

## TERMS AND CONDITIONS

### 1. OKKAMI Services and support

a. Subject to the terms of this Agreement, Company will use commercially reasonable efforts to provide Customer the Services in accordance with the Service Level Terms attached hereto as Exhibit A. As part of the registration process, Customer will identify an administrative user name and password for Customer's Company account. Company reserves the right to refuse registration of, or cancel passwords it deems inappropriate.

b. OKKAMI may provide such OKKAMI Services itself, through OKKAMI approved contractors, and/or through authorized OKKAMI distributors and/or representatives.

c. The parties are and shall act as independent contractors and not as an agent or partner of, or joint-venturer with the other party for any purpose. Except as expressly permitted in a document executed by both parties, neither party shall have any right, power, or authority to act or create any obligation, express or implied, on behalf of the other party.

d. OKKAMI hereby warrants that OKKAMI Services will be performed in a professional and workmanlike manner. Customer shall provide written notice of a breach of this warranty to OKKAMI within sixty (60) days of the Customer's discovery of the breach of warranty. EXCEPT AS EXPRESSLY PROVIDED OTHERWISE IN THIS AGREEMENT OR IN THE DISTRIBUTION AND LICENSE AGREEMENT, THE WARRANTY IS IN LIEU OF ALL OTHER REPRESENTATIONS AND WARRANTIES, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, USEFULNESS OR TIMELINESS.

### 2. Payment

a. Upon execution of a Customer Property Form, OKKAMI will invoice Customer an up-front payment (if any), as per the terms described in the Customer Property Order Form – Customer Payments to OKKAMI ("Customer Payments to OKKAMI"). OKKAMI shall provide Customer with a detailed invoice for OKKAMI Services to be provided, as per the terms of a specific Customer Property Form. Such invoices will be due and payable thirty (30) calendar days after receipt of the invoice. OKKAMI may assign all or part of its rights to receive payments under this Agreement. OKKAMI (or assignee) may invoice from United States or other location, and Customer is responsible for reasonable transfer fees (including wire transfer fees), and such registration of OKKAMI (or assignee) as a vendor for exemption of withholding taxes.

b. In the event of bankruptcy or insolvency of Customer, or in the event that any proceeding is brought by or against Customer under any bankruptcy or insolvency laws or their equivalent, OKKAMI may cancel any order then outstanding, without liability to OKKAMI, and OKKAMI shall receive reimbursement from Customer for costs incurred for product so cancelled, in addition to any other remedies available at law.

### 3. Maintenance

a. During the term of each Customer Property Form, OKKAMI will provide Support and Maintenance Services for Software Services, in accordance with Exhibit A Support and Maintenance agreement, such that Software Service will:

- i. conform to OKKAMI standard specifications;
- ii. be free from defects in material and workmanship;
- iii. will be performed in a professional and workman-like manner; and

iv. operate in compliance with all applicable statutes, laws, rules or regulations.

b. Support and Maintenance of Software Services includes all updates and enhancements to Software and Services OKKAMI offers to its customers. However, new software services that form new OKKAMI Software and Services are not included.

c. OKKAMI, AND ITS LICENSORS, DISCLAIM ALL OTHER WARRANTIES, EXPRESS, STATUTORY OR IMPLIED, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ARISING OUT OF COURSE OF DEALING OR TRADE USAGE.

d. Any Customer deviation from the OKKAMI provided instructions for use for Software Service voids OKKAMI's obligations herein, expressed or implied, only to the extent that such deviation is the cause of any damages.

e. OKKAMI provides OKKAMI Services as a service and not a product, and as such, only supports and maintains the current version OKKAMI Services, and reserves the right to update OKKAMI Services at any time. While OKKAMI will use its best efforts to inform, and work with, Customer regarding releases of updates and upgrades to OKKAMI Services, OKKAMI reserves the right to make any updates and/or upgrades it deems necessary to maintain the security, stability, scalability and usability of OKKAMI Services for Customer, and all customers of OKKAMI Services. Customer understands and acknowledges that it shares use of cloud-based portions of Software Services with all other OKKAMI customers, and as such, any change to Software Services for one Customer, changes Software Services for all Customers, unless a customer has specifically contracted for custom Software Services (for example a custom CMS module).

f. OKKAMI will maintain Customer's iOS and Android Apps ("Customer Apps") on its accounts on iTunes and Google Play ("App Stores"). Upon request OKKAMI can publish Customer Apps using Customer iOS and Android Apps, on Customers App Store accounts. Admin access to publish Customer App will be required on App Store, Push Notification Services and Customer Developer accounts. Customer will support OKKAMI by providing all necessary marketing, business and support material necessary to submit Customer Apps to the App Stores. While OKKAMI will use its best efforts to inform, and work with, Customer regarding releases of updates to Customer Apps to the App Stores, OKKAMI reserves the right to make any updates and/or upgrades it deems necessary to maintain the security, stability, scalability and usability of Customer Apps on App Stores for Customer, and all customers of OKKAMI Apps. Customer understands and acknowledges that it shares use of Software Services for the OKKAMI App, and as such, any change for one Customer, changes Software Services for all Customers, unless a customer has specifically contracted for custom Software Services (for example a custom App UI).

### 4. Software and Data

a. OKKAMI grants Customer the non-exclusive right and license to use Software Services included in Customer Property Forms for the term of each Customer Property Form. Software Services and all related information, including updates, are proprietary to OKKAMI. Customer may not, nor allow any third party, to decompile, disassemble, or reverse engineer Software Services, except to the extent expressly permitted by applicable law, without OKKAMI's prior written consent. Customer will not remove any product identification or proprietary rights notices, or otherwise use or copy Software Services except as expressly provided herein. All Software Services are explicitly branded as

“Powered by OKKAMI.” Customer will not remove any such branding from Software Services. Additionally, should Customer create any custom version or derivative of Software Services (as permitted hereunder), such as a company, brand or property app, web app, device, etc. containing Software Services, Customer will brand such version or derivative according to the current the OKKAMI’s “Powered by OKKAMI” branding guidelines (available from OKKAMI). OKKAMI may promote revenue-generating upsellings services with consent and agreement from the Customer.

b. OKKAMI may supply Customer-branded Software Services and Customer Property-branded Software Services within OKKAMI-branded Software Services. Otherwise, OKKAMI shall only provide Customer-branded Software Services and Customer Property-branded Software Services to Customer and affiliates within Customer’s brand. OKKAMI may provide Software Services to customers, guests, residents, and others.

c. Software Services may include end user license agreements (“EULAs”) from OKKAMI, or third parties from whom OKKAMI has acquired components of Software Services. Customer will not remove or modify such EULAs, nor will Customer accept such EULAs on behalf of the actual end user, such as the Customer Property guest or resident.

d. OKKAMI may obtain data (“Derived Data”) during its performance of this Agreement and Customer Property Forms. This data may include guest or resident specific data, Customer Property specific data, aggregated guest, resident and/or Customer Property data, and compiled data, such as server log and reports. Derived Data shall be owned (to the degree allowed by law) by Customer, however, OKKAMI shall retain a non-exclusive license to Derived Data. OKKAMI will not provide guest or resident specific Derived Data to any competitor of Customer. OKKAMI may use anonymized aggregated Derived Data for quality control, product improvement and sales & marketing of OKKAMI and Software Services.

## 5. OKKAMI Intellectual Property

Customer expressly recognizes OKKAMI’s ownership of the patents, copyrights and trademarks and other intellectual property including without limitation current, and/or future, features, equipment, service delivery methods, upgrades and modifications thereto (“OKKAMI Intellectual Property”) relating to OKKAMI Services, and agrees that OKKAMI Intellectual Property belong to and shall remain exclusively in OKKAMI and that any use of OKKAMI Intellectual Property under this Agreement shall accrue to the sole benefit of OKKAMI. Customer shall not represent in any way that it has any right or title to any of OKKAMI Intellectual Property and that it will not do or permit any acts that impair the right and title of OKKAMI in or to OKKAMI Intellectual Property. Should Customer make any improvement to, or derivatives of, OKKAMI Intellectual Property through Customer’s access to OKKAMI Services, OKKAMI Intellectual Property, OKKAMI Confidential Information (defined below), Customer shall assign all rights to such improvements and/or derivatives to OKKAMI, while retaining a non-exclusive personal license. Customer shall give OKKAMI prompt notice of any claim relating to OKKAMI Intellectual Property and permit OKKAMI to defend any such claim in Customer’s name. Customer shall cooperate fully with OKKAMI in respect of any such claim or related proceeding, it being agreed that OKKAMI shall have the sole control over participation in any such claim or related proceeding and may institute, conduct, control and terminate it in whatever manner OKKAMI deems appropriate.

## 6. Title to Hardware Platforms

If Hardware Platforms are included in Customer Property Forms, title to Hardware Platforms shall pass upon installation and full payment by Customer for such sale and installation of Hardware Platforms. The Customer shall retain ownership of all Hardware

Platforms at the end of the term of the specific Customer Property Form (unless Customer is in breach of this Agreement). Until title to Hardware Platforms passes to Customer, Customer shall take reasonable care of Hardware Platforms.

## 7. Hardware Platform Warranty

a. OKKAMI represents and warrants to Customer, for term of one (1) year, Hardware Platforms provided will:

- i. Conform to OKKAMI standard specifications;
- ii. be free from defects in material and workmanship; and
- iii. be manufactured in compliance with all applicable statutes, laws, rules or regulations.

b. This warranty is contingent upon proper use of a OKKAMI Hardware Platform in the application for which it was intended and does not cover OKKAMI Hardware Platforms that were modified without OKKAMI’s approval or that were subjected by the customer to unusual physical or electrical stress.

c. Except as provided below in the Intellectual Property Indemnity section below, OKKAMI’s sole liability and Customer’s sole and exclusive remedy for any nonconforming or defective Hardware Platforms shall be limited to repair or replacement of the Hardware Platforms, at no cost to Customer, or refund.

## 8. Acceptance

Customer shall give notice to OKKAMI of patent defects or discrepancies between type and quality of Hardware Platforms (if any) delivered and of patent damage to Hardware Platforms within ninety (90) days after delivery and/or installation of Hardware Platforms. For purposes of this section, a “patent” defect or discrepancy shall be one which is plainly visible or which can be discovered by such an inspection as would be made in the exercise of ordinary care. Lacking such notice, the Customer shall be deemed to have accepted Hardware Platform as invoiced, subject to any such patent defect or patent damage. This section shall in no way affect Customer’s continuing right to provide OKKAMI with written notice of, and to reject, any Hardware Platforms because of a latent defect, latent damage or latent discrepancies between type and quality of Hardware Platforms ordered and Hardware Platforms delivered. For purposes of this section, a “latent” defect or “latent” damage shall be one that is not apparent on the face of the Hardware Platforms. Hardware Platforms may be returned to the OKKAMI only after prior notification and subsequent authorization upon receipt of a Return Material Authorization (“RMA”) Number, which RMA will be issued reasonably and promptly by OKKAMI. Refunds or credit allowances for defective Hardware Platforms will be made, or replacements therefore shipped if the Hardware Platforms was in fact defective. OKKAMI shall reimburse Customer for the shipping by Customer for said defective Hardware Platforms, and OKKAMI shall pay the shipping costs for the replacement Hardware Platforms.

## 9. Termination

a. In the event either party breaches any material term of this Agreement, the non-breaching party may terminate this Agreement, but only if the non-breaching party provides the breaching party with written notice of the alleged breach and if the breaching party fails to cure the alleged breach within thirty (30) days after receipt of such written notice.

b. Indemnity, Intellectual Property Rights Indemnification, Limitation of Liability, and Confidential Information sections shall survive the termination of this Agreement.

c. Payments of subscription fees upon termination, if Customer attempts to terminate this Agreement without cause they will be obligated to immediately pay all remaining subscription fees due computed in accordance with their terms for the remainder of

the applicable Subscription Period, including any other fees or payments that Customer has committed to under this Agreement or any Order Form. Customer understands that Customer's failure to use the Services shall not relieve Customer's obligation to pay subscription fees throughout the entire Subscription Period. If a contracted property is leaving from a signed management or brand specific contract, 60 day notice is required from the property in order to prevent applicable termination fees. If the property would like to continue using OKKAMI their account will be transferred to the new brand / management company at the prevailing market rate.

d. Orders under Customer Property Order Forms may be terminated in whole or in part on written notice by Customer because of OKKAMI's failure to deliver products in accordance with the terms of this Agreement. UPON ANY SUCH TERMINATION, OKKAMI SHALL NOT BE LIABLE FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO COST OF LABOR, REQUALIFICATION, DELAY, AND LOSS OF PROFITS OR GOODWILL. IN ANY EVENT, OKKAMI SHALL BE ENTITLED TO PAYMENT FOR ALL PRODUCTS SHIPPED UP TO THE EFFECTIVE DATE OF TERMINATION.

e. Customers onboarding on trial promotional offers may cancel at any time prior to the advertised offer expiration date. 30 Days prior to advertised offer expiration customers will be given formal notice of offers commencement date. Upon commencement date customers may cancel or continue with packages at the set market rate. OKKAMI at its sole discretion reserves the right to extend but never modify the expiration of promotions offers.

#### 10. General Indemnity

Each party will indemnify and hold harmless the other party, and its officers, directors, employees, from and against all claims, causes of action, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) to the extent arising out of the negligence or willful misconduct of the indemnifying party or their respective employees, agents or contractors.

#### 11. Intellectual Property Rights Indemnification

a. Subject to the provisions of subsection d below, OKKAMI will indemnify and hold Customer, its Affiliates, and their officers, directors, employees and distributors, customers and end users harmless from and against all claims, causes of action, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) asserted by third parties which arise out of a claim that Software Services or Hardware Platforms infringe any patent, copyright or trade secret rights of a third party. The foregoing indemnification shall not apply in the event that and to the extent such claim arises as a result of:

- i. the failure of Customer, its Affiliates or any of their employees or agents to comply with any written instructions provided by OKKAMI; or
- ii. breach of this Agreement by or negligence or willful misconduct of Customer, its Affiliates or any of their employees or agents; or
- iii. any modification of the products or combination of Software Services or Hardware Platforms with other products or processes not made by OKKAMI.

b. If Customer's use of Software Services or Hardware Platforms is enjoined, or if OKKAMI wishes to minimize its liability hereunder, OKKAMI may, at its option and expense, either:

- i. substitute substantially equivalent non-infringing service or platform for the infringing Software Services or Hardware Platforms;
- ii. modify the infringing Software Services or

Hardware Platforms so that it no longer infringes but remains functionally equivalent; or

- iii. obtain for Customer the right to continue using such Software Services or Hardware Platforms. If none of the foregoing is feasible, OKKAMI will accept a return of Software Services or Hardware Platforms which is subject to the injunction and refund to Customer the amount paid, including the license fee applicable thereto. THE FOREGOING SUBSECTIONS a. AND b. STATE THE ENTIRE LIABILITY AND OBLIGATION OF OKKAMI WITH RESPECT TO INFRINGEMENT OR CLAIMS OF INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET OR OTHER INTELLECTUAL PROPERTY RIGHT.

c. Subject to the provisions of subsection d below, Customer will indemnify and hold OKKAMI, its Affiliates, and their officers, directors, employees harmless from and against all claims, causes of action, losses, liabilities, damages, costs and expenses (including reasonable attorneys' fees) related to this Agreement and asserted by third parties which arise out of a claim that Software Services or Hardware Platforms infringe any patent, copyright or trade secret rights of a third party, if and to the extent such claim arises as a result of:

- i. the failure of Customer, its Affiliates or any of their employees or agents to comply with any written instructions provided by OKKAMI or its authorized designee;
- ii. breach of this Agreement by or negligence or willful misconduct of Customer, its Affiliates or any of their employees or agents; or
- iii. any modification of the equipment or combination of Software Services or Hardware Platforms with other products or processes not supplied by OKKAMI. The foregoing indemnification shall not apply in the event that such claim arises as a result of breach of this Agreement by or the negligence or willful misconduct of OKKAMI, its Affiliates or any of their employees or agents.

d. If either party seeks indemnification from the other hereunder, it shall promptly give notice to the other party of any such claim or suit threatened, made or filed against it which forms the basis for such claim of indemnification and shall cooperate fully with the other party in the investigation and defense of all such claims or suits. The indemnifying party shall have the option to assume the other party's defense. In any such claim or suit with counsel reasonably satisfactory to the other party. No settlement or compromise shall be binding on a party hereto without its prior written consent, such consent not to be unreasonably withheld.

#### 12. Limitation of Liability

NOTWITHSTANDING ANY SECTION TO THE CONTRARY, OTHER THAN ANY LIABILITY ARISING UNDER GENERAL INDEMNITY AND INTELLECTUAL PROPERTY RIGHTS INDEMNIFICATION SECTIONS OF THIS AGREEMENT, THE MAXIMUM LIABILITY OF EITHER PARTY TO ANY PERSON, FIRM, OR CORPORATION WHATSOEVER, ARISING OUT OF OR IN CONNECTION WITH ANY SALE, USE OR OTHER EMPLOYMENT OF ANY OKKAMI SERVICE DELIVERED TO CUSTOMER HEREUNDER, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON CONTRACT, WARRANTY, TORT OR OTHERWISE, SHALL IN NO CASE EXCEED THE ACTUAL PRICE OF OKKAMI SERVICES DELIVERED PURSUANT TO THIS AGREEMENT PAID TO OKKAMI BY

CUSTOMER. OTHER THAN ANY LIABILITY ARISING UNDER GENERAL INDEMNITY AND INTELLECTUAL PROPERTY RIGHTS INDEMNIFICATION SECTIONS OF THIS AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER OR TO ANY THIRD PARTY FOR CONSEQUENTIAL, INDIRECT OR SPECIAL DAMAGES, OR ANY DAMAGES RESULTING FROM OKKAMI SERVICES, INCLUDING, BUT NOT LIMITED TO OKKAMI APP AND/OR OKKAMI CMS, BEING HACKED, USED OR ACCESSED IN AN UNAUTHORIZED MANNER. THE ESSENTIAL PURPOSE OF THIS PROVISION IS TO LIMIT THE POTENTIAL LIABILITY OF OKKAMI ARISING OUT OF THIS AGREEMENT AND/OR SALE OF THE PRODUCTS AND SERVICES.

### **13. Customer Purchase Orders or Acknowledgements**

The terms and conditions set forth herein and in specific Customer Property Forms, are in lieu of and replace any and all terms and conditions set forth on Customer's purchase order or acknowledgement form, unless such purchase order is executed by both parties. Specifications issued by Customer, any additional, different or conflicting terms or conditions on any documents issued by Customer either before or after execution of this Agreement and/or Customer Property Form are wholly inapplicable to any sale made under this Agreement and shall not be binding unless executed by both parties. No waiver or amendment of any of the provisions hereof shall be binding on either party unless made in writing expressly stating that it is such a waiver or amendment and signed by an authorized representative of such party.

### **14. Specifications**

All Software Services and Hardware Platforms are subject to OKKAMI's standard specifications. OKKAMI reserves the right to make substitutions and modifications in the specifications of any Software Service or Hardware Platform and shall provide Customer with written notification of any such substitutions or modifications, but the modifications in the specifications are applicable only with respect to standard products ordered after Customer's receipt of the modified specifications.

### **15. Confidential Information**

a. Confidential information shall mean all tangible, oral and visual information that is designated as "proprietary" or "confidential" or by similar words by discloser at the time of disclosure and which if tangible is marked as such in writing and if oral or visual is confirmed as such by discloser in a writing delivered to the receiving party within fifteen (15) days of disclosure, or which the receiving party should have considered to be confidential under the circumstances surrounding disclosure, and shall include information relating to the business of the disclosing party, and shall include, but not be limited to, information encompassed in all specifications, drawings, designs, computer programs, source code, object code, models, algorithms, user documentation, plans, formulas, proposals, marketing and sale plans, financial information, costs, pricing information, customer information, information of third parties disclosed to the disclosing party under an obligation of confidentiality, and all methods, concepts or ideas in or reasonably related to the business of disclosing party.

b. The receiving party agrees to regard and preserve as confidential, all such confidential information, whether or not in writing, other physical or magnetic form, or such information as is contained in the receiving party's (including its employees and consultants) memory. The receiving party shall not, without written authority from the disclosing party, directly or indirectly, use for the benefit or purpose of, or disclose to, any other person or entity, any confidential information, either during the term of this Agreement or within three (3) years of its disclosure to the receiving party, except where expressly required hereunder. Notwithstanding the

forgoing, the receiving party shall be free to use for any purpose the residuals resulting from access to or work with such confidential information as provided herein. The term "residuals" means information in non-tangible form which may be inadvertently retained by persons who have had access to the confidential information, including ideas, concepts, know-how or techniques contained therein. Neither party shall have any obligation to limit or restrict the assignment of such persons or to pay royalties for any work resulting from the use of residuals.

c. The foregoing obligations shall not apply to any part of confidential information that: (i) the recipient can demonstrate by its written records to have had in its possession prior to disclosure to the recipient by the discloser; (ii) was part of the public knowledge or literature, not as a result of any action or inaction of the recipient; (iii) was subsequently disclosed to the recipient from a source other than the discloser without an obligation of confidentiality to the discloser; (iv) the recipient can demonstrate by its written records to have been independently developed by the recipient without the use, directly or indirectly, of any confidential information; or (v) recipient is required to disclose pursuant to a court order or as otherwise required by law; provided, however, that recipient notifies the discloser within sufficient time to give the discloser a reasonable period to contest such order.

d. Neither party shall disclose to the other party, or use any confidential information that such party may have obtained from a former client, employer or business, in its performance hereunder or include in Services or Deliverables, and shall comply with all legal obligations such party may now, or hereafter, have regarding information, or other property, of any other person, firm or corporation.

e. Customer shall not, nor allow any third party, to analyze, disassemble, or do comparative experiments on OKKAMI's products provided hereunder. Except with OKKAMI's prior written permission, Customer will not disclose to any third party any performance or benchmark tests or analysis relating to the products provided hereunder.

### **16. Force Majeure**

Neither party shall be liable for non-performance or delays, not otherwise excused, which occur due to causes beyond its control (excluding payments by Customer). These causes shall include, but shall not be limited to, acts of God, wars, riots, strikes, fires, storms, flood, earthquake, shortages of labor or material, labor disputes, vendor failures to deliver necessary materials, transportation embargoes, delays in obtaining required export licenses, acts of any government or agency thereof, judicial action or any or all other causes beyond its reasonable control including technical or yield losses where OKKAMI has exercised ordinary care in the prevention thereof. If any such contingency occurs, OKKAMI may at its sole discretion allocate production and delivery among OKKAMI's customers. In the event of any such excused delay or failure of performance the date of delivery shall, at the request of OKKAMI, be deferred for a period equal to the time lost for reason of the delay. OKKAMI shall notify Customer of any such event or circumstances within a reasonable time after it learns of same. IN NO EVENT SHALL OKKAMI BE LIABLE FOR ANY CLAIM FOR SPECIAL, CONSEQUENTIAL OR INCIDENTAL DAMAGES.

### **17. Taxes**

All prices are exclusive of any present or future sales, revenue or excise tax, use, value added, import duty or similar taxes applicable to the manufacture or sale of products and shall be paid by the Customer when applicable, and shall be added to the purchase price. In lieu of the imposition of any particular tax the Customer must, where applicable, provide a tax exemption certificate to

OKKAMI prior to the time of invoice preparation in a form acceptable to the taxing authorities.

**18. General**

a. Neither party may assign its rights or obligations under this Agreement without the prior consent of the other, which shall not be unreasonably withheld, and any purported assignment without such consent shall have no force or effect, except that:

- i. either party may assign this Agreement incident to the transfer of all, or substantially all, of its business to which such product and services are related;
- ii. OKKAMI may assign all or part of its obligations under this Agreement to any OKKAMI affiliate or subsidiary; and
- iii. OKKAMI may assign all or part of its rights to receive payments under this Agreement. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the respective parties hereto and their successors and assigns.

b. No failure or delay by either party to enforce or take advantage of any provision or right under this Agreement shall constitute a subsequent waiver of that provision or right, nor shall it be deemed to be a waiver of any of the other terms and conditions of this Agreement.

c. The prevailing party in any legal action arising out of, or related to this Agreement shall be entitled, in addition to any other rights and remedies it may have, to reimbursement for its expenses incurred in such action, including court costs and reasonable attorney's fees.

d. This Agreement shall be governed by and interpreted in accordance with the laws of the State of New York without regard to its choice of law principles. In the event any legal action becomes necessary to enforce or interpret the terms of this Agreement, the parties agree that such action will be brought in state or federal court in New York, New York and that the parties hereby submit to the jurisdiction and venue of said court as though the dispute was between residents. In any action or proceeding to enforce rights under this Agreement, the prevailing party shall be

entitled to recover all costs, expenses and reasonable attorney's fees incurred in such action.

e. All notices or communications to be given under this Agreement shall be in writing and shall be deemed delivered upon hand delivery, upon delivery by a courier service, upon acknowledged facsimile communication, or ten (10) days after deposit in the mail, postage prepaid, by certified, registered or first class mail.

f. This Agreement may be executed by original, electronic or other signature which indicates the parties' acceptance of the terms hereunder. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which together shall constitute one document. Delivery by means of a physical document or electronic file of such an executed copy of this Agreement shall be deemed an original, and have the full force and effect of an original signed paper copy.

g. The terms and conditions of this Agreement may not be superseded, modified, or amended except in writing which states that it is such a modification, and is signed by an authorized representative of each party hereto. This Agreement shall not be modified, supplemented, qualified, or interpreted by any trade usage or prior course of dealing not made a part of the order by its express terms.

h. This Agreement, signed Customer Property Forms and any additional terms ("Additional Terms") specified above and/or in Customer Property Forms and Customer Implement Specifications, constitute the entire agreement between the parties as to the subject matter hereof, and supersede and replace all prior or contemporaneous agreements, written or oral, regarding such subject matter. In the event of a conflict between any provision set forth in this Agreement and a signed Customer Property Form and Customer Implementation Specification, the provision set forth in the signed Agreement shall prevail over the Customer Property Form or a signed Customer Implementation Specification, and in the event of a conflict between any provision set forth in a signed Customer Property Form and a signed Customer Implementation Specification, the provision set forth in the signed Customer Property Form shall prevail over the signed Customer Property Form.

**EXHIBIT A**

**SUPPORT & MAINTENANCE / SERVICE LEVEL AGREEMENT**

**1. Service Commitment**

This Service Level Agreement (“SLA”) is subject to the terms of the applicable OKKAMI Software as a Service Terms and Conditions between OKKAMI, Inc. (“OKKAMI”) and Customer (“Agreement”). We reserve the right to change the terms of this SLA in accordance with the Agreement.

**2. Availability**

a. Definitions. The following definitions shall apply to this SLA. Capitalized terms, not otherwise defined herein, will have the meanings specified in the Agreement. **“Downtime”** means the time during which the Service Offering is unavailable (as measured from OKKAMI’s production data center internet connection points), excluding Force Majeure Events, Scheduled Maintenance, and Scheduled Updates. **“Force Majeure Events”** means events beyond OKKAMI’s reasonable control, which include, but are not limited to, acts of God, acts of government, flood, fire, earthquake, civil unrest, acts of terror, strikes or labor problems, computer, internet, or telecommunications failures, delays or network intrusions, or denial of service and any other degradations of the Service caused by third parties. **“Service Availability”** is a ratio calculated each month (based on 24-hour days for the number of days in the applicable month) that the Service is available to Customer (excluding Downtime from Force Majeure Events, Scheduled Maintenance, or Scheduled Updates), as measured from OKKAMI’s production data center internet connection points, as follows: **“Service Availability”** = ((total minutes in calendar month – total minutes of Downtime) / total minutes in calendar month) x 100. **“Scheduled Maintenance”** means scheduled maintenance performed by OKKAMI to keep the Service Offering operating optimally. OKKAMI will provide Customer with notice no less than seventy-two (24)-hours prior to the Scheduled Maintenance event. **“Scheduled Update”** means a scheduled deployment of program code introducing a new version, feature, or functionality of the Service. OKKAMI will provide Customer with notice no less than seventy-two (72)-hours prior to the Scheduled Update event.

b. Service Availability. During the Service Term, OKKAMI will provide the Service 24 hours per day, seven days per week, 365 days per year with a Service Availability of 99.9% (the **“Availability Commitment”**).

**3. SLA Credits.**

If, in any month, the Service Availability does not meet the Availability Commitment, then OKKAMI shall provide, a credit (**“SLA Credit”**) in accordance with the table below. Each SLA Credit will be calculated by multiplying (i) the prorated monthly

subscription Service (or license) fee charged for the affected month by (ii) the applicable SLA Credit percentage set forth in the table below.

SERVICE AVAILABILITY	SLA CREDIT PERCENTAGE
100% – 99.9%	0.0%
< 99.9% – 99.5%	2.0%
< 99.5% – 98%	5.0%
< 98%	10.0%

**4. SLA Credit Requests and Application.**

In order to receive an SLA Credit, Customer must make a request for SLA Credit by filing a support request via email (at support@okkami.com) within thirty (30) days of the last calendar day of the month in which Service Availability was less than the Availability Commitment. OKKAMI will review the request and if OKKAMI confirms the Downtime, then the Credit will be applied within thirty (30) days of OKKAMI’s receipt of Customer’s Credit request. SLA Credits are exclusive of any applicable taxes. Any Credits issued pursuant to this SLA will be applied towards the invoice for the month following the calendar day on which OKKAMI receives Customer’s SLA Credit request. SLA Credits will only be applied toward the Service subscription fee for the applicable instance of the Service impacted by the Downtime and cannot be used to offset any fees incurred by Customer for professional services, implementation, consulting, training, or other products or services. In the event that Customer is entitled to an SLA Credit after termination of the Agreement, OKKAMI will issue Customer a refund in the amount of the Credit within thirty (30) days of the termination effective date.

**5. SLA Credit Limitations.**

Customer is not eligible for any SLA Credits if: (i) Customer is delinquent in its payment obligations; (ii) Customer exceeds the maximum community or other usage limits allowed under the Agreement; or (iii) the Downtime attributable to Customer’s acts or omissions (or by the acts or omissions of Customer’s representatives or users) or use of the Service in breach of the Agreement. The SLA Credits and the termination rights specified above are Customer’s sole and exclusive remedies for any Downtime occurring during the Service Term.

**6. BASIS OF OKKAMI SUPPORT SERVICES**

- a. OKKAMI support services are based on Customer Property having good and stable Internet connection, enterprise-class Wi-Fi and a OKKAMI trained and certified staff member (“CSM”) onsite at all times.
- b. OKKAMI will provide Customer support team training and certification upon commissioning. Initial training will consist of front of house and technical staff. OKKAMI will also provide self-training materials. Following the initial year of support services, OKKAMI will provide annual remote training to Customer (Customer may request on-site training as Additional Customer Support, below). For all on-site training, customers must provide accommodations, meals, laundry, internet, and business center services for OKKAMI trainer(s), as well as training facilities.
- c. Using OKKAMI-provided troubleshooting materials, CSM responsibilities are:
  - i. receive and act upon all CMS notifications;
  - ii. receive and act upon all onsite issues relating to OKKAMI Services;
  - iii. replace faulty OKKAMI Hardware Platforms; and
  - iv. Customer is responsible for App content and configuration; and
  - v. Coordinate and manage Customer’s third-party external service providers.
- d. In the event the CSM is unable to resolve onsite issues, CSM will contact OKKAMI Remote Technical Services to report incident (“OKKAMI Level Incident”) via:
  - i. email at support@okkami.com;
  - ii. incident report in CMS; and
  - iii. contact OKKAMI through Skype support.
- e. OKKAMI Level Incidents will be responded to as follows:

**PRIORITY 1**

DESCRIPTION: Whole Property or multiple Properties down.  
 RESPONSE: ASAP (within 6 hours)

**PRIORITY 2**

DESCRIPTION: Affecting five rooms or more at Property and/or significant service disruption.  
 RESPONSE: Within 12 hours

**PRIORITY 3**

DESCRIPTION: Affecting no more than one room and/or minor service disruption.  
 RESPONSE: Within next business day

**PRIORITY 4**

DESCRIPTION: Information requests, general questions and/or non-time dependent issues.  
 RESPONSE: Dependent on issue - no specific time requirement

**7. OKKAMI Technical Support Services**

- Technical support services includes:
- a. bug fixes;
  - b. Software Services updates;
  - c. 24/7/365 CMS notification of OKKAMI Hardware Platforms and External Systems Interfaces;
    - i. process monitoring;
    - ii. system monitoring;
    - iii. Hardware Platform connectivity status;
    - iv. Hardware Platform operational status checked on a per minute basis;
    - v. system logging with alerts based on severity
- for:
- 1/ CPU faults and warnings;
  - 2/ network operational functionality; and
  - 3/ WAN functionality
- d. cloud CMS hosting and support;
  - e. updates of OKKAMI app to be current with latest mobile operating systems;
  - f. updates of SDK and APIs (including OKKAMI Developers’ Website);
  - g. update and maintain all external systems interface adapters;
  - h. updates to web portal services;
  - i. provide and update product support materials; and
  - j. remote preventative maintenance.

**Additional Customer Support Services**

- Additional Customer Support, that will be charged at separate hourly rate (OKKAMI current published rate), include:
- a. modifications to the original requirements (for example, adding additional features, changing design, changing functionality, etc.);
  - b. installation or configuration of new Customer requested features
  - c. Customer data updates and configurations. ie. changes to third party API’s provided to OKKAMI by Customer;
  - d. modifications due to upgrades of other Customer systems (PMS or POS upgrades, etc.);
  - e. additional training; and
  - f. OKKAMI-onsite support.