

Application Developer and API Agreement

Application Developer and API Agreement, dated as of **MONTH, DAY, 2023** between **Pinogy Corporation**, a Commonwealth of Virginia Corporation (the "Pinogy"), and **BUSINESS** (the "Licensee"), a **STATE TYPE_OF_COMPANY**.

By accepting this Agreement, either by accessing or using the API or data received from Pinogy, or authorizing or permitting any individual to access or use the API or data received from Pinogy, You agree to be bound by this Agreement and Pinogy's Terms & Conditions which is available at www.pinogy.com/legal/tos, and Pinogy's Privacy Policy. If You are entering into this Agreement on behalf of a company, organization or another legal entity (an "Entity"), You are agreeing to this Agreement for that Entity and representing to Pinogy that You have the authority to bind such Entity and its Affiliates to this Agreement, in which case the terms "Licensee", "You", "Your" or a related capitalized term herein shall refer to such Entity and its Affiliates. If You do not have such authority, or if You do not agree with this Agreement, You must not accept this Agreement and may not access nor use the API.

1. DEFINITIONS

For purposes of this Agreement, capitalized terms shall have the meanings set forth below. Capitalized terms utilized in this Agreement and not defined have the meaning set forth in any such other applicable agreement between Licensee and Pinogy relating to its access to and use of the Services ("Service Agreement").

API: means an API and any accompanying or related documentation, source code, executable applications and other materials made available by Pinogy, including, without limitation, through its Developer Website.

Applications: mean web or other software services or applications developed by Licensee that utilize or interact with the API and are authorized to be Published pursuant to this Agreement.

Intellectual Property Rights: means patents, inventions, copyrights, trademarks, domain names, trade secrets, know-how and any other intellectual property and/or proprietary rights.

Internal Use: means the use of the API in connection with Licensee's subscription to a Service for Licensee's internal business purposes in accordance with the Service Agreement.

Marks: mean Pinogy® and Pinogy's other product and service names, trademarks, service marks, branding and logos made available for use in connection with the APIs pursuant to this Agreement.

Publish/Published/Publishing: means the making of any Application available to any Subscriber other than Licensee or for any purpose other than for use by Licensee as a Subscriber for Internal Use.

Subscriber: means and refers to an individual or an Entity that has agreed to a Service Agreement for use of our Services.

2. PURPOSE AND LICENSE

2.1 This Agreement governs Licensee's rights to use and access the API for the purpose of developing, implementing and Publishing Applications. Licensee's access to and use of the API is subject to approval by Pinogy in accordance with the scope of the Application as defined in Exhibit A, including any and all restrictions and policies implemented by Pinogy from time to time with respect to the API or as otherwise communicated to Licensee. Licensee will use the API only for the specific purposes described in Exhibit A and acknowledges and agrees that it will not use the API, or data derived from the API for any other purposes.

2.2 Subject to this Agreement, including the restrictions set forth in Section 3, Pinogy grants to Licensee a non-exclusive, non-transferable, non-sublicensable, worldwide, revocable right and license during the Term (as defined in Section 14) to: (a) use and make calls to the API to develop, implement and distribute Applications solely for use by Subscribers in connection with the Services; (b) use, reproduce, distribute, and transmit Service Data to the extent necessary to format and display it through the Applications; (c) use and display the Marks only to identify that the Service Data originates from the Services; and (d) market in accordance with this Agreement.

2.3 Pinogy shall have a royalty-free, fully paid-up, worldwide, transferable, sub-licensable, irrevocable and perpetual license to implement, use, modify, commercially exploit and/or incorporate into the Services and/or the API any suggestions, enhancement requests, recommendations or other feedback Pinogy receives from Licensee.

3. RESTRICTIONS AND RESPONSIBILITIES

The licenses granted in Section 2 of this Agreement are explicitly conditioned on Licensee's adherence to the following restrictions and compliance with its responsibilities as set forth herein.

3.1 Licensee must comply with all restrictions set forth in this Agreement in all uses of the API and Service Data. Licensee must also comply with all restrictions set forth in this Agreement and the Trademark Usage Guidelines in all uses of Marks. If Pinogy believes, in its sole discretion, that Licensee has violated or attempted to violate any term, condition or the spirit of this Agreement, the license afforded Licensee pursuant to this Agreement may be temporarily or permanently revoked, with or without notice to Licensee.

3.2 In order to use and access the API, Licensee must obtain API credentials (a "Token") by becoming a Subscriber. Licensee may not share its Token with any third party, shall keep such Token and all Login information secure, and shall use the Token as Licensee's sole means of accessing the API.

3.3 Licensee's Applications shall not substantially replicate products or services offered by Pinogy, including, without limitation, functions or clients on platforms where Pinogy offers its own client or function. Subject to the preceding sentence and the parties' other rights and obligations under this Agreement, each party agrees that the other party may develop and publish applications that are similar to or otherwise compete with such party's applications. Applications may not use or access the API or a Service in order to monitor the availability, performance, or functionality of any of the API or a Service or for any similar benchmarking purposes.

3.4 Applications shall not, in any manner, display any form of advertising within or connected to any Service Data received by any Subscriber, Agent or End-User.

3.5 Licensee shall not, under any circumstances, through Applications or otherwise, repackage or resell the Services, or any part thereof, API or Service Data. Licensee is not permitted to use the API or any Service Data in any manner that does or could potentially undermine the security of the Services, the API, Service Data or any other data or information stored or transmitted using the Services. In addition, Licensee shall not, and shall not attempt to: (a) interfere with, modify or disable any features, functionality or security controls of the Services or the API, (b) defeat, avoid, bypass, remove, deactivate or otherwise circumvent any protection mechanisms for the Service or the API, or (c) reverse engineer, decompile, disassemble or derive source code, underlying ideas, algorithms, structure or organizational form from the Services or the API.

3.6 Licensee acknowledges that Licensee is solely responsible, and that Pinogy has no responsibility or liability of any kind, for the content, development, operation, support or maintenance of Applications. Without limiting the foregoing, Licensee will be solely responsible for (a) the technical installation and operation of its Applications; (b) creating and displaying information and content on, through or within its Applications; (c) ensuring that its Applications do not violate or infringe the Intellectual Property Rights of any third party; (d) ensuring that Applications are not offensive, profane, obscene, libelous or otherwise illegal; (e) ensuring that its Applications do not contain or introduce Malicious Software into a Service, an API, any Service Data or other data stored or transmitted using the Service; and (f) ensuring that its Applications are not designed to or utilized for the purpose of spamming any Pinogy subscribers, Agents or End-Users.

3.7 Licensee will respect and comply with the technical and policy-implemented limitations of the API and the restrictions of this Agreement in designing and implementing Applications. Without limiting the foregoing, Licensee shall not violate any explicit rate limitations on calling or otherwise utilizing an API.

3.8 Licensee shall not make any modifications to any Service Data, other than as reasonably necessary to modify the formatting of such Service Data in order to display it in a manner appropriate for the pertinent Applications.

4. REPRESENTATIONS, WARRANTIES AND COVENANTS

4.1 To the extent Licensee's Applications transmit Service Data outside a Service, Licensee represents and warrants that Licensee has notified all users of such Applications that their Service Data will be transmitted outside the Service and that Pinogy is not responsible for the privacy, security or integrity of such Service Data. Licensee further represents and warrants that to the extent Licensee's Applications store, process or transmit Service Data, neither Licensee nor Licensee's Application will, without appropriate prior user consent or except to the extent required by applicable law (a) modify the content of Service Data in a manner that adversely affects the integrity of Service Data; (b) disclose Service Data to any third party; or (c) use Service Data for any purpose other than providing the Application functionality to users of such Application. Licensee shall maintain and handle all Service Data in accordance with privacy and security measures reasonably adequate to preserve the confidentiality and security of all Service Data and all applicable privacy laws and regulations, and in no event less protective than the measures and policies set forth in the Privacy Policy.

4.2 Licensee represents, warrants and covenants that (a) its Applications and Licensee Marks, the use of such Applications by its users, and the activities with respect to such Applications and

Licensee Marks undertaken by Pinogy in accordance with the terms of this Agreement, do not and will not violate, misappropriate or infringe upon the Intellectual Property Rights of any third party; (b) Licensee will comply with all applicable local, state, national and international laws and regulations, including, without limitation, all applicable export control laws, and maintain all licenses, permits and other permissions necessary to develop, implement and Publish its Applications; (c) its Applications do not and will not contain or introduce any Malicious Software into the Service, the API, any Service Data, or other data stored or transmitted using the Service; (d) its Applications are not designed to or utilized for the purpose of spamming any Subscribers, Agents or End-Users; (e) it has all right, power and authority to grant the licenses granted to Pinogy herein; and (f) it acknowledges Pinogy's right to charge transaction and/or listing fees as provided in Section 8 herein.

5. MODIFICATIONS

Licensee acknowledges and agrees that Pinogy may modify this Agreement, the Services, the API, and the Service Agreement from time to time (a "Modification"). Licensee will be notified of a Modification to this Agreement, the Pinogy API or the General API Policies through notifications or posts on the Pinogy Developer Website. All other Modifications shall be communicated through the Services, Pinogy's Sites, or any other website owned and operated by Pinogy or through a form of direct communication from Pinogy to Licensee. Licensee further acknowledges and agrees that such Modifications may be implemented at any time and without any notice to Licensee. Licensee shall, within thirty (30) days from the date of first notice of any Modification(s) (or such shorter period of time specified in the notice of the Modification(s)) (the "Conformance Period") comply with such Modification(s) by implementing and using the most current version of the API and making any changes to Applications that may be required as a result of such Modification(s). Licensee acknowledges that a Modification may have an adverse effect on Applications, including but not limited to changing the manner in which Applications communicate with the API and display or transmit Service Data. Pinogy shall have no liability of any kind to Licensee or any user of Licensee's Applications with respect to such Modifications or any adverse effects resulting from such Modifications. Licensee's continued access to or use of the Services or API following the Conformance Period shall constitute binding acceptance of the Modification(s) at issue.

6. OWNERSHIP

Subject to the limited licenses expressly provided in this Agreement, nothing in this Agreement transfers or assigns to Pinogy any of Licensee's Intellectual Property Rights in its Applications or Licensee's Marks or other technology, and nothing in this Agreement transfers or assigns to Licensee any of Pinogy's Intellectual Property Rights in the Services, the API, the Marks, or

Pinogy's other technology or the respective Intellectual Property Rights in any Service Data of Pinogy or its Subscribers, Agents or End-Users.

7. SUPPORT

This Agreement does not entitle Licensee to any support for the Services or the API, unless Licensee makes separate arrangements with Pinogy for such support. Licensee is solely responsible for providing all support and technical assistance to End-Users of its Applications and Subscribers who access, deploy and/or purchase its Applications. Licensee acknowledges and agrees that Pinogy has no obligation to provide support or technical assistance to the users of Applications and Licensee shall not represent to any such users that Pinogy is available to provide such support. Licensee agrees to use commercially reasonable efforts to provide reasonable support to users of its Applications.

8. FEES

Licensee's using the API for purposes of obtaining revenues from Subscribers shall be subject to the following restrictions and conditions:

8.1 Fees for Licensee's Published Applications shall be billed to Subscriber by Pinogy.

8.2 Pinogy will pay Licensee the net revenue amount due Licensee calculated as:

- a. The Subscriber fee less 30% for Licensee's one-time only fee, or
- b. The Subscriber fee less 15% for Licensee's recurring fees.

8.3 Pinogy shall pay Licensee the net revenue amount due within 15 days of collection from Subscriber Monthly via ACH. Payments shall be made only to Licensee when the accrued balance due of net revenue amounts exceed \$100.

8.4 In the event Pinogy is unable to collect fees from the Subscriber no payments shall be made to the Licensee.

8.5 In Pinogy's good faith discretion if it is determined a refund is due to Subscriber due to problems with Licensee's applications Pinogy will make such refund and Licensee shall reimburse Pinogy within 10 days.

9. CONFIDENTIALITY

Licensee may from time to time, gain access to Confidential Information, including this agreement. Licensee may use Confidential Information only to the extent necessary to exercise its rights under this Agreement. Subject to the express permissions set forth herein, Licensee may not disclose Confidential Information to a third party without the prior express consent of Pinogy, provided in writing or by email. Without limiting any other obligation of Licensee under this Agreement, Licensee agrees that it will protect Confidential Information from unauthorized use, access, or disclosure in the same manner that Licensee would use to protect its own confidential and proprietary information of a similar nature and in any event with no less than a reasonable degree of care.

10. NON-SOLICITATION

Without the prior written consent of Pinogy, Licensee shall not, during the term of this Agreement and for a period of one year after the expiration of this agreement directly or indirectly, whether or not for compensation, engage in any business activity, or have any interest in any person, firm, corporation, partnership or business (whether as an employee, shareholder, proprietor, officer, director, agent, security holder, trustee, partner, consultant or creditor lending money for the purpose of establishing or operating any such business) that (a) induces or attempts to induce, directly or indirectly, any customer to modify or terminate such customer's business association with Pinogy or (b) interferes with, disrupts or attempts to disrupt any present business relationship, contractual or otherwise, between Pinogy and any customer, client, supplier, consultant, agent or employee of Pinogy.

11. DISCLAIMER OF WARRANTIES

ALL ASPECTS OF THE SERVICES AND THE API, INCLUDING ALL SERVER AND NETWORK COMPONENTS ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY WARRANTIES OF ANY KIND TO THE FULLEST EXTENT PERMITTED BY LAW, AND Pinogy EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. YOU ACKNOWLEDGE THAT PINOGY DOES NOT WARRANT THAT THE SERVICE OR API WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE OR FREE FROM VIRUSES OR OTHER MALICIOUS SOFTWARE, AND NO INFORMATION OR ADVICE OBTAINED BY YOU FROM PINOGY OR THROUGH THE SERVICE SHALL CREATE ANY WARRANTY NOT EXPRESSLY STATED IN THIS AGREEMENT.

12. LIMITATION OF LIABILITY

12.1 UNDER NO CIRCUMSTANCES AND UNDER NO LEGAL THEORY (WHETHER IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE) WILL EITHER PARTY TO THIS AGREEMENT, OR THEIR AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, SUPPLIERS OR LICENSORS BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY LOST PROFITS, LOST SALES OR BUSINESS, LOST DATA, BUSINESS INTERRUPTION, LOSS OF GOODWILL, OR FOR ANY TYPE OF INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, CONSEQUENTIAL OR PUNITIVE LOSS OR DAMAGES, OR ANY OTHER LOSS OR DAMAGES INCURRED BY SUCH PARTY OR THIRD PARTY IN CONNECTION WITH THIS AGREEMENT, THE API OR THE SERVICES, REGARDLESS OF WHETHER SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF OR COULD HAVE FORESEEN SUCH DAMAGES.

12.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, PINOGY'S AGGREGATE LIABILITY TO LICENSEE OR ANY THIRD PARTY ARISING OUT THIS AGREEMENT, SHALL IN NO EVENT EXCEED ONE HUNDRED U.S. DOLLARS (\$100.00). ANY CLAIM ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE (1) YEAR OF THE FIRST EVENT OR OCCURRENCE GIVING RISE TO THE CLAIM.

12.3 Some jurisdictions do not allow the exclusion of implied warranties or limitation of liability for incidental or consequential damages, which means that some of the above limitations may not apply to Licensee. IN THESE JURISDICTIONS, PINOGY'S LIABILITY WILL BE LIMITED TO THE GREATEST EXTENT PERMITTED BY LAW. The limitations set forth in this Section 10 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

13. INDEMNIFICATION

Licensee will indemnify and hold Pinogy harmless against any claim brought by a third party against Pinogy arising from or related to any breach of an obligation, representation, warranty, covenant or other provision of this Agreement by Licensee or any matter which Licensee has expressly agreed to be responsible pursuant to this Agreement.

14. TERM AND TERMINATION

This Agreement shall commence on the Effective Date and will remain in effect until terminated pursuant to this Section 14 (the, "Term"). Either party may terminate this Agreement at any time, for any reason, or for no reason including, but not limited to, if Licensee violates any provision of this Agreement. Any termination of this Agreement shall also terminate the licenses granted to Licensee hereunder. Upon termination of this Agreement for any reason, Licensee shall cease using, and either return to Pinogy, or destroy and remove from all computers, hard drives, networks, and other storage media, all copies of any materials licensed pursuant to this Agreement and any Confidential Information in Licensee's possession, and shall certify to Pinogy that such actions have occurred. Sections 3, 4, 6, 8-17 and 19 shall survive termination of this Agreement.

15. ASSIGNMENT; ENTIRE AGREEMENT; REVISIONS

15.1 Licensee may not, directly or indirectly, by operation of law or otherwise, assign all or any part of this Agreement or Licensee's rights under this Agreement or delegate performance of Licensee's duties under this Agreement without Pinogy's prior consent, which consent will not be unreasonably withheld. Pinogy may, without Licensee's consent, assign this Agreement to any Affiliate or in connection with any merger or change of control of Pinogy or the sale of all or substantially all of its assets provided that any such successor agrees to fulfill its obligations pursuant to this Agreement. Subject to the foregoing restrictions, this Agreement will be fully binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

15.2 This Agreement, together with the Service Agreement related to Licensee's subscription to the Services by and between Licensee and Pinogy constitute the entire agreement among the parties with respect to the subject matter of this Agreement. Either party's failure to enforce at any time any provision of this Agreement does not constitute a waiver of that provision or of any other provision of this Agreement.

16. SEVERABILITY

If any provision in this Agreement is held by a court of competent jurisdiction to be unenforceable, such provision shall be modified by the court and interpreted so as to best accomplish the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

17. RELATIONSHIP OF THE PARTIES

The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

18. NOTICE

All notices to be provided by Pinogy to Licensee under this Agreement may be delivered in writing (a) by nationally recognized overnight delivery service ("Courier") or U.S. mail to the contact mailing address provided by Licensee to Pinogy; or (b) electronic mail to the electronic mail address provided for the Account owner related to Your subscription to the Service. Licensee must give notice to Pinogy in writing by Courier or U.S. Mail to the following address: Pinogy Corporation, Attn: Legal Department, 590 Grove Street, Box 5115, Herndon, VA 20172 USA. All notices shall be deemed to have been given immediately upon delivery by electronic mail, or if otherwise delivered upon receipt or, if earlier, two (2) business days after being deposited in the mail or with a Courier as permitted above.

19. GOVERNING LAW

This Agreement shall be governed by the laws of the Commonwealth of Virginia, without reference to conflict of laws principles. Any disputes under this Agreement shall be resolved in a court of general jurisdiction in Leesburg, Virginia. You hereby expressly agree to submit to the exclusive personal jurisdiction of this jurisdiction for the purpose of resolving any dispute relating to this Agreement or access to or use of the Services by You, Agents or End Users.

To evidence the parties' agreement to this Agreement, they have executed and delivered it on the date stated in the preamble.

Company

Licensee

Pinogy Corporation

_____ (Company)

By: _____

By: _____ (Signature)

Nicholas Cook/President

_____ (Title)

EXHIBIT A

License Application Scope and Purpose

Describe below the Scope and Purpose of the Licensee's Application including estimated number of installations, revenues, and deployment architecture.