

Pax8 Master Service Agreement

This Master Service Agreement (“Agreement”) sets forth the terms and conditions that govern end customer access to and use of the Services, as defined below.

This Agreement is between Pax8, Inc. (“Pax8”) and you or the entity you represent and all of the End Users using the Services through your account (“you” or “your”).

By accepting this Agreement, either by clicking a box indicating your acceptance or by accessing the Services or the Pax8 Command Console, you agree to be legally bound by the terms and conditions of this Agreement and the Pax8 Privacy Policy. 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 that entity.

1. Definitions.

- 1.1. “Content” means software, data, text, audio, video, images or other media.
- 1.2. “End User” means any individual or entity that directly or indirectly through another user accesses the Services under your account.
- 1.3. “Pax8 Command Console” means the online platform developed by Pax8 for ordering, provisioning, and billing cloud-based products and services.
- 1.4. “Pax8 Partner” means an entity appointed, by separate agreement with Pax8, as an independent, non-exclusive authorized reseller of Pax8 Products.
- 1.5. “Pax8 Products” are cloud-based services that are catalogued and packaged specifically for sale through the Pax8 Command Console.
- 1.6. “Services” includes the Pax8 Products and related services provided by Pax8, including services provided through the Pax8 Command Console and the Pax8 website.
- 1.7. “Suggestions” means all suggested improvements to the Services that you provide to us.
- 1.8. “Your Content” means Content you or any End User run on the Services, upload to the Services, or otherwise transfer, process, use or store in connection with the Services.

2. Scope; Requirements; Account; Security; Use.

- 2.1. Generally. Pax8 grants you a non-exclusive, non-sublicensable, non-transferable, non-assignable, revocable license for the term of this Agreement to access and use the Services.
- 2.2. Requirements. Use of the Services requires compatible devices, Internet access, and certain software (fees may apply); may require periodic updates; and may be affected by the performance of these factors. High-speed Internet is strongly recommended for regular use. You agree that meeting these requirements, which may change from time to time, is your responsibility.
- 2.3. Account Information. You agree to maintain accurate account information, and to promptly provide updates when any of your account information changes. You agree that Pax8 may store and use the account information you provide for use in maintaining and billing fees to your account.

- 2.4. Account Security and Activity. You are solely responsible for maintaining the confidentiality and security of your account information, and for all activities that occur on or through your account. Pax8 shall not be responsible for any losses arising out of the unauthorized use of your account.
- 2.5. Use of the Services. You agree that the Services and certain Pax8 Products include security technology that limits your use of the Pax8 Products and that, whether or not the Pax8 Products are limited by security technology, you shall use the Pax8 Products in compliance with the applicable usage rules established by Pax8 and its licensors (“Usage Rules”), and that any other use of the Pax8 Products may constitute a copyright infringement. Pax8 reserves the right to modify the Usage Rules at any time. You agree not to violate, circumvent, reverse-engineer, decompile, disassemble, or otherwise tamper with any of the security technology related to such Usage Rules for any reason, or to attempt or assist another person to do so. Usage Rules may be controlled and monitored by Pax8 for compliance purposes, and Pax8 reserves the right to enforce the Usage Rules without notice to you. You shall not access or attempt to access an account that you are not authorized to access. You agree not to modify the Services in any manner or form, or to use modified versions of the Pax8 Products, for any purposes including obtaining unauthorized access to the Services. Violations of system or network security may result in civil or criminal liability.
- 2.6. Usage Rules. (a) You may only use the Services for internal business purposes. (b) You may not use the Services for any illegal or harmful activities. (c) You may not access or use the Services in any manner that could damage, disable, overburden, or impair them, or interfere with any network functions. (d) You may not attempt to gain unauthorized access to any servers, accounts, computer systems, or networks that are not associated with your account.
- 2.7. No High Risk Use. The Services are not fault-tolerant and are not guaranteed to be error-free or to operate uninterrupted. You agree not to use the Services in any application or situation where the Services’ failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage (“High Risk Use”). High Risk Use does not include utilization of the Services for administrative purposes, to store configuration data, engineering and/or configuration tools, or other non-control applications, the failure of which would not result in death, personal injury, or severe physical or environmental damage. These non-controlling applications may communicate with the applications that perform the control, but must not be directly or indirectly responsible for the control function. You agree to indemnify and hold harmless Pax8 and its licensors from any third-party claim arising out of any End Users’ use of the Services in connection with any High Risk Use.

3. Modifications.

- 3.1. To the Services. Pax8 reserves the right to modify, suspend or discontinue any of the Services (including the Services as a whole) or modify or remove features or functionality of the Services from time to time. Pax8 will use commercially reasonable efforts to notify you of any material modification or discontinuation of the Services, but Pax8 will not be liable to you or to any third party should it exercise such rights.

- 3.2. To this Agreement. Pax8 may modify any aspect of this Agreement at any time, effective immediately upon posting such modifications. The current version of this Agreement is available at: www.pax8.com/terms.

4. Subscription Term.

- 4.1. Term. Terms for the Services are set forth in the Pax8 Command Console. For Services available and ordered on a month-to-month or annual basis (including one, two or three year options), the Subscription Term begins on the first day of the calendar month following the order date and runs for the designated term (Initial Term).
- 4.2. Partial Month. Any fees for subscription Services provided for a partial month prior to the beginning of the Initial Term shall be prorated based on the number of days remaining in the calendar month.
- 4.3. Renewal. The Subscription Term automatically renews for successive terms equal to the Initial Subscription Term under the same conditions and financial commitments (Renewal Term) unless you cancel the Services prior to the beginning of the Renewal Term, or either party terminates this Agreement in accordance with Section 8.
- 4.4. Additional Licenses. Any fees for licenses added to an existing subscription during the Initial Term or a Renewal Term shall be prorated based on the time remaining in the existing Subscription Term, such that the term for the additional licenses co-terminates with the existing Subscription Term.

5. Pricing; Payments; Billing.

- 5.1. Fees. Fees for the Services are set forth in the Pax8 Command Console. Fees initially charged upon ordering any subscription Service will be effective for the Initial Term and each Renewal Term, provided that Pax8 reserves the right to increase these fees or add new fees at any time upon 15 days' notice to you.
- 5.2. Payment Authorization. You agree to pay Pax8 current fees for the Services you order using one of the payment methods Pax8 supports. You authorize Pax8 to charge automatically renewing subscription fees for the Initial Term and each Renewal Term, unless you cancel the Services before the beginning of the Renewal Term. Pax8 will not issue a refund or credit for any cancellation or usage reductions subsequent to the billing date. Payments due to Pax8 shall be made without setoff or counterclaim, and without any deduction or withholding. You agree that you will not dispute scheduled transactions with your bank or credit card company, so long as the transactions correspond to the fees for the Services you order. You further agree to notify Pax8 in writing of any changes in your account information at least 15 days prior to the next billing date.
- 5.3. Billing. Pax8 will bill you on or before the fifth day of each calendar month for: 1) advance payment of recurring fees for Services with Subscription Terms beginning that month, and 2) any non-recurring fees incurred during the previous month. Non-recurring fees include, as applicable, any prorated amount for a partial term of a new Service, fees for licenses added to an existing subscription during the Subscription Term, and any usage-based charges.

- 5.4. Late Payments. Amounts not paid to Pax8 when due will accrue interest at a rate equal to one and one-half percent (1.5%) per month or the highest rate permitted by applicable law, whichever is lower. Upon the nonpayment of any amounts due, Pax8 reserves the right to: (a) suspend your right to access the Services; and/or (b) cease accepting new orders.

6. Taxes.

All fees are exclusive of taxes, duties, levies, tariffs, and other governmental charges (including without limitation, sales, use and value-added taxes) (collectively, "Taxes"). You are ultimately responsible for payment of all Taxes and any related interest and/or penalties resulting from any payment of fees hereunder, other than any Taxes based on Pax8's net income. You acknowledge and agree that Pax8 will not collect taxes unless otherwise required by law, and you agree to remit any and all Taxes due pursuant to applicable law.

7. Temporary Suspension.

- 7.1. Generally. Pax8 may suspend your right to access or use any portion or all of the Services immediately upon notice to you if Pax8 determines: (a) your use of the Services: (i) poses a security risk to the Services or any third party, (ii) may adversely impact the Services, (iii) may subject Pax8, its affiliates, or any third party to liability, (iv) may be fraudulent, or (v) otherwise violates the Usage Rules; (b) you are in breach of this Agreement; (c) you are delinquent on your payment obligations for the Services; or (d) you have ceased operations, made an assignment for the benefit of creditors or similar disposition of your assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding.
- 7.2. Effect of Suspension. If Pax8 suspends your right to access or use any portion of the Services: (a) you remain responsible for all fees and charges you have incurred through the date of suspension; and (b) you remain responsible for any applicable fees and charges for any Services to which you continue to have access, as well as any applicable storage fees and charges, and fees and charges for in-process tasks completed after the date of suspension.
- 7.3. Remedy Not Exclusive. Pax8's right to suspend your access to or use of the Services is in addition to its right to terminate this Agreement pursuant to Section 8. Pax8 may terminate this agreement at any time if it determines that grounds for suspension exist pursuant to Section 7.1.

8. Term; Termination.

- 8.1. Term. The term of this Agreement commences on the date you accept it and continues until termination.
- 8.2. Termination for Convenience. You may terminate this Agreement at any time by cancelling all subscriptions for the Services and providing written notice to Pax8 pursuant to Section 13.4. All fees paid are nonrefundable. If you cancel before the expiration of the Subscription Term, you will not receive a refund of the subscription fees or any prorated portion thereof. Termination does not cancel or waive any fees you owe Pax8 or incur prior to or upon termination. Pax8 may terminate this Agreement without cause by providing you 30 days' notice.
- 8.3. Termination for Cause.

(a) By Either Party. Either party may terminate this Agreement for cause upon 30 days' advance notice to the other party if there is any material default or breach of this Agreement by the other party, unless the defaulting party has cured the material default or breach within the 30-day notice period.

(b) By Pax8. Pax8 may also terminate this Agreement immediately upon notice to you (i) for cause, if any act or omission by you results in a suspension described in Section 7.1, (ii) if Pax8's relationship with a third party partner who provides software or other technology Pax8 uses to provide the Services expires, terminates or requires Pax8 to change the way it provides the software or other technology as part of the Services, (iii) if Pax8 believes providing the Services could create a substantial economic or technical burden or material security risk for it, (iv) in order to comply with the law or requests of governmental entities, or (v) if Pax8 determines use of the Service Offerings by you or Pax8's provision of any of the Services to you has become impractical or unfeasible for any reason.

8.4. Effect of Termination. Upon termination of this Agreement, all your rights under this Agreement shall immediately terminate. You remain responsible for all fees and charges you have incurred through the date of termination. Rights and obligations that are of a continuing nature shall survive, including, without limitation, obligations related to proprietary information, indemnification, and limitation of liability.

9. Proprietary Rights.

9.1. Your Content. As between you and Pax8, you or your licensors own all right, title, and interest in and to Your Content. Except as provided in this Section 9.1, Pax8 obtains no rights under this Agreement from you or your licensors to Your Content, including any related intellectual property rights. Notwithstanding the foregoing, you consent to Pax8's use of Your Content to provide the Services to you and any End Users. Pax8 may disclose Your Content to provide the Services to you or any End Users or to comply with any request of a governmental or regulatory body (including subpoenas or court orders).

9.2. Adequate Rights. You represent and warrant to Pax8 that: (a) you or your licensors own all right, title, and interest in and to Your Content; (b) you have all rights in Your Content necessary to grant the rights contemplated by this Agreement; and (c) none of Your Content, your or other End Users' use of Your Content, or your use of the Services will violate this Agreement.

9.3. Services License. As between you and Pax8, Pax8 or its affiliates or licensors own and reserve all right, title, and interest in and to the Services. Pax8 grants you a limited, revocable, non-exclusive, non-sublicensable, non-transferrable license to access and use the Services solely in accordance with this Agreement during the Term. Except as provided in this Section 9.3, you obtain no rights under this Agreement from Pax8 or its licensors to the Services, including any related intellectual property rights.

9.4. Separate Licenses. Certain software components of the Services may be provided to you under a separate license. In the event any separate license is more restrictive, or there is a conflict between this Agreement and any separate license, the separate license controls with respect to your right to access and use the applicable component of the Services. Any

Pax8 Products you purchase are subject to specific product terms, as established by each product vendor. Such terms will be made available to you via the Pax8 Command Console.

- 9.5. License Restrictions. You agree not to use the Services in any manner or for any purpose other than those expressly permitted by this Agreement. You will not, and will not attempt to: (a) modify, alter, tamper with, repair, or otherwise create derivative works of any portion or component of the Services; (b) reverse engineer, disassemble, or decompile the Services or apply any other process or procedure to derive the source code of any software included in the Services; (c) access or use the Services in a way intended to avoid incurring fees or exceeding usage limits or quotas; or (d) resell or sublicense the Services. All licenses granted to you in this Agreement are conditioned on your continued compliance with this Agreement and will immediately and automatically terminate if you do not comply with any term or condition of this Agreement. During and after the Term, you will not assert, nor will you authorize, assist, or encourage any third party to assert, against Pax8 or any of its affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding any of the Services.
- 9.6. Trademarks. Pax8, its logo and other Pax8 trademarks, service marks, graphics, and logos used in connection with the Services are trademarks of Pax8. Other trademarks, service marks, graphics, and logos used in connection with the Services may be the trademarks of their respective owners. You are granted no right or license with respect to any of the previously mentioned trademarks and any use of such trademarks may subject you to civil and criminal penalties for trademark infringement.
- 9.7. Suggestions. If you provide any Suggestions to Pax8 or its affiliates, Pax8 will own all right, title, and interest in and to the Suggestions, even if you have designated the Suggestions as confidential. Pax8 and its affiliates will be entitled to use the Suggestions without restriction. You hereby irrevocably assign to Pax8 all right, title, and interest in and to the Suggestions and agree to provide Pax8 any assistance it may require to document, perfect, and maintain its rights in the Suggestions.
- 9.8. Copyrights. All copyrights in and to the Services (including without limitation, the compilation of Content, postings, links to other Internet resources, and descriptions of those resources) and related software are owned by Pax8 and/or its licensors, who reserve all their rights in law and equity. THE USE OF THE SERVICES, EXCEPT FOR USE OF THE SERVICES AS PERMITTED IN THIS AGREEMENT, IS STRICTLY PROHIBITED AND INFRINGES ON THE INTELLECTUAL PROPERTY RIGHTS OF OTHERS AND MAY SUBJECT YOU TO CIVIL AND CRIMINAL PENALTIES, INCLUDING POSSIBLE MONETARY DAMAGES, FOR COPYRIGHT INFRINGEMENT.

10. Disclaimers.

YOU EXPRESSLY AGREE THAT YOUR USE OF, OR INABILITY TO USE, THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED “AS IS.” PAX8 AND ITS AFFILIATES AND LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SERVICE OFFERINGS OR THE THIRD-PARTY

CONTENT, INCLUDING ANY WARRANTY THAT THE SERVICE OFFERINGS OR THIRD-PARTY CONTENT WILL BE UNINTERRUPTED, ERROR-FREE OR FREE OF HARMFUL COMPONENTS, OR THAT ANY CONTENT, INCLUDING YOUR CONTENT OR THIRD-PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. EXCEPT TO THE EXTENT PROHIBITED BY LAW OR AS OTHERWISE SET FORTH HEREIN, PAX8 AND ITS AFFILIATES AND LICENSORS DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

11. Indemnification.

11.1. General. YOU WILL DEFEND, INDEMNIFY, AND HOLD HARMLESS PAX8, ITS AFFILIATES AND LICENSORS, AND EACH OF THEIR RESPECTIVE EMPLOYEES, OFFICERS, DIRECTORS, AND REPRESENTATIVES FROM AND AGAINST ANY CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES) ARISING OUT OF OR RELATING TO ANY THIRD PARTY CLAIM CONCERNING: (a) YOUR USE OF THE SERVICES; (b) BREACH OF THIS AGREEMENT OR VIOLATION OF APPLICABLE LAW BY YOU; (c) YOUR CONTENT OR THE COMBINATION OF YOUR CONTENT WITH OTHER APPLICATIONS, CONTENT OR PROCESSES, INCLUDING ANY CLAIM INVOLVING ALLEGED INFRINGEMENT OR MISAPPROPRIATION OF THIRD-PARTY RIGHTS BY YOUR CONTENT OR BY THE USE, DEVELOPMENT, DESIGN, PRODUCTION, ADVERTISING OR MARKETING OF YOUR CONTENT; OR (d) A DISPUTE BETWEEN YOU AND ANY END USER. IF PAX8 OR ITS AFFILIATES ARE OBLIGATED TO RESPOND TO A THIRD-PARTY SUBPOENA OR OTHER COMPULSORY LEGAL ORDER OR PROCESS DESCRIBED ABOVE, YOU WILL ALSO REIMBURSE PAX8 FOR REASONABLE ATTORNEYS' FEES, AS WELL AS ITS EMPLOYEES' AND CONTRACTORS' TIME AND MATERIALS SPENT RESPONDING TO THE THIRD-PARTY SUBPOENA OR OTHER COMPULSORY LEGAL ORDER OR PROCESS AT PAX8'S THEN-CURRENT HOURLY RATES.

11.2. Process. Pax8 will promptly notify you of any claim subject to Section 11.1, but its failure to promptly notify you will only affect your obligations under Section 11.1 to the extent that its failure prejudices your ability to defend the claim. You may: (a) use counsel of your choice with Pax8's written consent; and (b) settle any claim as you deem appropriate; provided that you obtain Pax8's written consent before entering into any settlement. Pax8 may also assume control of the defense and settlement of the claim at any time.

12. Limitations of Liability.

PAX8 AND ITS AFFILIATES OR LICENSORS WILL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR DATA) ARISING FROM YOUR USE OF ANY OF THE SERVICES OR FOR ANY OTHER CLAIM RELATED IN ANY WAY TO YOUR USE OF

THE SERVICES, EVEN IF PAX8 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. FURTHER, NEITHER PAX8 NOR ANY OF ITS AFFILIATES OR LICENSORS WILL BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (a) YOUR INABILITY TO USE THE SERVICES, INCLUDING AS A RESULT OF ANY (i) TERMINATION OR SUSPENSION OF THIS AGREEMENT OR YOUR USE OF OR ACCESS TO THE SERVICES, (ii) PAX8'S DISCONTINUATION OF ANY OR ALL OF THE SERVICES, OR ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF THE SERVICES FOR ANY REASON, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS; (b) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (c) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY YOU IN CONNECTION WITH THIS AGREEMENT OR YOUR USE OF OR ACCESS TO THE SERVICES; OR (d) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF YOUR CONTENT OR OTHER DATA. BECAUSE SOME STATES OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR THE LIMITATION OF LIABILITY FOR CONSEQUENTIAL OR INCIDENTAL DAMAGES, IN SUCH STATES OR JURISDICTIONS, PAX8'S LIABILITY SHALL BE LIMITED TO THE EXTENT PERMITTED BY LAW. IN ANY CASE, PAX8'S AND ITS AFFILIATES' AND LICENSORS' AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT YOU ACTUALLY PAID PAX8 UNDER THIS AGREEMENT FOR THE SERVICE THAT GAVE RISE TO THE CLAIM DURING THE TWO (2) MONTHS PRECEDING THE CLAIM.

13. Miscellaneous.

- 13.1. Force Majeure. Pax8 and its affiliates shall not be liable for any breach of this Agreement caused by matters beyond their reasonable control, including without limitation, acts of God, fire, lightning, explosion, war, disorder, flood, weather of exceptional severity, terrorist attacks, or acts of Government or other authorities or regulatory bodies.
- 13.2. Jurisdiction; Governing Law. Jurisdiction and venue for any legal dispute arising from this Agreement will be the Colorado state courts, or the United States Federal Court for the District of Colorado. State law issues concerning the construction, interpretation, and performance of these terms and conditions shall be governed by the substantive laws of the State of Colorado without reference to its choice of law rules.
- 13.3. Attorney and Expert Fees. The prevailing party in any litigation or arbitration arising out of this Agreement will be entitled to recover its reasonable attorney and expert fees, costs and related expenses.
- 13.4. Notices.
 - (a) To You. Pax8 may provide any notice to you under this Agreement by: (i) posting a notice on the Pax8 Command Console; or (ii) sending a message to the email address then associated with your account. Notices Pax8 provides by posting on the Pax8 Command Console will be effective upon posting, and notices it provides by email will be effective when it sends the email. It is your responsibility to keep your email address current and to review the Pax8 Command Console regularly. You will be deemed to have received any

email sent to the email address then associated with your account when Pax8 sends the email, whether or not you actually receive the email.

(b) To Pax8. All notices and communications pursuant to this Agreement must be in writing and in the English language and must be delivered: (i) by electronic mail to legal@pax8.com; (ii) in person; (iii) by a nationally recognized next day courier service; or (iv) by first class registered or certified mail, postage prepaid. Pax8's current address is: Pax8, Inc., 6400 S. Fiddlers Green Circle, Suite 1500, Greenwood Village, CO 80111.

- 13.5. No Waivers. Pax8's failure to enforce any term of this Agreement will neither constitute a waiver of that term, nor limit its right to insist on strict adherence to that term or any other term. Any waiver must be writing.
- 13.6. Severability. If any portion of this Agreement is held to be or becomes invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect. Any invalid or unenforceable provisions shall be modified to the minimum extent necessary to best accomplish the original objectives of the provision within the limits of applicable law.
- 13.7. Enforcement. Pax8 reserves the right to take steps it believes are reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement. You agree that Pax8 has the right, without liability to you, to disclose any account information to law enforcement authorities, government officials, and/or a third party, as Pax8 believes is reasonably necessary or appropriate to enforce and/or verify compliance with any part of this Agreement (including without limitation, Pax8's right to cooperate with any legal process relating to your use of the Services or the Pax8 Products, and/or a third party claim that your use of the Services and/or the Pax8 Products is unlawful and/or infringes such third party's rights).