



## MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT GOVERNS CLIENT'S ACQUISITION AND USE OF EXTU SERVICES. CAPITALIZED TERMS HAVE THE DEFINITIONS SET FORTH HEREIN.

BY ACCEPTING THIS AGREEMENT, BY (1) CLICKING A BOX INDICATING ACCEPTANCE, OR (2) EXECUTING AN ORDER FORM OR A STATEMENT OF WORK THAT REFERENCES THIS AGREEMENT, CLIENT AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CLIENT" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

EXTU'S direct competitors are prohibited from accessing the Services, except with EXTU's prior written consent.

This agreement, in addition to any and all of those separate Statements of Work negotiated from time to time between the Parties, shall govern the mutual obligations arising from, related to, or in any way concerning the Services provided Extu as detailed in this Agreement and the Statements of Work.

This Agreement was last updated January 17, 2025. It is effective between Client and EXTU as of the date of Client accepting this Agreement. Upon the execution of new SOWs or Order Forms, this Agreement shall supersede any and all applicable MSAs executed prior to January 17, 2025.

### 1. DEFINITIONS

All capitalized and defined terms shall have the meaning prescribed to them in this Section 1, unless the term is defined separately in this Agreement. These definitions shall control in any subsequent or subordinate Order Form or Statement of Works, unless otherwise stated. If the term is separately defined in another Section, that definition shall govern the term's use throughout that Section, unless otherwise stated. Should there be any inconsistency between the definition prescribed in this Section 1 and a definition provided elsewhere in this Agreement, the definition provided to that term in subsequent sections of this Agreement shall govern the term's use in that particular section; however, the term's use in other sections shall be given the meaning prescribed in this Section 1.

**Account** – means an online account made available to You by Extu to enable You to access and use the Services.

**Affiliate** – means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for the purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**Agreement** — shall have the meaning prescribed to the term in the preamble of this document.



**Client, You, Your** — In addition to the entity, person, or individual identified in the preamble of this Agreement, Client shall also mean any and all subsidiaries, affiliates, partners, officers, independent contractors, agents, or any other person contracting with Extu to provide services and/or goods delivered in connection with or otherwise arising from this Agreement and the Statement of Work.

**Client Information** — shall include any and all statistics, data, coding, history, or any other information related to Client provided to Extu, whether made in connection with this Agreement or Statements of Work or otherwise, and whether concerning a Participant or otherwise being confidential information provided by Client.

**Data Protection Laws** — shall refer to all data protection laws and regulations of the United States, EU, Switzerland, Canada, and the United Kingdom, including the Gramm-Leech-Bliley Act, the California Consumer Privacy Act, Regulation (EU) 2016/679 (the “GDPR”), The Privacy Act, The Personal Information Protection and Electronic Documents Act (“PIPEDA”), or any other similar federal or state statute or regulation governing the processing of personal data and on the free movement of such data.

**Disclosing Party** – shall mean the party that provides Confidential Information to the other Party.

**Recipient Party** – shall mean the party that receives Confidential Information from the Disclosing Party.

**Order Form** – An ordering document or online order specifying the Services to be provided hereunder that is entered into between Client and EXTU or any of their Affiliates, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

**Participant** – shall include any and all entities, persons, business partners, or individuals who are end-users for the Services provided by Extu.

**Partner** — shall include all entities, persons, business partners, or individuals identified by either Client or Extu in connection with Services rendered by Extu, whether the identification is made expressly or in connection with Client providing Client Information.

**Partner Data** – shall include any and all statistics, data, coding, history, or any other information related to any Partner provided to Extu, whether made in connection with this Agreement or Statements of Work or otherwise, and whether concerning a Participant or otherwise being confidential information provided by Participant.

**Personally Identifiable Information (“PII”)** — shall refer to personally identifiable information to include non-public, personal information governed by any data protection laws concerning or related to non-public, personal, and/or financial information.

**Extu, Extu, We, Us, Our** — Extu, Inc. (formerly Incentive Solutions, Inc.); Extu Tech, LLC4; OneAffiniti Holdings PTY LTD.; OneAffiniti, LLC; OneAffiniti LTD; and/or their subsidiaries, affiliates, and/or partners, including but not limited to any party with whom Client has executed a Statement of Work as defined herein and any other entity, person, or individual later identified.



**Services** — Shall refer to those goods, content, and services rendered by Extu to Client provided in the Statement(s) of Work or as otherwise arising from such subsequent agreements.

**Statement(s) of Work (“SOW”)** — Any and all subsequent agreements detailing the scope of work to be performed by Extu and the mutual obligations between Client, its subsidiaries, affiliates, officers, and agents and Extu.

**Warranties** — shall include those warranties memorialized in Section 3 of this Agreement and any and all warranties provided for in the applicable Statement of Work. Provided, however, that any warranty made in one Statement of Work shall not apply to or be merged with any Services rendered in accordance with a separate Statement of Work. For the avoidance of doubt, Warranties made in one Statement of Work shall not apply to a separate Statement of Work.

## **2. EXTU Responsibilities**

2.1 **Provision of Services.** Extu agrees to provide Client with the Services pursuant to this Agreement as described on any applicable Statement of Work or Order Form, as may be amended from time to time by mutual written agreement by the Parties. At any time, Client and Extu may agree to add additional Services and/or Deliverables to this Agreement with the execution of a new SOW. Each SOW issued pursuant to this Agreement shall be incorporated by reference into this Agreement when signed by an authorized representative of each party.

2.2 **Methodology.** Extu will solely determine the method, details, and means of performing the Services to be provided to Client. Client shall not control the manner or determine the method of accomplishing such Services, except as otherwise set forth within the applicable SOW. Client shall be entitled to exercise a broad general power of supervision and control over the results of the Services performed by Extu and to ensure satisfactory performance of the Deliverables. To the extent that the SOW conflicts with any provision concerning methodology contained herein, the SOW shall govern.

2.3 **Extu Personnel.** Extu will be responsible for the performance of its personnel (including its employees and contractors) and their compliance with Extu’s obligations under this Agreement, except as otherwise specified in this Agreement.

2.4 **Protection of PII, Partner, and Client Data.** Extu will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Partner/Client Data as defined above. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of the Data (other than by Client or Participant). The terms of Our data processing addendum at <https://extu.com/legal/dpa/> (“DPA”) posted as of the Effective Date are hereby incorporated by Reference. Additionally, the terms of Our Global Privacy Policy at <https://extu.com/legal/privacy/> (“Privacy Policy”) posted as of the Effective Date are hereby incorporated by Reference. To the extent Partner Data from the European Economic Area (EEA), the United Kingdom, and Switzerland are processed by Extu, its Processor Binding Rules, and/or the Standard Contractual Clauses shall apply, as further set forth in the DPA.

### 3. **Term, Termination, and Assignment**

3.1 **Term.** This Agreement commences on the date Client first accepts it and continues until all SOWs and/or Purchase Orders hereunder have expired or have been terminated.

3.2 **Assignment.** This Agreement and any separate Statement of Works shall be binding and such benefits and obligations shall inure to the parties and their respective successors and assigns. The rights and obligations contained herein shall be assignable where such an assignment is necessitated by an acquisition, change of control, or as the result of an assignment between affiliate companies but only upon the assigning party providing written notice to the opposite party. The Agreement may otherwise be assignable by the Client only upon Client's submission of a written request to Extu and with Extu's consent to such assignment; such consent shall not be unreasonably withheld or delayed.

3.3 **Termination for Cause.** This Agreement may be terminated for any of the following: (a) by the non-breaching party in the event of a breach of a material term of this Agreement, provided that the breach has not been cured and the non-breaching party has provided written notice and a demand to cure at least 30 days prior to the ultimate termination date; (b) by Extu if Client has failed to make payment upon any invoice within 15 days from the due date of the invoice; or (c) by the filing of a petition for relief, or the commencement of involuntary proceedings, under Title 11, the U.S. Bankruptcy Code, the entry of judgment of insolvency, appointment of a receiver or trustee, by the making of an assignment for the benefit of creditors.

Client's termination or rejection of this Agreement shall constitute a breach of any existing obligation provided under an on-going and enforceable Statement of Work and shall trigger those provisions regarding damages and relief provided in the Statements of Work. Any breach of one Statement of Work shall constitute a breach of all other Statements of Work, unless waived by Extu.

Upon termination of this Agreement for any reason, including non-renewal, all licenses and rights granted herein will terminate, and each party will promptly return to the other party all confidential information of the other party.

All provisions of this Agreement that by their nature are intended to survive the termination of this Agreement shall so survive.

3.4 **Termination for Convenience.** Extu may terminate this Agreement for any or no reason without further obligation, except for compliance with any ongoing SOW, for which any obligations shall survive until the termination, for any reason, of that SOW. Such termination will be effective upon sixty (60) days' written notice.

### 4. **Warranties and Remedies**

4.1 **Extu's Warranty.** Extu warrants that it has the right to enter into this Agreement and provide the Services detailed in any Order or SOW. Extu warrants that it will perform all services provided under



this Agreement and SOWs in a professional and workmanlike manner, consistent with industry standards and practices.

EXCEPT FOR AS SET FORTH IN THE SEPARATE WARRANTIES PROVIDED IN EACH STATEMENT OF WORK, SERVICES ARE PROVIDED “AS IS” WITHOUT ANY EXPRESS OR IMPLIED WARRANTY OF ANY KIND, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, DESCRIPTION, NON-INFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE.

4.2 Client Warranty. Client represents and warrants that (a) it has the right and is free to enter into this Agreement and the Statements of Work and to fully perform its obligations hereunder; (b) it has not and will not enter into any agreement that will conflict with or inhibit in any material way its ability to fully perform its obligations under this Agreement; and (c) Client has all requisite rights to the Client Information uploaded, delivered, or otherwise provided to Extu. Client further warrants and represents it has the authority to provide any data within its possession pertaining to Partners (“Partner Data”) to Extu, and that Extu’s use of such data will not violate any applicable law, regulation or third party right. Client is solely responsible for any errors or inaccuracies in Partner Data or Client Information provided by Client, and for reviewing and determining the accuracy of data and information it provides Extu.

## 5. Limitation Of Liabilities

5.1 Liability Limitation. TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE LIABILITY OF EITHER PARTY, THEIR AGENTS, EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, SUCCESSORS OR ASSIGNS FOR LOSS OR DAMAGES, WHETHER FOR BREACH OF THIS AGREEMENT, BREACH OF WARRANTY OR OTHERWISE, WILL BE LIMITED TO 100% OF THE MONETARY AMOUNTS PAID FOR THE SERVICES BY THE SPONSOR IN THE 12-MONTH PERIOD BEFORE THE EVENT GIVING RISE TO LIABILITIES, WHETHER THE LIABILITY ARISES FROM CONTRACT, TORT OR OTHER CLAIMS.

5.2 Exclusion Of Damages. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY SPECIAL, EXEMPLARY, INDIRECT, INCIDENTAL, CONSEQUENTIAL OR PUNITIVE DAMAGES OF ANY KIND OR FOR ANY COSTS OF PROCUREMENT OF SUBSTITUTE SERVICES OR ANY LOST PROFITS, LOST BUSINESS, LOSS OF USE OF DATA OR INTERRUPTION OF BUSINESS ARISING OUT OF ANY BREACH OF THIS AGREEMENT OR ANY SERVICES PERFORMED BY EXTU, EVEN IF PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CLIENT ACKNOWLEDGES EXTU IS NOT AN INSURER AND THE PRICING AGREED TO BETWEEN THE PARTIES REFLECTS THE LIMITATIONS IN SECTIONS 5.1 AND 5.2.

## 6. Intellectual Property

6.1 Extu’s Intellectual Property. All trademarks, service marks, images, patents, copyrights, trade secrets, and other proprietary rights in or related to the Services are and shall remain the exclusive property of Extu or its licensors, whether or not specifically recognized or perfected under applicable law, and may not be reprinted or reproduced without the prior written consent of Extu. Client hereby acknowledges that the Services shall not be deemed “works made for hire” as defined under applicable



law. Client will not copy, translate, modify, adapt, decompile, disassemble, or reverse engineer any Services.

Client will protect and keep confidential all non-public information it receives about Extu and its products and Services (“Extu Data”) using at least the same standard it uses for its own confidential information, but in no event less than a reasonable standard of care. Client may use Extu Data solely for its obligations in line with this Agreement. Client may not disclose or distribute any Extu Data, including pricing information, to any third party unless required by law, government process, or a regulator of competent jurisdiction. Without limiting the generality of the foregoing, Client shall not sublicense, in whole or in part, any of the Services except as expressly permitted herein or within the Statement of Work. Client acknowledges and agrees that it acquires no right in the Services, except the limited use and rights specified in this Agreement or each separate Statement of Work.

6.2 **Partner Data.** All Partner Data supplied to Extu by Client hereunder, by and in any form, and any and all copies thereof, will be treated as confidential information of Client and, except as otherwise set forth herein, will be used, retained, and disclosed by Extu (and any subcontractors of Extu) only in the performance of the Services and Extu’s other obligations hereunder. Information that has been aggregated and de-identified is no longer PII or Partner Data. The use and processing of Partner data is further outlined in the Privacy Policy and the Data Processing Addendum.

6.3 **Client Data.** Subject to any other provision in this Agreement, Extu may use non-public information obtained from Client or Client’s use of the Services solely in the following ways: (a) to perform the Services, (b) to identify, prevent, or mitigate illegal, suspicious, or other unauthorized use of the Services, (c) to provide report and transaction data to Client, and (d) except with respect to PII of Participants, for analytics and improvement of the services. Information that has been aggregated and de-identified is no longer PII or Client Data. Extu will protect Client Data with at least the standard it uses to protect its own confidential information, but in no event less than a reasonable standard of care. The use and processing of Partner data is further outlined in the Privacy Policy and the Data Processing Addendum.

6.4 **Individual Rights.** Client shall notify Extu, unless specifically prohibited by law, if Client receives any requests from a person or governmental agency, with respect to any personal information processed by Extu in connection with the Services including any opt-out requests, requests for access and/or rectification, erasure, restriction, requests for data portability and all similar requests. Client shall reasonably cooperate with Extu in responding to such requests.

6.5 **License to use Client’s Branding.** Client hereby grants to Extu a worldwide, limited-term, non-exclusive license to use Client’s name, logo, branding, service marks and trademarks for the use and display in connection with Extu’s Services. Extu represents and warrants that it will comply with all reasonable branding guidelines and applicable laws in connection with the use of Client’s branding.

## **7. Mutual Non-Disclosure and Confidentiality**

7.1 Whereas, as part of such discussions and business deals, the Parties may disclose certain information that is confidential and proprietary to each party; the disclosure of such information by the Parties will allow the Parties to have the potential to earn significant income; the Parties will only disclose such information as long as the Parties agree to be bound by the terms of this Agreements; in consideration

of the release of information by the Parties and the mutual covenants contained herein the Parties agree as follows:

7.2 “Confidential Information” means information received from or relating to the Disclosing Party to the Recipient Party or to any of the Recipient Party’s employees, officers, directors, partners, shareholders, agents, attorneys accountants, suppliers, or advisors (collectively, “Representatives”) which (a) derives economic value, actual or potential, from not being generally known to or readily ascertainable by other persons who can obtain economic value from its disclosure or use; and (b) which is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. Confidential Information includes, without limitation, any knowledge or material property of the Disclosing Party that (i) Recipient Party obtains knowledge of or access to as a result of discussions with the Disclosing Party; or (ii) the Disclosing Party releases to the Recipient Party (including any knowledge conceived, originated, discovered, or developed as a result of the release of such information). Confidential Information includes but is not limited to the following types of knowledge or similar data (whether or not reduced to writing): (i) plans, materials or other information relating to the proposed business of the Disclosing Party; (ii) discoveries, inventions, concepts, and ideas, whether patentable or not, including, without limitation to the nature and results of research and development activities, techniques, and “know-how”; (iii) customer and supplier information, financial data, products, services, organizational structure, internal practices, and marketing, development, sales, and any other commercial strategies as well as any other materials or knowledge related to the business plans or activities of the Disclosing Party that are not generally known to others and (iv) the Disclosing Party’s service providers; and (v) any knowledge described above that the Disclosing Party treats as confidential or proprietary or designates as such. The Recipient Party, intending to be legally bound, hereby agrees and guarantees to the Disclosing Party that it shall not directly or indirectly interfere with, circumvent, or attempt to circumvent or obviate the Disclosing Party’s interests or business in any way.

7.3 The Parties shall maintain all Confidential Information in trust and confidence and shall not disclose such Confidential Information to any third party or use such Confidential Information for any unauthorized purpose. The Parties may use such Confidential Information only to the extent required to accomplish the purposes of this Agreement. The Parties shall advise their Representatives who might have access to Confidential Information of the confidential nature thereof and agree that their employees shall be bound by the terms of this Agreement. No Confidential Information shall be disclosed to any employee, affiliate, or consultant who does not have a need for such information. The Recipient Party shall be responsible for the acts and omissions of all its Representatives and shall provide a copy of this Agreement to all Representatives to whom Confidential is disclosed. Any disclosure of Confidential Information to any party who is not a Representative as that term is defined herein shall not be made without the prior written approval of the Disclosing Party.

7.4 Except as required by applicable law or regulation, Confidential Information shall not include information that (i) is now or hereafter becomes generally available to the public other than as a result of any breach of this Agreement; (ii) is available to the Recipient Party on a non-confidential basis from a third party, provided that such third party is not, and was not, contractually or otherwise prohibited from disclosing such Confidential Information; (iii) was lawfully and not in violation of any right of the Disclosing Party, known by or in the possession of the Recipient Party or its Representatives, as established by documentary evidence, before being disclosed by or on behalf of the Disclosing Party; or (iv) was or is independently developed by the Recipient Party, without reference to or use of any of the

Disclosing Party's Confidential Information, as established by documentary evidence maintained in the ordinary course of business by the Recipient Party.

7.5 Confidential Information shall not be reproduced in any form except as required to accomplish the intent of this Agreement. All Confidential Information (including all copies thereof) shall remain the property of the disclosing party and shall be returned to the disclosing party after the receiving party's need for it has expired, or upon request of the disclosing party, and in any event, upon completion or termination of this Agreement. No copies will be made or retained of any information supplied to the receiving party without the express written permission of the disclosing party. All notes, extracts, memorandums, or other documents disclosed which contain Confidential Information or any discussion thereof, will be destroyed or returned to the disclosing party upon request. The receiving party will certify to the disclosing party that it has complied fully with the disclosing party's instructions and has not retained all or any portion of the Confidential Information. No disclosure of any Confidential Information hereunder shall be construed a public disclosure of such Confidential Information by either party for any purpose whatsoever.

7.6 If the Recipient Party or its Representatives is required to disclose any of the Disclosing Party's Confidential Information under applicable law, regulation, or valid order issued by a court or governmental agency of competent jurisdiction, before making any such disclosure, Recipient Party shall, if permitted by law, provide the Disclosing Party with (i) prompt written notice of such requirement so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other remedy, and (ii) reasonable assistance, at the Disclosing Party's sole cost and expense, in opposing such disclosure or seeking a protective order or other limitations on disclosure. If, after providing such notice and assistance, the Recipient Party or its Representatives shall disclose no more than that portion of the Confidential Information which, on the advice of Recipient Party's counsel, they are required to disclose. Any disclosures made under this section shall not change the status of the disclosed information as Confidential Information.

7.7 The Recipient Party agrees that the Disclosing Party is and shall remain the exclusive owner of Confidential Information disclosed to the Recipient Party and all patent, copyright, trade secret, trademark, and other intellectual property rights therein.

7.8 No rights or licenses to trademarks, inventions, copyrights, patents, or any other intellectual property are implied or granted to the receiving party under this Agreement and the disclosure of Confidential Information shall not result in any obligation to grant the Recipient Party any rights in or to the subject matters of the Confidential Information.

7.9 The confidentiality terms of this Agreement shall survive for a period of three (3) years following the termination of this Agreement.

7.10 Each Party acknowledges and agrees that money damages might not be a sufficient remedy for any breach or threatened breach of this Agreement by the other. Therefore, in addition to all other remedies available at law (which neither Party waives by the exercise of any rights hereunder), the non-breaching Party may seek specific performance and injunctive and other equitable relief as a remedy for any such breach or threatened breach, and the Parties hereby waive any requirement for showing actual monetary damages in connection with such claim.



## **7 Indemnification**

8.1 Client, at Extu's election and immediately upon demand, shall defend, indemnify and hold Extu harmless from and against any and all claims, demands, actions, judgments, fines, penalties, expenses, government investigations, prosecution, and other losses, including actual attorneys' fees and court costs caused by or relating to any claim arising from Client's and/or Partner's uses of the Services or Client's handling, distribution, or protection of Client Information, except to the extent such claim is caused by the gross negligence or willful misconduct of Extu.

8.2 Extu will defend, indemnify and hold Client harmless from and against any and all claims, demands, actions, judgments, fines, penalties, expenses and other losses, including actual attorneys' fees and court costs caused by or relating to any claim arising from Extu's willful misconduct, fraud or gross negligence, however, such indemnification shall not apply should Client have engaged in, been made aware of, or ratified the same or similar gross negligence, fraud or misconduct.

## **8 Compliance with Applicable Law**

9.1 PII. Client agrees, warrants, and covenants to disclose to Extu whether PII is being provided to Extu by Client that Client knows or should have reason to know is governed by Data Privacy Laws. PII must be identified and made known to Extu. Client agrees to provide PII in a manner that complies with applicable law. This provision shall be subject to Section 8 and shall not in any way prohibit, limit, or amend Extu's right to demand indemnification, defense, or to hold Extu harmless for Extu's acquisition or retention of PII. The use and processing of PII is further outlined in the Privacy Policy and the Data Processing Addendum.

9.2 Taxes. Each Party shall be responsible for reporting and discharging its own tax measured by the profit or income of the Party and the satisfaction of such Party's share of all contract obligations under this Agreement and any relevant SOWs. Each Party shall protect, defend and indemnify the other Party from any and all loss, cost or liability arising from the indemnifying Party's failure to report and discharge such taxes or satisfy such obligations.

## **9 Additional Provisions**

10.1 Force Majeure. Neither party shall be considered in default in the performance of its obligations hereunder (other than its obligation to pay any sum), or be liable in damages or otherwise for any failure or delay in performance, for any event beyond its reasonable control, including without limitation; acts of God, third party acts or omission, failure of utility or telecommunications facilities, sabotage including computer worms and virus, any natural catastrophes or weather conditions, civil disturbance, accidents, delays of subcontractors or vendors, acts of government or any other cause which is beyond the reasonable control of the party affected.

10.2 Entire Agreement; Amendment; Waiver; Invalidity. This Agreement, together with any schedules, addenda and exhibits attached hereto, constitutes the entire agreement between the parties as to the subject matter hereof, and shall supersede all prior understandings and agreements. This Agreement may not be amended except by an instrument in writing signed on behalf of the parties. Any failure at any time of either party to enforce any provision of this Agreement shall neither constitute a waiver of such



provision nor prejudice the right of either party to enforce such provision at any subsequent time. Neither party may assign this Agreement except with the prior written consent of the other party, which shall not be unreasonably withheld, with the exception that either party may assign their rights to a third party who acquires a majority interest in that party without the prior consent of the other party. The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provisions, and all other provisions of this Agreement shall remain in full force and effect.

10.3 Notices. All notices under this Agreement or under any Statement of Work shall be in writing and delivered personally or by certified mail. Notices personally delivered shall be effective the day after delivered, notices sent by certified mail shall be effective 5 days from the date sent. Notices shall be sent to the addresses specified on any relevant SOW.

10.4 Governing Law, Jurisdiction and Venue. The validity, interpretation and performance of this Agreement and its provisions shall be governed by Georgia law. The parties hereby submit and waive any objections to the jurisdiction of any court sitting in DeKalb County, Georgia, for the adjudication of any and any dispute in any way relating to this Agreement.

10.5 Payment of Costs for Breach. In the event either party hereto must undertake any legal action to enforce its rights under this Agreement, the prevailing party shall be entitled to reimbursement from the non-prevailing party for all reasonable costs incurred by the prevailing party in connection with such action.

10.6 Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but which together constitute one and the same instrument.

10.7 Independent Contractor; No Third Party Beneficiary. Each party hereto is an independent contractor; neither party is the agent of the other.

10.8 Changes to Terms. We may make changes to this MSA from time to time. When these changes are made, We will make a new copy of the MSA available on this web page with a notation indicating the date on which this MSA was last updated. You understand and agree that if You use the any Extu Service after the date on which this MSA has changed, Your use will signify Your acceptance of the updated MSA.