agreement

2024.R1 | Last updated: January 2024

Uptime Systems, LLC (“Uptime”), and the undersigned party (“Client”) (collectively, the “Parties” or individually, a “Party”), hereby enter into this Master Service Agreement (this “Agreement”) in consideration of the mutual covenants and agreements set forth herein and in the corresponding Service Agreements. This Agreement and corresponding Service Agreements are effective and binding as of the date a signed copy from Client is returned to Uptime, without any changes hereto, or upon the continued use of the services following notice of any changes to this Agreement and/or corresponding Service Agreement. The Parties agree that this Agreement and corresponding Service Agreements are deemed to have been entered into and formed in Minnesota. This Agreement and corresponding Service Agreements contain the terms and conditions that govern the relationship between the Parties, and the Parties hereby mutually agree to be bound by these terms and conditions.

**1. Services.** The terms and conditions of this Agreement apply to all Services provided to Client by Uptime including, but not limited to, cloud services, hosting services, consulting and professional services, web site design and hosting services, web marketing services, computer system installation services, configuration services, migration services, troubleshooting services, Support Services, maintenance services, monitoring services, and other information technology services (“Services”). Each Service selected by Client is further subject to the terms and conditions of the corresponding Service Agreement applicable to that Service (“Service Agreement”). If there is a conflict between this Agreement and a Service Agreement, the terms and conditions of this Agreement shall control. Uptime will not be obligated to provide any Services other than those Services selected by Client to be performed pursuant to this Agreement and an applicable Service Agreement. Any Services not included in this Agreement or in a Service Agreement may be provided to Client at the sole discretion of Uptime, and may be subject to certain fees and expenses. Any changes to the Services are to be requested by Client in writing.

### 2. Confidentiality.

**2.1 Confidential Information.** The Parties acknowledge that during the course of performing this Agreement each Party may be exposed to Confidential Information of the other Party. “Confidential Information” means any information exchanged between the Parties that the other should reasonably consider to be confidential. The recipient of Confidential Information agrees to hold in confidence, and not to use any Confidential Information, except for the benefit of the discloser, or disclose any Confidential Information to any person or entity without the prior written authorization of the discloser. The recipient of Confidential Information will further take reasonable efforts to secure and protect such Confidential Information by instruction or agreement with its employees who are permitted to access Confidential Information in the performance of obligations under this Agreement.

**2.2 Exceptions.** The confidentiality and restriction on the use of Confidential Information under this Agreement shall not apply to Confidential Information to the extent that such Confidential Information: is now or hereafter becomes generally known or available to the public by means other than recipient’s breach of Section 2.1; was known to recipient without an obligation to hold it in confidence prior to the time such Confidential Information was disclosed to recipient by discloser; is disclosed or used, as applicable, with the prior written

consent of discloser and in accordance with any limitations or conditions on such disclosure or use that may be imposed in such written consent; was or is independently developed by recipient without any use of or reference to the Confidential Information; or becomes known by recipient through disclosure by a third party having the right to disclose the information, as evidenced by written or electronic records.

**2.3 Required Disclosure.** The confidentiality obligations under this Agreement shall not apply to Confidential Information to the extent that such Confidential Information is required to be disclosed pursuant to the order or requirement of a court, administrative agency, or other governmental authority, or otherwise by operation of applicable law. In the event of such order or requirement, recipient, if and to the extent permitted by law, shall give discloser written notice thereof and of the Confidential Information to be disclosed as soon as practicable prior to disclosure of such Confidential Information and shall provide such reasonable assistance as discloser may request, at discloser's sole expense, in seeking a protective order or other appropriate relief in order to protect the confidentiality of the Confidential Information.

### 3. Client Information.

**3.1 Unauthorized Access to Client Information.** Uptime will only access Client's information as required and/or necessary to perform Services. Uptime shall report in writing to Client any access of Client's information not authorized by this Agreement or in a separate writing by Client, including any reasonable belief that an unauthorized individual or third party accessed Client's information. Uptime's report shall identify: (a) the nature of the unauthorized access; (b) what information was accessed if identifiable; (c) what Uptime has done or will do to mitigate any deleterious effect of the unauthorized access of information; and (d) what corrective action Uptime has taken or will take to prevent future unauthorized access of information.

**3.2 Disclosure of Information.** Where Uptime is required to disclose Client's information consistent with an order of a court, administrative agency, or other governmental authority, Uptime will: (a) if practicable and permitted by law, notify Client prior to disclosure and as soon as possible after receipt of such order of both the existence of the order and the information sought by the order; (b) cooperate with Client (at Client's cost and expense) in the event that Client elects to legally contest, request confidential treatment, or otherwise attempt to avoid or limit such disclosure; and (c) notify Client immediately after disclosure of all facts relating to the disclosure including, but not limited to, the identity of the requesting body and what information was disclosed, if permitted by the judicial, administrative agency, or governmental authority.

**4. Ownership of Intellectual Property.** The Services and all intellectual property rights associated with the Services, including (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), mask works, 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 provided by applicable law in any jurisdiction throughout the world, are and shall remain the intellectual property of Uptime as between Uptime and Client.

**5. Fees & Expenses.**

**5.1 Service Fees & Expenses.** Client agrees to pay Uptime’s fees and expenses for Services as set forth herein, in corresponding Service Agreements, and Client’s Plan Documentation.

**5.2 Variable Storage, Users, Usage, & Service Details.** Charges for Services with variable elements, including but not limited to data storage, users, mailboxes, computers, and ad-spend, will automatically increase depending on Client’s usage. If Client adds additional elements to its account, or if during the course of a billing or service audit Uptime identifies additional elements on Client’s account, Client’s Plan Document (and associated service fees) will automatically increase to match usage. Uptime will not automatically reduce fees based on usage, Uptime requires written confirmation from client to decrease variable elements or any other services.

**5.3 Extended Service Fees.** Depending on the Services provided to Client, certain extended Service options and fees may be available. Extended Service fees are subject to change at Uptime’s discretion. Current extended Service fees can be found at the following website address: <http://www.uptimelegal.com/extended-service-fees>

**5.4 Migration, Onboarding, Project, & Design Fees.** Migration, onboarding, project and design fees are specific to each project and will be outlined in migration, project, or Plan Documentation. In the event the scope of the migration, onboarding, project or design changes, Client is responsible for any additional charges associated with the change in the migration, onboarding, project, or design. Migration, Onboarding, Project, and Design fees may be payable in one lump sum or amortized over a period of time (at 0% interest). The fee structure will be outlined in migration, project, or Plan Documentation.

**5.5 Taxes.** Client agrees to pay any excise, sales, use, intangibles, property, or other applicable taxes resulting from or based upon Services provided by Uptime. This provision shall not apply if Client is a governmental entity, unit of government, or other tax-exempt organization that is not required to pay any excise, sales, use, intangible, property, or other taxes resulting from or based upon Services provided by Uptime, provided proper verification of such tax-exempt status is provided to Uptime.

**5.6 Nexus Surcharge.** As a result of Uptime incurring additional costs and liabilities associated with providing Services in California, if Client’s billing address on file with Uptime is located in California, the following surcharge will be added to Client’s monthly invoices based on Client’s monthly plan charges:

Total Monthly Plan Charges			Nexus Surcharge
95	to	1,000	\$20
1,001	to	3,000	\$55
3,001	to	6,000	\$110
6,001	to	9,000	\$170
9,001	to	12,000	\$230
12,001	to	15,000	\$290
15,001	to	20,000	\$370

Client agrees to pay any surcharges included on Client’s monthly invoice as set forth in this section.

**5.7 Credit Card Surcharge Fee.** Uptime imposes a surcharge of 2.5% on the transaction amount for credit card payments. This is less than Uptime's cost of acceptance and less than maximum thresholds set by each card issuer.

**5.8 Changes.** Fees and expense set forth herein, in corresponding Service Agreements, and Client's Plan Documentation are subject to change by Uptime upon 30 days' notice to Client. Client's continued use of Services following the 30-day notice period will constitute acceptance of the change(s).

Any changes Client requests to its plan must be made in writing:

- Requests to cancel any service must be directed to [billing@uptimelegal.com](mailto:billing@uptimelegal.com).
- Day-to-day requests to add/remove users or other changes (not cancellations) can be submitted, in writing, to [support@uptimelegal.com](mailto:support@uptimelegal.com).
- Service downgrades (such as removing users, down grading service level, etc.) of 25% or more require 30-days' advance notice before billing will decrease.

**5.9 Down Payment.** Uptime may request a down payment before Uptime performs Services. Any down payment will be applied by Uptime for Services performed, or for hardware or materials, as may be applicable. Client acknowledges that a down payment will be required as follows:

- (a) for onboarding, migration, project, or setup Services. Client shall pay the down payment in one or more installment payments, as dictated by the Plan Documentation. In the event of multiple installment payments, the full outstanding balance will be immediately due upon cancellation by client or prior to engaging with Uptime on additional or subsequent project, setup, onboarding, or migration Services.
- (b) for Services outside the scope of covered Services as set forth in corresponding Service Agreements. Client shall pay 100% of the estimated cost of such Services as a down payment.

**Any down payment required from or made by Client is non-refundable.**

## 6. Invoicing & Payment; Service Suspension.

**6.1 Invoices.** All fees, expenses, and taxes for the Services will be invoiced to Client. Invoices will be processed and emailed to the billing contacts on file for Client or mailed to the address on file for Client on or about the 5th day of each month. Each invoice will reflect the current month's Service fee and expenses as set forth in each applicable Service Agreement, and the previous month's accrued fees, expenses, and taxes. All invoices are due and payable within 15 days of the date of each invoice. Client agrees to provide Uptime with credit card or checking account information to process monthly payments, and Client authorizes Uptime to process payment for Client's invoices using the credit card or checking account information provided. Uptime will automatically process payment for Client's invoices on or about the 20th of each month.

**6.2 Billing Disputes.** Each invoice provided to Client will be a determination of fees and expenses owed by Client to Uptime unless Client provides written notice to Uptime within 45 days of the date of the invoice that Client disputes the accuracy of the invoice. Any disputes must be submitted to Uptime's billing department, in writing, to [billing@uptimelegal.com](mailto:billing@uptimelegal.com). Client agrees that Client waives the right to dispute any fees or expenses on an invoice, or otherwise claim that the fee or expense is not owed to Uptime, if Client does not provide this written notice as set forth in this section, or if Client pays the invoice.

**6.3 Past-Due Invoices.** A Late Fee of \$75.00 will be assessed for administrative costs for each 30 days an Invoice is past due (“Late Fee”). The Late Fee will be added to the outstanding balance for that invoice. In the event that an invoice is 40 days past due, Client hereby authorizes Uptime to electronically process Client’s total outstanding balance via any credit card or checking account information for Client that Uptime has on file. If Uptime is unable to process payment for invoices that remain unpaid past 40 days from the date of the invoice, the invoice may be turned over to Uptime’s Legal Department for collection. Client hereby agrees to pay Uptime’s costs and expenses, including reasonable attorneys’ fees, associated with pursuing payment from Client, legal relief, and collection.

**6.4 Insufficient Funds.** An administrative charge of \$75.00 will be applied for any declined or returned payment such as (a) check from Client to Uptime that is returned by Client’s banking institution, or (b) credit card provided to Uptime for payment is declined.

**6.5 Service Suspension.** Uptime may suspend the Services if Client’s account is 40 days past due. Uptime may restore Services upon payment in full of the overdue balance, including all applicable finance and late charges, and may, in its sole discretion, require Client to pay in advance for future Services. Any suspension in Services will include suspending Client’s access to Uptime’s Services, including access to any applications and Client information, content, Data, or website stored within Uptime’s hosting infrastructure, as well as Uptime’s support and ongoing Services. Client acknowledges that any suspension of Services or termination of Client’s Account, as outlined above, could result in the inability to access Services and Client information, content, or Data. To the extent Client wishes to obtain or preserve Client information, content, or Data, Client agrees that it will make arrangements to obtain a copy of Client’s information, content, or Data, to transfer Client’s information, content, or Data, or to back-up Client’s information, content, or Data before Client’s account is 40 days past due and access to Client’s information, content, or Data is suspended. Client agrees that loss of access to Services and Client’s information, content, or Data after Client’s account is 40 days past due is reasonable; and that Client will not seek, and that Client is not entitled to, a temporary or permanent injunction as a result of loss of access to Services and Client information, content, or Data. Accounts suspended for 30 days or more are subject to termination at Uptime’s sole discretion. Suspension of Service shall constitute sufficient and proper notice that Client’s account is subject to termination 30 days from the date Client’s account is suspended. Except as otherwise provided in this Agreement or any Service Agreement, Uptime shall not have any obligation to maintain or store Client’s information, content, or Data, if Client fails to cure any material breach, including non-payment of past-due amounts. If Client’s information, content, or Data remains on Uptime’s system past the termination date, Client agrees that Uptime shall be entitled to recover fees and expenses equivalent to Client’s standard monthly plan rate as of the termination date for each month Client’s information, content, or Data remains on Uptime’s system.

**6.6 Reasonable Risk.** If Uptime determines in its sole discretion that there is reasonable risk of non-payment or late payment by Client, Uptime may suspend Services without notice to Client until payment arrangements have been made that are acceptable to Uptime, including but not limited to, the requirement that Client deposit a prepaid retainer in an amount necessary to cover the anticipated cost of future Services.

**7. Support Services.** Certain Support Services will be provided by Uptime’s Help Desk, which can be accessed by phone, email, or through Uptime’s website (“Support Services”). Uptime will make best-efforts to provide Support Services and resolve issues related to covered Services

included in corresponding Service Agreements. Support Services for issues not included in covered Services may be provided to Client at the sole discretion of Uptime, and may be subject to certain fees and expenses. Uptime does not guarantee that it can resolve each issue Client may encounter to Client's satisfaction. Uptime reserves the right to stop providing Support Services for a particular issue if Uptime determines that it cannot reasonably resolve the issue.

- 8. Completion Date Estimates.** Uptime will not provide completion date estimates unless specifically requested by Client in writing. Uptime makes no estimate of completion dates other than as may be expressly set forth in the Service Agreements. Any estimate provided by Uptime is merely an estimate made in good faith based on information furnished by Client and available to Uptime at the time the estimate is calculated. Estimates do not constitute an agreement by Uptime to complete Services by a certain date. All estimates are dependent on Client working with Uptime in a timely manner. Final completion dates may be later than previously estimated by Uptime.
- 9. Third-Party Vendor Disputes.** Any penalties, fees, attorneys' fees, costs, or damages assessed against Uptime by a Third-Party Vendor for Client's failure to abide by the terms and conditions of this Agreement, Service Agreements, or the terms and conditions of the Third-Party Vendor will be charged to Client and subject to payment as set forth herein. Any penalties, fees, attorneys' fees, costs, or damages assessed against Uptime by the Third-Party Vendor for Client's use of the Third-Party Vendor's software, regardless of whether the software was obtained with the assistance of Uptime, and regardless of whether the software is hosted on Uptime's systems, will be charged to Client and subject to payment as set forth herein. Uptime has the right to defend itself against any and all such claims brought by a Third-Party Vendor against Uptime, and any such penalties, fees, attorneys' fees, costs, and damages associated and/or incurred therewith will be charged to Client and subject to payment as set forth herein.

## **10. Term & Termination.**

- 10.1 Term.** The term for all Services is month-to-month unless stated otherwise in an applicable Service Agreement. The term for Services will automatically renew for successive terms unless terminated as set forth in this Agreement or Service Agreements. No Service can be temporarily suspended or put on hold by Client.
- 10.2 Termination.** Either Party may terminate this Agreement, Service Agreements, or Services for any reason with written notice to the other Party. Client must submit written notice specifically requesting to terminate services for termination to be effective as outlined in this subsection. With the exception of services provided pursuant to the JurisPage Service Agreement, the effective date of termination will be the end of the current term if requested in the written notice and written notice is provided at least 30 days prior to the expiration of the current term, otherwise termination will be effective as of 12:00 PM Central Time on the last business day of the next full month after receipt of written notice of termination. Written notice of termination to Uptime under this subsection must be sent via email to the following email address: [billing@uptimelegal.com](mailto:billing@uptimelegal.com). Uptime may further terminate this Agreement, Service Agreements, or Services effective on the last business day of the current month if Client fails to cooperate with Uptime, impedes Uptime's ability to execute the Services, is in breach of this Agreement, any Service Agreements, or any terms and conditions imposed by a Third-Party Vendor, or ceases its



business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within 90 days.

**10.3 Fees & Costs Upon Termination.** Upon written notice of termination by either Party for any reason, the remaining monthly Service fees and any outstanding, unpaid migration, onboarding, project, or design fees owed under applicable Service Agreements through the end of the term will become immediately due and payable, regardless of how much work has or has not been completed. Uptime may automatically charge Client for the remaining amount owed through the remainder of the term, regardless of whether Services will be performed through the end of the term. In the event of termination, Uptime will not perform any extended services until payment for the remaining monthly Service fees owed through the end of the term is received, and prepayment is received for any requested extended services. Extending the termination date with less than 10-days notice may result in an Extended Service Fee (Termination Extension Fee; <https://www.uptimelegal.com/extended-service-fees/>).

To the extent this subsection 10.3 regarding fees and costs upon termination is inconsistent with section 6 of the JurisPage Service Agreement regarding termination, the terms of the JurisPage Service Agreement section 6 shall control.

**10.4 Effect of Termination.** Termination will be effective as of 12:00 PM Central Time on the last business day of the month. Client will have no further access to Services, information, content, or Data at that time. It is Client's sole responsibility, at Client's cost, to have all information, content, and Data out of Uptime's systems prior to that time. Upon written request from Client, and at Uptime's sole discretion, Uptime may assist Client in retrieving or transferring Client's information, content, or Data, provided Client timely requests Uptime's assistance and prepays estimated fees and expenses associated therewith. Uptime's assistance may be limited and is dependent upon the specific Services selected by Client and the type of information, content, or Data to be transferred. No termination will have the effect of releasing Client from paying all outstanding fees, expenses, and taxes owed. Upon termination Client agrees that Uptime is not responsible for retaining or hosting Client's information, content, Data, or Website for any length of time beyond the term.

**11. Warranties.** Uptime warrants that the Services will be provided in a professional manner, and in conformity with generally accepted industry standards applicable to such Services. Client must report any deficiencies in the Services to Uptime in writing, to [billing@uptimelegal.com](mailto:billing@uptimelegal.com) within 30 days of when deficiencies in the Services occurred in order to receive warranty remedies. If deficiencies are not reported in writing within 30 days of when the deficiencies in the Services occurred, Client waives its right to any remedy for those deficiencies. Client's exclusive remedy for breach of warranty with respect to the Services, and Uptime's entire liability for such breach, will be re-performance of the Services. Client agrees that it will timely cooperate with Uptime to enable Uptime to re-perform the Services. If Client terminates Services or prevents or otherwise inhibits Uptime's ability to re-perform the Services, then Client waives its right to its exclusive remedy of re-performance of the Services. If the deficiencies in Services are such that Uptime is unable to re-perform the Services as warranted, Client will be entitled to recover fees paid to Uptime for the deficient Services in an amount not to exceed the total amount actually paid by Client to Uptime for the month in which the Services were deficient. **UPTIME EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED,**

**INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, ACCURACY, AND NON-INFRINGEMENT TO THE EXTENT PERMITTED BY APPLICABLE LAW. UPTIME MAKES NO WARRANTY THAT: (A) THE SERVICES WILL MEET CLIENT'S REQUIREMENTS; (B) CLIENT'S USE OF THE SERVICES WILL BE TIMELY, UNINTERRUPTED, OR ERROR-FREE; OR (C) ANY DEFECTS OR ERRORS IN THE SERVICES WILL BE CORRECTED.**

## **12. Limitation of Liability.**

**12.1 Limitation of Liability. UPTIME'S TOTAL LIABILITY TO CLIENT, WHETHER BASED ON CLAIMS OR THEORIES UNDER THIS AGREEMENT OR A SERVICE AGREEMENT, OR BASED ON ANY OTHER CLAIM OR THEORY, WHETHER ARISING UNDER STATUTE, COMMON LAW, OR OTHERWISE, WILL BE LIMITED TO THE MONTHLY RECURRING PAYMENTS ACTUALLY RECEIVED BY UPTIME FROM CLIENT UNDER THIS AGREEMENT, IF ANY, DURING THE MONTH OF THE EVENT THAT GAVE RISE TO ANY LIABILITY. IN NO EVENT WILL UPTIME BE LIABLE TO CLIENT FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, LOST REVENUES, LOSS OF USE, LOSS OF DATA, OR LOSS OF GOODWILL OR REPUTATION, OR THE COSTS OF PROCURING SUBSTITUTE SERVICES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE USE OR OPERATION OF SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED UPON BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE AND EVEN IF SUCH DAMAGES WERE OR ARE FORESEEABLE. Client acknowledges that information technology security is a dynamic field and agrees that it will not hold Uptime responsible for failure to discover all security risks and issues. If security services are provided under this Agreement, Uptime makes no warranty, guarantee or representation, express or implied, that all security threats and vulnerabilities can or will be detected or that performance of the Services will render Client's systems invulnerable to security breaches. Client shall be responsible for Client's own network security policy and procedures. Client acknowledges that any operation to its HOSTED OR ON-PREmise computer infrastructure, even routine operations including but not limited to system or software updates, hardware updates, patches and service packs, configuration changes, and reboots, comes with some level of risk of outage, system failure, downtime, and loss of Data. UPTIME SHALL NOT BE LIABLE FOR ANY OUTAGES OR SYSTEM FAILURES THAT OCCUR DURING ROUTINE OPERATIONS. UPTIME WILL WORK WITH CLIENT TO REPAIR SUCH OUTAGES OR SYSTEM FAILURES AT STANDARD HOURLY RATES, AS APPLICABLE FOR THE SERVICES BEING PERFORMED. Client acknowledges that performance of the Services may be affected by transmission or capacity limitations of internet or other telecommunications providers, and that such limitations are beyond Uptime's control. Uptime shall have no liability to Client or any third party for claims that arise from or are related to such limitations.**

**12.2 Third-Party Products.** If Uptime provides a recommendation of hardware, software, or materials produced by a third party, or has been engaged by Client to install, implement, integrate, maintain, or upgrade a third-party software program, application, service,



hardware component, and/or related material (collectively “Third-Party Products”), Client acknowledges that Uptime is not the author, developer, or manufacturer of such Third-Party Products, but instead has been retained by Client to provide, install, implement, integrate, maintain or upgrade, as the case may be, such Third-Party Products in Client’s current computing environment. As such, Client agrees that Uptime will not be liable for any defects, flaws, programming errors, inefficiencies, or malfunctions in any Third-Party Products, for any lack of functionality in or non-performance of the Third-Party Products, for any problems or deficiencies from Uptime’s work with Third-Party Vendors, or for any problems or deficiencies associated with a recommendation of a Third-Party Product or referral to a Third-Party Vendor. Client agrees: (a) that its exclusive remedies with respect to any Third-Party Products will be against the Third-Party Vendor or provider thereof (“Third-Party Vendor”); (b) not to assert against Uptime any claim based on or related to Client’s use of any Third-Party Products, work performed by Uptime with a Third-Party Vendor, or any problems or deficiencies associated with a recommendation of a Third-Party Product or referral to a Third-Party Vendor; (c) that its use of Third-Party Products will be governed solely by the terms of Client’s license agreement(s) with Third-Party Vendor and/or the terms and conditions maintained by the Third-Party Vendor; and (d) to indemnify and defend Uptime for any claims or demands asserted against Uptime by a Third-Party Vendor in connection with any claims or demands Client may assert against that vendor.

**13. Indemnification.** Each Party agrees to indemnify and hold harmless the other from and against any damages, costs, and expenses, including reasonable attorneys’ fees, awarded against or incurred by a Party arising out of the other Party’s breach of this Agreement, Service Agreements, or any negligent or willful misconduct of the other Party. In the event that Client or any entity under the reasonable control of Client causes damage to property belonging to Uptime, Client agrees to compensate Uptime for the property’s full replacement value.

#### **14. Miscellaneous Provisions.**

**14.1 Definitions.** Any words with initial capital letters, that are not proper names, are as defined in this Agreement. Any word in the singular shall mean the plural, and the plural the singular.

**14.2 Survival.** Sections 2, 3, 4, 5, 6, 9, 10, 11, 12, 13, and 14 will survive any breach or termination of this Agreement.

**14.3 Non-Assignment.** Client may not assign this Agreement, in whole or part, without the prior written consent of Uptime. This Agreement will inure to the benefit of, and be binding upon, the Parties hereto, and their successors and assigns.

**14.4 Severability.** It is the desire and intent of the Parties hereto that the provisions of this Agreement be enforced to the fullest extent permissible under the laws and policies applied in each jurisdiction in which enforcement is sought. If any provision of this Agreement is held to be contrary to law, that provision will be amended to the maximum extent enforceable under the law, or if such amendment is not possible, that provision will be deemed severed from the balance of this Agreement and the balance of this Agreement shall remain in force between the Parties.

**14.5 Force Majeure; Delays.** Neither Party will be held responsible for any delay or failure in performance of any part of this Agreement to the extent that such delay is caused by

events or circumstances beyond the delayed Party's reasonable control. In addition, Uptime shall not be held responsible for any delays by a third party involved in providing migration services to Client. Such causes include, by way of example and not limitation, technical failures or difficulties, problems or interruptions with the internet, computer viruses, fire, snow storms, hurricanes, or other acts of God, political insurrection or problems arising from federal, state, or local authorities, labor disputes, strikes, or any other cause or causes beyond a Party's reasonable control.

- 14.6 No Waiver.** The waiver of a breach of any provision of this Agreement by a Party shall not operate or be construed as a waiver of any subsequent breach.
- 14.7 Entire Agreement.** This Agreement together with corresponding Service Agreements and Plan Documentation, constitute the entire agreement between the Parties with respect to its subject matter and supersedes all prior agreements, proposals, negotiations, representations or communications relating to the subject matter herein. Client acknowledges that they have not been induced to enter into this Agreement or any Service Agreements by any representations or promises not specifically stated herein.
- 14.8 Choice of Law; Exclusive Jurisdiction & Venue; Enforcement.** The internal laws, without regard to conflict of laws principles, of the State of Minnesota will exclusively govern all questions concerning the formation, construction, validity, and interpretation of this Agreement and the performance of the obligations imposed by this Agreement. The Parties agree that any legal proceeding or dispute arising out of or in connection with this Agreement, or any other legal proceeding or dispute between the Parties, will be brought in state or federal court in Hennepin County, State of Minnesota, and each Party consents to the exclusive jurisdiction and exclusive venue of such courts.
- 14.9 Costs of Enforcement.** In any proceeding to enforce the terms of this Agreement, or in any proceeding involving a dispute between Uptime and Client, the prevailing party shall be entitled to recover from the other party its costs and expenses, including reasonable attorneys' fees, including its costs, expenses, and reasonable attorneys' fees associated with collection.
- 14.10 Notices.** Notices. Any notice required or permitted to be given to Client under this Agreement shall be sufficient and effective: on the day of electronic transmission to any email address Uptime has on file for Client; three days after the date of deposit of mail, postage prepaid, into the United States Postal Service to the address Uptime has on file for Client; or on the day of personal or courier delivery. Client agrees to update Uptime of any changes to Client's address or email addresses. Client's failure to update Uptime of any changes to Client's address or email addresses, or Client's failure to receive an electronic transmission sent to an email address on file with Uptime, will not render notice ineffective. Any notice required or permitted to be given to Uptime under this Agreement shall be sufficient and effective: on the day Uptime confirms receipt of electronic transmission to the following email address [billing@uptimelegal.com](mailto:billing@uptimelegal.com); three days after the date of deposit of certified mail, return receipt requested, postage prepaid, into the United States Postal Service to the address for Uptime's corporate office; or on the day of personal or courier delivery to an officer or registered agent of Uptime.
- 14.11 Headings.** Section and subsection headings are not to be considered part of this Agreement, are included solely for convenience, and are not intended to be full or accurate descriptions of the content thereof.
- 14.12 No Agency.** The Parties are independent contractors. This Agreement does not create an agency, partnership, or joint venture.

**14.13 Introductory Statement.** The introductory statement is incorporated herein as a term and condition of this Agreement.

**14.14 Updates to Terms & Conditions.** Uptime reserves the right to routinely update, amend, or change this Agreement, Service Agreements, and Client’s Plan Documentation. Upon such change, Uptime will notify Client. A new Agreement will be posted at the following website address: <http://www.uptimelegal.com/forms>. New Service Agreements will be posted at the following website address: <http://www.uptimelegal.com/forms>. Client has 30 days to review the new Agreement, Service Agreements, and/or Plan Documentation. Unless Client terminates this Agreement as provided for herein during the 30-day review period, Client will thereafter be bound to the new Agreement, Service Agreements, and/or Plan Documentation.

**Signature**

I agree to all terms in this Master Service Agreement and corresponding Service Agreements.

Company Name (“Client”)	
Signed By	
Signature	
Date	