



MASTER SAAS AND SERVICES AGREEMENT

THIS MASTER SAAS AND SERVICES AGREEMENT (the "Services Agreement") is made this 23rd day of May, 2023 the "Effective Date",

By and Between:

Pebblebrook Hotel Lessee, Inc. ("**Pebblebrook**") on behalf of its Affiliates which are Customers

And

Frontline Performance Group, LLC (hereinafter called the "**Company**" or "**FPG**") whose mailing address/registered office is at 1075 West Morse Boulevard, Winter Park, Florida USA 32789

(The Company, the Pebblebrook and the Customers collectively referred to as the "**Parties**" and each a "**Party**")

WHEREAS, Company provides certain Services on a subscription basis and related Professional Services;

WHEREAS, Pebblebrook has entered into this Agreement to facilitate the sale of such Services by FPG to Pebblebrook hotels (each such hotel contracting with FPG for such services pursuant to this Agreement, a "**Customer**"); and

WHEREAS, those Customers choosing to subscribe to such Services, will do so directly with the Company pursuant to the terms of a Work Order.

NOW, THEREFORE, in consideration of the mutual promises contained in this Agreement, Company and Pebblebrook agree to the following terms and conditions.

1. **General**

- 1.1. **Incorporation of GTC.** Pebblebrook, on behalf of itself and the Customers accepts FPG's General Terms and Conditions ("**GTC**") [link](#) to enable the delivery of the subscribed Services contemplated in this Services Agreement. Pebblebrook, on behalf of itself and the Customers, hereby agrees that the terms and provisions of the GTC are hereby fully incorporated into this Services Agreement by this reference. For the avoidance of doubt, no changes to the GTC shall be binding on Pebblebrook or the Customers unless accepted in writing after notice, as further outlined in the GTC.
- 1.2. **Terms and Interpretation.** Unless otherwise defined in this Services Agreement, capitalized terms will have the meaning set forth in the GTC. Terms, acronyms and phrases known in the information technology industry shall be interpreted in accordance with their generally known meanings. Unless the context otherwise requires, words importing the singular include the plural and vice-versa; references to and use of the word "include" and its variations thereof shall mean "include without limitation" and "including without limitation".
- 1.3. **Agreement Scope and Applicability.** IT IS EXPRESSLY UNDERSTOOD AND AGREED BY THE PARTIES THAT THIS AGREEMENT HAS BEEN NEGOTIATED FOR THE SPECIFIC PURPOSE OF GOVERNING SUBSCRIPTION AND PURCHASE OF THE SERVICES. PROVIDER MAY OFFER OTHER SERVICES WITH MUTUAL WRITTEN AGREEMENT BY THE PARTIES HERETO, SUCH SERVICES MEMORIALIZED BY WAY OF AN ADDENDUM TO THIS SERVICES AGREEMENT.



All Pebblebrook hotels and hotels managed by Pebblebrook's Affiliates in any geographic area may purchase Services from the Company pursuant to a Work Order.

2. **Services**

2.1. This Services Agreement sets forth the terms and conditions under which Pebblebrook engages the Company for SaaS Subscription Services and or Professional Services (together the "Services") and under which it authorizes the Company to sell Services to Customers and the Company agrees to (i) grant the Pebblebrook and or Customer to access and use certain hosted services and purchase professional services offered by the Company. The Services may be provided on a single property or a portfolio basis, and may include any one or more of the following:

- (a) A Subscription to access and use certain hosted services, or perform services, functions and responsibilities related to the hosting of the software, system and Shared Services,
- (b) Activation, implementation, configuration and enablement of Services,
- (c) Professional Services and other Add-Ons.

2.2. SaaS Subscription Services. The specific SaaS Subscription Services to be provided by the Company to the Pebblebrook or Customer will be detailed in a Work Order which will be effective when signed by the authorized parties and will be governed by the terms and conditions of this Services Agreement. In the event of any conflict between the terms and conditions set forth in this Services Agreement and the terms and conditions set out in the Work Order, the terms and conditions set out in the Work Order shall take precedence.

2.3. Professional Services. The specific Professional Services to be provided by the Company to the Pebblebrook or Customer will be detailed in a Scope of Work which will be effective when signed by the authorized parties and will be governed by the terms and conditions of this Services Agreement. In the event of any conflict between the terms and conditions set forth in this Services Agreement and the terms and conditions set out in the Work Order, the terms and conditions set out in the Work Order shall take precedence.

2.4. Customer Participation. The Services may be procured by the Pebblebrook or any Customer pursuant to the terms herein. In the event a Customer elects to engage the Services, such Customer shall execute a Work Order or a Scope of Work in the form attached hereto as Exhibit A ("**Work Order**") or in the form attached hereto as Exhibit B ("**Scope of Work**") on its own behalf, and shall be considered a separate agreement between Company and the Pebblebrook or Customer as of the date signed by authorized representatives of the Pebblebrook or Customer. Pebblebrook and the Customers agree that:

- 2.4.1. The determination to participate hereunder by each of Pebblebrook or Customer will be completely voluntary and made in the sole discretion of the Customer, and its respective properties.
- 2.4.2. The applicable fees for the Services to be charged by the Company, including any activation fees, monthly subscription fees or Add-Ons shall be set forth in the Work Order or Scope of Work.



- 2.4.3. Upon execution of the Work Order or Scope of Work, the Customer which signs the Work Order or Scope of Work, shall be responsible for its use of the Services and for its compliance with its obligations thereunder.
- 2.4.4. It is the Parties' intent that a Work Order or Scope of Work shall not be subject to further negotiation of pricing or terms; provided, however, that the parties agree to cooperate reasonably with one another to adjust the Work Order or Scope of Work to the extent necessary to comply with the requirements of applicable laws in a particular location.
- 2.4.5. Company shall invoice the Customer directly for the Services provided pursuant to the applicable Work Order or Scope of Work. Charges shall be invoiced to the Customer pursuant to the terms of the Work Order or Scope of Work.
- 2.4.6. Pebblebrook or any Customer procuring services from Company on a trial basis shall have the option to (1) complete the trial and cease using the Services without further obligation or (2) continue the Services by entering into a Work Order or Scope of Work with Company.
- 2.4.7. Company acknowledges that Pebblebrook is not liable to for any obligations of any Customer (including without limitation, for the payment of any fees or charges), and that Company shall look only to the respective Customers to collect any fees or charges and enforce any other obligations of such Customers. For ease of administration, Customer may submit invoices to Pebblebrook and Pebblebrook may process the same on behalf of the Customers.

3. **Term, Termination and Suspension**

- 3.1. Term of this Services Agreement. This Services Agreement shall commence on the Effective Date and, unless terminated in accordance with the termination provisions provided herein, shall continue until the later of (i) twelve (12) months (the "Initial Term"), or (ii) the stated expiration date under any extant Work Orders entered into between Customer and the Company. Following the Initial Term, unless written notice of intent not to renew is provided by either party at least 30 days prior to the scheduled expiration date of the then current term, this MSA shall be automatically renewed on an annual basis for successive one (1) year additional terms.
- 3.2. Termination by Either Party for Cause. Subject to the terms of Section 5.5 of the GTC or any applicable termination provisions of any Work Order entered into pursuant hereto, either Party may terminate this Services Agreement on thirty (30) days' prior written notice if the other Party: (a) has committed a material breach of this Services Agreement and has failed to cure such material breach within such thirty (30) day notice period; or (b) should become insolvent, file a voluntary petition in bankruptcy, be adjudicated a bankrupt, have a receiver appointed for the operation of its business, or make a material liquidation of assets.
- 3.3. Term of the Services. The term of each of the Services or Subscription shall be as specified in the applicable Work Order or Scope of Work. Except as otherwise specified in a Work Order, Subscriptions will automatically renew for additional periods equal to the expiring Subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the term for the relevant Subscription. The per-unit pricing during any automatic renewal term will be the same as that during the immediately prior term unless the Company gives the Customer written notice of a pricing increase at least 60 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter.



4. **Software License Rights**

Subject to the terms of the GTC and for each valid Work Order being in full force and effect, the Company grants the contracting Pebblebrook or Customer a non-exclusive, non-transferable, non-assignable license to access and use the FPG Software. The Company reserves all rights to the FPG Software including the right to update, modify, alter, amend or remove any functions or feature from the FPG Software at any time at its sole discretion.

5. **Additional Terms**

5.1. A new subsection (d) is added to Section 4.1 of the GTC, to read as follows: "(d) termination by Customer before end of Trial pursuant to 4.4".

5.2. Section 5.4.3 of the GTC is replaced in its entirety to read as follows:

5.4.3. Immediately, in the event Customer sells all or a substantial portion of its capital stock and/or assets and the purchaser thereof fails or refuses to assume Customer's obligations under the Agreements, including sale of the Hotel.

5.3. Section 5.8 of the GTC is replaced in its entirety to read as follows:

Suspension: Provider recognizes that Customer business may require a period of closure for renovations or seasonal operations. If this occurs during the Term, Customer shall be required to notify Provider in writing sixty (60) days prior to planned closure for renovations or seasonal operations and is required to inform Provider of anticipated re-opening dates (known as the "Renovation or Seasonal Closing Period"). The Services shall be suspended for the Renovation or Seasonal Closing Period and automatically resume at the end of the Renovation or Seasonal Closing Period at the same fee. Any such suspension of the Services for the Renovation or Seasonal Closing Period may include Provider suspending any obligation to maintain or provide Customer with access to any Customer Data.

5.4. The last sentence of Section 6.2 of the GTC is stricken in its entirety.

5.5. Section 6.3 of the GTC is hereby replaced with "If a customer has any dispute with an invoice, dispute must be received in writing within fifteen (15) business days of the date of the Invoice."

5.6. The first sentence of Section 6.4 of the GTC is hereby replaced with: "If any undisputed invoiced amount is not received by the due date, then without limiting our rights or remedies, those charges will accrue late interest at the rate of 1.5% of the outstanding balance per month or the maximum rate permitted by law, whichever is lower".

5.7. The last three sentences of Section 8.3 of the GTC are hereby replaced with: "Provider represents and warrants that shall process Customer Data in accordance with this Agreement, FPG privacy policy and its data security policies and any applicable law and regulation governing data privacy. If applicable, Provider shall comply with its obligation as a business under the California Consumer Privacy Act or as a data controller under the GDPR, including providing adequate information to customers and other data subject related to the purposes and process of the acquisition of Customer Data. Provider shall indemnify Customer for any breach of Customer Data that is directly related to Provider's violation of its obligations and representations in this section and in section 9.1.4-5."

5.8. The last sentence of Section 9.2 of the GTC is hereby replaced with: "Except for the Customer Data, all data input into the FPG Technology are the property of FPG and become a part of the FPG IP Rights or FPG Technology which may be accessed and shared in the aggregate indefinitely."



- 5.9. Section 10.1.8 of the GTC is hereby replaced in its entirety with: "Customer shall permit Provider to use its name and logo in a press release, marketing presentation or public announcement regarding the collaboration pursuant to Services Agreement, upon review of the marketing collateral, which shall be submitted to Customer in writing for approval prior to release, provided that such approval shall not be unreasonably withheld."
- 5.10. In Section 15.1 of the GTC the following is inserted between "third party" and "alleging" in the second line, "arising from a breach of this Agreement or".
- 5.11. Section 16.1.2 of the GTC shall now include the following: "The required insurance coverages shall be maintained without interruption from the date of commencement of work until completion. Failure to maintain the required insurance in force may be cause for contract termination. Customer shall be shown as an additional insured on the certificate of insurance. Such insurance must be primary as to any other valid and collectible insurance."
- 5.12. Section 18.13 of the GTC is hereby replaced in its entirety to read as follows:

Neither Party may assign its right, benefits or obligations under the Agreements to any other Party without the prior written consent of the other Party provided that no consent shall be required for the either Party to assign its rights, benefits and obligations under the Agreements to an Affiliate; and provided, further, that neither party shall unreasonably withhold its consent to any such assignment

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF the Parties have entered into this Services Agreement as of the date written above.

Signature Thomas C. Fisher

Name: Thomas C. Fisher

Title: Vice President

Date: 5/23/23

Frontline Performance Group, LLC

Signature David A. Gust

Name: David A. Gust

Title: Managing Director and CFO

Date: 5-23-23



EXHIBIT A

"WORK ORDER - SAMPLE"

Order No: _____
Submission Date: _____
Legal Entity: _____



WORK ORDER - SAMPLE

Customer Address and Billing Details

Customer Name:	_____	Billing Entity:	_____
Program Sponsor:	_____	Billing Address:	_____ _____ _____
Sponsor Title:	_____	Billing Contact:	_____
Sponsor Email:	_____	Billing Contact Title:	_____ _____
Sponsor Phone:	_____	Billing Email:	_____
Commencement Date:	_____	Billing CC Email:	_____
Recommencement Date:	_____	Billing Currency:	USD

Package Services and Fees

Item	Payment Term *	Unit Price
Setup Fee	Prepayment	x,xxx.xx
Software Subscription	Monthly in advance	x,xxx.xx





Order No: _____
Submission Date: _____
Legal Entity: _____

Terms and Conditions of Work Order

This Work Order is subject to Company's General Terms and Conditions (GTC) [link](#) and Master SaaS and Services Agreement dated [DD.Mmm.YYY](#). This Work Order, the MSSA and the GTC constitute the entire agreement between Company and Customer governing the Services referenced above ("Agreement"), to the exclusion of all other terms. Customer represents that its signatory below has the authority to bind Customer to the terms of this Work Order and the Agreement. The terms of this Work Order is deemed to be Confidential Information.

The Term of this Work Order is one (1) years from the Commencement Date.

THE PARTIES HERETO ACKNOWLEDGE AND AGREE THAT THE ACTUAL DAMAGES TO COMPANY IN THE EVENT OF CUSTOMER'S TERMINATION (ACTUAL OR CONSTRUCTIVE) OF THIS WORK ORDER WOULD BE IMPOSSIBLE OR IMPRACTICAL TO DETERMINE AND THAT THIS PROVISION FOR A TERMINATION FEE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING AND KNOWN TO THE PARTIES AS OF THE DATE OF THIS WORK ORDER.

The Software Subscription will auto-renew upon expiration date of the Term of this Work Order for the same Term as original provided herein (i.e., a Renewal Term of one (1) years), unless either party gives the other written notice of non-renewal at least thirty (30) days before the end of the relevant Term. A minimum of 45 days prior to the Work Order Term end, the nominated hotel representative will be emailed notification of the current active Work Order Term ending and auto renewal Term.

For services and commitments associated to professional services documented in Package Services & Fees please refer to the Packages, Deliverables & Commitments at the following [link](#)

Recommended 'best practices' to optimize your purchase can be found at the following [link](#)

Invoiced amounts for fees or services are net of any taxes. Any applicable sales or VAT taxes will be calculated and added to invoices. Any excise, withholding or other taxes are the responsibility of the Customer.

This Work Order will automatically expire thirty (30) days after the Submission Date noted above if not executed by the Customer. A revised Work Order may be issued.

Upon signature by Customer and submission to Company, this Work Order shall become legally binding unless this Work Order is rejected by Company for any of the following reasons: (1) the signatory below does not have the authority to bind Customer to this Work Order, (2) changes have been made to this Work Order (other than completion of the purchase order information and the signature block), or (3) the requested purchase order information or signature is incomplete or does not match our records or the rest of this Work Order.

If an FPG Consultant is required to travel to visit the Hotel to deliver onsite services, the Logistics Fees apply. For further details, please refer to the Logistics Fees Schedule at the following [link](#).

Special Terms and Conditions of Work Order





Order No: _____
Submission Date: _____
Legal Entity: _____

Payment Info

We wish to change the Payment Terms for Software Subscription. If no choice is selected, Payment Terms will be as indicated in Package Services & Fees above.

☐ Quarterly in advance * ☐ Prepaid

** If a Customer selects 'Quarterly in advance', Customer will be billed each quarter starting on the Commencement Date, a quarterly invoice will be issued each quarter, up to the End of the Term.*

Please select Payment Method. If no choice is selected, Payment Method will default to Wire Transfer.

☐ Wire Transfer ☐ Direct Debit ☐ Credit Card **

*** Only for applicable countries. Corresponding Credit Card administrative fee will be included in your invoice.*

Authorized Signatory

The Customer agrees to the terms and conditions as stated herein.

Customer Name: _____ Billing Entity: _____

Signature and Company Stamp (if applicable)

Name

Job Title

Date





EXHIBIT B

"SCOPE OF WORK - SAMPLE"

Order No: _____
Submission Date: _____
Legal Entity: _____



SCOPE OF WORK - SAMPLE

Customer Address and Billing Details

Customer Name:	_____	Billing Entity:	_____
Program Sponsor:	_____	Billing Address:	_____ _____ _____
Sponsor Title:	_____	Billing Contact:	_____
Sponsor Email:	_____	Billing Contact	_____
Sponsor Phone:	_____	Title:	_____
Commencement	_____	Billing Email:	_____
Date:	_____	Billing CC Email:	_____
Recommencement	_____	Billing Currency:	USD
Date:	_____		

Package Services and Fees

Item	Payment Term *	Unit Price
Launch	Prepayment	x,xxx.xx
Commission @ x%	Monthly in arrears	x,xxx.xx





Order No: _____
Submission Date: _____
Legal Entity: _____

Terms and Conditions of Work Order

This Scope of Work is subject to Company's General Terms and Conditions (GTC) [link](#) and Master SaaS and Services Agreement dated DD Mmm YYYY. This Scope of Work, the MSSA and the GTC constitute the entire agreement between Company and Customer governing the Services referenced above ("Agreement"), to the exclusion of all other terms. Customer represents that its signatory below has the authority to bind Customer to the terms of this Scope of Work and the Agreement. The terms of this Scope of Work is deemed to be Confidential Information.

The Term of this Scope of Work is twelve (12) months from the Commencement Date.

THE PARTIES HERETO ACKNOWLEDGE AND AGREE THAT THE ACTUAL DAMAGES TO COMPANY IN THE EVENT OF CUSTOMER'S TERMINATION (ACTUAL OR CONSTRUCTIVE) OF THIS SCOPE OF WORK WOULD BE IMPOSSIBLE OR IMPRACTICAL TO DETERMINE AND THAT THIS PROVISION FOR A TERMINATION FEE IS REASONABLE UNDER THE CIRCUMSTANCES EXISTING AND KNOWN TO THE PARTIES AS OF THE DATE OF THIS SCOPE OF WORK.

Commission, where applicable, will auto-renew upon expiration date of the Term of this Scope of Work for the same Term as original provided herein (i.e., a Renewal Term of one (1) years), unless either party gives the other written notice of non-renewal at least thirty (30) days before the end of the relevant Term. A minimum of 45 days prior to the Scope of Work Term end, the nominated hotel representative will be emailed notification of the current active Work Order Term ending and auto renewal Term.

For services and commitments associated to professional services documented in Package Services & Fees please refer to the Packages, Deliverables & Commitments at the following [link](#)

Recommended 'best practices' to optimize your purchase can be found at the following [link](#)

Invoiced amounts for fees or services are net of any taxes. Any applicable sales or VAT taxes will be calculated and added to invoices. Any excise, withholding or other taxes are the responsibility of the Customer.

This Scope of Work will automatically expire thirty (30) days after the Submission Date noted above if not executed by the Customer. A revised Scope of Work may be issued.

Upon signature by Customer and submission to Company, this Scope of Work shall become legally binding unless this Scope of Work is rejected by Company for any of the following reasons: (1) the signatory below does not have the authority to bind Customer to this Scope of Work, (2) changes have been made to this Scope of Work (other than completion of the purchase order information and the signature block), or (3) the requested purchase order information or signature is incomplete or does not match our records or the rest of this Scope of Work.

If an FPG Consultant is required to travel to visit the Hotel to deliver onsite services, the Logistics Fees apply. For further details, please refer to the Logistics Fees Schedule at the following [link](#)

Special Terms and Conditions of Work Order





Order No: _____
Submission Date: _____
Legal Entity: _____

Payment Info

Please select Payment Method. If no choice is selected, Payment Method will default to Wire Transfer.

☐ Wire Transfer ☐ Direct Debit ☐ Credit Card **

**** Only for applicable countries. Corresponding Credit Card administrative fee will be included in your invoice.**

Authorized Signatory

The Customer agrees to the terms and conditions as stated herein.

Customer Name: _____ Billing Entity: _____

Signature and Company Stamp (if applicable)

Name

Job Title

Date

