

**MASTER SERVICES AGREEMENT**

This Master Services Agreement (the “**Agreement**”) is made and entered into effective as of the date of last signature below (“**Effective Date**”) by and between **DAVID’S BRIDAL, INC.**, a Delaware corporation, with an address at 630 Allendale Road, Suite 250 King of Prussia, PA 19406 (hereinafter “**DAVID’S**”) and the following listed Service Provider (hereinafter “**Service Provider**” or “**Vendor**”):

**Service Provider:** \_\_\_\_\_  
\_\_\_\_\_  
Attention: \_\_\_\_\_

**1. Services to be performed**

a. **Services.** Service Provider agrees to provide to DAVID’S and its Affiliates the services (the “**Services**”) set forth in one or more mutually executed statements of work referencing this Agreement and executed by the parties hereto (each, a “**Statement of Work**”), (the form of which is attached hereto as Exhibit A), at the agreed upon rates set forth in each applicable Statement of Work, and in accordance with the Services schedule set forth in each applicable Statement of Work. To the extent any Affiliate of DAVID’S desires to engage Service Provider, the Statement of Work will be executed in the name of such Affiliate. In such event, with respect to the application of the terms of the Agreement to such Statement of Work, all references to DAVID’S contained in this Agreement shall refer to the Affiliate signing the Statement of Work as if the Affiliate was an original party to the Agreement. The Affiliate’s obligations thereunder will be the obligations of such Affiliate alone and not of DAVID’S or any other Affiliate. Affiliates may use Services and Materials (as hereinafter defined) to the same extent as DAVID’S at no additional expense to DAVID’S, and such Affiliate shall be entitled to DAVID’S rights and interests under this Agreement and to enforce this Agreement in its own name. “**Affiliate**” means DAVID’S parent or an entity of which DAVID’S or its parent owns presently or in the future, directly or indirectly, at least 50% of such entity’s capital stock or other voting interests. References to this Agreement collectively means the Agreement, Statements of Work, the Confidentiality Agreement and any other exhibit, schedule or other document attached or incorporated by reference into this Agreement or a Statement of Work.

b. **Designated Representatives.** The Services shall be performed on behalf of the Service Provider by the designated representatives set forth in each Statement of Work, if applicable. In the event any of the designated personnel cease to be employees or subcontractors of Service Provider, Service Provider shall immediately notify DAVID’S in writing. In such event, Service Provider shall also immediately provide a replacement representative with comparable skills, training and qualifications. DAVID’S may require that Service Provider discontinue the assignment to DAVID’S of any representative at any time during the course of the Services if, in the good faith and reasonable judgment of DAVID’S, such representative does not possess the skills and qualifications necessary for performance of the work assigned to such representative, if such representative fails to observe DAVID’S security procedures or other policies and procedures for workplace conduct set forth in Sections 1e, 1f, or 1g below, or if DAVID’S determines that such representative does not work well with DAVID’S for any reason.

c. **Meetings, Reports.** Upon request by DAVID’S, Service Provider shall provide a representative for periodic meetings to review the performance of the Services. Service Provider shall also provide monthly or other periodic written reports describing the performance of the Services as set forth in the applicable Statement of Work or upon request by DAVID’S.

d. **Acceptance.** DAVID’S shall have a reasonable right of review and acceptance with respect to all Services and deliverables as provided for in the applicable Statement of Work. Payment for Services or deliverables may be contingent on acceptance, if set forth in the applicable Statement of Work.

e. **Security.** Service Provider acknowledges and agrees that its representatives working on-site at the facilities of DAVID’S or its Affiliates shall be subject to, and shall comply with, their respective security procedures and other policies and procedures for workplace conduct, including, but not limited to, sign-in and visitor identification procedures, and with

information and data security policies and procedures in effect from time to time furnished by DAVID'S to Service Provider. Service Provider's representatives shall not, without the prior written consent of DAVID'S, connect to DAVID'S information technology infrastructure any computers or hardware not furnished by DAVID'S. Service Provider will ensure that its employees and agents will, whenever on DAVID'S or its Affiliates' premises, obey all workplace safety policies of DAVID'S or the Affiliate, as applicable.

f. DAVID'S Equipment. DAVID'S may, from time to time, furnish to Service Provider laptop computers or other equipment (collectively, "**DAVID'S Equipment**") for use in performing the Services hereunder. DAVID'S retains all right, title and interest in and to the DAVID'S Equipment, and Service Provider shall be responsible for any damage to, or theft or loss of, the DAVID'S Equipment while in its possession. Service Provider shall use the DAVID'S Equipment solely for the performance of the Services hereunder, and shall promptly return the DAVID'S Equipment to DAVID'S upon the earlier of the termination of the applicable Statement of Work or request by DAVID'S. Service Provider shall (i) refrain from transferring, sharing or disclosing the DAVID'S Equipment (or software, information or other content contained therein furnished by DAVID'S) to or with any third party, (ii) keep the DAVID'S Equipment free of any liens, security interests and other encumbrances; and (iii) use the DAVID'S Equipment to access DAVID'S technology infrastructure only as directed by DAVID'S.

g. Computer Systems Access. If Service Provider is required to access DAVID'S computer systems in order to provide Services hereunder, Service Provider agrees that it and each of its representatives will (i) use only the log-in identification assigned by DAVID'S; (ii) correctly and completely log-off the system immediately upon completion of each session of service; (iii) not allow any other person to use the assigned log-in identification or improperly access DAVID'S systems; (iv) keep the assigned log-in identification and all other information enabling such access strictly confidential; (v) not access any DAVID'S systems or data other than that which is specifically authorized; (vi) not intentionally or recklessly spread viruses or other malicious computer code to DAVID'S computer systems; (vii) not install, download, or access any unauthorized software application or tool and (viii) not download, transfer, save or otherwise keep any data except as expressly authorized in writing by DAVID'S in accordance with any terms or limitations required by DAVID'S.

## **2. Compensation**

a. Rates. In consideration for the Services to be performed by Service Provider, DAVID'S agrees to pay Service Provider the compensation set forth in the applicable Statement of Work. During the entire Term of this Agreement, Service Provider shall not increase its rates above those set forth in the Statement of Work. If a limit is set forth in a Statement of Work for the maximum amount of compensation to be paid to Service Provider by DAVID'S, Service Provider shall not charge DAVID'S in excess of the stated maximum compensation without obtaining the prior written approval of DAVID'S. Service Provider will maintain records to substantiate charges to DAVID'S. DAVID'S and its representatives may audit Service Provider's records upon reasonable prior notice to determine whether Service Provider has properly invoiced DAVID'S for the Services performed. In addition to any other remedy that may be available, DAVID'S shall be entitled to a refund of any overpayment and Service Provider shall reimburse the overpayment amount to DAVID'S within 90 days after Service Provider receives notice of such overpayment. If DAVID'S is entitled to a refund of five percent (5%) or more of the amounts paid to Service Provider during a twelve (12) month period, Service Provider shall also reimburse DAVID'S for the costs of the audit.

b. Change of Scope. The parties may agree in writing to change the scope of Services, fees or the time for performing Services, but neither party will have any liability or obligation with respect to any such change until an amendment to this Agreement or the applicable Statement of Work setting forth such change has been executed by the parties.

## **3. Expenses**

a. Responsibility. Except as set forth in the applicable Statement of Work or as mutually agreed upon in writing, Service Provider shall be solely responsible for the payment of all expenses incurred while performing Services under this Agreement.

b. Reimbursement. If DAVID'S consents to the reimbursement of travel expenses as may be agreed upon in writing by the parties in any applicable Statement of Work, appropriate travel and other reasonable, necessary and customary travel expenses incurred by Service Provider in connection with and directly attributable to the Services performed under this Agreement may be invoiced to and reimbursed by DAVID'S; provided such expenses will only be reimbursed in

accordance with DAVID' general corporate policies including, but not limited to, the DAVID'S corporate travel policy (a copy to be provided upon request) which are in effect from time to time ("**Reimbursable Expenses**"). To qualify for reimbursement, all Service Provider travel must be pre-approved by DAVID'S in writing. All invoices for Reimbursable Expenses must be provided to DAVID'S not later than 90 days after the Reimbursable Expenses were incurred. Service Provider shall not charge DAVID'S and DAVID'S is not obligated to pay for travel time of Service Provider personnel.

#### **4. Terms of Payment**

a. **Billing.** Service Provider shall send DAVID'S a detailed invoice (referencing the applicable DAVID'S purchase order number for which the invoice is being submitted) each month complete with all of the documentation necessary to support the amounts shown on the invoice for the Services performed, and any Reimbursable Expenses incurred during the prior month and applicable Taxes (as hereinafter defined), each as a separate line item. The invoice will detail the Services performed during the prior month and provide a breakdown of the individuals, hours and rates for the Services provided. DAVID'S shall pay Service Provider for all undisputed fees, charges and Reimbursable Expenses within ninety (90) days from the date of receipt of each invoice. Invoices will be addressed ATTN: [\*] and mailed to DAVID'S at the address set forth on the first page of this Agreement (unless otherwise changed by DAVID'S in accordance with the notices provision).

b. **Taxes.** DAVID'S shall be responsible for federal, state or local sales and use taxes ("**Taxes**") based solely on the Services provided under this Agreement only to the extent the same are included on the initial invoice from Service Provider. DAVID'S shall not however, be responsible for taxes based on Services Provider's income or property. Service Provider shall provide prompt written notice to DAVID'S of the imposition of any such Taxes for which DAVID'S is responsible hereunder, permit DAVID'S to challenge such Taxes and reasonably cooperate with DAVID'S (at DAVID'S expense) in connection with any such challenge.

#### **5. Term of Agreement**

This Agreement will commence as of the Effective Date and will remain in effect until terminated as provided for herein (the "**Term**").

#### **6. Terminating the Agreement**

a. **Default.** If a party has defaulted under the provisions of this Agreement in any material respect and has failed to cure such default within fifteen (15) days after receipt of written notice from the non-defaulting party, then if DAVID'S is the non-defaulting party it may terminate the Agreement and all Statements of Work thereunder or solely that Statement of Work that has been breached, and if Service Provider is the non-defaulting party it may terminate solely the Statement of Work that has been breached.

b. **Without Cause.** DAVID'S may terminate either this Agreement (and all Statements of Work thereunder) or, if there are multiple Statements of Work, an individual Statement of Work, without cause, upon fifteen (15) days prior written notice to Service Provider without further obligation or liability to Service Provider thereunder, other than those obligation that survive the termination of this Agreement. Upon termination pursuant to this subsection 6b, Service Provider shall be entitled to payment for Services properly performed and reimbursement of Reimbursable Expenses incurred prior to the effective date of such termination.

#### **7. Employment Taxes and Benefits**

For Service Provider's resources, Service Provider shall be solely responsible for (i) paying such resources; (ii) paying and reporting any tax withholding (including federal, state and local income taxes), workers' compensation payments, social security taxes, and unemployment insurance; and (iii) any health or disability insurance, retirement benefits, or other welfare or pension benefits.

#### **8. Warranties and Representations**

Service Provider represents, warrants and covenants for so long as this Agreement continues in effect:

- a. Authority to Enter into Agreement. Service Provider has full power and authority to enter into and perform its obligations under this Agreement (including without limitation each Statement of Work) and possesses all licenses, permits, rights, powers and consents required to enter into and perform this Agreement and to grant to DAVID'S the rights granted herein.
- b. Qualified Personnel, Compliance with Laws and Specifications. Service Provider warrants that the Services and Materials will be (i) performed by qualified individuals in a professional and workmanlike manner conforming to highest industry standards and practices (and in no event be of a quality less than the quality of services performed and work product created by a skilled consultant with expertise in the areas for which Service Provider is providing the Services), and in harmony with any other work that may be occurring at locations where the Services are to be provided; (ii) in strict accordance with all applicable laws, rules, regulations, codes, orders, standards and guidelines; (iii) in strict conformance with the provisions of any other agreements (i.e. leases) between DAVID'S and third parties applicable to locations where the Services are to be provided; and (iv) in strict conformance with the Agreement and any required specifications set forth in a Statement of Work or otherwise mutually agreed upon in writing by the parties. Service Provider shall pay all fees and obtain all permits, license or other documents or approvals required for the performance of the Services.
- c. No Encumbrances. Service Provider represents and warrants that all Services and Materials (as hereinafter defined) (i) have been created and originated by Service Provider and shall be provided and conveyed to DAVID'S under this Agreement free and clear of all liens, claims, encumbrances or demands of third parties, including any claims by such third parties of any right, title and interest in or to Materials or any intellectual property or proprietary rights therein or associated therewith and (ii) and the use thereof will not violate or infringe any proprietary, information, non-disclosure, copyright, patent or other intellectual property or contractual right and Service Provider has not received any claim from a third party of any such violation or infringement; and (iii) will be free of errors and defects (and that in the event of any such errors or defects Service Provider will promptly correct such failure so that the Services and Materials conform to this Agreement). Service Provider will insure and indemnify that no property of, or occupied by, DAVID'S shall be subject to any lien as a result of any Services performed under this Agreement.
- d. No Conflicts, Interference. Service Provider entering into this Agreement and performing its obligations hereunder does not and shall not violate or breach any agreement binding on Service Provider and Service Provider is not bound by any other contractual agreement, restriction or obligation, nor will Service Provider assume any such obligation or restriction which does or could in any way conflict, interfere or be inconsistent with the Services to be furnished to DAVID'S under this Agreement (and Service Provider will promptly advise DAVID'S of any such violation, conflict, interference or inconsistency that arises).
- e. Relationships. Service Provider has no relationship with and will not enter into any relationship with any equipment manufacturer, value-added entity, supplier, distributor, franchisee, franchisor, vendor of other person or entity such that Service Provider will or might receive any fees, commissions, discounts, bonuses or kickbacks, whether or not monetary, that might or will accrue to Service Provider in the event of any purchase, lease, or license entered into by DAVID'S as a direct or indirect result of Service Provider's advice or information provided to DAVID'S during the performance of its Services.
- f. Other Agreements. In connection with its performance of the Services, Service Provider will comply with the documents referenced in the Vendor Acknowledgement executed by Service Provider, including without limitation the DAVID'S Code of Conduct and such other documents as incorporated or referenced herein or therein (collectively, the "Other Documents") and any breach of the Other Documents shall be deemed a material breach under this Agreement.

## **9. Ownership**

Service Provider shall promptly disclose and deliver to DAVID'S any and all materials, discoveries, inventions, techniques, technological innovations, data, findings, processes, procedures, concepts, know-how, improvements, algorithms, software programs, documentation, screen shots, icons, schematics, software source documents, code, manuals, projections, results, products, product designs, development, textile designs, ideas, artwork, documents, drawings, samples, sketches, designs, information concerning color palette and color standards, sourcing information, potential product names, labeling and marking ideas, machinations, copyrightable works, original works of authorship and deliverables including, but not limited to, copyrights, trade secrets, patents and other intellectual property rights associated therewith or included therein, whether or not patentable or registerable under any intellectual property laws, conceived or made by Service

Provider or its representatives or agents, solely or jointly, during the term of this Agreement, whether or not conceived or made during working hours, relating in any manner to the Services being performed hereunder or resulting from the use of DAVID'S properties or materials, or delivered or required to be delivered by Service Provider (collectively, "**Materials**"). All such Materials shall be the exclusive property of and owned by DAVID'S with respect to any and all countries. Service Provider hereby assigns to DAVID'S all worldwide right, title and interest thereto in and to the Materials, including all intellectual property rights therein, without any requirement of further consideration. DAVID'S shall have the right to obtain and hold in its own name all patents, copyrights, registrations and similar protection that may be available in such Materials. Service Provider agrees to give DAVID'S, and its designees or assigns, all assistance reasonably required to perfect such rights, titles and interests. All Materials and Services performed hereunder shall be deemed "work made for hire" for DAVID'S for purposes of all Federal and State laws.

## **10. David's Support**

Service Provider shall perform all obligations in this Agreement and any Statement of Work and provide any equipment, material or resource necessary to perform such obligations, except to the extent a Statement of Work specifically requires DAVID'S to perform an obligation or to provide equipment, materials or resources. In the event any Statement of Work specifically requires DAVID'S to perform an obligation or provide certain facilities, equipment, information, or personnel (or access thereto), Service Provider shall promptly inform DAVID'S in writing and include the relevant specifics and details of any failure by DAVID'S to provide such resources or information.

## **11. Confidentiality**

a. **Confidentiality Agreement.** Service Provider's use and disclosure of information provided by or on behalf of DAVID'S shall be governed by the Agreement on Confidentiality entered into between DAVID'S and Service Provider ("**Confidentiality Agreement**") effective on or about [xx/xx/xxxx].

b. **Return of Materials.** Within thirty (30) days of written request by DAVID'S at any time or upon the expiration or termination of this Agreement without further demand, Service Provider shall (i) end all further use of, and immediately return to DAVID'S, all copies of all Confidential Information (as defined in the Confidentiality Agreement), documents, materials, information and records of DAVID'S and DAVID'S retains all right title and interest in such Confidential Information, documents, materials, information and records; and (ii) Service Provider shall provide to DAVID'S all Materials whether or not complete.

## **12. Indemnification**

a. **Indemnity.** Service Provider agrees to defend, indemnify and hold harmless DAVID'S and its Affiliates and their respective employees, contractors, agents, representatives, officers, directors, service providers and customers (collectively, the "**DAVID'S Indemnified Parties**" and individually, the "**DAVID'S Indemnified Party**") from and against all actions, suits, claims, litigation, demands, subpoenas and proceedings and any judgments, damages, losses, debts, liabilities, obligations, penalties, fines, costs and expenses (including reasonable attorneys' fees) arising therefrom or in connection therewith ("**Claims**") whether arising out of contract, tort, strict liability, misrepresentation, violation of applicable law and/or any theory or cause that may be:

(i) Brought or commenced by any employee (statutory or other), agent, representative, officer or director of Service Provider or any of its contractors or subcontractors, or anyone directly or indirectly employed by or engaged by them with respect to any claims under applicable state law statutes pertaining to Worker's Compensation or any other Claims in connection with Service Provider's breach of its obligations under Section 7; or

(ii) Brought or commenced by any person or entity against a DAVID'S Indemnified Party directly or indirectly arising out of or alleged to have arisen out of (a) any act or omission of Service Provider or its agents, representatives, employees, officers, directors, contractors, or subcontractors, or anyone directly or indirectly employed or engaged by them or anyone for whose acts they may be liable, or (b) any breach of warranty, covenant or representation made by Service Provider hereunder; and regardless of whether or not such Claims are caused or alleged to be caused by the joint and/or concurrent negligence of a DAVID'S Indemnified Party; or

(iii) any Claim made by a third party alleging that the Services or any Materials violate any proprietary information, non-disclosure, copyright, patent or other intellectual property or contractual rights.

b. Notice, Assistance. The DAVID'S Indemnified Party shall notify Service Provider promptly of the service of process or the receipt of actual notice of any Claim; provided that the failure of the DAVID'S Indemnified Party to give such notice shall not relieve Service Provider of its indemnification obligations under this Agreement, except to the extent that such failure materially prejudices the rights of Service Provider. Service Provider shall immediately assume control, and diligently proceed with the defense, with attorneys reasonably acceptable to DAVID'S, and all related settlement negotiations provided, however, that Service Provider shall not agree to any settlement with a non-monetary obligation imposed upon DAVID'S or a DAVID'S Indemnified Party without obtaining the prior written consent of DAVID'S and the DAVID'S Indemnified Party to such non-monetary obligation. The DAVID'S Indemnified Parties will, at Service Provider's expense, provide Service Provider with the assistance, information, and authority reasonably necessary to provide the above defense. Service Provider shall keep DAVID'S and the DAVID'S Indemnified Party fully advised with respect to any such Claim, and the DAVID'S Indemnified Party shall have the right to participate, at its expense, in the defense of any Claim instituted against it and to select attorneys to defend it, which attorneys shall be independent of any attorneys chosen by Service Provider relating to such Claim.

c. In the event that some or all of the Materials infringe or are believed by DAVID'S to infringe, the Service Provider shall, upon request of DAVID'S, and at Service Provider's option and expense either: (a) modify the Materials to make them non-infringing (provided that as modified such Materials provide materially similar features, capability, performance and functionality); or (b) obtain for DAVID'S a license to continue using the Materials. If such infringement materially affects Service Provider's ability to meet its obligations under this Agreement or if Service Provider fails to complete any of the remedial measures in the immediately preceding sentence within a reasonable time following request of DAVID'S, then DAVID'S may, at its option and upon fifteen (15) days' prior written notice to Service Provider, terminate the Agreement (or, at DAVID'S option, solely the affected Statement of Work) and shall be entitled to recover the fees paid by DAVID'S for that portion of the Materials (together with any other Materials whose operation or value to DAVID'S depends on the defective Materials) and for those Services (and any related Services) provided to develop such Materials which DAVID'S cannot reasonably use as a consequence of Service Provider's provision of infringing Materials.

### **13. Limitation of Liability**

a. Consequential Damages. Except with respect to indemnification obligations, breaches of confidentiality obligations, gross negligence or willful misconduct, neither party shall have any liability for any indirect, special, punitive, consequential or exemplary damages whether or not the party was advised of the possibility of such. IT IS HEREBY SPECIFICALLY UNDERSTOOD AND UNCONDITIONALLY AGREED THAT IN NO EVENT WHATSOEVER SHALL ANY EMPLOYEES, AGENTS, REPRESENTATIVES, OFFICERS, OR DIRECTORS OF DAVID'S OR ITS PARENT, AFFILIATES, OR SUBSIDIARIES, BE EXPOSED, IN ANY FASHION, TO ANY PERSONAL LIABILITY WITH RESPECT TO, OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT.

### **14. Attorneys' Fees and Costs**

If any action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover its reasonable attorneys' fees, costs and necessary disbursements in addition to any other relief to which the party may be entitled. The ultimate fact finder in such action shall make a determination as to which party is the prevailing party. SERVICE PROVIDER AND DAVID'S AGREE THAT, UNLESS OTHERWISE AGREED IN WRITING OR PRECLUDED BY LAW, NO ACTION FOR BREACH OF THIS AGREEMENT MAY BE COMMENCED AFTER TWO (2) YEARS FROM THE ACCRUAL OF THE CAUSE OF SUCH ACTION.

### **15. Miscellaneous**

a. Independent Contractor. Neither this Agreement nor the performance of the obligations hereunder is intended to be, shall be deemed to be, or shall be construed to create a partnership, association, joint venture, principal or agency relationship, or employer/employee relationship of any kind between Service Provider and DAVID'S. The parties' relationship to each other is one of independent contractors. Service Provider specifically agrees that Service Provider shall not act as DAVID'S agent in any transaction whatsoever.

- b. Assignment. Neither this Agreement nor any rights or obligations hereunder shall be sold, transferred (including any transfer by merger or other operation of law), subcontracted or assigned by Service Provider, in whole or in part, without the prior written consent of DAVID'S. Any attempted delegation, subcontracting or assignment without DAVID'S prior written permission shall be wholly void and totally ineffective for all purposes. DAVID'S may assign its rights and obligations under this Agreement at any time to any person, firm or entity without the consent of Service Provider.
- c. Governing Law; Jurisdiction. This Agreement shall be governed and construed in accordance with the laws of the Commonwealth of Pennsylvania, without regard to conflicts of laws principles. The parties irrevocably consent to the exclusive jurisdiction of the state and federal courts located in the Commonwealth of Pennsylvania, and agree that such courts are the exclusive venue for any matter arising out of or related to this Agreement. The parties hereby waive any claim that any proceedings brought in such courts have been brought in an inconvenient forum. The parties expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods, as it may have been or hereafter may be in effect in any jurisdiction.
- d. Waiver of Jury Trial. EACH OF THE PARTIES HEREBY KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ANY RIGHT WHICH EACH OF THEM, RESPECTIVELY, MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY LITIGATION BASED HEREON OR ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT.
- e. Severability. If any provision of this Agreement shall, for any reason, be found by a court of competent jurisdiction to be unenforceable in any respect, such unenforceability shall not affect any other provisions of this Agreement which shall remain in full force and effect, and this Agreement shall be construed as if such unenforceable provision had never been contained herein.
- f. Waiver. No waiver of any term, condition or obligation of this Agreement shall be valid unless in writing and signed by the waiving party. The failure or delay by either party to exercise any right under this Agreement shall not be construed to be a waiver of such right or to preclude further exercise. No waiver of any one or several of the provisions, conditions or obligations of this Agreement, and no partial waiver thereof, shall be construed as a waiver of any of the other terms, conditions or obligations of this Agreement.
- g. Headings. The section numbers and headings included herein are for convenience only and do not serve to define, limit or construe the scope or intent of such section. Unless the clear context of the section indicates otherwise, all singular terms include the plural and all masculine, feminine or neutral terms include all the others.
- h. Binding Agreement. This Agreement shall be binding upon and inure to the benefit the parties and their respective successors and assigns. Subject to the foregoing sentence, this Agreement is for the exclusive benefit of Service Provider and DAVID'S, and there shall be no third party beneficiary to any of the provisions of this Agreement.
- i. Injunctive Relief; Remedies. It is hereby understood and agreed that damages may be an inadequate remedy in the event of a breach by Service Provider of this Agreement and that any such breach by Service Provider may cause DAVID'S great and irreparable injury and damage. Accordingly, any rights or remedies DAVID'S has hereunder are cumulative, nonexclusive and in addition to, and not in lieu of any other rights and remedies that DAVID'S may have hereunder, at law or in equity and Service Provider agrees that DAVID'S shall be entitled, without waiving any of said rights or remedies otherwise available to DAVID'S, to injunctive and other equitable relief in the event of a breach or intended or threatened breach by Service Provider.
- j. Reference; Use of Names and Marks. Except as otherwise provided or permitted by the Agreement, Service Provider shall not (a) use DAVID'S name, trademarks or service marks, whether existing pursuant to common law, State or Federal statute, rules or regulations or otherwise, (b) use DAVID'S as a reference, (c) refer to DAVID'S in any marketing materials, or (d) disclose or refer to or make any public announcements regarding this Agreement directly or indirectly, without the prior written approval of DAVID'S.
- k. Bankruptcy Code. The parties acknowledge that if Service Provider grants to DAVID'S in this Agreement a license of a right to intellectual property, this Agreement shall be governed by Section 365(n) of Title 11, United States Code (the "**Bankruptcy Code**"), and if Service Provider as a debtor in possession or a trustee in Bankruptcy in a case under the Bankruptcy Code rejects this Agreement, DAVID'S may elect to retain its rights hereunder to the licenses granted

by Service Provider as provided in Section 365(n) of the Bankruptcy Code. Further, if a petition for relief is filed by or against DAVID'S under the Bankruptcy Code, Service Provider hereby consents to the assumption or the assumption and assignment of this Agreement pursuant to the Bankruptcy Code.

l. Notices. All notices and other communications required or permitted under this Agreement shall be in writing and shall be given by either (a) personal delivery, (b) nationally recognized overnight courier service, (c) email (with confirmed delivery receipt) or (d) certified or registered first class mail, return receipt requested, and shall be deemed given upon the earlier of (i) actual receipt or (ii) first refusal of delivery, as referenced by applicable delivery receipt or record. Notices shall be sent to the address for each party set forth in the first paragraph of this Agreement. A copy of all notices to DAVID'S shall be sent to David's Bridal, Inc., 630 Allendale Road, Suite 250 King of Prussia, PA 19406, Attention: SVP, Head of Legal. Either party may change its address for notices by notice given as provided for in this Section.

m. Books and Records. Service Provider shall keep accurate books of account at its principal place of business covering all transactions relating to this Agreement, and DAVID'S or its duly authorized representatives shall have the right, at reasonable hours of the day and upon reasonable notice, to examine such books and all other documents and materials in Service Provider's possession, custody or control with respect to this Agreement and to make copies and summaries thereof. All books and records relative to the Service Provider's obligations hereunder shall be maintained and kept accessible and available to DAVID'S for inspection for at least three (3) years after termination of this Agreement.

n. Amendment. This Agreement may not be modified or amended except by written amendment executed by the parties.

o. Insurance. Service Provider shall maintain the insurance coverage set forth below at all times during the Term hereof. All policies shall be underwritten by a reputable United States insurer with a Best's Rating of A-VII or better. Service Provider shall provide David's Bridal, Inc. with certificates evidencing such insurance (and a certification of insurance as evidence of renewal at least 30 days prior to expiration of each policy).

Commercial General Liability Insurance, with limits of liability of not less than Five Million Dollars (\$5,000,000) each occurrence (or an umbrella policy with an aggregate coverage amount equal to the same), combined single limit for bodily injury including death, personal injury, and property damage, and not less than Five Million Dollars (\$5,000,000) aggregate, including Products Liability, Personal Liability, Completed Operations, Advertising Liability, Contractual Liability and all standard policy form extensions. The coverage requirements for Commercial General Liability Insurance above may be satisfied by a combination of Commercial General Liability Insurance and Excess or Umbrella Insurance; provided that the total amount of coverage provided by all such policies meets the above requirements and such Excess or Umbrella Insurance provides coverages for all claims and losses that would otherwise be covered by the Commercial General Liability Insurance.

Statutory Worker's Compensation and Employers' Liability Insurance on all employees for occupational accidents or diseases, according to statutory requirements in the applicable state(s) (including any state in which Vendor will perform services for Certificate Holder), but in no event shall the limits of liability of not less than One Million Dollars (\$1,000,000) for any one accident or disease.

Comprehensive Automobile Liability Insurance covering all vehicles (including owned, non-owned and hired) with limits of liability of not less than One Million Dollars (\$1,000,000) each occurrence, combined single limit for bodily injury including death, and property damage.

David's Bridal, Inc., and all affiliates, subsidiaries and divisions and any other entity communicated to Service Provider shall be listed as the Certificate Holder and included as additional insured's on the Commercial General Liability policy. All policies provide coverage, which is primary to Certificate Holder's coverage. The Worker's Compensation policy includes a Waiver of Subrogation against the Certificate Holder. This coverage shall continue throughout the term of any and all agreements between David's Bridal, Inc. and Service Provider. Service Provider shall give David's Bridal, Inc., and all affiliates, subsidiaries and divisions 30 days written notice prior to any cancellation or reduction of such insurance, provided that any such cancellation, reduction, or erosion in coverage shall not relieve Service Provider of its continuing obligation to maintain insurance coverage in accordance with this Agreement. Service Provider's obligations in this Agreement shall in no way affect any indemnification, remedy, or warranty obligations of Service Provider.

**16. Entire Agreement**

The terms and conditions set forth in this Agreement constitute the complete and final agreement between the parties and supersede all previous courses of conduct, negotiations, understandings, agreements, communications or representations, written or oral, between the parties. The terms and provisions of the Exhibits attached hereto are incorporated into this Agreement by reference. In the event of a conflict between the terms of a Statement of Work and the terms of this Agreement, the terms and provisions of the Statement of Work shall govern with respect to the scope of Services thereunder. No other terms or agreements provided by Vendor (collectively, “**Alternate Terms**”) shall apply to Services or Work, and in the event that any Alternate Terms are provided or otherwise made available to DAVID’S, the terms and conditions of this Agreement shall prevail and such Alternate Terms shall have no force or effect.

**17. Survival**

It is hereby specifically understood and unconditionally agreed that the application, operation and effect of Sections 1(d) (Acceptance), 4(b) (Taxes), 7 (Employment Taxes and Benefits), 8 (Warranties and Representations), 9 (Ownership), 11 (Confidentiality), 12 (Indemnification), 13 (Limitation of Liability), 14 (Attorneys’ Fees and Costs), 15 (Miscellaneous), 16 (Entire Agreement), 17 (Survival), and 18 (Counterparts) shall survive the termination or expiration of this Agreement.

**18. Counterparts**

This Agreement may be executed in counterparts and delivered by facsimile or other electronic means, each of which shall be deemed to be an original and all of which when taken together shall constitute one and the same instrument.

IN WITNESS WHEREOF, David’s and Service Provider have signed this Agreement as of the Effective Date.

**SERVICE PROVIDER:**

\_\_\_\_\_  
  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**DAVID’S BRIDAL, INC.**  
  
By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Exhibit A**

**Form of Statement of Work**

Each Statement of Work for Services to be performed shall be prepared by Service Provider and is subject to DAVID’S prior written approval, in its sole discretion, and shall contain, at least, the following information:

1. Project Name
2. Services to be performed
  - a. Services description
  - b. Information, assistance required from DAVID’S
3. Acceptance Procedures
4. Project Location(s)/Place(s) of Service Performance
5. Services Schedule (dates, times of performance)
6. Service Provider Designated Personnel for the Project (if applicable)
7. Fee Schedule
  - a. Hourly compensation rates (for time and materials projects)
  - b. Maximum compensation payable under the Statement of Work without additional written approval by DAVID’S
8. Additional Requirements, Conditions (if applicable) (i.e. any adjustment to default terms such as adjusting the notice period required for termination for convenience by DAVID’S)

In addition to the above information, each Statement of Work shall contain the following statement as well as signature blocks for both parties to sign (as shown below):

This Statement of Work is subject to all of the provisions contained in Master Services Agreement between DAVID’S and Service Provider, dated **XX** day of **MONTH, YEAR**. Service Provider agrees that the Master Services Agreement and its terms and conditions shall automatically be deemed incorporated by reference into any Statement of Work entered into between Service Provider and DAVID’S after the date of the Master Services Agreement.

**SERVICE PROVIDER:**

\_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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

**DAVID’S BRIDAL, INC.**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

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