

Services Terms and Conditions

These Services Terms and Conditions (these “**Terms**”) are the only terms that govern the procurement of services (the “**Services**”) by Machina Labs, Inc. (“**Customer**”) from the seller, supplier, or vendor set forth on each applicable purchase order (the “**Service Provider**”) which references and incorporates these Terms, the first of which is set forth above to which these Terms are attached (each, a “**PO**”).

1. **Entire Agreement; Acceptance of Terms.** Each PO and these Terms (including the documents incorporated by reference) (collectively, this “**Agreement**”) comprise the entire agreement between the parties, and supersede all prior or contemporaneous understandings, agreements, negotiations, representations and warranties, and communications, both written and oral. Any additional or different terms or conditions (whether in a quote, proposal, invoice, or otherwise) are rejected and will not apply unless expressly assented to in writing by both parties, notwithstanding anything to the contrary. Fulfillment of part or all of the applicable PO, or otherwise Service Provider’s confirmation in writing (email sufficient) of its acceptance of a PO, constitutes acceptance of such PO and this Agreement.

2. **Services.** Service Provider shall provide to Customer the services (the “**Services**”) set out in the PO. Service Provider shall provide the Services: (a) in accordance with the terms and subject to the conditions set forth in this Agreement; (b) using personnel of required skill, experience, licenses, and qualifications; (c) in a timely, workmanlike, and professional manner; (d) in accordance with the highest professional standards in Service Provider’s field; and (e) to the satisfaction of Customer. Service Provider shall comply with all Customer rules, regulations, and policies when providing the Services. Nothing in this Agreement shall be construed to prevent Customer from itself performing or from receiving services from other providers that are similar or identical to the Services. Service Provider shall not subcontract the Services.

3. **Price.** As sole consideration for the Services, Customer will pay Service Provider the price for the Services set forth in the applicable PO (the “**Price**”). If no price is included in the PO, the Price will be the price set out in Service Provider’s published price list effective as of the date of the PO or as otherwise agreed to in a writing signed by an authorized representative of the parties. Unless otherwise expressly set forth in the applicable PO, the Price as stated in the PO includes all charges and expenses with respect to insurance, all applicable taxes and duties, all wages and fees for services and materials, all development and manufacturing costs, and all costs for tooling, fixtures, and similar property that may be obtained or required by Service Provider to provide the Services.

4. **Price Changes.** No increase in the Price is effective, whether due to increase in material, labor or transportation costs or otherwise, without the express prior written consent of Customer.

5. **Payment Terms.** Customer’s payment terms will be set forth on the face of the applicable PO and if no such terms are so set forth, Customer shall pay Service Provider for Services within thirty (30) days of the completion of Services and receipt of applicable invoice. Service Provider shall issue an invoice to Customer on or any time after the completion of delivery and in accordance with these Terms. Customer reserves the right to require Service Provider to issue invoices electronically through Customer’s electronic payables system of choice. Service Provider shall follow Customer’s written invoicing instructions on the face of the applicable PO, provided that Service Provider shall at a minimum include the following information: PO number, a reasonably detailed description of the Services, and separate line items for any other agreed upon charges and for taxes (if and as applicable).

6. **Payment.** Customer will pay all invoiced amounts due to Service Provider in accordance with the terms set forth on the applicable PO. Customer may withhold or offset payments due to Service Provider with prior written consent of Service Provider to satisfy any loss caused by Service Provider’s material breach of this Agreement. The parties shall seek to resolve any dispute expeditiously and in good faith. Service Provider shall continue performing its obligations under this Agreement notwithstanding any such dispute.

7. **Term.** This Agreement shall commence as of the date on each applicable PO and shall continue thereafter until the completion of the Services unless sooner terminated pursuant to Section 8 (the “**Term**”).

8. **Termination.** Either party may terminate this Agreement, effective upon written notice to the other party (the “**Defaulting Party**”), if the Defaulting Party: (a) materially breaches this Agreement, and such breach is incapable of cure, or with respect to a material breach capable of cure, the Defaulting Party does not cure such breach within thirty (30) days after receipt of written notice of such breach; (b) becomes insolvent or admits its inability to pay its debts generally as they become due; (c) becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven (7) business days or is not dismissed or vacated within forty-five (45) days after filing; (d) is dissolved or liquidated or takes any corporate action for such purpose; (e) makes a general assignment for the benefit of creditors; or (f) has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

9. **Effect of Expiration or Termination.** Upon expiration or termination of this Agreement for any reason, Service Provider shall promptly: (a) deliver to Customer all documents, work product, and other materials, whether or not complete, prepared by or on behalf of Service Provider in the course of performing the Services; (b) return to Customer all Customer-owned property, equipment, or materials in its possession or control; (c) remove any Service Provider-



owned property, equipment, or materials located at Customer's locations; (d) deliver to Customer, all documents and tangible materials (and any copies) containing, reflecting, incorporating, or based on Customer's Confidential Information (as such term is defined in the applicable non-disclosure agreement between the parties, incorporated herein by reference); (e) provide reasonable cooperation and assistance to Customer in transitioning the Services to an alternate service provider; (f) on a pro rata basis, repay all fees and expenses paid in advance for any Services which have not been provided; (g) permanently erase all of Customer's Confidential Information from its computer systems; and (h) certify in writing to Customer that it has complied with the requirements of this Section 9.

10. **Independent Contractor.** It is understood and acknowledged that in providing the Services, Service Provider acts in the capacity of an independent contractor and not as an employee or agent of the Customer. Service Provider shall control the conditions, time, details, and means by which Service Provider performs the Services. Customer shall have the right to inspect the work of Service Provider as it progresses solely for the purpose of determining whether the work is completed according to this Agreement. Service Provider has no authority to commit, act for or on behalf of Customer, or to bind Customer to any obligation or liability. Service Provider shall not be eligible for and shall not receive any employee benefits from Customer and shall be solely responsible for the payment of all taxes, FICA, federal and state unemployment insurance contributions, state disability premiums, and all similar taxes and fees relating to the fees earned by Service Provider hereunder.

11. **Indemnification.** Service Provider shall indemnify, defend, and hold harmless Customer and its officers, directors, employees, agents, affiliates, successors, and permitted assigns (collectively, "**Indemnified Party**") against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, interest, awards, penalties, fines, costs, or expenses of whatever kind, including attorneys' fees, fees and the costs of enforcing any right to indemnification under this Agreement, and the cost of pursuing any insurance providers, incurred by Indemnified Party (collectively, "**Losses**"), relating to any claim of a third party or Customer arising out of or occurring in connection with Service Provider's negligence, willful misconduct, or breach of this Agreement. Service Provider shall not enter into any settlement without Customer's or Indemnified Party's prior written consent.

12. **Compliance with Law.** Service Provider is in compliance with and shall comply with all applicable laws, regulations, and ordinances. Service Provider has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Agreement.

13. **Insurance.** During the Term and for a period of one (1) year after expiration or termination of this Agreement for any reason, Service Provider shall, at its own expense, maintain and carry insurance in full force and effect with financially sound and reputable insurers, that includes, but is not limited to, commercial general liability with limits no less than

\$1,000,000 per occurrence and \$2,000,000 in the aggregate, which policy will include contractual liability coverage insuring the activities of Service Provider under this Agreement. Upon Customer's request, Service Provider shall provide Customer with a certificate of insurance from Service Provider's insurer evidencing the insurance coverage specified in this Agreement. The certificate of insurance shall name Customer as an additional insured. Service Provider shall provide Customer with five (5) days' advance written notice in the event of a cancellation or material change in Service Provider's insurance policy. Except where prohibited by law, Service Provider shall require its insurer to waive all rights of subrogation against Customer's insurers and Customer or the Indemnified Parties.

14. **General.** Each of the parties hereto shall use commercially reasonable efforts to, from time to time at the request of the other party, furnish the other party such further information or assurances, execute and deliver such additional documents, instruments, and conveyances, and take such other actions and do such other things, as may be reasonably necessary or appropriate to carry out the provisions of this Agreement and give effect to the transactions contemplated hereby. Each party shall deliver all communications in writing either in person, by certified or registered mail, return receipt requested and postage prepaid, by email (with confirmation of transmission), or by recognized overnight courier service, and addressed to the other party at the addresses set forth above (or to such other address that the receiving party may designate from time to time in accordance with this section). This Agreement and all matters arising out of or relating to this Agreement are governed by, and construed in accordance with, the laws of California, (including its statutes of limitations), without giving effect to any conflict of laws provisions thereof that would result in the application of the laws of a different jurisdiction. Either party shall institute any legal suit, action, or proceeding arising out of or relating to this Agreement in the federal or state courts in each case located in Los Angeles, California. EACH PARTY HEREBY IRREVOCABLY AND UNCONDITIONALLY: (A) CONSENTS AND SUBMITS TO THE EXCLUSIVE JURISDICTION OF THE AFOREMENTIONED COURTS; (B) WAIVES ANY OBJECTION TO THAT CHOICE OF FORUM BASED ON VENUE OR TO THE EFFECT THAT THE FORUM IS NOT CONVENIENT; (C) WAIVES ANY RIGHT TO TRIAL BY JURY; AND (D) WAIVES PERSONAL SERVICE OF ANY SUMMONS, COMPLAINT, OR OTHER PROCESS, WHICH MAY BE MADE BY ANY OTHER MEANS PERMITTED BY CALIFORNIA LAW. The invalidity, illegality, or unenforceability of any provision herein does not affect any other provision herein or the validity, legality, or enforceability of such provision in any other jurisdiction. The parties may not amend this Agreement except by written instrument signed by the parties. No waiver of any right, remedy, power, or privilege under this Agreement ("Right(s)") is effective unless contained in a writing signed by the party charged with such waiver. No failure to exercise, or delay in exercising, any Right operates as a waiver thereof. No single or partial exercise of any Right precludes any other or further exercise thereof or the exercise of any other Right. The Rights under this Agreement are cumulative and are in addition to any other rights and remedies available at law or in equity or otherwise. Neither party may directly or indirectly assign, transfer, or delegate any of or all of its rights or obligations under this



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Agreement, voluntarily or involuntarily, including by change of control, merger (whether or not such party is the surviving entity), operation of law, or any other manner, without the prior written consent of the other party. Any purported assignment or delegation in violation of this Section shall be null and void. This Agreement is binding upon and inures to the benefit of the parties and their respective successors and permitted assigns. Except for the parties, their successors and permitted assigns, there are no third-party beneficiaries under this Agreement. Any provision that, in order to give proper effect to its intent, should survive the expiration or termination of this Agreement, will survive such expiration or termination for the period specified therein, or if nothing is specified for a period of twelve (12) months after such expiration or termination. This Agreement may be executed in counterparts.

15. Force Majeure. No party shall be liable or responsible to the other party, or be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such party's (the "**Impacted Party**") failure or delay is

caused by or results from the following force majeure events ("Force Majeure Event(s)": (a) acts of God; (b) flood, fire, earthquake, epidemics, pandemics, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order, law, or action; (e) embargoes or blockades in effect on or after the date of this Agreement; (f) national or regional emergency; (g) strikes, labor stoppages or slowdowns or other industrial disturbances; and (h) other similar events beyond the reasonable control of the Impacted Party. The Impacted Party shall give notice within two (2) days of the Force Majeure Event to the other party, stating the period of time the occurrence is expected to continue. The Impacted Party shall use diligent efforts to end the failure or delay and ensure the effects of such Force Majeure Event are minimized. The Impacted Party shall resume the performance of its obligations as soon as reasonably practicable after the removal of the cause. In the event that the Impacted Party's failure or delay remains uncured for a period of ninety (90) consecutive days following written notice given by it under this Section 15, the other party may thereafter terminate this Agreement upon five (5) days' written notice.