



MASTER SERVICES AGREEMENT

This Master Services Agreement (“MSA”) is between **MotionCX, Inc. (“MotionCX”)** an Ohio corporation with offices at 3700 Fishingier Blvd., Columbus, OH 43026 and the legal entity (“**Customer**”): (i) signing the Signature Document referencing the Agreement; (ii) accepting, or authorizing or permitting an Authorized Party, to accept this MSA (including via clicking an “Accept” button or similar online acceptance process); or (iii) accessing or using the Services, or authorizing or permitting any Authorized Party to access or use the Services (each of (i) through (iii), “**Acceptance**”). If an Authorized Party is entering into this Agreement on behalf of a company, organization, or other legal entity, such Authorized Party is agreeing to this Agreement for that entity as the Customer and represents to MotionCX that the Authorized Party has the authority to bind such Customer.

This MSA was last updated [X], 2021. Copies of prior version of this MSA can be obtained from MotionCX upon request. The version of the MSA that applies to Customer is the last version made available by MotionCX on or prior to the date of last Acceptance by Customer.

The parties agree as follows:

1. Service; Payment.

1.1 Provision of Service. MotionCX shall make the Service available to Customer for use by Customer and its Authorized Parties for whom Customer enables access solely for the internal business purposes of Customer, subject to this Agreement, including the scope of use defined in the applicable Order Form, the Data Processing Exhibit, and the Security Exhibit. Customer acknowledges that MotionCX may Improve the Services during the Subscription Term (including to change or remove feature or functionality). Access and use of APIs are subject to the restrictions and policies set forth by MotionCX from time to time in the applicable Documentation.

1.2 Ancillary Software. MotionCX grants Customer a limited, personal, non- sublicensable, non-transferable, non-exclusive, royalty-free license during the Subscription Term to install and execute Ancillary Software on machines operated by or for Customer within the U.S.A., solely to facilitate Customer’s authorized access to and use of the Service.

1.3 Invoices & Payment. All fees will be electronically invoiced to, and remitted from, the United States by Customer. All fees will be due and payable within 30 days of the invoice date, except for any portion of fees subject to a reasonable and good faith dispute, which will be payable within 15 days after resolution of such dispute. All fees are payable in advance, unless otherwise set forth in the Order Form. If fees for any Services are not set forth in the Ordering Form, then such fees will be at MotionCX’s standard fees in effect from time to time. Customer shall provide MotionCX with complete and accurate billing contact information including a valid email address. Upon MotionCX’s request, Customer shall make payments via electronic bank transfer. If Customer elects to pay by credit card, then Customer is responsible for either: (1) enabling auto-recharge on Customer’s account; or (2) ensuring that Customer’s account has a sufficient positive balance to cover the fees due. All Order Forms are non-cancelable and all payments are non-refundable.

1.4 Suspension for Non-Payment. Except for fees subject to a reasonable and good faith dispute, if a payment is more than 60 days past due, MotionCX may suspend the Services, without liability to Customer, until such amounts are paid in full. Fees are still payable during all periods of such suspension.

1.5 Taxes. Fees invoiced pursuant to this Agreement do not include, and may not be reduced to account for, any taxes, which may include local, state, provincial, federal, or foreign taxes, withholding taxes, levies, duties, or similar governmental assessments of any nature, including, but not limited to, value-

added taxes, excise, use, goods and services taxes, consumption taxes, or similar taxes (collectively “**Taxes**”). Customer shall pay all Taxes imposed on the MotionCX Products or any other services provided under this Agreement. If MotionCX has a legal obligation to pay or collect Taxes for which Customer is responsible under this Agreement, the appropriate amount will be computed based on Customer’s address listed in the Signature Document for this Agreement which will be used as the ship-to address on the Order Form, and invoiced to and paid by Customer, unless Customer provides MotionCX with a valid tax exemption certificate authorized by the appropriate taxing authority.

1.6 Reseller. If Customer signed an Order Form with an authorized reseller of MotionCX’s Services for subscription to the Services (each, a “**Reseller**”), the terms of this Agreement will still apply directly between MotionCX and Customer, except that Customer will make payment of the Subscription Fees covered by such Order Form directly to such Reseller. MotionCX has no liability for any acts or omissions of any Reseller, including if a Reseller provides Customer with consulting, professional, or other services related to the MotionCX Products.

1.7 Free Trials / Beta. If MotionCX provides Customer any Services on a “free trial” basis or makes any Services available on a beta, pilot, or similar basis, such Services are provided on an “As Is” basis and, notwithstanding anything in this Agreement to the contrary, MotionCX: (1) makes no representations, warranties, indemnities, or commitments of any kind with regards to such Services or Customer’s use thereof; (2) will have no liability for any harm or damages arising out of or in connection with such Services; and (3) may terminate such Services at any time without notice or any liability to Customer.

2. Customer Obligations.

2.1 Customer Data. Customer shall have sole responsibility for the accuracy, quality, and legality of all Customer Data, shall take commercially reasonable efforts to prevent unauthorized access to, or use of, the MotionCX Products, and shall notify MotionCX promptly of any unauthorized access or use.

2.2 Acceptable Use. Customer shall not: (1) use the MotionCX Products in violation of Laws (including laws related to the sending, recording, and monitoring of communications), the Documentation, or any “acceptable use” or similar policy published by MotionCX from time to time; (2) in connection with the Service, send or store infringing, obscene, threatening, or otherwise unlawful or tortious material, including material that violates privacy rights; (3) send duplicative or unsolicited communications, including SMS, emails, chats, social media, VoIP, or other messages, junk mail, spam, or other forms of duplicative or unsolicited communications; (4) to the extent Customer is subject to the US Health Insurance Portability and Accountability Act of 1996, and its implementing regulations (**HIPAA**), use the Services to store or transmit any “protected health information” as defined by HIPAA; (5) send or store Malicious Code in connection with the Service; (6) use or launch any automated system that accesses a Service (i.e., bot) in a manner that sends more request messages to a Service server in a given period of time than a human can reasonably produce in the same period by using a conventional online web browser; (7) interfere with or disrupt performance of the Service or the data contained therein; or (8) attempt to gain access to the MotionCX Products or its related systems or networks in a manner not set forth in the Documentation.

2.3 Authorized Parties. Customer is responsible for its Authorized Parties’ acts, omissions, and compliance with the Agreement and any breach by Authorized Parties will be deemed a breach by Customer.

2.4 Third-Party Services. If Customer decides to enable, access, or use Third-Party Services, Customer’s access and use of such Third-Party Services shall be governed solely by the terms and conditions of such Third-Party Services. MotionCX does not endorse, is not responsible or liable for, and makes no representations as to any aspect of such Third-Party Services, including any interaction between Customer and the provider of such Third-Party Services. MotionCX does not guarantee the continued availability of

such Third-Party Service features, and may cease enabling access to them without entitling Customer to any notice, refund, credit, or other compensation. MotionCX is not liable for any damage or loss caused or alleged to be caused by or in connection with Customer's enablement, access, or use of any such Third-Party Services, or Customer's reliance on the privacy practices, data security processes, or other policies of such Third-Party Services. By enabling any Third-Party Services, Customer agrees to allow MotionCX to disclose Customer's login and Customer Data as necessary to facilitate the use or enablement of such Third-Party Services.

2.5 Internet Access. A high-speed Internet connection is required for proper transmission of the Services. Customer is responsible for procuring and maintaining the network connections that connect Customer's network to the Services and complying with all system requirements identified by MotionCX from time to time. MotionCX is not responsible for the reliability or performance of any connections as described in this Section or for issue related to the Services due to Customer's failure to comply with this Section.

3. Rights and Restrictions.

3.1 Proprietary Rights. As between MotionCX and Customer, Customer owns all right, title, and interest to its Customer Data. As between Customer, MotionCX, and MotionCX's licensors, MotionCX or its licensors own all right, title, and interest to the MotionCX Products and MotionCX Confidential Information, and all Intellectual Property Rights in and to the foregoing. Except for the limited rights expressly granted to Customer hereunder, MotionCX reserves all rights, title, and interest in and to the MotionCX Products, including all related Intellectual Property Rights. Customer hereby grants MotionCX a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use or incorporate into its services any Customer Input. MotionCX will have no obligation to make Customer Input an Improvement or otherwise use Customer Input. Customer will have no obligation to provide Customer Input.

3.2 Restrictions. Customer shall not: (1) modify, copy, or create derivative works based on the MotionCX Products; (2) license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share, offer in a service bureau, or otherwise make the MotionCX Products available to any third party other than to Authorized Parties as permitted herein; (3) reverse engineer or decompile any portion of the MotionCX Products, including, any software utilized by MotionCX in the provision of the MotionCX Products, except to the extent required by Law; (4) access the MotionCX Products in order to build any commercially available product or service; (5) copy any features, functions, integrations, interfaces or graphics of the MotionCX Products, provided that the Customer may make a reasonable number of copies of the Documentation for internal business purposes only; or (6) use the MotionCX Products in excess of limitations or metrics set forth in the Order Form (e.g., number of permitted Authorized Parties, transaction volume, etc.).

3.3 Aggregated Data and Usage Data. Customer hereby grants MotionCX a royalty-free, worldwide, transferable, sub-licensable, irrevocable, perpetual license to use Customer Data solely in aggregated and deidentified forms for any purpose, including for benchmarking and as part of analytics, products, or other services MotionCX makes available to third parties. Data generated by MotionCX and the MotionCX Products from Customer's use of the MotionCX Products (excluding Customer Data) is the sole and exclusive property of MotionCX ("**Usage Data**"), provided that MotionCX will not make such Usage Data available to third parties, other than MotionCX's contractors and service providers, in any form that identifies Customer as the source of such Usage Data.

4. Confidentiality. Each party (the "**Recipient**") shall use the same degree of care that it uses to protect its own confidential information of like kind (but in no event using less than a reasonable standard of care) not to disclose or use any Confidential Information of the other party (the "**Discloser**") except as reasonably necessary to perform the Recipient's obligations or to exercise the Recipient's rights under

this Agreement or with the Discloser's prior written permission. Either party may disclose Confidential Information on a need to know basis to its Affiliates, contractors, and service providers, who are bound by confidentiality obligations at least as restrictive as those in this section. To the extent required by Law, the Recipient's disclosure of the Discloser's Confidential Information will not be considered a breach of this Agreement if the Recipient promptly provides Discloser with prior notice of such disclosure (to the extent legally permitted) and reasonable assistance, at the Discloser's cost, if the Discloser wishes to contest the disclosure. The Discloser may seek injunctive relief to enjoin any breach or threatened breach of this section, it being acknowledged by the parties that other remedies may be inadequate.

5. Protection and Security of Customer Data.

5.1 Security. MotionCX maintains a security program that conforms to MotionCX's Security Exhibit. Customer Data shall only be used to provide or Improve the MotionCX Products, to prevent or address service or technical problems, to verify Improvements, as set forth in Section 3.3, or otherwise in accordance with the Agreement, the Documentation, or Customer's instructions.

5.2 Unauthorized Disclosure. If either party becomes aware of a Security Breach, that party must promptly notify the other party without undue delay, unless legally prohibited from doing so. Additionally, each party shall reasonably assist the other party in mitigating any potential damage. Unless prohibited by Law, each party shall provide the other party with reasonable notice of and the opportunity to review and comment on the content of all public notices, filings, or press releases about a Security Breach that identify the other party by name prior to any such publication.

6. Warranties and Disclaimers.

6.1 Limited Warranties. Each party warrants that it has the authority to enter into this Agreement and, in connection with its performance of this Agreement, shall comply with all Laws. MotionCX warrants that during the Term: (1) the Service will perform materially in accordance with the Documentation; and (2) to the best of MotionCX's knowledge, the Service does not contain, and MotionCX will not knowingly introduce, any Malicious Code. In the event of a breach of the warranty set forth in subsection (1) or (2) above, MotionCX shall correct the non-conforming Service at no additional charge to Customer, and in the event MotionCX is unable to correct such deficiencies after good-faith efforts, MotionCX shall refund Customer amounts paid attributable to the defective Service from the date MotionCX received such notice. Customer shall use commercially reasonable efforts to notify MotionCX in writing no later than 30 days after identifying a deficiency. The remedies set forth in this section will be Customer's exclusive remedy and MotionCX's sole liability for breach of these warranties.

6.2 DISCLAIMER. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, MOTIONCX MAKES NO WARRANTIES, REPRESENTATIONS, GUARANTEES, OR INDEMNITIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. MOTIONCX DOES NOT WARRANT THAT THE MOTIONCX PRODUCTS WILL BE ERROR FREE OR UNINTERRUPTED. THE LIMITED WARRANTIES PROVIDED IN THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES PROVIDED TO CUSTOMER.

7. Indemnification.

7.1 MotionCX Indemnity. MotionCX shall defend and indemnify Customer, at MotionCX's expense, against any from any Losses from third-party claims arising out of or relating to an allegation that the use of the Service as contemplated hereunder infringes that third party's U.S. Intellectual Property Rights. MotionCX will have no liability for Losses to the extent they arise from: (1) modification of the Service by anyone other than MotionCX; (2) use of the Service in a manner inconsistent with the Documentation or in violation of this Agreement; or (3) use of the Service in combination with any other product, service, or

data not provided by MotionCX. If Customer is enjoined from using the Service or if MotionCX reasonably believes it will be enjoined, MotionCX may, at its sole option, obtain for Customer the right to continue use of the Service or replace or modify the Service so that it is no longer infringing. If neither of the foregoing options is reasonably available to MotionCX, then either party may terminate the applicable Service and MotionCX's sole liability, in addition to the indemnification obligations in this section, will be to refund any prepaid Subscription Fees for the Service that was to be provided after the effective date of termination. This Section 7.1 states Customer's sole and exclusive remedy arising out of or related to an allegation that the Service or use thereof infringes a third party's Intellectual Property Rights.

7.2 Customer Indemnity. Customer shall defend and indemnify MotionCX, its Affiliates, and its and their officers, directors, agents, and employees, at Customer's expense, from any Losses arising out of or related to: (1) an allegation that the use of Customer Data or data submitted by Customer or its Authorized Parties pursuant to its use of the Service as contemplated under this Agreement, infringes, misappropriates, or otherwise violates such third-party's Intellectual Property Rights or rights of publicity or privacy; (2) Customer's or Authorized Parties' violation of Laws; or (3) Customer's or Authorized Parties' gross negligence or willful misconduct.

7.3 Indemnification Procedure. The indemnitee shall: (1) promptly give written notice of the third-party claim to the indemnitor (although a delay of notice will not relieve the indemnitor of its obligations under this section except to the extent that the indemnitor is prejudiced by such delay); (2) give the indemnitor sole control of the defense and settlement of the third-party claim (although indemnitor may not settle any third-party claim unless it unconditionally releases indemnitee of all liability); and (3) provide to the indemnitor, at the indemnitor's cost, all reasonable assistance.

8. Limitation of Liability.

8.1 GENERAL CAP. EXCEPT WITH RESPECT TO: (1) DAMAGES CAUSED BY PARTY'S FRAUD; (2) EITHER PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT; AND (3) CUSTOMER'S PAYMENT OBLIGATIONS, IN NO EVENT SHALL EITHER PARTY OR ITS AFFILIATES' TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR OTHERWISE, EXCEED THE FEES ACTUALLY PAID UNDER THIS AGREEMENT FOR THE SERVICE FROM WHICH THE CLAIM AROSE DURING THE 12-MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM. THIS CAP IS INTENDED TO BE CUMULATIVE AND AGGREGATE AND WILL NOT BE INCREASED BY THE PRESENCE OF MORE THAN ONE CLAIM.

8.2 ENHANCED CAP. NOTWITHSTANDING SECTION 8.1, A PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF A BREACH OF ITS CONFIDENTIALITY, SECURITY, OR PRIVACY OBLIGATIONS SHALL NOT EXCEED THE FEES ACTUALLY PAID UNDER THIS AGREEMENT FOR THE SERVICE FROM WHICH THE CLAIM AROSE DURING THE 24-MONTH PERIOD IMMEDIATELY PRECEDING THE CLAIM. THIS CAP IS INTENDED TO BE CUMULATIVE AND AGGREGATE AND WILL NOT BE INCREASED BY THE PRESENCE OF MORE THAN ONE CLAIM.

8.3 EXCLUSION OF DAMAGES. EXCEPT FOR AMOUNTS PAYABLE TO THIRD PARTIES PURSUANT TO EITHER PARTY'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE LIABILITY FOR LOST PROFITS OR REVENUES, LOSS OF USE OR DATA, BUSINESS INTERRUPTION, OR INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR COVER DAMAGES, HOWEVER CAUSED, WHETHER IN CONTRACT, TORT OR OTHERWISE, EVEN IF THE PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE EXCLUSIONS IN THIS SECTION WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW. CUSTOMER'S PAYMENT OBLIGATIONS WILL NOT BE CONSIDERED MOTIONCX'S LOST PROFITS.

9. Term and Termination.

9.1 Term. The term of the Agreement commences on and continues from the Acceptance Date until all Order Forms have expired or otherwise been terminated, unless extended pursuant to the written agreement of the parties (“**Term**”). Subscriptions to the Service commence on the date and are for the period set forth in the applicable Order Form.

9.2 Termination. Either party may terminate the Agreement: (1) upon 30 days’ prior written notice to the other party for a material breach by the other party if such breach remains uncured at the expiration of such notice period; or (2) immediately in the event the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. If the Agreement is terminated, all Order Forms are simultaneously terminated and Customer shall, as of the date of any termination, immediately cease accessing and otherwise utilizing the MotionCX Products (except as permitted under Sections 9.3 and 9.4) and MotionCX Confidential Information. Termination for any reason will not relieve Customer of the obligation to pay any Subscription Fees accrued or due and payable to MotionCX prior to the effective date of termination, and termination for any reason other than for uncured material breach by MotionCX will not relieve Customer of the obligation to pay all future amounts due under all Order Forms.

9.3 Retrieval of Customer Data. Upon Customer’s written request made on or prior to expiration or termination of the Agreement, MotionCX shall give Customer limited access to the Service for a period of up to 60 days solely for purposes of retrieving Customer Data (“**Retrieval Period**”). Such access during such Retrieval Period will be subject to such additional fees as identified by MotionCX at the time of Customer’s request. After such Retrieval Period and subject to MotionCX’s legal obligations, MotionCX has no obligation to maintain or provide any Customer Data and shall, unless legally prohibited, delete Customer Data by deleting Customer’s Tenant; provided, however, that MotionCX will not be required to remove copies of the Customer Data from its backup media and servers until such time as the backup copies are scheduled to be deleted. Customer Data will be made available in a common format as determined by MotionCX (for example, CSV, delimited text, or Microsoft Excel).

9.4 Transition Period Before Final Termination. If this Agreement is terminated other than for Customer’s material breach and Customer submits a written request to MotionCX for a one-time transition period within 30 days prior to such termination, MotionCX shall continue to provide the Service for up to three months (the “**Transition Period**”). Monthly fees for the Transition Period will be the monthly fees in effect immediately preceding termination plus an additional 5%, payable in advance. Any transaction based fees for the Services will also continue to apply during the Transition Period. The parties may, but are not required to, agree to MotionCX providing consulting services regarding transition as set forth in a statement of work, governed by a professional services agreement, and at MotionCX’s then-current rates for consulting services.

9.5 Surviving Provisions. Sections 1.2, 1.4, 2, 3, 4, 5 (for so long as MotionCX retains Customer Data), 6.2, 7, 8, 9.2, 9.3, 9.4, 9.5, 10 (except for 10.10), and 11, and any other sections that by their nature should survive, will survive any termination or expiration of this Agreement.

10. General Provisions.

10.1 Relationship of the Parties. The parties are independent contractors. This Agreement does not create nor is it intended to create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Except any indemnitees pursuant to Section 7, there are no third-party beneficiaries to the Agreement.

10.2 Notices. Unless expressly stated otherwise, all notices under this Agreement must be in writing and will be deemed to have been given upon: (1) personal delivery; and (2) the third business day after first class mailing. Notices to MotionCX must be sent to the address shown in the Signature Document or Order Form addressed to the attention of its General Counsel with a copy sent by email to

legal@motioncx.com. Notices to Customer must be sent to the address shown in the Signature Document addressed to Customer's signatory of this Agreement or to its administrative contact established via the Services. MotionCX may also provide notices on its website(s) or its customer portals (which notice will be effective as of the date of its first posting), other than specific notices to Customer related to its breach of this Agreement. Each party may modify its recipient of notices by providing notice pursuant to this Agreement.

10.3 Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right or any other right. Other than as expressly stated, the remedies provided in this Agreement are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

10.4 Force Majeure. Neither party will be liable for any failure or delay in performance under this Agreement for causes beyond that party's reasonable control. Dates by which performance obligations are scheduled to be met will be extended for a period equal to the time lost due to any delay so caused.

10.5 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (which consent must not be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety upon written notice without consent of the other party in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, and in the case of Customer, so long as the assignee agrees to be bound in writing by all of the terms of this Agreement and all past due Subscription Fees are paid in full and is not a competitor of MotionCX. Any attempt by a party to assign its rights or obligations under this Agreement other than as permitted by this section will be void. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

10.6 Governing Law; Waiver of Jury Trial. This Agreement, and all claims relating to or arising from this Agreement, are governed exclusively by laws of the State of Ohio, without regard to its conflicts of laws rules. Each party hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement. The parties agree to the exclusive jurisdiction and venue in the state and federal courts of Franklin County, Ohio.

10.7 Export. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the MotionCX Products. Without limiting the generality of the foregoing, Customer shall not make the MotionCX Products available to any person or entity that: (1) is located in a country that is subject to a U.S. government embargo; (2) is listed on any U.S. government list of prohibited or restricted parties; or (3) is engaged in activities directly or indirectly related to proliferation of weapons of mass destruction.

10.8 Federal Government End Use Provisions (if applicable). MotionCX provides the pre-existing, commercial MotionCX Products, including related software and technology, for federal government end use solely in accordance with the terms and conditions of this Agreement, and MotionCX provides only the technical data and rights as provided herein. If a government agency has a "need for" rights not conveyed under these terms, it must negotiate with MotionCX to determine whether there are acceptable terms for transferring additional rights. A mutually acceptable addendum specifically conveying such rights must be executed by the parties in order to convey such rights beyond those set forth herein. For avoidance of doubt, MotionCX does not currently provide the MotionCX Products for use in furtherance of a federal prime or subcontract.

10.9 Miscellaneous. This Agreement constitutes the entire agreement between the parties with respect to the subject matter hereof. In the event of a conflict, the provisions of an Order Form will take precedence over provisions of this MSA and over any other exhibit or attachment. Customer

acknowledges that it has had the opportunity to review all exhibits and attachments hereto. This Agreement supersedes all prior and contemporaneous agreements, proposals, or representations, written or oral, concerning its subject matter and is entered into without reliance on any promise or representation other than those expressly contained in this Agreement. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in effect. Notwithstanding anything to the contrary in this Agreement, no terms or conditions in a Customer purchase order or in any other Customer order documentation will be incorporated into or form any part of this Agreement, and all such terms or conditions will be null and void. This Agreement may be executed in counterparts, by electronic signatures, or by such other manner as described in the first paragraph hereof.

10.10 Customer Identification. MotionCX may use Customer's name and logo in lists of customers, on earnings calls and releases, in marketing materials, and on its website.

11. Definitions.

"Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control by either party. For purposes of the preceding sentence, "control" means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"Agreement" means this Master Services Agreement, including the Signature Document, Security Exhibit, Data Processing Exhibit, and any other exhibits, addenda, or attachments hereto or referenced herein, and any fully executed Order Form.

"Ancillary Software" means software licensed by MotionCX to Customer that is deployed on machines operated by or for Customer to facilitate operation of the Service or interoperation of the Service with other software, hardware, or services. Ancillary Software may include code that is licensed under third-party license agreements, including open source made available or provided with the Ancillary Software. Unless otherwise specified in an Order Form, the terms of this Agreement alone govern Customer's use of any Ancillary Software required to access or use the purchased Service.

"API" means the application programming interfaces made available and enabled by MotionCX that permit Customers to access certain functionality provided by the Services, including those that enables the integration of the Services with other web applications or third party products.

"Authorized Parties" means Customer's employees, agents, and contractors and third party providers who are authorized by Customer: (1) in writing; (2) through the Service's security designation; or (3) by system integration or other data exchange process to access Customer's Tenants or receive Customer Data.

"Confidential Information" means: (1) any software utilized by MotionCX in the provision of the MotionCX Products and its respective source code; (2) Customer Data; (3) each party's business or technical information, including the Documentation, training materials, any information relating to software plans, designs, costs, prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how that is designated by the disclosing party as "confidential" or "proprietary" or the receiving party knows or should reasonably know is confidential or proprietary; and (4) the terms, conditions and pricing of this Agreement (but not its existence or parties). Confidential Information does not include any information that, without the Recipient's breach of an obligation owed to the Discloser: (a) is or becomes generally known to the public; (b) was known to Recipient prior to disclosure by Discloser; (c) was independently developed by Recipient; or (d) is received by Recipient from a third party.

“Customer Data” means electronic data or information submitted to the Service by or on behalf of Customer or Authorized Parties.

“Customer Input” means suggestions, enhancement requests, recommendations, or other feedback provided by Customer or Authorized Parties relating to the operation or functionality of the MotionCX Products.

“Data Processing Exhibit” or **“DPE”** means the data processing terms [located here](#).

“Documentation” means user manuals, training materials, or knowledge articles, which may be updated by MotionCX from time to time, including any documentation for the APIs and Ancillary Software.

“Improvements” means all improvements, updates, enhancements, error corrections, bug fixes, release notes, upgrades, and changes to the MotionCX Products, as developed by MotionCX and made generally available for production use without a separate charge to customers.

“Intellectual Property Rights” means any and all common law, statutory, and other industrial property rights and intellectual property rights, including copyrights, trademarks, trade secrets, patents, and other proprietary rights issued, honored or enforceable under any applicable laws anywhere in the world, and all moral rights related thereto.

“Law” means any local, state, national, or foreign law, treaties, or regulations applicable to the respective party.

“Loss” means reasonable attorneys’ fees and any damages or costs finally awarded or entered into in settlement of a third-party claim subject to indemnification pursuant to this Agreement.

“Malicious Code” means viruses, worms, time bombs, Trojan horses, and other malicious code, files, scripts, agents or programs, but excluding any intended program for providing remote support or managing licensing rights (such as licensing keys).

“MotionCX Products” means the Services, Ancillary Software, APIs, and Documentation.

“Order Form” means the ordering documents under which Customer subscribes to the Service or other services which are fully executed pursuant to this Agreement, which may be executed with MotionCX or a Reseller and which may also be executed electronically, including via webforms on MotionCX’s website, if permitted by MotionCX.

“Security Breach” means any actual unauthorized use of, loss of, access to, or disclosure of unencrypted Customer Data; provided that an incidental disclosure of Customer Data to an Authorized Party or MotionCX, or incidental access to Customer Data by an Authorized Party or MotionCX, where no reasonable suspicion exists that such disclosure or access involves theft, or is fraudulent, criminal or malicious in nature, shall not be considered a “Security Breach” for purposes of this definition, unless such incidental disclosure or incidental access triggers a notification obligation under any Law.

“Security Exhibit” means the security exhibit [located here](#).

“Service” means MotionCX’s software-as-a-service applications and Improvements as described in the Documentation and subscribed to under an Order Form.

“Signature Document” means the document signed by the parties which lists all the terms and conditions forming part of this Agreement to which the parties agree to be bound, which may be an Order Form.

“Subscription Fees” means all amounts invoiced and payable by Customer for the Service.

“Third-Party Services” means third-party products, applications, services, software, networks, systems, directories, websites, databases, and information which a Service links to, or which Customer may connect to or enable in conjunction with a Service, including through any API.

“Tenant” means a unique instance of the Service, with a separate set of Customer Data held by MotionCX in a logically separated database (i.e., a database segregated through password-controlled access).