

## Master Services Agreement

This Master Services Agreement (“**Agreement**”) is entered into as of [REDACTED] (the “**Effective Date**”) by and between Momento LLC, an Illinois limited liability company (“**Vendor**”) and CLIENT NAME, a \_\_\_\_\_ limited liability company (“**CLIENT**”).

**WHEREAS**, CLIENT desires Vendor to, among other things, provide Services (as defined below) in accordance with the terms and conditions of this Agreement.

**WHEREAS**, Vendor desires to provide to CLIENT the Services in accordance with the terms and conditions of this Agreement.

**NOW, THEREFORE**, in consideration of the premises and the agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound, CLIENT and Vendor hereby agree as follows:

1. **DEFINITIONS.** The following initially-capitalized terms shall have the meanings ascribed thereto in this Section 1.

1.1 “**Confidential Information**” means any confidential, proprietary or trade secret information or materials.

1.2 “**CLIENT Materials**” means any works, code or materials that CLIENT or CLIENT’s licensors have in, or that are covered by, any intellectual property rights owned by CLIENT or CLIENT’s licensors.

1.3 “**Work Product**” means, without limitation, all discoveries, ideas, inventions, concepts, developments, know-how, trade secrets, works of authorship, materials, films, tapes, footage (as well as the prints and/or tape(s), positives and negatives thereof), props, artwork and other elements contained therein, scripts, storyboards, software (source and object code), HTML, writings, drawings, designs, processes, techniques, formulas, data, specifications, technology, patent applications (and contributions thereto), and other creations (and any related improvements or modifications to the foregoing or to any CLIENT Confidential Information), whether or not patentable, relating to any activities of CLIENT that are conceived, created or otherwise developed by or for Vendor (alone or with others) for the benefit of CLIENT, or result from or are suggested by any work performed by or for Vendor (alone or with others) for the benefit of CLIENT including, without limitation, all Deliverables and other materials delivered to CLIENT or created in connection with this Agreement, (a) during the Term, whether before or after the execution of this Agreement, and whether or not conceived of, created or otherwise developed during regular business hours, and (b) if based on CLIENT Confidential Information, after termination of Vendor’s contractor arrangement with CLIENT. Vendor’s Technology and System Data are owned by Vendor and shall not be deemed Work Product.

1.4 “**Vendor’s Technology**” means any technology, know how, trade secrets, data, domain names, code and other intellectual property of Vendor related to its camera system and/or its performance of the Services, including all derivatives, modification and enhancement related thereto.

2. **ENGAGEMENT OF SERVICES.**

2.1 **Performance of Services.** Vendor shall, to the best of its ability, render the services provided under this Agreement (the “**Services**”) in a timely and professional manner consistent with industry standards in accordance with the terms and conditions of this Agreement, including, without limitation, each statement of work into which the parties enter (each, a “**Statement of Work**”). Each Statement of Work shall be mutually agreed upon by the parties. Vendor shall timely deliver the deliverables required to be delivered under this Agreement, including, without limitation, pursuant to any Statement of Work (the “**Deliverables**”). Subject to the foregoing, the manner and means by which Vendor chooses to complete the Services are in Vendor’s discretion and control; provided, that Vendor shall reasonably consult with CLIENT regarding same. If any services, functions or responsibilities

not specifically described in this Agreement or a Statement of Work are required for the proper performance and provision of the Services, they shall be deemed to be included within the scope of Services to the same extent as if specifically described in this Agreement. Further, the parties shall cooperate in good faith to agree upon and implement such further services and agreements as may be requested by CLIENT relating to any Services described in any Statement of Work.

**2.2 Personnel.** In performing the Services, Vendor agrees to provide its own personnel, equipment, tools and other materials at its own expense, except as otherwise agreed by the parties. CLIENT shall make its facilities and equipment available to Vendor as reasonably necessary in connection with the Services. Vendor may not subcontract or otherwise delegate its obligations under this Agreement without CLIENT's prior written consent and except as identified on each Statement of Work. For any work performed on CLIENT's premises, Vendor shall comply with all security, confidentiality, safety and health policies of CLIENT. Vendor shall take all necessary precautions to prevent, and shall be responsible for, any injury to any persons (including, without limitation, employees of CLIENT) or damage to property (including, without limitation, CLIENT's property) arising from or relating to Vendor's performance of the Services or the use by Vendor of any CLIENT equipment, tools, facility or other property, whether or not such claim is based upon its condition or on the alleged negligence of CLIENT in permitting its use.

3. **CONSIDERATION.** As full consideration for any Services performed by Vendor pursuant to any Statement of Work, CLIENT shall pay Vendor a fee for such Services rendered as set forth in such Statement of Work. Unless other terms are set forth in the applicable Statement of Work, CLIENT shall pay Vendor for Services within thirty (30) days of the date of Vendor's invoice. Unless otherwise set forth in a Statement of Work, Vendor shall be responsible for all expenses incurred in performing Services under this Agreement. Upon termination of this Agreement (other than for Vendor's material breach), Any additional consideration or profit splits in connection with this Agreement shall be set forth in an applicable Statement of Work.

4. **INDEPENDENT CONTRACTOR RELATIONSHIP.** Vendor's relationship with CLIENT shall be that of an independent contractor and nothing in this Agreement should be construed to create a partnership, joint venture, agency or employer-employee relationship between the parties. Vendor is not the agent of CLIENT and is not authorized and shall not have any authority to make any representation, contract or commitment on behalf of CLIENT, or otherwise bind CLIENT in any respect whatsoever. Further, it is not the intention of this Agreement or of the parties hereto to confer a third-party beneficiary right of action upon any third party or entity whatsoever, and nothing in this Agreement shall be construed to confer upon any third party other than the parties hereto a right of action under this Agreement or in any manner whatsoever. Vendor (and its employees and agents) shall not be entitled to any of the benefits CLIENT may make available to its employees, such as group insurance, profit-sharing or retirement benefits. Vendor shall be solely responsible for all tax returns and payments required to be filed with or made to any federal, state or local tax authority with respect to Vendor's performance of services and receipt of fees under this Agreement. CLIENT may regularly report amounts paid to Vendor with the Internal Revenue Service as required by law. Because Vendor is an independent contractor, CLIENT shall not withhold or make payments for social security, make unemployment insurance or disability insurance contributions, or obtain worker's compensation insurance on Vendor's (or its employees' or agents') behalf. Vendor shall comply with, and agrees to accept exclusive liability for non-compliance with, all applicable state and federal laws, rules and regulations, including, without limitation, obligations such as payment of all taxes, social security, disability and other contributions based on fees paid to Vendor, its agents or employees under this Agreement. Vendor hereby agrees to indemnify, hold harmless and defend CLIENT against any and all such liability, taxes or contributions, including, without limitation, penalties and interest.

5. **ACCEPTANCE OF DELIVERABLES.** If applicable, CLIENT shall have 30 days from its receipt of any Deliverable to review and evaluate such Deliverable to determine whether the Deliverable meets, to CLIENT's reasonable satisfaction, the requirements specific to the particular Deliverable as set forth in the applicable Statement of Work. If no written rejection is given to Vendor by CLIENT within such 30-day period, such Deliverable shall be deemed accepted. If CLIENT does not accept such Deliverable, CLIENT shall, at Vendor's

request, provide Vendor with a written description of the changes, alterations or modifications that Vendor must make to such Deliverable in order for CLIENT to accept it. Vendor shall use commercially reasonable efforts following CLIENT's notice of rejection in which to change, alter or modify the Deliverable and to deliver a corrected Deliverable to CLIENT for its review and acceptance as set forth above. In the event CLIENT does not accept such corrected, altered or modified Deliverable, CLIENT may grant Vendor a further 30 days (or such longer period as CLIENT may, in its sole discretion, decide) in which to correct any problems in such Deliverable. In the event CLIENT does not accept Vendor's next such corrected, altered or modified Deliverable, CLIENT may, in its sole discretion, grant Vendor additional time in which to correct any problems in such Deliverable or deem Vendor's failure to provide to CLIENT an acceptable deliverable to be a default, and immediately terminate this Agreement without further opportunity to cure.

## **6. CLIENT CONFIDENTIAL INFORMATION.**

**6.1 Confidential Information.** Vendor understands that its work for CLIENT may involve access to Confidential Information of CLIENT (or its parents, subsidiaries, affiliates, related entities, licensors, suppliers, vendors, customers or any other third party to whom CLIENT owes a duty of confidentiality) (collectively, such Confidential Information shall be referred to as "**CLIENT Confidential Information**"), in whatever form, tangible or intangible, whether disclosed or provided to Vendor before or after the execution of this Agreement. CLIENT Confidential Information further includes, without limitation, any trade secrets and know-how, and any:

(a) information, ideas or materials of a technical or creative nature, such as inventions, improvements, discoveries, developments, techniques, processes, research and development plans and results, reports, drawings, designs, specifications, works of authorship, data, formulas, files, HTML, computer source and object code, patent applications, and other materials and concepts relating to the business, services, processes or technology of CLIENT or its parents, subsidiaries, affiliates or related entities;

(b) information, ideas or materials of a business nature, such as development plans, marketing and sales plans and forecasts, budgets and unpublished financial statements, and other information regarding finances, profits, costs, marketing, purchasing, sales, operations, policies, procedures, personnel, salaries, customers, suppliers and contract terms;

(c) all personal property, including, without limitation, books, manuals, records, files, reports, notes, contracts, lists, blueprints and other documents or materials, or copies thereof, received by Vendor or prepared for CLIENT in the course of Vendor's rendering of Services to CLIENT, including, without limitation, records and any other materials pertaining to Work Product; and

(d) any other trade secrets, information, ideas or materials of or relating in any way to the past, present, planned or foreseeable business, products, developments, technology or activities of CLIENT (or its parents, subsidiaries, affiliates, related entities, licensors, suppliers, vendors, customers or any other third party to whom CLIENT owes a duty of confidentiality).

**6.2 Restrictions on Use and Disclosure.** Vendor agrees that, during the Term (as defined below) and thereafter, it shall (a) hold CLIENT Confidential Information in trust and confidence; (b) use CLIENT Confidential Information only for the benefit of CLIENT (and not for the benefit of Vendor or any third party), (c) not use CLIENT Confidential Information in any manner or for any purpose not expressly set forth in this Agreement; and (d) reproduce CLIENT Confidential Information only to the extent reasonably required to fulfill Vendor's obligations hereunder. Vendor may disclose CLIENT Confidential Information only to Vendor's employees and agents who have a need to know such CLIENT Confidential Information in order to perform Services and agree to keep confidential CLIENT Confidential Information, and who are each obligated to comply with confidentiality provisions no less restrictive than those set forth in this Agreement. Vendor shall protect CLIENT Confidential Information with at least the same degree of care that it uses to protect its own Confidential Information of similar

nature and importance (but in no event less than reasonable care) in order to avoid the unauthorized use, disclosure, publication and/or dissemination of CLIENT Confidential Information.

**6.3 Exclusions.** The foregoing obligations in Section 6.2 shall not apply to any CLIENT Confidential Information to the extent the Vendor can prove such CLIENT Confidential Information (a) is or has become generally known or available other than by any act or omission of Vendor; (b) was rightfully known by Vendor prior to the time of first disclosure to Vendor; (c) is independently developed by Vendor without the use of CLIENT Confidential Information; or (d) is rightfully obtained without restriction from a third party who has the right to make such disclosure and without breach of any duty of confidentiality to CLIENT. In addition, Vendor may use or disclose CLIENT Confidential Information to the extent (i) approved in advance in writing by CLIENT or (ii) Vendor is legally compelled to disclose such CLIENT Confidential Information, provided that Vendor shall use reasonable efforts to give advance written notice of such compelled disclosure to CLIENT, and shall cooperate with CLIENT in connection with any efforts to prevent or limit the scope of such disclosure and/or use of CLIENT Confidential Information.

**6.4 Legal Disclosure.** In the event Vendor becomes legally compelled to disclose any CLIENT Confidential Information to comply with requests of regulatory agencies or administrative authorities having jurisdiction over it, administrative or court order or pursuant to subpoena or other legal process, Vendor shall provide CLIENT with prompt notice thereof and shall not divulge any information until CLIENT has had the opportunity to seek a protective order or other remedy to restrict such disclosure. If such actions by CLIENT are unsuccessful, or CLIENT otherwise waives its right to seek such remedies, Vendor shall disclose only that portion of the Confidential Information which it is legally required to disclose.

**6.5 Mutuality.** This Section 6 shall be deemed mutual and CLIENT shall protect Vendor's Confidential Information to the same extent as Vendor is bound to protect CLIENT's Confidential Information.

## **7. INTELLECTUAL PROPERTY.**

**7.1 Provision of Services.** Subject to the terms and conditions of this Agreement, Vendor will make the Services available to CLIENT pursuant to this Agreement and the applicable Statement of Work, and hereby grants CLIENT a non-exclusive right to access and use the Services for its business purposes.

**7.2 Vendor's Ownership Rights.** As between the parties, Vendor exclusively owns all right, title and interest in and to the equipment used to provide the Services, including the "System data" and information reflected in Data Reports, and all System Data (as defined below). Except for the express rights granted hereunder, Vendor reserves all rights, title and interests in and to the equipment used to provide the Services and Vendor's Confidential Information. "**System Data**" means data collected by Vendor regarding the Services that may be used to generate logs, statistics and reports regarding the performance, availability, integrity and security of the Services.

**7.3 Customer Limitations.** The rights granted herein are subject to the following restrictions (the "**License Restrictions**"). CLIENT will not directly or indirectly:

- reverse engineer, decompile, disassemble, modify, create derivative works of or otherwise create, attempt to create or derive, or permit or assist any third party to create or derive, the source code underlying the Services and/or Vendor's Technology; attempt to probe, scan or test the vulnerability of the Services and/or Vendor's Technology, breach the security or authentication measures of the Services and/or Vendor's Technology without proper authorization or willfully render any part of the Services and/or Vendor's Technology unusable;
- use or access the Services and/or Vendor's Technology to develop a product or service that is competitive with Vendor's products or services or engage in competitive analysis or benchmarking;

- transfer, reproduce, distribute, resell, lease, license, or assign the Services and/or Vendor's Technology or otherwise offer the Services and/or Vendor's Technology on a standalone basis; and
- otherwise use the Services and/or Vendor's Technology (i) to engage in any illegal activity, (ii) infringe or violate any third party rights or (iii) otherwise outside the scope expressly permitted hereunder and in the applicable Statement of Work.

**7.4 Use of CLIENT Materials.** With respect to CLIENT Materials provided by CLIENT to Vendor under a particular Statement of Work, CLIENT grants Vendor a limited, non-transferable, non-sublicensable, non-exclusive right to use and reproduce such CLIENT Materials solely to perform or provide Services described therein. All rights granted to Vendor in CLIENT Materials are by license only and no rights of ownership are assigned or transferred to Vendor under this Agreement or a Statement of Work. Vendor will have no rights in CLIENT Materials including by way of example, any rights to use, modify, distribute or reproduce CLIENT Materials unless a Statement of Work explicitly grants any rights to Vendor.

#### **7.5 Publicity; Use of Name; Marks.**

(a) Unless expressly provided for in this Agreement or a Statement of Work, Vendor may not (i) deliver in whole or in part to anyone, other than CLIENT, the Work Product; (ii) allow anyone, other than personnel of CLIENT and Vendor, to view or inspect, in whole or in part, the Work Product; (iii) otherwise disclose in whole or in part to anyone, other than personnel of CLIENT and Vendor, the contents of the Work Product; or (iv) authorize or release any advertising matter or publicity of any form containing any reference to the Work Product or to the corporate names and/or trademarks of CLIENT, its subsidiaries or its affiliates or to Vendor's engagement or services hereunder without the prior written consent of CLIENT at CLIENT's sole discretion.

(b) Vendor may not use CLIENT's name and/or the names of its related entities, including the "**TEAM NAME**" (the "**CLIENT Marks**") on its client list, marketing materials, or otherwise unless Vendor obtains the prior written consent of CLIENT in each case. Vendor shall comply with any written usage guidelines provided by CLIENT to Vendor. Vendor agrees to discontinue immediately any use of the CLIENT Marks authorized hereunder upon (i) the termination of this Agreement or (ii) written request from CLIENT for any reason.

**7.6 Technology.** Notwithstanding any provision herein or otherwise, Vendor shall remain the owner of and is not transferring, assigning, licensing and/or conveying any of Vendor's Technology. CLIENT shall not take or make any claim to the contrary.

### **8. REPRESENTATIONS AND WARRANTIES.**

**8.1 Vendor Representations and Warranties.** Vendor represents, warrants and covenants that: (a) Vendor has the full power and authority to enter into this Agreement and to perform its obligations hereunder, without the need for any consents, approvals or immunities not yet obtained; (b) Vendor's execution of and performance under this Agreement shall not breach any oral or written agreement with any third party or any obligation owed by Vendor to any third party to keep any information or materials in confidence or in trust; (c) the Services, including, without limitation, any forms, data, actuarial algorithms, software or deliverables required hereunder, shall be free from material errors or other defects and shall substantially conform to any specifications for such Services and/or deliverables as set forth or referenced in this Agreement; (d) the Work Product shall be the original work of Vendor and shall not rely on any information or materials which are owned or controlled by a third party, and any persons involved in the development of Work Product have executed (or prior to any such involvement, shall execute) a written agreement with Vendor in which such persons (i) assign to Vendor all right, title and interest in and to the Work Product in order that Vendor may fully grant the rights to CLIENT as provided herein and (ii) agree to be bound by confidentiality and non-disclosure obligations no less restrictive than those set forth in this Agreement; (e) Vendor has the right to grant the rights and assignments granted herein, without the need for any assignments, releases, consents, approvals, immunities or other rights not yet obtained; (f) the Services, Work Product, and

Vendor Confidential Information (and the exercise of the rights granted herein with respect thereto, including the sharing and distribution of photos) do not and shall not infringe, misappropriate or violate any patent, copyright, trademark, trade secret, publicity, privacy or other rights of any third party, and are not, and shall not be defamatory or obscene; (g) in performing the Services, Vendor shall comply with all applicable law, and (h) neither the Work Product nor any element thereof shall be subject to any restrictions or to any mortgages, liens, pledges, security interests, encumbrances or encroachments.

**8.2 CLIENT Representations and Warranties.** CLIENT represents, warrants and covenants that: (a) CLIENT has the full power and authority to enter into this Agreement and to perform its obligations hereunder, without the need for any consents, approvals or immunities not yet obtained; (b) CLIENT's execution of and performance under this Agreement shall not breach any oral or written agreement with any third party or any obligation owed by CLIENT to any third party to keep any information or materials in confidence or in trust; and (c) CLIENT has the right to grant the rights granted herein, without the need for any assignments, releases, consents, approvals, immunities or other rights not yet obtained.

## **9. INDEMNIFICATION.**

**9.1 Indemnity.** Vendor agrees to defend, indemnify and hold harmless CLIENT and its parents, subsidiaries, affiliates, and related entities, and each of their respective owners, members, managers, partners, officers, directors, shareholders, employees, sublicensees, customers, contractors, representatives and agents, and all of their respective successors and assigns (collectively, the "**CLIENT Indemnitees**"), from and against any and all damages, settlements, judgments, investigations, charges, costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees and legal fees) (collectively, "**Losses**") resulting from any and all threatened or actual claim, suit, action, or proceeding (each, a "**Claim**") brought by any third party arising out of or related to (a) any breach (or claim or threat thereof that, if true, would be a breach) of this Agreement or any Statement of Work by Vendor, including, without limitation, any breach or alleged breach of any representation or warranty of Vendor set forth in Section 8.1, or (b) allegations that Vendor's performance hereunder violates any applicable law, rule or regulation or infringes the rights of any third party, including but not limited to intellectual property rights, privacy and publicity rights, claims of defamation, false or deceptive advertising claims and consumer fraud.

**9.2 Notice; Cooperation; Settlement.** CLIENT shall notify Vendor promptly of any Claim for which indemnification is sought, provided, however, that the failure to give such notice shall not relieve Vendor of Vendor's obligations hereunder except to the extent that Vendor was actually and materially prejudiced by such failure. CLIENT may, at its option and expense, participate and appear on an equal footing with Vendor in the defense of any Claim that is conducted by Vendor as set forth herein. Vendor may not settle any Claim without the prior written approval of CLIENT. From the date of written notice from CLIENT to Vendor of any such Claim, CLIENT shall have the right to withhold from any payments due Vendor under this Agreement the amount of any defense costs, plus additional reasonable amounts as security for Vendor's obligations under this Section 9.

**9.3 Additional Indemnification Provisions.** Each CLIENT Indemnitee will use commercially reasonable efforts to mitigate any Claim and will not settle nor pay any Claim for which Vendor will be responsible for making any payment without Vendor's consent. Each CLIENT Indemnitee will reasonably cooperate and take such actions as reasonably requested by Vendor to minimize and reduce the likelihood of third-party Claims.

**10. INSURANCE.** Vendor will at its sole cost obtain and keep in full force and effect, during the Term of this Agreement, the following insurance coverage.

(a) **Commercial General Liability (CGL).** Vendor will maintain commercial general liability insurance which insures all operations of Vendor (including the operations of Vendor contemplated by this Agreement), and which includes a carve-back of coverage within any contractual liability exclusion to cover "insured contracts" per current ISO policy form terms. Limits of liability will be in amounts not less than Eight Million Dollars

(\$8,000,000) per occurrence and Eight Million Dollars (\$8,000,000) general aggregate limit (with the general aggregate of the CGL policy to apply separately per location or per event).

(b) **Workers' Compensation and Employer's Liability Insurance.** Vendor will maintain workers' compensation insurance as mandated by state law where the Services are performed for insurance in respect of all employees and any borrowed, leased or other person to whom such compensation may be payable by Vendor. Vendor will maintain employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000).

(c) **Automobile Insurance.** Vendor will maintain commercial automobile liability insurance, including coverage for all owned, hired, and non-owned automobiles. The amount of coverage will not be less than One Million Dollars (\$1,000,000) combined single limit for each accident and for bodily injury and property damage.

(d) **Umbrella Liability Insurance.** Vendor will maintain an umbrella or excess liability insurance policy providing coverage in excess of, and at least as broad as, its primary commercial general liability, employer's liability policies, and automobile liability (if applicable), and with limits in an amount, which when added to the per occurrence and aggregate limits of each underlying policy (as applicable), totals not less than Two Million Dollars (\$2,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate, respectively.

(e) **Additional Insureds and Waiver of Subrogation.** Vendor shall name CLIENT and each of their parents, affiliates and subsidiaries as additional insureds (the "**Additional Insureds**") of the coverages listed in A, C, and D above and all such policies shall include a waiver of insurer's subrogation rights in favor of the Additional Insureds.

(f) **Certificates of Insurance.** Upon execution of this Agreement, Vendor will immediately provide to CLIENT evidence of the insurance required herein, including a certificate of insurance. In the event of a cancellation of Vendor's insurance, Vendor agrees to provide not less than ten (10) days' prior written notice thereof to CLIENT. Failure of CLIENT to demand such certificate or other evidence of full compliance with these insurance requirements or failure of CLIENT to identify a deficiency from evidence provided will not be construed as a waiver of Vendor's obligation to maintain such insurance. Further, the acceptance of delivery by CLIENT of any certificate of insurance evidencing the required coverages and limits does not constitute approval or agreement by CLIENT that the insurance requirements have been met or that the insurance policies shown in the certificates of insurance are in compliance with the requirements of the Agreement.

(g) **Insurer Qualifications; Endorsement.** All of the above-required insurance coverages/policies will be written by insurance companies licensed to issue policies in the state where the Facility is located and with an A.M Best rating of no less than A-, VIII. Vendor will cause such required insurance to be endorsed with an endorsement that the insurance issued to Vendor will (i) be primary to and not contributory with any insurance coverage or self-insured program of CLIENT or any of the Additional Insureds, and (ii) not exclude pyrotechnical activities or fireworks used in the Event. Any insurance carried by CLIENT or any of the Additional Insureds shall be excess to the insurance required hereunder. Any deductible or self-insured retention policy of Vendor will be the sole responsibility of Vendor.

(h) **Failure to Obtain Insurance.** CLIENT will also have the right to prohibit Vendor or any subcontractor of Vendor from entering the location where Services will be performed until such certificates or other evidence that insurance has been obtained in complete compliance with this Agreement is received by CLIENT. Vendor's failure to maintain the insurance required herein may, at the sole discretion of CLIENT, result in termination of this Agreement. IN THE EVENT OF SUCH TERMINATION BY CLIENT, THERE WILL BE NO FURTHER LIABILITY OF ANY KIND OR NATURE WHATSOEVER BY CLIENT TO VENDOR, AND CLIENT WILL RETAIN THE RIGHT TO PROCEED WITH A LEGAL ACTION AGAINST VENDOR TO RECOVER ANY AND ALL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF PROFITS) SUSTAINED BY CLIENT BY REASON OF VENDOR'S DEFAULT THEREUNDER.

(i) **Coverage by CLIENT.** In the event that Vendor fails to procure and present the aforesaid insurance, CLIENT will have the right, but not the obligation, to do so on Vendor's behalf and at Vendor's expense and will be entitled to reimbursement for the costs thereof.

(j) **No Representation by CLIENT.** By requiring insurance, CLIENT makes no representation that the coverage and limits required by this Agreement are adequate to protect Vendor from all claims, and such coverage and limits shall not be deemed as a limitation on Vendor's liability assumed or obligation to defend as set forth in the indemnification provisions granted CLIENT in this contract.

(k) **Limits of Insurance.** The limits of insurance provided by Vendor shall be the greater of the limits maintained in the normal course of Vendor's business or the minimum limits specified herein. The limits stated above for each type of insurance are minimum limits only; in the event Vendor's policy provides greater limits, then the Additional Insureds shall be entitled to, or to share in, the full limits of such policy, and this Agreement shall be deemed to require such full limits.

## 11. TERMINATION.

11.1 **Term.** This Agreement shall commence as of the date of the first Statement of Work executed in connection herewith and continue until the earlier of (a) satisfaction or expiration of all outstanding Statements of Work or (b) termination of this Agreement by either party in accordance with the provisions of this Section 10 (the "**Term**"). This Agreement may be renewed by mutual written agreement of the parties.

11.2 **Termination for Convenience.** CLIENT may terminate this Agreement at its convenience, with or without cause, upon thirty (30) days prior written notice to Vendor. Vendor may terminate this Agreement for convenience, with or without cause, upon thirty (30) days written notice to CLIENT; provided, that termination by Vendor pursuant to this Section 11.2 shall not be prior to CLIENT's final acceptance of all Services set forth on any Statement of Work applicable at the time of such notice, unless otherwise agreed by the parties in writing.

11.3 **Termination for Cause.** If either party breaches any of its material obligations under this Agreement, the non-defaulting party, at its option shall have the right to terminate this Agreement by written notice unless the defaulting party remedies the default within thirty (30) calendar days after receipt of written notice of such default from the non-defaulting party. CLIENT may also terminate this Agreement immediately for Vendor's breach of Section 6.

11.4 **Effect of Termination.** Upon the effective date of any termination of this Agreement, Vendor shall immediately cease performing any Services under this Agreement. Unless this Agreement has been terminated by CLIENT for material breach by Vendor, CLIENT agrees to pay Vendor compensation due for Services actually rendered, in accordance with Section 3, and such amounts shall be in full satisfaction of any obligation or liability of CLIENT to Vendor for payments due to Vendor under this Agreement. Sections 4, 6, 7, 8, 9, 11.4, 11.5, 12, 12, 13, 14, and 15 shall survive the expiration or termination of this Agreement. Termination of this Agreement by either party shall not act as a waiver of any breach of this Agreement and shall not act as a release of either party from any liability for breach of such party's obligations under this Agreement. Neither party shall be liable to the other for damages of any kind solely as a result of terminating this Agreement in accordance with its terms, and termination of this Agreement by a party shall be without prejudice to any other right or remedy of such party under this Agreement or applicable law.

11.5 **Delivery of Materials.** Upon any termination of this Agreement or at any time upon CLIENT's request, Vendor shall promptly return to CLIENT any and all CLIENT Confidential Information. Upon any termination, Vendor shall also promptly deliver all Work Product then in progress, or Vendor Confidential Information required to be provided hereunder.



12. **LIMITATION OF LIABILITY.** To the extent permitted by applicable law: (a) in no event shall CLIENT be liable under any legal theory for any special, indirect, consequential, exemplary or incidental damages, however caused, arising out of or relating to this Agreement, even if CLIENT has been advised of the possibility of such damages; and (b) in no event shall CLIENT's aggregate liability arising out of or relating to this Agreement (regardless of the form of action giving rise to such liability, whether in contract, tort or otherwise) exceed the fees payable by CLIENT hereunder; provided, that the foregoing limitations shall not apply to Claims related to breaches or violations of confidentiality obligations.

13. **AUDIT RIGHTS.** CLIENT shall have the right to, upon reasonable prior written notice and at reasonable times during regular business hours, audit Vendor to assure compliance with the terms and conditions of this Agreement, (or any invoice or Statement of Work generated pursuant to this Agreement). Vendor shall supply to CLIENT all documentation requested by CLIENT to confirm such compliance.

14. **GOVERNING LAW; DISPUTE RESOLUTION; LEGAL FEES.**

(a) This Agreement is deemed to be made in and will be construed in accordance with and governed by the law of the State of Illinois, without application of its principles regarding choice of law that would result in the application of the law of another jurisdiction.

(b) In the event that any dispute, controversy, or claim arises between any of the parties hereto relating to this Agreement, the parties will first attempt to resolve such dispute, controversy, or claim by informal good faith negotiations between the parties' respective senior management. If no amicable resolution is reached within a reasonable time period (not to exceed thirty (30) calendar days from the date that one party requests a 'resolution meeting' unless an authorized agent of each party agrees in writing to extend such period), the parties, as a condition precedent to initiating litigation, will be required to mediate the dispute (the "**Mediation**") before a mutually-agreed upon licensed mediator in Chicago, Illinois that has subject-matter expertise in the area of the dispute, controversy, or claim (each, a "**Qualified Mediator**"). In connection with the Mediation, the parties have further agreed as follows: (i) within ten (10) business days of one party notifying another that it, pursuant to its obligations under this Section 14, desires to schedule a mediation (the "**Mediation Parties**"), each will furnish the other with a list of nominee Qualified Mediators (each, a "**Nominated Mediator**"); (ii) if the Mediation Parties are unable to agree on a Nominated Mediator, the Mediation Parties will coordinate a means to randomly select a mediator from the list of Nominated Mediators; (iii) the Mediation will take place no more than sixty (60) calendar days after the initial Mediation request is received by the non-requesting Mediation Party; (iv) the Mediation Parties will share equally the costs of the Qualified Mediator; and (v) each Mediation Party will be responsible for its own costs and fees associated with its preparation for and participation in the Mediation, including, without limitation, attorneys' fees.

(c) If the parties, after good faith negotiation and Mediation, are unable to resolve their dispute, each party will have the right to initiate litigation in the appropriate court in Chicago, Illinois.

(d) In the event that litigation is properly initiated in order to resolve a dispute or to enforce any term, provision, or obligation of this Agreement (including to collect any fee due hereunder), the prevailing party is entitled to recover, in addition to all other remedies available to it, reimbursement from the non-prevailing party for such reasonable attorneys' fees, court costs, costs of investigation, and other expenses incurred by the prevailing party in connection with such litigation.

(E) **WAIVER OF JURY TRIAL.** IN THE EVENT THE PARTIES ARE REQUIRED FOR ANY REASON TO SUBMIT ANY DISPUTE HEREUNDER TO TRIAL, THE PARTIES EXPRESSLY AGREE TO WAIVE THE RIGHT TO A JURY TRIAL. EACH PARTY HERETO REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

(F) Notwithstanding anything in this Agreement to the contrary, Vendor recognizes that the covenants contained in Sections 6 and 7 hereof are reasonable and necessary to protect the legitimate interests of CLIENT, that CLIENT would not have entered into this Agreement in the absence of such covenants, and that Vendor's breach or threatened breach of such covenants shall cause CLIENT irreparable harm and significant injury, the amount of which shall be extremely difficult to estimate and ascertain, thus, making any remedy at law or in damages inadequate. Therefore, Vendor agrees that CLIENT shall be entitled, without the necessity of posting of any bond or security, to the issuance of injunctive relief by any court of competent jurisdiction enjoining any breach or threatened breach of such covenants and for any other relief such court deems appropriate. This right shall be in addition to any other remedy available to CLIENT at law or in equity.

## **15. GENERAL PROVISIONS.**

**15.1 Severability.** If the application of any provision of this Agreement to any particular facts or circumstances shall for any reason be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, then (a) the validity, legality and enforceability of such provision as applied to any other particular facts or circumstances, and the other provisions of this Agreement, shall not in any way be affected or impaired thereby and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties. If, moreover, any provision contained in this Agreement shall for any reason be held to be excessively broad as to duration, geographical scope, activity or subject, it shall be construed by limiting and reducing it, so as to be enforceable to the extent compatible with applicable law.

**15.2 Assignment.** Vendor acknowledges that CLIENT has entered into this Agreement on the basis of the particular abilities of Vendor. Accordingly, CLIENT shall be entitled to assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement and any of its rights or obligations of this Agreement, but Vendor shall not and shall not have the right to assign, sell, transfer, delegate or otherwise dispose of, whether voluntarily or involuntarily, by operation of law or otherwise, this Agreement or any of its rights or obligations under this Agreement without the prior written consent of CLIENT. Except as provided herein, any purported assignment, transfer or delegation by Vendor shall be null and void. Subject to the foregoing, this Agreement shall be binding upon and shall inure to the benefit of the parties and their respective successors and permitted assigns.

**15.3 Notices.** Any notice, request, demand, or other communication required or permitted hereunder shall be in writing, shall reference this Agreement and shall be deemed to be properly given: (a) when delivered personally; (b) five (5) business days after having been sent by registered or certified mail, return receipt requested, postage prepaid; or (c) two (2) business days after deposit with a private industry express courier, with written confirmation of receipt. All notices shall be sent to the address set forth on the signature page of this Agreement and to the notice of the person executing this Agreement (or to such other address or person as may be designated by a party by giving written notice to the other party pursuant to this Section 15.3).

**15.4 Waiver.** The waiver by either party of a breach of or a default under any provision of this Agreement shall not be effective unless in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.

**15.5 Construction.** This Agreement has been negotiated by the parties and shall be interpreted fairly in accordance with its terms and without any construction in favor of or against either party.

**15.6 Captions and Section Headings.** The captions and section and paragraph headings used in this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement.

15.7      **Counterparts.** This Agreement may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together will constitute one and the same instrument and may be executed in electronic format, either using an electronic signature service (e.g., DocuSign) or digital signature (e.g., pdf) transmitted via email. Each party agrees that, subject to this Section 15, it will be bound by its own electronically transmitted signatures and that it accepts the electronically transmitted signature of the other party, and such electronically-transmitted signatures will have the same force and effect as original signatures (with each party agreeing that emails, including emails that bear an electronic “signature block” identifying the sender, do not constitute signed writings for purposes of this section).

15.8      **Entire Agreement; Amendment.** This Agreement (including the Statement of Work attached hereto, which is incorporated herein by reference) is the final, complete and exclusive agreement of the parties with respect to the subject matter hereof and supersedes and merges all prior or contemporaneous representations, discussions, proposals, negotiations, conditions, communications and agreements, whether written or oral, between the parties relating to the subject matter hereof and all past courses of dealing or industry custom. No modification of or amendment to this Agreement shall be effective unless in writing and signed by each of the parties.

*[Signature Page Follows]*

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the Effective Date.

**MOMENTO LLC**

**CLIENT NAME**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

## Statement of Work

This Statement of Work (this “**Statement of Work**”) is entered into as of [REDACTED] (the “**Effective Date**”) by and between Momento LLC, an Illinois limited liability company (“**Vendor**”) and **TEAM/VENUE NAME**, a [REDACTED] company (“**Client**”), and is subject to the terms and conditions set forth in that certain Master Services Agreement dated as of [REDACTED] entered into by and between Vendor and **CLIENT** (the “**Agreement**”). To the extent that the terms and conditions of this Statement of Work conflict with the terms and conditions of the Agreement, the terms and conditions of this Statement of Work shall control. Initially capitalized terms that are used but not defined in this Statement of Work shall have the meanings ascribed thereto in the Agreement.

1. **Scope of Work.** Vendor will provide the following services (the “**Services**”):

- a. **Camera Array Technology:** Vendor will promptly provide its proprietary cameras and camera array technology, along with installation support, to **CLIENT**. The technology will be capable of simultaneously capturing attendees at **VENUE NAME**, providing nearly every fan in the venue with photo keepsakes from their experience.
- b. **Website:** Vendor will provide public access to the Vendor website (**CLIENTNAME**.mymomento.com) which allows customers to view, share, download, and purchase candid photos, GIFs & Commemorative Fan Tickets. Vendor will provide customization instructions to **CLIENT** for customizing the following assets: Commemorative Fan Ticket design template, full page ad placements, team logos, custom photo frames (up to 8 sponsored or unsponsored frames). Vendor will also provide assistance to incorporate Vendor website link in **CLIENT** mobile application.
- c. **Vendor Store:** Vendor & **CLIENT** will collaborate to offer purchasing options via the Vendor Store on the Vendor website including products such as: Framed Photos, Printed Photos, Canvas, Posters, Commemorative Fan Tickets, Digital Commemorative Fan Tickets, Premium Feature Unlocks, Sports Illustrated Covers with the Vendor Website (the “**Photo Products**”). Products must be approved by **CLIENT** before offering to **CLIENT** fans. Vendor shall work with **CLIENT** to ensure that the Vendor Store is accessible via link embedded the **CLIENT** mobile application.
- d. **Personalized Photo Email Campaigns:** Vendor will provide the ability to utilize Momento Personalized Photos in email campaigns for **CLIENT** to re-target attendees at **VENUE NAME**. Vendor will provide photo URL links for each fan’s photo in CSV form that can be imported directly with **CLIENT**’s CRM & ESP. Vendor will provide training and support to **CLIENT** to utilize Momento’s personalized URL creation.
- e. **Data Sharing:** Vendor will share only with **CLIENT** (which sharing shall be expressly permitted under Vendor’s privacy policies) all user data collected from users of Vendor’s website or otherwise collected by Vendor in connection with the Services. Vendor shall report such data to **CLIENT** on an agreed upon basis. **CLIENT** shall have the right to approve of Vendor’s privacy policies prior to the collection of any user data by Vendor and Vendor will not modify its privacy policies in a way that could affect the right to collect or share user data without the prior written consent of **CLIENT**.
- f. **Crowd Analytics:** Depending on the agreement between Vendor & Client, Vendor will provide crowd analytics reports to **CLIENT** from **CLIENT** games at **VENUE NAME**. Starting in **LAUNCH DATE** Vendor will deliver analytics reports that include gender, age,

empty-seats for full-crowd, section-by-section breakdowns that will be viewable via a Vendor website. Vendor will collaborate with **CLIENT** on analytics tracking requests to the best of Vendor's ability.

- g. **Labor and Equipment:** **CLIENT** will provide the labor for operating the camera system at **CLIENT** games hosted at **VENUE NAME** starting **LAUNCH DATE** through the **END DATE**. Operation will also include **CLIENT** pre-season & post-season games at **VENUE NAME**. **CLIENT** will provide on-site labor unless otherwise agreed by the parties. Vendor will retain ownership of all camera equipment needed for installation and operation of the services. Vendor shall be responsible for all costs associated with installation of Vendor's cameras & system up to \$12,000. Previous arena installations have costed on average \$10,000. Installation costs shall not exceed \$12,000, unless approved in writing by Client prior to such excess costs being incurred, and in that case Client and Momento will negotiate in good faith to allocate such additional costs between Client and Momento. Client will collaborate with Momento to provide preferred installation vendors(s). At the expiration or earlier termination of the Agreement, Momento shall be responsible for all costs and labor associated with the prompt removal

of Momento's cameras and system.

## 2. **Consideration / Profit.**

- a. **Photo Sale Profit Split:** Vendor and **CLIENT** shall split the net profit on the sale of Photo Products as follows:
  - i. Vendor shall retain 80% of net profit on online based Photo Products and Vendor shall deliver to **CLIENT** 20% of net profit on online based Photo Products (without offset or withholding). Vendor will cover all fulfillment costs on online orders.
  - ii. Vendor will collaborate with **CLIENT** on implementing in-venue kiosks, print stations & other special event product offerings. Vendor shall retain 70% of net profit from in-venue kiosks and Vendor shall deliver to **CLIENT** 30% of net profit on in-venue kiosk products. (without offset or withholding). Vendor & **CLIENT** will collaborate on cost structure & execution for in-venue kiosks with printing stations. Based on the scope of activation Vendor & **CLIENT** will determine the cost structure.

In connection with the Photo Sale Profit Split, Vendor shall account to **CLIENT**, including details regarding number of sales and amount of gross profit, and pay to **CLIENT** its applicable portion of gross sales on a monthly basis.

- b. **Sponsorship Elements:** As between **CLIENT** and Vendor, **CLIENT** shall have the exclusive right to sell sponsorships in connection with or relating to its use of Vendor's Services and products, and **CLIENT** shall retain 100% of such sponsorship revenue.
3. **Expenses.** All expenses in connection with the Services shall be the responsibility of Vendor. For the avoidance of doubt, Vendor will cover all "cloud" expenses associated with the Services,

including the uploading, storage, and delivery of content and fan photographs and all labor expenses in connection with the Services.

#### 4. Licensing Fee.

- a. **Total Licensing Fee:** CLIENT hereby agrees to a total licensing fee of YEARLY LICENSING FEE (USD \$\$\$\$\$\$) for the rights and services granted under this agreement with Vendor. Total Licensing Fee will cover all CLIENT games at VENUE NAME starting LAUNCH DATE to the conclusion of the END DATE.
- b. **Payment Terms:** The fee shall be payable in accordance with the following terms:
  - i. **Initial Payment:** Upon execution of this agreement, CLIENT agrees to pay seventy percent (70%) of the Fee, totaling LICENSING FEE AMOUNT (USD \$\$\$\$\$\$).
  - ii. **Final Payment:** The remaining thirty percent (30%) of the Fee, totaling LICENSING FEE AMOUNT (USD \$\$\$\$\$\$), shall be payable at the commencement of the FINAL PAYMENT DATE.
- c. **Payment Method:** All payments shall be made in US dollars by CLIENT to the Vendor via a payment method mutually agreed upon in writing by both parties.
- d. **Acknowledgement of Payment:** The Vendor acknowledges that receipt of the Initial Payment constitutes the Vendor's agreement to grant CLIENT the rights and services as stipulated in this agreement. The Vendor shall not be obligated to grant such rights and licenses until the Initial Payment is made in full.
- e. **Payment of Final Balance:** The final balance of the Fee is due FINAL PAYMENT DATE. Failure by CLIENT to make the Final Payment on or before the specified due date may result in a breach of this agreement, subjecting CLIENT to possible penalties or termination of the agreement at the Vendor's discretion.
- f. **No Royalties or Additional Fees:** The Fee set forth in this agreement is inclusive of all taxes, duties, levies, charges and assessments of any kind and CLIENT shall not be obligated to pay any additional amounts in the form of royalties or other fees, unless otherwise agreed upon in writing.

#### 5. Additional Terms.

- a. **Use of Photos:** Vendor hereby grants to CLIENT a perpetual, irrevocable, fully paid-up, royalty-free, worldwide right and license to use, reproduce, distribute, display, make, import and otherwise use and exploit all or any portion of the photos taken in connection with this Statement of Work and the Services (including, for example, all photos of fans or other persons captured at VENUE NAME).
- b. **Parties will collaborate on Marketing Campaigns:** Vendor agrees to collaborate with CLIENT marketing team, agencies or corporate partners to deliver creative marketing content, which may include in-venue, digital and social marketing campaigns. Vendor will provide specifications for any digital graphics and activations to the best of Vendor's

ability. All marketing efforts and content will be subject to the discretion and final approval of **CLIENT**.

- c. **Correspondence Approval:** Vendor will not send any communications (whether by email correspondence or otherwise) to any person whose email information was collected in connection with the Services set forth herein or in connection with photos taken or services performed at **CLIENT** games, without the prior written consent of **CLIENT**.
- d. **Client Support:** Vendor will support and advise on operations, marketing, data usage, and general Momento product collaboration for an average of three (3) hours per week. Vendor client support will be available for tech & operational support during all **CLIENT** home games.
- e. **Customer Support:** Customers utilizing Vendor's website will be able to request help or support which will direct customers to a Vendor support email address. Vendor will manage support claims for customers having trouble locating their seat/photos.
- f. **Customer Opt-Out:** Customers will have the option to "Opt-out" of the service with a button displayed on the home page of the website. If a customer selects the "Opt-out Button" the customer will then be presented an online form to clarify their seat information and opt their seat location from being accessible. Vendor's support will handle all opt-outs within 1-2 hours.

*[Signature Page Follows]*



IN WITNESS WHEREOF, the parties have caused this Statement of Work to be executed by their duly authorized representatives as of the Effective Date.

**MOMENTO LLC**

**CLIENT**

**BY:** \_\_\_\_\_

**BY:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**NAME:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**TITLE:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_