

MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT (“Agreement”) is entered into between 8bitstudio Design LLC (“8bitstudio”), with its principal place of business located at 720 Century Ave. SW, Suite 114, Hutchinson, Minnesota 55350 and the undersigned (“Client”) and shall be effective as long as Client utilizes 8bitstudio’s services and/or owes for services provided.

1. Scope of Services.

8bitstudio will provide the services as set forth in the scope of the agreed to Statement(s) of Work. Services will be provided according to the terms described in such Statement(s) of Work and Exhibit B hereto (“Services”). Client agrees to comply with Exhibit C, the Acceptable Use Policy. The Statement(s) of Work and Exhibits are incorporated by reference and made part of this Agreement.

2. Fees and Payment Terms.

- (a) In exchange for the Services performed by 8bitstudio, Client agrees to compensate 8bitstudio at the rate set forth in Client’s Statement(s) of Work. Such rates are exclusive of any federal, state, or local sales or use taxes, or any other taxes or fees assessed on, or in connection with any of the Services rendered herein. Client will pay all undisputed invoices within thirty (30) days of receipt thereof.
- (b) In addition, Client shall reimburse 8bitstudio’s actual out-of-pocket expenses as reasonably incurred by 8bitstudio in connection with the performance of Services. Reasonable additional expenses for materials, services, training and hardware may be incurred by 8bitstudio and charged to Client.
- (c) A late charge of a compound interest rate of one and a half percent (1.5%) per month, or the legal maximum if less, shall accrue on past due billings unless Client notifies 8bitstudio of a billing dispute in writing prior to the payment due date. Client shall be responsible for any costs incurred by 8bitstudio in the collection of unpaid invoices including, but not limited to, collection and filing costs and attorney’s fees.

3. Term and Termination.

- (a) The term of this Agreement shall commence on the date Client signs below and shall continue on a month-to-month basis indefinitely until terminated by either party upon at least sixty (60) days prior written notice to the other party (the “Term”).
- (b) In the event that there is a continuing need for any Services, after the expiration of this Agreement and Client requests, in writing, to have 8bitstudio complete the Services, this Agreement will automatically renew for the period of time that it takes for the completion of such Services.

- (c) The Agreement can be terminated for cause, as defined in paragraph 3(d) herein, at any time provided the alleged breaching party is provided an opportunity to cure the alleged breach in the manner set forth in paragraph 3(e) below or a Permitted Delay, as defined in paragraph 3(h) herein, does not apply.
- (d) Termination for Cause: If either party believes that the other party has failed in any material respect to perform its obligations under this Agreement (including any Exhibits or Amendments hereto), then that party may provide written notice to the other pursuant to the notice provision herein describing the alleged failure in reasonable detail. If the alleged failure relates to a failure to pay any sum due and owing under this Agreement or if Client makes an unauthorized solicitation of an 8bitstudio employee under the provisions of paragraph eight (8) herein, the breaching party shall have ten (10) business days after notice of such failure to cure the breach. If the breaching party fails to cure within ten (10) business days, then the non-breaching party may immediately terminate this Agreement, in whole or in part, for cause by providing written notice to the management representative of the breaching party. With respect to all other defaults, if the breaching party does not, within thirty (30) calendar days after receiving such written notice, either (a) cure the material failure or (b) if the breach is not one that can reasonably be cured within thirty (30) calendar days, then the non-breaching party may terminate this Agreement, in whole or in part, for cause by providing written notice to the management representative of the breaching party.
- (e) Payments Due: The termination of this Agreement shall not release either party from the obligation to make payment of all amounts then or thereafter due and payable.
- (f) Permitted Delays: Each party hereto shall be excused from performance hereunder for any period and to the extent that it is prevented from performing any Services pursuant hereto in whole or in part, as a result of delays caused by the other party or an act of God, or other cause beyond its reasonable control and which it could not have prevented by reasonable precautions, including failures or fluctuations in electric power, heat, light, air conditioning or telecommunication equipment, and such nonperformance shall not be a default hereunder or a ground for termination hereof. 8bitstudio's time of performance shall be enlarged, if and to the extent reasonably necessary, in the event: (i) that Client fails to submit information, instructions, approvals, or any other required element in the prescribed form or in accordance with the agreed upon schedules; (ii) of a special request by Client or any governmental agency authorized to regulate, supervise, or impact 8bitstudio's normal processing schedule; (iii) that Client fails to provide any equipment, software, premises or performance called for by this Agreement, and the same is necessary for 8bitstudio's performance hereunder. 8bitstudio will notify Client of the estimated impact on its processing schedule, if any.
- (g) Upon termination of this Agreement for any reason or upon expiration of the Term, the rights and obligations of the parties under paragraphs 5, 6, 7, 9, 10, 11, 12, 14, 15, 16, 17 and 18 shall survive any termination or expiration of the Term.

4. Change Orders or Out of Scope Services.

To the extent that Client requires or requests additional services or services that exceed the agreed upon Services, 8bitstudio will charge an additional fee for such additional services or out of scope work. Fees for such additional services or out of scope work will be set forth on a Change Authorization Order (CAO), which will also provide a description of the changed or additional service(s) being requested. Once a CAO is signed by both parties, it will be incorporated into the Agreement.

5. No Joint Venture.

Nothing within this Agreement shall be construed to create a joint venture, partnership, agency, or other employment relationship between the parties.

6. Confidential Information.

- (a) Client hereby agrees to not disclose or communicate, in any manner, either during the term of this Agreement or for a period continuing three (3) years after the termination of this Agreement, any information about 8bitstudio, its operations, business model, practices, or any other information of any kind Client obtains through its work with 8bitstudio related to this Agreement, including but not limited to, information about SEO and website optimization techniques and strategies, best practices, methods, bidding practices, project information, technological information or algorithms, 8bitstudio's customers, or any other information of any kind which would be deemed confidential, a trade secret, a customer list, or other form of proprietary information of 8bitstudio. Client acknowledges that the above information is material and confidential and that it affects the profitability of 8bitstudio. Client further agrees that it shall make no attempts nor assist any other parties in attempting to download, transfer, print or otherwise transfer, or print, or copy any of 8bitstudio's confidential information or trade secrets nor shall Client knowingly permit others to do so.
- (b) In no event shall Client use 8bitstudio's Confidential Information to reverse engineer or otherwise develop products or services functionally equivalent to the products or services of the Owner.
- (c) The following shall not be considered Confidential Information for purposes of this Agreement: (a) Information which is or becomes in the public domain through no fault or act of the receiving party; (b) Information which was independently developed by the receiving party without the use of or reliance on the disclosing party's Confidential Information; (c) Information which was provided to the receiving party by a third party under no duty of confidentiality to the disclosing party; or (d) Information which is required to be disclosed by law with no further obligation of confidentiality, provided, however, prompt prior notice thereof shall be given to the party whose Confidential Information is involved.

- (d) The parties agree that the disclosure of any of the foregoing Confidential Information by either party shall give rise to irreparable injury to the owner of the Confidential Information, inadequately compensable in monetary damages. Accordingly, the non-disclosing party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies which may be available.

7. Nonsolicitation of Employees.

Client will not, either directly or indirectly (except through 8bitstudio) solicit, hire, or contract with any 8bitstudio employee during the term of this Agreement and for a one (1) year period following termination thereof (hereafter the "Nonsolicitation Term"). In the event that Client desires to directly hire any 8bitstudio employee during the Nonsolicitation Term, Client must first seek 8bitstudio's consent to directly hire the employee and to speak with the 8bitstudio employee about the employment opportunity. In the event that 8bitstudio grants Client the option to directly hire an 8bitstudio employee, and the 8bitstudio employee accepts an offer of employment from Client, the parties shall discuss issues related to the employee's transition to Client. The employee's start date will be mutually agreed upon by Client and 8bitstudio in writing. Provided the parties agree to the 8bitstudio employee's transition terms, Client shall pay 8bitstudio a placement fee of no less than 20% of offered salary prior to the 8bitstudio employee commencing work as an employee of Client. Unless the parties agree otherwise, Client shall not directly hire more than two 8bitstudio employees during the Nonsolicitation Term. If Client hires an 8bitstudio employee without first obtaining the consent of 8bitstudio, Client shall pay 8bitstudio a liquidated damage equal to 100% of the employee's fair market salary, as determined by 8bitstudio in its sole discretion. This provision is considered a material term that allows for accelerated termination rights under paragraph 14 of this Agreement.

8. Client Responsibilities.

In addition to any obligations and responsibilities described in the Statement of Work or elsewhere in this Agreement, Client shall have shared responsibility with 8bitstudio regarding the following:

- (a) To ensure that the necessary business and application knowledge is available and conveyed from the Client's existing support team to 8bitstudio's support team.
- (b) Provide ready access to all appropriate computing platforms, documentation (e.g., program source, copybooks, tables, subroutines) and personnel (i.e., end Clients and technical representatives) necessary to fully understand the current business systems and environments throughout the life of the engagement.
- (c) Provide at its facility, office space and equipment for 8bitstudio's on-site employees. Access will also be provided to the Client's source libraries, test systems, and test data.

- (d) Provide external communications capability and/or access to its work facility to enable 8bitstudio's on-site project team to access the Client's information technology system for after hours or weekend Services as required.
- (e) Client shall assign an employee or representative to be present at the work facility for any after hours or weekend Services provided by 8bitstudio. In the event that Client declines or fails to assign an employee or representative to be present during such hours, Client waives any and all claims for any property damage or loss that occurs during such time that 8bitstudio's employee(s) is on the Client's work facility.
- (f) Provide passwords and job numbers to 8bitstudio employees as needed.
- (g) Client hereby warrants to 8bitstudio, and agrees that during the term of this Agreement it will ensure that: (a) Client is the owner or valid licensee of all data and/or content uploaded in conjunction with the Services (the "Content"), and that Client has secured all necessary licenses, consents, permissions, waivers and releases for the use of content and each element thereof, including without limitation, all trademarks, logos, names and likenesses contained therein, without any obligation by 8bitstudio to pay any fees, residuals, guild payments or other compensation of any kind to any person; (b) Client's use, publication and display of the Content will not infringe any copyright, patent, trademark, trade secret or other proprietary or intellectual property right of any person, or constitute a defamation, invasion of privacy or violation of any right of publicity or any other right of any person, including, without limitation, any contractual, statutory or common law right or any "moral right" or similar right however denominated; (c) Client will comply with all applicable laws, rules and regulations regarding the Content and will use the services only for lawful purposes; (d) Client has used its best efforts to ensure that the Content is and will at all times remain free of all computer viruses, worms, Trojan horses and other type of malicious code.

9. Warranty of Services.

8bitstudio warrants that all Services performed pursuant to this Agreement will be performed in accordance with the general standards and practices of the information technology industry in existence at the time the Services are being performed. IN THE EVENT THAT THERE IS NO WARRANTY SET FORTH IN THE SOW, THE FOREGOING EXPRESS LIMITED WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES AND CONDITIONS EXPRESSED OR IMPLIED, ORAL OR WRITTEN, CONTRACTUAL OR STATUTORY, INCLUDING BUT NOT LIMITED TO ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE TO THE EXTENT APPLICABLE.

10. Limitation of Liability.

Client agrees that 8bitstudio shall not be liable to Client, or any third party, for (1) any liability claims, loss, damages or expense of any kind arising directly or indirectly out of services provided herein for (2) any incidental or consequential damages, however caused, and Client agrees to indemnify and hold 8bitstudio harmless against such liabilities, claims, losses, damages

(consequential or otherwise) or expenses, or actions in respect thereof, asserted or brought against 8bitstudio by or in right of third parties or for (3) any punitive damages. For purposes of this Agreement, incidental or consequential damages shall include, but not be limited to, loss of anticipated revenues, income, profits or savings; loss of or damage to business reputation or good will; loss of Clients; loss of business or financial opportunity; or any other indirect or special damages of any kind categorized as consequential or incidental damages under the law of the State of Minnesota. 8bitstudio's liability for any damages hereunder shall in no event exceed the amount of fees paid by Client to 8bitstudio as of the date the alleged damages were incurred.

11. Indemnification.

Client agrees and understands that it shall defend, indemnify and hold harmless the 8bitstudio, its owners, employees, agents and other related parties, from any and all claims, damages, expenses or liability resulting from or arising out of, any of the work conducted by 8bitstudio in furtherance of providing the Services set forth in this Agreement. Such indemnification shall include defending 8bitstudio, by payment of attorney's fees for the attorney of 8bitstudio's choosing, in any litigation relating to any work performed by 8bitstudio or arising as a result of any claim, judgment, demand or adjudication against 8bitstudio, including but not limited to claims arising from (a) any photographs, illustrations, graphics, audio clips, video clips, text, data or any other information, content, display, or other material (whether written, graphic, sound, or otherwise) provided by Client to 8bitstudio (the "Client Content"), or (b) a claim that 8bitstudio's use of the Client Content infringes the intellectual property rights of a third party. To qualify for such defense and payment, 8bitstudio must: (i) give Client prompt written notice of a claim; and (ii) allow Client to cooperate with 8bitstudio in the defense and all related negotiations.

12. Ownership of Intellectual Property.

- (a) Client hereby grants to 8bitstudio a non-exclusive, royalty-free, worldwide right and license during the term of this Agreement to do the following to the extent necessary in the performance of Services: (a) digitize, convert, install, upload, select, order, arrange, compile, combine, synchronize, use, reproduce, store, process, retrieve, transmit, distribute, publish, publicly display, publicly perform and hyperlink the Content; and (b) make archival or back-up copies of the Content. Except for the rights expressly granted herein, 8bitstudio does not acquire any right, title or interest in or to the Content, all of which will remain solely with Client.
- (b) Any feedback, data, answers, questions, comments, suggestions, ideas or the like that Client sends to 8bitstudio relating to the Services will be treated as being non-confidential and non-proprietary. 8bitstudio may use, disclose or publish any ideas, concepts, know-how or techniques contained in such information for any lawful purpose.
- (c) 8bitstudio's trademarks, trade names, service marks, logos, other names and marks, and related product and service names, design marks and slogans are the sole and exclusive property of 8bitstudio. Client will not use any of the foregoing in any advertising, publicity or in any other commercial manner without the prior written consent of

8bitstudio. 8bitstudio will maintain and control ownership of all Internet protocol numbers and addresses that may be assigned by 8bitstudio to Client. 8bitstudio may, in its sole discretion, change or remove any and all such Internet protocol numbers and addresses.

- (d) 8bitstudio hereby grants to Client a non-exclusive, non-transferable, royalty-free license, for the term of this Agreement, to use the provided technology solely for the purpose of accessing and using the Services. Client may not use the provided technology for any purpose other than accessing and using the Services. Except for the rights expressly granted herein, this Agreement does not transfer from 8bitstudio to Client any right, title or interest in and to the provided technology, and all right, title and interest thereto will remain solely with 8bitstudio. Client will not, directly or indirectly, reverse engineer, decompile, disassemble or otherwise attempt to derive source code or other trade secrets from any of the provided technology.

13. Non-assignment.

Neither party will assign this Agreement, in whole or in part, without the prior written consent of the other party. This Agreement will inure to the benefit of, and be binding upon the parties hereto, together with their respective legal representatives, successors, and assigns, as permitted herein.

14. Severability.

If any term of this Agreement is found to be unenforceable or contrary to law, it will be modified to the least extent necessary to make it enforceable, and the remaining portions of this Agreement will remain in full force and effect.

15. No Waiver.

The waiver by any party of any breach of covenant will not be construed to be a waiver of any succeeding breach or any other covenant. All waivers must be in writing, and signed by the party waiving its rights. This Agreement may be modified only by a written instrument executed by authorized representatives of the parties hereto.

16. Force Majeure.

Neither party will be liable to the other for failure to perform its obligations hereunder if and to the extent that such failure to perform results from causes beyond its control, including and without limitation: strikes, lockouts, or other industrial disturbances; civil disturbances; fires; acts of God; acts of a public enemy; compliance with any regulations, order, or requirement of any governmental body or agency; or inability to obtain transportation or necessary materials in the open market.

17. Notice.

All notices, elections, payments or other communications to be sent to the parties hereto shall be addressed and sent by U.S. certified or registered mail, return receipt requested, postage prepaid or fax with written confirmation, as follows:

EXHIBIT B: SERVICE LEVEL AGREEMENT

THIS SERVICE LEVEL AGREEMENT (“SLA”) sets forth the details regarding the level of service and technical support that apply when your account is in good financial standing.

1. Hosting Service Level Agreement.

- (a) For purposes of this SLA, a Unit of Downtime is one period of at least 4 hours during which access to your website is unavailable because of problems with hardware or system software. Downtime does not include (i) problems caused by factors outside of our reasonable control, (ii) problems resulting from any actions or inactions by you or any third party, (iii) problems resulting from your equipment and/or third-party equipment not within our sole control, or (iv) network unavailability during scheduled maintenance of our network and/or web servers.
- (b) In any calendar month, 8bitstudio guarantees that Downtime will not exceed 8 hours per 2 Units of Downtime excluding, however, regularly scheduled maintenance. Most regularly scheduled maintenance will be performed during the hours of 12:00 Midnight and 4:00 AM CST. 8bitstudio will work to ensure the functioning of all web servers through continuous monitoring by our staff.
- (c) If Downtime exceeds 8 hours per 2 Units of Downtime in any calendar month, 8bitstudio will, upon Client’s written request, credit Client’s account (a “Downtime Credit”) in an amount equal to the pro-rata price for one (1) day of service, for each instance of Downtime as that term is defined herein.
- (d) To receive Downtime Credit, Client must request such credit by sending an email to support@8bitstudio.com within seven (7) days after the occurrence of Downtime. The aggregate maximum number of Downtime Credits to be issued for any and all instances of Downtime occurring in a single calendar month will not exceed seven (7) Downtime Credits. Downtime Credits will be applied upon issue of the first invoice following the request for Downtime Credit, unless the Downtime occurs in Client’s final month of service. In such case, a refund for the dollar value of the Downtime Credit will be mailed to you within thirty (30) days of the expiration of the Agreement.

2. Other Services.

Other services including, but not limited to, consulting, web development, internet marketing, digital advertising, graphic design and domain renewals will be performed in a workmanlike manner, and in conformity with generally prevailing industry standards. Client must report any material deficiencies in the Services to 8bitstudio in writing within ninety (90) days of Client’s discovery of the deficiency. Client’s exclusive remedy for a breach will be the re-performance of the defective services within a commercially reasonable time, or any service credit set forth in any attachments to this agreement. 8bitstudio is not responsible for (i) problems caused by

factors outside of our reasonable control, (ii) problems resulting from any actions or inactions by you or any third party, (iii) problems resulting from Client's equipment and software and/or third-party equipment and software not within our sole control, or issues resulting from a divergence in project scope as written in the agreed to Statement(s) of Work.

3. Technical Support.

- (a) A member of our technical support help desk staff will be available to assist you with problems and questions regarding the hosting and other services. 8bitstudio will supply telephone and/or email support to you regarding the services between 8:30 AM and 5:30 PM CST. 8bitstudio provides after hours, holiday and weekend support for a premium rate of \$270/hour. If Client requires after hours support for emergencies, please contact 612-208-8248.
- (b) Client may contact our support team by emailing support@8bitstudio.com, or by telephone at 612-208-8248. 8bitstudio may, from time to time, develop additional methods for you to contact 8bitstudio's support team, and will make information regarding such methods available at our website.

EXHIBIT C: ACCEPTABLE USE POLICY

THIS ACCEPTABLE USE POLICY sets forth guidelines relating to the types of content that CLIENT may transmit to or from web and email servers under Client's Agreement with 8bitstudio for services (the "Services"). 8bitstudio may remove any materials that, in its sole discretion, may be illegal, may subject it to liability, or which may violate this Acceptable Use Policy. 8bitstudio will cooperate with legal authorities in the investigation of any suspected or alleged crime or civil wrong arising from any use of the Services. Client's violation of this Acceptable Use Policy may result in the suspension or termination of either your access to the Services and/or your account or other actions as detailed in the Services Agreement. 8bitstudio reserves the right, in our sole discretion, to update this policy from time to time.

1. Acceptable Use.

The following constitute violations of this Acceptable Use Policy:

- Using the Services to transmit or post any material that contains or contains links to nudity, pornography, adult content, sex, or extreme violence.
- Using the Services to transmit or post any material that, intentionally or unintentionally, violates any applicable local, state, national or international law, or any rules or regulations promulgated thereunder.
- Using the Services to harm, or attempt to harm, minors in any way.
- Using the Services to transmit or post any material that harasses, threatens or encourages bodily harm or destruction of property.
- Using the Services to make fraudulent misrepresentations or offers including, but not limited to, offers relating to "pyramid schemes" and "Ponzi schemes."
- Using the Services to access, or to attempt to access, the accounts of others, or to penetrate, or attempt to penetrate, security measures of 8bitstudio, or another entity's computer software or hardware, electronic communications system or telecommunications system, whether or not the intrusion results in the corruption or loss of data.
- Using the Services to transmit or post any material that infringes any copyright, trademark, patent, trade secret or other proprietary rights of any third party, including, but not limited to, the unauthorized copying and/or distribution of copyrighted material, the digitization and distribution of photographs from magazines, books, music, video or other copyrighted sources, and the unauthorized transmittal of copyrighted software.
- Using the Services to collect, or attempt to collect, personal information about third parties without their knowledge or consent.
- Reselling the Services without the prior written authorization of 8bitstudio.
- Using the Services for any activity that adversely affects the ability of other people or systems to use the Services or the Internet. This includes but is not limited to "denial of service" (DoS) attacks against another network 8bitstudio or individual Client. Interference with or disruption of other network Clients, network services or network equipment is prohibited.

2. Reporting of Violations of This Acceptable Use Policy.

8bitstudio requests that anyone who believes that there has been a violation of this Acceptable Use Policy to immediately send an email detailing such violation to support@8bitstudio.com.