

**BRIGHTHIVE, INC. SOFTWARE AS A SERVICE (SaaS) Order Form**

<b><u>Customer Information</u></b>	
<b>Company Name</b>	
<b>Address</b>	
<b>Contact Information</b>	

<b><u>Order Form Term</u></b>	
<b>Start Date</b>	
<b>Term Length</b>	

***Note:*** After the Initial Term (defined in the Agreement), this Order Form (and Services to be provided and Fees to be paid hereunder) will automatically renew and remain in effect until terminated in accordance with the Agreement.

<b><u>Platform Services and Fees</u></b>
<i>(applicable where checked)</i>

<input type="checkbox"/> <b>BrightHive Premiere</b>	
Implementation and Support Services and Fees	<b><u>Set-Up Services Fee:</u></b> One time payment dependent on tier; Paid upon contract signing
<p align="center"><b><u>ADD-ON Professional Services</u></b>  <b>(applicable where detailed and completed)</b></p>	
<input type="checkbox"/> <b>Professional Services</b>	<b>Fees:</b>
	<b>Description:</b> None
<b>Total Contract Value:</b>	<b>\$xxx,xxx.00</b> (Includes platform license, platform setup/training/support, and fees for the requested custom data connectors over 12 months term per this order form)

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Addendums Attached:

[Addendum A – Brighthive Service Level Agreement]

[Addendum B – Brighthive Professional Services Addendum]

This Order Form to the Master Services Agreement dated 00/00/00/000 (“Agreement”) by and between Brighthive, Inc., a Delaware corporation, located at 1101 W. Adams Street, Suite D, Chicago, IL 60607 (“Brighthive”), and the “Customer” identified above, is made and entered into as of Month, Day, Year (“Order Form Effective Date”). This Order Form and all Addendums (as applicable) attached hereto are incorporated into, become a part of, and are subject to the terms of the Agreement. Capitalized terms not defined in this Order Form shall have the meanings ascribed to them in the Agreement or Addendums, as applicable. Unless specifically modified herein, all terms in the Agreement shall remain unchanged and in full force and effect. In the event of any conflict between the terms of this Agreement and the terms of an Order Form, the terms of this Agreement shall control unless the Order Form states that a specific provision of this Agreement will be superseded by a specific provision of the Order Form.

*[Signature Page Follows]*

**IN WITNESS WHEREOF**, intending to be legally bound, the Parties have caused their duly authorized officers to execute this Order Form as a sealed instrument, as of the Order Form Effective Date.

**BRIGHTHIVE, INC.**

**CUSTOMER COMPANY NAME**

By:

By:

Name:

Name:

Title :

Title:

Date:

Date:

## BRIGHTHIVE MASTER SERVICES AGREEMENT

This Master Services Agreement (“Agreement”) is entered into as of the date of the later of the two signatures below (the “Effective Date”) between Brighthive, Inc., a Delaware corporation with offices at 1101 W. Adams Street, Suite D, Chicago, IL 60607 (“Brighthive”) and (“Customer”). Brighthive and Customer are each referred to herein as a “Party” and together, the “Parties”.

### 1. Definitions.

- 1.1 “Addendum” means, as applicable, one or more addendums for certain Services attached to an Order Form.
- 1.2 “Brighthive Marks” means all trademarks, trade names, or logos of Brighthive.
- 1.3 “Confidential Information” means any information disclosed by either Party (the “Disclosing Party”) to the other Party (the “Receiving Party”) pursuant to this Agreement that is (a) is in written, graphic, machine readable or other tangible form and is marked “Confidential,” “Proprietary” or in some other manner to indicate its confidential nature, or (b) in the case of oral or visual disclosure is identified as confidential at the time of disclosure, or (c) under the circumstances should in good faith be considered to be confidential. Confidential Information includes, without limitation, information related to: research, product plans, products, developments, inventions, processes, designs, markets, business plans, agreements with third parties, services, customers, marketing or finances of either Party, the content or existence of any negotiations, and pricing. Notwithstanding the foregoing, the Services (defined below) shall be deemed Confidential Information of Brighthive without any need for designating the same as confidential or proprietary.
- 1.4 “Customer Data Assets” means any data assets provided by or on behalf of Customer to Brighthive in connection with the Services, including data from Authorized Users and Customer Input (each, as defined below).
- 1.5 “Customer Input” means any thought, idea or request input into the Platform by an Authorized User to generate Output.
- 1.6 “Customer Usage Data” means any data (outside of Customer Assets and Customer Metadata) or other content or information provided by or on behalf of Customer to Brighthive in connection with the Services, including data from Authorized Users (as defined below).
- 1.7 “Customer Materials” means Customer Data Assets, Customer Metadata, and Customer Usage Data.
- 1.8 “Customer Metadata” metadata about the Customer Data Assets.
- 1.9 “Documentation” means any user guide, help information and other documentation and information regarding the applicable Services that is delivered by Brighthive to Customer in electronic or other form, if any, including any updates provided by Brighthive from time to time.
- 1.10 “Intellectual Property Rights” means all rights of the following types, under the laws of any jurisdiction worldwide: (a) rights associated with works of authorship, including exclusive exploitation rights, copyrights, and moral rights; (b) trade secret rights; (c) trademark rights; (d) patent rights; (e) mask work, *sui generis* database rights, and industrial property rights; (f) other proprietary rights of every kind and nature; and (g) rights in or relating to registrations, renewals, extensions, combinations, divisions, and reissues of, and applications for, any of the above.
- 1.11 “Order Form” means one or more written orders that reference this Agreement and mutually agreed upon in writing and executed by both Parties.
- 1.12 “Output” means output generated by the Platform in response to Customer Input.

1.13 “Platform” means the platform provided by Brighthive to Customer to access and use via the internet, including any software, algorithms, data, interfaces, tools, APIs, utilities, templates, forms, derivatives, improvements, enhancements, updates and/or extensions related thereto.

1.14 “Services” means any products, services, and data made available by Brighthive to Customer, including the Platform and Professional Services (if applicable), and specified in an Order Form mutually agreed upon by the Parties in writing.

## 2. **Services.**

2.1 **Order Forms.** This Agreement will be implemented through one or more written Order Forms. Subject to the terms and conditions of this Agreement, Brighthive will use commercially reasonable efforts to provide Customer with the Services specified in an Order Form. Such Services shall be subject to separate attached Addendums, as applicable. Any change to the terms of this Agreement within an Order Form or an Addendum will apply only to the Services described therein. Brighthive may provide the Services directly, or indirectly using contractors or other third party vendors or service providers. For clarity, the Services are provided on a remote software-as-a-service basis (as hosted by or on behalf of Brighthive) and no code will be provided to Customer hereunder.

2.2 **Access and Account Setup.** Subject to the terms and conditions of the Agreement, Brighthive will provide Customer with access privileges that permit Customer to access and manage its Platform account (“Customer Account”) and access, analyze, and download Customer Materials. The Platform may be accessed and used by a limited number of Customer users and partners authorized in an Order Form (the “Authorized Users”). Customer is solely responsible for the activity that occurs on the Customer Account, and for keeping the Customer Account password secure. Customer may never use another person’s user account or registration information for Brighthive’s Platform without permission. Customer shall be responsible for the acts or omissions of any person who accesses the Platform using passwords or access procedures provided to or created by or on behalf of Customer (including by partners accessing the Platform through Customer). Customer will use reasonable efforts to prevent any unauthorized use of the Platform, and will promptly notify Brighthive in writing of any unauthorized use that comes to Customer’s attention and provide all reasonable cooperation to prevent and terminate such use.

2.3 **Equipment.** Customer will be responsible for obtaining and maintaining at its expense all the necessary computer hardware, software, services, modems, connections to the internet and other items operated or provided by third parties (“Third Party Services”) as required for Customer’s access and use of the Services. Brighthive is not responsible for the operation of any Third Party Services nor the availability or operation of the Services to the extent such availability and operation is dependent upon Third Party Services. Brighthive does not make any representations or warranties with respect to Third Party Services or any third party providers.

2.4 **Customer Responsibilities and Cooperation.** Customer acknowledges that provision of the Services may require the reasonable cooperation of Customer personnel, as may be requested by Brighthive from time to time including, without limitation, Customer shall: (a) provide Brighthive access to its various Customer Materials sources as reasonably requested by Brighthive in order to provide the Services; (b) carry out all other Customer responsibilities set out in this Agreement and within an applicable Order Form in a timely and efficient manner, and Brighthive may adjust any agreed timetable or delivery schedule as reasonably necessary in the event of any delays in Customer’s provision of such assistance as agreed by the Parties; and (c) ensure that Authorized Users use the Platform and the Documentation in accordance with the terms and conditions of this Agreement. Customer shall be responsible for any Authorized User’s breach of this Agreement.

2.5 **Support Services.** Provided that Customer is in compliance with the terms and conditions of this Agreement, Brighthive shall use commercially reasonable efforts to make the Platform available in accordance with the Service Level Agreement set forth in Addendum A.

2.6 **Modifications and Adjustments.** Brighthive may in its sole discretion modify, enhance or otherwise change the applicable Services, provided that any material changes that may materially adversely impact Customer's access to the Services shall be notified to the Customer in advance.

2.7 **Professional Services.** To the extent an Order Form specifies any professional services ("Professional Services") to be provided by Brighthive, the terms set forth in Addendum B attached to an applicable Order Form shall apply.

### 3. **Proprietary Rights.**

3.1 **License to Services.** Subject to Customer's compliance with all the terms and conditions of this Agreement, Brighthive grants Customer a limited, non-exclusive, non-transferable, non-sublicensable right and license during the Term to use and access the Platform solely for Customer's internal business purposes in accordance with the Documentation.

3.2 **Customer Materials.** Customer hereby grants to Brighthive a worldwide, non-exclusive, royalty-free license to use, copy, access, process, reproduce, perform, display, modify, distribute, transmit, operate, maintain and prepare derivative works the Customer Materials for the purpose of providing the Services to Customer as set forth in this Agreement. Customer shall retain all rights, title and interests (including all proprietary and Intellectual Property Rights) in and to the Customer Materials.

3.3 **Customer Input; Output.** Certain Output generated by the Platform may be generated through use of artificial intelligence. As between Brighthive and Customer, Customer shall own all right, title and interest in and to the Output, subject to the licenses granted herein. By submitting Customer Input through the Services, Customer hereby does and shall grant to Brighthive a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, fully paid, sublicensable and transferable license to use, edit, modify, truncate, aggregate, reproduce, distribute, prepare derivative works of, display, perform, and otherwise fully exploit the Customer Input and any resulting Output in connection with the Services and Brighthive's (and Brighthive's successors' and assigns') businesses, including after Customer's termination of the Services. For clarity, the foregoing license shall include the right for Brighthive to use Customer Input and resulting Output for purposes of "training," improving or further developing the Services. Customer represents and warrants that it has all rights to grant such licenses. Furthermore, Customer acknowledges and agrees that (a) Customer will not include any unnecessary or deceptive Customer Input in connection with its use of the Platform (including in an attempt to steer the Platform to generate inaccurate results); (b) artificial intelligence and machine learning are rapidly evolving fields of study, and given the probabilistic nature of machine learning, use of the Platform may in some situations result in incorrect or inaccurate Output; (c) Customer must verify the accuracy and appropriateness of any Output before relying on any such Output; (d) relying upon any Output without first verifying accuracy with a qualified human could cause harm, including but not limited to legal, financial, and physical harm; (e) Output may bear resemblance to Output generated by other users who provide similar input, and Customer's rights to the Output generated based on Customer Input shall not be interpreted to limit the rights of other users; and (f) Customer has no rights to materials that are generated from the Services for other users, regardless of any level of similarity. Brighthive cannot control and has no duty to take any action regarding how Customer may interpret, rely on or use any Output or what actions Customer may take as a result of having been exposed to Output, and Customer hereby releases Brighthive from all liability for Customer having acquired or not acquired Output through the Services.

3.4 **Customer Metadata.** Customer agrees that Brighthive shall have a perpetual, worldwide, non-exclusive, irrevocable right and license to use, store, copy, create derivatives, and archive Customer Metadata (a) to create anonymized versions of Customer Metadata ("Anonymized Customer Metadata"); (b) to create reports, evaluations, benchmarking tests, studies, analyses and other work product from Anonymized Customer Metadata ("Metadata Analyses"); and (c) to create, develop, enhance algorithms, machine learning and other generally available tools in connection with the Platform and Services using Anonymized Customer Metadata. Brighthive shall have exclusive ownership rights to, and the exclusive right to use, such Anonymized Customer Metadata and Metadata Analyses for any purpose, including, but not limited to product improvement and marketing to other customers of the Platform and

Services; provided, however, that Brighthive shall not distribute Anonymized Customer Metadata and Metadata Analyses in a manner that is identifiable as Customer Metadata.

**3.5 Aggregate Customer Usage Data.** Customer agrees that Brighthive is free to disclose aggregate measures of usage and performance, and to reuse all general knowledge, experience, know-how, works and technologies (including ideas, concepts, processes and techniques) acquired during provision of the Services hereunder, including that it could have acquired performing the same or similar services for another customer. Furthermore, Customer agrees that Brighthive shall have a perpetual, worldwide, non-exclusive, irrevocable right and license to use, store, copy, create derivatives, and archive Customer Usage Data (a) to create anonymized compilations and analyses of Customer Usage Data ("Aggregate Customer Usage Data"); (b) to create reports, evaluations, benchmarking tests, studies, analyses and other work product from Aggregate Customer Usage Data ("Customer Usage Data Analyses"); and (c) to create, develop, enhance algorithms, machine learning and other generally available tools in connection with the Platform and Services using Aggregate Customer Usage Data. Brighthive shall have exclusive ownership rights to, and the exclusive right to use, such Aggregate Customer Usage Data and Customer Usage Data Analyses for any purpose, including, but not limited to product improvement and marketing to other customers of the Platform and Services; provided, however, that Brighthive shall not distribute Aggregate Customer Usage Data and Customer Usage Data Analyses in a manner that is identifiable as Customer Usage Data.

**3.6 Feedback.** All Customer suggestions for correction, change or modification to the Services, evaluations, benchmark tests, and other feedback, information and reports provided to Brighthive hereunder (collectively, "Feedback"), will be the property of Brighthive and Customer shall and hereby does assign any rights in such Feedback to Brighthive. Customer agrees to assist Brighthive, at Brighthive's expense, in obtaining intellectual property protection for such Feedback, as Brighthive may reasonably request.

**3.7 License Restrictions.** Customer shall not, and shall not permit any third party to: (a) use any of Brighthive's Confidential Information, Services or any Output to create any service, software, documentation or data that is similar to or competes with any aspect of the Services; (b) decompile, disassemble or reverse engineer the Platform, or otherwise attempt to discover the source code, object code, logic, process or underlying methodology, structure, ideas or algorithms of the Platform, or related trade secrets, or any software, documentation or data related to the Platform, except to the extent this provision is expressly prohibited by statutory law; (c) copy, distribute, modify or create any derivative work of any part of Platform (or any portion thereof); (d) encumber, market, sublicense, publish, distribute, reproduce, resell, assign, transfer, rent, lease, sublicense, loan, or otherwise permit third parties to use the Platform (or any portion thereof); (e) use the Platform (or any portion thereof) for commercial time-sharing or service-bureau use or for any purpose other than its own internal use; or (f) use or allow the transmission, transfer, export, re-export or other transfer of any product, technology or information it obtains or learns pursuant to this Agreement (or any direct product thereof) in violation of any export control or other laws and regulations of the United States or any other relevant jurisdiction.

**3.8 Limited License.** Except for the limited rights and licenses expressly granted to Customer herein, no other license is granted, no other use is permitted, and Brighthive shall retain all rights, title and interests (including all proprietary and Intellectual Property Rights) in and to the Services, including all ideas, concepts, inventions, systems, data, platforms, software, interfaces, tools, utilities, templates, forms, techniques, methods, processes, algorithms, know-how, trade secrets and other technologies, implementations and information that are used by Brighthive in providing the Services, and all Brighthive Marks, logos, and all rights to patent, copyright, trade secret and other proprietary or Intellectual Property Rights.

#### **4. Payments and Taxes.**

**4.1 Fees.** Unless otherwise set forth on an Order Form, Customer agrees to pay, and shall pay, the fees set forth on an applicable Order Form ("Fees") upon the execution of such applicable Order Form. All payments shall be made in U.S. dollars in immediately available funds, and are non-refundable. Any amounts not paid when due shall bear



interest at the rate of one and one-half percent (1.5%) per month or the maximum rate allowed by law, whichever is less.

4.2 **Taxes.** Customer shall pay any sales, use, value-added, property, and other taxes, withholdings and similar charges based on or arising from this Agreement (other than taxes based on Brighthive's net income).

4.3 **Expenses.** Customer will reimburse Brighthive for reasonable pre-approved travel and living expenses incurred by Brighthive in performing Services at sites other than Brighthive facilities at Customer's request (including without limitation, any Services relating to setup, training, technical support, and consulting).

## 5. **Warranties and Disclaimers.**

5.1 **Mutual.** Each Party represents and warrants that: (a) such Party is duly organized, validly existing, and in good standing under the laws of the state of its organization, and has the full power and authority to enter into and perform its obligations under this Agreement; (b) the execution of this Agreement by such Party, and the performance by such Party of its obligations and duties hereunder do not and will not violate any other agreement to which such Party is a Party or by which it is otherwise bound; (c) when executed and delivered by such Party, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms; and (d) each Party will comply with all applicable laws, rules, and regulations in connection with performance of such Party's obligations under this Agreement.

5.2 **Brighthive.** Brighthive warrants to (and only to) Customer that (a) the Platform will materially perform in accordance with the applicable Documentation for the Term; and (b) any Services performed by Brighthive hereunder will be performed in a professional and workmanlike manner, in accordance with general industry standards. In the event that the Services fail to satisfy this warranty, Brighthive will, at its own expense, as Customer's sole and exclusive remedy, either: (i) promptly replace the Platform with a solution that materially conforms to the Documentation; (ii) promptly repair the Platform so that they materially conform to the Documentation; or (iii) if Brighthive cannot promptly repair or replace the Platform as provided for in (i) or (ii) herein, Brighthive may terminate this Agreement.

5.3 **Customer.** Customer represents and warrants to Brighthive that Customer owns all rights, title and interest in and to the Customer Materials, or that Customer has otherwise secured all necessary rights in the Customer Materials, including without limitation rights to data provided by Authorized Users, as may be necessary to permit the access and use thereof as contemplated by this Agreement.

5.4 **DISCLAIMERS.** EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES (OR ANY PORTION THEREOF), BRIGHTHIVE MATERIALS, DELIVERABLES, OUTPUT AND ALL RELATED INFORMATION, TECHNOLOGY, AND SERVICES PROVIDED BY OR ON BEHALF OF BRIGHTHIVE ARE PROVIDED "AS IS," "AS AVAILABLE," AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, AND BRIGHTHIVE EXPRESSLY DISCLAIMS ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE (EVEN IF ADVISED OF THE PURPOSE), ACCURACY, TITLE, AND/OR NON-INFRINGEMENT. IN ADDITION, EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, BRIGHTHIVE DOES NOT WARRANT THAT THE SERVICES (OR ANY PORTION THEREOF) WILL BE UNINTERRUPTED OR ERROR FREE, THAT THE SERVICES OR OUTPUT (OR ANY PORTION THEREOF) WILL MEET CUSTOMER'S NEEDS, THAT DATA WILL NOT BE LOST, THAT THE PLATFORM OR OUTPUT (OR ANY PORTION THEREOF) IS FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS OR THAT THE SERVICES OR OUTPUT (OR ANY PORTION THEREOF, INCLUDING ANY INFORMATION OR CONTENT ACCESSED ON CONNECTION THEREWITH) ARE ACCURATE, COMPLETE, ERROR-FREE, OR UP-TO-DATE. WITHOUT LIMITING THE FOREGOING, BRIGHTHIVE WILL NOT BE RESPONSIBLE

FOR ANY ACTIONS TAKEN BASED ON SUCH OUTPUT. CUSTOMER ASSUMES ALL RISKS ASSOCIATED WITH ITS USE OF THE OUTPUT.

**6. Term, Termination, Effect of Termination, and Survival.**

6.1 **Term.** This Agreement shall commence on the Effective Date and, unless earlier terminated as provided herein, shall continue for twelve (12) months from the Effective Date (the “Initial Term”), which term shall automatically renew for successive terms of twelve (12) months (each, a “Renewal Term” and together with the Initial Term, the “Term”), unless either Party notifies the other Party of its intent not to renew this Agreement at least forty-five (45) days prior to the end of the applicable term. Order Forms will terminate upon termination of this Agreement unless otherwise mutually agreed upon in writing by the Parties.

6.2 **Termination.** Either Party may terminate this Agreement on thirty (30) days’ prior written notice if the other Party materially breaches any of the terms of this Agreement and such breach remains uncured thirty (30) days following such Party’s receipt of the terminating Party’s notice. If the “Customer” terminates this Agreement without cause, the “Customer” will be required to pay for a full six (6) months period and is required to provide a sixty (60) days’ prior written notice to terminate this Agreement.

6.3 **Effect of Termination and Survival.** Upon termination or expiration of this Agreement for any reason: (a) Customer’s access to the Services shall immediately terminate and all licenses granted hereunder shall immediately terminate; (b) Customer shall return and make no further use of any equipment, property, Documentation and other items (and all copies thereof) belonging to Brighthive; (c) Brighthive may destroy or otherwise dispose of any Customer Materials in its possession unless Brighthive receives, no later than ten (10) days after the date of termination, a written request for the return of Customer Materials to Customer. The following provisions shall survive any termination or expiration of this Agreement: Sections 1, 3, 4 (to the extent there are outstanding payments), 5.4, 6.3, 7 through 10 (inclusive), as well as any provisions regarding proprietary rights and restrictions set forth on an applicable Addendum.

**7. LIMITATION OF LIABILITY.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, THE AGGREGATE LIABILITY OF EITHER PARTY IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER, HOWEVER CAUSED, AND ON ANY THEORY OF LIABILITY, INCLUDING WITHOUT LIMITATION CONTRACT, STRICT LIABILITY, NEGLIGENCE AND/OR OTHER TORT, SHALL IN NO EVENT EXCEED THE AMOUNT OF FEES PAID OR PAYABLE TO BRIGHTHIVE FOR ACCESS TO AND USE OF THE SERVICES DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO SUCH LIABILITY. IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, EXEMPLARY, PUNITIVE, SPECIAL, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOSS OF PROFITS, REVENUE, DATA, OR DATA USE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING, WITHOUT LIMITATION, ANY LIABILITY RELATED TO THE PROCUREMENT OF SUBSTITUTE GOODS. THE FOREGOING LIMITATIONS FORM AN ESSENTIAL BASIS FOR THIS AGREEMENT AND SHALL SURVIVE REGARDLESS OF THE FAILURE OF ANY REMEDY OF ITS ESSENTIAL PURPOSE.

**8. Indemnification.**

**8.1 Brighthive.**

(a) **Indemnity.** Except as provided below, Brighthive agrees to (i) defend Customer against any finally adjudicated claim by a third party that the Services infringe a valid US patent (issued as of the Effective Date), or any copyright or trade secret, of such third party; and (ii) indemnify Customer for settlement amounts or damages, liabilities, costs and expenses (including reasonable attorneys’ fees) finally awarded and arising out of such claim. If the Services become or, in Brighthive’s opinion, are likely to become the subject of any injunction preventing its use as contemplated herein, Brighthive may, at its option (A) obtain for Customer the right to continue using the Services or (B) replace or modify the infringing portions of the Services so that it becomes non-infringing without substantially

compromising its principal functions. If (A) and (B) are not reasonably available to Brighthive, then it may (C) terminate this Agreement upon written notice to Customer and refund to Customer the Fees for the Services that were pre-paid for the then-current term, pro-rated for the remainder thereof. The foregoing states the entire liability of Brighthive, and Customer's exclusive remedy, with respect to any actual or alleged violation of Intellectual Property Rights by the Services, any part thereof or its use or operation.

(b) **Exclusions.** Brighthive shall have no liability or obligation hereunder with respect to any claim based upon (i) any use of the Services not strictly in accordance with this Agreement or in an application or environment for which it was not designed or contemplated; (ii) any Customer Input, Customer Materials or Output; (iii) modifications, alterations, combinations or enhancements of the Services not created by or for Brighthive; (iv) any portion of the Services that implements Customer's requirements; (v) Customer's continuing allegedly infringing activity after being notified thereof or its continuing use of any Services after being provided modifications that would have avoided the alleged infringement; or (vi) any Intellectual Property Rights in which Customer or any of its Affiliates has an interest.

8.2 **Customer.** Customer agrees to defend Brighthive against any claim by a third party that is related to (a) Brighthive's authorized use of any Customer Materials or Customer Input; (b) Customer's use of the Services or Output; (c) the Customer Input or Output; and (d) any claims excluded under Section 8.1(b), and to indemnify Brighthive for settlement amounts or damages, liabilities, costs and expenses (including reasonable attorneys' fees) awarded and arising out of such claims.

8.3 **Process.** The Party seeking indemnification (the "Indemnified Party") shall promptly notify the other Party (the "Indemnifying Party") in writing of any claim for which it seeks indemnification hereunder; provided that the failure to provide such notice shall not relieve the Indemnifying Party of its indemnification obligations hereunder except to the extent of any material prejudice directly resulting from such failure. The Indemnifying Party shall bear full responsibility for, and shall have the right to solely control, the defense (including any settlements) of any such claim; provided, however, that (a) the Indemnifying Party shall keep the Indemnified Party informed of, and consult with the Indemnified Party in connection with the progress of such litigation or settlement, and (b) the Indemnifying Party shall not have any right, without the Indemnified Party's written consent (which consent shall not be unreasonably withheld), to settle any such claim in a manner that does not unconditionally release the Indemnified Party. At the Indemnifying Party's request, the Indemnified Party will provide reasonable cooperation with respect to any defense or settlement.

9. **Confidentiality.** Each Party shall treat as confidential all Confidential Information of the other Party, shall not use such Confidential Information except as set forth in this Agreement, and will not disclose such Confidential Information to any third party except as expressly permitted herein without the Disclosing Party's written consent. The Receiving Party shall use at least the same degree of care which it uses to prevent the disclosure of its own confidential information of like importance to prevent the disclosure of the Disclosing Party's Confidential Information, but in no event less than reasonable care. The Receiving Party shall promptly notify the Disclosing Party of any actual or suspected misuse or unauthorized disclosure of any of the Confidential Information. In the event of any termination or expiration of this Agreement, each Receiving Party will either return or, at the Disclosing Party's request, destroy the Confidential Information of the other Disclosing Party; provided however, that each Receiving Party may retain copies of the Disclosing Party's Confidential Information for routine backup and archival purposes subject to the confidentiality obligations set forth herein. Notwithstanding the foregoing, the obligations set forth in this Section 9 shall not apply with respect to any information to the extent that it is: (a) already rightfully in the possession of the Receiving Party without restriction prior to the first disclosure hereunder as shown by records or files; (b) is already or becomes generally available to the public after the time of disclosure other than as a result of any improper action by the Receiving Party; (c) was rightfully disclosed to Receiving Party by a third party without restriction; or (d) is independently developed by the Receiving Party without use of the Confidential Information from Disclosing Party. The Receiving Party may make disclosures required by law or court order provided that, if practicable, the Receiving Party provides adequate notice and assistance to the Disclosing Party for the purpose of enabling the Disclosing Party to prevent and/or limit the disclosure. Notwithstanding the foregoing, either Party may

disclose the terms of this Agreement pursuant to due diligence requests in a proposed merger, acquisition, or financing transaction.

## **10. General Provisions.**

**10.1 Notices.** All notices and other communications required or permitted under this Agreement shall be in writing, addressed to the applicable Party at its address set forth in this Agreement, and shall be deemed effectively delivered only: (a) upon personal delivery, (b) upon delivery by a courier service as confirmed by written delivery confirmation, (c) upon delivery by facsimile or email as confirmed by transmission receipt, or (d) three (3) business days after being deposited in the regular mail as certified or registered mail (airmail if sent internationally) with postage prepaid. Either Party may change its address for notice by giving notice to the other Party in accordance with this section. A copy of any required notice must be sent via email delivery to matt@brighthive.io (if to Brighthive) or sjohnson7@nu.edu (if to Customer).

**10.2 Governing Law, Jurisdiction, Venue, and Dispute Resolution.** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois, USA, without regard to its conflicts of law provisions. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. Unless waived by Brighthive in its sole discretion, exclusive jurisdiction and venue for actions related to this Agreement will be the state or federal courts located in Chicago, Illinois having jurisdiction over Brighthive's offices, and both Parties consent to the jurisdiction of such courts with respect to any such action. In any action or proceeding to enforce this Agreement, the prevailing Party will be entitled to recover from the other Party its costs and expenses (including reasonable attorneys' fees) incurred in connection with such action or proceeding and enforcing any judgment or order obtained.

**10.3 Force Majeure.** Other than for payment of money, a Party shall be excused from any delay or failure in performance hereunder due to any labor dispute, government requirement, internet congestion or breakdown, epidemic or pandemic, or any other cause beyond its reasonable control. Such Party shall use commercially reasonable efforts to cure any such failure or delay in performance arising from such a condition, and shall timely advise the other Party of such efforts.

**10.4 Relationship of the Parties.** The relationship between the Parties shall only be that of independent contractors. Neither Party is an agent, representative, partner, employer, or employee of the other Party, and neither Party shall have any right or authority to assume or create any obligations or to make any representations or warranties on behalf of any other Party, whether express or implied, or to bind the other Party in any respect whatsoever.

**10.5 Third Party Beneficiaries.** This Agreement is entered into solely between, and may be enforced only by, Customer and Brighthive. This Agreement will not be deemed to create any rights in third parties or to create any obligations of a Party to any third parties.

**10.6 Remedies.** Except as specifically provided otherwise herein, each right and remedy in this Agreement is in addition to any other right or remedy, at law or in equity. Each Party agrees that, in the event of any breach or threatened breach of Section 3 or 9, the non-breaching Party may suffer irreparable damage for which it will have no adequate remedy at law. Accordingly, the non-breaching Party shall be entitled to seek injunctive and other equitable remedies to prevent or restrain such breach or threatened breach, without the necessity of posting any bond.

**10.7 Publicity.** Each Party grants the other Party a limited, non-transferable (except to the extent this Agreement is transferred by either Party in accordance with Section 10.8), non-exclusive license to include such Party's name and standard logo within marketing and promotional materials, provided such materials are approved in writing by the other Party prior to public distribution or dissemination. Notwithstanding the foregoing, without further approval, Brighthive may use and display Customer name and logo on Brighthive's website and other materials solely for the purposes of identifying Customer as a customer.

**10.8 Assignment.** A Party shall not assign nor transfer any obligations or benefit under this Agreement without the written consent of the other Party, provided that, without the other Party's consent, a Party may assign or transfer

this Agreement freely without restriction to an affiliated entity or to a successor to substantially all of its business or assets to which this Agreement relates (whether by sale of assets or equity, merger, consolidation or otherwise). Any purported transfer or assignment in violation of this section is void. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties and their successors and assigns.

10.9 **Entire Agreement.** This Agreement, together with its exhibit(s) and applicable Addendums, is the entire agreement between the Parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, and all prior and contemporary proposals and discussions relating to the subject matter of this Agreement, and controls over the preprinted terms of any purchase order or similar document. In the event of any conflict between the terms of this Agreement, the terms of an Order Form, or the terms of an applicable Addendum, the order of precedence shall be as follows: (a) the terms of this Agreement; (b) the applicable Addendum; and (c) the terms of an Order Form. This Agreement may be executed in counterparts, electronically or by facsimile signatures, each of which shall be deemed an original and all of which taken together shall constitute one and the same instrument. No change, consent or waiver under this Agreement will be effective unless in writing and signed by the Party against which enforcement is sought. The failure of either Party to enforce its rights under this Agreement at any time for any period will not be construed as a waiver of such rights, and the exercise of one right or remedy will not be deemed a waiver of any other right or remedy.

10.10 **Severability.** If any provision of this Agreement is determined to be unenforceable, that provision will be replaced with the valid one that most closely achieves the Parties' intent and the remainder of this Agreement will remain enforceable.

10.11 **Counterparts; Headings.** This Agreement may be executed in counterparts, each of which shall be deemed an original agreement for all purposes and which collectively shall constitute one and the same agreement. The headings in this Agreement are for convenience only and may not be used to interpret or construe the terms hereof.

**IN WITNESS WHEREOF**, intending to be legally bound, the Parties have caused their duly authorized officers to execute this Agreement as a sealed instrument, as of the Effective Date.

**BRIGHTHIVE, INC.**

**CLIENT NAME**

By:

By:

Name:

Name:

Title :

Title:

Date:

Date:

**ADDENDUM A**  
**SERVICE LEVEL AGREEMENT**

1. **Up-Time and Reliability.** Subject to Customer's compliance with the terms and conditions of the Agreement, Brighthive will use reasonable efforts to make the Platform available to Customer for 99% of all Scheduled Availability Time, calculated on a monthly basis (the "**Uptime Guarantee**"). "**Scheduled Availability Time**" shall be defined as 24 hours a day, 7 days a week, excluding: (i) scheduled maintenance; (ii) downtime due to acts of Customer, its vendor(s), or other licensors, or any third party connections, utilities, or equipment; or (iii) downtime related to any other forces beyond the reasonable control of Brighthive (such as internet outages or outages with respect to Customer's network or internet access).

2. **Remedy.** If Brighthive fails to meet the Uptime Guarantee in any month during the term of an applicable Order Form, and Customer is in compliance with all of its obligations under this Service Level Agreement, the Agreement, and the applicable Order Form, Customer shall be entitled to receive the Credit described below. Customer must request the applicable Credit within 10 business days following the end of the calendar month in which the failure occurred. The Credit shall be Brighthive's sole obligation and Customer's exclusive remedy with respect to any failure by Brighthive to meet the Uptime Guarantee.

3. **Credit.**

Monthly Uptime Percentage term	Days of Platform access added to the end of the applicable Order Form
99.0% or higher	none
98.0% to 98.99%	1
95.0% to 97.99%	3
under 95.0%	5

4. **Maintenance and Support.** During the Term of the applicable Order Form, Brighthive will make available to Customer as part of the Platform all generally available updates and bug fixes to the Platform. For technical information, technical advice and technical consultation regarding Customer's use of the Platform, Customer can reach Brighthive at support@brighthive.io from 8:00 am EST to 8:00 pm EST, Monday through Friday, excluding Brighthive-observed holidays ("**Support Hours**"). Outside of Support Hours, Customer can send support inquiries via email or the Brighthive website. Brighthive will use commercially reasonable efforts to promptly respond to support inquiries.

5. **Customer Responsibility.** In addition to other responsibilities contained herein, Customer will be responsible for the maintenance, management and accuracy of its Customer Materials, as well as all software, hardware and services it uses to access the Platform. Customer shall provide to Brighthive, and keep current, a list of designated contacts and contact information (the "**Support List**") for Brighthive to contact for support services. Such Support List shall include (i) the first person to contact for the answer or assistance desired, and (ii) the persons in successively more responsible or qualified positions to provide the answer or assistance desired.

## **ADDENDUM B**

### **Brighthive PROFESSIONAL SERVICES addendum**

This Brighthive Professional Services Addendum (the “Brighthive Professional Services Addendum”) to the Master Services Agreement is entered into between the Parties, pursuant to that certain Master Services Agreement between the Parties dated 00/00/2000 (the “Agreement”) to permit Customer to use the Professional Services (defined below).

1. **Incorporation.** The Parties agree that this Brighthive Professional Services Addendum is incorporated into, becomes a part of, and is subject to the terms of the Agreement to the extent the Professional Services are made available by Brighthive to Customer and specified in an Order Form mutually agreed upon by the Parties in writing. This Brighthive Professional Services Addendum is intended to govern the Professional Services offered to the Customer as set forth herein and additional rights and obligations of the Parties with respect to those Professional Services. Unless otherwise indicated in this Brighthive Professional Services Addendum, all terms of the Agreement shall apply to any agreements requiring the Professional Services as defined herein. If any capitalized term in this Brighthive Professional Services Addendum is defined in the Agreement, then the definition provided in the Agreement shall apply to that term throughout this Brighthive Professional Services Addendum except as the definition of that term may be specifically modified by this Brighthive Professional Services Addendum. Any conflict of terms as between this Brighthive Professional Services Addendum and the Agreement shall be governed by the terms contained in the Agreement, unless this Brighthive Professional Services Addendum states that a specific provision of the Agreement will be superseded by a specific provision of this Brighthive Professional Services Addendum.

2. **Definitions.**

2.1 “Change Order” means a written request for revisions with respect to the Professional Services set forth in an Order Form.

2.2 “Deliverables” means deliverables or work product expressly set forth in an Order Form and created specifically for Customer in connection with the Professional Services. Deliverables expressly exclude Brighthive Materials.

2.3 “Brighthive Materials” means (a) all software, software interfaces software updates and changes, tools, designs, documentation, data, information, ideas, inventions and other material owned or developed by or for Brighthive prior to or outside of the scope of this Agreement as may be necessary to provide the Professional Services hereunder; (b) any routines, tools, methodologies, processes, know-how or technologies created, adapted or used by Brighthive in its business generally, together with all associated Intellectual Property Rights, not specially developed for Customer; and (c) derivatives, improvements, or modifications of the foregoing. For the avoidance of doubt, Brighthive Materials include, without limitation, the Platform and any Confidential Information of Brighthive.

3. **Services.**

3.1 Professional Services. If and as set out in an Order Form, and subject to the terms of the Agreement, including this Brighthive Professional Services Addendum, Brighthive shall take commercially reasonable efforts to provide the Professional Services to Customer as set forth herein. The specific details of the Professional Services to be performed will be determined on a per-project basis, and the details for each project will be described in an Order Form.

3.2 Change Orders. Unless otherwise specified in an Order Form, Customer may reasonably request a Change Order. Within ten (10) business days after Brighthive’s receipt of the Change Order, Brighthive will deliver to Customer a written, revised Order Form reflecting Brighthive’s reasonable determination of the revised Professional Services, deliverables, delivery schedule, payment schedule, and adjusted fees or fee estimates, if any, that will apply



to the implementation of the revisions. If Customer approves the revised Order Form, then the Parties will execute it, and upon execution, the revised Order Form will supersede the then-existing Order Form. If Customer does not approve the revised Order Form within ten (10) business days after its receipt by Customer, the then-existing Order Form will remain in full force and effect, and Brighthive will have no further obligation with respect to the applicable Change Order.

4. **Fees.** Customer will pay Brighthive for Professional Services at rates and under payment terms described in the applicable Order Form ("Professional Fees"). Unless otherwise agreed in the applicable Order Form, Professional Fees will be invoiced in total on the Effective Date of the Order Form.

5. **Licenses and Proprietary Rights.**

5.1 **Customer Materials.** Customer grants to Brighthive and its subcontractors a nonexclusive, royalty-free, worldwide right and license during the Term of this Agreement to use, reproduce, perform, display, transmit, operate, maintain, modify and prepare derivative works of any materials provided by Customer to Brighthive ("Customer Professional Services Materials") for use by Brighthive as required to perform the Professional Services. As between the Parties, Customer will continue to own the Customer Professional Services Materials.

5.2 **Deliverables.** Solely to the extent Deliverables are expressly set forth as such on an Order Form, upon final payment for the Professional Services, Brighthive irrevocably assigns, transfers and conveys to Customer without further consideration all of its right, title and interest in such Deliverables, including all Intellectual Property Rights therein, and at that point such Deliverables shall become Confidential Information of Customer. Brighthive agrees to execute any documents or take any other actions as may reasonably be necessary, or as Customer may reasonably request, to perfect Customer's ownership of any such Deliverables, at Customer's expense.

5.3 **Brighthive Material.** Brighthive shall continue to own all Brighthive Materials. To the extent that any Deliverables incorporates any Brighthive Materials, Brighthive hereby grants Customer a non-exclusive, royalty-free, perpetual, irrevocable, transferable, fully paid-up, worldwide right and license to use, operate and maintain Brighthive Materials solely for internal use as part of such Deliverables (or derivative works thereof), and not on a standalone basis. Customer acknowledges that Brighthive provides services similar to those provided under this Agreement to third parties and Brighthive may be providing deliverables to third parties that are similar to the deliverables being provided to Customer. Except solely as expressly provided herein, Customer will not rent, sell, lease or otherwise transfer the Brighthive Materials or any part thereof or use it for the benefit of a third party.