



800 Washington Ave N Suite 670  
Minneapolis, MN 55401

## NETSPI LLC MASTER SERVICES AGREEMENT

THIS MASTER SERVICES AGREEMENT ("AGREEMENT") IS ENTERED INTO BETWEEN NETSPI LLC ("NetSPI") AND THE LEGAL ENTITY SIGNING BELOW ("CLIENT"), AS OF THE EFFECTIVE DATE OF THIS AGREEMENT. THIS AGREEMENT GOVERNS ANY EXHIBITS OR STATEMENTS OF WORK THAT ARE ISSUED PURSUANT TO THIS AGREEMENT NOW OR IN THE FUTURE.

1. **Term; Termination.** The term of this Agreement will commence on the date of the last signature below (the "Effective Date") and will continue until terminated as set forth in this Section 1. This Agreement may be terminated by either party if the other party has committed a material breach of its obligations hereunder and fails to cure such breach within thirty (30) days following written notice of that breach from the non-breaching party. In addition, either party may terminate this Agreement for convenience upon at least thirty (30) days' prior written notice to the other party, unless any Statement of Work ("SOW") or other attachment to this Agreement describes Services or Deliverables that are to be provided over a Service Period that is twelve (12) months or more in length, in which case the parties may only terminate this Agreement for convenience at the end of such Service Period. Termination of this Agreement terminates all SOWs that are in effect, and Client shall pay NetSPI for all work performed up to the effective date of termination and NetSPI shall refund to Client any pre-paid fees for work that has not been performed up to the effective date of termination.
2. **Statements of Work; Assumptions.**
  - a. NetSPI and Client may execute one or more SOWs. NetSPI will provide the services identified in each SOW ("Services") and deliverables identified in each SOW ("Deliverables"). The SOW, or an attachment thereto, will describe the term during which Services and Deliverables will be provided (if applicable) (the "Service Period") and any additional terms and conditions concerning the Services and Deliverables. Each SOW will be incorporated into and governed by this Agreement. In the event of any conflict between this Agreement and a SOW, the Agreement will control unless otherwise explicitly set forth in the SOW.
  - b. The Services and Deliverables will be provided in accordance with the specifications, assumptions, and terms contained in this Agreement and the applicable SOW. If any of these assumptions or specifications change, NetSPI reserves the right to increase the fees stated in the applicable SOW ("Fees"), and work may be delayed. All changes to a SOW will be documented in a mutually executable change order or amendment between the parties. Fees quoted in any proposal from NetSPI (including any unsigned SOW) expire if not accepted within a period of thirty (30) days.
3. **Services; Warranty.** In consideration of the Fees, NetSPI will provide the Services and Deliverables (collectively, the "Work Product") described in each SOW. Each party warrants to the other that it has all necessary right, power, and authority to enter into this Agreement and to perform its obligations under this Agreement. NetSPI warrants that all Services will be performed in a professional and workmanlike manner. EXCEPT AS EXPRESSLY SET FORTH HEREIN, EACH PARTY ACKNOWLEDGES AND AGREES THAT THE OTHER HAS NOT MADE ANY REPRESENTATIONS, WARRANTIES, OR AGREEMENTS OF ANY KIND, EXPRESS OR IMPLIED. THE PARTIES EXPRESSLY DISCLAIM ALL OTHER WARRANTIES OF ANY KIND, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, OR ANY WARRANTY OF NON-INFRINGEMENT.
4. **Fees; Payment; Taxes.** Client shall pay NetSPI the Fees in the amounts and at the intervals set forth in the applicable SOW. Client shall also pay the reasonable travel and related expenses of NetSPI's employees, if any are incurred with Client's prior written consent. Client shall pay undisputed invoiced amounts within thirty (30) days of the invoice date unless a different due date is specified in a SOW. Client will have a period of thirty (30) days after receipt of an invoice to notify NetSPI in writing of any dispute regarding that invoice, and if Client does not so notify NetSPI within this time period all Fees and expenses in the invoice will be considered undisputed. Client shall also be responsible for paying all

applicable taxing entities for any taxes arising out of this Agreement, except for taxes imposed on NetSPI's income or employment-related taxes for NetSPI personnel (such as payroll and withholding). If Client fails to pay any undisputed invoiced amount within thirty (30) days after the invoice date, NetSPI may, without limiting its other remedies: (a) charge Client interest on the unpaid amount at the lesser of one and one-half percent (1.5%) per month or the maximum rate allowed by law; and (b) at NetSPI's option, suspend or stop providing Work Product. Client shall be responsible to NetSPI for all reasonable costs and fees (including, but not limited to, court costs, collection fees and attorney's fees) if NetSPI pursues any actions against Client to collect past due amounts owed NetSPI.

## 5. Confidentiality.

- a. For purposes of this Agreement, "Confidential Information" includes, but is not limited to, all information, technology, data, patents, trademarks, copyrights, or applications therefor, know-how, processes, design, specifications, samples, inventions, ideas, past, current and planned research and development, current and planned sales and distributions methods and processes, customer lists, NetSPI Information (as defined below), current and anticipated customer requirements, price lists and financial information, trade secrets, confidential or proprietary information designated in writing or orally as confidential by the disclosing party, or information which would, under the circumstances, appear to a reasonable person to be confidential or proprietary.
  - b. "Confidential Information" does not include: (a) information that was or became generally known to the public at the time of disclosure through no wrongful act on the part of the receiving party, or was readily obtained by the receiving party from publicly available sources; (b) information that was in the receiving party's possession at the time of disclosure, other than as a result of receiving party's breach of any legal obligation, including (but not limited to) this Agreement; (c) information that became known to the receiving party through disclosure by sources other than the disclosing party, provided that such sources had the legal right to disclose such Confidential Information; (d) information that was independently developed by the receiving party without use of or reference to Confidential Information; or (e) information that was disclosed with the prior written approval of the disclosing party.
  - c. A party retains ownership of and all intellectual property rights in its own Confidential Information, except to the extent a license is granted pursuant to the terms of this Agreement.
  - d. If Confidential Information is exchanged by the parties, each party agrees not to use the other party's Confidential Information except in performance of its obligations under this Agreement, and not to disclose, sell, license, distribute or otherwise make such information available to third parties. Notwithstanding the foregoing, either party may share Confidential Information with its Representatives (defined below) who: (1) have a need to know such information in order to assist a party with performance of its obligations under this Agreement; (2) are informed of the confidential nature of such information; and (3) are subject to confidentiality duties or obligations that are no less stringent than the requirements of this Section 5. For purposes of this Agreement, "Representatives" will mean directors, managers, officers, employees, agents, or advisors, including attorneys, accountants, consultants, bankers, and financial advisors.
  - e. NetSPI may engage third-party contractors to perform the Services and provide Deliverables hereunder, so long as such contractor has a need to know Client's Confidential Information and is subject to confidentiality obligations no less stringent than the requirements of this Section 5.
  - f. NetSPI may use information concerning the existence of vulnerabilities and other security data that is compiled as a result of the Services provided that it has been fully anonymized by NetSPI to remove all references that could identify Client or its customers ("Compiled Data"), and further provided that the Compiled Data will not include any Client Confidential Information.
6. **Data Privacy and Security.** Without limiting the foregoing, the parties acknowledge that during the course of providing the Services, NetSPI may potentially encounter certain information relating to Client's employees or other individuals,

including information capable of identifying any natural person (“Personal Data”), dependent upon the scope and details regarding NetSPI’s access to Client information. Client remains the controller of such Personal Data, and NetSPI, solely to the extent applicable based on NetSPI’s use of the data, will be the processor thereof. NetSPI will protect the privacy and security of such Personal Data within its possession or control in accordance with applicable laws. Each party agrees to comply with the terms of the Data Processing Addendum available at: <https://www.netspi.com/legal/data-processing-addendum/>, which is hereby incorporated into this Agreement by reference. NetSPI further agrees to comply with the security standards set forth at: <https://www.netspi.com/legal/security-addendum/>, which is also incorporated into this Agreement by reference.

7. **Publicity.** Client agrees that NetSPI may use Client’s name and logo on NetSPI’s website and for other marketing purposes, provided that NetSPI shall obtain Client’s approval before using Client’s name or logo in press releases or publishing any quotes from Client personnel.
8. **Rights in Work Product.**
  - a. Client agrees that it will only access the Services and use Deliverables as permitted by this Agreement and the applicable SOW. Upon Client’s payment of the Fees, Client will own all data showing the results of the Services that is incorporated into the Deliverables (“Results Data”).
  - b. Subject to Section 8(a) above, upon Client’s payment of the Fees, NetSPI grants Client a nonexclusive, perpetual, royalty-free, nontransferable license to review and distribute the Deliverables internally for the purpose of assessing the results of the Services, and to provide copies of the Deliverables to Client’s customers, Representatives, Affiliates, or regulators, who have executed a contract with Client having confidentiality terms at least as protective as those of this Agreement, and provided that the Deliverables are marked “confidential” or “proprietary” or with similar legend. The license granted to Client in the preceding sentence will be a worldwide license, provided, however, that Client must comply with all applicable United States export control laws that would restrict use and distribution of Deliverables, and the license is subject to any further limitations on use otherwise specified in the applicable SOW. For purposes of this Agreement, “Affiliate” will mean any company, corporation, or limited liability company that directly or indirectly controls, is controlled by, or is under common control with a party to this Agreement.
  - c. Except as otherwise specifically provided in this Agreement, NetSPI does not transfer or assign to Client any copyright, trademark, patent, trade secret, or other intellectual property rights or interests of any kind (collectively, “Rights”) in any Work Product.
  - d. Any NetSPI proprietary or Confidential Information used to perform the Services or prepare Deliverables, including but not limited to software, appliances, methodologies, code, templates, tools, policies, records, working papers, knowledge, screenshots, or pre-existing intellectual property, written or otherwise, and any Compiled Data (collectively, “NetSPI Information”), will remain the exclusive property of NetSPI. NetSPI shall own all Rights in any NetSPI Information that is created, developed, or expanded by NetSPI, either on its own or with assistance from any third party in the course of providing the Services. To the extent that NetSPI incorporates any NetSPI Information into a Deliverable, such NetSPI Information will be governed by the license to Deliverables granted to Client under Section 8(b) above. For the avoidance of doubt, NetSPI Information will not include Client’s Confidential Information.
  - e. Except as explicitly allowed pursuant to the terms of this Agreement, Client agrees that it will not, on its own or using any third party, copy, sell, license, lease, share, distribute, reverse engineer, decompile, translate, disassemble, or otherwise attempt to derive data, content, source code, trade secrets, or NetSPI Information from any Work Product. The terms of this paragraph apply, without limitation, to NetSPI Information consisting of policies, processes, procedures, and other documentation, whether electronic or written, supplied by NetSPI to Client as part of the Work Product.

## 9. Indemnification.

- a. NetSPI shall indemnify, defend, and hold Client harmless against any costs, liabilities, or damages (including attorney's fees) incurred by Client in a third-party claim or suit against Client that alleges that Client's authorized use of any NetSPI Information provided as part of the Work Product infringes any copyright, trademark, or trade secret of such third party. As a condition precedent to NetSPI's indemnity obligation, Client must: (i) promptly notify NetSPI in writing of any such claim or suit; (ii) grant NetSPI control of the defense and resolution of the claim or suit (including without limitation the right to select counsel to defend Client and the right to settle on behalf of Client, provided that any settlement requiring an admission of fault by the Client, payment of money by the Client, or injunctive relief against the Client will require Client approval, such approval not to be unreasonably withheld); and (iii) cooperate with NetSPI in connection with its defense. If Client is enjoined from using any NetSPI Information provided as part of the Work Product or if NetSPI believes that such NetSPI Information is likely to become the subject of an infringement claim, NetSPI will at its option: (i) obtain the right for Client to continue to use such Deliverable; or (ii) replace or modify the Deliverable so as to make it non-infringing and substantially comparable in functionality. If after using commercially reasonable efforts NetSPI is unable to accomplish the actions described in the previous sentence, Client shall destroy or return all such Deliverables to NetSPI and NetSPI's sole liability will be to refund Client the amount paid to NetSPI for the infringing portion of such Deliverable. Notwithstanding the foregoing, NetSPI will have no indemnity obligation, responsibility, or liability to Client for any infringement claim based on: (v) use of a Deliverable in a manner not described in the applicable SOW, documentation, or instructions provided by NetSPI; (w) modification of any Deliverable other than by NetSPI; (x) the use or combination of any Deliverable with products or services not supplied by NetSPI; (y) information supplied by Client to NetSPI that is used as the basis for Services or included in any Deliverable; or (z) Client's use of a superseded version of the Deliverable if the infringement could have been avoided by using the latest version of the Deliverable that has been provided to Client by NetSPI.
- b. If the willful misconduct or grossly negligent act or omission of either party or its employees during the performance of Services on Client's premises causes or results in the: (i) loss, damage to, or destruction of tangible property of the other party; and/or (ii) death or injury to any person, then the party that committed such willful misconduct or negligent act or omission shall indemnify, defend, and hold the other party harmless from and against any and all, damages, liabilities, costs, and expenses incurred in any resulting claim or suit by any third party (including reasonable attorney's fees of defending such claims). This duty to indemnify is conditioned on the indemnified party: (i) promptly notifying the indemnifying party, in writing, of any such claim or suit; (ii) granting the indemnifying party sole control of any such claim or suit (including without limitation the right to select counsel to defend and settle such claim or suit, provided that any settlement requiring an admission of fault by the indemnified party, payment of money by the indemnified party, or injunctive relief against the indemnified party will require the indemnified party's approval, such approval not to be unreasonably withheld); and (iii) cooperating with the indemnifying party in connection with the defense of such claim or suit.

**10. Limitation of Liability.** In no event will NetSPI be liable for any incidental, consequential, special, punitive, exemplary or indirect damages, demands, costs, fees, lost business profits, lost data, or downtime arising out of this Agreement, NetSPI's relationship with Client, or the Work Product. NetSPI's total aggregate liability to Client for all losses, damages, costs, claims, suits, causes of action, or other obligations of any kind combined ("Loss") will not exceed the total amounts paid by Client to NetSPI for the Services that caused the Loss in the twelve (12) months preceding Client's first notification to NetSPI of the Loss.

## 11. Access; Compliance Responsibilities.

- a. To enable the Services to be performed, Client may be required to grant NetSPI or its agents access to an environment controlled by Client. NetSPI and its agents will observe any security procedures provided by Client to NetSPI when such access is required, unless such security procedures would prevent the performance of in-scope, agreed upon Services. Client will provide NetSPI personnel with necessary space and any other requirements reasonably needed to provide the Work Product at the Client's location.



- b. Client shall provide storage and security for hardware, equipment, or other items (collectively, “Items”) of NetSPI at Client’s location that may be necessary to enable NetSPI to provide the Services. Client shall be responsible for any losses or damages to such Items that are caused by Client’s act or omission. At NetSPI’s sole option, Client will return to NetSPI, or provide NetSPI with access to uninstall and reclaim, any Items installed in the Client-controlled environment that were used to perform the Services. If Client fails, refuses, or unduly delays its compliance with the terms of the prior sentence, then NetSPI may invoice Client for the full cost of such Items.
  - c. The Services follow a defined method based on industry vulnerability standards (such as OWASP Top 10) that target the most common or likely weaknesses, vulnerabilities and exploits on the in-scope resources being tested. A weakness, noncompliance issue or vulnerability may not be discovered if evidence of it is not encountered during the performance of the Services, or if it is a new, unknown or unlikely weakness, vulnerability or exploit. If Services include testing, assessment or advice related to elements required under a particular law, regulation or standard, Client understands that such Services are not legal advice, and that although Work Product may assist Client in its efforts to achieve compliance with applicable laws, regulations, and standards, Client is ultimately responsible for ensuring that it meets all compliance requirements.
12. **Force Majeure.** Neither party shall be responsible for any failure to perform under this Agreement which is due to causes beyond its control which may include, without limitation, problems with the Internet or any connections thereto, hardware or software problems, telecommunications failure, computer virus, third-party interference, network failure, wars, civil disturbance, court order, legislative or regulatory action, catastrophic weather conditions, pandemic, power or utility failure, or acts of God.
13. **Independent Contractor Relationship.** NetSPI is an independent contractor and neither NetSPI, nor its employees, will be deemed an employee or agent of Client. Nothing about this relationship will be construed to make the two entities partners, joint venturers, or business affiliates and neither party will have the authority to make representations or commitments on behalf of the other.
14. **Complete Agreement; Non-Waiver; Assignment; Notification.** This Agreement, including all exhibits and any SOWs, contains the complete agreement between the parties relating to the Services and Deliverables, and supersede all prior offers, negotiations, understandings, and agreements. Notwithstanding the termination of this Agreement or any extension or renewal period, it is acknowledged and agreed that those rights and obligations which by their nature are intended to survive such termination, including Sections 3, 4, 5, 6, 7, 8, 9, 10, 11(a), 13, 14, 15, and 16, will survive the termination of this Agreement. No additional or different terms or conditions, whether material or immaterial, will become a part of this Agreement unless expressly set forth in a change order or amendment signed by authorized officers of NetSPI and Client. If either party fails to enforce any right or remedy under this Agreement, that failure is not a waiver of the right or remedy for any other breach or failure by the other party. Neither party may assign any rights and obligations under this Agreement without the other party’s prior written consent. Notwithstanding the foregoing, either party may assign this Agreement as part of a sale of all or substantially all of such party’s assets or stock to a third party. All notices given pursuant to this Agreement must be in writing and sent to the party’s signatory at the address noted for that party in the signature block of this Agreement, and will be effective: (i) upon receipt if hand delivered (including by any express or overnight delivery service); (ii) on the next business day after being sent by email to the e-mail address in the signature block of this Agreement, provided that the recipient acknowledges receipt; or (iii) on the third business day following deposit with the postal service by certified mail, return receipt.
15. **Export.** Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing, Client represents and warrants that (a) it will not use the Work Product in or from, nor is it under the control of the government of, Cuba, Iran, North Korea, Syria, Russia, and certain disputed regions of Ukraine (i.e., Crimea and the so-called Donetsk and Luhansk People’s Republics) or any country to which the United States has prohibited export; (b) it will not download or otherwise export or reexport the Work Product or associated documentation, directly or indirectly, to any country to which the United States has prohibited export or to citizens, nationals or residents of those countries; (c) it is not listed on the United States Department of Treasury lists of Specially Designated Nationals, Specially Designated Terrorists, and

Specially Designated Narcotic Traffickers, or the United States Department of Commerce Table of Denial Orders, nor will it permit any other individual or entity appearing on such lists to access or use the Work Product; (d) it will not allow the Work Product to be used for any purposes prohibited by United States law, including, without limitation, for the development, design, manufacture, or production of nuclear, chemical, or biological weapons of mass destruction; and (e) the Work Product will not be used to affect the confidentiality, integrity, or availability of information or information systems, without authorization by the owner, operator, or administrator of the information system.

16. **Governing Law and Forum for Disputes.** This Agreement will be governed by and construed in accordance with the laws of the State of Minnesota, without regard to principles of conflicts of law. The parties mutually, expressly, irrevocably, and unconditionally waive trial by jury for any proceedings arising out of or relating to this Agreement. The parties irrevocably consent to the sole jurisdiction of the United States District Court located in Minnesota or the Minnesota state courts located in Hennepin County, Minnesota, as applicable under federal and state rules and jurisprudence relating to jurisdiction, for the resolution of any disputes between them. This does not, however, prohibit the parties from mutually attempting to solve disputes informally.

*[Signature page follows]*



IN WITNESS WHEREOF, the Parties hereto, through their duly authorized representatives, have entered into this Agreement.

\*\*\*\*\*Insert Client Legal Name\*\*\*\*\*

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
E-mail \_\_\_\_\_

NetSPI, LLC

By: \_\_\_\_\_  
Printed: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_  
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