



SaaS/SLA Agreement

Introduction

This APL SaaS/SLA Agreement (“Agreement”) is entered into on the last date a Party to this Agreement signs below (the “Effective Date”) between Agent Production Library, Inc. a Texas Corporation (“APL”) and _____ (“Client”), (individually referred to herein as “Party” or collectively as “Parties”). APL agrees to provide agency management and commission accounting services to Client under the terms and conditions of this SaaS/SLA Agreement as described herein (the “Services”).

I. Term

1. This Agreement shall commence on the Effective Date and continue until terminated by either Party. In the event either Party desires to terminate this Agreement without cause, the terminating Party shall provide the other Party at least 60 days written notice of termination.

II. Billing and Payment

2. APL will bill Client for the Services monthly. Rates for Services are outlined below and may be changed as necessary. In the event of a rate change, APL will provide Client 60 days notice of any alteration. Client’s continued use of the Services following any rate change shall constitute Client’s acceptance of such change. Payments for the Services are due monthly to APL. The Services may be terminated if payments are not received within the payment terms described on the invoices, subject to any notice requirements under this Agreement that permit Client an opportunity to cure.

III. Service Performance Guarantees

3. APL guarantees 99.9% availability of the hosting Services. In the event of a failure of availability, Client may submit a credit request to APL. All credit requests must be sent via U.S. Postal Mail to the following address:

Agent Production Library Inc.
715 E. Border St.
Arlington, TX 76010

APL will acknowledge all requests for credit within five (5) business days of receipt and inform Client via email or U.S. Postal Mail within thirty (30) days whether the request is approved or denied. Credits will be issued within 30 days from credit approval by APL.

The duration of any service outage will be determined by summing the amount of time Client Trouble Tickets are open with the appropriate APL client care representative. The time starts with the opening of a Client Trouble Ticket by APL client support and ends when APL client support notifies Client of the restoration of the Service. All claims for credit due to any failure of Service availability are subject to review and verification by APL.

IV. Client Data

4. All data is owned by Client and is to be strictly held as confidential. APL will delete and destroy all copies of data when instructed by Client.

V. Back-up of Data

5. APL will make a full backup of client data daily. The backup will be stored for a period of no less than ninety (90) days. The backup can be restored at any time per the request of the client. APL will maintain a back-up of the client data for 120 days after the expiration or termination of this Agreement. APL shall have no liability or responsibility to retain any client data beyond the expiration of the 120 days following termination and may, at APL's sole discretion, delete any client data it possesses.

VI. Client Responsibilities

6. Client is solely responsible for the content of communications transmitted by Client using the Services, and shall defend, indemnify and hold harmless APL from and against all liabilities and costs (including reasonable and necessary attorneys' fees) arising from any and all third-party claims by any person based upon the content of any such communications.
7. Client is not permitted to resell the Services.
8. Client shall use the Services only for lawful purposes. To the extent deemed necessary by Client, Client shall implement security procedures necessary to limit access of the Services to Client's authorized users and shall maintain a procedure external to the Services for reconstruction of lost or altered files, data, or programs.
9. Client is responsible for establishing designated points of contact to interface with APL.

VII. Representations and Warranties

10. **Authority to Execute Agreement** - Each Party represents and warrants that it has the right and authority to enter into this Agreement, and that by entering into this Agreement, it will not violate, conflict with, or cause a material default under any other agreement, indenture, decree, judgment, undertaking, conveyance, lien or encumbrance to which it is a party or by which it or any of its property is or may become subject or bound.

11. **Compliance with the Laws** - Each Party represents and warrants that no consent, approval, or authorization of or designation, declaration, or filing with any governmental authority is required in connection with the valid execution, delivery, and performance of this Agreement. Each Party shall, at its own expense, comply with all laws, regulations and other legal requirements that apply to it and this Agreement, including copyright, privacy, and communications decency laws.
12. **Acceptable Use** - Client is solely responsible for the content of any postings, data, or transmissions using the Services, or any other use of the Services by Client or by any person or entity Client permits to access the Services. Client represents and warrants that it will: (a) not use the Services in a manner that: (i) is prohibited by any law or regulation, or to facilitate the violation of any law or regulation; and (ii) will disrupt any third parties' similar use of the Licensed Materials; (b) not violate or tamper with the security of any APL computer equipment or program. If APL has reasonable grounds to believe that Client is utilizing the Services for any such illegal or disruptive purpose, APL may suspend or terminate the Services if Client has not discontinued such illegal or disruptive purpose within seven days after its receipt of written notice from APL outlining in detail such reasonable grounds.
13. In the event Client is entering this Agreement to receive APL's full-service package, APL warrants and represents to Client that the Services shall include all services outlined in the attached "Commission Accounting Service Process Overview" as of the Effective Date. This warranty does not apply to APL's self-managed clients.
14. **DISCLAIMER OF WARRANTIES** - THE WARRANTIES SET FORTH IN THIS AGREEMENT ARE THE ONLY WARRANTIES MADE BY APL. APL MAKES NO OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, WITH RESPECT TO THE SERVICES, ANY RELATED SERVICE, OR SOFTWARE. APL HEREBY EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR IMPLIED WARRANTIES ARISING FROM A COURSE OF DEALING OR COURSE OF PERFORMANCE. NO ORAL OR WRITTEN INFORMATION GIVEN BY APL, ITS EMPLOYEES, LICENSORS, OR THE LIKE WILL CREATE A WARRANTY.

VIII. Limitation of Damages

15. Excluding the liability under the section entitled "NO INFRINGEMENT" below, UNDER NO CIRCUMSTANCES WILL APL, OR ANY ONE ELSE INVOLVED IN ADMINISTERING, DISTRIBUTING OR PROVIDING THE SERVICES, BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES THAT RESULT FROM THE USE OF OR INABILITY TO USE THE SERVICES, INCLUDING BUT NOT LIMITED TO LOSS OF REVENUE OR LOST PROFITS, OR DAMAGES THAT RESULT FROM MISTAKES, OMISSIONS, INTERRUPTIONS, DELETION OF FILES OR EMAILS, ERRORS, DEFECTS, VIRUSES, DELAYS IN OPERATION OR TRANSMISSION, FAILURE OF PERFORMANCE, THEFT, DESTRUCTION OR

UNAUTHORIZED ACCESS TO APL'S RECORDS, PROGRAMS OR SERVICES, EVEN IF SUCH PARTY HAS BEEN ADVISED TO THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT OF ANY BREACH BY APL OF THIS AGREEMENT, APL'S LIABILITY TO CLIENT WILL NOT EXCEED THE AMOUNT PAID TO APL BY CLIENT DURING THE PREVIOUS THREE MONTHS.

16. **NO INFRINGEMENT** - APL warrants the Licensed Material will not infringe any patent, trademarks, copyright or any proprietary rights of a third party or constitute a misuse or misappropriation of a trade secret. Client shall notify APL promptly in writing of any known action brought against Client based on an allegation that Client's use of any materials infringes any patent, trademark, copyright, or infringes any right of a third party, or constitutes misuse or misappropriation of a trade secret ("Infringement"). APL will defend, indemnify, and hold Client harmless from any such action at APL's sole expense, provided that APL shall have the sole control of the defense of any such action, all negotiations, and/or its settlement, and Client reasonably cooperates with APL in such defense. In the event that a final injunction is obtained against Client's use of the Services by reason of an infringement or Client is otherwise prohibited from using same, APL shall to the extent possible and at its expense, within sixty (60) days, either (a) procure for Client the right to continue to use the Services that are being infringed, or (b) replace or modify the Services to make its use non-infringing while being capable of performing the same function. If neither option is available to APL, then Client, at Client's option, may terminate this Agreement without penalty or further payment other than payment of fees for use of the Services prior to said termination. The obligations of this paragraph shall survive the expiration or termination of this Agreement.

IX. Licenses

17. APL hereby grants to Client a personal, nonexclusive, nontransferable license during the term of this Agreement to use, in object code form, all software and related documentation provided by APL ("Licensed Material"), which may be furnished to Client under this Agreement. Client agrees to use commercially reasonable efforts to ensure that its employees and users of all Licensed Material hereby comply with the terms and conditions set out in this Agreement. Client also agrees to refrain from taking any steps, such as reverse assembly or reverse compilation, to derive a source code equivalent to the Licensed Material. All Licensed Material furnished to Client under this Agreement shall be used by Client only for Client's internal business purposes, shall not be reproduced or copied in whole or in part, and shall not be removed from the United States.
18. All right, title, and interest in and to the Licensed Material, and all copyrights, patents, trademarks, service marks, or other intellectual property or proprietary rights relating thereto, belong exclusively to APL, unless the Client requests APL use Client's customized procedure performed to Client's specifications. In such event, Client and APL agree to verify in writing that such is considered a "Work for Hire" and Client shall retain any related intellectual property rights to such "Work for Hire." Any modification to the Software performed by Client directly or indirectly extending the current capabilities shall be the property of APL and all copyrights and other rights are hereby assigned to APL.
19. The Licensed Materials shall not be exported or re-exported in violation of any export

provisions of the United States or any other applicable jurisdiction.

20. On APL's request, no more frequently than annually, Client shall confirm with APL: (i) the verification that the Licensed Material is being used pursuant to the terms of this Agreement; and (ii) the listing of all locations where the Licensed Material is being used.

X. Confidential Information, Nondisclosure, and Non-Solicitation

21. For purposes of this Agreement, "Confidential Information" shall mean information including, without limitation, all Client data, computer programs, code, algorithms, names and expertise of employees and consultants, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical, business, financial and product development plans, forecasts, strategies and information marked "Confidential", or if disclosed verbally, is identified as confidential at the time of disclosure. In addition to the foregoing, Confidential Information shall include third-party software, if any, that may be provided to Client under this Agreement, including any related source or object codes, technical data, data output of such software, documentation, or correspondence owned by the applicable licensor. Confidential Information excludes information that: (i) was publicly known or becomes publicly known through no fault of the receiving Party; (ii) was rightfully known or becomes rightfully known to the receiving Party without confidential or proprietary restriction from a source other than the disclosing Party; (iii) is independently developed by the receiving Party without the participation of individuals who have had access to the Confidential Information; (iv) is approved by the disclosing Party for disclosure without restriction in a written document which is signed by a duly authorized officer of such disclosing Party; and (v) the receiving Party is legally compelled to disclose; provided, however, that prior to any such compelled disclosure, the receiving Party will (a) assert the privileged and confidential nature of the Confidential Information against the third party seeking disclosure and (b) cooperate fully with the disclosing Party in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of such disclosure and/or use of the Confidential Information. In the event that such protection against disclosure is not obtained, the receiving Party will be entitled to disclose the Confidential Information, but only as, and to the extent, necessary to legally comply with such compelled disclosure. The confidentiality obligations of this Agreement shall survive the termination of this Agreement for two years thereafter.
22. **Nondisclosure** - During the term of this Agreement and for a period of two years thereafter, each Party agrees to maintain all Confidential Information in confidence to the same extent that it protects its own similar Confidential Information, but in no event using less than reasonable care, and to use such Confidential Information only as permitted under this Agreement. Each Party agrees to only disclose the other Party's Confidential Information to its employees: (a) with a need to know for further permitted uses of such information; and (b) who are informed of the nondisclosure/non-use obligations imposed by this Section 5. Both Parties shall take steps each determines appropriate to implement and enforce such non-disclosure/non-use obligations.
23. **Non-Solicitation** – During the term of this Agreement and for a period one year following the termination of this Agreement, the Parties agree that each Party shall refrain from soliciting or inducing any employees, officers, directors, and independent contractors to leave their

employment with either Party for the purpose of working with the other Party.

24. **Terms of Agreement Confidential** - Each of the Parties agrees not to disclose to any third party the terms of this Agreement, including pricing, without the prior written consent of the other Party hereto, except to advisors, investors, and others on a need-to-know basis under circumstances that reasonably ensure the confidentiality thereof, or to the extent required by law.
25. **Injunctive Relief** - In the event of an actual or threatened breach of the above confidentiality provisions, the non-breaching Party will have no adequate remedy at law and will be entitled to immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages.

XI. Termination

26. If a Party fails to perform or observe any material term or condition of this Agreement and the failure continues unremedied for thirty (30) days after receipt of written notice, the other Party may terminate this Agreement and recover those remedies as permitted by law. Where the failure to perform or observe a material term or condition is due to a nonpayment by Client of any undisputed charge when due, APL may terminate this Agreement or suspend the Services at its option if Client does not cure said breach within fifteen (15) days following Client's receipt of notice of the delinquency.
27. This Agreement may be terminated immediately upon written notice by either Party if the other Party becomes insolvent or involved in a liquidation or termination of business, files a bankruptcy petition, has an involuntary bankruptcy petition filed against it (if not dismissed within thirty days of filing), becomes adjudicated bankrupt, or becomes involved in an assignment for the benefit of its creditors.

XII. Miscellaneous

28. **Entire Agreement** - This Agreement, including any amendments and attachments henceforth that are incorporated herein, constitute the entire agreement between the Parties and shall be binding on the Parties when executed. It is further expressly understood and agreed that, there being no expectations to the contrary between the Parties, no usage of trade or other regular practice or method of dealing either within the computer software industry, APL's industry, or between the Parties shall be used to modify, interpret, supplement, or alter in any manner the express terms of this Agreement or any part thereof.
29. **Amendments** - No modification, termination, or waiver of any provisions of this Agreement shall be binding upon a Party unless in writing signed by an authorized officer of the Parties. No provision of any purchase order or other document issued by Client, which purports to alter, vary, modify, or add to the provisions of this Agreement, shall be binding upon APL or Client or be effective for any purpose, unless accepted by APL or Client, as applicable, in writing. With respect to Client, this Agreement, and any modification, waiver, or amendment, may only be executed by their President, Chief Executive Officer, Chief Operating Officer, or General Counsel. No other persons shall have authority to execute any documents on behalf

of Client.

30. **No Joint Venture/No Partnership/1099 Status** - Nothing contained in this Agreement shall be construed as creating a joint venture, partnership, or employment relationship between the Parties, nor shall either Party have the right, power, or authority to create any obligation or duty, express or implied, on behalf of the other. It is hereby acknowledged and agreed that APL and Client are, and intend to act and perform as, independent contractors, and this Agreement is not intended to, nor does it, create any partnership, joint venture, or employment relationship between the Parties. Further, APL and Client agree that (i) APL is free from the control and direction of Client in connection with the performance of the Services, both hereunder and in fact, (ii) the performance of the Services by APL is outside the usual course of Client's business, and (iii) APL is customarily engaged in an independently established trade, occupation, or business of the same nature as the Services performed hereunder. Each Party shall remain solely responsible for each Party's respective tax obligations that may arise as a result of this Agreement. Each Party is solely responsible for any tax matters relating to each Party's employees and contractors. Neither Party may incur debt or any other obligations on behalf of the other Party.
31. **Assignment** - Neither APL nor Client may assign this Agreement without first obtaining the other's written consent, of which shall not be unreasonably withheld, conditioned, or delayed. Notwithstanding the foregoing, Client may assign this Agreement in its entirety to any other party without APL's prior written approval (i) to any parent entity, subsidiary, or affiliate of Client, (ii) to Client's successor in interest in connection with a merger, acquisition, reorganization, or change of control of such party, or (iii) upon the sale of all or substantially all of such party's assets.
32. **Partial Invalidity** - The Parties recognize the uncertainty of the law with respect to certain provisions of this Agreement, and expressly stipulate that this Agreement will be construed in a manner that renders its provisions valid and enforceable to the maximum extent possible under applicable law. To the extent that any provisions of this Agreement are determined by a court of competent jurisdiction to be invalid or unenforceable, the Parties agree to cooperate in revising the Agreement as necessary to reflect the Parties' intent, to the extent possible so that the reformed Agreement is valid and enforceable. Parole evidence may be employed in the discussion and mediation of such contract revision.
33. **Captions & Pronouns** - The captions contained in this Agreement are solely for convenient reference and shall not be deemed to affect the meaning or interpretation of any article or section thereof. All personal pronouns used in this Agreement shall include the other gender whether used in the masculine, feminine, or neutral gender, and the singular shall include the plural whenever and as often as may be appropriate.
34. **Waiver** - No delay or failure of APL or Client in exercising any right herein and no partial or single exercise thereof shall be deemed of itself to constitute a waiver of such right or any other rights herein. Any waiver by APL or Client of any breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent or other breach.
35. **Force Majeure** - In the event that either Party is unable to perform any of its obligations

under this Agreement or to enjoy any of its benefits because of natural disaster, terrorism, fire, explosion, power blackout, earthquake, flood, the elements, strike, embargo, labor disputes, acts of civil or military authority, war, acts of god, acts or omissions of carriers or suppliers, acts of regulatory or governmental agencies, pandemic, epidemic, or voluntary or involuntary compliance with any declaration of emergency order, rule, or regulation of governmental agency or authority, by any federal, state, or local government, actions or decrees of governmental bodies, or communication line failure not the fault of the affected Party or other causes beyond such Party's reasonable control (a "Force Majeure Event") the Party who has been so affected shall immediately give notice to the other Party and shall do everything possible to resume performance. Upon receipt of such notice, all obligations under this Agreement shall be immediately suspended. If the period of nonperformance exceeds seven (7) days from the receipt of notice of the Force Majeure Event, the Party whose ability to perform has not been so affected may, by giving written notice, immediately terminate this Agreement as provided above. Upon cessation of the Force Majeure event, the Parties shall resume performance of this Agreement in accordance with the applicable terms of this Agreement.

- 36. **Joint Drafting** - The wording in this Agreement was reviewed and accepted by all Parties after reasonable time to review with legal counsel, and no Party will be entitled to have any wording of this Agreement construed against the other Party as the drafter of the Agreement in the event of any dispute in connection with this Agreement.
- 37. **Attorney's fees** – In the event of a lawsuit involving a breach of this Agreement, the prevailing party in any such lawsuit shall be entitled to recover its reasonable and necessary attorney's fees from the non-prevailing party.
- 38. **Governing Law and Jurisdiction** - This Agreement shall be governed by, and construed under, the laws of the State of Texas. Jurisdiction and venue for all purposes shall be solely in Tarrant County, Texas.
- 39. **Multiple Counterparts** - This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original, and each of which together shall constitute a single instrument.

Executed and agreed to on the Effective Date:

Client

APL Inc:

By: _____
Print: _____
Title: _____
Date: _____

By: _____
Print: **Jay Su, President**
Date: _____



Commission Accounting Service Process Overview

