



# PROGRAMMING AND COMMISSIONING SERVICES PACKET

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# Kelvix Programming Services Agreement

Project Name: \_\_\_\_\_ SO/QU #: \_\_\_\_\_

Customer Name: \_\_\_\_\_ Control System Used: \_\_\_\_\_

Revision Number: \_\_\_\_\_ Date: \_\_\_\_\_

This Kelvix Programming Services Agreement (“*Agreement*”) is made by the undersigned parties (the “*Parties*”) on the date first set forth above. In consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

## **Standard Programming:**

Includes one zone of control with 10 standard Kelvix designed scenes. All fixtures within the zone will be assigned to a/an \_\_\_\_\_ address. All associated products will be addressed to match programming prior to shipping. Device addressing, installation instructions, and diagrams will be included to ensure ease of installation. Fixture layout must be provided for final quotation.

Notes:

## **Zones:**

BOM includes \_\_\_\_\_ independent zone(s) of control.

If multiple zones are specified above, the fixture distribution must be provided/confirmed by Customer.

Notes:

## **Custom Scenes:**

BOM includes \_\_\_\_\_ static scenes and \_\_\_\_\_ 20 second dynamic scenes in addition to 10 Kelvix standard scenes.

Custom scene specifications must be provided by Customer. Pricing may be adjusted based on the complexity of the design intent. Custom scenes may need additional sample signoffs, and previsualization is available upon request.

Notes:

**Integration:**

BOM \_\_\_\_\_ include integration with an external system.

System specifications must be provided by Customer. Kelvix will need to coordinate with any relevant external systems integrators. Additional sensors or accessories necessary for the integration will be provided by others unless otherwise specified.

**Notes:**

**Scheduling:**

BOM includes up to \_\_\_\_\_ real-time daily triggers and up to \_\_\_\_\_ special event triggers.

Daily triggers can be set to astrological events (i.e. turn lights on at sunset), and/or time events (i.e. switching to a scene at 5:00 pm). Special Events will be tied to a day or days of the year as specified by Customer.

**Notes:**

**Interface:**

This project includes a \_\_\_\_\_ interface.

*Basic interfaces* will be made using a standard template. Includes triggers for preprogrammed scenes and/or color selection.

If *Custom Interface* is included, design intent will need to be provided by Customer. Custom design can include but is not limited to: brand colors, font type, button shape, button orientation, security locking, intensity adjustments, etc.

**Notes:**

The quote (the "Quote") for the above referenced services (the "Services") is set out in Exhibit A attached hereto. The Quote has been created based on Customer provided project details and design intent as known to Kelvix as at the date of this Agreement. The Quote is only a quote and not a cap. Any failure to abide by the Terms and Conditions (as defined below), changes to project complexity and/or scope or other factors might result in the Quote being exceeded. The final amount due with respect to the Services will be reflected in the invoice issued by Kelvix to Customer.

The Services and this Agreement are subject to the Kelvix Onsite Services Scheduling Procedures (the "Scheduling Procedures") and the Terms and Conditions for Programming and Installation located at: [\[Kelvix Website\]](#) (the "Terms and Conditions").



This Agreement, along with the Scheduling Procedures and the Terms and Conditions constitute the entire agreement between Kelvix and Customer with respect to the Services and supersede any and all prior or contemporaneous oral or written agreements, understandings, negotiations or warranties or representations between such Parties with respect thereto.

If there are any questions or concerns regarding the Services, please contact the Kelvix Applications Engineering Department. Kelvix Applications Engineering Department project consultation is also available upon request.

This Agreement must be signed and returned by Customer to Kelvix at [applications@kelvix.com](mailto:applications@kelvix.com) within 30 days from the date first set forth above or else it is void.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first set forth above.

[Kelvix, LLC] ("*Kelvix*")

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

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

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

\_\_\_\_\_ ("*Customer*")

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

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

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

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



# EXHIBIT A QUOTE

*[attached]*

Quote Number: \_\_\_\_\_



# Kelvix Onsite Services Scheduling Procedures

The following procedures must be followed regarding the Services:

## STEP 1: Onsite Visit Request Form

An Onsite Visit Request Form in the form attached hereto as Exhibit A (the "Onsite Visit Request Form") must be completed and submitted to the Kelvix Project Management team at [orders@kelvix.com](mailto:orders@kelvix.com) by Customer at least four-weeks prior to the desired time. If Services are required earlier than such four-week lead time, Kelvix will consider, but shall be under no obligation to grant, such request, and if granted, such short lead time scheduling may incur additional charges.

One (1) day of Services equates to no more than nine (9) consecutive hours on Customer site including a one (1) hour break, Monday through Friday (outside of holidays) within the hours of 8am – 9pm. If weekend or other non-standard service times are requested by Customer, Kelvix will consider, but shall be under no obligation to grant, such request and if granted, such non-standard service time scheduling may incur additional charges.

Kelvix will reach out to Customer and confirm the date and time for the Services within [fourteen (14)] days of receiving the completed and executed Onsite Visit Request Form ("Confirmed Date"). Kelvix reserves the right to reschedule a Confirmed Date in its discretion in the case of inclement weather, unforeseen circumstances, labor shortage or scheduling conflict; provided, however, that Kelvix will use commercially reasonable efforts to promptly notify the Customer of such rescheduling.

## STEP 2: Pre-Onsite Services Checklist

A Pre-Onsite Services Checklist in the form attached as Exhibit B hereto (the "Pre-Onsite Services Checklist") must be completed and submitted to the Kelvix Project Management at [orders@kelvix.com](mailto:orders@kelvix.com) by Customer at least seven (7) days prior to the Confirmed Date. Failure to do so will result in the cancellation of the Confirmed Date and a rescheduling of a new Confirmed Date, which new Confirmed Date might be up to four (4) weeks after the initial Confirmed Date. If the Confirmed Date is rescheduled more than one time due to Customers' failure to return the Pre-Onsite Services Checklist within the aforementioned time, Customer may incur additional charges.

## STEP 3: Onsite Services

One thirty (30) minute training session for Customer personnel is included as part of the Services. Customer has the sole responsibility for ensuring that necessary Customer personnel are onsite on the Confirmed Date to receive such training. As an alternate option, one thirty (30) minute remote virtual training is available upon request, but must be scheduled within the period two (2) weeks after the Confirmed Date.

Kelvix personnel will contact the Customer Contact Person #1 (and if they do not respond, Customer Contact Person #2) when they are on the way to the site to provide the Services. The Services require coordination between such Kelvix personnel and Customer personnel. Accordingly, if the appropriate Customer personnel are not onsite within 30 minutes of the Confirmed Date, Kelvix reserves the right to reschedule to a new Confirmed Date, which new Confirmed Date might be up to four (4) weeks after the current Confirmed Date. If such rescheduling is needed, Customer may incur additional charges.

If any assistance is required, please contact Kelvix for technical support as soon as possible prior to the Confirmed Date.



# EXHIBIT A ONSITE VISIT REQUEST FORM

Project SO / QU#: \_\_\_\_\_

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

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

## Onsite Information

Contact Person #1:

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Email: \_\_\_\_\_ Phone#: \_\_\_\_\_

Contact Person #2:

Name: \_\_\_\_\_ Title: \_\_\_\_\_ Email: \_\_\_\_\_ Phone#: \_\_\_\_\_

Site Address: \_\_\_\_\_

Site Accessible Hours: \_\_\_\_\_

Preferred Start Time: \_\_\_\_\_

## Requested Onsite Dates

Please allow a minimum of four weeks lead time (see Kelvix Onsite Services Scheduling Procedures for more information regarding scheduling of Services).

Preferred Start Date: \_\_\_\_\_

If Preferred start date not available, alternate dates: \_\_\_\_\_

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

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

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

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



# EXHIBIT B

## PRE-ONSITE SERVICES CHECKLIST

Project S0 / QU#: \_\_\_\_\_

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

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

Per the line and/or detail drawings provided by Kelvix the following must be implemented:

- Wiring matches provided wiring diagram
- Fixtures have been run to the correct drivers
- Fixtures have been run to the correct controls components

Please describe how fixtures are behaving when powered on:

Are the fixtures clearly visible during standard daylight hours?

- Yes
- No

If not visible during standard daylight hours, the requested start time may need to be adjusted.

Are there additional components/systems that will be integrated with Kelvix products?

- No
- Yes, please explain further \_\_\_\_\_
  - Additional components are set up and ready to be integrated
  - A knowledgeable person will be on site to help with integration

Are the control components and power supplies accessible?

- Yes  
If yes, please indicate their location \_\_\_\_\_
- No  
If no, please indicate accommodations that will be provided i.e. Ladder, Lift \_\_\_\_\_

Is PPE required for this onsite visit?

- Yes  
If yes, please specify the required PPE \_\_\_\_\_
- No





Is system training needed for this onsite visit?

Yes

If yes, please ensure trainees will be onsite and notify Kelvix Team with time availabilities.

No, but we will like to schedule a remote training session on a different date.

No, and we will be forgoing system training.

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

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

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

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



# Kelvix – Additional Information

## General Information

### Installing Your Kelvix System

Review all Kelvix drawings prior to the installation of fixtures and controls components. This will ensure that all components are installed in accordance with any provided programming. Kelvix drawings can help Customer confirm the following:

- Component Wiring Diagrams
  - The first page(s) of the Kelvix drawings will include Kelvix's standard wiring diagrams for any drivers, decoders, controllers, receivers, and transmitters that are applicable to Customer's project.
- Driver to Fixture breakdown
  - The bulk of Kelvix drawings will be a breakdown for driver to fixture connections. It is crucial to follow these drawings during the installation as overloading the drivers will cause dimming of the fixture.
- DMX Addressing
  - If Kelvix pre-programmed the controls, the Kelvix drawings will include Universe & Channel addressing specifications for each of the controlled fixtures.
- Terminal Block and/or Port number specifications
  - Any receivers included as a part of the Customer's project will need to be wired to the appropriate transmitter port as specified in the Kelvix drawings.
  - Additionally, the appropriate fixtures will need to be wired to the specified terminal blocks for those receivers as indicated in Kelvix drawings.
    - ◆ All components will arrive labeled and numbered in accordance with the Kelvix drawings.
- Distance Limitations
  - The first page(s) of the Kelvix provided drawings will include any notable distance limitations for Customer's system. The distance limitations are also outlined in this document for Customer's reference.



### Mitigating Voltage Drop

Refer to the below chart for determining minimum wire gauge requirements based on wire lengths.

Maximum cable length per wattage and wire gauge for 5% voltage drop.

Wattage	10AWG	12AWG	14AWG	16AWG	18AWG	20AWG	22AWG
20W	725ft	456ft	287ft	180ft	114ft	71ft	45ft
40W	360ft	227ft	143ft	90ft	57ft	35ft	22ft
60W	241ft	152ft	95ft	60ft	38ft	24ft	15ft
80W	181ft	114ft	72ft	45ft	29ft	18ft	11ft
100W	144ft	91ft	57ft	36ft	23ft	14ft	9ft

### Controls Location

Kelvix highly recommends placing the controls in a safe, accessible location (i.e., an electrical room), while also adhering to the distance limitations of Customer’s system as defined in the Kelvix drawings. Installing the controls in a location that requires the use of a scissor lift or in a confined space will make it difficult to perform any future troubleshooting and will likely incur additional charges as a result.

## DMX512 Systems

### Distance Limitations

Standard DMX signal has a recommended max run length of 1000 feet when using appropriate cable as outlined by DMX Wiring requirements below. Greater distances may be achieved with additional componentry. Please consult with Applications Engineer for recommendations if distance is a concern.

If Customer’s system utilizes Pixel DMX controls, the DMX to SPI Decoder must be located within 30 feet of the start of its fixture. Extending past this 30 feet limitation may cause fixture to flicker.

If the parameters of Customer’s project do not allow for these limitations, please consult with the Kelvix Applications Engineering team.

### DMX-26506 & DMX-24506 Decoders

The Kelvix DMX-26506 6 Channel Decoders and DMX-24506 4 Channel Decoders have a red ‘dip switch’ board used to set the DMX addresses. Addresses are set by turning ‘on’ the white switches in accordance with the addressing guide found here: [Dip Switch Guide](#)

Please verify if Kelvix has pre-addressed these decoders prior to making any changes!

- Troubleshooting Tip
  - Each of these decoders have a blue light on them. If it’s on, then the decoder is receiving power.
    - ◆ Solid Blue: Decoder is NOT receiving DMX data
    - ◆ Blinking Blue: Decoder IS receiving DMX data Troubleshooting Tip



## Splitting & Repeating

DMX Signal can typically only run across 32 devices that are daisy chained together before a new DMX line is needed.

- Systems with more than 32 devices will need either a DMX Splitter or a DMX Repeater.
  - DMX Splitter: Splits the DMX signal across multiple outputs. Each output can then handle 32 runs of DMX. Any type of DMX splitting (regardless of device quantities) must be done using a proper DMX splitting device.
  - DMX Repeater: Amplifies the DMX signal to allow for more than 32 runs
- Please consult with a Kelvix Applications Engineer if more than 32 devices are required for your system.

## Terminations

It is highly recommended to use a Terminator on the last device in a single run of DMX to help reduce noise, reflection, and interference. Terminators should be a 120-ohm ½ watt resistor.

## DMX Wiring

Per PLASA and USITT standards, 120 ohm, twisted, sheilded, EIA-485 cable is suitable for DMX512 data. For distances up to 1000ft Kelvix recommends Belden 9841/9842 or equivalent. Please consult with a Kelvix Applications Engineer for cable recommendations for uses greater than 1000 ft.

# EDMX & Network Based Systems

DMX-over-ethernet allows for multiple DMX universes of control data to be sent via a network using CAT5, 5e, or 6 cable. eDMX signal has a recommended run length of 900 feet between the controller and the furthest eDMX node. eDMX nodes can be connected to larger building networks to allow for greater distances between nodes.

# SPI Systems

## Distance Limitations

If Customer's system utilizes Pixel SPI components, the transmitter can be located up to 900 feet away from the furthest receiver, while each receiver must be located within 30 feet of the start of its fixture. Extending past this 30 feet limitation may cause tape to flicker.

If the parameters of Customer's project do not allow for these limitations, please consult with the Kelvix Applications Engineering team to discuss.



## Programming

The chart below includes links to download any applicable Programming Software and accompanying User Manuals.

System	Software	Link	Manual
Pharos	Designer 2	<a href="https://www.pharoscontrols.com/designer/software/designer-2/">https://www.pharoscontrols.com/designer/software/designer-2/</a>	<a href="https://www.pharoscontrols.com/support/designer/documentation/#user-manuals">https://www.pharoscontrols.com/support/designer/documentation/#user-manuals</a>
	Expert	<a href="https://www.pharoscontrols.com/expert/software/">https://www.pharoscontrols.com/expert/software/</a>	<a href="https://www.pharoscontrols.com/expert/hardware/#technical">https://www.pharoscontrols.com/expert/hardware/#technical</a>
Advatek	Advatek Assistant 3	<a href="https://www.advateklights.com/advatek-assistant-3">https://www.advateklights.com/advatek-assistant-3</a>	Quickstart Guide: <a href="https://www.advateklights.com/downloads/quick-start-guides/pixlite-t8-s-mk3-T8MK3">https://www.advateklights.com/downloads/quick-start-guides/pixlite-t8-s-mk3-T8MK3</a> Manual: <a href="https://www.advateklights.com/downloads/user-manuals/pixlite-t8-s-mk3">https://www.advateklights.com/downloads/user-manuals/pixlite-t8-s-mk3</a>
Nicolaudie	ESA Pro 2	<a href="https://www.nicolaudie.com/en/esapro2.htm">https://www.nicolaudie.com/en/esapro2.htm</a>	<a href="https://storage.googleapis.com/nicolaudie-us-litterature/Release/esa_pro_2_manual_en.pdf">https://storage.googleapis.com/nicolaudie-us-litterature/Release/esa_pro_2_manual_en.pdf</a>
Enttec	ELM * Only trial version available, full version available with the purchase of a license	<a href="https://www.enttec.com/product/controls/addressable-led-pixel-control/pixel-mapping-software/">https://www.enttec.com/product/controls/addressable-led-pixel-control/pixel-mapping-software/</a>	<a href="https://cdn.enttec.com/pdf/assets/70581/70581_ENTTEC_LED_MAPPER_USER_MANUAL.pdf">https://cdn.enttec.com/pdf/assets/70581/70581_ENTTEC_LED_MAPPER_USER_MANUAL.pdf</a>



# TERMS AND CONDITIONS FOR PROGRAMMING AND COMMISSIONING

## General

Kelvix fixtures and controls must be installed per the Kelvix drawings provided to Customer and any applicable state and local codes. Notwithstanding the foregoing, Kelvix accepts no responsibility as to installation and operation of Kelvix fixtures and controls with respect to Customer's project.

## Programming Services

Controllers will be shipped pre-programmed as per the Agreement. If changes to the programming or additional services are required, see the Change Orders section below.

During provision of the Services, scenes will not be added, only slight modifications can be made in Kelvix's sole discretion to better enhance the existing shows. Any additional programming will incur additional cost, see the Change Orders section below.

## Commissioning Services

On a case-by-case basis as required, Kelvix can make available virtual tech support at an additional hourly rate to assist in the installation process.

If Kelvix products will be integrated with another system, Customer must have the other system fully installed with a representative knowledgeable regarding such other system onsite on the Confirmed Date to assist in the integration process.

## Miscellaneous

### Change Orders

If Customer wishes to change the scope or performance of the Services, Customer shall submit details of the requested change to Kelvix in writing. Kelvix will thereafter provide a written estimate to Customer of:

- the likely time required to implement the requested changes;
- additional fees and other charges to implement the requested changes; and
- any material impact such requested changes might have on the performance of the Kelvix system.

If Kelvix and Customer then agree in writing on the terms of such change (scope, timing and cost), the Services will be deemed modified accordingly.



## General Liability Insurance

Customer shall have and maintain during the provision of the Services and for one (1) year thereafter, with a properly licensed reputable insurer, Comprehensive General Liability and Contractual Liability insurance in an amount not less than \$1,000,000 each occurrence, and \$2,000,000 aggregate, for bodily injury, personal injury and property damage. If Commercial General Liability or other form of insurance with a general aggregate limit is used, either the general aggregate limit shall apply separately to each project/location or the general aggregate limit shall be twice the required occurrence limit.

## Invoicing

(a) Customer shall be invoiced upon the provision of Services, which invoice shall be due within thirty (30) days thereafter. (b) All payments will be in United States dollars by wire transfer in immediately available funds to a bank account indicated by Kelvix in writing from time to time (all bank charges to the account of Customer). (c) If Customer has a good faith dispute in respect of any amounts set out in an invoice, Customer shall, prior to the due date of the invoice in question, notify Kelvix in writing of the disputed amount and include sufficient details of the nature of the dispute such that Kelvix can understand the basis for such good faith dispute by Customer. Kelvix and Customer shall work together in good faith to resolve any such good faith dispute amounts; provided, however, that in the case that such dispute cannot be resolved within sixty (60) days of Customer's written notice of dispute, Kelvix shall be entitled to seek resolution of the dispute via the dispute resolution method set out in these Terms and Conditions. For the avoidance of doubt, any undisputed amount in an invoice shall be payable within such thirty (30) day period irrespective as to whether other amounts under that same invoice are the subject of a good faith dispute. (d) Customer shall pay a late charge of two percent (2%) on any balance that becomes overdue, plus interest at the lesser of (i) one and one half percent (1.5%) per month and (ii) the maximum rate allowed under applicable law for such late payments from the due date until paid, plus Kelvix's reasonable costs incurred in collecting any late payments, including, without limitation, attorneys' fees and costs.

## Intellectual Property

Customer acknowledges and agrees that: (a) any and all of Kelvix's Intellectual Property Rights (as defined below) are the sole and exclusive property of Kelvix; (b) Customer shall not acquire any ownership interest in any of Kelvix's Intellectual Property Rights; and (c) if Customer acquires any Intellectual Property Rights, or rights in or relating to any Service (including, without limitation, any rights in any of Kelvix's Trademarks (as defined below), results, derivative works, or patent improvements relating thereto) by operation of law, or otherwise, such rights are deemed and are hereby irrevocably assigned to Kelvix, without further action by either of the parties; provided, however, that if requested by Kelvix, Customer shall (and shall cause its affiliates to, as applicable) sign all documents requested by Kelvix in respect of such assignment. The term "*Intellectual Property Rights*" means all industrial and other intellectual property rights comprising or relating to: (i) patents; (ii) Trademarks; (iii) internet domain names, whether or not registered by any authorized private registrar or governmental authority, web addresses, web pages, websites and URLs; (iv) works of authorship, expressions, designs and design registrations, whether or not copyrightable, including copyrights and copyrightable works, software and firmware, data, data files and databases and other specifications and documentation; (v) trade secrets and (vi) all industrial and other intellectual property rights, and all rights, interests, and protections throughout the world that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, these rights or forms of protection under the laws of any jurisdiction in any part of the world. For the avoidance of doubt, Customer agrees that all ideas, specifications, drawings or designs originated or developed by Kelvix are the property of Kelvix, including, without limitation, with respect to Kelvix's products or the provision of Services. The term "*Trademarks*" includes all rights in and to United States and foreign trademarks, service marks, trade dress, trade names, brand



names, logos, trade dress, corporate names and domain names and other similar designations of source, sponsorship, association or origin, together with the goodwill symbolized by any of the foregoing, in each case whether registered or unregistered and including, without limitation, all registrations and applications for, and renewals or extensions of, these rights and all similar or equivalent rights or forms of protection in any part of the world.

### **Confidentiality**

All non-public, confidential or proprietary information furnished by or obtained from Kelvix, including, without limitation, information relating to Kelvix's Intellectual Property Rights, products or Services prices or discounts, business affairs, product specifications, its and its affiliates' manufacturing processes, application techniques, or other technical data relating to any product or Service and any other confidential or proprietary information belonging to Kelvix ("*Confidential Information*"), whether disclosed orally, in written format or otherwise, and whether or not identified as "confidential" is confidential, and may not be used or disclosed to any third party or copied without Kelvix's prior written consent (such consent to be withheld in Kelvix's sole discretion). Any Confidential Information which constitutes a trade secret shall remain confidential for as long as such Confidential Information remains a trade secret of Kelvix or its affiliates, and all other Confidential Information shall remain confidential for a period of five (5) years following the date of the rendering of the last Service with respect to the Agreement. Customer shall maintain the confidentiality of the Confidential Information with at least the same degree of care that it uses to protect its own confidential and proprietary information of a similar nature, but in no event less than a commercially reasonable degree of care. Kelvix shall be entitled to injunctive relief for any violation of this article. Information is not Confidential Information where such information: (a) is in the public domain through no fault of Customer; (b) was properly known to Customer, without restriction, prior to disclosure, as evidenced by documentation; or (c) was properly disclosed to Customer, without restriction, by a third party with legal authority to do so. If Customer is required to disclose the Confidential Information by a judicial order, Customer shall promptly provide prior written notice to Kelvix and shall comply with Kelvix's efforts to seek a protective order or other appropriate relief with respect to such legally compelled disclosure. If prior written notice is not legally permitted under the circumstances, Customer shall provide prompt written notice of any such legally compelled disclosure when it is able to legally do so. Customer shall, to the extent permitted under the circumstances, refrain from disclosing the Confidential Information in connection with a legally compelled disclosure unless and until Kelvix has approved of such disclosure in writing, including, without limitation, the scope of the Confidential Information to be disclosed. In the event of such judicially compelled disclosure, Customer will furnish only that portion of the Confidential Information that is legally required to be disclosed pursuant to the advice of its attorneys, and any of the Confidential Information so disclosed will maintain its confidentiality protection for all purposes other than such compelled disclosure.

### **Anti-Bribery; Anti-Corruption**

(a) Customer shall not at any time, in connection with Kelvix's products or the Services, directly or indirectly, pay, offer, give or promise to pay or give any money or any other thing of value to: (i) any officer or employee of any government department, agency or instrumentality; (ii) any other person acting on behalf of any government department, agency or instrumentality; (iii) any officer or employee of any business enterprise or other entity that is owned or controlled by, or affiliated with, a government; (iv) any political party or any official or employee thereof; (v) any candidate for political office or (vi) any other person, firm, corporation or other entity at the suggestion, request or direction of any officer or employee of any government department, agency or instrumentality. (b) Customer shall comply with all applicable laws, regulations, codes and guidance relating to anti-bribery and anti-corruption in connection with the Services.





### **No Warranty**

THE SERVICES ARE PROVIDED ON AN "AS IS" BASIS. KELVIX MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS OF SERVICE FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT OR ANY WARRANTY ARISING BY USAGE OF TRADE, COURSE OF DEALING OR COURSE OF PERFORMANCE OR ANY WARRANTY THAT SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. CUSTOMER ACKNOWLEDGES AND AGREES THAT IT HAS NOT RELIED ON ANY REPRESENTATION OR WARRANTY MADE BY KELVIX, OR ANY OTHER PERSON ON KELVIX'S BEHALF.

### **Consequential Damages; Indemnification; Limitation**

(a) To the maximum extent permitted by applicable law, Kelvix shall not be liable to Customer, or to any third party, for special, indirect, incidental or consequential damages, including lost revenues and profits. (b) Customer shall indemnify, hold harmless, and defend, Kelvix and its affiliates and each of their respective parents, members, owners, employees, agents, officers, directors, agents, advisors, and representatives, from and against any and all losses, expenses, claims, demands, causes of action, debts, obligations or liabilities for losses, injuries, damages, expenses (including reasonable attorneys' fees and costs) relating to or arising out of: (i) any material breach of the Agreement by Customer, (ii) any unauthorized use of Kelvix's Intellectual Property Rights by Customer or its affiliates or (iii) any claims relating to bodily injury or death of any person, or damage to real or tangible, personal property relating to the Services. (c) In no event shall Kelvix be liable to Customer, whether in connection with the Agreement, or the Services, for any amount that exceeds the price of the Services that are the subject of the claim or dispute, regardless of the form in which any legal or equitable action may be brought against Kelvix. (d) Any action arising under the Agreement or in any way relating to the Services, and brought against Kelvix, shall be brought within one (1) year after the occurrence giving rise to the claim, or be barred forever.

### **Applicable Law; Jurisdiction**

(a) The Agreement shall be governed by and construed in accordance with the internal laws of the State of Oregon, without regard to the principles of conflicts of laws thereof. (b) Any disputes arising with respect to the Agreement or the Services shall be exclusively tried in the courts sitting within Clackamas County, State of Oregon, and Customer hereby consents and submits to the exclusive jurisdiction of such courts for such purpose. (c) IN ANY LITIGATION BETWEEN KELVIX AND CUSTOMER RELATED TO THE SERVICES, CUSTOMER HEREBY: (i) WAIVES THEIR RIGHTS TO A JURY TRIAL AND (ii) STIPULATES THAT ANY TRIAL SHALL OCCUR WITHOUT A JURY.

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