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## MASTER SUBSCRIPTION AGREEMENT

### For Subscription & Professional Services

(‘Non Disclosure Agreement (NDA)’, ‘Service Level Agreement (SLA)’ & ‘Privacy Policy’)

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This Master Subscription & Professional Services Agreement (“Agreement”) is for **Your** Use of Product and/or Services of **SalesBabu Business Solutions Pvt Ltd**, a Company incorporated under the Indian Companies Act, 1956 and having its Registered Office at No. 38/11, 3rd FLOOR, 3rd CROSS, G BLOCK, SAHAKAR NAGAR, BANGALORE Karnataka 560092 (Hereinafter called the “Service Provider” or “We” or “Us” or “Our” or “SalesBabu” or first part) and **You** (“You” or “Your” means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity, hereinafter called the “Customer” or “Client” or “You” or second part) jointly called the Party or Parties Specific Subscription & Professional Services to be provided to Customer, and Customer’s payment obligations for same, shall be set forth in one or more Statements of Work hereunder. This Agreement is effective between You and Us as of the date of You accepting this Agreement under the following terms & conditions.

This Agreement was last updated on 12<sup>th</sup> Oct 2013.

WHEREAS THIS MASTER SUBSCRIPTION AGREEMENT (“AGREEMENT”) GOVERNS YOUR PURCHASE AND USE OF OUR SERVICES.

IF YOU REGISTER FOR A FREE TRIAL FOR OUR SERVICES, THIS AGREEMENT WILL ALSO GOVERN THAT FREE TRIAL AS SPECIFICALLY PROVIDED BY SALESBABU FROM TIME TO TIME. .

AND WHEREAS BY ACCEPTING THIS AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR SIGNING THIS AGREEMENT OR BY CONTINUE USING OUR SERVICE(S), YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

The services shall NOT be available/accessible to the direct competitor of Salesbabu, except with the prior written consent of Salesbabu. In addition, You may not access the Services for the purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes

## 1. Definitions

### 1.1. “Subscription and Professional Services”

Shall mean work performed and/or subscription services extended by Service Provider to Customer pursuant to a Statement of Work under this Agreement. It shall also mean any work performed by the Service Provider and/or subscription services for Customer pursuant to a Statement of Work under this Agreement

**1.2. "Statement of Work"**

Shall mean Service Provider's standard form or email for ordering Subscription and Professional Services, which has been completed and executed by both parties, and which specifies the scope and schedule of Subscription and Professional Services to be performed and/or extended by Service Provider for Customer and the applicable fees. Each Statement of Work entered into hereunder shall be governed by the terms of this Agreement.

**1.3. "Services"**

Shall means the products and services that are ordered by You under a free trial or an Order Form and made available by us online via the customer login link at <http://www.salesbabu.com> and/or other web pages designated by Us, including associated offline components, as described in the related communications to You. "Services" exclude Non-SalesBabu Applications.

**1.4. "Users"**

Shall means individuals/Computer System(s)/Software System(s)/Company who are authorized by You to use the Services, for whom subscriptions to a Service have been ordered, and who have been supplied user identifications and passwords by You (or by Us at Your request). Users may include but are not limited to Your director(s), employees, consultants, contractors and agents, Outsourced agent(s)/agency and third parties with which You transact business.

**1.5. "We," "Us" or "Our"**

Shall means the SalesBabu Business Solutions Pvt Ltd company a Company incorporated under the Indian Companies Act, 1956

**1.6. "You" or "Your"**

Shall means the customer, company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

**1.7. "Your Data"**

Shall means all electronic data or information submitted by You to the Purchased Services.

**1.8. "First Part"**

Shall means the SalesBabu Business Solutions Pvt Ltd company a Company incorporated under the Indian Companies Act, 1956

**1.9. "Second part"**

Shall mean the customer, company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

**2. Ordering, Charges, Payment, Taxes****2.1. Who May Order**

Any legal person or Customer or a Company (recognised as "Customer Entity") may obtain Subscription and Professional Services from Service Provider under this Agreement by signing a Statement of Work or filling Online Order form, a Customer Entity agrees that any Subscription and Professional Services obtained pursuant to the Statement of Work are subject solely to the

provisions of this Agreement and the Statement of Work. Customer represents and warrants that any Customer Entity who purchases Subscription and Professional Services shall perform its obligations in accordance with the terms and conditions of this Agreement and the relevant Statement of Work

## **2.2. Fees for Subscription and Professional Services**

Unless otherwise expressly stated in the applicable Statement of Work, Subscription and Professional Services shall be provided on a time and materials ("T&M") basis at Service Provider's T&M rates in effect at the time the Subscription Services and/or Professional Services are performed. On a T&M engagement, if an estimated total amount is stated in the applicable Statement of Work, that amount is solely a good faith estimate for Customer's budgeting and Service Provider's resource scheduling purposes and not a guarantee that the work will be completed for that amount; the actual amount may vary. If the estimated amount is expended, Service Provider will continue to provide Subscription and Professional Services on a T&M basis under the same rates and terms for the agreed time period.

## **2.3. Incidental Expenses**

Customer shall reimburse Service Provider for material(s) and reasonable travel, administrative, and out-of-pocket expenses incurred in conjunction with the Subscription and Professional Services.

## **2.4. Invoicing and Payment**

Service Provider shall invoice Customer as annually, unless otherwise expressly stated in the applicable Statement of Work. Charges shall be payable annually and should be paid within seven (7) days from the date of the proforma invoice or invoice raised, and shall be deemed overdue if unpaid thereafter. Except for charges being disputed reasonably and in good faith, amounts remaining unpaid after the due date shall be subject to interest at 1.5% per month (fifteen or more days in a month shall be calculated as full one month) or the highest rate allowed by law if lower, from the due date until the amounts are paid. Customer shall issue a purchase order, or alternative document acceptable to Service Provider, or send an email confirmation, or order online through Service Provider's website, on or before commencement of Subscription and Professional Services under the applicable Statement of Work.

## **2.5. Taxes**

Any Taxes required to be paid by Service Provider as a result of the Subscription and Professional Services rendered hereunder (other than Taxes based on Service Provider's income) shall be billed to and paid by Customer.

## **3. Types of Information (and Privacy Policy)**

### **3.1. Personal Information**

We require customers who register to use the services ("Services") offered on our website to give us contact information, such as their name, company name, address, phone number, and email address, and billing information, such as billing name and address, and the number of users within the organization that will be using the services. At the time you express interest in attaining

additional information, or when you register for the service, we may also ask for additional personal information, such as title, department name, fax number, or additional company information, such as annual audited/unaudited financial data, number of employees, or industry. Customers can update their personal information at any time by logging into the Website and editing their Personal Information within the application. Customers can view their updated profile to confirm their edits have been made.

### **3.2. Non-Personal Information**

We may also collect non-personal information from you, such as your browser type, the URL of the previous website you visited, your ISP, operating system, and your Internet protocol (IP) Address ("Non-Personal Information"). Non-Personal Information cannot be easily used to personally identify you.

### **3.3. How Does Salesbabu Use this Information?**

Salesbabu uses the information, so collected, to set up services for individuals and their organizations. Customer email addresses and any personal customer information is not distributed or shared with any third parties. Separately, customers are also asked to provide an email address when registering for the service, in order to receive a username and password. We may also email information regarding updates to the service or company. We do not disclose the information provided to us to any third-party.

### **3.4. Ownership of Information**

Customer retains all rights, title and interest to its Information. We again re-confirm that the Customer is owner of its own data and not SalesBabu.

### **3.5. Status of Information on Customer discontinuing Salesbabu Services (or Return of Customer Information)**

In case of discontinuing SalesBabu Services, upon request by You made within 30 days after the effective date of termination of a Purchased Services subscription, We will make available to You for download a file of Your Data in excel format or other format along with attachments in their native format. After such 30-day period, We shall have no obligation to maintain or provide any of Your Data.

### **3.6. Third Party Sites**

The Salesbabu online applications may contain links to other Web sites. Salesbabu is not responsible for the privacy practices or the content of these other Web sites. Customers and visitors must check the individual policy statement of these others Web sites to understand their policies.

### **3.7. Correcting & Updating Your Information**

If customers need to update or change registration information they may do so by editing the user or organization record. To update a user profile or to discontinue the service and to have data returned, email to support@salesbabu.com.

## **4. Purchased Services (CRM & other products & Services)**

### **4.1 Provision of Purchased Services.**

We shall make the Purchased Services available to You in accordance to this Agreement and the relevant Order Forms during a subscription term. You agree that Your purchases hereunder are neither conditional on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Us regarding future functionality or features.

#### **4.2. User Subscriptions.**

Unless otherwise specified in the applicable Order Form, (i) Services are purchased as User subscriptions and may be accessed by no more than the specified number of Users, (ii) additional User subscriptions may be added during the applicable subscription term at the same pricing as that for the pre-existing subscriptions thereunder, prorated for the remainder of the subscription term in effect at the time the additional User subscriptions are added, and (iii) the added User subscriptions shall terminate on the same date as the pre-existing subscriptions. User subscriptions are for designated Users only and cannot be shared or used by more than one User but may be reassigned to new Users replacing former Users who no longer require ongoing use of the Services.

#### **4.3. Contract Property**

Service Provider hereby grants Customer a worldwide, perpetual, nonexclusive, non-transferable, royalty-free license to use during agreed subscription period, for its internal business purposes anything developed by Service Provider for Customer under this Agreement (“Contract Property”). Service Provider shall retain all ownership rights to the Contract Property.

### **5. Use of the Services**

#### **5.1. Our Responsibilities.**

We shall:

- (i) provide Our basic support for the Purchased Services to You at no additional charge, and/or upgraded support if purchased separately,
- (ii) use commercially reasonable efforts to make the Purchased Services available 24 hours a day, 7 days a week, except for:
  - (a) planned downtime (which We shall schedule to the extent practicable during the weekend hours, or
  - (b) any unavailability caused by circumstances beyond Our reasonable control, including without limitation, acts of God, acts of government, floods, fires, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Our employees), Internet service provider failures or delays, or denial of service attacks, and
- (iii) provide the Purchased Services only in accordance with applicable laws and government regulations.
- (iv) guarantee 99.5% uptime, other than previously scheduled routine maintenance and reasons mentioned in 5.1. (ii) (a) & (b).

#### **5.2. Protection of Your Data.**

We shall maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. We shall not

- (a) modify Your Data,

- (b) disclose Your Data except as compelled by law in accordance with Section referring to Compelled Disclosure or as expressly permitted in writing by You, or
- (c) access Your Data except to provide the Services and prevent or address service or technical problems, or at Your request in connection with customer support matters.

### 5.3. Your Responsibilities.

You shall

- (i) be responsible for Users' compliance with this Agreement,
- (ii) be responsible for the accuracy, quality and legality of Your Data and of the means by which You acquired Your Data,
- (iii) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Us promptly of any such unauthorized access or use, and
- (iv) use the Services only in accordance with the advised guidelines and applicable laws and government regulations. You shall not
  - (a) make the Services available to anyone other than Users,
  - (b) sell, resell, rent or lease the Services,
  - (c) use the Services to store or transmit infringing, libellous, or otherwise unlawful material, or to store or transmit material in violation of third-party privacy rights,
  - (d) use the Services to store or transmit Malicious Code,
  - (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, or (f) attempt to gain unauthorized access to the Services or their related systems or networks.
- (v) be governed by the applicable laws of India

### 5.4. Usage Limitations.

Services may be subject to other limitations, such as, for example, limits on disk storage space or other devices.

## 6. Fees and Payment For Purchased Services

### 6.1. Fees.

You shall pay all fees specified in all Order Forms hereunder. Except as otherwise specified herein or in an Order Form, (i) fees are based on services purchased and not actual usage, (ii) payment obligations are non-cancellable and fees paid are non-refundable, and (iii) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form. User subscription fees are based on monthly periods, payable annually, that begin on the subscription start date and each annually/monthly anniversary thereof; therefore, fees for User subscriptions added in the middle of a monthly period will be charged for that full monthly period and the monthly periods remaining in the subscription term.

### 6.2. Invoicing and Payment.

We will invoice You or raise Proforma Invoice in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 7 days from the invoice or proforma invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.

- 6.3. Suspension of Service and Acceleration.** If any amount owing by You under this or any other agreement for Our services is 15 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Our services to You until such amounts are paid in full. We will give You at least 7 days' prior notice that Your account is overdue, before suspending services to You.
- 6.5. Payment Disputes.** We shall provide an opportunity to be heard as per our sole discretionary powers under Section 6.3 (Suspension of Service and Acceleration) if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.
- 6.6. Taxes.** You are responsible for paying all Direct and Indirect Taxes as applicable and associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this paragraph, the appropriate amount shall be invoiced to and paid by You, unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For record purpose, We are solely responsible for taxes assessable against it based on Our income, property and employees.

## 7. Proprietary Rights

### 7.1. Reservation of Rights in Services.

Subject to the limited rights expressly granted hereunder, We reserve all rights, title and interest in and to the Services, including all related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.

### 7.2. Restrictions.

You shall not (i) permit any third party to access the Services except as permitted herein or in an Order Form, (ii) create derivative works based on the Services except as authorized herein, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Your own intranets or otherwise for Your own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to (a) build a competitive product or service, or (b) copy any features, functions or graphics of the Services.

### 7.3. Your Data.

Subject to the limited rights granted by You hereunder, **We acquire NO right, title or interest** from You under this Agreement in or to Your Data, including any intellectual property rights therein.

### 7.4. Suggestions by Customer.

We shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests (paid or free), recommendations or other feedback provided by You, including Users, relating to the operation of the Services.

## 8. Confidentiality

### 8.1. Definition of Confidential Information.

As used herein, "**Confidential Information**" means all confidential information disclosed by a party ("**Disclosing Party**") to the other party ("**Receiving Party**"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information shall include Your Data; Our Confidential Information shall include the Services; and Confidential Information of each party shall include the terms and conditions of this Agreement and all Order Forms, as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information (other than Your Data) shall not include any information that

- (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party,
- (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party,
- (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or
- (iv) was independently developed by the Receiving Party.

### 8.2. Protection of Confidential Information.

The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates and their legal counsel and accountants without the other party's prior written consent.

### 8.3. Compelled Disclosure.

The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.

## 9. Limitation of Liability

### Indemnity, Warranty, Remedy, Limitation of Liability

#### 9.1. Indemnification

You agree to indemnify and hold harmless SalesBabu, its officers, directors, employees, suppliers, associates, consultants, advisors, other customers and affiliates, from and against any losses, damages, fines and expenses (including attorney's fees and costs) arising out of or relating to any claims that you have used the Services in violation of another party's rights, in violation of any law, in violations of any provisions of the Terms, or any other claim related to your use of the Services.

#### 9.2. Warranties



You expressly understand and agree that the use of the Services is at your sole risk. The Services are provided on an as-is-an-as-available basis. SalesBabu expressly disclaims all warranties of any kind, whether expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular purpose. We make no warranty that the services will be uninterrupted, timely, secure, or virus free. Use of any material downloaded or obtained through the use of the services shall be at your own discretion and risk and you will be solely responsible for any damage to your computer system, mobile, telephone, wireless device or data that results from the use of the Services or the download of such material. No advice or information, whether written or oral, obtained by you from SalesBabu, its employees or representatives shall create any warranty not expressly stated in the terms.

### **9.3. Limitation of Liability.**

Neither party's liability with respect to any single incident arising out of or related to this agreement (whether in contract or tort or under any theory of liability) shall exceed You hereunder in the 12 months preceding the incident, provided that in no event shall either party's aggregate liability arising out of or related to this agreement (whether in contract or tort or under any other theory of liability) exceed the total amount paid by You hereunder for last 12 months services charges for subscription or professional services. The foregoing shall not limit your payment obligations under section referring to Fees and Payment for Purchased Services.

### **9.4. Exclusion of Consequential and Related Damages.**

In no event shall either party have any liability to the other party for any lost profits or revenues or for any indirect, special, incidental, consequential, cover or punitive damages however caused, whether in contract, tort or under any other theory of liability, and whether or not the party has been advised of the possibility of such damages. The foregoing disclaimer shall not apply to the extent prohibited by applicable law.

## **10. Term and Termination**

### **10.1. Term of Agreement.**

This Agreement commences on the date You accept it Or start using Our services, whichever date falls prior, and continues until all User subscriptions granted in accordance with this Agreement have expired or been terminated. If You elect to use the Services for a free trial period and do not purchase a subscription before the end of that period, this Agreement will terminate at the end of the free trial period.

### **10.2(a). Term of Purchased User Subscriptions.**

User subscriptions purchased by You commence from the date of first release of the agreed services by us or otherwise stated specifically in the applicable Order Form and continue for the subscription term. All User subscriptions shall automatically renew for additional period(s) equal to at least or minimum one year, unless otherwise specified in the order form. Either party may give the other, notice of non-renewal at least 30 days before the end of the relevant subscription term. The per-unit pricing during any such renewal term shall be the same as that during the prior term unless We have given You written notice of a pricing increase at least 15 days before the end of such prior term, in which case the pricing increase shall be effective upon renewal and thereafter.

**10.2(b). Rate Protection to Customer**

Any pricing increase (as per 10.2a.) shall not exceed 10% of the pricing for the relevant Services in the immediately prior subscription term, **unless** the pricing in such prior term was designated in the relevant Order Form as promotional or one-time.

**10.3. Termination for Cause.**

A party may terminate this Agreement for cause: (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

**10.4. Payment upon Termination.**

Upon any termination, You shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination.

**10.5. Return of Your Data.**

Upon request by You made within 30 days after the effective date of termination of a Purchased Services subscription, We will make available to You for download a file of Your Data in excel or any other format supported by our application along with attachments in their native format. After such 30-days period, We shall have no obligation to maintain or provide any of Your Data.

**10.6. Surviving Provisions.**

Section of this agreement referring to Fees and Payment for Purchased Services, Proprietary Rights, Confidentiality, Disclaimer, Indemnification, Limitation of Liability, Refund or Payment upon Termination, Return of Your Data and Governing Law and Jurisdiction shall survive any termination or expiration of this Agreement.

**11. Governing Law and Jurisdiction**

Service Provider and Customer agree that this Agreement shall be governed by the internal laws of the Government of India and any legal action or proceeding relating to this Agreement shall be instituted in a state court in Bangalore, Karnataka, India.

**12. Entire Agreement**

This Agreement constitutes the complete agreement between the parties and supersedes all previous and contemporaneous agreements, proposals or representations, written or oral, concerning the subject matter thereof.

**13. Notice**

The address and contact details of the parties in case any notice, demand or other communication is to be delivered to them by any of the parties to the agreement will include the complete postal address, telephone, fax, etc. Emails as a form of notices are registered or updated with the us.

**14. Variation**

Variation to this agreement shall be binding on any of the parties only if and to the extent, such variation is recorded in a written document executed between the parties.

**15. Force Majeure**

Any loss of data by acts of God or forces of nature which include, but are not limited to any Act of God, strike, lockout, labour dispute, epidemic, cyclone, flood, earthquake, drought, fire, explosion, atmospheric disaster, war, riot, revolution, etc. In times like these, it becomes impossible to perform one's obligations under an agreement. Hence, the Force Majeure Clause provides that no party shall be liable for any default or delay in the performance of his obligations when such default or delay is due to any contingency beyond our reasonable control.

**16. Changes to this Master Subscription Agreement**

We reserve the right to make change(s) to this Master Subscription Agreement from time to time which shall be notified to you by posting a notice on the Website Or posting a notice in your account when you first login after we have made changes. If you receive notification of a change in our Master Subscription Agreement, you must review the new agreement carefully to make sure you understand and accept our practices and procedures to continue using our services.

Our goal is to respect your privacy. To help us improve our privacy policy, please send us your feedback. We welcome your comments and questions. You may contact us by email at: [info@salesbabu.com](mailto:info@salesbabu.com)

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