

Services Agreement

This Services Agreement (this "**Agreement**"), dated as of the Effective Date noted on the last page of this Agreement (the "**Effective Date**"), is by and between Homebird LLC, a Tennessee LLC, with offices located at 1403 Birdsall Street, Old Hickory, Tennessee 37138 ("**Service Provider**") and _____ ("**Customer**") located at _____ ("**Customer's Address**").

WHEREAS Service Provider has the capability and capacity to provide certain digital home services; and

WHEREAS Customer desires to retain Service Provider to provide the said services, and Service Provider is willing to perform such services under the terms and conditions hereinafter set forth;

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Service Provider and Customer agree as follows:

1. **Services.** Service Provider shall provide to Customer the services (the "**Services**") set out in the details of the subscription the Customer purchased. The details of all of the currently-offered subscriptions of Service Provider are located on the Service Provider's website, www.homebirdlabs.com.

2. **Service Provider Obligations.** Service Provider shall:

2.1 Designate employees or contractors that it determines, in its sole discretion, to be capable of filling the following positions:

(a) A primary contact to act as its authorized representative with respect to all matters pertaining to this Agreement (the "**Service Provider Contract Manager**").

(b) A number of employees or contractors that it deems sufficient to perform the Services set out the subscription that Customer purchased, (collectively, with the Service Provider Contract Manager, "**Provider Representatives**").

2.2 Make no changes in Provider Representatives except:

(a) Following notice to Customer.

(b) Upon the resignation, termination, death or disability of an existing Provider Representative.

2.3 Maintain complete and accurate records relating to the provision of the Services under this Agreement, including records of the time spent and materials used by Service Provider in providing the Services. During the Term and for a period of one year thereafter, upon Customer's written request, Service Provider shall allow Customer or Customer's representative to inspect and make copies of such records in connection with the provision of the Services; provided that Customer provides Service Provider with at least

five business days advance written notice of the planned inspection and any such inspection shall take place during regular business hours.

3. Customer Obligations. Customer shall:

3.1 Respond promptly to any reasonable requests from Service Provider for instructions, information, or approvals required by Service Provider to provide the Services.

3.2 Cooperate with Service Provider in its performance of the Services and provide access to Customer's premises, employees, contractors, and equipment as required to enable Service Provider to provide the Services.

3.3 Take all steps necessary, including obtaining any required licenses or consents, to prevent Customer-caused delays in Service Provider's provision of the Services.

4. Fees and Expenses.

4.1 In consideration of the provision of the Services by the Service Provider and the rights granted to Customer under this Agreement, Customer shall pay the fees set out in Service Provider's then current fee schedule. Payment to Service Provider of such fees and the reimbursement of expenses pursuant to this Section 4 shall constitute payment in full for the performance of the Services. Said fee will be payable within 30 days of receipt by the Customer of an invoice from Service Provider but in no event more than 60 days after completion of the Services performed.

4.2 Customer shall reimburse Service Provider for all reasonable expenses incurred in accordance with Customer's subscription package within 30 days of receipt by the Customer of an invoice from Service Provider.

4.3 Customer shall be responsible for all sales, use and excise taxes, and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity on any amounts payable by Customer hereunder; provided, that, in no event shall Customer pay or be responsible for any taxes imposed on, or regarding, Service Provider's income, revenues, gross receipts, personnel, or real or personal property or other assets.

4.4 Except for invoiced payments that the Customer has successfully disputed, all late payments shall bear interest at the lesser of the rate of 10% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall also reimburse Service Provider for all reasonable costs incurred in collecting any late payments, including, without limitation, attorneys' fees. In addition to all other remedies available under this Agreement or at law (which Service Provider does not waive by the exercise of any rights hereunder), Service Provider shall be entitled to suspend the provision of any Services if the Customer fails to pay any amounts when due hereunder and such failure continues for 30 days following written notice thereof.

5. Limited Warranty and Limitation of Liability.

5.1 Service Provider warrants that it shall perform the Services:

(a) In accordance with the terms and subject to the conditions set out in the respective Statement of Work and this Agreement.

(b) Using personnel of required skill, experience, and qualifications.

(c) In a timely, workmanlike, and professional manner in accordance with generally recognized industry standards for similar services.

5.2 Service Provider's sole and exclusive liability and Customer's sole and exclusive remedy for breach of this warranty shall be as follows:

(a) Service Provider shall use reasonable commercial efforts to promptly cure any such breach; provided, that if Service Provider cannot cure such breach within a reasonable time (but no more than 30 days) after Customer's written notice of such breach, Customer may, at its option, terminate the Agreement by serving written notice of termination in accordance with Section 8.2.

(b) In the event the Agreement is terminated pursuant to Section 5.2(a) above, Service Provider shall within 30 days after the effective date of termination, refund to Customer any fees paid by the Customer as of the date of termination for the Service or Deliverables (as defined in Section 6 below), less a deduction equal to the fees for receipt or use of such Deliverables or Service up to and including the date of termination on a pro-rated basis.

(c) The foregoing remedy shall not be available unless Customer provides written notice of such breach within 7 days after performance of the Services in the Customer's subscription package.

5.3 SERVICE PROVIDER MAKES NO WARRANTIES EXCEPT FOR THAT PROVIDED IN SECTION 5.1, ABOVE. ALL OTHER WARRANTIES, EXPRESS AND IMPLIED, ARE EXPRESSLY DISCLAIMED.

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

royalty-free and perpetual basis to the extent necessary to enable Customer to make reasonable use of the Deliverables and the Services.

7. Confidentiality. From time to time during the Term of this Agreement, either Party (as the "**Disclosing Party**") may disclose or make available to the other Party (as the "**Receiving Party**"), non-public, proprietary, and confidential information of Disclosing Party that, if disclosed in writing or other tangible form is clearly labeled as "confidential," or if disclosed orally, is identified as confidential when disclosed and within 30 days thereafter, is summarized in writing and confirmed as confidential ("**Confidential Information**"); provided, however, that Confidential Information does not include any information that: (a) is or becomes generally available to the public other than as a result of Receiving Party's breach of this Section 7; (b) is or becomes available to the Receiving Party on a non-confidential basis from a third-party source, provided that such third party is not and was not prohibited from disclosing such Confidential Information; (c) was in Receiving Party's possession prior to Disclosing Party's disclosure hereunder; or (d) was or is independently developed by Receiving Party without using any Confidential Information. The Receiving Party shall: (x) protect and safeguard the confidentiality of the Disclosing Party's Confidential Information with at least the same degree of care as the Receiving Party would protect its own Confidential Information, but in no event with less than a commercially reasonable degree of care; (y) not use the Disclosing Party's Confidential Information, or permit it to be accessed or used, for any purpose other than to exercise its rights or perform its obligations under this Agreement; and (z) not disclose any such Confidential Information to any person or entity, except to the Receiving Party's Group who need to know the Confidential Information to assist the Receiving Party, or act on its behalf, to exercise its rights or perform its obligations under this Agreement.

If the Receiving Party is required by applicable law or legal process to disclose any Confidential Information, it shall, prior to making such disclosure, use commercially reasonable efforts to notify Disclosing Party of such requirements to afford Disclosing Party the opportunity to seek, at Disclosing Party's sole cost and expense, a protective order or other remedy. For purposes of this Section 7 only, Receiving Party's Group shall mean the Receiving Party's affiliates and its employees, members, managers, agents, independent contractors, service providers, sublicensees, subcontractors, attorneys, accountants, and financial advisors.

8. Term, Termination, and Survival.

8.1 This Agreement shall commence as of the Effective Date and shall continue throughout Customer's subscription period unless sooner terminated pursuant to Section 8.2 or Section 8.3.

8.2 Either Party may terminate this Agreement, effective upon written notice to the other Party (the "**Defaulting Party**") if the Defaulting Party:

(a) Materially breaches this Agreement, and such breach is incapable of cure, or with respect to a [material] breach capable of cure, the Defaulting Party does not cure such breach within 30 days after receipt of written notice of such breach.

(b) Becomes insolvent or admits its inability to pay its debts generally as they become due.

(c) Becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law, which is not fully stayed within seven days or is not dismissed or vacated within 45 days after filing.

(d) Is dissolved or liquidated or takes any corporate action for such purpose.

(e) Makes a general assignment for the benefit of creditors.

(f) Has a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

8.3 Notwithstanding anything to the contrary in Section 8.2(a), Service Provider may terminate this Agreement before the expiration date of the Term on written notice if Customer fails to pay any amount when due hereunder: (a) and such failure continues for 30 days after Customer's receipt of written notice of nonpayment; or (b) more than 3 times in any 6 month period;

8.4 The rights and obligations of the parties which, by their nature, should survive termination or expiration of this Agreement, will survive any such termination or expiration of this Agreement.

9. Limitation of Liability.

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

9.2 IN NO EVENT SHALL SERVICE PROVIDER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (EXCLUDING NEGLIGENCE), OR OTHERWISE, EXCEED TWO (2) TIMES THE AGGREGATE AMOUNTS PAID OR PAYABLE TO SERVICE PROVIDER PURSUANT TO THIS AGREEMENT.

9.3 IN NO EVENT SHALL SERVICE PROVIDER BE LIABLE FOR ANY DAMAGE ITS EMPLOYEES OR CONTRACTORS MAY CAUSE TO CUSTOMER'S

PETS. CUSTOMER AGREES TO HAVE ALL PETS IN A SECURE LOCATION AWAY FROM THE SERVICE PROVIDER'S EMPLOYEES OR CONTRACTORS. CUSTOMER AGREES THAT IT IS STRICTLY LIABLE FOR ALL DAMAGE CAUSED TO SERVICE PROVIDER'S EMPLOYEES OR CONTRACTORS BY CUSTOMER'S PETS. CUSTOMER AGREES THAT FAILURE TO SECURE ITS PETS IN COMPLIANCE WITH THIS AGREEMENT IS CAUSE FOR SERVICE PROVIDER TO IMMEDIATELY TERMINATE THIS AGREEMENT FOR CAUSE, WITH CUSTOMER PAYING FOR ANY SCHEDULED SERVICES WITHIN 30 DAYS.

10. Entire Agreement. This Agreement, including and together with any related Statements of Work, exhibits, schedules, attachments and appendices, constitutes the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations and warranties, both written and oral, regarding such subject matter. The parties acknowledge and agree that if there is any conflict between the terms and conditions of this Agreement and the terms and conditions of the Customer's subscription package, the terms and conditions of this Agreement shall supersede and control.

11. Notices. All notices, requests, consents, claims, demands, waivers and other communications under this Agreement (each, a "**Notice**", and with the correlative meaning "**Notify**") must be in writing and addressed to the other Party at its address set forth below (or to such other address that the receiving Party may designate from time to time in accordance with this Section). Unless otherwise agreed herein, all Notices must be delivered by personal delivery, nationally recognized overnight courier or certified or registered mail (in each case, return receipt requested, postage prepaid). Except as otherwise provided in this Agreement, a Notice is effective only (a) on receipt by the receiving Party; and (b) if the Party giving the Notice has complied with the requirements of this Section 11.

Notice to Customer:

Customer Address: _____

Attention: _____

Notice to Service Provider:

Homebird LLC, 1403 Birdsall Street, Old Hickory, TN 37138

Attention: Noah Rawlings

12. Severability. If any term or provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.

13. Amendments. No amendment to or modification of or rescission, termination or discharge of this Agreement is effective unless it is in writing, identified as an amendment to or rescission, termination or discharge of this Agreement and signed by an authorized representative of each Party.

14. Waiver. No waiver by any Party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as

otherwise set forth in this Agreement, no failure to exercise, or delay in exercising, any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power or privilege.

15. **Assignment.** Customer shall not assign, transfer, delegate or subcontract any of its rights or delegate any of its obligations under this Agreement without the prior written consent of Service Provider. Any purported assignment or delegation in violation of this Section 15 shall be null and void. No assignment or delegation shall relieve the Customer of any of its obligations under this Agreement. Service Provider may assign any of its rights or delegate any of its obligations to any affiliate or to any person acquiring all or substantially all of service provider's assets without customer's consent.

16. **Successors and Assigns.** This Agreement is binding on and inures to the benefit of the Parties to this Agreement and their respective permitted successors and permitted assigns.

17. **Relationship of the Parties.** The relationship between the parties is that of independent contractors. The details of the method and manner for performance of the Services by Service Provider shall be under its own control, Customer being interested only in the results thereof. The Service Provider shall be solely responsible for supervising, controlling and directing the details and manner of the completion of the Services. Nothing in this Agreement shall give the Customer the right to instruct, supervise, control, or direct the details and manner of the completion of the Services. The Services must meet the Customer's final approval and shall be subject to the Customer's general right of inspection throughout the performance of the Services and to secure satisfactory final completion. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise, employment or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.

18. **No Third-Party Beneficiaries.** This Agreement benefits solely the Parties to this Agreement and their respective permitted successors and assigns and nothing in this Agreement, express or implied, confers on any other Person any legal or equitable right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

19. **Choice of Law.** This Agreement and all related documents and all matters arising out of or relating to this Agreement, whether sounding in contract, tort, or statute are governed by, and construed in accordance with, the laws of the State of Tennessee, United States of America (including its statutes of limitations) without giving effect to the conflict of laws provisions thereof to the extent such principles or rules would require or permit the application of the laws of any jurisdiction other than those of the State of Tennessee.

20. **Choice of Forum.** Each Party irrevocably and unconditionally agrees that it will not commence any action, litigation or proceeding of any kind whatsoever against the other Party in any way arising from or relating to this Agreement, including all exhibits, schedules, attachments and appendices attached to this Agreement, and all contemplated transactions, including contract, equity, tort, fraud and statutory claims, in any forum other than any court of competent

jurisdiction located in Davidson County, Tennessee and any appellate court from any thereof. Each Party irrevocably and unconditionally submits to the exclusive jurisdiction of such courts. Each Party agrees that a final judgment in any such action, litigation, or proceeding is conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law.

21. WAIVER OF JURY TRIAL. EACH PARTY ACKNOWLEDGES THAT ANY CONTROVERSY THAT MAY ARISE UNDER THIS AGREEMENT, INCLUDING EXHIBITS, SCHEDULES, ATTACHMENTS, AND APPENDICES ATTACHED TO THIS AGREEMENT, IS LIKELY TO INVOLVE COMPLICATED AND DIFFICULT ISSUES AND, THEREFORE, EACH SUCH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT OF ANY LEGAL ACTION ARISING OUT OF OR RELATING TO THIS AGREEMENT, INCLUDING ANY EXHIBITS, SCHEDULES, ATTACHMENTS OR APPENDICES ATTACHED TO THIS AGREEMENT, OR THE TRANSACTIONS CONTEMPLATED HEREBY.

22. Force Majeure. The Service Provider shall not be liable or responsible to Customer, nor be deemed to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement when and to the extent such failure or delay is caused by or results from acts or circumstances beyond the reasonable control of Service Provider including, without limitation, acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lock-outs, strikes or other labor disputes (whether or not relating to either party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable materials, materials or telecommunication breakdown or power outage, provided that, if the event in question continues for a continuous period in excess of 30 days, Customer shall be entitled to give notice in writing to Service Provider to terminate this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the Effective Date by their respective duly authorized officers.

CUSTOMER

By_____

Name:

Title:

HOME BIRD LLC

By_____

Name:

Title: