

## FIRSTBASE MASTER SERVICES AGREEMENT

This Firstbase Master Services Agreement, effective as of the later of the dates beneath the parties' signatures below (the "**Effective Date**"), is by and between Firstbase Inc. ("**Firstbase**") and [REDACTED] ("**Customer**"). This Firstbase Master Services Agreement (the "**MSA**"), together with any Order Forms, Exhibits, or any other documents which reference this MSA are collectively, the "**Agreement**". Firstbase and Customer may be referred to herein collectively as the "**Parties**" or individually as a "**Party**".

### RECITALS

A. Firstbase operates a platform and associated services designed to facilitate the supply, management and administration of IT and office equipment on behalf of an organization's workforce; and

B. Customer desires to access and use this platform and receive these associated services, and Firstbase is willing to provide such access and services, subject to the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### 1. DEFINITIONS.

(a) "**Aggregate Data**" means data and other information that relates to the provision, use and performance of various aspects of the Services, systems and technologies (the "**Aggregate Data**"), where such Aggregate Data is in aggregated and de-identified form from which neither Customer nor any individual can be identified.

(b) "**Authorized User**" means an employee or contractor whom Customer has authorized to Use the Platform Services.

(c) "**Customer Materials**" means all information, data, content and other materials, in any form or medium, that is stored, uploaded or made available by Customer or its Authorized Users through the Platform Services or otherwise provided by or on behalf of Customer to Firstbase in connection with Customer's and its Authorized Users' use and receipt of the Services, but excluding, for clarity, any Aggregate Data and any other information, data, data models, content or materials owned or controlled by Firstbase and made available to Customer or its Authorized Users through or in connection with the Services.

(d) "**Documentation**" means the operator and user manuals, training materials, specifications, minimum system configuration requirements, compatible device and hardware list and other similar materials in hard copy or electronic form if and as provided by Firstbase to Customer (including any revised versions thereof) relating to the Services, which may be updated from time to time.

(e) "**Equipment**" means the equipment, furniture, goods or other items listed in the applicable Order Form, as may be modified or supplemented by (i) mutual written agreement of the Parties (email to suffice); or (ii) Customer as permitted by Firstbase through the functionality of the Platform Services.

(f) **“Equipment Services”** means Firstbase’s logistics services designed to facilitate the procurement, delivery, warehousing, repair, and maintenance of Equipment.

(g) **“Equipment Fees”** means the Fees for any applicable Equipment, as specified in the applicable Order Form.

(h) **“Fees”** means all applicable fees set forth on an Order Form such as Equipment Fees, Platform Services Subscription Fees, Professional Services Fees, Service Action Fees, or any other fees to the extent applicable.

(i) **“Firstbase IP”** means the Services, Documentation and Aggregate Data, the underlying software for the Platform Services, any and all algorithms, interfaces, technology, databases, tools, know-how, processes and methods used to provide or deliver the Services, all improvements, modifications or enhancements to, or derivative works of, the foregoing (regardless of inventorship or authorship), and all Intellectual Property Rights in and to any of the foregoing.

(j) **“Intellectual Property Rights”** means patent rights (including, without limitation, patent applications and disclosures), inventions, copyrights, trade secrets, know-how, data and database rights, mask work rights, and any other intellectual property rights recognized in any country or jurisdiction in the world.

(k) **“Order Form”** means a (i) mutually executed order form or other mutually agreed upon ordering document; (ii) purchase order issued by Customer and accepted by Firstbase in writing; or (iii) quote issued by Firstbase and accepted by Customer, in each case which references this Agreement and sets forth the applicable Services to be provided by Firstbase.

(l) **“Owned Equipment”** means Equipment that is owned by Customer including, without limitation, any Purchased Equipment, and excluding for clarity any Leased Equipment. **“Leased Equipment”** means Equipment that is provided to the Customer by or through Firstbase using a pay-as-you-go procurement model wherein a flat recurring fee is charged to the Customer as stipulated on the Leased Equipment Rider or Order Form.

(m) **“Person”** means any individual, corporation, partnership, trust, limited liability company, association, governmental authority or other entity.

(n) **“Platform Services”** means Firstbase’s cloud-based software platform designed to facilitate the management and administration of IT and office equipment and other aspects of onboarding, offboarding, and day-to-day employee experience on behalf of an organization’s workforce.

(o) **“Platform Services Subscription Fees”** mean the Fees for the Platform Services, as specified in the applicable Order Form.

(p) **“Professional Services”** means the implementation, configuration, white-labeling and/or other professional services, if any, to be provided by Firstbase to Customer as set forth in the applicable Order Form.

(q) **“Professional Services Fees”** means the Fees for the Professional Services, as specified in the applicable Order Form.

(r) **“Purchased Equipment”** means any Equipment that is sold by Firstbase to Customer.

(s) **“Service Action”** means one of the various actions that may be performed by Firstbase for Customer upon Customer’s request, as further set forth in the applicable Service Action Fees Transaction Rate Card, and which may consist of onboarding, offboarding, delivery, repairs and maintenance, or any other actions listed in the then-current Service Actions Fees Transaction Rate Card that are performed by Firstbase for Customer upon Customer’s request.

(t) **“Service Action Fees”** means the nonrefundable fees payable for Service Actions in accordance with the Service Action Fees Transaction Rate Card which consist of Fees according to the particular Service Action (in a geographic location) and which may be paid as (a) Service Action Fees Annual Commit or (b) as Service Action Fees Pay-as-You-Go.

(u) **“Service Action Fees Annual Commit”** means the nonrefundable Service Action Fees set out in the Order Form which may include a volume discount to be applied when each Service Action Fee is incurred and paid in advance as set forth in the applicable Order Form.

(v) **“Service Action Fees Pay-as-you-Go”** means the nonrefundable Service Action Fees set out in the Order Form which will be charged at the time each Service Action occurs at the then-current rate for such Service Actions in accordance with the Service Action Fees Transaction Rate Card and paid as set forth in the applicable Order Form.

(w) **“Service Action Fees Transaction Rate Card”** means the list of relevant Service Action types and their corresponding prices per individual Service Action instance, which rate card (subject to adjustment) may be provided separately by Firstbase to Customer or set out in the Order Form.

(x) **“Services”** means, collectively, the Platform Services, Equipment Services and Professional Services.

(y) **“Use”** means to use and/or access the Platform Services in accordance with this Agreement and the Documentation.

(z) **“User Count”** means the number of Authorized Users authorized to access the Platform Services or receive the benefit of the Equipment Services as set forth in the applicable Order Form, and as may be updated from time-to-time by (i) mutual written agreement (email to suffice); or (ii) Customer as permitted by Firstbase through the functionality of the Platform Services.

## **2. SERVICES; ACCESS AND USE.**

(a) Equipment Services; Professional Services. Subject to the terms and conditions of this Agreement, Firstbase will perform (i) the Equipment Services with respect to Equipment and Authorized Users; and (ii) the Professional Services.

(b) Platform Services. Subject to the terms and conditions of this Agreement, Firstbase hereby grants Customer a limited, non-exclusive, non-transferable (except in compliance with Section 10(h)) right to Use the Platform Services, solely for Customer’s internal business purposes to manage and administer the Equipment and other aspects of onboarding,

offboarding and day-to-day employee experience for Authorized Users during the Term in accordance with any additional limitations set forth on the applicable Order Form.

(c) Use Restrictions. Customer will not at any time and will not permit any Person (including, without limitation, Authorized Users) to, directly or indirectly: (i) use the Platform Services in any manner beyond the scope of rights expressly granted in this Agreement; (ii) modify or create derivative works of the Platform Services or Documentation, in whole or in part; (iii) reverse engineer, disassemble, decompile, decode or otherwise attempt to derive or gain improper access to any software component of the Platform Services, in whole or in part; (iv) frame, mirror, sell, resell, rent or lease use of the Platform Services to any other Person, or otherwise allow any Person to use the Platform Services for any purpose other than for the benefit of Customer in accordance with this Agreement; (v) use the Platform Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Right or other right of any Person, or that violates any applicable law; (vi) interfere with, or disrupt the integrity or performance of, the Platform Services, or any data or content contained therein or transmitted thereby; or (vii) access or search the Platform Services (or download any data or content contained therein or transmitted thereby) through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers or any other similar data mining tools) other than software or Platform Services features provided by Firstbase for use expressly for such purposes; or (viii) use the Platform Services, Documentation or any other Firstbase Confidential Information for benchmarking or competitive analysis with respect to competitive or related products or services, or to develop, commercialize, license or sell any product, service or technology that could, directly or indirectly, compete with the Services.

(d) Authorized Users. Customer will not allow any Person other than Authorized Users to use the Platform Services. Subject to the User Count, Customer may permit Authorized Users to Use the Platform Services, *provided* that Customer ensures each Authorized User complies with all applicable terms and conditions of this Agreement and Customer is responsible for acts or omissions by Authorized Users in connection with their use of the Platform Services. Customer will, and will require all Authorized Users to, use all reasonable means to secure usernames and passwords, hardware and software used to access the Platform Services in accordance with customary security protocols, and will promptly notify Firstbase if Customer knows or reasonably suspects that any user name and/or password has been compromised. Other than administrative accounts expressly provisioned by Firstbase for Customer, each account for the Platform Services may only be accessed and used by the specific Authorized User for whom such account is created. Firstbase will not be liable, and Customer will be solely responsible, for (i) any unauthorized access, damage or loss that may occur through the use or misuse of Customer's usernames, passwords, hardware or software; or (ii) any activities that occur under any account issued to or created by Customer in connection with Customer's use of the Platform Services, including any unauthorized access or usage of any such account, in each case, except to the extent proven to have been directly caused by Firstbase's gross negligence, willful misconduct or fraud. Customer represents and warrants that any Authorized User and any other person who it allows to use any account for the Platform Services who accesses or uses any Customer Materials, requests any Equipment, adds any new item to the list of Equipment and/or adds or removes any Authorized User to the Platform Services has been duly authorized by Customer to do so (including to incur additional Fees on behalf of Customer hereunder), and Customer hereby irrevocably waives, releases and holds harmless Firstbase from any claims (and all associated losses, damages and liabilities) that Customer or its Authorized Users may have that (i) any Equipment was improperly requested, provided or added to the list of Equipment; (ii) any person was improperly added or removed as an Authorized User; and (iii) any Customer Materials were

improperly accessed or used by any Authorized User (or any person using the account of an Authorized User).

(e) Third-Party Services. Certain features and functionalities within the Services may allow Customer and its Authorized Users to interface or interact with, access and/or use compatible third-party services, products, technology and content (collectively, “**Third-Party Services**”) through the Services. Firstbase does not provide any aspect of the Third-Party Services and is not responsible for any compatibility issues, errors or bugs in the Platform Services or Third-Party Services caused in whole or in part by the Third-Party Services or any update or upgrade thereto. Customer is solely responsible for maintaining the Third-Party Services and obtaining any associated licenses and consents necessary for Customer to use the Third-Party Services in connection with the Services.

(f) Reservation of Rights. Subject to the limited rights expressly granted hereunder, Firstbase reserves and, as between the Parties will solely own, the Firstbase IP and all rights, title and interest in and to the Firstbase IP. To the extent that any rights in the Firstbase IP vest in Customer, such rights are hereby automatically and irrevocably assigned by Customer to Firstbase. No rights are granted to Customer hereunder (whether by implication, estoppel, exhaustion or otherwise) other than as expressly set forth herein.

(g) Feedback. From time-to-time Customer or its employees, contractors, or representatives may provide Firstbase with suggestions, comments, feedback or the like with regard to the Services (collectively, “**Feedback**”). Customer hereby grants Firstbase a perpetual, irrevocable, royalty-free and fully paid-up license to use and exploit all Feedback in connection with Firstbase’s business purposes, including, without limitation, the testing, development, maintenance and improvement of the Services.

(h) Cooperation. During the Term, Customer will (and will cause its Authorized Users to) provide Firstbase with reasonable cooperation, information, access and assistance as necessary or reasonably requested for Firstbase to perform the Services and its other obligations hereunder in accordance with this Agreement, including, without limitation, by (a) providing Firstbase with complete and accurate information regarding the status of and its requirements for Authorized Users and Equipment; (b) providing timely approvals and responses as necessary for Firstbase to perform its obligations in a timely manner in compliance with this Agreement; and (c) any other specific assistance, cooperation, information, materials or access designated to be provided by Customer in this Agreement or an applicable Order Form. Notwithstanding anything to the contrary, Firstbase will not be liable or responsible for delays, failures or issues that arise in connection with this Agreement to the extent resulting from Customer’s failure to provide cooperation, information, access and assistance as required by this Section.

(i) Device Holds. If Customer requests a device hold or similar preservation for Customer Materials, Firstbase shall assist Customer in holding and preserving the Customer Materials. Notwithstanding anything to the contrary, Firstbase will not be liable or responsible for any lost Customer Materials resulting from actions taken in accordance with Customer’s request, including, without limitation, any retention schedules and/or litigation hold orders provided by Company to Firstbase, regardless of where the information is stored.

(j) Customer Commitment. Customer will utilize the Platform Services and Equipment Services (i) for all of its employees hired after the Effective Date who are located in any of the Service Territories (as defined in the applicable Order Form) and will ensure that such employees are added as Authorized Users; and (ii) to handle all upgrades of equipment for all of its employees located in any of the Service Territories (as defined in the applicable Order Form).



### 3. FEES AND PAYMENT.

(a) Fees. Customer will pay Firstbase the undisputed non-refundable fees set forth in the applicable Order Form in accordance with the terms therein without offset or deduction. As provided in the applicable Order Form, Firstbase will issue invoices to Customer and Customer will pay all amounts set forth. Firstbase reserves the right to invoice Customer from any one of its subsidiaries. If Customer has signed up for automatic payment, Firstbase will charge Customer's selected payment method for any Fees on the applicable payment date, including any applicable taxes. If Firstbase cannot charge Customer's selected payment method for any reason (such as expiration or insufficient funds), Customer remains responsible for any uncollected amounts, and Firstbase will attempt to charge the payment method again as Customer may update its payment method information. In accordance with local law, Firstbase may update information regarding Customer's selected payment method if provided such information by Customer's financial institution. Firstbase reserves the right to change the Fees for its Purchase Equipment if input costs are increased on a pass through basis. In such case, Firstbase will notify Customer of the change in pricing in writing (email to suffice) for approval of such Fee changes. Notwithstanding the foregoing, Firstbase shall only adjust the Platform Services Subscription Fees and Service Action Fees at the end of the Initial Service Term (as defined in the Order Form) or then current renewal term, upon 30 days' prior notice to Customer (for which email will suffice).

(b) Payments. Payments due to Firstbase under this Agreement must be made in the currency specified in the applicable Order Form by check, wire transfer of immediately available funds to an account designated by Firstbase or such other payment method mutually agreed by the Parties. Except as set forth in Section 7(c), all payments are non-refundable and neither Party will have the right to set off, discount or otherwise reduce or refuse to pay any amounts due to the other Party under this Agreement. If Customer fails to make any undisputed payment when due, late charges will accrue at the rate of 1.5% per month or, if lower, the highest rate permitted by applicable law and Firstbase may suspend Services until all payments are made in full. Customer will reimburse Firstbase for all reasonable costs and expenses incurred (including reasonable attorneys' fees) in collecting any late payments or interest.

(c) Taxes. Customer is responsible for all sales, use, ad valorem and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, multinational or local governmental regulatory authority on any amount payable by Customer to Firstbase hereunder, other than any taxes imposed on Firstbase's income. Without limiting the foregoing, in the event that Customer is required to deduct or withhold any taxes from the amounts payable to Firstbase hereunder, Customer will pay an additional amount, so that Firstbase receives the amounts due to it hereunder in full, as if there were no withholding or deduction.

### 4. CONFIDENTIAL INFORMATION.

(a) Confidential Information. As used herein, "**Confidential Information**" means any information that one Party (the "**Disclosing Party**") provides to the other Party (the "**Receiving Party**") in connection with this Agreement, whether orally or in writing, that is designated as confidential or that reasonably should be considered to be confidential given the nature of the information and/or the circumstances of disclosure. Confidential Information will not include any information or materials that: (i) were, at the date of disclosure, or have subsequently become, generally known or available to the public through no act or failure to act by the Receiving Party; (ii) were rightfully known by the Receiving Party prior to receiving such information or materials from the Disclosing Party; (iii) are rightfully acquired by the Receiving Party from a third party who

has the right to disclose such information or materials without breach of any confidentiality or non-use obligation to the Disclosing Party; or (iv) are independently developed by or for the Receiving Party without use of or access to any Confidential Information of the Disclosing Party. For clarity, and notwithstanding any exclusions above, the Firstbase IP will constitute Confidential Information of Firstbase.

(b) Non-Disclosure; Non-Use. The Receiving Party will maintain the Disclosing Party's Confidential Information in strict confidence, and will not use the Confidential Information of the Disclosing Party except as necessary to perform its obligations or exercise its rights under this Agreement; *provided* that Firstbase may use and modify Confidential Information of Customer in deidentified form for purposes of developing and deriving Aggregate Data. The Receiving Party will not disclose or cause to be disclosed any Confidential Information of the Disclosing Party, except (i) to those employees, representatives, or contractors of the Receiving Party who have a bona fide need to know such Confidential Information to perform under this Agreement and who are bound by written agreements with use and nondisclosure restrictions at least as protective as those set forth in this Agreement, or (ii) as such disclosure may be required by the order or requirement of a court, administrative agency or other governmental body, subject to the Receiving Party providing to the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or otherwise contest the disclosure.

(c) Confidentiality Term. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five (5) years from the date first disclosed to the Receiving Party; *provided*, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

(d) Terms of Agreement. The terms and conditions of this Agreement will constitute Confidential Information of each Party but may be disclosed on a confidential basis to a Party's advisors, attorneys, actual or bona fide potential acquirers, investors or other sources of funding (and their respective advisors and attorneys) for due diligence purposes.

## **5. CUSTOMER MATERIALS AND DATA.**

(a) Ownership of Customer Materials. As between Customer and Firstbase and except as set forth herein Customer owns and retains all right, title and interest in and to all Customer Materials.

(b) Use of Customer Materials. Customer hereby grants Firstbase a non-exclusive, worldwide, royalty-free right and license to use, reproduce, display, perform and modify the Customer Materials solely for the purpose of hosting, operating, improving and providing the Services during the Term.

(c) Customer Materials Warranty. Customer represents and warrants that (i) it has obtained and will obtain and continue to have all necessary rights, authority and licenses for the access to and use of the Customer Materials (including any personal data provided or otherwise collected pursuant to Customer's privacy policy) as contemplated by this Agreement, without any infringement, misappropriation or violation of the rights of any Person; and (ii) Firstbase's use of the Customer Materials in accordance with this Agreement will not violate any applicable laws or regulations or cause a breach of any agreement or obligations between Customer and any third party.

## 6. REPRESENTATIONS AND WARRANTIES; DISCLAIMER.

(a) Mutual Warranties. Each Party hereby represents and warrants to the other Party that: (i) it is duly organized, validly existing and in good standing under its jurisdiction of organization and has the right to enter into this Agreement and (ii) the execution, delivery and performance of this Agreement and the consummation of the transactions contemplated hereby are within the corporate powers of such Party and have been duly authorized by all necessary corporate action on the part of such Party, and constitute a valid and binding agreement of such Party.

(b) DISCLAIMER. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICES AND ANY OTHER FIRSTBASE IP ARE PROVIDED ON AN “AS IS” BASIS, AND FIRSTBASE MAKES NO WARRANTIES OR REPRESENTATIONS TO CUSTOMER, ITS AUTHORIZED USERS OR TO ANY OTHER PARTY REGARDING SUCH SERVICES OR FIRSTBASE IP. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, FIRSTBASE HEREBY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, FIRSTBASE HEREBY DISCLAIMS ANY WARRANTY THAT USE OF SERVICES WILL BE ERROR-FREE, BUG-FREE OR UNINTERRUPTED.

## 7. INDEMNIFICATION.

(a) Firstbase Indemnification. Subject to Section 7(b), Firstbase will defend Customer against any claim, suit or proceeding brought by a third party (“**Claims**”) alleging that Customer’s Use of the Platform Services infringes or misappropriates such third party’s Intellectual Property Rights, and will indemnify and hold harmless Customer against any damages and costs awarded against Customer or agreed in settlement by Firstbase (including reasonable attorneys’ fees) resulting from such Claim.

(b) Exclusions. Firstbase’s obligations under Section 7(a) will not apply if the underlying third-party Claim arises from or as a result of: (i) Customer’s breach of this Agreement, negligence, willful misconduct or fraud; (ii) any Customer Materials; (iii) Customer’s failure to use any enhancements, modifications, or updates to the Platform Services that have been provided by Firstbase; (iv) modifications to the Platform Services by anyone other than Firstbase; or (v) combinations of the Platform Services with software, data or materials not provided by Firstbase.

(c) IP Remedies. If Firstbase reasonably believes the Platform Services (or any component thereof) infringe any third party’s Intellectual Property Rights, Firstbase may, at its sole option and expense use commercially reasonable efforts to: (i) modify or replace the Platform Services, or any component or part thereof, to make it non-infringing; or (ii) procure the right for Customer to continue Use. If Firstbase determines that neither alternative is commercially practicable, Firstbase may terminate this Agreement, in its entirety or with respect to the affected component, by providing written notice to Customer. In the event of any such termination, Firstbase will refund to Customer a pro-rata portion of the Fees that have been paid for the unexpired portion. The rights and remedies set forth in this Section 7 will constitute Customer’s sole and exclusive remedy for any infringement or misappropriation of Intellectual Property Rights in connection with the Platform Services.



(d) Customer Indemnification. Customer will defend Firstbase against Claims arising from (i) any Customer Materials, including, without limitation, (A) any Claim that the Customer Materials infringe, misappropriate or otherwise violate any third party's Intellectual Property Rights or privacy or other rights; or (B) any Claim that the use, provision, transmission, display or storage of Customer Materials violates any applicable law, rule or regulation; (ii) any of Customer's products or services; and (iii) use of the Platform Services by Customer or its Authorized Users in a manner that is not in accordance with this Agreement or the Documentation, including, without limitation, any breach of the license restrictions in Section 2(c), and in each case, will indemnify and hold harmless Firstbase against any damages and costs awarded against Firstbase or agreed in settlement by Customer (including reasonable attorneys' fees) resulting from such Claim.

(e) Indemnification Procedures. The Party seeking defense and indemnity (the "**Indemnified Party**") will promptly (and in any event no later than thirty (30) days after becoming aware of facts or circumstances that could reasonably give rise to any Claim) notify the other Party (the "**Indemnifying Party**") of the Claim for which indemnity is being sought, and will reasonably cooperate with the Indemnifying Party in the defense and/or settlement thereof. The Indemnifying Party will have the sole right to conduct the defense of any Claim for which the Indemnifying Party is responsible hereunder (*provided* that the Indemnifying Party may not settle any Claim without the Indemnified Party's prior written approval unless the settlement is for a monetary amount, unconditionally releases the Indemnified Party from all liability without prejudice, does not require any admission by the Indemnified Party, and does not place restrictions upon the Indemnified Party's business, products or services). The Indemnified Party may participate in the defense or settlement of any such Claim at its own expense and with its own choice of counsel or, if the Indemnifying Party refuses to fulfill its obligation of defense, the Indemnified Party may defend itself and seek reimbursement from the Indemnifying Party.

## **8. LIMITATIONS OF LIABILITY.**

(a) Indirect Damages Are Limited. EXCEPT WITH RESPECT TO CLAIMS BASED UPON EITHER PARTY'S BREACH OF CONFIDENTIALITY OBLIGATIONS HEREUNDER, AND SUBJECT TO SECTION 8(B), NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES, WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, EVEN IF SUCH OTHER PARTY OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) Certain Damages Are Always Prohibited. IN NO EVENT WILL EITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR (i) ANY SPECIAL OR PUNITIVE DAMAGES, (ii) ANY LOSS OF PROFITS, LOST BUSINESS, LOST REVENUE OR LOSS OF GOODWILL, OR (iii) THE USE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, IN EACH CASE WHETHER IN AN ACTION IN CONTRACT OR TORT OR BASED ON A WARRANTY, AND WHETHER OR NOT SUCH DAMAGES ARE CHARACTERIZED AS DIRECT, INDIRECT OR OTHER, EVEN IF SUCH OTHER PARTY OR ANY OTHER PERSON HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(c) Maximum Liability.

(i) EXCEPT IN THE CASES OF THE EXCLUDED CATEGORIES, IN NO EVENT SHALL EITHER PARTY'S LIABILITY FOR DAMAGES UNDER THIS AGREEMENT EXCEED THE AMOUNTS ACTUALLY PAID BY CUSTOMER (OR IN THE CASE OF

CUSTOMER'S LIABILITY, PAID PLUS OWED BUT UNPAID) TO FIRSTBASE UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING ANY CLAIM MADE HEREUNDER.

(ii) "EXCLUDED CATEGORIES" MEANS (i) EITHER PARTY'S FRAUD, GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, (ii) EITHER PARTY'S BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER THIS AGREEMENT (iii) BREACH OF EITHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, (iv) A PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, AND (v) EITHER PARTY'S VIOLATION OF LAW.

## **9. TERM AND TERMINATION.**

(a) Term. The term of this Agreement begins on the Effective Date and continues until all Order Forms have expired or been terminated, unless terminated earlier in accordance with the terms of this Agreement (the "**Term**").

(b) Termination. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach remains uncured sixty (60) days after the non-breaching Party provides the breaching Party with written notice of such breach. Firstbase may also terminate this Agreement immediately upon written notice to Customer, if Customer is more than thirty (30) days past due on any Fees payable to Firstbase hereunder, or if Customer has violated any of its obligations in Section 2(c).

(c) Survival. This Section 9(c) and Sections 1, 2(c), 2(f), 2(g), 3, 4, 5(c), 6, 7, 8, 9(d) and 10 survive any termination or expiration of this Agreement.

(d) Effect of Termination.

- i. Upon expiration or termination of this Agreement: (a) the rights granted pursuant to Section 2(a) will terminate; and (b) Customer will return or destroy, at Firstbase's sole option, all Firstbase Confidential Information in its possession or control, and at Firstbase's request, certify in writing to Firstbase that the Firstbase Confidential Information has been returned, destroyed or, in the case of electronic communications, deleted. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due or otherwise accrued through the effective date of expiration or termination, or entitle Customer to any refund.

(e) Upon any termination or expiration of this Agreement, with respect to any Owned Equipment, in each case that is in the possession or control of Firstbase, Firstbase will ship such Owned Equipment back to Customer and will invoice Customer for its associated shipping costs plus a processing fee determined in accordance with the bulk shipping fee schedule (based on the number of items shipped) located within the Ancillary Fee Schedule (non-service action) costs section of the Firstbase policies. Customer will pay the amounts set forth on such invoice within thirty (30) days after receipt thereof.

(f) **TRADEMARKS**. Customer hereby grants Firstbase a limited, non-exclusive, royalty-free license to use and display Customer's name, designated trademarks and associated logos (the "**Customer Marks**") during the Term in connection with (i) the provision of the Services; and (ii) Firstbase's marketing and promotional efforts for its products and services, including by

publicly naming Customer as a customer of Firstbase and in case studies. All goodwill and improved reputation generated by Firstbase's use of the Customer Marks ensures the exclusive benefit of Customer. Firstbase will use the Customer Marks in the form stipulated by Customer and will conform to and observe such standards as Customer prescribes from time to time in connection with the license granted hereunder.

## **10. GENERAL.**

(a) Operational Policies in General. The activities under the Agreement shall also be governed by Firstbase policies available at <https://firstbase.notion.site/Firstbase-Policies-Equipment-Service-33d8ebfde522436d84bccab581ee66da> (or a successor location), which are hereby incorporated by reference.

(b) General Management and Procurement of Equipment. As set forth in the Firstbase policies above, Firstbase will manage, monitor and administer Customer's inventory of Equipment on Customer's behalf, including by allowing Authorized Users to select from Customer-approved options for Equipment through the Platform Services, and shipping any such requested Equipment to the provided shipping destinations for applicable Authorized Users in accordance with its standard shipping practices and timeframes, as may be determined from time-to-time within Firstbase's reasonable discretion.

(c) Entire Agreement. This Agreement, including any Order Forms, SOW, Firstbase policies referenced therein, or related exhibits, is the complete and exclusive agreement between the Parties with respect to its subject matter and supersedes any and all prior or contemporaneous agreements, communications and understandings, both written and oral, with respect to its subject matter. This Agreement may be amended or modified only by a written document executed by duly authorized representatives of the Parties. Notwithstanding the foregoing, the authorized representatives of the Parties may amend or modify the (i) primary contact information; (ii) customer primary billing information; and (iii) billing entities by service territory by providing notice to [legal@firstbase.com](mailto:legal@firstbase.com). Firstbase will use commercially reasonable efforts to change such information as soon as reasonably practicable.

(d) Notices. All notices required or permitted under this Agreement will be in writing and in plain English, will reference this Agreement, and will be sent to the relevant address set forth in the applicable Order Form or to such other address as may be specified by the relevant Party to the other Party in accordance with this Section 10(d). Such notices will be deemed given: (i) when delivered personally; (ii) one (1) business day after deposit with a nationally recognized express courier, with written confirmation of receipt; (iii) three (3) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (iv) sent by email to Firstbase at [legal@firstbase.com](mailto:legal@firstbase.com) or if directed to Customer, to an email address provided to Firstbase by Customer from time to time. Notice via email will be deemed given when sent by an authorized representative to the designated email address, provided that no delivery failure notification is received.

(e) Waiver. Either Party's failure to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the Party granting the waiver.

(f) Severability. If any provision of this Agreement is held invalid, illegal or unenforceable, that provision will be enforced to the maximum extent permitted by law, given the

fundamental intentions of the Parties, and the remaining provisions of this Agreement will remain in full force and effect.

(g) Governing Law; Jurisdiction. This Agreement will be governed by and construed in accordance with the laws of the State of Delaware without giving effect to any principles of conflict of laws that would lead to the application of the laws of another jurisdiction. The Parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in the State of Delaware and the Parties irrevocably consent to the personal jurisdiction and venue therein.

(h) Assignment. Neither Party may assign or transfer this Agreement, by operation of law or otherwise, without the other Party's prior written consent. Any attempt to assign or transfer this Agreement without such consent will be void. Notwithstanding the foregoing, either Party may assign or transfer this Agreement to an affiliate or to a third party that succeeds to all or substantially all of the assigning Party's business and assets relating to the subject matter of this Agreement, whether by sale, merger, operation of law or otherwise. Subject to the foregoing, this Agreement is binding upon and will inure to the benefit of each of the Parties and their respective successors and permitted assigns.

(i) Equitable Relief. Each Party agrees that a breach or threatened breach by such Party of any of its obligations under Section 4 or, in the case of Customer, Section 2(c), would cause the other Party irreparable harm and significant damages for which there may be no adequate remedy under law and that, in the event of such breach or threatened breach, the other Party will have the right to seek immediate equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

(j) Force Majeure. Neither Party will be responsible for any failure or delay in the performance of its obligations under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, which may include, without limitation, labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials, equipment or supplies, denial of service or other malicious attacks, telecommunications failure or degradation, pandemics, epidemics, public health emergencies, governmental orders and acts (including government-imposed travel restrictions and quarantines), material changes in law, war, terrorism, riot, or acts of God.

(k) Export Regulation. Customer affirms that it is not named on, owned by, or acting on behalf of any U.S. government denied-party list, and it agrees to comply fully with all relevant export control and sanctions laws and regulations of the United States ("**Export Laws**") to ensure that neither the Services, software, any Customer Materials, nor any technical data related thereto is: (i) used, exported or re-exported directly or indirectly in violation of Export Laws; or (ii) used for any purposes prohibited by the Export Laws, including, but not limited to, nuclear, chemical, or biological weapons proliferation, missile systems or technology, or restricted unmanned aerial vehicle applications. Customer will complete all undertakings required by Export Laws, including obtaining any necessary export license or other governmental approval.

(l) U.S. Government End Users. The Services, software and Documentation were developed solely at private expense and are "commercial products", "commercial items", or

“commercial computer software” as defined in the Federal Acquisition Regulation 2.101 and other relevant government procurement regulations including agency supplements. Any use, duplication, or disclosure of the software or its documentation by or on behalf of the U.S. government is subject to restrictions as set forth in this Agreement as consistent with federal law and regulations. If these terms fail to meet the U.S. Government’s needs or are inconsistent in any respect with federal law, you will immediately discontinue your use of the software or its documentation.

(m) Relationship of the Parties. The relationship between the Parties is that of independent contractors. Nothing in this Agreement will be construed to establish any partnership, joint venture or agency relationship between the Parties. Neither Party will have the power or authority to bind the other or incur any obligations on the other’s behalf without the other Party’s prior written consent.

(n) No Third-Party Beneficiaries. No provision of this Agreement is intended to confer any rights, benefits, remedies, obligations, or liabilities hereunder upon any Person other than the Parties and their respective successors and permitted assigns.

(o) Counterparts. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.

*[Signature Page Follows]*



IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

<b>[CUSTOMER NAME]:</b>	<b>Firstbase Inc.:</b>
By: _____	By: _____
Name: _____	Name: _____
Title: _____	Title: _____
Date: _____	Date: _____