

## **Master Services Agreement**

This Master Services Agreement, including the Schedules, SOWs, and Addenda attached hereto or executed hereunder (altogether, the “MSA”) is entered into by and between Fractalous LLC., a California LLC, with its principal place of business at 5021 Balfour Ln. Woodland Hills, CA 91364 (“Fractalous”), and \_\_\_\_\_ (“Client”), (each a “Party” and collectively the “Parties”).

### **1. Definitions**

The capitalized words used herein this MSA will have the meanings ascribed to them in Schedule 1 attached hereto this MSA.

### **2. Services**

#### 2.1 Provision of Services.

Fractalous will provide Client with the Services set out on each SOW, subject to and in accordance with the terms of this MSA. Fractalous agrees to use good faith efforts to implement the Services in accordance with the applicable SOW. Client is responsible for providing Fractalous with all such information, access (including continuous root administrative access to all computer servers licensed to Client and under Client’s control as part of the Services), and good faith cooperation that is required by Fractalous in order to provide the Services, including Technical Support, to Client. In the event that Client refuses or fails to permit such access, Client understands and agrees that Fractalous is not responsible for any malfunction or delay in the performance of the Services resulting therefrom. Fractalous reserves the right to physically access the Systems at any time in order to ensure the continuity of the Services. To prevent downtime caused by outdated components or malfunction of the Systems, Client consents to (a) Fractalous upgrading, repairing, or otherwise replacing the Systems that are hosting Client Data from time to time with or without notice to Client, and/or (b) Fractalous migrating Client Data within the Systems from time to time with or without notice to Client.

#### 2.2 Third Party Vendors and Products.

Fractalous may (at Fractalous’s sole discretion) provide any of the Services (in whole or in part) through a Fractalous Affiliate, a Third Party Vendor, or other subcontractor(s). The applicable terms and conditions for the use of any such Third Party Products that are incorporated into the Services are passed through to Client via this MSA. However, certain Third Party Vendors, such as Microsoft, Amazon, and Red Hat, require Fractalous to incorporate the terms and conditions for their Third Party Products into this MSA by specific reference, and are included as Schedule 2 attached to and incorporated into this MSA. The foregoing is not an exhaustive list of the Third Party Products and Third Party Vendors that may be used by Fractalous. Client acknowledges that at any given time, Third Party Products may no longer be available or may be revoked at the discretion of Fractalous or the Third Party Vendor. Any mention of Third Party Products by

Fractalous, its employees, or any third party entity related to Fractalous is for information purposes only and does not constitute an endorsement or recommendation by Fractalous. Fractalous does not assume any responsibility for any Third Party Vendor or Third Party Products. Fractalous IS NOT RESPONSIBLE FOR, AND EXPRESSLY DISCLAIMS LIABILITY FOR PERFORMANCE OR QUALITY OF THIRD PARTY VENDORS, THIRD PARTY PRODUCTS OR THEIR SUPPLIERS, AND THEIR FAILURE WILL NOT AFFECT CLIENT'S OBLIGATIONS TO Fractalous.

### 2.3 Governing Policies and Terms.

To ensure the stability of the Fractalous network and to comply with laws, regulations, and Internet standards, Fractalous relies upon the policies specified in the Schedule 1 (the "Policies"). The Policies may be amended by Fractalous from time to time provided, in which case, Fractalous shall endeavor to provide Client with advance notice of any change to the Policies. Any failure to provide such advance notice shall not affect the validity of such changes. The Policies are incorporated into and made an integral part of this MSA by this reference. Client also hereby agrees to abide by the terms and conditions of applicable Third Party Vendor agreements, including those described in Schedule 2 ("Third Party Vendor Terms") and shall ensure that at all times the Services are used in compliance with applicable Third Party Vendor Terms, including by using contractual terms no less restrictive than the Third Party Vendor Terms in Client's agreements with its End Users.

### 2.4 Services or Systems Audit.

The access provided by Client in Section 2.1 above may be used by Fractalous or an independent auditor for the purposes of conducting or performing an audit or report to comply with (i) applicable statutes or government regulations, or (ii) a Third Party Vendor requirement. Third Party Vendors are permitted to perform their Third Party Audits directly on the Systems (including any computer server or other hardware licensed to Client by Fractalous as part of the Services) with regards to their respective Third Party Products. Client is solely responsible for supporting such software or application including maintaining the licenses and installing updates and upgrades to such software or application. Fractalous will not be liable for any Claims or Losses arising out of or connected with any unpaid licenses installed by Client on the Systems.

### 2.5 Service Modifications.

Fractalous may, at its reasonable discretion, add to, modify, remove, or re-price any particular product or Services based on factors such as unavailability of Third Party Products. If Fractalous intends to remove or make any material changes to any of the Services included on a current SOW, then Fractalous will provide Client with at least 60 calendar days' prior written notice identifying the changes and when such changes will take effect. Notwithstanding the foregoing notice period, Client acknowledges that certain Services, or components thereof, may be sourced from Third Party Vendors who may make modifications of their own with less than 60 calendar days' prior notice, in which case Fractalous may implement such changes to the

correlating Services with less than 60 calendar days' prior notice to Client. If Client objects to the changes, then Client will have 14 calendar days from its receipt of the notice to notify Fractalous in writing of Client's objection to the modification. If Fractalous is unable to accommodate Client's objection or implement alternatives acceptable to Client, then Client's sole remedy will be to terminate the SOW without Termination Fees. If Client does not provide Fractalous with a written objection during the notice period, then Client will be deemed to have agreed to the changes identified in the modification notice.

### **3. Billing and Payment**

#### **3.1 Service Fees.**

Client shall pay Fractalous the Service Fees set forth on each SOW and all additional fees for Services not specified on an SOW but rendered to Client. Services will be billed at the standard time and materials rate of \$300.00 per hour and billed in 1 hour increments. Recurring Service Fees for each Service will begin to accrue on the earlier of (i) SOW Availability Date, or (ii) 30 calendar days following the applicable SOW Start Date. Setup Fees will begin to accrue on the applicable SOW Start Date. Some Service Fees are based on use of the Services and are calculated as set out on the SOW. Fractalous bills in advance, except for Service Fees based on usage which are billed in arrears. Service Fees based on usage will vary accordingly depending on Client's actual usage. If the SOW includes Services that are billed based on the time and materials used by Fractalous (including any of its Affiliates or Third Party Vendors) such as professional services, then Client acknowledges and agrees that the Service Fees are subject to change from the amount quoted in the SOW depending on Fractalous's actual time and materials used, provided that Fractalous will obtain Client's prior approval for any additional billable time that exceeds the amount described in the SOW. An SOW may include fees for a service provided by or through a third party, and Fractalous cannot guarantee that such fees will remain the same. If a third party increases its fees, Fractalous reserves the right to proportionally adjust its fees after giving Client 90 calendar days' notice prior to such adjustment.

#### **3.2 Taxes**

Service Fees and all additional fees for Services do not include taxes which may be applicable to Client. Client shall pay all federal, state, provincial or other goods and services taxes assessed upon or related to Client's purchase of the Services (except for taxes based on Fractalous' net income), unless Client provides Fractalous with a valid tax exemption certificate.3.33.3 Payment. Client shall pay the Service Fees, all additional fees for Services, taxes and the expenses set forth on an invoice within fifteen (15) days following the date of such invoice. If Client fails to pay an invoiced amount by such due date, Fractalous may assess a late payment interest fee equal to the lesser of (i) 1.5% times the unpaid amount per month or (ii) the maximum amount permitted by law. Client shall pay all of Fractalous's reasonable expenses associated with any collection efforts, including reasonable attorneys' fees and court costs.

3.4 Billing Dispute. Client may dispute an invoice, so long as (i) such dispute is made in good faith and, prior to the date on which such invoice is due, (ii) Client pays all undisputed amounts and (ii) Client provides Fractalous with written notice of and evidence supporting such dispute satisfactory to Fractalous. Fractalous and Client shall attempt in good faith to resolve such dispute within 30 calendar days of Fractalous's receipt of Client's notice and supporting evidence. Any disputed amount found by Fractalous to be properly owed to Fractalous shall be paid within five (5) calendar days following resolution of the dispute, together with the applicable late payment interest fee on such amount accrued from the original due date for such amount.

### 3.5 Payment Methods.

Fractalous accepts the following payment methods: check or money order; credit card (Visa, MasterCard, Discover); or bank wire or Automated Clearing House ("ACH"). Unless stated otherwise in the SOW or SOW, all Service Fees are in United States Dollars.

### 3.6 Rates.

Fractalous Standard Time and Materials Rate is \$300 per hour. Fractalous bills in 1 hour increments. Unless otherwise specified in the SOW, all work performed by Fractalous will be billed at the standard time and materials rate.

## **4. Term & Termination**

4.1 This MSA shall bind Fractalous and Client as of the Effective Date and shall continue as long as there is an SOW in effect. An SOW shall bind Fractalous and Client as of its SOW Start Date and shall continue for the SOW Initial Term. At the end of such SOW Initial Term, the SOW shall automatically renew for successive Renewal Terms, unless either Party provides the other Party with written notice of non-renewal at least 30 calendar days prior to the expiration of the current term of such SOW. Each SOW may have its own SOW Initial Term or Renewal Term and the expiration or termination of any particular SOW will not affect the SOW Initial Term or Renewal Term of any other SOW.

4.2 Termination for Convenience. Unless otherwise stated in the SOW, Client may terminate an SOW in whole or in part for convenience at any time by providing Fractalous with 30 calendar days' prior written notice subject to the applicable Termination Fee.

4.3 Termination for Cause. Either Party may terminate this MSA and/or the SOW upon written notice to the other Party, in the event that: such other Party breaches a material obligation of the SOW or this MSA and (i) such breach is not cured within 30 calendar days (or 10 business days in the case of non-payment by Client) following the breaching Party's receipt of written notice from the non-breaching Party, in which case such termination shall be effective as of the end of such 30 calendar day period (or 10 business day period in the case of non-payment by Client); (ii) such breach is incurable, in which case such termination shall be effective upon the breaching Party's receipt of written notice from the non-breaching Party; (iii) the other Party

becomes the subject of any insolvency, receivership, or bankruptcy proceeding; (iii) the other Party makes an assignment for the benefit of creditors or ceases to do business; or (iv) a Force Majeure Event has made the Services unavailable for 30 continuous days. Client acknowledges and agrees that this provision shall not apply to Fractalous's delivery of the Services and that Fractalous's sole liability and Client's sole remedy for any malfunction, defect, performance issues or outage issue associated with a particular Service shall be the applicable SLA.

4.4 Termination Fee. In the event that Fractalous terminates this MSA and/or an SOW pursuant to Sections 4.3 or Client terminates pursuant to Section 4.2, Client shall pay the Termination Fee to Fractalous within five (5) calendar days of the termination date. Client acknowledges and agrees that (i) Fractalous uses the contractual commitments of its customers, including Client, to make its own commitments to capacity and growth, including making significant capital expenditures, (ii) the amount of the Termination Fee is a reasonable approximation of the damages that Fractalous will suffer due to Client's early termination, and (iii) this provision is a material inducement to Fractalous entering into this MSA.

4.5 Post-Termination Migration Grace Period. Subject to the remainder of this paragraph, Client acknowledges that all Services (including data backup, if ordered) will immediately cease upon termination of the MSA or the applicable SOW. It is Client's sole responsibility, and not the responsibility of Fractalous, to ensure that all Client Data is either retrieved prior to termination or otherwise backed up on systems other than the Systems or using any Services prior to the termination date. Provided that Client was in good standing as of the termination date, Fractalous may, but is not obligated to, grant Client a 60 day post-termination migration period for Client to migrate all of Client Data to a new hosting provider or to otherwise remove all Client Data from the Systems. Client's ordinary Service Fees will continue to apply and Client shall pay such Service Fees to Fractalous during such migration period until Client notifies Fractalous that Client Data has been completely migrated or the expiration of the 60 days, whichever is earlier. If any Client Data remains on the Systems beyond this migration period, then Fractalous may, at its sole reasonable discretion, (a) delete such Client Data, or (b) retain the Client Data on the Systems and charge Client the fees associated therewith, in which case Fractalous may delete Client Data at any time if Client fails to timely pay such fees. Client acknowledges that this post-termination migration entails the actions of Client and its new hosting provider and does not entail any action on Fractalous's part other than to provide access to the Client Data. Upon Client's written request, Fractalous may provide reasonable migration assistance, in which case, Fractalous may charge (and Client will pay in advance) the Service Fees ordinarily charged by Fractalous for migration services of the magnitude and complexity that Client requires.

4.6 Suspension. In addition to any other rights or remedies available to Fractalous in this MSA, at law, in equity, by statute or otherwise, Fractalous may suspend the Services at any time upon written notice to Client in the event and for the period of time that: (i) providing the Services is prohibited by applicable law or regulation; (ii) Client fails to pay any invoiced amount (except for an amount disputed in good faith in accordance with Section 3.4) when due; or (iii) the Services are used in violation of the Policies, Third Party Vendor Terms or applicable law or regulation. In the event that Fractalous suspends the Services pursuant to clause (ii) or (iii) above, Client shall

pay all amounts for the Services during the period of suspension as if no suspension had occurred.

## **5. Representations and Warranties**

Client and Fractalous represent and warrant to each other that such Party has the power, authority, and legal right to enter into and to perform such Party's obligations under this MSA. Client represents and warrants that Client and its End Users, as applicable, own or have the right to use all data, Client Data, Confidential Information and Intellectual Property transmitted by or used in connection with the Services.

## **6. Disclaimers**

NOTWITHSTANDING ANY COMMUNICATIONS BETWEEN Fractalous AND CLIENT, EXCEPT AS EXPRESSLY STATED IN THIS MSA, NEITHER Fractalous NOR ANY OF ITS EMPLOYEES, AFFILIATES, AGENTS, SUPPLIERS, SUB-CONTRACTORS, OR LICENSORS MAKE ANY WARRANTIES OF ANY KIND, ORAL OR WRITTEN, EXPRESS OR IMPLIED, ARISING FROM COURSE OF DEALING, COURSE OF PERFORMANCE, OR OTHERWISE, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, CONFORMITY TO ANY REPRESENTATION OR DESCRIPTION, COMPLETELY SECURE, ERROR-FREE, NON-INTERRUPTION, OR NON-INTERFERENCE. EXCEPT AS EXPRESSLY STATED IN THIS MSA, THE SERVICES AND SYSTEMS PROVIDED UNDER OR ASSOCIATED WITH THIS MSA, INCLUDING THIRD PARTY PRODUCTS OR EQUIPMENT, ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. EACH OF THESE DISCLAIMERS SHALL APPLY UNLESS PROHIBITED BY APPLICABLE LAW. Fractalous IS NOT RESPONSIBLE FOR, AND EXPRESSLY DISCLAIMS LIABILITY FOR THE PERFORMANCE OR QUALITY OF ANY THIRD PARTY VENDOR, THEIR THIRD PARTY PRODUCTS OR THEIR SUPPLIERS, AND THEIR FAILURE WILL NOT AFFECT CLIENT'S OBLIGATIONS TO Fractalous. CLIENT'S USE OF THE SERVICES SHALL BE AT ITS OWN RISK AND CLIENT AGREES TO SEEK REDRESS AGAINST THE THIRD PARTY VENDOR IN CONNECTION WITH ANY GRIEVANCES OR CLAIMS.

## **7. Indemnification**

7.1 Mutual Obligation. Subject to the disclaimers herein, if a Party or any Representative of such Party (collectively "Protected Party") incurs any Losses because of any Claim arising out of or in connection with the acts or omissions of the other Party or its employee, contractor, or agent (collectively "Indemnifying Party") which amount to (a) personal injury or death, or theft of tangible personal property caused by the Indemnifying Party, (b) gross negligence or willful misconduct, or (c) alleged or actual violations by the Indemnifying Party of any law, regulation or rule, then the Indemnifying Party will indemnify, reimburse, and compensate the Protected Party for all Losses, as they accrue and become payable by the Protected Party, and defend, hold harmless, and protect the Protected Party from and against all Claims.

7.2 Fractalous Obligation. If Client (including its Representatives) incurs any Losses because the Services or Systems directly infringe the Intellectual Property rights of a third party under the laws of the country in which such Services are provided to Client, then Fractalous will defend, hold harmless, and protect Client from and against reasonable Claims related thereto.

Fractalous's sole and exclusive liability under this Section 7.2 shall be limited to Fractalous, in its sole discretion and at its own cost, either making such Services non-infringing, or obtaining a license or consent to allow Client's continued use of such Services, and, if neither of these options is commercially practicable, Fractalous shall terminate such Services (including any support of or related to such terminated Services) and refund to Client any prepaid Service Fees received by Fractalous for such terminated Services. Notwithstanding anything to the contrary, Fractalous shall have no liability or obligation for any infringement based on unauthorized use or modification of the Services, use of the Services in combination with any Intellectual Property (as defined below) not owned by Fractalous, Client's failure to install updates or patches or if any Claim or Loss is caused by the fraud, negligence, willful misconduct or breach of this Agreement by Client, including by its Representatives, Affiliates, or End Users.

7.3 Client Obligation. If Fractalous (including its Representatives) incurs any Losses because of any Claim arising out of, or in connection with, the use of the Services by Client (including by its Representatives, Affiliates, or End Users), including, but not limited to, Claims arising out of allegations that the Services have been used or Client's use of the Services (a) infringes the Intellectual Property rights of a third party (b) violates the Policies or the Third Party Vendor Terms ; or (c) violates any law, regulation or rule, then Client will defend, hold harmless, and protect Fractalous from and against reasonable Claims related thereto.

7.4 Indemnification Procedure. The indemnification obligations of this Section 7 shall be conditioned on the Protected Party (a) promptly notifying the Indemnifying Party in writing of the circumstances giving rise to such Loss such that there is no material prejudice to the Indemnifying Party due to the timing of the delivery of such notice and (b) giving the Indemnifying Party complete authority and information for the defense or settlement of the matter; provided, that (i) the Protected Party shall have the right to participate in the defense of the matter at such Party's expense, and (ii) the Indemnifying Party shall not settle the matter without the Protected Party's prior written consent if such settlement contains an admission of liability or fault attributable to the Protected Party or material equitable relief.

## **8. Limitation of Liability**

8.1 Scope. EXCEPT WITH RESPECT TO A PARTY'S BREACH OF ITS OBLIGATIONS OF NONDISCLOSURE AND NON-USE OF PROPRIETARY CONFIDENTIAL INFORMATION OF THE OTHER PARTY, TO THE EXTENT PERMITTED BY APPLICABLE LAW AND REGARDLESS OF THE BASIS FOR A CLAIM, UNDER NO CIRCUMSTANCES SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT DAMAGES OF ANY NATURE (INCLUDING, BUT NOT LIMITED TO, CONSEQUENTIAL, INCIDENTAL, EXEMPLARY, SPECIAL, OR PUNITIVE DAMAGES OR DAMAGES FOR BUSINESS INTERRUPTION OR LOSS OF REVENUES, PROFITS, DATA, OR BUSINESS INFORMATION) THAT ARISE OUT OF OR IN

CONNECTION WITH THIS MSA, ANY AGREEMENT BINDING ON OR ENFORCEABLE BY EITHER PARTY RELATED TO THE SERVICES, OR THE PROVISION OF THE SERVICES. THIS LIMITATION SHALL APPLY EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THESE DAMAGES AND EVEN IF SUCH DAMAGES WERE FORESEEABLE. CLIENT AGREES THAT FOR THE PURPOSES OF THIS SECTION, LOST REVENUES AND LOST PROFITS DO NOT INCLUDE CLIENT'S PAYMENT OBLIGATIONS TO Fractalous.

**8.2 Amount.** Other than (i) the Parties' respective indemnification obligations with respect to gross negligence and willful misconduct, (ii) Client's payment obligations with respect to Service Fees and related taxes and expenses, and (iii) the Parties' respective obligations of nondisclosure and non-use of the other Party's proprietary Confidential Information, each Party's liability arising out of this MSA, any agreement binding on or enforceable by either Party related to the Services, and the provision of the Services will be limited to direct damages and will not exceed the monetary amount equal to the average monthly payment of Service Fees during the 6 calendar months immediately prior to the event giving rise to the liability. The provisions of this MSA allocate the risks between the Parties and Fractalous's pricing reflects this allocation and the limitation of liability specified herein.

## **9. Confidential Information.**

Each Party agrees: (a) to hold the Confidential Information of the other Party in strict confidence using the same standard of care that such party uses to protect its own confidential information, but no less than reasonable care, and (b) not to use or disclose the Confidential Information of the other Party to any third party, other than as necessary to provide the Services, as permitted by the Policies, or as required by applicable law, court order, or regulation. In the event that a Party is required by applicable law, court order, or regulation to disclose the other Party's Confidential Information, such Party shall, unless prohibited by law, provide the other Party a reasonable opportunity to obtain, at the other Party's expense, a protective order. Fractalous shall have the right and license to use residuals, where "residuals" means ideas or know-how in non-tangible form that may be retained in the unaided memories of representatives of Fractalous.

## **10. Intellectual Property**

In order to permit Fractalous to provide the Services, Client shall obtain and maintain all rights, consents, and approvals required to grant Fractalous and its agents the right to access, use, and modify any data, content, equipment, and Intellectual Property utilized by Client and its End Users in connection with the Services. Unless expressly stated in this MSA, neither Party shall (a) have any right, title, claims, or interest in or to the other party's Intellectual Property, (b) use, copy, modify, or translate any of the other Party's Intellectual Property or related documentation, (c) decompile, disassemble, or reverse engineer any of the other Party's Intellectual Property, (d) distribute or authorize a third party to distribute any of the other Party's Intellectual Property, or (e) remove, alter, or obscure any trademark, service mark, logo or other proprietary notices



incorporated in or accompanying the Services. To the extent that any Third Party Products are included or incorporated in the Services, Client agrees that it shall only use such Third Party Products in conjunction with the Services and according to the applicable schedule. All trademarks and other Intellectual Property rights associated with or attached to a Third Party Product belongs solely to the relevant Third Party Vendor and are subject to license from such Third Party Vendor to be incorporated into the Services. Nothing herein grants to Client any right, title, or interest in or to a Third Party Vendor's Intellectual Property. Fractalous retains all rights that are not expressly granted in this MSA to Client. Client may choose to, but is not required to, provide comments or suggestions or related data to Fractalous regarding possible improvements to the operation, functionality, or use of the Services, and inventions, product improvements, modifications, or developments made by Fractalous, if any, shall be the exclusive property of Fractalous.

## **11. Compliance with Laws**

Each Party shall obtain and maintain all permits and licenses required by applicable law or regulations for the provision or use, as applicable, of the Services. Each Party shall comply with all applicable law and regulations in connection with this MSA and, in the case of Client, in its and its End Users' use of the Services, including all applicable export control, data protection, Intellectual Property, consumer protection laws and regulations, and is generally not considered materially objectionable in the Internet community. Client shall be responsible for all acts and omissions of its End Users. Client agrees that: (i) violating applicable export control laws may include selling products or services that may be legal to sell in the United States, but illegal to export, and (ii) neither Client nor its End Users may use the Services to provide services to individuals or entities with which citizens of the United States may not do business. Client represents and warrants that it has provided Fractalous at all times during the term of this MSA with written notice of all data security and privacy laws, regulations and other legal requirements (including industry-specific laws, regulations, and requirements) applicable to Client Data or End Users' data or information (including personally identifiable information) that may be processed (as defined in the applicable data security or privacy laws, regulations or legal requirements) by Fractalous or its employees, affiliates, agents or subcontractors in connection with the provision of the Services. So long as Client is in compliance with the foregoing, if, during the term of the MSA, Client notifies Fractalous of any change in law determined to be binding upon Client that results in Fractalous's provision of the Services or Client's use of the Services being in violation of the applicable law or regulation, Fractalous shall be permitted to suspend the affected Services, and the Parties agree to negotiate in good faith to modify the Services in a manner designed to comply with the applicable law or regulation. Client acknowledges that such modification to the Services may result in additional fees to Client. Client shall use reasonable security precautions in connection with its use of the Services, including encrypting any sensitive information (such as nonpublic personal information and protected health information) transmitted by or used in connection with the Services, and require its End Users to use reasonable security precautions. Client and its End Users are responsible for the security of customer credit card numbers and related information to which Client or its End Users may have

access as a result of conducting electronic commerce transactions in connection with the Services.

## **12. Protected Health Information**

If Client uses, transmits, or otherwise handles any information related to an individual's past, present, or future physical or mental health condition, any treatment for that condition, and any payment for that treatment which information identifies the individual or could reasonably be used to identify the individual (such information referred to as "Protected Health Information" or "PHI"), then Client will: (a) inform Fractalous in writing of Client's intended use of the Services for PHI, (b) comply with all requirements of the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and its implementing rules and regulations, (c) comply with all requirements of the Health Information Technology for Economic and Clinical Health Act, codified at 42 U.S.C. §§17931-17953 ("HITECH") and its implementing rules and regulations, and (d) execute, as between Client and Fractalous, a Business Associate Agreement as mandated by HIPAA and HITECH (on Fractalous's standard form), whereby Client is the covered entity and Fractalous is the business associate or whereby Client is the business associate and Fractalous is the subcontractor if Client is the service provider of a covered entity (as the terms "covered entity", "business associate", and "subcontractor" are defined by HIPAA and HITECH). In addition to Client's indemnification obligations under this MSA, Client will further indemnify Fractalous (including Fractalous's Representatives) from and against any Claims against Fractalous or Losses incurred by Fractalous that result from: (i) Client's breach of or misrepresentation with respect to Client's obligations regarding Protected Health Information, or (ii) Client's breach of HIPAA, HITECH, or any other relevant statute. Unless Fractalous and Client have executed a Business Associate Agreement, Client hereby represents that Client will not submit protected health information to Fractalous.

## **13. EU Personal Data**

If Client engages in the "processing" of any "personal data" (as such terms are defined in the EU General Data Protection Regulation 2016/679 ("GDPR")) from the European Union, then Client will: (a) inform Fractalous in writing of Client's intended use of the Services for processing personal data from the EU, (b) comply with all requirements of the GDPR and all implementing rules, associated policies, and directives, (c) execute, as between Client and Fractalous, a data processing agreement in compliance with the GDPR (on Fractalous's standard form), whereby Client is the data controller and Fractalous is the data processor or whereby Client is the data processor and Fractalous is the sub-processor (or level 2 processor) if Client is the service provider of a data controller (as the terms "processor", "controller", and "sub-processor" are defined by the GDPR), (d) adhere to the GDPR, including the designation of Client's data protection officer and execution by Client of data processing agreements with data controllers and Client's own sub-processors, and (e) ensure that Client is fully transparent about the nature and purpose of its processing of personal data. In addition to Client's indemnification obligations under this MSA, Client will further indemnify Fractalous (including Fractalous's Representatives) from and against any Claims against Fractalous or Losses incurred by Fractalous that result

from: (i) Client's breach of or misrepresentation with respect to Client's obligations regarding processing of personal data from the EU, or (ii) Client's breach of the GDPR or other applicable law. Unless Fractalous and Client have executed a Business Associate Agreement or similar document, Client hereby represents that Client will not submit protected health information to Fractalous.

#### **14. Notice to California Clients**

Client is advised that, as may be applicable to it under California Civil Code Section 1789.3, to initiate a complaint about the Service, Client may contact Fractalous as provided in the applicable Service Level Agreements. If Client is dissatisfied with the manner in which Fractalous responds to a complaint regarding the Services, Client may contact Fractalous at the address set out below Fractalous's signature or by telephone at 1-818-726-9693, and the Complaint Assistance Unit of the Division of Consumer Services of the Department of Consumer Affairs in writing at 1020 N. Street, #501, Sacramento, CA 95814 or by telephone at 1-916-445-1254. The charges for the Services are set out in the applicable SOW.

#### **15. Force Majeure**

Except for a Party's failure to pay, neither Party shall be liable for or be considered in breach of this MSA due to any failure or delay in performing if such failure or delay is caused by a Force Majeure Event. A "Force Majeure Event" means a circumstance beyond a Party's reasonable control, including a natural calamity, act of God, military or terrorist act, change in law, labor dispute, utility disruption or outage, malfunction of equipment or software, loss or corruption of data, interruption of or delay in transportation, failure by any supplier or other third party to perform, or act or omission of the other Party.

#### **16. Miscellaneous**

16.1 Relationship of Parties. No person or entity other than Client and Fractalous and their respective successors and permitted assigns is or shall be entitled to bring any action to enforce any provision of this MSA against either or both of Client and Fractalous or any related party. The Parties shall be considered independent contractors of one another, and neither Party shall have the authority to make any representations, claims, or warranties of any kind on behalf of the other Party or on behalf of the other Party's affiliates, agents, subcontractors, licensors, or third-party suppliers. Nothing in this MSA shall be construed as implying a joint venture, agency, employer-employee, or partnership relationship between the Parties.

16.2 Non-Solicitation. During the term of this MSA and for one (1) year following its termination or expiration, neither Party shall directly or indirectly solicit, offer employment to, employ, or retain as a consultant any employee, consultant, subcontractor, or other agent of the other Party who was associated with the performance of any Services under this MSA without the other Party's prior written consent. Notwithstanding the foregoing, solicitation or hiring via job fairs and advertisements of general circulation shall not be considered violations of this clause.

16.3 Notices. All notices, requests, consents, and other communications (collectively, "Notices") required or permitted under this MSA shall be in writing and shall be deemed to have been received on the earlier of (i) the date of actual receipt (including by facsimile or email), (ii) the first business day after being sent to the designated address by a nationally recognized overnight delivery service, or (iii) the third business day after being mailed to the designated address by first class mail. Notices shall be delivered to Fractalous at the address, facsimile or email address stated in the header on page 2 of this MSA. Notice shall be delivered to Client (which may include delivery via Fractalous's ticketing system) at the address, facsimile, or email address provided by Client to Fractalous as set forth below (if applicable) or in Fractalous's records. Either Party may change the address at which it is to receive Notices by giving written notice of its new address to the other Party in accordance herewith.

16.4 Assignment. This MSA shall be binding upon and inure to the benefit of Client, Fractalous, and their respective successors and permitted assigns. Neither Party may assign this MSA without the prior written consent of the other Party, which consent will not be unreasonably withheld or delayed; except that either Party may assign this MSA without the prior consent of the other Party (i) to an Affiliate or (ii) in connection with a merger, corporate reorganization, or sale of all or substantially all of its assets. The sale, assignment, or other transfer of the equity securities or other ownership interests of either Party shall not constitute an assignment of this MSA. Any attempt to assign this MSA without the other Party's required consent shall be null and void. Notwithstanding the foregoing, Client agrees that Fractalous may delegate performance of any of its obligations hereunder to its subsidiaries or to agents or subcontractors selected by Fractalous, except that Fractalous shall not be relieved of any of such obligations as a result of such delegation.

16.5 Amendment; Waiver; Severability. Except as otherwise expressly provided in this MSA, this MSA shall not be amended and the Services shall not be changed except by a written amendment signed by both Parties. The failure or delay to exercise, or the partial exercise of, any right or remedy shall not operate as a waiver of, nor affect the right to exercise, any such right or remedy, nor shall a waiver of any breach or default constitute a waiver of any subsequent breach or default. The waiver of time for performance shall not constitute a waiver of the act or condition itself. The invalidity or unenforceability of any provision of this MSA shall not affect the validity or enforceability of any other provision of this MSA, which shall remain in full force and effect. Any such invalid or unenforceable provision shall be deemed replaced by a provision that is valid and enforceable and that comes closest to expressing the intention of the invalid or unenforceable provision.

16.6 Governing Law; Interpretation. This MSA shall be governed by and construed and enforced in accordance with the laws of the State of California, without regard to choice of law or conflicts of laws principles. The Parties consent to the jurisdiction of the federal or state courts located in California for all disputes between the Parties, and venue shall be proper in any such court. Neither Party shall contest notice from any such court. THE PARTIES HEREBY WAIVE TRIAL BY JURY IN ANY DISPUTE BETWEEN THE PARTIES. The United Nations

Convention on Contracts for International Sale of Goods shall not apply to this MSA or any dispute between the Parties. No presumption or burden of proof shall arise favoring or disfavoring a Party by virtue of the authorship of any provision of this MSA. Client acknowledges and agrees that the pricing provided to Client is based largely on the Parties' respective rights, obligations, and limitations provided in this MSA. Bolding, underlining, or italicizing of words herein are for ease of reference only and the application or omission of them will have no effect on the interpretation of this MSA. When used for listing purposes, the term "including" and "includes" will be deemed to mean "including, but not limited to" or "includes, but is not limited to," as applicable.

16.7 Entire Agreement. This MSA includes the Schedules, SOWs, and Addenda attached hereto or executed hereunder, and states the entire agreement between the Parties, and supersedes all previous proposals, negotiations, and other written and oral communications between the Parties with respect to the subject matter of this MSA. Any additional terms, provisions or conditions included in any purchase order, receipt, acceptance, confirmation or similar form or correspondence will have no effect on the rights, duties, or obligations of the Parties hereunder, regardless of the signature of the Parties thereto or any failure of Fractalous to object to such additional terms, provision or conditions, unless such terms are included in a mutually executed amendment to this MSA.

16.8 Survival. The provisions of this MSA which expressly survive termination of this MSA or which, by their nature, should reasonably survive termination of this MSA shall survive the expiration or termination of this MSA including Sections 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, and 16.

16.9 Counterparts; Signatures; Legally Binding Agreement. This MSA, the SOWs and Addenda may each be executed in any number of separate counterparts, and in each case, shall collectively and separately constitute one agreement. Signatures may be exchanged by facsimile or .PDF or other electronic means, and any signature exchanged by any such means shall be deemed an original. Client may also assent to this MSA, the SOWs, the Schedules and/or Addenda by accepting any such document without modification in an on-line transaction. Client understands and agrees that by clicking to agree to this MSA, any SOW and/or any Addendum, Client is entering into a legally binding agreement, with the same force and effect as a signature affixed by hand, and that it will not contest the validity or enforceability of those electronic transmissions under the statute of frauds. The person executing or clicking to agree to this MSA, any SOW and/or any Addendum on behalf of Client represents and warrants to Fractalous that such person has the authority to enter into such document on behalf of Client.

The Parties hereto acting through their duly authorized representatives have executed this MSA as of the date first written below as evidenced by the following signatures:

Fractalous  
Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Client  
Signature: \_\_\_\_\_  
Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## **Schedule 1**

### Defined Terms

“Acceptable Use Policy” or “AUP” means the policy available in Section 3 (or at such other URL as Fractalous may dictate from time to time) which defines the acceptable uses of the Services.

“Affiliate” means any person that directly or indirectly through one or more intermediaries controls, is controlled by or is under common control with such first person, with “control” meaning the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a person, and “person” broadly construed to include any natural person or any incorporated or unincorporated entity or association, trust, joint venture, joint stock company or other entity.

“Claim” means any claim, demand, action, or proceeding (including law suits and administrative proceedings).

“Client Account” means the account set up by Fractalous, attributed exclusively to Client and used for the provisioning and administration of the Services to Client.

“Client Data” means personal information relating to Client and data owned or controlled by Client, including (a) names, addresses, and other personally identifiable information pertaining to Client, (b) usage data collected by Client regarding Client’s own use of the Services, (c) Client’s content hosted on the Systems, including Client’s Uniform Resource Locators, Web pages and other website data, software and applications, Protected Healthcare Information as described below, and (d) any of the same relating to or owned by an End User, Representative or Affiliate.

“Confidential Information” means all non-public information, know-how, and trade secrets in any form disclosed by one Party to the other Party and that are designated by the disclosing Party as confidential or are known, or under the circumstances should be known, to be confidential. For the avoidance of doubt, the following items shall be considered Confidential Information: this MSA and Fractalous’s network configuration. However, the following items shall not be considered Confidential Information: (i) information that is or becomes publicly known or available without breaching this section, information that is or was previously disclosed to the receiving party from a third party without any confidentiality restriction, (ii) information that is independently developed without using any Confidential Information or otherwise breaching this section, (iii) reference to the other Party by name as a vendor or customer, (iv) or the existence and general nature of this MSA (but not any specific terms of this MSA).

“Effective Date” means the date on which Client clicks to accept this MSA online or signs on the signature page attached hereto (as applicable).

“End Users” means those parties (including Client’s employees, customers, contractors, consultants, or other third parties) that have access to or use of the Services by or through Client.

“Intellectual Property” means any and all rights, title, interest, and ownership, whether by registration, statute, common law or other operation of law, in and to: (a) copyrights, (b) patents, (c) trademarks, (d) trade secrets, (e) any other proprietary, intellectual, or industrial property rights of any kind or nature, (f) registrations and registration applications of the foregoing in any jurisdiction, (g) in Fractalous’s case, Fractalous Data and the Systems, and (h) in Client’s case, Client Data.

“Losses” means any loss, liability, damage, penalty, cost, or expense (including reasonable lawyer fees, collections costs, litigation expenses, witness compensation, and court fees).

“Fractalous Data” means any data relating to Fractalous and all Services and Systems, including (a) Internet Protocol addresses, Uniform Resource Locators, Web pages and other website data, (b) source codes, digital files, encryption keys, and digital certificates, (c) user identifications, account access, log-in information, and passwords, (d) usage data collected by Fractalous regarding Client’s use of the Services, and (e) all other data owned or controlled by Fractalous.

“Privacy Notice” as amended from time to time, means the policy available online at Section 3 (or at such other URL as Fractalous may dictate from time to time) which defines the acceptable uses of the Services.

“Renewal Term” means successive Service periods equal to the length of the SOW Initial Term.

“Representatives” means, collectively, a Party’s shareholders, Affiliates, directors, officers, employees, contractors, agents, and advisors, including lawyers, accountants, consultants, financial advisors, bankers, and lenders.

“Service(s)” means the service(s) set out on each SOW or SOW that are provided by Fractalous to Client subject to and in accordance with the terms of this MSA.

“Service Addendum” means an addendum to this MSA that sets forth certain Service-specific terms.

“Service Fees” means the money amounts or rates, specified in, as applicable, the SOW, invoice from Fractalous, or which Client has otherwise agreed to pay to Fractalous in consideration of the Services provided. Unless specified in the SOW, Service Fees recur monthly even if Client does not use the Services.



“Setup Fee” means the one-time fee specified in the applicable SOW charged to Client for Fractalous to customize and otherwise prepare the Systems according to the specifications in the SOW.

“SLA” or “Service Level Agreement” means the terms governing the availability or uptime of the Services and Systems, and the standards for Fractalous’s Technical Support.

“SOW” means a Service order form that sets forth the specifications of the Services purchased by Client.

“SOW Availability Date” means the date on which Fractalous notifies Client, by email, that the Services are first available to Client for use.

“SOW Initial Term” means the specific Service period described in the SOW, during which time Client may not terminate the SOW, any Services, or this MSA, except as provided in Section 4.

“SOW Start Date” means the date on which Client signs the SOW..

“SOW” means a statement of work executed between the Parties for professional services performed by Fractalous.

“Systems” means the technology (including all systems, networks, facilities, infrastructure, computer servers, other hardware, software, online application program interfaces, Internet Protocol addresses, and other technologies) owned, licensed, controlled, or otherwise used by Fractalous to provide the Services to Client, and, as applicable, to End Users and Client Affiliates.

“Technical Support” means the assistance and advice Fractalous’s technical support staff provides to Client, as part of the Services, via electronic mail, telephone, or other means of communication as designated by Fractalous (including Fractalous’s ticketing system).

“Termination Fees” means the monetary amount equal to the average monthly payment of Service Fees within the 6 months immediately prior to the termination date multiplied by the lesser of (a) the number of months remaining in the SOW Initial Term calculated from the termination date, or (b) 12 months.

“Third Party Products” means the equipment, software, products or services procured from a Third Party Vendor which Fractalous, in turn, provides to Client as part of, or in combination with, Fractalous’s own products and services which are part of the Services.

“Third Party Vendor” means a third party vendor who provides Fractalous with Third Party Products to be, in turn, provided to Client by Fractalous as part of, or in combination with, the Services.

“Third Party Vendor Audit” means an audit performed by either Fractalous or a Third Party Vendor with respect to the Third Party Products.

## **Schedule 2**

### Third Party Vendor Terms

The following terms and conditions govern Client, End User and Client Affiliate’s use of the Third Party Products specified below:

#### Microsoft Products

If Client orders Services that include Microsoft software, then Client agrees to the Microsoft End User License Terms which are incorporated into the MSA by reference:

THIS DOCUMENT GOVERNS THE USE OF MICROSOFT SOFTWARE, WHICH MAY INCLUDE ASSOCIATED SOFTWARE, MEDIA, PRINTED MATERIALS, AND “ONLINE” OR ELECTRONIC DOCUMENTATION (INDIVIDUALLY AND COLLECTIVELY, “PRODUCTS”) PROVIDED BY Fractalous. Fractalous DOES NOT OWN THE PRODUCTS AND THE USE THEREOF IS SUBJECT TO CERTAIN RIGHTS AND LIMITATIONS OF WHICH Fractalous MUST INFORM YOU. YOUR RIGHT TO USE THE PRODUCTS IS SUBJECT TO THE TERMS OF YOUR AGREEMENT WITH Fractalous, AND TO YOUR UNDERSTANDING OF, COMPLIANCE WITH, AND CONSENT TO THE FOLLOWING TERMS AND CONDITIONS, WHICH Fractalous DOES NOT HAVE AUTHORITY TO VARY, ALTER, OR AMEND.

#### DEFINITIONS.

“Client Software” means software that is installed on a Device that allows the Device to access or utilize the Products.

“Device” means each of a computer, workstation, terminal, handheld PC, pager, telephone, personal digital assistant, “smart phone,” server or any other hardware where software can be installed that would allow End User to interact with the Product.

“End User” means an individual or legal entity that obtains software Services directly from Fractalous, or indirectly through a Software Services Reseller.

“Redistribution Software” means the software described in Paragraph 4 (“Use of Redistribution Software”) below.

“Software Services” means services that Fractalous provides to you that make available, display, run, access, or otherwise interact, directly or indirectly, with the Products. Fractalous must provide these services from data center(s) through the Internet, a telephone network or a private network, on a rental, subscription or services basis, whether or not Fractalous receives a

fee. Software Services exclude any services involving installation of a Product directly on any End User device to permit an End User to interact with the Product.

**OWNERSHIP OF PRODUCTS.** The Products are licensed to Fractalous from an affiliate of the Microsoft Corporation (collectively "Microsoft"). Microsoft Products are protected by copyright and other intellectual property rights. Products and other Product elements including but not limited to any images, photographs, animations, video, audio, music, text and "applets" incorporated into the Products are owned by Microsoft or its suppliers. You may not remove, modify or obscure any copyright trademark or other proprietary rights notices that are contained in or on the Products. The Products are protected by copyright laws and international copyright treaties, as well as other intellectual property laws and treaties. Your possession, access, or use of the Products does not transfer any ownership of the Products or any intellectual property rights to you.

**USE OF CLIENT SOFTWARE.** You may use the Client Software installed on your Devices only in accordance with your agreement with Fractalous and the terms under this document, and only in connection with the Software Services, provided to you by Fractalous. The terms of this document permanently and irrevocably supersede the terms of any Microsoft End User License Agreement that may be presented in electronic form during the installation and/or use of the Client Software.

**USE OF REDISTRIBUTION SOFTWARE.** In connection with the Software Services provided to you by Fractalous, you may have access to certain "sample," "redistributable" and/or software development software code and tools (individually and collectively "Redistribution Software"). You may use, copy and/or install the Redistribution Software only in accordance with the terms of your agreement with Fractalous and this document and/or your agreement with Fractalous.

**COPIES.** You may not make any copies of the Products; provided, however, that you may (a) make one copy of Client Software on your Device as expressly authorized by Fractalous; and (b) you may make copies of certain Redistribution Software in accordance with Paragraph 4 (Use of Redistribution Software). You must erase or destroy all such Client Software and/or Redistribution Software upon termination or cancellation of your agreement with Fractalous, upon notice from Fractalous or upon transfer of your Device to another person or entity, whichever occurs first. You may not copy any printed materials accompanying the Products.

**LIMITATIONS ON REVERSE ENGINEERING, DECOMPILATION AND DISASSEMBLY.** You may not reverse engineer, decompile, or disassemble the Products, except and only to the extent that applicable law, notwithstanding this limitation, expressly permits such activity.

**NO RENTAL.** You may not rent, lease, lend, pledge, or directly or indirectly transfer or distribute the Products to any third party, and may not permit any third party to have access to and/or use the functionality of the Products except for the sole purpose of accessing the functionality of the Products in the form of Software Services in accordance with the terms of this agreement and any agreement between you and Fractalous.

TERMINATION. Without prejudice to any other rights, Fractalous may terminate your rights to use the Products if you fail to comply with these terms and conditions. In the event of termination or cancellation of your agreement with Fractalous or Fractalous's agreement with Microsoft under which the Products are licensed, you must stop using and/or accessing the Products, and destroy all copies of the Products and all of their component parts within 30 calendar days of the termination of your agreement with Fractalous.

NO WARRANTIES, LIABILITIES OR REMEDIES BY MICROSOFT. Microsoft disclaims, to the extent permitted by applicable law, all warranties and liability for damages by Microsoft or its suppliers for any damages and remedies whether direct, indirect or consequential, arising from the Software Services. Any warranties and liabilities are provided solely by Fractalous and not by Microsoft, its affiliates or subsidiaries.

PRODUCT SUPPORT. Any support for the Software Services is provided to you by Fractalous or a third party on Fractalous's behalf and is not provided by Microsoft, its suppliers, affiliates or subsidiaries.

NOT FAULT TOLERANT. The Products are not fault-tolerant and are not guaranteed to be error free or to operate uninterrupted. You must not use the Products in any application or situation where the Product(s) failure could lead to death or serious bodily injury of any person, or to severe physical or environmental damage ("High Risk Use").

EXPORT RESTRICTIONS. The Products are subject to U.S. export jurisdiction. Fractalous must comply with all applicable laws including the U.S. Export Administration Regulations, the International Traffic in Arms Regulations, as well as end-user, end-use and destination restrictions issued by U.S. and other governments. For additional information, see <http://www.Microsoft.com/exporting/>.

LIABILITY FOR BREACH. In addition to any liability you may have to Fractalous, you agree that you will also be legally responsible directly to Microsoft for any breach of these terms and conditions.

INFORMATION DISCLOSURE. You must permit Fractalous to disclose any information requested by Microsoft under the Fractalous's Agreement. Microsoft will be an intended third party beneficiary of your agreement with Fractalous, with the right to enforce provisions of your agreement with Fractalous and to verify your compliance.

If Client orders Microsoft Azure Public Cloud or Office 365 Services, then Client agrees to the Microsoft Cloud Agreement and Microsoft Online Services Terms which are incorporated into the MSA by reference:

- [http://download.microsoft.com/download/2/C/8/2C8CAC17-FCE7-4F51-9556-4D77C7022DF5/MCA2017Agr\\_NA\\_ENG\\_Sep20172\\_CR.pdf](http://download.microsoft.com/download/2/C/8/2C8CAC17-FCE7-4F51-9556-4D77C7022DF5/MCA2017Agr_NA_ENG_Sep20172_CR.pdf)

- <http://www.Microsoftvolumelicensing.com/Downloader.aspx?DocumentId=13867>

If Client is License Mobility through Software Assurance to utilize their own Microsoft licenses (the “MS Licenses”) on the Systems, Client agrees to the Microsoft License Mobility Terms and Conditions which are incorporated into the MSA by reference:

1. In order to exercise License Mobility through Software Assurance rights, Client must submit the License Mobility Verification Form located at <https://www.Microsoft.com/en-us/licensing/licensing-programs/Software-assurance-license-mobility.aspx> or at a successor site. Client agrees to submit the form to Microsoft within 10 days of deployment, whenever renewing Client’s Microsoft volume license agreement, and whenever renewing Client’s Software Assurance with Microsoft. It is expected that Microsoft will provide Fractalous with confirmation of Client’s verification status each time it is submitted.
2. Additional information about License Mobility with Software Assurance can be found here: [https://support.hosting.com/app/answers/detail/a\\_id/11989](https://support.hosting.com/app/answers/detail/a_id/11989)
3. Fractalous cooperates in good faith with Microsoft to investigate and remedy any potential non-compliance. Upon request from Microsoft, Fractalous will provide information pertaining to Client’s environment, including but not limited to:
  - The number of cloud or dedicated instances provided to Client by Fractalous;
  - A list of Microsoft products run on such cloud or dedicated instances;
  - Copies of Client’s License Mobility Verification Form.
  - In the event that Microsoft finds Client is noncompliant with any MS License, Fractalous will be required to terminate hosting of Client’s noncompliant license(s) within 30 calendar days if no action on Client’s part is taken to remove them or replace such noncompliance MS License(s) with valid licenses from Fractalous or Microsoft.
  - Client’s licenses under License Mobility through Software Assurance must remain on Fractalous’s cloud servers within a single datacenter for no less than 90 calendar days. Client may move licenses from a cloud server within a single datacenter to a cloud server in another data center, but not within 90 days after the last assignment.

## Amazon Products

If Client orders Amazon AWS Public Cloud Services, then Client agrees to the Amazon Client Agreement and Amazon AWS Service Level Agreement which are incorporated into the MSA by reference:

<https://aws.amazon.com/agreement/>

<https://aws.amazon.com/legal/service-level-agreements/>