


Service Level Agreements (SLAs)

This Master Client Services Agreement (this "Agreement") is between, Lester IT Solutions corporation that maintains an office for business at 400 Village Square Crossing, Suite 2A, Palm Beach Gardens, FL 33410 ("**Company**"), and _____, a _____ ("**Client**"). The Agreement shall be effective as of the latest date of the signatures of the parties below ("Effective Date"). The parties agree as follows:

- 1) **SCOPE OF SERVICES.** Company agrees to assist Client with professional hosting services and advice as set forth in Schedule 1, and as set forth in one or more applicable statements of work (each, a "Statement of Work") that may be executed from time-to-time by both parties under this Agreement (collectively, the "Services"). To be effective, each Statement of Work (if any) shall reference this Agreement and, when executed by both parties, shall automatically be deemed a part of, and governed by the terms of, this Agreement. Each Statement of Work is enforceable according to the terms and conditions contained therein, and in the event of a direct conflict between the language of this Agreement and any Statement of Work, the language of the Statement of Work shall control, but only with respect to that particular Statement of Work. Company shall perform all Services in accordance with the its understanding of general industry standard practices for the managed service provider industry, as well as those service levels explicitly described in any relevant Statement of Work.
- 2) **PAYMENT.** Unless otherwise stated in a statement of work, Payment is due within ten (10) calendar days from the date Client receives an invoice for Services from Company. For prepaid fees or fees paid pursuant to a Maintenance service plan, payment must be made in advance of work performed, unless other arrangements are agreed upon in Schedule 1 or a relevant Statement of Work. Late payments shall be subject to interest on the unpaid invoice amount(s) until and including the date payment is received, at the lower of either 10% per month or the maximum allowable rate of interest permitted by applicable law. Late payments shall be subject to interest on the unpaid invoice amount(s) until and including the date payment is received, at the lower of either 10% per month or the maximum allowable rate of interest permitted by applicable law. Client shall be liable for all reasonable attorneys' fees as well as costs incurred in collection of past due balances including but not limited to collection fees, filing fees and court costs. TIME IS OF THE ESSENCE IN THE PERFORMANCE OF ALL PAYMENT OBLIGATIONS BY CLIENT.
- 3) **AUTHORIZED CONTACT PERSON.** Client shall designate one or more authorized contact person(s) (each, an "Authorized Contact") with whom Company will conduct Service-related communications. Client's initial Authorized Contact(s) is/are: _____ Likewise, Client may designate one or more Authorized Contacts with respect to individual Statements of Work. Each Authorized Contact shall be a point of contact for Company, and shall be authorized to provide, modify and approve on Client's behalf, work direction, Statements of Work, and Change Orders. Client understands and agrees that Company shall be permitted to act upon the direction and apparent authority of each Authorized Contact, unless and until Company receives written notice from Client (as described below) that an Authorized Contact is no longer authorized to act on Client's behalf. If during the Term of this Agreement, Client wishes to add or remove an Authorized Contact, or modify an Authorized Contact's information or authority, Client must notify Company in writing of the change(s) including (in the event of the addition of an Authorized Contact) the Authorized Contact's name, address, email address and telephone number.
- 4) **ACCESS TO PREMISES.** To the extent that Services are performed on Client's premises ("Premises"), Client hereby grants to Company the right of ingress and egress over the Premises and further grants Company a license to provide the Services described in any Statement of Work within the Premises. To the extent that Services are provided to Client on property other than the Premises, it shall be Client's responsibility to secure, at Client's own cost, prior to the commencement of any Services, any necessary rights of entry, licenses, permits or other permission necessary for Company to provide Services at such location(s). Client shall provide Company with any passwords or keys (virtual or otherwise) that Company requires in order to provide the Services to Client. Company shall not be liable for delay in performance or nonperformance of any term or condition of this Agreement directly or indirectly resulting from Client's denial to Company of full and free access to Client's systems and components thereof, or Client's denial to Company of full and free access to Client's personnel or Premises pursuant to this Agreement.
- 5) **WARRANTIES; LIMITATIONS OF LIABILITY.**
 - a) Any third party products provided to Client pursuant to this Agreement, including but not limited to third party hardware, software, peripherals and accessories (collectively, "Third Party Products") shall be provided to Client "as is". Company shall use reasonable efforts to assign all warranties (if any) for the Third Party Products to Client, but will have no liability whatsoever for such third party products. All Third Party Products are provided WITHOUT ANY WARRANTY WHATSOEVER as between Company and Client, and Company shall not be held liable as an insurer or guarantor of the performance or quality of Third Party Products.
 - b) Company assumes no liability for failure of equipment or software or any losses resulting from such failure.
 - c) Client warrants and represents that it shall not use the System for any purposes or activities that violate the laws of any jurisdiction, including the sending of unsolicited, bulk commercial email (*i.e.*, SPAM).
 - d) IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INDIRECT, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR LOST REVENUE, LOSS OF PROFITS, SAVINGS, OR OTHER ECONOMIC LOSS ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, ANY STATEMENT OF WORK(S) OR ANY SERVICES PERFORMED OR PARTS SUPPLIED HEREUNDER, ANY LOSS OR INTERRUPTION OF DATA, TECHNOLOGY OR SERVICES, OR FOR ANY BREACH HEREOF OR FOR ANY DAMAGES CAUSED BY DELAY IN FURNISHING SERVICES UNDER THIS AGREEMENT OR ANY STATEMENT(S) OF WORK EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S AGGREGATE LIABILITY TO THE OTHER FOR DAMAGES FROM ANY AND ALL CAUSES WHATSOEVER AND REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR NEGLIGENCE, SHALL BE LIMITED TO THE AMOUNT OF THE AGGRIEVED PARTY'S ACTUAL DIRECT DAMAGES NOT TO EXCEED THE AMOUNT OF FEES PAID BY CLIENT TO COMPANY FOR THE SERVICES DURING THE THREE (3) MONTHS IMMEDIATELY PRIOR TO THE DATE ON WHICH THE CAUSE OF ACTION ACCRUED. IT IS UNDERSTOOD AND AGREED THAT THE COSTS OF HARDWARE OR SOFTWARE (IF ANY) PROVIDED TO CLIENT UNDER THIS AGREEMENT SHALL NOT BE INCLUDED IN THE CALCULATION OF THE LIMITATION OF DAMAGES DESCRIBED IN THE PRECEDING SENTENCE.
- 6) **INDEMNIFICATION.** Client (an "Indemnifying Party") hereby agrees to indemnify, defend and hold the Company (an "Indemnified Party") harmless from and against any and all loss, damage, cost, expense or liability, including reasonable attorneys' fees, (collectively, "Damages") that arise from, or are related to the

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negligent acts, negligent omissions or intentional wrongful misconduct of the Indemnifying Party and/or the Indemnifying Party's employees or subcontractors, and from any Damages arising from or related to the Indemnifying Party's uncured, material breach of this Agreement. The Indemnifying Party further agrees to indemnify, defend, save and hold harmless the Indemnified Party, its offices, agents and employees, from all Damages arising out of any alleged infringement of copyrights, patent rights and/or the unauthorized or unlicensed use of any material, property or other work in connection with the performance of the Services; provided however, that such Damages are the direct result of the Indemnifying Party's actions and not due to the Indemnified Party's fault, in whole or in part.

7) COPYRIGHTS AND OTHER INTELLECTUAL PROPERTY

- a) Each party (a "Creating Party") owns and retains all intellectual property rights in and to all the Creating Party's works of authorship, including but not limited to all plans, software or software modifications developed by the Creating Party, and all modules derived or created from such materials (collectively, "Creating Party's IP"). The Creating Party's IP may not be distributed or sold in any form or manner without the express written consent of the Creating Party. During the term of this Agreement, Client may use and modify any intellectual property provided to Client by Company pursuant to this Agreement, provided that such modifications (i) do not result in or cause the infringement of any intellectual property rights of any third party, (ii) do not require Client to reverse engineer Company's intellectual property, and (iii) do not negatively impact the security or integrity of any of Company's equipment, or the integrity or implementation of the Services. Each party's limited right to use the other party's intellectual property as described herein automatically terminates upon the termination of this Agreement.
- b) **Client Obligations, Client will take all necessary steps to protect its data from software viruses of all sort, including malware and the like. Among other things, Client will use security software provided and/or recommended by Company; will adopt good practices to prevent unauthorized access to its premises and computer systems; will train its personnel to use its systems properly; and do all in its power to ensure that viruses and the like do not extend to any data for which Company is providing back-up or cloud services. Client may not use Company cloud services for unlawful, obscene, fraudulent content or activity, or interfering with or violating the integrity or security of a network or system, evading filters, sending unsolicited, abusive or deceptive messages, viruses or harmful code. Client is solely responsible for the development, content, operation, maintenance, licensing and use of their content; is responsible for its end users' use of their content and of the cloud service, and for their compliance with the terms of this Agreement; and the Client is responsible for any individual's personal information (or any other confidential information) stored in with Company. The customer agrees to comply with all applicable privacy and data protection laws, to obtain all necessary consents, and make all necessary disclosures before including personal information in its content.**

8) TERMINATION.

- a) *Without Cause.* Either party may terminate this Agreement or any Statement of Work for any reason by providing the other party with thirty (30) days prior written notice.
- b) *Consent.* The parties may mutually consent, in writing, to terminate this Agreement or any Statement of Work at any time.
- c) *Default.* In the event that one party (a "Defaulting Party") commits a material breach of this Agreement or a Statement of Work, the non-Defaulting Party shall have the right, but not the obligation, to

terminate immediately this Agreement or the relevant Statement of Work provided that (i) the non-Defaulting Party has notified the Defaulting Party of the specific details of the breach in writing, and (ii) the Defaulting Party has not cured the default within ten (10) days following receipt of written notice from the non-Defaulting Party.

- d) *Equipment Removal.* Upon termination of this Agreement for any reason, Client shall provide Company with access, during normal business hours, to Client's premises (or any other locations at which Company-owned equipment is located) to enable Company to remove all Company-owned equipment from such premises (if any).
- e) *Transition.* In the event this Agreement is terminated for any reason whatsoever, all Client data held by Company shall be returned to the Client in a commercially reasonable manner and time frame, not to exceed fifteen (15) calendar days following the date of request of the return of such data by Client. The data shall be returned in a comma separated value (*i.e.*, CSV) format, unless another industry-standard format is mutually agreed upon by the parties. In the event that Client requests Company's assistance to transition to a new service provider, Company shall do so provided that (i) all fees due and owing to Company under this Agreement are paid to Company in full prior to Company providing its assistance to Client, and (ii) Client agrees to pay Company its then-current hourly rate for such assistance, with upfront amounts to be paid to Company as agreed upon between the parties. **Company shall have no obligation to store or maintain any Client data in Company's possession or control beyond fifteen (15) calendar days following the termination of this Agreement.** Company shall be held harmless for and indemnified by Client against any and all claims, costs, fees, or expenses incurred by either party that arise from, or are related to, Company's deletion of Client data beyond the time frames described in this Section.
- f) *Impact.* Termination of a Statement of Work shall not act as a termination of any other Statement of Work or as a termination of this Agreement as a whole. Termination of this Agreement, however, shall act as a termination of all Statements of Work then pending, unless the parties agree otherwise in writing.
- g) **Company shall not be liable to the Client or any third party for any:** Unless expressly stated in this Agreement, neither party shall be liable to the other party or any third party for any compensation, reimbursement, losses, expenses, costs or damages (collectively, "Damages") arising from or related to, directly or indirectly, the termination of this Agreement for any reason, or for Damages arising from or relating to Company's disclosure of information pursuant to any valid legal request to which Company is required to comply. This waiver of liability shall include, but shall not be limited to, the loss of actual or anticipated profits, anticipated or actual sales, and of expenditures, investments, or commitments in connection with such party's or any third party's goodwill or business.
- 9) **UPTIME; REPORTING; REMEDIES.**
 - a) *Uptime.* Company warrants and represents that the Services shall be available to Client as indicated on Schedule 1 or any relevant Statement of Work ("Uptime"), except during Scheduled Downtime (defined below), or due to client-side downtime (described below) or when outages or issues occur due to a force majeure event.
 - b) *Scheduled Downtime.* For the purposes of this Agreement, Scheduled Downtime shall mean those hours, as determined by Company but which shall not occur between the hours of 8 AM and 6 PM Monday through Friday without Client's authorization or unless exigent circumstances exist, during which time Company shall perform scheduled maintenance or adjustments to its network. Company shall use its best efforts to provide Client with at least forty-eight (48) hours of notice prior to scheduling Scheduled Downtime.

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- c) *Client-Side Downtime.* Notwithstanding any provision to the contrary, Company shall not be responsible for any delays or deficiencies in the Services to the extent that such delays or deficiencies are caused by Client's action or omissions. In the event that such delays or deficiencies occur, Company shall be permitted to extend any relevant deadline as Company deems necessary to accommodate such delays or deficiencies.
- d) *Reports.* Upon Client's written request, Company shall make available to Client service reports that illustrate the Uptime in the prior calendar month. In the event that Company failed to adhere to its Uptime commitments as described in paragraph (a) above, the relevant monthly report shall state (i) the time period in which the uptime requirement was not met, and (ii) the reasons (if reasonably known to Company) why the Uptime requirement was not met.
- e) *Remedies; Limitations.* Notwithstanding any provision to the contrary, except for the Startup Exception (described below), if Company fails to meet its Uptime commitment in a given calendar month, then upon written request from Client, Company shall issue Client a credit in an amount equal to the period of time of the outage. All requests for credit shall be made by Client no later than thirty (30) days after Client either (i) reports the outage to Company, or (ii) receives the monthly report showing the outage. Further, if Company fails to meet its Uptime commitment on ten (10) or more occasions over the course of a three (3) contiguous month period, Client shall have the right to terminate this Agreement immediately for cause by providing Company with written notice of termination, with no further liability to Company whatsoever. The remedies contained in this paragraph and those in Section 10(c) above, are in lieu of (and are to the exclusion of) any and all other remedies that might otherwise be available to Client for Company's failure to meet any service level during the term of this Agreement.
- f) *Exemption.* The parties acknowledge and agree that for the first thirty (30) days following the Effective Date, the Uptime commitment described in this Section shall not apply to Company, it being understood that there may be unanticipated downtime or delays due to Company's initial startup activities with Client (the "Startup Exception").

10) CONFIDENTIALITY.

- a) *Defined.* For the purposes of this Agreement, Confidential Information shall mean any and all non-public information provided to Company by Client, including but not limited to Client's customer data, customer lists, internal Client documents, and related information. Confidential Information shall not include information that: (i) has become part of the public domain through no act or omission of Company, (ii) was developed independently by Company, or (iii) is or was lawfully and independently provided to Company prior to disclosure by Client, from a third party who is not and was not subject to an obligation of confidentiality or otherwise prohibited from transmitting such information.
- b) *Use.* Company shall keep Client's Confidential Information confidential, and shall not use or disclose such information to any third party for any purpose except (i) as expressly authorized by Client in writing, or (ii) as needed to fulfill Company's obligations under this Agreement. If Company is required to disclose the Confidential Information to any third party as described in part (ii) of the preceding sentence, then Company shall ensure that such third party is required, by written agreement, to keep the information confidential under terms that are at least as restrictive as those stated in this Section.
- c) *Due Care.* Company shall exercise the same degree of care with respect to the Confidential Information it receives from Client as Company normally takes to safeguard and preserve its own confidential and proprietary information, which in all cases shall be at least a commercially reasonable level of care.
- d) *Compelled Disclosure.* If Company is legally compelled (whether by deposition, interrogatory, request for documents, subpoena,

civil investigation, demand or similar process) to disclose any of the Confidential Information, Company shall immediately notify Client in writing of such requirement so that Client may seek a protective order or other appropriate remedy and/or waive Company's compliance with the provisions of this Section. Company will use its best efforts, at Client's expense, to obtain or assist Company in obtaining any such protective order. Failing the entry of a protective order or the receipt of a waiver hereunder, Company may disclose, without liability hereunder, that portion (and only that portion) of the Confidential Information that Company has been advised by written opinion of counsel reasonably acceptable to Company that it is legally compelled to disclose.

11) MISCELLANEOUS.

- a) *Assignment* This Agreement or any Statement of Work may not be assigned or transferred by Company without the prior written consent of the Client. This Agreement shall be binding upon and inure to the benefit of the parties hereto, their legal representatives, and permitted successors and assigns. Notwithstanding the foregoing, Company may assign its rights and obligations hereunder to a successor in ownership in connection with any merger, consolidation, or sale of substantially all of the assets of the business of a party, or any other transaction in which ownership of more than fifty percent (50%) of either party's voting securities is transferred; provided such assignee expressly assumes the assignor's obligations hereunder.
- b) *Amendment.* No amendment or modification of this Agreement or any Statement of Work (including any schedules or exhibits) shall be valid or binding upon the parties unless such amendment or modification specifically refers to this Agreement, is in writing, and is signed by one of the Designated Contacts of each party.
- c) *Time Limitations.* The parties mutually agree that any action for breach of or upon a matter arising out of this Agreement or any Statement of Work must be commenced within one (1) year after the cause of action accrues or the action is forever barred.
- d) *Severability.* If any provision hereof or any Statement of Work is declared invalid by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such invalidity, illegibility or unenforceability so that the remainder of that provision and all remaining provisions of this Agreement or any Statement of Work shall be valid and enforceable to the fullest extent permitted by applicable law.
- e) *Other Terms.* Company shall not be bound by any terms or conditions printed on any purchase order, invoice, memorandum, or other written communication between the parties unless such terms or conditions are incorporated into a duly executed Statement of Work. In the event any provision contained in this Agreement is held to be unenforceable in any respect, such unenforceability shall not affect any other provision of this Agreement, and the Agreement shall be construed as if such an unenforceable provision or provisions had never been included in this Agreement.
- f) *No Waiver.* The failure of either party to enforce or insist upon compliance with any of the terms and conditions of this Agreement, the temporary or recurring waiver of any term or condition of this Agreement, or the granting of an extension of the time for performance, shall not constitute an Agreement to waive such terms with respect to any other occurrences.
- g) *Merger.* This Agreement, together with any Statement(s) of Work, sets forth the entire understanding of the parties and supersedes any and all prior agreements, arrangements or understandings related to the Services, and no representation, promise, inducement or statement of intention has been made by either party which is not embodied herein. Any document that is not expressly and specifically incorporated into this Agreement or Statement of Work shall act only to provide illustrations or descriptions of Services to be provided, and shall



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not act to modify this Agreement or provide binding contractual language between the parties. Company shall not be bound by any agents' or employees' representations, promises or inducements not explicitly set forth herein.

- h) **Force Majeure.** Company shall not be liable to Client for delays or failures to perform its obligations under this Agreement or any Statement of Work because of circumstances beyond its reasonable control. Such circumstances include, but shall not be limited to, any acts or omissions of any governmental authority, natural disaster, act of a public enemy, acts of terrorism, riot, sabotage, disputes or differences with workmen, power failure, communications delays/outages, delays in transportation or deliveries of supplies or materials, acts of God, or any other events beyond the reasonable control of Company.
 - i) **Non-Solicitation.** Client acknowledges and agrees that during the term of this Agreement and for a period of one (1) year following the termination of this Agreement, Client will not, individually or in conjunction with others, directly or indirectly solicit, induce or influence any of Company's employees or subcontractors to discontinue or reduce the scope of their business relationship with Company, or recruit, solicit or otherwise influence any employee or agent of Company to discontinue such employment or agency relationship with Company. In the event that Client violates the terms of the restrictive covenants in this Section 12(j), the parties acknowledge and agree that the damages to Company would be difficult or impracticable to determine, and agree that in such event, as Company's sole and exclusive remedy therefore, Client shall pay Company as liquidated damages and not as a penalty an amount equal to fifty percent (50%) percent of that employee or subcontractor's first year of base salary with Client (including any signing bonus).
 - j) **Insurance.** Company and Client shall each maintain, at their own expense, all insurance reasonably required in connection with this Agreement or any Statement of Work, including but not limited to, workers compensation and general liability. Company agrees to maintain a general liability policy with a limit not less than \$1,000,000 per occurrence, and an automobile liability insurance policy of not less than \$250,000 bodily injury per person, \$250,000 per accident, and \$100,000 property damage liability. All of the insurance policies described herein shall not be canceled, materially changed or renewal refused until at least thirty (30) calendar days written notice has been given to the other party by certified mail. The required insurance coverage shall be issued by an insurance company duly authorized and licensed to do business in the State of Anywhere with the following minimum qualifications in accordance with the latest edition of A.M. Best's Insurance Guide: Financial Stability B+ to A+.
 - k) **Governing Law; Venue.** This Agreement and any Statement of Work shall be governed by, and construed according to, the laws of the State of Anywhere. Client hereby irrevocably consents to the exclusive jurisdiction and venue of the federal and state courts in Anywhere County, in the State of New Anywhere, for any and all claims and causes of action arising from or related to this Agreement. THE PARTIES AGREE THAT THEY WAIVE ANY RIGHT TO A TRIAL BY JURY FOR ANY AND ALL CLAIMS AND CAUSES OF ACTION ARISING FROM OR RELATED TO THIS AGREEMENT.
- l) **No Third Party Beneficiaries.** The Parties have entered into this Agreement solely for their own benefit. They intend no third party to be able to rely upon or enforce this Agreement or any part of this Agreement.
 - m) **Usage in Trade.** It is understood and agreed that no usage of trade or other regular practice or method of dealing between the Parties to this Agreement shall be used to modify, interpret, supplement, or alter in any manner the terms of this Agreement.
 - n) **Business Day.** If any time period set forth in this Agreement expires on a day other than a business day in Bergen County, New Jersey, such period shall be extended to and through the next succeeding business day in Bergen County, New Jersey.
 - o) **Notices.** Where notice is required to be provided to a party under this Agreement, such notice shall be deemed delivered upon receipt by the receiving party, or refusal of delivery, when deposited in the United States Mail, first class mail, certified or return receipt requested, postage prepaid, or one (1) day following delivery when sent by FedEx to the addresses set forth in the opening paragraph of this Agreement, or to such other address(es) as the parties may designate from time to time.
 - p) **Independent Contractor.** Each party is an independent contractor of the other, and neither is an employee, partner or joint venturer of the other.
 - q) **Subcontractors.** Company may subcontract part or all of the Services to one or more third parties provided, however that Company shall be responsible for, and shall guarantee, all work performed by any Company-designated subcontractor as if Company performed such work itself. Notwithstanding the foregoing, Company shall not delegate or subcontract any Services that are expressly designated as being non-delegable by Client on a statement of work.
 - r) **Counterparts.** The parties may execute and deliver this Agreement and any Statement of Work in any number of counterparts, each of which shall be deemed an original and all of which, when taken together, shall be deemed to be one agreement. Each party acknowledges and agrees that this Agreement is intended to be executed and transmitted to the other party via electronic means. Accordingly, a party may execute and deliver this Agreement (or any Statement of Work) electronically (e.g., by digital signature and/or electronic reproduction of a handwritten signature), and the receiving party shall be entitled to rely upon the apparent integrity and authenticity of such signature for all purposes.

AGREED AND ACCEPTED:	
Date: _____	Date: _____
Lester IT Solutions	Client: _____
By: _____	By: _____
Print Name / Position: _____	Print Name / Position: _____

SCHEDULE 1