



## Master Services Agreement

This Master Services Agreement ("Agreement") is entered into on this \_\_\_\_\_ (the "Effective Date") between Edify Labs, Inc. with a place of business at 912 S Rangeline Rd, Suite 260, Carmel, IN 46032 ("Edify"), and \_\_\_\_\_ ("Customer"). This Agreement includes and incorporates the Order Form, as well as the attached Terms and Conditions and contains, among other things, warranty disclaimers, liability limitations and use limitations. There shall be no force or effect to any different terms of any related purchase order or similar form even if signed by the parties after the date hereof.

### 1. SERVICES AND SUPPORT

1.1 Subject to the terms of this Agreement, Edify will use commercially reasonable efforts to provide Customer the Services in accordance with the Service Level Terms which can be viewed at <https://www.edify.cx/sla>. As part of the registration process, Customer will identify an administrative user name and password for Customer's Edify account. Edify reserves the right to refuse registration of, or cancel passwords it deems inappropriate.

1.2 Scheduled maintenance will not normally result in service interruption. If scheduled maintenance requires service interruption, Edify will (i) provide Customer 30 days' prior written notice, (ii) work with Customer to minimize such interruptions and (iii) use commercially reasonable efforts to perform such maintenance between midnight and 6:00am local time to the data region being affected. In the case of emergency maintenance, Edify will attempt to provide Customer with 24 hours prior notice.

### 2. RESTRICTIONS AND RESPONSIBILITIES

2.1 Customer will not, directly or indirectly: reverse engineer, decompile, disassemble or otherwise attempt to discover the source code, object code or underlying structure, ideas, know-how or algorithms relevant to the Services or any software, documentation or data related to the Services ("Software"); modify, translate, or create derivative works based on the Services or any Software (except to the extent expressly permitted by Edify or authorized within the Services).

2.2 Customer represents, covenants, and warrants that Customer will use the Services only in compliance with Edify's standard published policies then in effect (the "Policy") and all applicable laws and regulations. Customer hereby agrees to indemnify and hold harmless Edify against any damages, losses, liabilities, settlements and expenses (including without limitation costs and attorneys' fees) in connection with any claim or action that arises from an alleged violation of the foregoing or otherwise from Customer's use of Services. Although Edify has no obligation to monitor Customer's use of the Services, Edify may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

2.3 Customer acknowledges and understands that the Edify's Services rely on existing Customer infrastructure (not provided by the Edify) and are dependent on high-speed, quality broadband access to each Customer's location. Service outages may occur that are outside of the control of Edify. Outages may occur for a variety of reasons including but not limited to power failures, service interruptions by Customer's broadband provider and/or Internet Service Provider, service interruptions by third party service providers



and failings of the public Internet, Customer's components or PSTN (Public Switch Telephone Network). Should such an outage occur, Edify's Services may be unavailable in part or entirely until such time that the outage is resolved and access connectivity is restored.

2.4 Customer acknowledges that the use of Auto Dialers that have not been purchased or provided by Edify are strictly prohibited. If Edify, at its own discretion, classifies traffic as having been generated from an Auto Dialer, Edify may bill and Customer shall pay \$0.02 per minute of use "MOU" or \$5,000 whichever is greater. Edify considers repeated use of an unapproved Auto Dialer (after having received official notice), as a validation of the Acceptable Use Policy and may terminate Customer's Service as defined within Section 5.2 of this agreement.

2.6 Customer shall not: (1) re-classify or re-originate traffic or take any other action to make traffic appear as if it: (i) is anything other than the type of traffic delivered to Customer (including but not limited to making TDM originated traffic appear to be IP originated) or (ii) originated from a place or on a type of equipment different from the place or type of equipment from where it, in fact, originated; or (2) modify, alter or delete in any manner calling party number information, originating point codes or any other signaling information, or call detail in connection with the transport and termination of traffic to the called party. Upon Edify's request, Customer shall certify in writing its continued compliance with this Section.

### **3. CONFIDENTIALITY; PROPRIETARY RIGHTS**

3.1 Each party (the "Receiving Party") understands that the other party (the "Disclosing Party") has disclosed or may disclose business, technical or financial information relating to the Disclosing Party's business (hereinafter referred to as "Proprietary Information" of the Disclosing Party). Proprietary Information of Edify includes non-public information regarding features, functionality and performance of the Service. Proprietary Information of Customer includes non-public data provided by Customer to Edify to enable the provision of the Services ("Customer Data"). The Receiving Party agrees: (i) to take reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. The Disclosing Party agrees that the foregoing shall not apply with respect to any information after five (5) years following the disclosure thereof or any information that the Receiving Party can document (a) is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party or (e) is required to be disclosed by law.

3.2 Customer shall own all right, title and interest in and to the Customer Data, however any data that is based on or derived from the Customer Data with all Customer identifiable information removed shall be owned by Edify. Edify shall own and retain all right, title and interest in and to (a) the Services and Software, all improvements, enhancements or modifications thereto, (b) any software, applications, inventions or other technology developed in connection with Implementation Services or support, and (c) all intellectual property rights related to any of the foregoing.

3.3 Notwithstanding anything to the contrary, Edify shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and



data derived therefrom), and Edify will be free (during and after the term hereof) to (i) use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other Edify offerings, and (ii) disclose such data solely in aggregate or other de-identified form in connection with its business. No rights or licenses are granted except as expressly set forth herein.

#### **4. BILLING AND PAYMENT**

4.1 Customer will pay Edify the then applicable fees described in the Order Form for the Services and Implementation Services in accordance with the terms therein (the "Fees"). If Customer's use of the Services exceeds the Service Capacity set forth on the Order Form or otherwise requires the payment of additional fees (per the terms of this Agreement), Customer shall be billed for such usage and Customer agrees to pay the additional fees in the manner provided herein. Edify reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Service Term or then-current renewal term, upon thirty (30) days prior notice to Customer (which may be sent by email). Customer is responsible for all charges respecting the Service, even if incurred as a result of unauthorized use. If Customer believes that Edify has billed Customer incorrectly, Customer must contact Edify no later than 60 days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Edify's billing department.

4.2 Edify may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Edify thirty (30) days after the date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection.

4.3 Excluding taxes based on Edify's net income, Customer is responsible for all taxes and fees arising in any jurisdiction imposed on or incident to the provision, sale or use of Service, including but not limited to value added, consumption, sales, use, gross receipts, withholding excise, access, bypass, ad valorem, franchise or other taxes, fees, duties or surcharges (including regulatory and 911 surcharges), whether imposed on Edify or a Edify affiliate, along with similar charges stated in a Customer Order (collectively "Taxes and Fees"). Some Taxes and Fees are recovered through imposition of a percentage surcharge on the charges for Service. If Customer is required by law to make any deduction or withholding of withholding Taxes from any payment due hereunder to Edify, then, notwithstanding anything to the contrary contained in this Agreement, the gross amount payable by Customer shall be increased so that, after any such deduction or withholding for such withholding Taxes, the net amount received by Edify will not be less than Edify would have received had no such deduction or withholding been required. Charges for Service are exclusive of Taxes and Fees. Customer may present Edify with an exemption certificate eliminating Customer's liability to pay certain Taxes and Fees; Edify will give effect thereto prospectively.

4.4 If 10% or more of Customer's completed calls are equal to or less than 6 seconds in length during any billing cycle, then Edify may bill and Customer shall pay a \$0.02 charge per Short Duration Call or a \$1,000 penalty whichever is greater. This charge will be in addition to Customer's per minute usage rates. Alternatively, Edify may terminate Customer's Service and disconnect all users on 30 days prior written notice and following the terms of Section 5.2 in this agreement.



4.5 Usage charges are assessed to Customer's account as Services are utilized and are based on Usage Rates in effect at the time the Service was delivered. Usage rates may vary depending on a number of factors including but not limited to: (i) the type of Services provided, and (ii) the terminating locations where the Services are offered and provided. Usage rates can be viewed on the pricing page (<https://www.edify.cx/pricing>). Current usage-based billing increments are as follows:

Terminating Destination	Initial Billing Increment (seconds)	Additional Billing Increments (seconds)
U.S. Domestic	6	6
International (excluding Mexico)	30	6
Mexico	60	60

4.6 If changes in applicable law, regulation, rule or order materially affect delivery of Service, the parties will negotiate appropriate changes to this Agreement. If the parties cannot reach agreement within 30 days after the Edify's notice requesting renegotiation: (a) Edify may, on a prospective basis after such 30 day period, pass any increased delivery costs on to Customer and (b) if Edify does so, Customer may terminate the affected Service on notice to Edify delivered within 30 days.

## 5. TERM AND TERMINATION

5.1 Subject to earlier termination as provided below, this Agreement is for the Initial Service Term as specified in the Order Form, and shall be automatically renewed for additional periods of the same duration as the Initial Service Term (collectively, the "Term") unless either party requests termination at least thirty (30) days prior to the end of the then-current term.

5.2 Either party may terminate this Agreement for any reason upon 90 days' prior written notice to the other party. Customer will pay in full for the Services up to and including the last day on which the Services are provided. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

5.2 In addition to any other remedies it may have, either party may also terminate this Agreement upon thirty (30) days' notice (or without notice in the case of nonpayment), if the other party materially breaches any of the terms or conditions of this Agreement and such failure continues for 30 days after written notice from the other party. Customer will pay in full for the Services up to and including the last day on which the Services are provided. All sections of this Agreement which by their nature should survive termination will survive termination, including, without limitation, accrued rights to payment, confidentiality obligations, warranty disclaimers, and limitations of liability.

## 6. WARRANTY AND DISCLAIMER



6.1 Edify shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Implementation Services in a professional and workmanlike manner. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Edify or by third-party providers, or because of other causes beyond Edify's reasonable control, but Edify shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. However, Edify does not warrant that the Services will be uninterrupted or error free; nor does it make any warranty as to the results that may be obtained from use of the Services. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES AND IMPLEMENTATION SERVICES ARE PROVIDED "AS IS" AND Edify DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT

6.2 IN NO EVENT SHALL Edify, ITS OFFICERS, DIRECTORS, EMPLOYEES, AFFILIATES OR AGENTS OR ANY OTHER SERVICE PROVIDER WHO FURNISHES SERVICES TO CUSTOMER IN CONNECTION WITH THESE TERMS OF SERVICE OR THE SERVICE BE LIABLE FOR ANY DIRECT, INCIDENTAL, INDIRECT, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, OR FOR ANY OTHER DAMAGES, INCLUDING BUT NOT LIMITED TO LOSS OF DATA, LOSS OF REVENUE OR PROFITS, OR DAMAGES ARISING OUT OF OR IN CONNECTION WITH THE USE OR INABILITY TO USE THE SERVICE, INCLUDING INABILITY TO BE ABLE TO DIAL 911 OR TO ACCESS EMERGENCY SERVICE PERSONNEL THROUGH THE SERVICE. THE LIMITATIONS SET FORTH HEREIN APPLY TO CLAIMS FOUNDED IN BREACH OF CONTRACT, BREACH OF WARRANTY, PRODUCT LIABILITY, TORT AND ANY AND ALL OTHER THEORIES OF LIABILITY AND APPLY WHETHER OR NOT VENDOR-NAME WAS INFORMED OF THE LIKELIHOOD OF ANY PARTICULAR TYPE OF DAMAGES.

## 7. INDEMNITY

Edify shall hold Customer harmless from liability to third parties resulting from infringement by the Service of any United States patent or any copyright or misappropriation of any trade secret, provided Edify is promptly notified of any and all threats, claims and proceedings related thereto and given reasonable assistance and the opportunity to assume sole control over defense and settlement; Edify will not be responsible for any settlement it does not approve in writing. The foregoing obligations do not apply with respect to portions or components of the Service (i) not supplied by Edify, (ii) made in whole or in part in accordance with Customer specifications, (iii) that are modified after delivery by Edify, (iv) combined with other products, processes or materials where the alleged infringement relates to such combination, (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) where Customer's use of the Service is not strictly in accordance with this Agreement. If, due to a claim of infringement, the Services are held by a court of competent jurisdiction to be or are believed by Edify to be infringing, Edify may, at its option and expense (a) replace or modify the Service to be non-infringing provided that such modification or replacement contains substantially similar features and functionality, (b) obtain for Customer a license to continue using the Service, or (c) if neither of the foregoing is commercially practicable, terminate this Agreement and Customer's rights hereunder and provide Customer a refund of any prepaid, unused fees for the Service.



## 8. LIMITATION OF LIABILITY

NOTWITHSTANDING ANYTHING TO THE CONTRARY, EXCEPT FOR BODILY INJURY OF A PERSON, EDIFY AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL EQUIPMENT AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY OR CORRUPTION OF DATA OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND Edify'S REASONABLE CONTROL; OR (D) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID BY CUSTOMER TO Edify FOR THE SERVICES UNDER THIS AGREEMENT IN THE 12 MONTHS PRIOR TO THE ACT THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT Edify HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## 9. GENERAL TERMS

9.1 Neither party shall be liable, nor shall any credit allowance or other remedy be extended, for any failure of performance or equipment due to causes beyond such party's reasonable control ("force majeure event"). In the event Edify is unable to deliver Service as a result of a force majeure event, Customer shall not be obligated to pay Edify for the affected Service for the duration of the event. Force majeure events and scheduled maintenance under Section 1.3 are considered "Excused Outages."

9.2 Customer may not assign its rights or obligations under this Agreement or any Customer Order without the prior written consent of Edify, which will not be unreasonably withheld. This Agreement shall apply to any permitted transferees or assignees. Unless otherwise provided in a Service Schedule, Customer may provide Service to third parties or use the Services in connection with goods or services provided by Customer to third parties ("Customer Provided Services") provided that Customer shall indemnify, defend and hold Edify and its affiliates harmless from any claims arising from or related to any Customer Provided Services. If Customer sells telecommunications services, Customer certifies that it has filed all required documentation and will at all times have the requisite authority with appropriate regulatory agencies respecting the same. Nothing in this Agreement, express or implied, confers upon any third party any right, benefit or remedy under or by reason of this Agreement.

9.3 All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

9.4 If Customer uses Edify's platform to collect, access, use, store, process, dispose of or disclose credit, debit or other payment cardholder information, then Customer agrees to do so under Edify's guidelines and best practices for such information. Edify shall at all times remain in compliance with the Payment Card Industry Data Security Standard ("PCI DSS") requirements, including remaining aware at all times of changes



to the PCI DSS and promptly implementing all procedures and practices as may be necessary to remain in compliance with the PCI DSS, in each case, at Edify's sole cost and expense.

9.5 This Agreement shall be governed and construed in accordance with the laws of the State of Indiana, without regard to its choice of law rules. Each party shall comply with all applicable laws, rules and regulations associated respectively with Edify's delivery or Customer's use of the Service under the Agreement. This Agreement, including any Service Schedule(s) and Customer Order(s) executed hereunder, constitutes the entire and final agreement and understanding between the parties with respect to the Service and supersedes all prior agreements relating to the Service. This Agreement may only be modified or supplemented by an instrument executed by an authorized representative of each party. No failure by either party to enforce any right(s) hereunder shall constitute a waiver of such right(s).

9.6 The relationship between the parties is not that of partners, agents, or joint ventures. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one instrument. Electronic signatures shall be sufficient to bind the parties to this Agreement.

9.7 This Agreement, including any Service Schedule(s) and Customer Order(s) executed hereunder, constitutes the entire and final agreement and understanding between the parties with respect to the Service and supersedes all prior agreements, understandings, proposals, or representations relating to the Service, which are of no further force or effect.

IN WITNESS WHEREOF, the Customer hereto, acting under due and proper authority, has caused this Agreement to be executed as of the date first above written.

