

## **Pax8 Master Marketing Services Agreement**

BY AGREEING TO A DOCUMENT (AN "ORDERING DOCUMENT" OR AN "SOW") INCORPORATING THIS PAX8 MASTER MARKETING SERVICES AGREEMENT ("THE TERMS") PAX8 AND COMPANY AGREE THAT THESE TERMS SHALL GOVERN THE RELATIONSHIP BETWEEN THE PARTIES AS TO ANY PAX8 PRODUCTS OR SERVICES PROVIDED OR TO BE PROVIDED TO COMPANY AS SET FORTH IN SUCH ORDERING DOCUMENT OR SOW. AS TO ANY PARTICULAR ORDERING DOCUMENT OR SOW, THE ORDERING DOCUMENT OR SOW AND THE TERMS TOGETHER CONSTITUTE THE AGREEMENT OF THE PARTIES AND ARE REFERRED TO COLLECTIVELY HEREIN AS THE "AGREEMENT." IN THE EVENT OF ANY CONFLICT BETWEEN THE ORDERING DOCUMENT, AN SOW, AND THESE TERMS, THESE TERMS SHALL PREVAIL UNLESS THE ORDERING DOCUMENT OR SOW EXPRESSLY PROVIDES THAT IT IS MODIFYING THESE TERMS WITH RESPECT TO SUCH AGREEMENT.

Company and Pax8 agree as follows:

"Event" means the Pax8-organized event identified in the Ordering Document or an SOW.

"Marks" means trademarks, service marks, words, symbols, terms, logos, emblems, designs, designations, or trade dress.

"Pax8" means Pax8 Inc. or one of its affiliates, as set forth in the Ordering Document or an SOW.

"Space" means the booth(s), exhibit space, meeting rooms and/or hospitality rooms assigned to Company by Pax8.

"Company" means the party to whom Pax8 is to provide products or services pursuant to the Ordering Document or SOW (whether identified as "Company", "Vendor," "customer", "client" or similar designation in the Ordering Document or SOW). If "Company" includes more than one legal person, the obligations imposed upon each shall be joint and several. The act of, notice from or to, or signature of any one or more of the persons included within Company shall be binding on all such persons with respect to all rights and obligations under this Agreement, including but not limited to any renewal, extension, termination, or modification of this Agreement.

"Venue" means the event venue specified in an Ordering Document or an SOW.

### **1. SERVICES**

1.1 Pax8, directly or through an affiliate, agrees to provide to Company the products and/or services set forth in the Ordering Document or the applicable SOW (the "Services"). The Services may include information (the "Licensed Materials") and/or the access to and/or use of software or other technology (the "Pax8 Technology"). Subject to the terms and conditions herein, Pax8 grants to Company a non-exclusive, non-transferrable license to access and use the Services in accordance with this Agreement and during the Term of this Agreement.

1.2 The Services will be provided as is and are updated and amended throughout the Term. Information provided as part of any Licensed Materials may be updated on an ongoing basis and provided according to the criteria used to define the scope of the Services. Company understands and acknowledges that the contents of Licensed Materials will change over time as the data is updated, and that at any given time it has a right to access and use the data to which it is subscribed as it exists at that time. Certain portions of the Services may be provided by Pax8's third-party licensors, and Pax8's ability to provide such information may be subject to the willingness of such licensors to continue to contract with Pax8. Features and functions of the Pax8 Technology are provided "as is" and as they may be modified, supplemented, or removed from time to time in Pax8's sole discretion. Pax8 shall have no liability to Company for any modification to any Service, provided that the product or service provided substantially conforms to the description in the Ordering Document or applicable SOW.

1.3 Ownership. Company acknowledges and agrees that, as between Company and Pax8, the Licensed Materials, the Pax8 Technology, and any related documentation (including, without limitation, the content, layout, functions, design, appearance, trademarks, service marks, copyrights, patents, and other intellectual property comprising the Licensed Materials or Pax8 Technology) are the property of Pax8, whether or not they are trademarked, copyrighted, or patented. Company acknowledges and agrees that this Agreement does not transfer any ownership, right, title, or interest in the Licensed Materials or Pax8 Technology, nor any part thereof, except the limited license provided hereunder, and Company expressly disclaims and waives any and all claims to any ownership interest in any such information or materials. This includes, without limitation, any Licensed Materials that Company downloads, prints, saves, or incorporates into other materials. Company further acknowledges and agrees that the Licensed Materials, in whole or in part, are unique, special, and valuable. Subject to the limited rights expressly granted hereunder, Pax8, its affiliates and/or its licensors reserve all right, title, and interest in and to the Licensed Materials and Pax8 Technology, including all related intellectual property rights. No rights are granted to Company hereunder other than as expressly set forth herein.

1.4 Each party grants to the other party a non-exclusive, non-transferable, royalty-free license to use and reproduce the other party's Marks, as herein provided, as such Marks may be altered by the other party from time to time, as may be necessary for the parties to perform their obligations under this Agreement. Each party agrees that the use of the other

party's Marks shall be of the high standard and of such style, appearance and quality as is consistent with the image of the respective owner's use of the Marks generally. All use of the other party's Marks and the goodwill generated thereby shall inure to the benefit of the respective owner. Each licensee hereby acknowledges the respective owner's rights and interests in the owner's Marks and agrees not to claim any right, title or interest in or to such Marks or to at any time challenge or attack the owner's rights in or to such Marks for any reason whatsoever.

1.5 Each licensing party, or its licensor, shall retain all rights, title and interest in and to all of the information, content, data, designs, materials and all copyrights, trademark rights and other proprietary rights thereto, provided to the other party pursuant to this Agreement. Except as expressly provided herein, no other right or license with respect to any copyright, trademark rights or other proprietary rights is granted under this Agreement. All rights not expressly granted hereunder by a party are expressly reserved to such party and its licensors and information and content providers.

1.6 Each party must obtain the other party's prior written approval (which shall be reasonable and prompt and shall not be unreasonably withheld or delayed) for all promotional and advertising material bearing the other party's Marks or otherwise marketing the sponsorship prior to the initial use of such materials. The party from whom approval is sought shall provide such approval within ten business days of receipt of such materials; provided, however, in exigent circumstances, the party seeking approval shall provide the other party with written notice describing the exigent circumstance, the ten business day period shall be reduced to three business days. If the party from whom approval is sought does not provide approval within the ten business day period (or the three business day period if written notice has been provided of an exigent circumstance), the materials shall be deemed disapproved.

1.7 Upon termination or expiration of this Agreement for any reason, the parties shall immediately discontinue any and all use of the other party's Marks.

1.8 Space Assignments. In the event Company signs an Ordering Document or SOW regarding a marketing event sponsorship, Pax8 reserves the right to assign booths and other Event space. Pax8 shall try to accommodate location requests but makes no guarantees with respect to location. Pax8 reserves the right to change space assignments at any time prior to the Event.

1.9 Use of Space. In the event Company signs an Ordering Document or SOW regarding a marketing event sponsorship, Company shall use the Space only for the promotion of products and services offered by Sponsor. Sponsor may not represent other companies or third-party products or services at the Event, or sublet or share the Space with any other person or party, without the prior written consent of Pax8. Pax8 reserves the right to regulate the use of Event space, including the design and appearance of any booth.

1.10 Opt-In Attendee List. If Pax8, in its sole discretion, decides to provide Company with an opt-in attendee list from a relevant Event, Sponsor agrees that: (i) it will use the list for its own internal purposes only and will not sell, rent, transfer or otherwise disclose the list to any third party; (ii) it will comply with all applicable laws and regulations in the handling and use of such list; (iii) it will comply with any other terms of use Pax8 may specify in writing when providing the list. Any violation of this Section 1.10 shall constitute a material breach of this Agreement.

**2. AUTHORIZED USE OF LICENSED MATERIALS, MARKS, SPACE, AND PAX8 TECHNOLOGY; RESTRICTIONS**

2.1 Authorized Uses, Restrictions. Company shall not access or use the Services for any purpose except the marketing or business development activities of Company. Company shall not access or use the Licensed Materials for the benefit of or on behalf of any person or entity except Company. Company shall not distribute, sublicense, transfer, sell, offer for sale, disclose, or make available any of the Licensed Materials or any part of the Services to any third party. Company shall not incorporate any portion of the Services or Licensed Materials into Company's own products or services. Upon expiration or termination of this Agreement for any reason, Company shall cease accessing the Services and shall cease using the Licensed Materials in any way.

2.2 Limitations on Use of the Services. Company shall use the Services in a responsible and professional manner consistent with the intended and permissible uses herein and consistent with standard industry practice.

**3. TERM AND TERMINATION**

3.1 Term. The Initial Term of the Agreement is that which is set forth in the Ordering Document (together with any period of extension under Section 3.2 hereof or any applicable SOW, the "Term"). The Agreement is not cancellable and shall remain in effect until it expires or is earlier terminated according to its terms.



3.2 Termination. Notwithstanding the foregoing, either party may terminate this Agreement immediately, without further obligation to the other party, in the event of a material breach of this Agreement by the other party that is not remedied within twenty-one (21) days after the breaching party's receipt of written notice of such breach. The parties may terminate this Agreement at any time upon their mutual Agreement.

### 3.3 Effect of Termination.

3.3.1 Expiration or Termination for any Reason. Upon expiration or termination of this Agreement for any reason, Company acknowledges and agrees that its access to the Licensed Materials may be automatically terminated. Upon expiration or termination of this Agreement for any reason, unless otherwise provided herein, Company agrees to destroy any and all copies of Licensed Materials and any information it has obtained from the Licensed Materials, whether in hard copy or electronic form.

3.3.2 Termination by Pax8. If this Agreement is terminated by Pax8 due to a material breach by Company, all fees payable to be paid to Pax8 for the remainder of the then-current Term shall be immediately due and payable to Pax8, and Company shall promptly remit all such fees to Pax8.

3.3.3. Termination by Company. If this Agreement is terminated by Company due to an uncured material breach by Pax8, Pax8 shall promptly refund the pro-rata amount of any pre-paid Subscription Fees attributable to periods after the date of such termination.

## 4. FEES AND TAXES

4.1 Company shall pay all undisputed fees stated in the Ordering Document or any applicable SOW and any other fees applicable to its subscription to Services as provided hereunder (the "Fee"). All Fees are due within forty-five (45) calendar days of the invoice date. All amounts payable by Company under this Agreement will be paid to Pax8 without setoff or counterclaim, and without any deduction or withholding. Pax8's acceptance of partial payment or any payment of less than the full amount payable at any given time shall not constitute a waiver or release of Pax8's right to unpaid amounts.

4.2 If Company fails to timely make any payment of undisputed Fees, Pax8 may, in its sole discretion, take any or all of the following actions: (i) restrict or suspend Company's access to the Licensed Materials until all past-due payments are made, (ii) terminate this Agreement, or (iii) accelerate the payment of Fees such that all unpaid and undisputed Fees shall be immediately payable. Pax8 shall have the right to charge interest at the rate of 1.5% per month (or, if less, the highest rate permitted by law) on any late payments. Restriction or suspension of Company's access to the Licensed Materials or Services during period of non-payment shall have no effect on the Term of this Agreement nor on Company's obligation to pay the Fee.

4.3 Company is responsible for any applicable taxes, including, without limitation, any sales, use, levies, duties, or any value added or similar taxes payable with respect to Company's fees and assessable by any local, state, provincial, federal, or foreign jurisdiction. Unless expressly specified otherwise in the Ordering Document, all fees, rates, and estimates exclude sales taxes. If Pax8 believes any such tax applies to Company's subscription and Pax8 has a duty to collect and remit such tax, the same may be set forth on an invoice to Company unless Company provides Pax8 with a valid tax exemption certificate, direct pay permit, or multi-state use certificate, and shall be paid by Company immediately or as provided in such invoice. Company shall indemnify, defend, and hold harmless Pax8 and its officers, directors, employees, shareholders, agents, partners, successors, and permitted assigns against any and all actual or threatened claims, actions, or proceedings of any taxing authority arising from or related to the failure to pay taxes owed by Company, except to the extent that any such claims, action, or proceeding is directly caused by a failure of Pax8 to remit amounts collected for such purpose from Company. Pax8 is solely responsible for taxes based upon Pax8's net income, assets, payroll, property, and employees.

## 5. DATA PROTECTION AND CONFIDENTIALITY

5.1 Company acknowledges and agrees that Pax8 will operate in accordance with its published Privacy Policy (available at [pax8.com](http://pax8.com) or as Pax8 may otherwise indicate), which is incorporated herein by reference.

5.2 "Confidential Information" means a party's (or its affiliate's): inventions, discoveries, improvements, and copyrightable material not yet patented, published, or copyrighted; special processes and methods, whether for production purposes or otherwise, and special apparatus and equipment not generally available or known to the public; current engineering research, development, design projects, research and development data, technical specifications, plans, drawings and sketches; business information such as product costs, vendor and customer lists, lists of approved components and sources, price lists, production schedules, business plans, and sales and profit or loss information not yet announced or not disclosed in any other way to the public; and any other information or



knowledge not generally available to the public. "Confidential Information" does not include the Licensed Materials (which are subject to other restrictions under this Agreement). All business terms of this Agreement, including, but not limited to, pricing and access, shall be considered Confidential Information of Pax8.

5.3 Each party shall keep in confidence all Confidential Information of the other party obtained prior to or during the Term of this Agreement, and shall protect the confidentiality of such information in a manner consistent with the manner in which such party treats its own confidential material, but in no event with less than reasonable care. Without the prior written consent of the other party, a party shall not disclose or make available any portion of the other party's Confidential Information to any person, firm, association, or corporation, or use such Confidential Information, directly or indirectly, except for the performance of this Agreement. The foregoing restrictions shall not apply to Confidential Information that: (a) was known to such party (as evidenced by its written record) or was in the public domain prior to the time obtained by such party; (b) was lawfully disclosed to such party by a third party who did not receive it directly or indirectly from such party and who is under no obligation of secrecy with respect to the Confidential Information; or (c) became generally available to the public, by publication or otherwise, through no fault of such party. The parties shall take all necessary and appropriate steps in order to ensure that its employees and subcontractors adhere to the provisions of this section. All Confidential Information shall be returned to the disclosing party or destroyed upon receipt by the receiving party of a written request from the disclosing party.

5.4 Personal Information. To the extent that either party transmits or receives personal information under this Agreement, such party shall comply with all applicable laws, rules, and regulations regarding privacy and the lawful processing of personal information. To the extent that personal data obtained by Company under this Agreement is subject to the E.U. General Data Protection Regulation (the "GDPR"), each party agrees that it is a "controller" with respect to such data as defined in the GDPR and agrees to comply with all applicable provisions. Notwithstanding anything in this Agreement to the contrary, Company shall not use any information subject to the GDPR unless it is for a purpose that constitutes a "legitimate interest" (including direct marketing) as defined in the GDPR, or Company has another lawful basis to process such information.

## **6. REPRESENTATIONS AND WARRANTIES**

6.1 Each party represents and warrants that: (1) it is duly organized and validly existing and authorized to do business in the jurisdictions where it operates; and (2) it has the requisite power and authority to enter this Agreement and entering and complying with its obligations under this Agreement does not violate any legal obligation by which such party is bound.

6.2 Company represents and warrants, and covenants that it will not, in connection with this Agreement, including its use of or access to the Services, engage in, encourage, or permit conduct that violates or would violate any applicable law, rule, or regulation or any right of any third party.

## **7. REMEDIES**

7.1 Remedies not Exclusive. No remedy provided in this Agreement shall be deemed exclusive of any other remedy that a party may have at law or in equity unless it is expressly stated herein that such remedy is exclusive.

7.2 Provisional Remedies. Each party recognizes that the unauthorized disclosure of Confidential Information or, as to Company, Licensed Materials, may cause irreparable harm to the other party for which monetary damages may be insufficient, and in the event of such disclosure, such other party shall be entitled to seek an injunction, temporary restraining order, or other provisional remedy as appropriate without being required to post bond or other security.

## **8. INDEMNIFICATION**

8.1 Each party (an "Indemnifying Party") shall indemnify, defend, and hold harmless the other party and its officers, directors, employees, shareholders, agents, partners, successors, and permitted assigns (each an "Indemnified Party") from and against any and all actual or threatened claims of third parties arising out of or in connection with (i) Company's access or use of the Licensed Materials in violation of any law; (ii) an allegation that the Licensed Materials or Services infringes upon or violates the intellectual property rights of any such third party; or (iii) either party's violation of any provision of this Agreement.

8.2 As a condition to any right to indemnification under this agreement, the Indemnified Party must (a) promptly give the Indemnifying Party written notice of the claim or proceeding, (b) give the Indemnifying Party sole control of the defense and settlement of the claim or proceeding (except that the Indemnifying Party may not settle any claim or proceeding unless it unconditionally releases the Indemnified Party of all liability), and (c) give the Indemnifying Party all reasonable assistance, at the Indemnifying Party's expense. This section states the Indemnifying Party's sole liability to, and the Indemnified Party's exclusive remedy against, the other party for any claim or proceeding subject to indemnification hereunder.



## **9. LIMITATION OF LIABILITY**

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT FOR INSTANCES OF A PARTY'S OR ITS AGENT'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY PUNITIVE, EXEMPLARY, MULTIPLE, INDIRECT, CONSEQUENTIAL, SPECIAL, OR LOST PROFITS DAMAGES ARISING FROM OR RELATING TO THIS AGREEMENT, WHETHER FORESEEABLE OR UNFORESEEABLE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. PAX8'S MAXIMUM LIABILITY TO COMPANY SHALL BE THE AMOUNTS ACTUALLY PAID TO PAX8 BY COMPANY UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO COMPANY'S CAUSE OF ACTION. EXCEPTING LIABILITY ARISING FROM COMPANY'S OR ITS AGENT'S GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT, COMPANY'S MAXIMUM LIABILITY TO PAX8 HEREUNDER SHALL BE THE AMOUNT OF THE FEE.

## **10. DISCLAIMER OF WARRANTIES**

EXCEPT FOR ANY EXPRESS REPRESENTATIONS AND WARRANTIES STATED HEREIN, THE LICENSED MATERIALS, PAX8 TECHNOLOGY, AND SERVICES ARE PROVIDED "AS IS" AND NEITHER PARTY MAKES ANY ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER AND EACH PARTY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. NEITHER PARTY WILL HAVE THE RIGHT TO MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF THE OTHER PARTY TO ANY THIRD PARTY.

## **11. MISCELLANEOUS PROVISIONS**

11.1 Assignment. Either party hereto may assign this Agreement to a successor-in-interest pursuant to an acquisition of such party (whether by merger, stock sale, or asset sale) without the other party's consent, provided however that (1) any assignment hereof shall be effective only after fourteen (14) days' written notice to the other party, and (2) neither party may assign this agreement to any competitor of the other party without such party's express written consent. No rights or obligations under this Agreement may be assigned or delegated except as provided in this section without the prior written consent of the other party, and any assignment or delegation in violation of this section shall be void.

11.2 Notices. Company shall provide an email address for notices under this Agreement. All notices or other communications permitted or required to be given hereunder shall be sent by electronic mail to the email address provided by the other party for such purpose and shall be deemed given when sent. Notices to Pax8 shall be sent to legal@Pax8.com. If Company fails to provide an email address for notices, Pax8 may provide notices hereunder by any means reasonably calculated to provide Company with actual notice thereof.

11.3 Governing Law, Jurisdiction. This Agreement shall be construed in accordance with and governed for all purposes by the laws of the State of Colorado without regard to choice of laws principles. Each party irrevocably consents to the personal jurisdiction of the state and federal courts located in the City and County of Denver, Colorado for purposes of any lawsuit seeking to enforce this Agreement.

11.4 Currency. All monetary amounts specified in this Agreement are in United States dollars unless otherwise expressly stated.

11.5 Entire Agreement. This Agreement constitutes the entire Agreement of the parties and supersedes all prior communications, understandings, and agreements relating to the subject matter hereof, whether oral or written, and may only be amended or modified by the written consent of the parties.

11.6 Force Majeure. Neither party nor any of its affiliates will be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond its reasonable control, including, but not limited to, acts of God, labor disputes or other industrial disturbances, electrical or power outages, utilities or other telecommunications failures, earthquake, pandemic, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.