

CITY OF OLATHE AGREEMENT

THIS AGREEMENT is made in Johnson County, Kansas, by and between the City of Olathe, Kansas, hereinafter "City," and Firstup, Inc., hereinafter "Vendor" (each individually a "Party" and collectively, the "Parties"). City needs a digital employee communications platform, and contracts with Vendor for the work described in Vendor's proposal in **Exhibit A**.

1. FEES, EXPENSES, AND TERM. City agrees to pay Vendor an amount not to exceed \$98,000.00 for the work described in **Exhibit A**. This contract will be a one (1)-year contract with the option to renew for up to five (5) additional one (1)-year periods upon the written agreement of both parties.

2. ADDITIONAL SERVICES. Vendor may provide services in addition to those listed **Exhibit A** when authorized in writing by City.

3. BILLING. Vendor may bill City monthly for all completed work and reimbursable expenses. Vendor must submit a bill which itemizes the work and reimbursable expenses. The bill must be mailed to the attention of Account Payable, City of Olathe, PO Box 768, Olathe, KS 66051-0768 or emailed to apolathe@olatheks.org. The bill must indicate it is for work or expenses under this Agreement (include Agreement date for identification).

4. STANDARD OF CARE. Vendor will exercise the same degree of care, skill, and diligence in the performance of the work as is ordinarily possessed and exercised by a professional under similar circumstances. If Vendor fails to meet the foregoing standard, Vendor will perform at its own cost, and without reimbursement, any work necessary to correct errors and omissions which are caused by Vendor's negligence, subject to the Documentation and the SLA.

5. DISPUTE RESOLUTION. The Parties agree that disputes regarding the work will first be addressed by negotiations between the Parties. If negotiations fail to resolve the dispute, the Party initiating the claim that is the basis for the dispute may take such steps as it deems necessary to protect its interests. Notwithstanding any such dispute, Vendor will proceed with undisputed work as if no dispute existed, and City will continue to pay for Vendor's completed undisputed work. No dispute will be submitted to arbitration without both Parties' written approval.

6. SUBCONTRACTING. Vendor may not subcontract or assign any of the work to be performed under this Agreement without first obtaining the written approval of City. Unless stated in the written approval to an assignment, no assignment will release or discharge Vendor from any obligation under this Agreement. Any person or entity providing subcontracted work under this Agreement must comply with **Section 8 (Insurance)**.

7. OWNERSHIP OF DOCUMENTS. All final documents provided to City as part of the work provided under this Agreement, including but not limited to reports, plans, and related documents, will become City's property except that Vendor's copyrighted documents will remain owned by Vendor. Such documents must be clearly marked and identified as copyrighted by Vendor.

8. INSURANCE. Vendor and any subcontractor will maintain for the term of this Agreement

insurance as provided in **Exhibit B**.

9. INDEMNIFICATION AND HOLD HARMLESS. City does not indemnify Vendor.

10. KANSAS ACT AGAINST DISCRIMINATION. *Unless* Vendor employs fewer than four (4) employees during the term of this Agreement, or *unless* the total of all agreements (including this Agreement) between Vendor and City during a calendar year are cumulatively less than \$5,000, *then* during the performance of this Agreement, Vendor agrees that:

- a. Vendor will observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and will not discriminate against any person in the performance of work under the present contract because of race, religion, color, sex, disability, national origin, or ancestry;
- b. in all solicitations or advertisements for employees, Vendor will include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("commission");
- c. if Vendor fails to comply with the way Vendor reports to the commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by City without penalty;
- d. if Vendor is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the commission which has become final, Vendor will be deemed to have breached the present contract and it may be canceled, terminated, or suspended, in whole or in part, by the contracting agency; and
- e. Vendor will include the provisions of subsections a. through d. in every subcontract or purchase order so that such provisions will be binding upon such subcontractor or vendor.

11. KANSAS OPEN RECORDS ACT. Vendor acknowledges that City is subject to the Kansas Open Records Act (K.S.A. 45-215, *et seq.*). City retains the final authority to determine whether it must disclose any document or other record under the Kansas Open Records Act and the manner in which such document or other record should be disclosed.

12. ENTIRE AGREEMENT. This Agreement, including all documents and exhibits included by reference herein, constitutes the entire Agreement between the Parties and supersedes all prior agreements, whether oral or written, covering the same subject matter. This Agreement may not be modified or amended except in writing mutually agreed to by both Parties. No form or document provided by Vendor after execution of this Agreement will modify this Agreement, even if signed by both Parties, unless it: 1) identifies the specific section number and section title of this Agreement that is being modified and 2) indicates the specific changes being made to the language contained in this Agreement.

13. NO THIRD-PARTY BENEFICIARIES. Nothing contained herein will create a contractual relationship with, or any rights in favor of, any Third Party.

14. INDEPENDENT CONTRACTOR STATUS. Vendor is an independent contractor and not an

agent or employee of City.

15. COMPLIANCE WITH LAWS. Vendor will abide by all applicable federal, state, and local laws, ordinances, and regulations.

16. FORCE MAJEURE CLAUSE. Neither Party will be considered in default under this Contract because of any delays in performance of obligations hereunder due to causes beyond the control and without fault or negligence on the part of the delayed Party, including but not restricted to, an act of God or of a public enemy, civil unrest, volcano, earthquake, fire, flood, tornado, epidemic, quarantine restrictions, area-wide strike, freight embargo, unusually severe weather or delay of subcontractor or supplies due to such cause; provided that the delayed Party must notify the other Party in writing of the cause of delay and its probable extent within ten (10) days from the beginning of such delay. Such notification will not be the basis for a claim for additional compensation. The delayed Party must make all reasonable efforts to remove or eliminate the cause of delay and must, upon cessation of the cause, diligently pursue performance of its obligation under the Agreement.

17. APPLICABLE LAW, JURISDICTION, VENUE. Interpretation of this Agreement and disputes arising out of or related to this Agreement will be subject to and governed by the laws of the State of Kansas, excluding Kansas' choice-of-law principles. Jurisdiction and venue for any suit arising out of or related to this Agreement will be in the District Court of Johnson County, Kansas.

18. SEVERABILITY. If any provision of this Agreement is determined to be void, invalid, unenforceable, or illegal for whatever reason, such provision(s) will be null and void; provided, however, that the remaining provisions of this Agreement will be unaffected and will continue to be valid and enforceable.

19. ORDER OF PRECEDENCE. If there is any conflict between the terms of this Agreement, excluding exhibits, and anything contained in the exhibits referenced herein or attached hereto, the terms and provisions of this Agreement, excluding exhibits, shall control.

[The remainder of this page is intentionally left blank.]

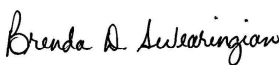
The Parties hereto have caused this Agreement to be executed this 13th day of December 2024.

CITY OF OLATHE, KANSAS

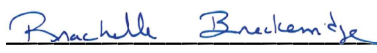
By: 
Michael Wilkes (Dec 13, 2024 10:41 CST)
Michael Wilkes
City Manager



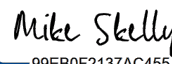
ATTEST:


Brenda A. Lulearingian
City Clerk

APPROVED AS TO FORM:


Rachelle Breckemeyer
Assistant City Attorney

Firstup, Inc DocuSigned by:


99EB0F2137AC455...

By: _____
Mike Skelly, Chief Financial Officer
One Montgomery Street, Suite 2150
San Francisco, CA 94104



Exhibit A

Order Form

Quote #: Q-10408

Today

December 12, 2024

Offer expires

December 13, 2024

CLIENT DETAILS

Client Name	City of Olathe, KS	Start Date	Dec 13, 2024
Client Contact	Jimmy Mack	End Date	Dec 12, 2025
Client Address	PO Box 768 Olathe, Kansas 66051	Billing Schedule	Annual
		Payment Terms	Net 30
		Currency	USD

Products & Services

ONE TIME FEES			
Product/Service	Product Code	Qty	Net Price
Platform Implementation	IMPL-FST-PLAT-OT	1	\$20,000.00
Branded Mobile App Setup	IMPL-FST-DAMD-OT	1	\$0.00
Total One Time Fees:			\$20,000.00

RECURRING FEES						
Product/Service	Product Code	Start Date	End Date	Qty	Net Price (Annual)	Term Price
Professional Bundle License	PLAT-FST-PBL-R	Dec 13, 2024	Dec 12, 2025	1,300	\$78,000.00	\$78,000.00
Success Foundation	SVC-UN-SPSF-R	Dec 13, 2024	Dec 12, 2025	1	\$0.00	\$0.00
Total Recurring Fees:						\$78,000.00

Total Fees:	\$98,000.00
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DESCRIPTIONS		
Product/Service	Product Code	Description
Professional Bundle License	PLAT-FST-PBL-R	https://firstup.io/cpq/professional/
Platform Implementation	IMPL-FST-PLAT-OT	https://firstup.io/cpq/platform-implementation/
Success Foundation	SVC-UN-SPSF-R	https://firstup.io/cpq/success-plans/
Branded Mobile App Setup	IMPL-FST-DAMD-OT	https://firstup.io/cpq/branded-mobile-app-setup/

Order Form Terms:

- Overages: In the event Client exceeds the User quantity set forth on this Order Form, Client must purchase additional Users in blocks of 1000 Users at Client's then-current prorated per User price. The additional Users will be billed annually for the remainder of the term of this Order Form (prorated in the initial contract year in which they are purchased).

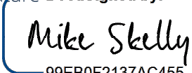
Agreement

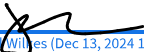
By signing this Order Form, you agree to the terms and conditions governing your use of the Products set forth in the following (each of which are incorporated by this reference):

- The City of Olathe Agreement (including exhibits B, C and D)

Firstup, Inc.

Client

Signature DocuSigned by:

99EB0F2137AC455...

Signature

Michael Wilkes (Dec 13, 2024 10:41 CST)

Print name
Mike Skelly

Print name
J. Michael wilkes

Title Chief Financial Officer

Title
City Manager

Date signed
12/13/2024

Date Signed
12-13-2024

Exhibit B

CITY OF OLATHE INSURANCE REQUIREMENTS

These requirements apply to the vendor or contractor ("Vendor") entering into an Agreement with the City of Olathe ("City").

A. Insurance. Secure and maintain for the term of the Agreement insurance of such types and in at least such amounts as set forth below from a Kansas authorized insurance company which carries a Best's Policyholder rating of "A-" or better and carries at least a Class "VII" financial rating or better, unless otherwise agreed to by City:

1. Commercial General Liability: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any commercial general liability policy of insurance. The insurance must apply separately to each insured against whom claim is made or suit is brought, subject to the limits of liability.

Limits: Per Occurrence, including Personal & Advertising Injury and Products/Completed Operations: \$1,000,000; General Aggregate: \$2,000,000.

2. Business Auto Insurance: City must be listed by ISO endorsement or its equivalent as an additional insured on a primary and noncontributory basis on any automobile policy of insurance. Insurance must apply separately to each insured against whom claim is made or suit is brought, subject to liability limits.

Limits: All Owned Autos; Hired Autos; and Non-Owned Autos: Per occurrence, combined single limit: \$500,000.

Notwithstanding the foregoing, if Vendor does not own any automobiles, then Vendor must maintain Hired and Non-Owned Auto insurance.

3. Worker's Compensation and Employer's Liability: Workers compensation insurance must protect Vendor against all claims under applicable state Worker's Compensation laws at the statutory limits, and employer's liability with the following limits.

Limits: \$500,000 Each Accident/\$500,000 Policy Limit/\$500,000 Each Employee

4. Professional Liability (if applicable): **Unless excused by the Agreement with the City**, Vendor must maintain for the term of this Agreement and for a period of three (3) years after the termination of this Agreement, Professional Liability Insurance.

Limits: Each Claim: \$1,000,000; General Aggregate: \$1,000,000.

5. Cyber Insurance (if applicable): **IF** accessing the City's network or City's data, **THEN** maintain the following coverages throughout for the term of this Agreement and for a period of three (3) years after the termination of this Agreement: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

Limits: Per claim, each insuring agreement: \$1,000,000; Aggregate: \$1,000,000.

B. Exposure Limits. Above are minimum acceptable coverage limits and do not imply or place a liability limit nor imply that the City has assessed the risk that may be applicable to Vendor. Vendor must assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. The Vendor's insurance must be primary, and any insurance or self-insurance maintained by the City will not contribute to, or substitute for, the coverage maintained by Vendor.

C. Costs. Insurance costs must be at Vendor's expense and accounted for in Vendor's bid or proposal. Any deductibles or self-insurance in the above-described coverages will be the responsibility and at the sole risk of the Vendor.

D. Verification of Coverage

1. Must provide certificate of insurance on ISO form or equivalent, listing the City as certificate holder, and additional insured endorsements for requested coverages.
2. Any self-insurance must be approved in advance by the City and specified on the certificate of insurance. Additionally, when self-insured, the name, address, and telephone number of the claim's office must be noted on the certificate or attached in a separate document.
3. When any of the insurance coverages are required to remain in force after final payment, additional certificates with appropriate endorsements evidencing continuation of such coverage must be submitted along with the application for final payment.
4. For cyber insurance, the certificate of insurance confirming the required protection must confirm the required coverages in the "Additional Comments" section or provide a copy of the declarations page confirming the details of the cyber insurance policy.

E. Cancellation. No required coverage may be suspended, voided, or canceled, except after Vendor has provided thirty (30) days' advance written notice to the City.

F. Subcontractor's Insurance: If a part of this Agreement is to be sublet, Vendor must either cover all subcontractors under its insurance policies; **OR** require each subcontractor not so covered to meet the standards stated herein.

Exhibit C

Addendum to Firstup, Inc. Software as a Service Agreement

This Addendum (“this Addendum”) is made and entered into on this 13th day of December, 2024, by and between City of Olathe (“Public Entity”), a Kansas municipal corporation, and Firstup, Inc. (“Vendor”), a company registered to do business in the state of Delaware (collectively “the parties”). Public Entity intends to contract with Vendor for software as a service and support (collectively “SaaS Services”) as more fully set forth in the Agreement dated December 13, 2024 (“the Agreement”). If there is a conflict between the terms of the Agreement and this Addendum, this Addendum Controls.

1. Definitions

- 1.1 “Public Entity Data” means any of Public Entity’s electronic information accessible by Vendor because of the Agreement, including but not limited to software, programs, workflows, templates, account data, third party data, meta data, records, usernames, passwords, network settings, reports, statistics, documents, media, spreadsheets, financial information, banking information, credit card information, health information, criminal justice information, personal information, email addresses, names, addresses, and telephone numbers. Public Entity Data includes all data considered CJI and PII under applicable laws and regulations.
- 1.2 “Critical Update” means an update to address a vulnerability scored as critical severity based on Firstup vulnerability policy.

2. Termination

- 2.1. Return of Public Entity Data. Upon termination of the Agreement, regardless of the reason, or upon notice of termination being provided by either party, Vendor shall make available within a reasonable time all Public Entity Data in Vendor’s industry standard exportable format. Public Entity Data shall remain accessible and exportable to Public Entity for a period of not less than thirty (30) days following the termination of the Agreement. Proof of destruction must be made available upon request by Public Entity if requested within one hundred and eighty (180) days following termination of the Agreement.

3. Cyber Security

- 3.1 Security Standards. Vendor shall apply basic safeguarding requirements and procedures to protect its information systems whenever the information systems store, process, or transmit any Public Entity Data. These requirements and procedures shall include, at a minimum, the security control requirements “reflective of actions a prudent businessperson would employ” as outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016) to the extent applicable as follows:
 - 4.1.1 Limit information system access to authorized users, processes acting on behalf of authorized users, or devices (including other information systems).
 - 4.1.2 Limit information system access to the types of transactions and functions that authorized users are permitted to execute.
 - 4.1.3 Verify and control/limit connections to and use of external information systems.
 - 4.1.4 Control information posted or processed on publicly accessible information systems.

- 4.1.5 Identify information system users, processes acting on behalf of users, or devices.
 - 4.1.6 Authenticate (or verify) the identities of those users, processes, or devices, as a prerequisite to allowing access to organizational information systems.
 - 4.1.7 Sanitize or destroy information system media containing Public Entity Data before disposal or release for reuse.
 - 4.1.8 Limit physical access to organizational information systems, equipment, and the respective operating environments to authorized individuals.
 - 4.1.9 Escort visitors and monitor visitor activity; maintain audit logs of physical access; and control and manage physical access devices.
 - 4.1.10 Monitor, control, and protect organizational communications (i.e., information transmitted or received by organizational information systems) at the external boundaries and key internal boundaries of the information systems.
 - 4.1.11 Implement subnetworks for publicly accessible system components that are physically or logically separated from internal networks.
 - 4.1.12 Identify, report, and correct information and information system flaws in a timely manner.
 - 4.1.13 Provide protection from malicious code at appropriate locations within organizational information systems.
 - 4.1.14 Update malicious code protection mechanisms when new releases are available.
 - 4.1.15 Perform periodic scans of the information system and real-time scans of files from external sources as files are downloaded, opened, or executed.
 - 4.1.16 Vendor must implement Critical Updates to Vendor's system within thirty (30) days of the patch becoming available. Failure to implement a Critical Security Patch within that time must be documented describing all mitigation measures implemented. Vendor must notify Public Entity of the Vendor's failure to implement a critical security patch within ten (10) days of the decision not to patch or with thirty (30) days of the release of the patch, whichever is sooner. Vendor must provide documentation in the notification of how Public Entity's data will remain protected
 - 4.1.17 Vendor shall ensure that systems on which Public Entity's data reside are audited for compliance with the security standards as stated herein at least annually, and if Public Entity requests, Vendor must provide within fourteen (14) days a statement of compliance which includes the name(s) of the person(s) conducting the audit.
- 4.2 Location of Public Entity Data. Vendor must store all Public Entity Data and transmitted solely within secure data centers, computer systems, and networks within the United States of America and/or Ireland.
- 4.3 Notification of Cyber Incident. If Vendor becomes aware of a cyber incident, including the occurrence of a breach or potential breach of data security, impacting Public Entity Data or the SaaS Services, Vendor shall promptly and no later than within seventy-two (72) hours notify Public Entity by email (see Section 6.5), of the cyber incident, the extent of the cyber incident, and possible consequences of the cyber incident.

4.4 Compliance with Applicable Laws, Regulations, and Security Standards. If the SaaS services involve the storage, transmission, or use of any Public Entity Data that would be subject to any privacy laws, rules, regulations, or industry standards, Vendor warrants that it is compliant with the applicable standard, will provide proof of such compliance upon request, including any certification and the pertinent results of any audit, and will immediately notify Public Entity of the loss of any applicable certification or investigation into Vendor's compliance with such applicable standard.

4.4.1 Example: If the SaaS Services involve the storage, processing, or transmission of payment card information, Vendor warrants it is PCI DSS compliant, will provide proof of compliance upon request, and will notify Public Entity of any regulatory audit, fines, or investigation impacting its status as compliant that occurs during the duration of the Agreement.

4.4.2 Example: If the SaaS Services involve the storage, processing, or transmission of criminal justice information (as that term is defined under applicable federal, state, or local law), Vendor warrants it is Criminal Justice Information System (CJIS) compliant, will provide proof of compliance upon request, and will notify Public Entity of any regulatory audit, fines, or investigation impacting its status as compliant that occurs during the duration of the Agreement. Vendor agrees to cooperate with any audit of Public Entity by a law enforcement agency seeking to determine Public Entity's or Vendor's CJIS compliance.

5 Ownership and Use of Data

5.1 Use of Data. Vendor shall not, during or after the term of this Agreement, use Public Entity Data for any purpose whatsoever other than the performance of its obligations under the Agreement and as noted in Agreement Section 2.2 of the Platform Product Attachment (Aggregate Statistics). Vendor shall not, during or after the term of the Agreement, divulge to any person or organization or use, for any reason whatsoever, any Public Entity Data without receiving prior written consent. Public Entity consents to the disclosure of Public Entity Data to those subprocessors listed at <https://firstup.io/legal/subprocessor-list/>. Vendor has agreements signed by the subprocessors which creates obligations no less stringent than those that Vendor has regarding use, destruction and divulgement of Public Entity Data.

Vendor shall, upon request, return or destroy all such Confidential Information upon the termination of this Agreement, but Vendor shall not be required to return or destroy copies of Public Entity Data residing on backup, disaster recovery, or business continuity systems, and the obligations herein with respect to such Public Entity Data shall survive until such Public Entity Data is destroyed during the ordinary course of business.

Exception. Vendor shall not be considered to have breached its obligations by disclosing Public Entity Data as required to satisfy a request from a competent governmental entity provided that, upon receiving any such request and to the extent that it may legally do so, Vendor provides Public Entity written notice of the request prior to making any disclosure to provide the Public Entity an opportunity file an objection to such disclosure.

5.2 Ownership of Data. Public Entity Data shall remain the sole and exclusive property of Public Entity. Vendor shall not have any ownership rights in Public Entity Data.

6 General Terms

6.2 No Click-to-Accept Terms. Vendor agrees that no 'click to accept' agreement that may be required for Public Entity or its end users to access the SaaS Services and no 'terms of use' or 'privacy policy' referenced therein or conditioned for use of the services shall apply. Only the provisions of the Agreement and any attachments and exhibits, including this Addendum shall apply to Public Entity and its end users for access and use of the SaaS Services. The Parties acknowledge that Public Entity or its end users may be required to click "Accept" as a condition of access the SaaS Services, but the provisions of such 'click to accept' agreement and other terms (including Terms of Use and Privacy Policy) referenced therein shall be null and void for Public Entity and each end user.

6.3 Applicable Law. The Agreement is entered into, under, and is to be construed and enforceable in accordance with the laws of the State of Kansas. Vendor will abide by all applicable federal, state and local laws and ordinances.

6.4 Independent Contractor. Vendor is an independent contractor and is not an agent or employee of Public Entity.

6.5 Assignability. If Vendor assigns the Agreement to another person, organization, or entity the Public Entity will have the right to terminate the Agreement within thirty (30) days of Vendor providing notice of assignment.

6.6 Notices. Notices shall be sent to the parties via email at:

To Vendor:

legal@firstup.io

To the Public Entity:

City Clerk's Office: cco@olatheks.org

City Attorney's Office:
cityattny@olatheks.org

Communications:

Communicationsstaff@olatheks.gov

6.7 Waiver. The failure or delay of either party in exercising any of its rights under the Agreement will not be deemed a waiver or forfeiture of such rights. A waiver by either party of any of the covenants, conditions, or terms of the Agreement to be performed by the other or any breach thereof shall not be construed to be a waiver of any succeeding breach or of any other covenant, condition, or term of the Agreement.

6.8 Cyber Insurance. Vendor shall maintain cyber insurance during the Agreement and for a period of three (3) years after the termination of the Agreement. Coverage must include: Cyber Incident/Breach Response and Remediation Expenses, Digital Data Recovery, Privacy and Network Security Liability, and Notification Expense.

6.8.1 Limits. Per claim, each insuring agreement: \$5,000,000; Aggregate: \$5,000,000.

6.8.2 Exposure Limits. The above are minimum acceptable coverage limits and do not infer or place a limit on the liability of Vendor nor has Public Entity assessed the risk that may be applicable to Vendor. Vendor shall assess its own risks and if it deems appropriate and/or prudent maintain higher limits and/or broader coverage. In the event Vendor maintains broader coverage and/or higher limits than the minimums shown above, Public Entity requires and shall be entitled to the broader coverage and/or higher limits maintained by Vendor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to Public Entity. The Vendor's insurance will be primary and any insurance or self-insurance maintained by Public Entity will not contribute to, or substitute for, the coverage maintained by Vendor.

6.8.3 Verification of Coverage. Vendor will provide a certificate of insurance on ISO form or equivalent, listing Public Entity as the certificate holder. The certificate must confirm the required coverages in the "Additional Comments" section or Vendor must provide a copy of the declarations page confirming the details of the cyber insurance policy.

Exhibit C

Firstup Inc.'s Term

General Terms

Client's relationship with Firstup and Client's use of Firstup's products and services (including Client's licensing of Firstup's Platform and Client's use of Services) are subject to the terms and conditions set forth herein and are between Client and Firstup. Capitalized terms are defined in Section 9 below, unless otherwise defined within the body of this Agreement, the applicable Product Attachment, or Schedule. In order to use the Products, Client must first agree to this Agreement. You represent and warrant that you have the necessary and full right, power, authority, and capability to accept this Agreement, to bind your organization, and to perform your and your organization's obligations hereunder. You can enter into and "accept" this Agreement and any applicable Product Attachment(s) and Schedule(s), by: (a) clicking to accept or agree, where this option is made available to you by Firstup in the user interface for any Product; (b) where a link to the applicable document appears in an order form, Schedule, or other document provided to you by Firstup, by signing such document; or (c) signing the applicable document, if there is a designated area to sign. Client may not use the Products and you may not accept this Agreement if: (i) you are not authorized by your organization to enter into a binding contract with Firstup, or (ii) you or your organization are a person barred from receiving the Products under the laws of the U.S. or other countries, including the country in which you are a resident or from which you use the Products. Client may not use the Products if you do not accept this Agreement. By accepting this Agreement, Client agrees as follows:

1. AGREEMENT STRUCTURE AND SCOPE.

1.1 General Terms and Incorporation of Product Terms. This Agreement establishes the general terms and conditions to which the parties have agreed to in order to facilitate the provision of Products.

1.2 Incorporation of Schedules. The parties may enter into Schedules from time to time by any of the methods specified in the Preamble. Each Schedule incorporates the terms of these General Terms and the applicable Product Attachment.

1.3 Incorporation of Third Party Terms; Third Party Products. Client's use of Third Party Products may be subject to, and Client will comply with any applicable Third Party Terms that are presented to Client in connection with such use. Use of Third Party Products is at Client's option and are not required for Client's use of the Products. Any procurement by Client of such Third Party Products is solely between Client and the applicable third party provider. Firstup is not responsible for any aspect of such Third Party Products, and Client acknowledges and agrees that Firstup maintains no control over and disclaims any liability arising out of or from Third Party Products. For those Third Party Products which are licensed through a Schedule, Client agrees to treat Firstup the same as the provider of any such Third Party Products with respect to all rights and protections of such provider as set forth in the applicable Third Party Terms, including, without limitation, disclaimers of warranty, limitations of liability, and indemnification.

1.4 Affiliates. Client's Affiliates may order Products and certain Third Party Products from

Firstup (or one of Firstup's Affiliates) by entering into a Schedule. In the event that a Client Affiliate enters into a Schedule with Firstup (or an Affiliate of Firstup), references in this Agreement to "Client" and "Firstup" will mean the respective entity that accepts (as described in the Preamble) the applicable Schedule. Each such Schedule will be deemed to be a separate agreement between those two parties and will bind the applicable parties to the terms and conditions of this Agreement. Any Affiliate of Client that enters into such Schedule will be deemed to be the "Client" as contemplated therein and in this Agreement. Users may include employees and contractors of Client or its Affiliates that have not signed a Schedule. However, other than usage rights, Affiliates are not otherwise granted any rights under this Agreement. Client agrees to be responsible and liable for the compliance of its Users and Affiliates with the terms and conditions of this Agreement.

2. FINANCIAL TERMS.

2.1 Fees; Payment Terms; Currency. Fees, currency, and payment terms are specified in the applicable Schedule. Unless otherwise specified in the Schedule, all amounts owed by Client are due from Client within 30 days from the date of the applicable invoice. Subject to Firstup's reasonable discretion, past due fees may accrue interest at the lesser of 1% of the outstanding balance per month or the maximum amount permitted by applicable law. In the event of any non-payment or delay in paying a fee, Client agrees to reimburse Firstup for any reasonable fees and expenses incurred in its collection efforts. Payment of fees is under no circumstances subject to or conditioned upon the delivery of future Products or functionality outside of what is indicated on the applicable Schedule. Unless otherwise specified in the Schedule, the subscription to the Platform begins when access is made available to Client as indicated by the "Start Date" set forth on the applicable Schedule.

2.2 Taxes. All fees payable by Client are exclusive of Taxes. Client will pay all Taxes unless Client timely furnishes satisfactory proof of exemption. All Taxes will be invoiced based on the billing information provided by Client. Firstup's failure to bill or invoice Client for such Taxes does not constitute a waiver of the right to collect such Taxes. All payments made by Client to Firstup under this Agreement will be made free and clear of any deduction or withholding, as may be required by law. If any such deduction or withholding (including but not limited to cross-border withholding taxes) is required on any payment, Client will pay such additional amounts as are necessary so that the net amount received by Firstup is equal to the amount then due and payable under this Agreement. Firstup will provide Client with such tax forms as are reasonably requested in order to reduce or eliminate the amount of any withholding or deduction for taxes in respect of payments made under this Agreement.

3. LIMITED RIGHTS AND OWNERSHIP.

3.1 Reservation of Rights. All rights not expressly granted in this Agreement are reserved by Firstup and its licensors. Unless otherwise expressly set forth in a Schedule, Client acknowledges that: (a) all Products are licensed and not sold; (b) Client acquires only the right to use the Products in accordance with this Agreement, and Firstup and/or its licensors will retain sole and exclusive ownership of and all rights, title, and interests in the Products; and (c) the Products, including the source and object codes, logic, and structure, contain and constitute valuable trade secrets of Firstup and its licensors. No work made for hire is or will be created by Firstup as part of this Agreement.

3.2 License. Subject to Client's payment of the amounts due under the applicable Schedule and

its compliance with this Agreement, Firstup hereby grants Client a perpetual, non-exclusive, non-transferable, non-sublicensable, right to access, use, modify, and copy the Deliverables for Client's internal business purposes only.

3.3 Restrictions. Unless otherwise expressly set forth in a Product Attachment or Schedule, Client will not itself, or through any Affiliate, User, employee, consultant, contractor, agent, or other third party: (a) allow access to, provide, divulge, or make available the Products to any third parties other than Users; (b) write or develop any derivative works based upon the Products; (c) modify, adapt, translate, or otherwise make any changes to the Products or any part thereof; (d) remove any identification, patent, copyright, trademark, or other notices from any Product; (e) contest or do or aid others in contesting or doing anything which impairs the validity of any proprietary or Intellectual Property Rights, title, or interests of Firstup or its licensors in and to any Products; or (f) use the Products for other than authorized and legal purposes, consistent with all applicable laws, rules, regulations, and the rights of others, including those governing privacy and personal information.

4. TERM, TERMINATION, AND SUSPENSION.

4.1 Term. The term of this Agreement will begin on the Effective Date and continue until all Schedules have expired or have been terminated. Unless otherwise set forth in the applicable Schedule, the term of the applicable Schedule will be as set forth in the applicable Product Attachment. The initial term of each Schedule will be as set forth in the applicable Schedule. During the term of each multi-year Schedule or multi-year renewal term, Firstup may increase the fees once per contract year which increase will apply as of the anniversary of the Start Date, provided that any such increase will not exceed 10% over the then-current fees; provided that, discounts or fee waivers are one-time only and apply only to the term specified in the applicable Schedule. For each renewal term, Firstup will provide notice of any fee increases no less than 60 days prior to the end of the then-current term. Upon the expiration of the initial term and any renewal, except for any one-time fees (e.g., implementation fees), the Schedule will automatically renew for the same Products and usage levels at the increased fees for periods equal to the then-current term (including any Products added during the applicable term on a coterminous basis) or one year if the initial term was for a period less than one year, unless either party gives written notice to the other party to not renew the applicable Schedule no less than thirty (30) days prior to the expiration of the then-current term.

4.2 Termination. Either party may terminate this Agreement, including any or all Product Attachments and Schedules entered into hereunder, immediately upon written notice: (a) in the event that the other party commits a non-remediable material breach of this Agreement and/or the applicable Product Attachment or Schedule, or if the other party fails to cure any remediable material breach or provide a written plan of cure acceptable to the non-breaching party within 30 days of being notified in writing of such breach, except for breach of Section 2 of these General Terms which will have a 10 day cure period; or (b) in the event of institution of bankruptcy, receivership, insolvency, reorganization, or other similar proceedings by or against either party under any section or chapter of the U.S. Bankruptcy Code, as amended, or under any similar laws or statutes of the U.S. or any state thereof, if such proceedings have not been dismissed or discharged within 30 days after they are instituted; or the insolvency or making of an assignment for the benefit of creditors or the admittance by either party of any involuntary debts as they mature or the institution of any reorganization arrangement or other

readjustment of debt plan of either party not involving the U.S. Bankruptcy Code. Where a party has the right to terminate this Agreement, such party may at its discretion either terminate the entire Agreement or the applicable Product Attachment or Schedule; provided however, that termination of a Product Attachment will automatically terminate all Schedules entered into pursuant to such Product Attachment. Product Attachments and Schedules that are not terminated will continue in full force and effect under the terms of these General Terms. Termination by either party for any reason, other than a termination by Client in accordance with Section 4.2(a), will neither result in a refund of fees paid, nor excuse Client's obligation to pay in full any and all amounts due for the term of any Schedule.

4.3 Suspension. Upon advance notice (where practicable under the circumstances), Firstup may suspend its performance hereunder if: (a) it reasonably believes that Client's use of the Services or Platform is not in compliance with applicable law or this Agreement, is fraudulent, has the potential to harm a third party, or is or could be disruptive to Firstup's business; or (b) Client is delinquent in its payment obligations. During the term of any such suspension (i) Client remains responsible for all fees; and (ii) Client will not be entitled to any service credits under the SLA.

5. CONFIDENTIALITY.

5.1 Non-Use and Non-Disclosure. Each party will: (a) treat as confidential all Confidential Information of the other party and use at least the same care to protect Confidential Information as it uses for its own similar information, but in no event less than a reasonable degree of care; (b) not disclose Confidential Information to any third party, except on a "need to know" basis to third parties that are subject to a non-disclosure agreement containing provisions substantially as protective of the Confidential Information as the terms of this Section, and such party so disclosing the Confidential Information to the third party is responsible and liable for that third party's compliance with the confidentiality obligations set forth herein; and (c) not use that Confidential Information except in connection with performing its obligations or exercising its rights under this Agreement. Each party is permitted to disclose the other party's Confidential Information if required by law, court order or regulatory body, so long as, to the extent legally permitted, the other party is given prompt written notice of that requirement before disclosure and reasonable assistance in obtaining an order protecting that information from public disclosure. To the extent that the receiving party must disclose Confidential Information pursuant to the previous sentence, any such disclosure will be limited to only that Confidential Information required to be disclosed to comply with the order of the relevant court or regulatory body.

5.2 Exceptions. Confidential Information will not include any information that: (a) was publicly known and made generally available before the time of disclosure by the disclosing party; (b) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (c) is already in the lawful possession of the receiving party at the time of disclosure with no obligation to maintain its confidentiality; (d) is obtained by the receiving party from a third party on a non-confidential basis without a breach of that third party's obligations of confidentiality; or (e) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information.

6. INDEMNIFICATION.

6.1 Firstup Indemnity. Firstup will defend, indemnify, and hold Client harmless from and

against any Claims against Client to the extent that such Claim is based upon the Products directly infringing a third party's Intellectual Property Rights, provided that the Products are used in compliance with this Agreement.

6.2 Client Indemnity. Client will defend, indemnify, and hold Firstup harmless from and against any Claims against Firstup to the extent that such Claim is based upon (i) Client's breach of Section 2.5 of the Platform Product Attachment; and/or (ii) Client's use of Third Party Products.

6.3 Indemnification Procedures. The party seeking indemnification must (a) promptly notify the other party after learning of a Claim, provided that the failure to do so will not relieve the indemnifying party of its obligations hereunder except to the extent that it is prejudiced by such failure; (b) give the indemnifying party sole control of the defense and settlement of the Claim (provided that the indemnifying party may not settle any Claim unless it unconditionally releases the indemnified party); and (c) provide to the indemnifying party, at the indemnifying party's reasonable cost, reasonable assistance in the defense or settlement of such Claim. The indemnified party may participate in its own defense at its own cost.

7. WARRANTIES, DISCLAIMERS AND LIMITATION OF LIABILITY.

7.1 Firstup represents and warrants that (a) it has all necessary rights and authority to execute and deliver this Agreement and perform its obligations hereunder; (b) nothing contained in this Agreement or in the performance of this Agreement will place Firstup in breach of any other material contract or obligation; (c) the Platform will operate in conformity with the Documentation subject to the SLA; (d) Firstup will perform the Services in a professional and workmanlike manner with employees having a level of skill commensurate with the requirements of this Agreement; and (e) it will use commercially reasonable and industry standard methods to prevent the introduction of Malicious Code through the Platform.

7.2 EXCEPT AS OTHERWISE SET FORTH HEREIN AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, CLIENT ACKNOWLEDGES AND AGREES THAT THE PRODUCTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. THE WARRANTIES, IF ANY, SET FORTH HEREIN AND IN THE PRODUCT ATTACHMENTS ARE LIMITED TO THEIR EXPRESS TERMS AND ARE IN LIEU OF, AND FIRSTUP, ITS LICENSORS, AND SUPPLIERS EXPRESSLY DISCLAIM TO THE MAXIMUM EXTENT PERMITTED BY LAW, ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, ORAL OR WRITTEN, INCLUDING ANY (a) WARRANTY THAT THE PRODUCTS ARE ERROR-FREE OR "BUG"-FREE, ACCURATE, SECURE, OR RELIABLE; (b) WARRANTY THAT THE PRODUCTS WILL OPERATE WITHOUT INTERRUPTION; (c) WARRANTY THAT ALL ERRORS WILL BE CORRECTED OR THAT CLIENT'S USE OF THE PRODUCTS WILL COMPLY WITH ANY LAW, RULE, OR REGULATION; (d) IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, OR NON-INFRINGEMENT; (e) IMPLIED WARRANTIES ARISING FROM STATUTE, COURSE OF DEALING, COURSE OF PERFORMANCE, OR USAGE OF TRADE; AND (f) WARRANTY THAT THE PRODUCTS WILL MEET CLIENT'S REQUIREMENTS.

7.3 (a) EXCEPT AS SET FORTH IN SECTION 7.4 BELOW, TO THE EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY WILL BE LIABLE FOR INDIRECT DAMAGES OR LOSSES (IN CONTRACT, STATUTE, TORT, OR OTHERWISE), INCLUDING INDIRECT DAMAGES OR LOSSES FOR NEGLIGENCE, LOST PROFITS OR REVENUE, LOST SAVINGS, COST OF REPLACEMENT SERVICES, LOST DATA, LOSS OF USE OF INFORMATION OR SERVICES, OR ANY INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE, OR SPECIAL DAMAGES, WHETHER OR NOT IT HAS PREVIOUSLY BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. (b) EXCEPT AS SET FORTH

IN SECTION 7.4 BELOW, EACH PARTY'S TOTAL AGGREGATE LIABILITY FOR ALL MATTERS ARISING FROM OR RELATED TO THIS AGREEMENT IS LIMITED TO THE AMOUNT OF SUBSCRIPTION FEES PAID OR PAYABLE BY CLIENT AS CONSIDERATION FOR THE SPECIFIC PRODUCT UNDER THE APPLICABLE SCHEDULE GIVING RISE TO SUCH CLAIMS DURING THE 12 MONTH PERIOD PRECEDING THE DATE ON WHICH THE FIRST CAUSE OF ACTION AROSE.

7.4 THE LIMITATIONS OF LIABILITY SET FORTH IN THIS SECTION 7 WILL NOT APPLY TO LIABILITY OR DAMAGES ARISING OUT OF OR RELATING TO (a) FIRSTUP'S INDEMNIFICATION OBLIGATIONS RELATING TO THE INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS AS EXPRESSLY SET FORTH IN THIS AGREEMENT; (b) CLIENT'S INDEMNIFICATION OBLIGATIONS; (c) CLIENT'S BREACH OF ITS OBLIGATIONS UNDER SECTION 3.3 OF THESE GENERAL TERMS OR SECTIONS 2.4 OR 2.5 OF THE PLATFORM PRODUCT ATTACHMENT; (d) EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT; OR (e) CLIENT'S PAYMENT OBLIGATIONS.

7.5 FOR THE PURPOSES OF THIS SECTION AND ANY INDEMNIFICATION PROTECTING FIRSTUP UNDER THIS AGREEMENT, REFERENCE TO FIRSTUP WILL ALSO INCLUDE ITS SUPPLIERS AND LICENSORS.

8. GENERAL PROVISIONS.

8.1 U.S. Government Restricted Rights. The Products are provided with restricted rights. Use, duplication, or disclosure by the U.S. Government is subject to restrictions as set forth in subparagraph (c) of The Rights in Technical Data and Computer Software clause at DFARS 252.227-7013, or subparagraphs (b)(1) and (2) of the Commercial Computer Software - Restricted Rights at 48 CFR 52.227-19, as applicable. The Manufacturer is Firstup, Inc. or one of its Affiliates or subsidiaries.

8.2 Feedback. Should Client choose to submit Feedback to Firstup, Client acknowledges and agrees that Client hereby grants to Firstup an irrevocable, transferable, worldwide, and perpetual license to use the Feedback for any purpose whatsoever, without any obligation of Firstup to Client, including any compensation or reimbursement of any kind from Firstup.

8.3 Force Majeure. Except for payment obligations for Products provided, neither party will incur any liability to the other party on account of any loss, claim, damage, or liability to the extent resulting from any delay or failure to perform all or any part of this Agreement, if and to the extent such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the reasonable control and without any negligence on the part of the party seeking protection under this Section, including internet service provider delays or failures, acts of God, strikes, lockouts, riots, acts of war, terrorism, earthquake, fire, or explosions. Dates by which performance obligations are scheduled to be met will be extended for a time equal to the time lost due to the delay so caused.

8.4 Enforcement. Client will (a) ensure that all users of Products comply with the terms and conditions of this Agreement; (b) promptly notify Firstup of any actual or suspected violation of this Agreement; and (c) cooperate with Firstup with respect to any investigation and enforcement of this Agreement.

8.5 Assignment. Except as expressly stated herein, neither party may assign or transfer (including by operation of law) any rights or obligations under this Agreement without the prior written consent of the other party, except that either party may, without such consent but upon written notice, assign or transfer this Agreement in its entirety to an Affiliate or in the event of an acquisition, merger, or other transfer of substantially all of its assets or ownership

of more than 50% of the voting capital stock or other interest having voting rights with respect to the election of the board of directors or similar governing authority, provided that the applicable assignee is of at least equal creditworthiness to the assignor and agrees in writing to assume all of the assignor's rights and obligations under this Agreement. Any assignment or transfer, or attempted assignment or transfer, in violation of this Agreement is void.

8.6 Export; Anti-Bribery. Client acknowledges that the Products are subject to Export Laws, and Client hereby represents and covenants that: (a) Client is eligible to access the Products under Export Laws and all other applicable laws; and (b) Client will import, export, re-export, transfer, or re-transfer the Products to, or use or access the Products in, any country or territory only in accordance with Export Laws and all other applicable laws. Furthermore, each party hereby represents and warrants that, in connection with its respective activities conducted under this Agreement, it will comply with the U.S. Foreign Corrupt Practices Act of 1977, as amended, the U.K. Bribery Act of 2010, as amended, and the Convention on Combating Bribery of Foreign Public Officials and has not and will not make or receive, directly or indirectly, any payments or gifts, or offers or promises of payments or gifts or things of value in exchange for anything that may arise out of this Agreement in a manner that would violate these laws and rules or any other applicable anti-corruption or anti-bribery laws or regulations.

8.7 Notices. Any notices required to be given under this Agreement will be in writing and sent to the physical or email address on file with Firstup for Client or, in the case of Firstup, to the address set forth in Section 9 of these General Terms to the attention of Legal Department or via email to legal@firstup.io. Physical notices will be deemed received the next day if sent via overnight mail or courier with confirmation of receipt, or three (3) days after deposited in the mail sent certified or registered or via another reputable carrier with tracking.

8.8 Relationship. This Agreement is not intended to create a partnership, franchise, joint venture, agency, or a fiduciary or employment relationship. Neither party may bind the other party or act in a manner which expresses or implies a relationship other than that of independent contractor.

8.9 Severability. If any part or provision of this Agreement is held to be unenforceable, illegal, or invalid by a court of competent jurisdiction for any reason whatsoever, (a) the validity, legality, and enforceability of the remaining provisions of this Agreement (including all portions of any provisions containing any such unenforceable provision that are not themselves unenforceable) will not in any way be affected or impaired thereby, and (b) to the fullest extent possible, the unenforceable, illegal, or invalid provision will be deemed modified and replaced by a provision that approximates the intent and economic effect of the unenforceable, illegal, or invalid provision and this Agreement will be deemed amended accordingly.

8.10 Survival. The following provisions will survive any termination, cancellation, or expiration of this Agreement: Sections 1, 2, 3.2, 3.3, 4, 5, 6, 7, 8 and 9 of these General Terms, and such other provisions that should reasonably survive termination, cancellation, or expiration hereof.

8.11 Amendments; No Waiver. No amendment or waiver of any provision of this Agreement will be effective unless it is in writing and signed by the party against which it is sought to be enforced. The failure of a party to require performance of any provision of this Agreement shall in no manner affect its right to enforce the provision.

8.12 Entire Agreement. This Agreement constitutes the parties' entire agreement relating to its subject matter. It cancels and supersedes all prior or contemporaneous oral or written

communications, agreements, requests for proposals (or similar document), proposals, conditions, representations, and warranties, or other communication between the parties relating to its subject matter. All pre-printed, online, or click-through terms of any Client (a) purchase order, or (b) supplier or vendor portal will have no effect. Each party agrees that there have been no material representations or statements by any person or party to this Agreement as an inducement for a party hereto to accept this Agreement other than what is expressly set forth in writing herein.

8.13 No Third Party Beneficiaries. This Agreement is for the benefit of the parties and their successors and permitted assigns and does not confer any rights or benefits on any third party, including any employee of a party, any client of a party, or any employee of a client of a party.

8.14 Intentionally omitted.

8.15 Order of Precedence. To the extent any terms and conditions of these General Terms conflict with the terms and conditions of any Product Attachment, the provisions of the Product Attachment will control. In the event of a conflict between a Schedule and these General Terms or the applicable Product Attachment, the General Terms or the applicable Product Attachment (as applicable) will control, provided, however, that such standard variable terms such as price, quantity, payment terms, and the like will be specified on each Schedule.

8.16 Interpretation. Any reference to a statutory provision includes a reference to any modification or re-enactment of it from time to time. The headings and pronouns contained herein are for convenience and ease of reference only and will not affect the construction or interpretation of this Agreement. The word “including” in this Agreement means “including, without limitation.” All references to days mean calendar days, unless specified as business days. This Agreement will not be construed in favor of or against a party based on the author of the document.

8.17 Counterparts. These General Terms and each Product Attachment, Schedule, and any exhibits thereto may be executed in one or more counterparts, each of which will constitute an enforceable original of this Agreement, and the parties agree that electronic or digital signatures, as well as pdf scanned copies of signatures, will be as effective and binding as original signatures.

8.18 Remedies Cumulative; Injunctive Relief. Except as specifically set forth in this Agreement, all rights and remedies provided in this Agreement are cumulative and not exclusive of any other rights or remedies that may be available to the parties, whether provided by law, equity, statute, in any other agreement between the parties or otherwise. Furthermore, in the event of a breach or threatened breach of the Intellectual Property Rights or confidentiality obligations in this Agreement, the non-breaching party, in addition to any and all other rights (at law or in equity) which may be available, will have the right to seek injunctive relief and other appropriate equitable remedies to restrain any such breach or threatened breach, without the requirement of posting a bond.

8.19 Insurance. Firstup will maintain the following minimum insurance coverage at its expense for the duration of the term of this Agreement: (a) Workers’ Compensation – as required by the statutes of states in which Services are being performed; (b) Comprehensive General Liability Insurance – \$2,000,000 per occurrence/aggregate bodily injury and \$2,000,000 per occurrence/aggregate property damage; and (c) Cyber/Tech Errors and Omissions Insurance – \$5,000,000 per occurrence and in the aggregate. Firstup agrees to provide Client with a copy of

its certificate(s) of insurance evidencing such coverage upon written request. Client will be named as an additional insured on the General Liability, Professional Liability and Cyber policies through a blanket endorsement.

8.20 Publicity. If a Schedule includes a marketing discount or as otherwise mutually agreed by the parties, (a) Client will provide testimonials in the form of press releases, articles, video, or event-related communications to customers and prospects regarding its use of the Platform, which testimonials will be subject to Client's approval; and (b) Firstup may use Client's name and logo as part of Firstup's standard customer lists and for marketing purposes.

9. DEFINITIONS.

"Affiliates" of a designated corporation, company, partnership, or other entity means all entities which control, are controlled by, or are under common control with the named entity, whether directly or through one or more intermediaries. For purposes of this definition "controlled" and "control" mean ownership of more than 50% of the voting capital stock or other interest having voting rights with respect to the election of the board of directors or similar governing authority.

"Agreement" means these General Terms, together with all Product Attachments and Schedules accepted by the parties (as described in the Preamble).

"Claims" means any third party claims, demands, causes of action, governmental actions, and/or proceedings (whether threatened, asserted, or filed).

"Client" means the business entity on behalf of whom this Agreement is accepted (as described in the Preamble).

"Confidential Information" means (a) any proprietary information of a party to this Agreement disclosed by one party to the other that is in written, graphic, machine readable, or other tangible form and is marked "Confidential" or "Proprietary" or in some other manner to indicate its confidential nature; and (b) a party's non-public materials and all other non-public marketing or technical information, even if not marked as confidential, but that would reasonably be understood to be confidential. Confidential Information also includes oral disclosures if that information would reasonably be understood to be confidential from the context of disclosure.

"Deliverables" means any reports, analyses, templates, or other work product delivered by Firstup to Client as part of the Services as set forth in a Schedule or in connection with Client's use of the Platform but excluding any portion thereof consisting of Client Content or the Platform.

"Documentation" means the user instructions, release notes, manuals, or on-line help files in the form generally made available by Firstup at support.firstup.io, regarding the use of the applicable Product, as updated by Firstup from time to time.

"Effective Date" with respect to this Agreement and any individual Schedule or Product Attachment means the date that Client accepts this Agreement or such individual Schedule or Product Attachment (as specified in the Preamble).

"Export Laws" means export control laws and regulations of the countries and/or territories in which Firstup operates or in which the Products are used, accessed, or from which the Products are provided.

"Feedback" means any idea, suggestion, feedback, and/or proposal provided by Client to Firstup related to the Products.

“Firstup” means Firstup, Inc., with a principal place of business at 1 Montgomery St. Ste. 2150, San Francisco, CA 94104, together with its Affiliates.

“General Terms” means this document, exclusive of Product Attachments and Schedules.

“Hardware” means computer hardware, equipment, and/or utilities.

“Intellectual Property Rights” means any and all intellectual property and proprietary rights (in whole or in part) recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed, or recorded, including inventions, technology, patent rights (including patent applications, divisions, and disclosures), copyrights and all works of authorship (whether or not copyrightable), moral rights, trade secrets, trademarks and other indicators of source (and the goodwill associated therewith), service marks, trade dress, logos, methodologies, procedures, processes, know-how, tools, utilities, techniques, protocols, various concepts, ideas, methods, models, templates, software, source code, algorithms, tools, utilities, the generalized features of the structure, sequence and organization of software, user interfaces and screen designs, layouts, general purpose consulting and software tools, utilities and routines, and logic, coherence and methods of operation of systems, training methodology and materials, which a party has created, acquired, or otherwise has rights in, and in each case includes any derivative works, alterations, and other modifications using, incorporating, based on, or derived from the foregoing.

“Malicious Code” means virus, trojan horse, worm, backdoor, or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems, or software.

“Platform” means (a) the software as a service which is hosted by Firstup or its hosting providers and which is accessed by Client and its Users via the internet, including mobile applications; and (b) associated services, as more fully described in the applicable Product Attachment.

“Platform Product Attachment” means the Product Attachment applicable to Client’s use of the Platform.

“Preamble” means the first paragraph of these General Terms.

“Product Attachment” means additional Product-specific terms and conditions set forth in one or more documents referenced in the applicable Schedule.

“Product(s)” means, collectively, the Platform, Services, and all other services, products, or materials provided by Firstup to Client under the terms of this Agreement, excluding Third Party Products, but including the following: (i) all Intellectual Property Rights embodied or associated with the Products, (ii) all reports templates and work product associated with the Products excluding any Client Content, and (iii) all copies and derivative works thereof.

“Professional Services” means the implementation, configuration, integration, and deployment of the Platform, project management, training, and other consulting services.

“Schedule” means the document, schedule, quote, pricing form, statement of work, web page, order form, change order, or similar document and the terms and conditions contained therein “accepted” (as described in the Preamble) by the parties that describes order-specific information, such as a description of Products ordered, term, features, options, license details, and fees, each of which will be subject to these General Terms and the applicable Product Attachment.

“Services” means, collectively, (a) Professional Services; (b) Support Services; and (c) any other

services set forth in a Schedule.

“SLA” means service level agreement located at <https://firstup.io/legal/platform-service-level-agreement/>.

“Support Services” means the provision of technical assistance and any training for the Platform or Hardware as further described in an applicable Product Attachment and/or Schedule.

“Taxes” means any and all applicable taxes, including sales, use, excise, withholding, assessments, stamp, transfer, value-added, duties, tariffs, export charges, import charges, and other taxes or assessments (however designated) imposed by any foreign, federal, provincial, state, or local governmental authority upon or applicable to Products arising out of this Agreement, other than those based on Firstup’s net income.

“Third Party Products” means those services or products provided by a third party which may be made available for Client by Firstup or made available directly from a third party and which may be used in connection with Client’s use of the Products. The foregoing may include third-party software as a service, Hardware, firmware, and/or software products, including updates and enhancements thereto, if any.

“Third Party Terms” means the end user agreement, terms of use, or similar document provided in connection with the Third Party Products, which governs the use of or access by Client to the applicable Third Party Products.

“User” means an individual employee or contractor of Client or its Affiliates who has been invited by Client to create an account for use of the Platform or can be sent a communication through the Platform.

Platform Product Attachment

This document is a “Product Attachment” as defined in the General Terms entered into by Client and Firstup and is subject to and incorporates by reference the provisions of the General Terms. This Product Attachment is effective as of the date it is “accepted” (in accordance with the Preamble to the General Terms). Capitalized terms are defined in Section 9 below, unless otherwise defined within the body of this Product Attachment or the General Terms.

1. SERVICES. Firstup will provide Services related to the Scope, including without limitation access to its Platform. Firstup will use commercially reasonable efforts to make the Products available in accordance with the SLA.

2. PLATFORM RESPONSIBILITIES.

2.1 Firstup hereby grants to Client a limited, non-exclusive, non-transferable, non-sublicensable license during the term of this Product Attachment (a) to access and use the Platform within the Scope and in accordance with the terms of this Agreement, and (b) to display, reproduce, distribute, and transmit in digital form Firstup’s name and logo solely within the Scope.

2.2 Client hereby grants to Firstup a license to: (i) use Client Content for purposes of the provision, maintenance, or support of the Platform, Products and Services; (ii) communicate with Users who have initiated a request for information from Firstup as part of their use of the Products; (iii) use Client Content in non-personal, anonymized, and aggregated form (e.g., for the analysis and improvement of its products and services) provided that such information is not traceable back to Client or a User; (iv) provide access to Client Content to Firstup's contracted third parties and vendors solely as necessary to provide the Products that are required to be delivered under this Agreement or as requested by Client or Users; (v) communicate with Client and/or Users regarding the Products; (vi) modify the Client Content at Client’s request; and (vii) use Client Content as otherwise permitted or required by applicable law. As between the parties, all Client Content shall at all times remain the sole and exclusive property of Client.

2.3 App stores may require Client to have a privacy policy in place when submitting the Client App to the applicable App store(s). Client is responsible for creating and complying with its own privacy policy for the Client App.

2.4 Client will: (a) not use the Platform to store, transmit, publish, communicate, or otherwise distribute any Client Content that is or that may reasonably be perceived as being harmful, threatening, discriminatory, offensive, obscene, or otherwise objectionable; (b) not attempt to gain access to any systems or networks that connect to the Services and Platform except for the express purpose of using the Platform in accordance with this Agreement; (c) not interfere with or disrupt the integrity, security or performance of the Platform (e.g., by bypassing security measures, sharing login or password information, or unreasonably overloading the Platform’s servers); (d) not share information about Client’s use of the Products with persons or entities that may operate or be affiliated with businesses that compete with Firstup or grant access to Client’s account to such competitors; (e) not sell, resell, distribute, host, lease, rent, license, sublicense, or make available to third parties on a service-bureau or other similar basis, in whole or in part, the Platform; (f) not reverse engineer or decompile, decrypt, disassemble or otherwise reduce any part of the Platform to human-readable form; (g) not disclose to any third

party or publish, without Firstup's prior written consent, performance or capacity statistics, or the results of any benchmark test performed on the Platform; (h) not introduce any Malicious Code into the Platform; and (i) not attempt to probe, scan, or test the vulnerability of the Platform, or disclose or cause to be disclosed any information related to any security penetration, similar tests, or vulnerabilities without Firstup's prior written consent.

2.5 Client represents and warrants that (a) it has the necessary rights and consents to provide Client Content to Firstup, in order for Firstup to provide access to the Platform or perform the Services hereunder; (b) the Client Content does not infringe, violate, or misappropriate the Intellectual Property Rights of any third party; (c) it will not use the Platform to store, transmit, publish, communicate, or otherwise distribute Restricted Data; (d) it will only use the Products in accordance with the Documentation and this Agreement; and (e) it will comply with all applicable laws, rules and regulations related to its use of the Products. Client further acknowledges and agrees that the Platform is not intended for use or transmission of any Restricted Data, and Firstup will not be responsible for complying with any laws, rules or regulations which are specific to Restricted Data.

2.6. If Client becomes aware that Client Content is subject to any take down requests, infringement claims, or any other claims, or if Firstup requests that Client remove Client Content based on information received that Client Content is infringing, violates applicable law, or has the potential to harm a third party, Client must promptly remove such Client Content from the Platform. If Client does not take required action in accordance with the above, Firstup may disable access to the Platform and/or remove the applicable Client Content until the issue is resolved.

2.7 The Platform's functionality is subject to changes from time to time at Firstup's sole discretion; provided that Firstup will not materially diminish the performance of the Platform during the term of this Product Attachment.

3. SECURITY, DATA PRIVACY, AND AUDIT.

3.1 Firstup will (i) maintain industry standard administrative, physical, and technical safeguards designed for the protection of Client Content, and (ii) complete an annual SOC2 Type II audit. The details of Firstup's data security practices can be found at <https://firstup.io/legal/security/>.

3.2 Client is solely responsible for the security of its login information and the use or misuse of such information, and for all activities that occur under its Platform account. Client will immediately disable a User's access once such User is no longer authorized to use the Platform.

3.3 To the extent that a DPA is required by applicable law, Firstup's DPA applies and is hereby expressly made part of this Agreement, unless Firstup and Client have entered into a separate written data processing agreement.

3.4 For the thirty (30) day period following the effective date of termination or expiration of the final Schedule under this Platform Product Attachment, Client may download the Client Content in Firstup's industry standard format. Firstup will delete the Client Content within ninety (90) days following the effective date of termination or expiration of the final Schedule under this Platform Product Attachment, unless otherwise necessary to comply with Firstup's legal or record retention requirements.

3.5 Client may conduct a remote audit of Firstup's compliance with the terms of this Agreement

up to once per calendar year. If a third party is to conduct the audit, the third party must be mutually agreed to by Client and Firstup and must execute a written confidentiality agreement acceptable to Firstup before conducting the audit. To request an audit, Client must submit a detailed audit plan that is reasonably acceptable to Firstup at least four weeks in advance of the proposed audit date to Firstup's information security team describing the proposed scope, duration, and start date of the audit. Firstup will reasonably cooperate with Client on a final audit plan. If the requested audit scope is already addressed in a SOC 2 Type 2, ISO 27001, the NIST standards, or similar audit report performed by a qualified third party auditor within the prior twelve months, and Firstup confirms there are no known material changes in the controls audited, Client agrees to accept those findings in lieu of performing an audit of the controls covered by the report. Client will provide Firstup's information security team with any audit reports generated in connection with an audit under this Section, unless prohibited by law. The contents of any such audit will be treated as Firstup's Confidential Information, and Client may use the audit reports only for the purposes of meeting its regulatory audit requirements and/or confirming compliance with the requirements of this Agreement. Any audits are at Client's sole expense.

4. THIRD PARTY PRODUCTS AND INTEGRATIONS.

4.1 If Client installs or enables Third Party Products for use with the Products, Client agrees that Firstup may enable such third party providers to access Client Content for the interoperation of such Third Party Products with the Products, and any exchange of data or other interaction between Client and a third party provider is solely between Client and such third party provider pursuant to the applicable Third Party Terms. Firstup will not be responsible for any disclosure, modification or deletion of Client Content resulting from any such access by Third Party Products or third party providers.

4.2 If Client elects to use an Integration, Client hereby consents to Firstup enabling the transmission of Client's information for the purposes of the Integration. Client expressly agrees that Firstup reserves the right to disable any Integration for any reasonable purpose (as determined by Firstup, in its discretion), and Client's payment of fees for the Platform is not dependent on Firstup providing any Integration, except to the extent such fees are specifically related to such Integration, as set forth on an applicable Schedule. Use of Integrations are at Client's option and are not required for Client's use of the Platform. Therefore, Firstup will bear no liability for any harm caused to Client by the use of Integrations, except to the extent any such harm results directly from Firstup's negligence.

5. FEES.

5.1 Client will pay the fees as more fully described in the applicable Schedule. The applicable currency will be set forth on the Schedule, and if no currency is listed, the fees are in USD. Unless set forth otherwise in the applicable Schedule, the first payment of subscription fees will be payable upon the Start Date, with subsequent annual subscription fees being payable upon each anniversary of the Start Date.

5.2 The Schedule specifies the number of Users included in Client's subscription. User counts are based on the data available on the Platform. Deactivated users (previously invited Users that accepted the invitations, registered, and then have been deactivated) are not counted

towards the total number of Users. If Firstup determines that Client has exceeded the number of Users set forth in the applicable Schedule or has otherwise exceeded its usage rights, Firstup will notify Client and, within thirty (30) days thereafter, Client will either: (a) disable any unpermitted use and Users, or (b) purchase additional User licenses and/or an expanded subscription. The reduction of the number of Users during the term of the applicable Schedule will not reduce the fees due thereunder, unless otherwise expressly set forth in such Schedule.

6. BETA PRODUCTS. From time to time, Firstup may make available, to some or all of its customers, Beta Products. Beta Products are intended for evaluation purposes only and not for production use (unless otherwise stated expressly by Firstup, in writing), are not supported by Firstup, and may be subject to additional terms. Beta Products are not considered “Products” under the Agreement for purposes of any representations, warranties, commitments, or agreements of Firstup; however, all restrictions and limitations applicable to Client’s use of Products will apply to Beta Products. Firstup may discontinue Beta Products at any time in its sole discretion and may never make them generally available. Firstup’s provision of Beta Products is on an as is and as available basis without any warranties of any kind, express or implied. Client expressly agrees that Firstup will have no liability for any harm or damage arising out Client’s use of a Beta Product.

7. SURVIVAL. Sections 5, 7, and 8 of this Product Attachment and any fees owed by Client in accordance with Section 2 of the General Terms will survive any termination or expiration of this Product Attachment.

8. DEFINITIONS.

“**Beta Products**” means new or modified Products, or features or functionalities of existing Products, which are designated as beta, pilot, limited release, developer preview, non-production, evaluation, trial, or by a similar description.

“**Client App**” means Client’s mobile, white-labeled instance of the Platform.

“**Client Content**” means content, images, fonts, icons, videos, templates, information, text, audio, and other data, including but not limited to trademarks, trade names, and service marks uploaded by Client (including its Users) or created within the Platform, or otherwise transmitted by or on behalf of Client in connection with its use of the Platform.

“**DPA**” means data processing agreement located at <https://firstup.io/legal/data-processing-addendum/>.

“**GDPR**” means Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data (General Data Protection Regulation).

“**Integration**” means an integration between the Products with products not provided by Firstup, including Third Party Products that causes the Products and such other products to interact by sharing data and/or creating interoperability.

“**Personal Data**” means any information relating to an identified or identifiable natural person where such information is protected as personal data, personal information, or personally identifiable information under GDPR.

“**Restricted Data**” means (a) social security or other government issued identification number, passport number, driver's license number, full birthdate, or similar identifier (or any portion

thereof); (b) genetic, biometric, health, or any Protected Health Information of any person as defined under Health Insurance Portability and Accountability Act, as amended; (c) credit or debit card number, credit information, financial account or other financial information of a person; (d) personally identifiable or confidential information of Client's customers (including any financial, credit card, or account information), including any "nonpublic personal information" as defined under the Gramm-Leach-Bliley Act, as amended, or other information subject to any banking or financial law or regulation control; (e) any data subject to the U.S. International Traffic in Arms Regulations (ITAR), U.S. Export Administration Regulations (EAR) or other export control laws or regulations; (f) any Controlled Unclassified Information (CUI) or data that is subject to the Defense Federal Acquisition Regulation Supplement (DFARS); (g) any information that falls within the definition of "special categories of data" under GDPR; and/or (h) any other information that requires specific safeguarding, handling, or distribution controls under any applicable law or regulation that is not otherwise generally applicable to Personal Data.

"Scope" means internal communications, employee engagement, and advocacy.

Professional Services Product Attachment/Addendum

This document is an addendum to the Agreement (as defined below) or a Product Attachment to the extent that the Agreement makes reference to Product Attachments and is referred to herein as a Product Attachment. This Product Attachment is entered into by Client and Firstup and is subject to and incorporates by reference the provisions of the Agreement. This Product Attachment is effective as of the same date on which the Schedule to which this Product Attachment is referenced is effective. Any capitalized terms not defined herein have the meanings ascribed to them in the Agreement.

1. DEFINITIONS. The following defined terms have the meanings set forth herein and may be used in Client's ordering document or in online descriptions of Firstup's product or services.

- a. "Agreement" means the underlying subscription agreement entered into by and between Firstup and Client pursuant to which Client has licensed the Platform and includes the "General Terms" and the "Platform Product Attachment" to the extent that the Agreement makes reference to them.
- b. "Client" means, if not identified as "Client" in the Agreement, "Customer" or similar designation.
- c. "Firstup" means Firstup, Inc., together with its affiliated entities, including Dynamic Signal, Inc.
- d. "Non-Employee Providers" means third party service providers or contractors.
- e. "Platform" means (i) the software as a service which is hosted by Firstup ("Firstup Platform") or Dynamic Signal, Inc. ("Dynamic Platform"), as applicable, or its hosting providers and which is accessed by Client and its Users via the internet, including mobile applications; and (ii) associated services, as more fully described in the applicable Schedule.
- f. "Professional Services" means the implementation, configuration, integration, and deployment of the Platform, project management, and/or other consulting services, including, without limitation, certain services provided under a service package (that may be referred to as a "Success Plan"), which may include professional service hours (that may be referred to as "CX Hours" or "Value Credits").
- g. "Project Plan" means a plan that defines the Deliverables, including management of each party's tasks, timing, and key dependencies across the different stages of the Project Plan.
- h. "Schedule" means ordering document/order form.

2. PROFESSIONAL SERVICES. Firstup will provide the Professional Services (as specified in the applicable Schedule) for Client's business purposes and in connection with Client's use of the Platform. Firstup will provide the Professional Services in a professional and workmanlike manner. For the avoidance of doubt, this Product Attachment is limited to Professional Services and does not convey any right to use the Platform.

3. COOPERATION. Client will cooperate reasonably and in good faith with Firstup in its

performance of the Professional Services by, without limitation:

- (a) timely responding to Firstup's inquiries related to the Professional Services;
- (b) providing complete, accurate and timely information, data and feedback, and access to appropriate personnel and resources, all as reasonably required to enable Firstup to perform its obligations under the applicable Schedule;
- (c) actively participating in any scheduled project meetings, including identifying and inviting appropriate Client stakeholders to attend and participate in such project meetings;
- (d) if applicable, cooperating with Firstup in the creation and management of a Project Plan. The Project Plan is deemed accepted five (5) business days after delivery to Client if no written response is received from Client;
- (e) Client must fulfill all Client tasks listed within the Project Plan, if applicable, according to their defined due dates. Client acknowledges that tasks completed after their due dates may result in a change of delivery dates and/or may cause delays in completion of the Project Plan.
- (f) Client will promptly notify Firstup of any changes to be made by Client to the technical setup that may delay or disrupt the Professional Services.
- (g) Client acknowledges and agrees as follows:

- i. Any delays in the provision of Professional Services arising out of or from Client's failure to perform its foregoing obligations may result in additional applicable charges for resource time.
- ii. All requests for additional services, deliverables, or revisions beyond the scope outlined in the applicable Schedule must be made by Client in writing to Firstup. Firstup will inform Client of any impact to the scope of work, cost, and timeline defined in the applicable Schedule. If the Client decides to proceed with the additional or changed scope, the parties will enter into a new Schedule (which may be in the form of a change order).
- iii. All Professional Services and related Deliverables will be in English unless otherwise agreed in writing.
- iv. No Professional Services will be performed during U.S. Federal public holidays or Firstup holidays.
- v. Notwithstanding anything to the contrary in the Agreement, Firstup, in its sole discretion, will identify and determine the resources to fulfill its Professional Services obligation in the applicable Schedule. Client acknowledges that Non-Employee Providers may be used to provide the Professional Services, and Client consents to allow such Non-Employee Providers' access to the Platform or Client's systems as necessary for purposes of providing the Professional Services. All Non-Employee Providers will be subject to contractual obligations no less protective of Client than those set forth in the Agreement. Firstup will be responsible and liable for the compliance of any such Non-Employee Provider with the terms and conditions of the Agreement.
- vi. No work made for hire is or will be created by Firstup as part of Professional Services.

4. TRAVEL AND OUT OF POCKET EXPENSES. For pre-approved travel, Client will reimburse

Firstup for reasonable travel and out-of-pocket expenses, if any, incurred in connection with the Professional Services. Firstup will invoice Client for pre-approved travel and its other out-of-pocket expenses in accordance with the procedure set forth in the Agreement.

5. **TERM.** The term of this Product Attachment will be as set forth in the applicable Schedule, and if no term is specified in the applicable Schedule, such Schedule will terminate upon the earlier of the completion of the Professional Services or expiration or termination of the applicable Platform Product Attachment.

6. **TIMING.** As may be specified in the applicable Schedule, if the fees for the Professional Services are prepaid packages, Client must consume such Professional Services within the time period set forth in the applicable Schedule, and upon the expiration of such period, any remaining, unused portion of the Professional Services will expire, and Firstup will not be obligated to provide such Professional Services or provide a refund of any fees paid under such Schedule. Client will not be responsible for any delays solely due to the acts or omissions of Firstup, and the time for Client to use the Professional Services will be extended in proportion to the delay attributable to Firstup.

7. **CONTENT RESPONSIBILITY.** It is the Client's decision regarding what Client Content is submitted, displayed, and distributed via the Platform, including, through the Professional Services, and, therefore, Client (and not Firstup) is responsible and liable for all Client Content.

8. **SURVIVAL.** Section 7, Section 8, and any fees owed by Client will survive any termination or expiration of this Product Attachment.