

Lanteria HR

Service Level Agreement

This software Service Level Agreement, including the attached exhibits (“Agreement”), is made and entered into as of

(“Effective Date”) by and between:

**Secure HR Inc**

(DBA “Lanteria”, hereinafter referred to as “Company”)

**Mailing Address**

255 S King St Ste 800

Seattle, WA 98104

 (**Customer Name)**

 (hereinafter referred to as “Customer”)

 (**Customer Address)**

 **(Customer Email)**

**Each a “Party,” and both, the “Parties.”**

*If this Agreement is not signed within thirty (30) days of \_\_\_\_\_\_\_\_\_\_\_\_ (“Delivery Date”), then the Agreement and the terms contained herein shall expire automatically.*

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Whereas, Company is in the business of providing the Services and Customer wishes to procure the Services;

Now, therefore, for good and valuable consideration, the sufficiency of which is acknowledged by both Parties, the Parties agree as follows:

**1. Definitions**

**“Application Error”** means an Incident produced by a fault in the application that is not attributable to a Configuration Error.

**“Configuration Error”** means an Incident that is caused by configuration changes made by the Customer.

**"Customer Data"** all works and materials:

(i) uploaded to, stored on, processed using or transmitted via the Software by or on behalf of the Customer or by any person or application or automated system using the Customer's account; and

(ii) otherwise provided by the Customer to the Company in connection with this Agreement.

**“Incident”** means a failure, fault or error that causes it to produce an incorrect or unexpected result, or to behave in unintended ways compared to the system guides and documentation provided by Company.

**“Response time”** means the agreed upon time Company has to first respond to a Customer’s request for support. See Exhibit 3.

**“Software”** means the software platform known as Lanteria HR that is owned and operated by Company, and that will be made available to the Customer as a service.

**“Support Question”** means a question regarding functional or technical aspects of the Software not including questions relating to specific Incidents.

**“Update”** means a software patch issued by Company to correct defects or deficiencies in the Software or to provide minor modifications that do not substantially change the basic character or structure of the Software.

“**Upgrade”** means a release of Software that provides significant improvements and changes the basic character or structure of the currently licensed Software. These improvements and changes go beyond the minor improvements or corrections of an Update.

**“User”** means an individual who is entitled to access and use the Software pursuant to this Agreement.

**2. Scope of Services**

The Customer hereby purchases and agrees to pay for, and Company agrees to provide, one (1) year of “Software Maintenance,” which consists of the following services:

* Software Upgrades and Updates; and
* Customer Support

**2.1 Software Update and Upgrade Services**

(i) Company may provide the Customer with the following Software Update and Upgrade services at no additional charge:

1. Updates to enhance the Software
2. Updates to address Incidents caused by an Application Error.

b. Software Upgrades implemented during the term of this Agreement, except that the cost of implementing Upgrades, including additional customization needed to work with past Customer customizations, shall be billed to Customer at the then prevailing hourly rate of Company;

Note: Some fixes, enhancements or Updates will be specified as mandatory. The Customer is required to implement all mandatory fixes, enhancements or Updates within 90 days of their availability. Failure to implement a mandatory fix, enhancement or Update may result in Company’s inability to support the previous version of the Software.

**2.2 Customer Support Services**

(i) Company shall provide the Customer with support services as set forth in Exhibit 3, for up to the Customer Support Hour amount set forth in Exhibit 1 per year. Unused hours shall not carry over or accrue to the next year.

(ii) Company shall address all Application Errors not resulting from any Configuration Error at Company’s own cost.

(iii) Investigating and resolving of Incident(s) will be chargeable to the Customer if the

Incident is determined by Company to be a Configuration error and/or if the error occurred due to one of the following reasons:

a. Improper use of the Software;

b. Modification of the Software done by any person other than Company without Company’s prior written consent;

c. Failure by the Customer to implement recommendations in respect of the solutions and faults previously advised by Company;

d. Issues in Customer’s equipment, software, network connections or other infrastructure;

e. Third party acts, services or systems;

f. General Internet problems, force majeure events or other factors outside of Company’s reasonable control.

**2.3 Support Contact Persons**

(i) Company support is provided to the three (3) authorized and designated Customer contacts stated in Exhibit 2, or their replacements should those identified cease to be employed by the Customer.

**3. Payment Terms**

**3.1 Payment Schedule**

(i) For the services outlined in this Agreement, the Customer will pay Company according to the payment rates set forth in Exhibit 1.

(ii) The yearly fee is paid on an annual basis, from the date Software begins operating in production environment, as determined by Company.

(iii) Unpaid amounts are subject to a finance charge of fifteen percent (15%) each month on any outstanding balance, or the maximum permitted by applicable law, plus all expenses of collection including attorney’s fees, and may result in the immediate termination of Service, at Company’s discretion.

(iv) If the services outlined in this Agreement are re-instated after a termination or temporary suspension, Company reserves the right to charge Customer a re-instatement fee.

**3.2 Services Ordered Additionally**

(i) If the Customer orders any other Software related services that are not included in this Agreement, such services will be charged at the hourly rate stated in Exhibit 1. Company may change the then applicable hourly rate upon ninety (90) days written notice to Customer.

**4. Term and Termination**

(i) This Agreement is valid for a period of one year (“Initial Term”) commencing on an anniversary of the Effective Date, and shall be automatically renewed for additional periods of the same duration (collectively, the “Term”), unless either party requests termination in writing at least thirty (30) days prior to the end of the then-current term.

(ii) Either party may terminate this Agreement if the other party materially breaches this Agreement and does not remedy said breach within thirty (30) days of its receipt of written notice from the non-breaching party.

**5. Confidentiality and Customer Data**

(i) “Confidential Information” means any information provided from one Party to the other including, but not limited to, Customer Data, the Software, business plans, system guides, financial information, and performance information not in the public domain, whether in oral, written, or other form, that is identified as proprietary or confidential or provided under circumstances that reasonably indicate that the information is proprietary or confidential

(ii) Each party shall preserve the confidentiality of the other party’s Confidential Information and treat such Confidential Information with at least a reasonable standard of care.

(iii) Neither party shall be liable to the other for the release of Confidential Information if it:

a) was known to the receiving party on or before Effective Date without restriction as to use or disclosure;

b) was in the public domain on or before the Effective Date;

c) came into the public domain after the Effective Date through no fault of the receiving party;

d) was obtained through malware, hacking, or some other breach of reasonable security measures;

e) was independently developed solely by the employees of the receiving party who have not had access to Confidential Information; or

f) is divulged pursuant to any legal proceeding or otherwise required by law, subject to the receiving party giving all reason-able prior notice to the disclosing party to allow it to seek protective or other court orders and provided that the receiving party uses best efforts to make such disclosure under conditions of confidentiality.

(iv) The Customer hereby grants to Company a non-exclusive license to copy, reproduce, store, distribute, publish, export, adapt, edit and translate the Customer Data to the extent reasonably required for the performance of the Company obligations and the exercise of the Company rights under this Agreement. The Customer also grants to Company the right to sub- license these rights to its hosting, connectivity, telecommunications and other service providers required for the performance of the Company obligations under this Agreement.

(v) The Customer and Company shall comply with the applicable Data Protection laws of the United States with respect to the processing of the Customer Data.

**6. Ownership of Company Intellectual Property**

(i) All rights, title and interest in and to all intellectual property rights in the Software are owned or held exclusively by Company or its licensors. The license granted to the Customer does not convey any rights in the Software, express or implied, or ownership or any intellectual property rights thereto. Company reserves any rights not expressly granted herein.

**7. Breach & Damages**

(i) A violation of any term of this Agreement may result in a breach of contract.

(ii) In the event of breach of any term of this agreement, the breaching party shall owe the non-breaching party for any and all related damages arising out of the breach, as well as resulting litigation expenses and attorney’s fees. If the Customer breaches the Agreement by sharing or allowing Company’s Intellectual Property or other Confidential Information to be shared, the Customer shall be responsible for the lost earning capacity of that Intellectual Property and/or Confidential Information, as well as damages, litigation fees and attorneys fees.

**8. Service Level Warranties**

(i) THIS IS AN AGREEMENT FOR SERVICES. COMPANY WARRANTS THAT IT SHALL PERFORM THE SOFTWARE MAINTENANCE IN GOOD FAITH AND IN A PROFESSIONAL MANNER. COMPANY DISCLAIMS, AND CUSTOMERS DISCLAIMS RELIANCE ON, ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

(ii) No oral or written information or advice given by Company, its employees, distributors, dealers or agents shall increase the scope of the above warranties or create any new warranties.

**9. Software Warranty and Liability**

(i) SOFTWARE WARRANTY. THE SOFTWARE IS LICENSED “AS IS.” THE CUSTOMER BEARS THE RISK OF USING THE SOFTWARE. COMPANY GIVES NO, AND CUSTOMER RELIES ON NO, EXPRESS WARRANTIES, GUARANTEES, OR CONDITIONS. TO THE EXTENT PERMITTED UNDER APPLICABLE LAWS, COMPANY EXCLUDES ALL IMPLIED WARRANTIES, INCLUDING BUT NOT LIMITED TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.

(ii) Limited warranty. The Software, Software Maintenance, and accompanying written materials (including instructions for use) are provided "as is," except that Company warrants: Company owns, or licenses from third parties, all rights in or to the software.

(iii) Except as set forth herein, Company does not warrant, guarantee or make any representations regarding the use, or the results of use, of the software or written materials in terms of correctness, accuracy, reliability, timeliness, or otherwise. The Customer assumes the entire risk as to the results and performance of the Software.

(iv) Company does not warrant that the Software will meet Customer’s requirements, that operation of the Software will be uninterrupted or error-free, or that all Incidents will be corrected.

(v) Company is not responsible for problems caused by changes in the operating characteristics of computer hardware or computer operating systems that are made after the release of the Software, nor for problems in the interaction of the Software with non-Company software.

(vi) Company will have no responsibility to replace or refund the license fee for media damaged by accident, abuse, or misapplication.

(vii) The Software is intended for commercial, institutional, and industrial users. The above warranties are exclusive and in lieu of all other warranties, whether expressed or implied, including the implied warranties of merchantability and fitness for a particular purpose. No oral or written information or advice given by Company, its employees, distributors, dealers, or agents shall increase the scope of the above warranties or create any new warranties. Except for the infringement of the third party intellectual property rights or a breach of confidentiality owed to the Customer, neither Company nor anyone else who has been involved in the creation, production or delivery of the software shall be liable for any direct, indirect, consequential, or incidental damages (including damages for loss of business profits, business losses, business interruption, loss of data, and the like) arising out of the use or inability to use the software, or any other claim by any party, even if Company has been advised of the possibility of such damages.

(viii) In the event Company is found liable for any damages related to any claim, suit, or proceeding related to this Agreement and Customer or a third party, Company’s liability for damages shall not exceed the total cost of all the fees paid by the Customer to Company for the 12 months prior to the act that gave rise to the liability.

**10. Indemnification**

(i) The Customer shall indemnify and hold harmless Company against any claim, suit, or proceeding related to the Customer’s use of the Software for wrongful purposes such as illegal or unlawful purposes (including but not limited to local, State and Federal laws), propagating malware, redistributing or transferring Software to a third party, or any other similar purpose.

(ii) The Customer shall indemnify and hold harmless Company against any claim, suit, or proceeding related to the Customer’s loss of business or confidential information due to third party actions such as illegal or unlawful activities, malware, hacking, or any other similar breaches of reasonable security measures.

**11. Entirety of Agreement**

(i) The parties acknowledge that there are no written agreements, contracts, representations, warranties, inducements, or under-standings between them and pertaining to Software except as set forth and referred to in this Agreement. This Agreement is the entire agreement between the parties and supersedes any previous agreements, negotiations, discussions, and written instruments.

**12. Choice of Law**

(i) This Agreement shall be interpreted, construed, and enforced according to the laws of the

State of Delaware, USA.

**13. Choice of Venue**

(i) The parties hereby submit to the jurisdiction of the courts of Kent County, Delaware, for any legal action arising out of this Agreement or the performance or non-performance of their obligations under this Agreement.

**14. Severability; Waiver**

(i) If any provision of this Agreement is held invalid or unenforceable for any reason, the remaining provisions will continue in full force without being impaired or invalidated. The waiver by Company of a breach of any provision of this Agreement will not operate or be interpreted as a waiver of any other or subsequent breach.

**15. Notices**

(i) All notices and requests related to this Agreement shall be made in writing and delivered to the recipients address or email as listed on the front page of this Agreement. To be effective, notice must be delivered by certified or registered mail, courier, fax, or email. Notice will be effective after 3 days if sent by mail, 1 day if sent by courier, and upon receipt if sent by fax or email.

**16. Assignment/Transfer Prohibited**

(i) This agreement is between Company and the undersigned Customer. The Customer has no rights to assign or transfer this agreement to any third party without the prior written consent of the Company. Company, however, may assign or transfer any and all rights contained herein.

**17. Attorney’s Fees**

(i) If any suit, proceeding, or action is brought to enforce or defend the terms of this agreement, the prevailing party will be entitled to attorney’s fees and court costs in addition to any other relief granted.

**18. Dispute Resolution**

(i) Any controversy or claim arising out of or relating to the ownership or infringement on the ownership of Company’s Software shall be settled in the courts of King County, Washington.

(ii) Any other controversy or claim arising out of or relating to this Agreement shall first be submitted to mediation. Both parties to this Agreement hereby agree to make a good faith effort to settle any dispute not covered in section (i) of this Dispute Resolution provision in mediation.

(iii) **If mediation fails or both parties agree to forgo mediation, then any remaining controversy or claim arising out of or relating to this Agreement shall be resolved by binding arbitration. The Customer acknowledges that the Customer waives any and all right to litigation in a court of law or trial by jury, and shall be required to settle a dispute in binding arbitration.**

**19. Survivability Clause**

The following sections and articles shall survive the expiry or termination of this

Agreement:

a) Section 3 – Payment Terms; b) Section 5 – Confidentiality; c) Section 6 – Ownership; d) Sections 8 & 9 – Warranty and Liability; e) Section 10 – Indemnification; and f) such definitions and terms and conditions in this Agreement that are necessary to give effect to the foregoing sections and articles.

By signing below, each party designates she or he has fully read the terms of this Agreement and that she or he understands, agrees to and accepts the terms of this Agreement.

**Customer: Company:**

X X

 Name: Name:

 Title: Title:

 Date: Date:

Exhibit 1: Rates and Fees

|  |
| --- |
| **Support Services** |
| Customer Support Hours, per year |  |
| **Rates** |
| Services: Hourly Rate in USD |  |
|  |  |

**Fees**

|  |  |  |  |
| --- | --- | --- | --- |
| **#** | **Product / Service** | **Period** | **Price** |
| 1 | Support, Upgrades, Updates and Maintenance (15% of the license cost) | 1 year | $0,000.00 USD |
|  |  | Total: | $0,000.00 USD |

Exhibit 2: Customer Contacts

|  |  |
| --- | --- |
| **Customer Contact 1** |  |
| Contact Person Name |  |
| Job/Function |  |
| E-mail address |  |
| Phone number |  |

|  |  |
| --- | --- |
| **Customer Contact 2** |  |
| Contact Person Name |  |
| Job/Function |  |
| E-mail address |  |
| Phone number |  |

|  |  |
| --- | --- |
| **Customer Contact 3** |  |
| Contact Person Name |  |
| Job/Function |  |
| E-mail address |  |
| Phone number |  |

Exhibit 3: SLA

https://www.lanteria.com/service-level-agreement

***By initialing here \_\_\_\_\_\_ Customer asserts she or he has read and agrees to the above Exhibits and their terms.***

\_\_\_\_\_ Document Ends Here \_\_\_\_\_