

SERVICES AGREEMENT

1. **TERM.** The term of this Agreement shall commence as of the Effective Date and continue for a term of **one (1) year** (“Term”). Either party may terminate this Agreement, without cause, by providing written notice of termination to the other party no less than ninety (90) calendar days prior to the termination date set forth in said notice. In the event of material default, the non-defaulting party may terminate this Agreement, subject to sufficient notice and the right of the defaulting party to cure the default as hereafter provided.
2. **RENEWAL.** The Parties agree that the Term shall be renewed automatically, with the same terms and conditions of this Agreement unless a written notice of non-renewal is provided by either party thirty (30) days prior to the renewal date.
3. **SERVICES AND DELIVERABLES.**
 - 3.1. This Agreement establishes the standard terms and conditions pursuant to which Client will obtain from Contractor, and Contractor will provide to Client; such services and deliverables as Client and Contractor may mutually agree upon from time to time in writing. Each such written agreement shall be referred to hereinafter as the “Statement of Work” and the services, deliverables, and resulting work set forth in such Statement of Work to be provided by Contractor shall be collectively referred to hereinafter as “Services.”
 - 3.2. Statements of Work shall:
 - 3.2.1. Refer specifically to this Agreement and incorporate by reference all of this Agreement’s terms and conditions unless the Statement of Work specifically provides otherwise;
 - 3.2.2. Designate the date as of which the provisions of the Statement of Work will be effective and, if applicable, the term or period during which Contractor will perform services, provide resources, or otherwise discharge its obligations as specified in the Statement of Work;
 - 3.2.3. Describe the services to be performed, the resources to be provided, or obligations to be discharged by Contractor pursuant to the Statement of Work;
 - 3.2.4. Describe the obligations of Client related to the Statement of Work, including any facilities, equipment, personnel, and tasks, or other support to be provided or performed by Client;
 - 3.2.5. Specify the payments to be made to Contractor under the Statement of Work, or if applicable, the basis on which such payments will be computed; and
 - 3.2.6. Specify any other terms and conditions appropriate to the services to be performed and the obligations of the parties.
4. **PAYMENTS.**
 - 4.1. During the Term, to the extent not subject to a good faith dispute, Client agrees to pay the amount of charges stated on the Statement of Work and reimbursement for all reasonable, pre-approved travel expenses (including expenses involved with Contractor’s or its subcontractor’s personnel going to Client’s facility) directly related to the performance of this Agreement or a Statement of Work, including without limitation, reimbursement for meals, lodging,

transportation, car rental, and incidental expenses related to subsistence. As a condition to the receipt of reimbursement for all travel expenses, the Contractor will submit to the Client the required evidence of each expenditure (the "Supporting Documents"). At the end of each month during the Term, Contractor shall issue an invoice to the Client calculating the hours of Services performed during that month and the amount due. To the extent, such amount is not subject to a good faith dispute, payment is due fifteen (15) calendar days after the receipt of the invoice and the Supporting Documents unless otherwise specified in the Statement of Work.

- 4.2. Failure of the Client to make payment when due of any amount not subject to good faith dispute shall be deemed an event of material default and Client shall be additionally liable for a penalty in the form of interest at the rate of **1/10 of 1%** of the amount billed for **every day of delay** in payment. Contractor may cease all work until such default is cured by the Client. If the Client does not cure such default within fifteen (15) calendar days after being given written notice thereof, then the Contractor may, by giving written notice to Client, terminate this Agreement as of a date specified in such notice of termination, without prejudice to Contractor's right to collect from Client any amount (including penalty interest) still due and outstanding.
- 4.3. During any Renewal Term, prior to Contractor's performance of, and its invoicing Client for, the Services performed in any term after the Initial Term, the parties may mutually agree in writing on the billing rate for such Services in the Statement of Work. If the parties cannot agree, all Services will be billed at the current rate in effect.

5. CLIENT RESPONSIBILITIES.

- 5.1. The Client agrees to provide administrative support, technical support, and other support, each as described more particularly in a Statement of Work (including such material to be supplied by Client specified by any subcontractor of Contractor), which are necessary to perform the Services under a Statement of Work. Client agrees to perform those tasks within the timeframe specified in the Statement of Work and provide the personnel agreed to by the parties and set forth in a Statement of Work.
- 5.2. Should Client materially default in any of its obligations under this Agreement or a Statement of Work, Client agrees that Contractor is not liable for the delay, cost increase, or other consequences to the extent such Client default is the proximate cause of such delay, cost increase, or other consequences. In any event, the Contractor will use its best efforts to mitigate such costs or expenses. Any Contractor deadline that is directly affected by any material Client default shall be extended by an amount of time equal to the length of such default plus an additional period of time, if reasonably necessary. Client shall be billed for additional charges and expenses on account of such extension. The amended schedule and additional charges shall be contained in a Change Order.

6. TERMINATION OF A STATEMENT OF WORK. A Statement of Work may be terminated as follows:

- 6.1. Client **may** terminate any Statement of Work, with or without cause, by providing written notice of termination of Contractor **no less than thirty (30) calendar days** prior to the termination date set forth in said notice. Upon receipt of notice of such termination, Contractor shall inform Client to the extent to which the performance is completed on such date and Contractor shall deliver to Client whatever work product is then existing in a manner prescribed

by the Client. Contractor shall be paid for all work performed on the date of termination, provided that such payment shall not be greater than the payment that would have been due if the work had been completed.

6.2. The termination of this Agreement shall likewise terminate all Statements of Work then subsisting. Upon receipt of notice of such termination, Contractor shall inform Client to the extent to which the performance is completed on such date, and Contractor shall deliver to Client whatever work product is then existing in a manner prescribed by the Client. Contractor shall be paid for all work performed on the date of termination, provided that such payment shall not be greater than the payment that would have been due if the work had been completed.

7. EFFECT OF FORCE MAJEURE. Each party shall be excused from performance for any period and to the extent that it is prevented from performing any obligation or Service, in whole or in part, as a result of causes beyond reasonable control and without the fault or negligence of such party and/or its subcontractors. Such acts shall include without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, governmental regulations superimposed after the fact, fire, communication line failures, failures of third party vendors, power failures, earthquakes, floods, or other natural disasters (“Force Majeure Events”). Delays in delivery or meeting completion dates due to Force Majeure Events shall automatically extend such dates for a period equal to the duration of such events.

8. DATA PRIVACY.

8.1. That the Contractor agrees to comply and have adequate measures in place to ensure that its staff complies at all times with the provisions and obligations contained in the Data Privacy Act of 2012 and related statutes and issuances. All personal data acquired by the Contractor from the Client or its clients shall only be used for the purposes of this Agreement and shall not be further processed or disclosed without the consent of the Client or its clients. Nothing in this Agreement shall oblige the Client to disclose any information to the Contractor if it is of the view to do so would be a breach of the Data Privacy Act of 2012 and related statutes and issuances.

9. SOLICITATION OF EMPLOYEES, CONSULTANTS, AND OTHER PARTIES. The Contractor and Client agree that:

9.1. During the Term of their business relationship, and for a period of twenty-four (24) months immediately following the termination of their relationship for any reason, whether with or without cause, neither Party shall directly or indirectly induce or attempt to induce any employee, consultant, or agent of the other party to terminate their employ or relationship with the other party, or hire any such employee, consultant, or agent of the other party in any business or capacity.

9.2. Neither shall either Party hire any former employee, consultant, or agent of the other party within six (6) months from the termination of such former employee’s, consultant’s, or agent’s employment or relationship with the other party for whatever reason or cause.

10. WARRANTY.

10.1. Contractor warrants that:

- 10.1.1. The Services will be performed by qualified personnel in a manner that is consistent with best practices in the industry for such Services, and in accordance with any requirements and specification set forth in any applicable Statement of Work;
 - 10.1.2. The Services will be an original work of Contractor and any persons performing the Services on behalf of the Contractor shall have executed assignments of rights sufficient to enable Contractor to comply with its obligations hereunder;
 - 10.1.3. Neither the Services or any element thereof will infringe the intellectual property rights of any third party and the Contractor herein indemnifies and holds Client harmless for any claims against the Client made by a third party that the Client has infringed upon the intellectual property rights of a third party through Client's use of such Services provided by Contractor to Client;
 - 10.1.4. Contractor will not grant, directly or indirectly, any rights or interest to third parties whatsoever in the Services;
 - 10.1.5. Contractor has full rights and power to enter into and perform this Agreement without the consent of any third party;
 - 10.1.6. Neither Contractor nor any of Contractor's employees or agents is under any pre-existing obligation in conflict or in any way inconsistent with the provisions of this Agreement;
 - 10.1.7. Contractor has the right to disclose or use all ideas, processes, techniques, and other information, if any, which Contractor has gained from third parties, and which Contractor discloses to the Client in the course of performance of this Agreement, without liability to such third parties;
 - 10.1.8. Contractor has not granted any rights or licenses to any intellectual property or technology that would conflict with the Contractor's obligations under this Agreement; and
 - 10.1.9. Contractor will not knowingly infringe upon any copyright, patent, trade secret, or other property rights of any former client, employer, or a third party in the performance of the Services required by this Agreement.
- 10.2. THE WARRANTIES IN THIS PARAGRAPH 10 AND ANY WARRANTY IN A STATEMENT OF WORK, BUT ONLY IF SPECIFICALLY STATED AS AN EXPRESS WARRANTY IN SUCH STATEMENT OF WORK, ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, OR ARISING BY COURSE OF DEALING OR PERFORMANCE, CUSTOM OR USAGE IN THE TRADE, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

11. CONFIDENTIALITY.

- 11.1. **Existing Non-Disclosure Agreement.** Unless the parties have otherwise entered into a separate Non-Disclosure Agreement pertaining to the subject matter herein that is in full force and effect at the time of the Effective Date of this Agreement, then the terms and conditions specified herein below in Articles 11.2, 11.3, and 11.4 shall apply to the use of each other's Confidential Information. Acceptance of such an existing Non-Disclosure Agreement must be attached to and incorporated into this Agreement in order for those terms to apply to this Agreement.

- 11.2. **Confidential Information.** As used in this Agreement, “Confidential Information” includes, but is not limited to, any and all technical and non-technical proprietary information regarding trade secrets, mask works, techniques, sketches, drawings, source codes, models, inventions, know-how, processes, design details, engineering, equipment, hardware, algorithms, software, specifications, price lists, samples, demos, manufacturing details, business data, ideas and information related to the current, future, and proposed products and services, patents, patent applications, finances, client lists, investors, business and contractual relationships, forecasts, marketing data and plans, and other business data of the disclosing party or a third party and any information derived by the receiving party from such disclosure of information; including such information in a tangible media, such as written format, tape, magnetic, or other electronic media that is marked as “confidential” or “proprietary” and oral disclosures that are identified as such at the time of disclosure and, in the case of both tangible and oral disclosures, that can be reasonably inferred from the surrounding circumstances of the disclosure and the information to be confidential and/or proprietary.
- 11.3. **Exclusions.** Confidential Information does not include information that (“Excluded Information”): (i) is at the time of disclosure hereunder generally available to the public; (ii) becomes generally available to the public through no fault of the receiving party; (iii) is acquired by the receiving party from a third party having a right to disclose it to the receiving party without restriction (whether or not prior or subsequent to disclosure hereunder); (iv) proven by the receiving party to have been independently developed or compiled without the aid, use, or application of the disclosing party’s Confidential Information; (v) required to be disclosed pursuant to an order of competent governmental authority or otherwise required under any applicable law; and/or (vi) has been approved for disclosure, publication and/or public release by written authorization of the Disclosing Party. Excluded Information does not include information that would otherwise constitute Confidential Information during the period from the date the information was disclosed by the disclosing party (including if such disclosure was prior to the execution of this Agreement) to the receiving party and the date that such information became an Excluded Information. In the event of a dispute or litigation, the receiving party shall bear the burden of proving by clear and convincing evidence that any information disclosed or used by the receiving party or its Authorized Representatives (defined below) and claimed to be excluded under this Article 11.3 is not Confidential Information or a derivative of the Confidential Information or any part thereof. Confidential Information shall not be deemed to be generally available to the public merely because any part thereof is embodied in general disclosures, because individual features, components, or combinations thereof are now or become known to the public unless the combination itself and the principle of operation are published or available to the general public or in the rightful possession of the receiving party.
- 11.4. **Non-Disclosure.** A recipient agrees to use the same degree of care to prevent unauthorized use or disclosure of the Confidential Information as Recipient uses to protect its own confidential information, but in any event with no less than a reasonable degree of care. The receiving party agrees, that at all times, it will hold in strict confidence and not disclose Confidential Information or any portion of the Confidential Information or any notes, extracts, summaries, or other materials derived in any way from the Confidential Information except to its employees, legal advisors, financial advisors, accountants, technical advisors,

representatives, or other agents who in the reasonable opinion of the receiving party have a bona fide “need to know” the information to fulfill the purposes under this Agreement and who are bound by confidentiality requirements at least as restrictive as those contained herein (“Authorized Representative”). The receiving party shall immediately notify the disclosing party in the event of any loss or unauthorized disclosure of any Confidential Information or any other breach of this Agreement by the receiving party and will cooperate with the disclosing party in every way to help the disclosing party regain possession of the Confidential Information and to prevent its further disclosure. Neither party shall alter or remove any property rights, legends, or notices (including any copies thereof) or reverse engineer, decompile, or otherwise attempt to discover underlying design, logic, function, features, or any other trade secrets of the other party.

12. MARKETING OPPORTUNITIES; PUBLICATIONS; PROMOTIONS.

- 12.1. Contractor may provide marketing opportunities for the Client, designed to strengthen the Client’s brand in the market by leveraging the Contractor’s award-winning brand to impart a sense of quality, innovation, and reliability to Client’s solutions. By taking advantage of these complementary opportunities, Client can build a valuable impact on its own prospects and customers, not just locally, but on a global scale.
- 12.2. Promotions. The following are the available marketing opportunities:
 - 12.2.1. Logo Program and Use of Customer Name - Contractor shall not use Client’s logo and company name (Client provides Contractor the appropriate artwork for logo), without the Client’s written approval, as well as to communicate that it is a customer of Contractor in any form of publication, including social media networks. Contractor agrees to read and follow corresponding trademark guidelines, ensuring that the provided artworks are rightfully utilized.
 - 12.2.2. Success Stories - If the Client wishes to be considered for a success story on the Contractor’s website, Client may contact Exist Marketing Department, marketing@exist.com. Contractor agrees to present the success story for the Client’s written approval prior to its publication. By endorsing the case study, Client allows Contractor to use and distribute it to communicate the success behind the software development project.
 - 12.2.3. Screenshots and Screencasts of Application/s - Contractor shall not produce screenshots and screencasts, which are short videos of the completed application/s, to communicate that the application/s is/are part of Contractor’s portfolio, without the Client’s prior written approval.
 - 12.2.4. Press Release - Contractor may offer joint releases to a wide media distribution to help bring recognition to the Client’s solution. Contractor agrees to present the “for release” news items for the Client’s written approval prior to publication. By endorsing the press release, Client allows Contractor to use and distribute it to communicate the success behind the software development project.
- 12.3. Client allows Contractor to use and release information describing Client’s usage of Contractor’s products and services in marketing, promotional, and advertising materials in accordance with the promotions and marketing opportunities described under Section 12.2; provided that, Contractor shall first present such proposed marketing, promotional, and

advertising materials to Client for approval and obtain Client's written authorization prior to the actual release or publication thereof. "Marketing, promotional, and advertising materials" include, but are not limited to, press releases, testimonials, quotes, case studies, prints, radio, website, online banner and TV advertisements, promotional collateral, internal training, presentations, and sales that may use Client's logos, trademarks, service marks and other information, quotations from, and the names, images, and comments of, Client's employees and other related references.

13. **COMPLIANCE WITH LAWS.** Contractor represents and warrants that at all times during the term of this Agreement, Contractor and its subcontractor shall be in full compliance with all applicable federal, state, local, foreign, and international laws, rules, regulations, treaties, and conventions, including but not limited to those regarding export, import, employment, and intellectual property.
14. **CHANGE ORDERS.** If at any time during the term of this Agreement, Client should desire or Contractor should wish to recommend an addition, modification, or change to Contractor's required performance hereunder, a written notice should be sent to the other Party no less than thirty (30) calendar days prior to the intended date set forth in said notice when such addition, modification, or change is to be implemented. Contractor and Client shall amend the existing Statement of Work with mutual agreement by executing a Change Order.
15. **SUBCONTRACTS.** Contractor may, upon consultation with the Client, engage subcontractors to perform any of the Services. Any such subcontractor engaged in the performance of the Services shall be bound by all the terms of this Agreement, and Contractor shall be exclusively responsible for enforcing compliance and immediately reporting any failure to adhere to the terms of this Agreement.
16. **OWNERSHIP.** Client shall own, upon payment of all fees owing to Contractor under the terms of this Agreement, all rights, title, and interest in and to any and all materials developed by Contractor and/or Client pursuant to this Agreement and any Statement of Work, including without limitation any and all design specifications, drawings, source codes, scripts, and documentation (the "Work Product"). Except as may otherwise be agreed upon by the parties in writing, Contractor shall not convey, nor shall Client obtain, any right in materials proprietary to Contractor which Contractor may utilize or provide pursuant to the Services. Contractor shall be free to use its general knowledge, skills, and experience, and any ideas, concepts, know-how, and techniques used in the course of providing the Services, on other engagements. Contractor retains all rights and interests in any technology previously developed by Contractor. The parties will cooperate with each other to execute any documents necessary to achieve the objectives of this Article.
17. **ACCEPTANCE.** Unless a Statement of Work sets forth a different time period, Client shall notify Contractor in writing within ten (10) working days following receipt of any deliverable, if it is not acceptable. Such notice shall specify in reasonable detail the reason or reasons such deliverable has been deemed unacceptable. Client shall not unreasonably withhold acceptance. If the notice of non-acceptance is not sufficiently detailed to allow Contractor to determine why such deliverable is unacceptable, Contractor may request in writing that Client provide sufficient additional information.

18. LIMITATION OF LIABILITY. Contractor's entire liability to Client arising out of or relating to a Statement of Work, regardless of the form of the cause of action, whether in contract, tort, or statute including negligence, shall in no event exceed the amounts paid to Contractor for such Statement of Work related to a particular project. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, NEITHER CONTRACTOR NOR CLIENT SHALL UNDER ANY CIRCUMSTANCES BE LIABLE TO EACH OTHER FOR ANY CLAIM BASED UPON ANY THIRD PARTY CLAIM OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, PUNITIVE, OR SPECIAL DAMAGES OF ANY NATURE WHATSOEVER, INCLUDING WITHOUT LIMITATION, ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, DELAYS, LOSS OF DATA, LOSS OF PROFIT, INTERRUPTION OF SERVICE OR LOSS OF BUSINESS, OR ANTICIPATORY PROFITS, EVEN IF CONTRACTOR OR CLIENT HAS BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. No action, regardless of form, arising out of a Statement of Work may be brought by either party more than one (1) year after the cause of action has accrued.

19. GENERAL.

19.1. Independent Contractor. Contractor and that of its employees and agents, in furnishing services to Client, is acting only as an independent contractor and not as an employee of the Client. Contractor does not undertake to perform any obligation of Client, whether regulatory or contractual, or to assume any responsibility for Client's business or operations. Contractor has the sole right and obligation to supervise, manage, contract, direct, procure, perform or cause to be performed all work to be performed by Contractor, except as otherwise provided in this Agreement or any Statement of Work. None of Contractor's employees will be eligible for any employee benefits, nor will the Client make any deductions from payments made to Contractor for taxes, all of which will be Contractor's responsibility. Contractor accepts full and exclusive liability for the payment of all employer contributions and taxes measured by the remuneration paid to Contractor employees as required by all applicable federal, state, and local laws, rules, and regulations, and agrees to hold the Client harmless from any liability for or the assessment of any such contributions or taxes imposed on the Client. Neither Contractor nor any of its employees will have the authority to enter into contracts that bind the Client or create obligations on the part of the Client without prior written authorization of the Client.

19.2. Entire Agreement. This Agreement, including all Statements of Work issued hereunder, constitutes the entire agreement between the parties and there are no prior or contemporaneous, oral or written, representations, understandings, or agreements relating to this subject matter which are not fully expressed herein. This Agreement may only be amended by a writing signed by duly authorized representatives of each party.

19.3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the Republic of the Philippines.

19.4. Attorney's Fees. In the event that any action or proceeding is commenced by any party hereto for the purpose of enforcing any provision of this Agreement, the parties to such action, proceeding, or arbitration shall pay their individual share of all costs and expenses, including attorney's fees.

19.5. No Waiver. No delay or omission by either party in exercising any right or power shall impair such right or power or be construed as a waiver. A waiver by either party of any covenants to

be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach or of any other covenant. No waiver or discharge shall be valid unless in writing and signed by an authorized representative of the party against whom such waiver or discharge is sought to be enforced.

- 19.6. **Assignment.** Neither party may assign or transfer any rights or obligations under this Agreement without the prior written consent of the other party; except that Client may assign this Agreement in conjunction with either the sale or transfer of all or substantially all of its assets or stock. Any attempted assignment or transfer in violation of the foregoing shall be null and void.
- 19.7. **Survival.** The obligations set forth in Paragraphs 4, 9, 10, 11, 12, 13, 16, 17, 18, 19.5, 19.7, and 19.10 shall explicitly survive termination or expiration of this Agreement.
- 19.8. **Notice.** Whenever under this Agreement one party is required or permitted to give notice to the other, such notice shall be deemed given three (3) days after being sent to facsimile, hand delivery, courier, or by registered or certified mail with return receipt requested, addressed to the address listed in the first paragraph of this Agreement. Either party hereto may change its address for notification purposes from time to time by giving the other party written notice of the new address and the date upon which it will become effective.
- 19.9. **Severability.** If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, then both parties shall be relieved of all obligations arising under such provision, but if the remainder of this Agreement shall not be affected by such declaration or finding and is capable of substantial performance, then each provision not so affected shall be enforced to the extent permitted by law or shall be modified only to the extent necessary to allow such provision to remain legally valid and enforceable.
- 19.10. **Dispute Resolution.** Any controversy or claim arising out of or relating to this Agreement shall be settled in binding arbitration in accordance with the Philippine Dispute Resolution Center, Inc.
- 19.11. **Remedies.** All remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity, or otherwise.
- 19.12. **Consent.** Where agreement, approval, acceptance, consent, or similar action by Client or Contractor is required, such action shall not be unreasonably delayed or withheld.
- 19.13. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original, but all of which shall be deemed to be one and the same instrument. Execution by any party may be delivered by fax, with counterpart signature pages delivered via fax, or by electronic signature service and such delivery shall have the same effect as the delivery of an original counterpart hereof or thereof.
- 19.14. **Statement of Work Governs.** In the event of any conflict between the terms of this Agreement and any Statement of Work, the terms of the Statement of Work shall govern.

20. IN WITNESS WHEREOF, each party hereto has caused this Agreement to be executed and delivered by its duly authorized representative, all as of the date first set forth above.

IN WITNESS WHEREOF, the parties hereto have set their hands at the place and on the date first written above.