



Master Consulting Agreement

This Agreement is made this [List Date] by and between Cloud Sherpas ("Cloud Sherpas") with offices at 52-54 Stamford Street London SE1 9LX and CUSTOMER ("Customer") with offices at CUSTOMER ADDRESS and sets forth the terms and conditions under which Cloud Sherpas will perform certain consulting services for Customer.

1. Scope of Engagement and Statement of Work

Customer hereby engages Cloud Sherpas to provide consulting services ("Services") under the terms and conditions of this Agreement. The Services may consist of multiple phases and each individual phase shall be defined by a Statement of Work ("SOW") executed by both parties. Each SOW will describe the Services to be performed, the dates the Services will be performed ("Schedule"), the Customer's obligations and other requirements necessary for completion of the Services, the identifiable work product to be delivered by Cloud Sherpas ("Deliverables") including, but not limited, to any computer software programs or products to be configured for Customer by Cloud Sherpas ("Configured Software"), the price for the Services ("Fee"), and any other terms that apply to that specific SOW ("Special Terms"). Except for Special Terms or unless expressly agreed to in writing, this Agreement will take precedence in the event of a conflict between the terms of this Agreement and a SOW.

In the event that a SOW has not been executed, or should Services be provided for a period of time prior to the execution thereof, Cloud Sherpas shall provide Services on a time and materials basis. Customer agrees to pay Cloud Sherpas for time and materials at the daily rate set forth in Section 2 below.

2. Fees

Unless otherwise noted in a SOW, all Services performed by Cloud Sherpas shall be performed on a time and materials basis. The hourly or daily bill rate for Cloud Sherpas' consultants will be defined in the applicable SOW. Customer shall pay any and all taxes, fees, tariffs, or other levies (other than taxes on Cloud Sherpas's income) imposed by any government, governmental unit or similar authority with respect to the charges made or payments received in connection with the Services.

3. Expenses

In addition to the Fee set forth in Section 2 above, Customer is responsible for the following:

- (a) actual travel and living expenses including, but not limited to airfare, mileage, lodging, auto rental, meals and incidental expenses incurred while traveling on behalf of Customer.
- (b) other out-of-pocket expenses, including but not limited to purchasing work materials necessary for providing the Services.

Cloud Sherpas will provide Customer with documentation for all such expenses.

4. Invoices

Invoices for Services and expenses will be rendered twice every month. Invoices will be due net fifteen (15) days from date thereof. Failure to pay any undisputed invoice in accordance with its terms will entitle Cloud Sherpas to charge interest at the rate of the lesser of one and one half percent (1.5%) per month or the maximum allowed by law, in addition to any other costs associated with the collection thereof. Cloud Sherpas reserves the right to adjust the terms of payment hereunder should Customer's financial condition materially change. Customer agrees to remit payment to the address set forth on the invoice. Cloud Sherpas shall remit invoices electronically to the following email address in Portable Document Format (PDF):

[List Customer Name and Email Address]

5. Change Control

The Customer may request changes that affect the scope of the Services performed under a SOW, including changes in the Deliverables. If the Customer requests such a change, then Cloud Sherpas shall notify the Customer promptly if it believes that an adjustment in the Fees with respect to such SOW, or an adjustment to the relevant Schedule, is required. In such event, the parties shall negotiate in good faith a reasonable and equitable adjustment in the applicable Fees and Schedule, as applicable. Notwithstanding the foregoing, unless requested by the Customer, Cloud Sherpas shall continue to work pursuant to the existing SOW and neither party shall be bound by any change requested hereunder until such change has been documented in a writing signed by both parties.

6. Ownership of Deliverables

The Deliverable(s) and all documents, designs, inventions, computer programs, data, computer documentation and other tangible materials authorized or prepared by Cloud Sherpas for the Customer in the course of providing Services are and shall be the sole and exclusive property of Customer.

Notwithstanding the foregoing, Cloud Sherpas shall have the right to use for any purpose all Residuals embodied in the Deliverables. As used in the foregoing sentence, the term "Residuals" shall mean the general concepts, methodologies, techniques and processes, in non-tangible form only, which are developed by Cloud Sherpas during the course of the Agreement and which satisfy all of the following: (i) are of a general programming or business nature (and not specific to any Works created by Cloud Sherpas for the Customer), (ii) are not specifically related to the Customer's business, and (iii) were not developed using, or based on, any confidential information (as such term is used in Section 8 below) of the Customer.

7. Acceptance of Deliverables

(a) For Configured Software Deliverables, Customer will be deemed to have accepted the Deliverables upon the (1) successful completion of the acceptance testing set out in the applicable SOW; or (2) Customer commencement of general use of the Configured Software. Following acceptance of the Configured Software by Customer pursuant to this paragraph or the applicable SOW, Cloud Sherpas's service obligations to Customer will cease.

(b) For other Deliverables, Customer will be deemed to have accepted the Deliverables when they have been completed according to the specifications in the applicable SOW and handed over to the Customer.

8. Confidentiality

During the course of performing Services for Customer, Cloud Sherpas may be given access to confidential or proprietary information of Customer. Cloud Sherpas shall (a) use Customer's confidential or proprietary information solely for those purposes expressly agreed to in writing; and (b) strictly maintain the confidentiality of Customer's confidential or proprietary information, both during Cloud Sherpas's performance of Services and for a period of two years thereafter.. Without the prior written consent of Customer, Cloud Sherpas shall not use, sell, resell, lend, disclose, or otherwise publish Customer's confidential or proprietary information for any purpose unrelated to the provision of Services to Customer. Moreover, Cloud Sherpas will restrict dissemination of Customer's confidential and proprietary information to those Cloud Sherpas personnel involved in providing Services to Customer and who Cloud Sherpas, in good faith, believes need to know or have access to Customer's confidential or proprietary information in order to provide such Services. Cloud Sherpas shall inform all Cloud Sherpas personnel to whom access will be given of the terms and conditions of this Agreement governing the treatment of Customer's confidential or proprietary information and obtain the agreement of such personnel to abide by such terms. Cloud Sherpas's obligation to maintain the confidentiality of Customer's confidential or proprietary information will terminate with respect to any particular portion of the information that Cloud Sherpas can demonstrate (a) was within the public domain at the time of its disclosure hereunder; (b) entered the public domain through no fault of or attributable to Cloud Sherpas subsequent to the time of its disclosure hereunder; or (c) independently developed by Cloud Sherpas without reference to said information.

9. Limited Warranty

Cloud Sherpas warrants that:

- (a) it will perform the Services under this Agreement in a skillful, competent, and workmanlike manner; and
- (b) the Deliverables delivered to Customer shall perform substantially in conformity with the specifications contained in the SOW.

The warranties contained in this Section 9 shall be effective for a period of thirty (30) days from the date of delivery of the relevant Service or Deliverable. In the event of a breach of the warranty contained in Section 9(a) or 9(b), Customer must notify Cloud Sherpas in writing within ten calendar days of discovering the breach. Upon receipt of such notice, Cloud Sherpas shall use all commercially reasonable efforts to correct the deficiency without charge and in a timely manner. If, after a period of sixty (60) days following receipt by Cloud Sherpas of such notice, Cloud Sherpas is unable to remedy the deficiency, Cloud Sherpas shall refund that portion of the Fee attributable to the Service or Deliverable that is the subject of the claimed breach. The warranties contained in this Section 9 shall be null and void and of no force and effect if the Deliverables fail to perform as a result of modification, accident, neglect or misuse, user error, or electrical power damage. Customer acknowledges that this paragraph sets forth Cloud Sherpas's sole obligation and liability and Customer's sole and exclusive remedy for a breach of the express warranties contained herein.

10. Relationship of the Parties/Independent Contractor

Cloud Sherpas is and, at all times, shall perform the Services as an independent contractor. Nothing contained in this Agreement shall be construed to create an agency, joint venture or partnership between the parties. Cloud Sherpas shall determine the time, place, methods, details and means of performing the Services under this Agreement. Cloud Sherpas is responsible for the supervision, control, and compensation of Cloud Sherpas personnel.

11. Limitation of Liability

Except in the event of personal injury or damage to property caused by the willful misconduct or negligence of Cloud Sherpas, under no circumstances shall either party be liable to the other for any indirect, incidental, special, punitive, or consequential

damages (including without limitation, damages for lost profits or savings) incurred by the other party, even if the first party has been informed of the possibility of such damages. The total liability under this agreement and any applicable statement of work, for any cause of action whatsoever, shall be limited to the total fees due under the applicable SOW. In no event shall Cloud Sherpas be liable to Customer for any damages resulting from or related to the use or performance of the Deliverables.

12. Compliance with Laws

Cloud Sherpas shall comply with all applicable federal, state, and local laws and regulations, whether of the United States, United Kingdom or of any other country in which work is performed under this Agreement. Cloud Sherpas is also responsible for the compliance with all applicable harmony codes, ordinances and standards that may be issued by public authorities. In particular, Cloud Sherpas agrees to comply with all applicable: (a) export laws; (b) employment laws; and (c) tax laws, whether of the United States or of any other country.

13. Term and Termination

Upon execution by both parties hereto, this Agreement shall be effective on the date first set forth above and, unless terminated early in accordance with this Section 13, shall continue until three (3) years from the date of this Agreement.

Either party may terminate any outstanding SOW upon thirty (30) days' prior written notice to the other party in the event that such other party breaches a material term of this Agreement or the SOW and such breach remains uncured at the end of such thirty (30) day period. Upon any such termination, the Customer shall pay Cloud Sherpas all Fees and expenses incurred.

Notwithstanding completion or termination of the Services or the termination or expiration of this Agreement, the parties shall continue to be bound by the provisions of this Agreement which by their nature are intended to survive completion or termination.

14. Insurance

Throughout the term of this Agreement, Cloud Sherpas shall maintain workers compensation insurance in the amount required by law and comprehensive general liability insurance with coverage of at least one million GBP per occurrence for bodily injury, property damage or other losses in connection with the provision of Services by Cloud Sherpas pursuant to the terms of this Agreement. At the Customer's request, Cloud Sherpas shall provide the Customer with certificates or other acceptable evidence of insurance evidencing the foregoing coverage and shall provide the Customer with prompt written notice of any material change to the same.

15. General

(a) Governing Law; Forum Selection. This Agreement shall be governed by and construed in accordance with the laws of the United Kingdom, without regard to the conflict of laws rules.

(b) Non-Exclusivity. Customer expressly acknowledges that this Agreement does not restrict in any way Cloud Sherpas's right to seek or accept work engagements from or for any other entity.

(c) Notices. Any notice or formal communication required or permitted under this agreement shall be in writing and delivered to the parties at the following addresses:

Cloud Sherpas: Colin Robinson
Cloud Sherpas

52-54 Stamford Street
London SE1 9LX

Customer: [List Customer Contact]

(d) **Nonassignment.** Neither Customer nor Cloud Sherpas may assign this Agreement or any of the rights or obligations hereunder without the prior written consent of the other party to this Agreement except pursuant to a merger, acquisition, or other change of control. The above notwithstanding, Cloud Sherpas reserves the right to subcontract portions of the Services. Should Cloud Sherpas invoke such a right, Cloud Sherpas shall remain primarily liable for deliver of the Services at all times.

(e) **Entire Agreement.** This Agreement, together with any subsequent SOW, signed by both parties, constitutes the entire agreement between the parties hereto and supersedes any and all prior agreements, arrangements, and/or understandings between the parties relating to the subject matter hereof. This Agreement shall not be deemed or construed to be modified or amended except by the written agreement of the parties.

(f) **No Waiver.** The failure of either party at any time to require performance by the other of any provision hereof shall in no way constitute a waiver thereof unless expressly waived in writing. Nor shall the waiver of any breach of any provision hereof be held to be a waiver of any subsequent breach of such provision or any other provision.

(g) **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.

(h) **Force Majeure.** Neither party shall be liable for any delays or failure in performance due to causes beyond its reasonable control. The above notwithstanding, Customer shall remain liable for its failure to meet any Dependency not caused by a condition of Force Majeure.

(i) **No Hire Policy.** Customer shall not, without the written permission of Cloud Sherpas, recruit or solicit for employment the Cloud Sherpas's employees from the effective date of this Agreement until one year after Cloud Sherpas has ceased providing Services to Customer under this Agreement.

(j) **Publicity.** Customer expressly acknowledges that Cloud Sherpas may list Customer as a customer of Cloud Sherpas, use its name and logo on Cloud Sherpas's website, and blog.

(j) **Counterparts and Exchanges by Fax.** This Agreement may be executed in any number of counterparts, each of which so executed shall be deemed to be an original and all of which together shall constitute one and the same instrument, and in making proof hereof it shall not be necessary to produce or account for more than one such counterpart. A facsimile signature shall be sufficient to bind a party hereto, and such party shall promptly forward an original signature page to the other party.

In Witness whereof, the parties hereby execute this Agreement as of the date first set forth above.

CLOUD SHERPAS, INC.

CUSTOMER

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____