



16708 Setter Point Lane
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Izba Consulting, LLC terms & conditions

1. **Applicability.**

(a) These terms and conditions for services (these "**Terms**") are the only terms that govern the provision of services by Izba Consulting, LLC ("**Service Provider**") to the person whose name appears on the signature page attached hereto ("**Customer**").

(b) The accompanying statement of work, together with any subsequent statement of work (as may be updated from time to time, the "**Statement of Work**") and these Terms (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. In the event of any conflict between these Terms and the Statement of Work, these Terms shall govern, unless the Statement of Work expressly states that the terms and conditions of the Statement of Work shall control.

(c) These Terms prevail over any of Customer's general terms and conditions regardless of whether or when Customer has submitted its request for proposal, order, or such terms. Provision of services to Customer does not constitute acceptance of any of Customer's terms and conditions and does not serve to modify or amend these Terms.

2. **Services.** Service Provider shall provide the services to Customer as described in the Statement of Work (the "**Services**") in accordance with these Terms.

3. **Performance Dates.** Service Provider shall use reasonable efforts to meet any performance dates specified in the Statement of Work, and any such dates shall be estimates only.

4. **Term.** The term of this Agreement shall commence on the date the Terms are executed and shall continue until the Services are completed, unless earlier terminated in accordance with Section 14 (the "**Term**"). Any extension of the Term will be subject to mutual written agreement between the parties.

5. **Customer's Obligations.** During the Term, Customer shall:

(a) Cooperate with Service Provider in all matters relating to the Services and provide such access to Customer's premises, and such office accommodation and other facilities as may reasonably be requested by Service Provider, for the purposes of performing the Services;



(b) Respond promptly to any Service Provider request to provide direction, information, approvals, authorizations, or decisions that are reasonably necessary for Service Provider to perform Services in accordance with the requirements of this Agreement; and

(c) Provide such Customer materials or information as Service Provider may reasonably request to carry out the Services in a timely manner and ensure that such Customer materials or information are complete and accurate in all material respects.

6. **Customer's Acts or Omissions.** If Service Provider's performance of its obligations under this Agreement is prevented or delayed by any act or omission of Customer or its agents, subcontractors, consultants, or employees, or a Force Majeure Event, Service Provider shall not be deemed in breach of its obligations under this Agreement or otherwise liable for any costs, charges, or losses sustained or incurred by Customer, in each case, to the extent arising directly or indirectly from such prevention or delay.

7. **Change Orders.**

(a) If either party wishes to change the scope or performance of the Services, it shall submit details of the requested change to the other party in writing. Service Provider shall, within a reasonable time after such request, provide a written estimate to Customer of: (i) the likely time required to implement the change; (ii) any necessary variations to the fees and other charges for the Services arising from the change; (iii) the likely effect of the change on the Services; and (iv) any other impact the change might have on the performance of this Agreement.

(b) Promptly after receipt of the written estimate, the parties shall negotiate and agree in writing on the terms of such change (a "**Change Order**"). Neither party shall be bound by any Change Order unless mutually agreed upon in writing.

(c) Notwithstanding Section 7(a) and Section 7(b), Service Provider may, from time to time change the Services without the consent of Customer provided that such changes do not materially affect the nature or scope of the Services, or the fees or any performance dates set forth in the Statement of Work.

(d) Service Provider may charge for the time it spends assessing and documenting a change request from Customer on a time and materials basis in accordance with the Statement of Work.

8. **Fees and Expenses; Payment Terms; Interest on Late Payments.**

(a) In consideration of the provision of the Services by Service Provider and the rights granted to Customer under this Agreement, Customer shall pay the fees set forth in the Statement of Work in accordance with the terms set forth in the Statement of Work.



(b) Customer agrees to reimburse Service Provider for all reasonable travel and out-of-pocket expenses incurred by Service Provider, as set forth in the Statement of Work.

(c) Effective January 1, 2022 clients using credit cards will be subject to a 3% administrative fee.

9. **Taxes.** Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state, or local governmental entity on any amounts payable by Customer hereunder.

10. **Intellectual Property.**¹ All intellectual property rights, including copyrights, patents, patent disclosures and inventions (whether patentable or not), trademarks, service marks, trade secrets, know-how and other confidential information, trade dress, trade names, logos, corporate names, and domain names, together with all of the goodwill associated therewith, derivative works and all other rights (collectively, "**Intellectual Property Rights**") in and to all documents, work product, and other materials that are delivered to Customer under this Agreement or prepared by or on behalf of Service Provider in the course of performing the Services, including any items identified as such in the Statement of Work (collectively, the "**Deliverables**") except for any Confidential Information of Customer or Customer materials, shall be owned by Service Provider. Service Provider hereby grants Customer a license to use all Intellectual Property Rights free of additional charge and on a non-exclusive, worldwide, non-transferable, non-sublicensable, fully paid-up, royalty-free, and perpetual basis to the extent necessary to enable Customer to make reasonable use of the Deliverables and the Services.

11. **Confidential Information.**

(a) All non-public, confidential or proprietary information, including, but not limited to, trade secrets, technology, information pertaining to business operations and strategies, and information pertaining to customers, pricing, and marketing (collectively, "**Confidential Information**"), disclosed by either party (the "**Disclosing Party**") to the other party (the "**Receiving Party**"), whether disclosed orally or disclosed or accessed in written, electronic or other form or media, and whether or not marked, designated or otherwise identified as "confidential," in connection with the provision of the Services and this Agreement is confidential, and shall not be disclosed or copied by the Receiving Party without the prior written consent of the Disclosing Party. Confidential Information does not include information that is: (i) in the public domain; (ii) known to the Receiving Party at the time of disclosure, as evidenced by documentary proof; or (iii) rightfully obtained by Customer on a non-confidential basis from a third party.

¹ Company to advise of ownership of IP.



(b) The Receiving Party agrees to use the Confidential Information only in connection with, or to make use of, the Services and Deliverables.

(c) The Disclosing Party shall be entitled to injunctive relief for any violation of this Section.

12. Marketing Release.

(a) Customer agrees that Izba may refer to Customer as a client, subject to Customer's trademark and logo usage guidelines provided by Customer, and that after Customer review, Izba may create incidental marketing materials and/or a case study. The client agrees only after prior written or oral approval

(b) Public information created by the client on social media (LinkedIn, FaceBook, Tik Tok, Instagram etc.) can be shared/posted without prior approval.

13. Disclaimer of Warranties. SERVICE PROVIDER MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE SERVICES, INCLUDING ANY (A) WARRANTY OF MERCHANTABILITY; (B) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; (C) WARRANTY OF TITLE; OR (D) WARRANTY AGAINST INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE, OR OTHERWISE.

14. Limitation of Liability.

(a) IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY FOR ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR DIMINUTION IN VALUE, OR FOR ANY CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES WHETHER ARISING OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR OTHERWISE, REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE AND WHETHER OR NOT SERVICE PROVIDER HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

(b) IN NO EVENT SHALL SERVICE PROVIDER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, EXCEED THE AGGREGATE AMOUNTS PAID OR PAYABLE TO SERVICE PROVIDER IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

15. Termination. In addition to any remedies that may be provided under this Agreement, Service Provider may terminate this Agreement with immediate effect upon written notice to Customer, if Customer:



(a) fails to pay any amount when due under this Agreement and such failure continues for 10 days after Customer's receipt of written notice of nonpayment;

(b) has not otherwise performed or complied with any of the terms of this Agreement, in whole or in part; or

(c) becomes insolvent, files a petition for bankruptcy or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors.

16. Non-Solicitation. Customer agrees that during the Term and for a period of 18 months following the termination or expiration of this Agreement, Customer shall not make any solicitation to employ Service Provider's personnel without written consent of Service Provider, to be given or withheld in the Company's/other Service Provider's sole discretion. While our preference would be for our consultants to not leave for our clients, we recognize that in rare occasions such a move may be in the best interest of both parties. For consent to be given, Client or consultant should approach Service Provider with interest in a transition before any employment offers are made either verbally or contractually. If the transition occurs with at least 60 days notice, Service Provider will receive a recruiting fee equal to 40% of the employee's new annual salary. If the transition occurs with less than 60 days notice, Service Provider will receive a recruiting fee equal to 60% of the employee's new annual salary. Recruiting fee can be paid in either cash or equity at Service Provider's sole discretion. Service Provider reserves the right to withhold consent of a transition for any reason.

For the purposes of this clause, a general advertisement or notice of a job listing or opening or other similar general publication of a job search or availability to fill employment positions, including on the internet, shall not be construed as a solicitation or inducement, and the hiring of any such employees or independent contractor who freely responds thereto shall not be a breach of this clause.

17. Waiver. No waiver by Service Provider of any of the provisions of this Agreement is effective unless explicitly set forth in writing and signed by Service Provider. No failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement operates or may be construed as a waiver thereof. No single or partial exercise of any right, remedy, power, or privilege hereunder precludes any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

18. Force Majeure. Service Provider shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Service Provider including, without



limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, pandemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage (the foregoing, each a "**Force Majeure Event**"), provided that, if a Force Majeure Event continues for a continuous period in excess of 60 days, Customer shall be entitled to give notice in writing to Service Provider to terminate this Agreement.

19. **Assignment.** Customer shall not assign any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Service Provider. Any purported assignment or delegation in violation of this Section is null and void. No assignment or delegation relieves Customer of any of its obligations under this Agreement.

20. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

21. **No Third-Party Beneficiaries.** This Agreement is for the sole benefit of the parties hereto and their respective successors and permitted assigns and nothing herein, express or implied, is intended to or shall confer upon any other person or entity any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of these Terms.

22. **Governing Law.** All matters arising out of or relating to this Agreement are governed by and construed in accordance with the internal laws of the State of New Jersey without giving effect to any choice or conflict of law provision or rule (whether of the State of New Jersey or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than those of the State of New Jersey.

23. **Submission to Jurisdiction.** Any legal suit, action, or proceeding arising out of or relating to this Agreement shall be instituted in the state or federal courts sitting in the State of New Jersey, and each party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

24. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") shall be in writing and addressed to the parties at the addresses set forth in the Statement of Work or to such other address that may be designated by the receiving party in writing. All Notices shall be delivered by personal delivery, nationally recognized



overnight courier (with all fees pre-paid), facsimile or email (with confirmation of transmission) or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) upon receipt of the receiving party, and (b) if the party giving the Notice has complied with the requirements of this Section.

25. **Severability.** If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

26. **Survival.** Provisions of these Terms, which by their nature should apply beyond their terms, will remain in force after any termination or expiration of this Agreement including, but not limited to, the following provisions: Section 11, Section 15, Section 21, Section 22 and this Section 25.

27. **Amendment and Modification.** This Agreement may only be amended or modified in a writing which specifically states that it amends this Agreement and is signed by an authorized representative of each party.

28. **Counterparts.** This Agreement may be executed in multiple counterparts and by electronic signature, each of which shall be deemed an original and all of which together shall constitute one instrument.

29. **Modifications.** This Agreement may be modified from time to time by Izba to reflect changes in applicable legal requirements. This Agreement will be published on Izba's website accessible via www.izba.co. Izba's clients are expected to check the Izba website from time to time to ensure they have access to the most current version of this Agreement.

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IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the date set forth below.

SERVICE PROVIDER:

Izba Consulting, LLC

By: _____

Name:

Title:

CUSTOMER:

(Name)

By: _____

Name:

Title:

[Signature Page to General Terms and Conditions]