

PROFESSIONAL SERVICES ADDENDUM

THIS PROFESSIONAL SERVICES ADDENDUM ("Addendum") is an addendum to the Master Subscription Agreement (the "Agreement") between Brightly Software ("Company") and Subscriber, as defined in the Agreement. This Addendum applies to the extent that Subscriber and Company execute an Order that includes Professional Services to be provided by Company for Subscriber.

1. PROFESSIONAL SERVICES.

1.1 Scope. Company will provide such Professional Services and supply Deliverables to Subscriber in accordance with the terms of this Addendum, the Agreement, and all applicable Orders, including any statement of work contained therein. Unless otherwise specified in an applicable Order: (i) Company will perform the Professional Services during workdays, Monday through Friday, up to 8 hours a day; (ii) any estimate of hours or costs are reasonable, good faith estimates only; and (iii) each task is performed as firm fixed price work or time and materials as described in the Order. Company is only obliged to supply Professional Services and/or Deliverables as expressly stated in the Order. Company shall not be obliged to supply any Professional Services and/or Deliverables without a valid Order.

1.2 Scheduling. Company requires at least 6 weeks advanced notice from the acceptance of an Order to schedule Professional Services delivery dates when travel is required. Onsite Professional Services shall be delivered consecutively in a single onsite visit unless the applicable Order includes the additional fees and incidental expenses associated with multiple visits.

1.3 Unused Professional Services. Unless otherwise specified in the Order, Company reserves the right to expire any unused Professional Services 6 months from the Effective Date set forth on the Order, and Subscriber will not be entitled to receive a refund for any fees prepaid for such expired Professional Services.

1.4 Relationship to Other Offerings. The Addendum is limited to Professional Services and does not convey any right to use any other Company Offerings. Except for Deliverables set forth in an Order, Subscriber agrees that Professional Services are not contingent on the delivery of any future Cloud Service functionality, or on any oral or written public comments by Company regarding future Cloud Service functionality or features.

1.5 Subscriber Cooperation. Subscriber will cooperate reasonably and in good faith with Company in its performance of Professional Services by: (i) providing access to any necessary Subscriber Data, (ii) allocating sufficient resources and timely performing any tasks reasonably necessary to enable Company to perform its obligations under the Order, and (iii) actively participate in scheduled project meetings. Any delays in the performance of Professional Services or delivery of Deliverables caused by Subscriber may result in additional applicable charges for resource time.

1.6 Acceptance. Any Deliverables are stated in the Order. Unless otherwise specified in the applicable Order, Deliverables will be considered accepted upon the sooner of Subscriber's written acceptance notice (e-mail is sufficient) or five (5) business days from delivery. In the event Subscriber rejects the Deliverables, Subscriber shall provide a written rejection notice within five (5) business days from delivery which must specifically disclose the material failure to conform to the specifications set forth in the Order. In response to rejection notice, Company may revise and redeliver the Deliverable(s), and thereafter the procedures of this Section will repeat.

1.7 Change Order. Changes to Professional Service defined in an Order shall require a written Change Order signed by the parties prior to implementation of such change(s). Changes may include, for example, alterations to the Professional Service scope of work, Deliverables or changes to fees or schedule.

2. FEES & PAYMENT TERMS.

2.1 Payment. Subscriber will pay Company the fees specified in the Order. Unless the Order provides otherwise, Subscriber will pay Company within thirty (30) calendar days from the date of invoice.

2.2 Incidental Expenses. Subscriber will reimburse Company for travel and related business expenses incurred in connection with Professional Services. If an estimate of incidental expenses is included in the Order, Company will not exceed a 5% inflation of such estimate without the written consent of Subscriber.

3. TERM AND TERMINATION.

3.1 Term. Each Order term shall begin on the effective date specified in the applicable Order and end on the date that the Professional Services are completed or Subscriber is notified of expiration of the Order pursuant to Section 1.3 of this Addendum. Unless earlier terminated as set forth below, the terms of this Addendum will continue until termination or expiration of the applicable Order.

3.2 Termination. Either party may terminate an Order for the other's material breach on thirty (30) days' written notice, provided that if the other party cures the breach before expiration of such notice period, the Order will not terminate. Additionally, all Orders will immediately terminate upon termination or expiration of the Agreement.

3.3 Effect of Termination. Upon termination of an Order: (1) if such Order provides for an hourly or per unit fee, Subscriber will pay Company such fee for the work performed up to the date of termination; and (2) if the Order provides for a fixed fee, Subscriber will pay Company the reasonable value of the Professional Services rendered by Company up to the termination date. Termination of an Order for any reason, including without limitation for cause, will not terminate any other Order.



4. LICENSE FOR DELIVERABLES.

License for Deliverables. Upon payment of fees due under an applicable Order, Company grants Subscriber a worldwide, perpetual, non-exclusive, non-transferable, royalty-free license to copy, maintain, and use any Deliverables created by Company solely for Subscriber as described in the Order. Company and Subscriber each retain all right, title and interest in their respective Intellectual Property and Company retains all ownership rights in the Deliverables.

5. NON-EXCLUSIVITY OF PROFESSIONAL SERVICES.

Notwithstanding the Confidentiality obligations set forth in Section 7 of the Agreement, Subscriber acknowledges and agrees that (i) multiple Subscribers may require similar Professional Services or Deliverables and that Company may be developing similar Professional Services and Deliverables for other third parties, (ii) Company may currently or in the future be developing information internally, or receiving information from other parties, that is similar to the Confidential Information of Subscriber, (iii) nothing will prohibit Company from developing or having developed for it customizations, configurations, feature, concepts, systems or techniques that are similar to the Deliverables, and (iv) nothing will prohibit Company from re-using with another Subscriber or making generally available as part of Cloud Services all or part of any customization, configuration, feature, concept, system or technique developed hereunder.

6. MISCELLANEOUS

6.1 Independent Contractor. The parties are independent contractors and nothing in this Agreement should be construed to create a partnership, agency, joint venture, fiduciary or employment relationship between the parties. Neither party is authorized to make any representation or commitment on behalf of the other party. Each party assumes full responsibility for the actions of its personnel while performing Professional Services and such party will be solely responsible for the supervision, daily direction, control of its personnel and for the payment of all compensation.

6.2 Non-Solicitation. Except where prohibited by law, during the Term and for twelve (12) months thereafter, Subscriber will not solicit for employment, nor knowingly employ (either as an employee, contractor or agent), any of Company's employees or subcontractors without Company's prior written consent. For the purposes herein, "solicit" does not include broad-based recruiting efforts, including without limitation help wanted advertising and general posting open positions.

7. DEFINITIONS.

7.1 "Change Order" means a Company change order that changes the Professional Services as set forth on an Order or defined in a reseller purchase. Change Orders executed by both parties shall be incorporated by reference into the applicable Order. A Change Order cannot change Cloud Services, as defined in the Agreement to include SaaS applications.

7.2 "Deliverable" means a deliverable described in an Order.

All other capitalized terms used but not defined herein shall have the respective meanings set forth in the Agreement.