



## PROFESSIONAL SERVICES MASTER AGREEMENT ("PSMA")

MCC Technology Inc. ("MCC"), 2422 W. Main St.- Unit 4D, St. Charles, Illinois 60175 ("MCC" or "Company") and  
\_\_Company\_name, \_\_address\_\_\_\_City, \_\_State\_\_ & \_\_zip code\_\_\_\_ ("Client") do hereby agree as follows:

- 1) **ENGAGEMENT AND SERVICES.** Subject to the terms and conditions hereinafter set forth, Client hereby retains MCC, as an independent contractor, and MCC hereby agrees to provide the consulting services described on Schedule A attached hereto, together with any other services that are required to perform the services set forth on Schedule A (collectively, the "Services"). MCC shall perform the Services through its employees, agents, or independent contractors. MCC is not and shall not be considered an employee of Client. The relationship of MCC to Client established by this Agreement is that of an independent consultant.
- 2) **TERM.** MCC shall provide Client with on-site and off-site (remote) Information Technology ("IT") consulting and computer-related services and support for a three-year period beginning as of the effective date of February 1, 2022. Each Term shall automatically renew for subsequent periods of the same length as the initial Term unless either party gives the other written notice of termination at least thirty (30) days prior to expiration of the then-current Term. If Client is unhappy with the quality and level of service, Client shall allow MCC 30 days ("Cure Period") to rectify any issues. Following such Cure Period, service may be terminated by either party with a 60-day written notice.
- 3) **SERVICES.** MCC will provide the services to the Client as shown on Schedule "A" which services may be amended from time to time. Additional proposals, quotes, work orders, schedules and other written documents added during the term shall be covered by this agreement.
- 4) **RATES and BILLING.**
  - a. Attached hereto and incorporated herein as Schedule A is a list of the service plan and billing rates for services to be provided by MCC. Rates are determined by the level of service that client has selected as defined in schedule "A". Rates are subject to change as users and devices are added. Monthly billings under this plan shall be in advance. No work shall be performed under this agreement unless account is current and not past due. Rates may be adjusted annually by no more than four (4%) percent.
  - b. MCC shall invoice Client at its standard hourly rate based upon the services provided during normal business hours (8:00am– 5:00pm Monday through Friday, except Holidays). After-hours shall be charged at 1.5 times the standard rate. Sundays or Holidays shall be charged at 2.0 times the standard rate. MCC shall provide invoices in a timely manner for services provided. Unless prior approval for terms has been established, invoices shall be due and payable upon receipt. If undisputed invoices are past due, no further service or support work shall be performed by MCC.
  - c. Payment for SmartCare™ Agreements are due on or prior to the first of each month of service. MCC will accept payment via ACH fund transfer or check. If client is extended net terms, Client agrees to pay undisputed invoices within 30 days of receipt. If payment is not received prior to due date, MCC may suspend services until account is current. Credit card payments may be accepted for an additional service fee – currently 3% (subject to change with 30 days written notice).
  - d. In the event of Client's failure to pay invoices in full when due, interest on unpaid amounts shall accrue at the rate of 1.5% per month. In the event of non-payment requiring MCC to seek collection, Client shall pay all costs of collection, including costs of a collection agency, and/or reasonable attorney's fees.
- 5) **EXPENSES.** Client shall pay or reimburse MCC for any reasonable costs or expenses incurred by MCC in connection with the Services performed hereunder. Reimbursements for any such costs or expenses shall be made upon the presentation by MCC to Client of an itemized invoice. Such amounts shall be due and payable, and subject to interest, in the same manner as provided for fees in paragraph 4 hereof.

- 6) **TERMINATION SERVICES.** Upon termination of this Agreement, all sums due for Services previously provided shall be immediately due and payable. Provided all sums are so paid and outstanding invoices are current, MCC will provide information and cooperation at MCC's then current standard rates, to facilitate transfer of Client's IT service requirements to a new IT service provider. If all sums due and owing to MCC by Client are not paid immediately upon termination, MCC shall have no obligation to provide transition services on behalf of Client to facilitate Client's IT service requirements to a new IT services provider. Technician time needed for termination and transition services and any materials or software needed shall be billed at the lower of either our then standard published rates or at the Client's Schedule "A" hourly rate.
- 7) **COOPERATION OF CLIENT.** Client will allow MCC to use such machines, communications facilities, features, and other equipment at no charge, as in the reasonable opinion of MCC and Client, are necessary to enable MCC to perform the Services to be provided hereunder.
- 8) **EXCUSABLE DELAYS.** MCC shall not be liable or deemed in default for any delay or failure in performance under this Agreement resulting directly or indirectly from acts of God, acts of the government, war or national emergency, accidents, fires, strikes, riots, labor disputes, action, or inaction where action is required by the Client, or for any cause beyond the control of MCC. MCC SHALL NOT BE LIABLE FOR ANY INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST PROFITS, RESULTING FROM ANY DELAY OR FAILURE OF PERFORMANCE. MCC is not responsible for lost data arising from events beyond its control, including but not limited to power surges, fire, accidents, and acts of God.
- 9) **WARRANTY.**
- a. MCC warrants that it will perform the Services substantially in accordance with the specifications set forth whether under this Agreement, a purchase order, other work order or otherwise in connection with any of them. For any breach of the foregoing warranty, MCC will exercise commercially reasonable efforts to re-perform any non-conforming services that were performed within the thirty (30) business day period immediately preceding the date of Client's written notice to MCC specifying in reasonable detail such non-conformance. If MCC concludes that conformance is impracticable, then MCC will refund all fees paid by Client to MCC hereunder, if any, allocable to such nonconforming Services. MCC does not warrant its Services beyond a reasonable standard or skill consistent with industry standards. MCC does not warrant against any promises of cost savings, profits, return on investment and/or delay in delivery of performance.
  - b. Except as expressly stated in this Agreement, MCC does not make, and hereby disclaims, all expressed or implied warranties, including, but not limited to, warranties of merchant ability, fitness for a particular purpose, non-infringement and title, and any warranties arising from a course of dealing, usage, or trade practice.
  - c. Product warranties, if any, are provided by the manufacturer or publisher of the products. MCC makes no warranties other than those specifically set forth in this Agreement. MCC's sole obligation (and Client's sole remedy) in the event of breach of any warranty shall be replacement of defective parts.
  - d. MCC hereby warrants that any products or materials to be installed by MCC shall be installed in a workman-like manner, consistent with generally prevailing industry standards for comparable services, and in compliance with the requirements of this Agreement.
  - e. The express remedies set forth in this Agreement shall constitute Client's exclusive remedies, and MCC's sole obligation and liability, for any claim (a) that Services or deliverables provided hereunder do not conform to specifications or are otherwise defective, or (b) that the Services were performed improperly. MCC shall not be responsible for impairments to the Services caused by acts within the control of Client or its employees, agents, contractors, suppliers or licensees, the interoperability of Client's applications, or other causes reasonably within Client's control and not reasonably related to the Services provided under this Agreement.
  - f. Except for the warranties made by MCC in this Provision, which are limited warranties and the only warranties provided hereunder to Client, the Services and deliverables are provided strictly "As-Is." MCC does not warrant that the Services or any deliverables will meet any of Client's requirements not set forth in this Agreement that any deliverables will operate in the combinations that Client may select for use, that the operation of any deliverables will be uninterrupted or error-free, or that all errors will be corrected. If pre-production (e.g., "Alpha" or "Beta") releases of software are provided to Client, such copies are provided "As-Is" without warranty of any kind.
  - g. No statement by any MCC employee or agent, orally or in writing, shall serve to create any warranty or obligation not set forth herein or to otherwise modify this Agreement in any way whatsoever.
- 10) **LIMITATION OF LIABILITY.** In no event shall MCC be liable to Client, any employee, agent, or sales representative of Client, or any third party, for any loss of profits, loss of business or indirect, incidental, special, consequential, exemplary, or punitive damages or for loss of good will, business profits, works stoppage, data loss, computer

failure or malfunction, and all commercial damages or loss arising out of or related to this Agreement. MCC's liability to Client hereunder shall, in no event, exceed the total amount paid by Client to MCC for Services during the preceding three (3) months prior to any claim.

- 11) **CONFIDENTIALITY AND NON-DISCLOSURE.** Both Parties to this Agreement recognize that, from time to time, they may encounter information that the other party considers confidential. The parties hereto shall keep all Confidential Information in strict confidence. The recipient will: (i) use a reasonable standard of care in protecting Confidential Information, which will not be less than the standard of care the recipient uses to protect its own confidential information; (ii) only use Confidential Information to perform its obligations and exercise its rights under this Agreement; (iii) not disclose Confidential Information to any third party; and (iv) when requested by the disclosing party, return or destroy the Confidential Information..
- 12) **NON-SOLICITATION PROVISIONS/SERVICES.** During the term of this Agreement, and for a period of twelve (12) months thereafter, Client agrees not to, directly or indirectly, solicit, recruit, or employ any employee of MCC without the prior written consent of the President of MCC. Client acknowledges that the failure to honor this non-solicitation provision would result in MCC suffering irreparable harm. As the exact amount of such damages cannot be readily quantified, Client hereby agrees that upon a breach of the non-solicitation provision, Client shall pay to MCC as liquidated damages (and not a penalty) the sum of \$50,000 for such breach. The aforementioned liquidation damage provision in no way limits MCC's additional right to seek injunctive or any other equitable remedies respecting such breach or continuing breach. In addition, MCC agrees it will not solicit, hire, or retain in any capacity whatsoever, either directly or indirectly any of Clients employees without written consent from Client.
- 13) **NO ORAL MODIFICATION.** No modification, amendment, or waiver of any of the provisions of these terms and conditions shall be effective unless made in writing specifically referring to these terms and conditions and duly signed by each party hereto.
- 14) **LOCATION FOR SERVICES.** This Agreement provides coverage for equipment and locations shown on Schedule "A" or appropriate Schedule added later.
- 15) **EQUIPMENT and LICENSES.** This Agreement requires the use of equipment, processes and licenses that are and shall remain the property of MCC. No ownership or title for any equipment or licenses shall pass to client unless specifically provided in writing or via paid invoice. Any or all equipment and licenses may be removed upon termination of service or client being in default under this Agreement.
- 16) **SUCCESSORS and ASSIGNS.** All the provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, if any, legal representatives, successors, and assigns.
- 17) **GOVERNING LAW.** This Agreement shall be governed by and be construed in accordance with the laws of the State of Illinois. Should any party bring any action at law or in equity, to enforce the terms and provisions of this Agreement, the parties agree that the proper venue for such action shall be the Circuit Court for the Sixteenth Judicial Circuit, Kane County, Illinois, or the United States District Court for the Northern District of Illinois, Eastern Division. Process in any action or proceeding referred to in the preceding sentence may be served on any party anywhere in the world and service of process for notice to MCC or Client may be accomplished by service of process or notice directly on MCC or Client.
- 18) **HEADINGS.** Section headings are not to be considered a part of this Agreement and are not intended to be a full and accurate description of the contents hereof.
- 19) **WAIVER.** Waiver by one party hereto of breach of any provision of this Agreement by the other shall not operate or be construed as a continuing waiver.
- 20) **ASSIGNMENT.** Neither party to this Agreement shall assign any of its rights under this Agreement, or delegate the performance of any of its duties hereunder, without the prior written consent of the other party.
- 21) **NOTICES.** All notices required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been given upon personal delivery or, if mailed, three (3) days after deposit in the United States

Post Office, by certified mail, postage prepaid and addressed to the applicable party at the address on the first page of this Agreement (or at any other address provided by a party pursuant to a written notice given in accordance with this paragraph).

- 22) **ENTIRE UNDERSTANDING.** This document and any exhibit, schedule and/or addendum attached hereto shall constitute the entire understanding and agreement of the parties, and all prior agreements, understandings, and representations are hereby terminated and canceled in their entirety and are of no further force and effect.
- 23) **UNENFORCEABILITY of PROVISIONS.** If any provision of this Agreement, or any portion thereof, is held to be invalid and unenforceable, then the remainder of this Agreement shall nevertheless remain in full force and effect.
- 24) **PREVAILING PARTY.** In the event Client or MCC is required to commence legal action to enforce its rights under this Agreement, the prevailing party in such action shall be entitled to receive from the non-prevailing party all reasonable costs and expenses incurred in connection with such action, including, but not limited to, reasonable attorneys' fees.
- 25) **INDEMNIFICATION.** Client shall and does hereby agree, to the fullest extent permitted by law, to indemnify, protect, defend and hold harmless MCC and its officers, agents, servants, employees and affiliated companies from and against all claims, damages, losses, demands, actions, causes of action, suits and expenses, including but not limited to attorneys' fees, to the extent caused by Client's breach of this Agreement, or by the negligence, gross negligence, or willful misconduct of Client or Client's officers, employees, or authorized agents in the discharge of Client's duties hereunder and responsibilities, or any third party claim filed against MCC by Client's officers, employees, or authorized agents. The indemnification obligations set forth above shall not be limited in any way by any limitation on the types or amounts of damages or benefits payable under any insurance agreement, policy, or similar state and/or federal law.
- 26) **INSURANCE.** MCC has and will maintain Comprehensive General Business Liability Insurance with policy limits of not less than One Million Dollars (\$1,000,000.00). A Certificate of Insurance shall be provided to Client upon written request. MCC has and will always maintain an Error & Omissions Insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) and Workers Compensation Insurance coverage in place during the term of this Agreement. MCC shall maintain their insurance in place for not less than two (2) years following completion of all work required under this Agreement. Since certain MCC owned equipment will be located on Client premises, Client will maintain Comprehensive General Business Liability Insurance that provides coverage for said equipment in event of theft, fire, water or other damage or loss of use.
- 27) **MEDIATION and JURISDICTION.** All disputes and claims relating to any provision of this Agreement or relating to or arising out of the transactions contemplated by this Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.  
Before any party shall bring an action at law or in equity in order to enforce the terms and provisions of this Agreement, the parties agree that: (i) any and all disputes, claims or controversies arising out of or relating to this Agreement shall first be submitted to JAMS Mediation Services, Chicago, Illinois ("JAMS"), or its successor, for mediation; (ii) either party may commence mediation by providing to JAMS and the other party a written request for mediation, setting forth the subject of the dispute and the relief requested; (iii) the parties will cooperate with JAMS and with one another in selecting a mediator from the JAMS panel of neutrals in scheduling the mediation proceedings. The parties agree that they will participate in the mediation in good faith and that they will share equally in its costs; (iv) all offers, promises, conduct and statements, whether oral or written, made in the course of the mediation by any of the parties, their agents, employees, experts and attorneys, and by the mediator or any JAMS employees, are confidential, privileged and inadmissible for any purpose, including impeachment, in any proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the mediation; (v) either party may initiate litigation with respect to the matters submitted to mediation by filing a written demand for litigation at any time following the initial mediation session or at any time following 45 days from the date of filing the written request for mediation, whichever occurs first ("Earliest Initiation Date"). The mediation may continue after the commencement of litigation if the parties so desire; (vi) at no time prior to the Earliest Initiation Date shall either side initiate a litigation related to this Agreement except to pursue a provisional remedy that is authorized by law or by JAMS Rules or by agreement of the parties. However, this limitation is inapplicable to a party if the other party refuses to comply with the requirements of subsection (iii) above; (vii) all applicable statutes of limitation and defenses based upon the passage of time shall be tolled until 15 days after the Earliest Initiation Date. The parties will take such action, if any, required to effectuate such tolling; (viii) if the

matter is not resolved by mediation pursuant to subsections (v) and (vi) above, then either party may initiate litigation as set forth below.

**28) MISCELLANEOUS**

- a. This Agreement constitutes the full understanding and agreement between MCC and Client. Any other agreements, written or oral, are superseded by this Agreement. This Agreement shall not be altered or amended in any manner except in writing executed by MCC and Client.
- b. Client waives jury trial with respect to any dispute.
- c. This Agreement is binding upon and shall inure to the benefit of MCC, Client, and their respective officers, directors, shareholders, employees, members, agents, representatives, and assignees.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date of the last signature by the duly authorized representatives of the parties below. The Term of this agreement shall begin on the effective date regardless of the signature date.

Agreement effective date \_\_\_\_\_ 1, 20\_\_\_\_

MCC Technology Inc.  
2422 W. Main Street – Unit 4D  
St. Charles, IL 60175

\_\_\_\_ Company\_name\_\_\_\_  
\_\_\_\_ Company\_Address\_\_\_\_  
\_\_\_\_ City\_State\_zip code\_\_\_\_

By: \_\_\_\_\_

By:\_\_\_\_\_

Printed Name: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title : \_\_\_\_\_

Title : \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_