



Connects Your Business with WeChat

# Charket Master Service Agreement

THIS MASTER SERVICE AGREEMENT GOVERNS THE USE OF CHARKET APPS.

BY ACCEPTING THIS AGREEMENT, EITHER BY CHECKING A CHECK BOX INDICATING YOUR ACCEPTANCE OR BY SIGNING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, YOU AGREE TO THE TERMS OF THIS AGREEMENT. IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND SHOULD NOT USE THE SERVICES.

You should not access any Charket Apps if You are Our direct competitor, except with Our prior written consent. In addition, You may not access any Charket Apps for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

This Agreement will become effective between You and Us as of the date of You accepting this Agreement.



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## 1. Definitions

"**Agreement**" means this Charket Master Service Agreement.

"**We**", "**Us**" or "**Our**" means the company Charket, Inc.

"**You**" or "**Your**" means the company or other legal entity for which You are accepting this Agreement, and Affiliates of that company or entity.

"**Affiliate**" means any entity that directly or indirectly controls, or is controlled by, or is under common control with the subject entity. "Control", for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

"**User**" means an individual who is authorized by You to use Charket Apps, for whom You have ordered a Charket license. Users may include, for example, Your employees, consultants, contractors and agents, and third parties with which You transact businesses.

"**Charket Apps**" means apps that are built by Us and published to Salesforce AppExchange and any other app marketplaces.

"**Charket Professional Services**" means services that We provide to You for your use of Charket Apps. Charket Professional Services include, but not limited to, customization, development, developer support and trainings related to Charket.

"**Your Data**" means WeChat data which includes, but not limited to, WeChat user profiles, WeChat chat messages and WeChat user activities that You collect and store in Your Salesforce org by using Charket Apps.

"**Order Form**" means an ordering document specifying the Charket licenses and Charket Professional Services to be provided hereunder that is entered into between You and Us or any of Our Affiliates, including any addenda and supplements hereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

"**GDPR**" stands for General Data Protection Regulation which is a regulation in EU law on data protection and privacy for all individual citizens of the European Union (EU) and the European Economic Area (EEA).

## 2. Our Responsibilities

- 2.1. We provide Charket Apps which you can use to manage WeChat related activities including but not limited to conducting WeChat marketing campaigns, doing social selling/commerce, providing WeChat customer service and collecting WeChat payments.
- 2.2. We safeguard Your Data by not having access to Your Data. We do not have servers processing and storing Your Data. Your data is processed and stored within Your own Salesforce org. Our Charket Mobile AppExchange app sends push notifications to Our Charket iOS/Android apps through 3rd party push notification delivery services.
- 2.3. We offer GDPR compliance through Salesforce's compliance with GDPR. Our Charket AppExchange app runs natively within Salesforce and connects WeChat into Salesforce without having any servers in between. The app by its nature is a collection of Salesforce objects, Visualforce pages, Lightning components and Apex classes



which are all Salesforce technologies that are hosted and run within Salesforce. Salesforce is considered the processor of Your Data.

### 3. Use of Charket Apps

- 3.1. There are following restrictions with using Charket Apps.
  - 3.1.1. You will not sell, resell, license, sublicense, distribute, rent or lease any Charket Apps.
  - 3.1.2. You will not use Charket Apps to store or transmit any infringing, libelous, unlawful or tortious materials, or to store or transmit materials in violation of third-party privacy rights.
  - 3.1.3. You will not use Charket Apps to advertise or sell any counterfeit goods.
  - 3.1.4. You will not attempt to gain unauthorized access to any Charket Apps or related systems or networks.
  - 3.1.5. You will not permit direct or indirect access to or use of any Charket Apps in a way that circumvents a contractual usage limit.
  - 3.1.6. You will not copy or remake any Charket Apps, features, functions or user interface.
  - 3.1.7. You will not access any Charket Apps in order to build a competitive product or service.
  - 3.1.8. You will not reverse engineer any Charket Apps (to the extent such restriction is permitted by law).
  - 3.1.9. You will not allow any of our competitors to access any Charket Apps. Competitors include companies and individuals that offer products or development services to integrate WeChat with Salesforce's Sales Cloud, Service Cloud Marketing Cloud or Pardot.

### 4. Your Responsibilities

- 4.1. You will be responsible for Users' compliance with this Agreement.
- 4.2. You will be responsible for the accuracy, quality and legality of Your Data and the means by which You acquire Your Data.
- 4.3. You will use commercially reasonable efforts to prevent unauthorized access to or use of Charket Apps, and notify Us promptly of any such unauthorized access or use.
- 4.4. You will use Charket Apps only in accordance with applicable laws and government regulations.

### 5. Fees and Payment

- 5.1. **Fees.** You will pay fees specified in Order Forms.
  - 5.1.1. Charket license fees are based on the Charket Apps purchased, not actual usage.



- 5.1.2. Charket Professional Services fees are charged using the time & material billing approach.
- 5.1.3. Payment obligations are non-cancelable and fees paid are non-refundable.
- 5.2. **Invoicing and Payment.** Charges for Charket license fees shall be made in advance, either annually or in accordance with any different billing frequency stated in the Order Form. Charges for Charket Professional Services fees shall be either made in advance or invoiced on a monthly basis. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.
- 5.3. **Overdue Charges.** If any invoiced amount is not received by Us by the due date, without limiting Our rights or remedies, those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower; and/or We may condition future subscription renewals and Order Forms on payment terms shorter than those specified in section 5.2 (Invoicing and Payment).
- 5.4. **Suspension of Charket Apps.** If any amount owed by You under this or any other agreement for Charket Apps is 30 or more days overdue, We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under such agreements so that all such obligations become immediately due and payable, and suspend Charket Apps to You until such amounts are paid in full. We will give You at least 10 days' prior notice that Your account is overdue before suspending Charket Apps to You.
- 5.5. **Payment Disputes.** We will not exercise Our rights under Section 5.3 (Overdue Charges) or 5.4 (Suspension of Charket Apps) above if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.
- 5.6. **Taxes.** Our fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use of withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). You are responsible for paying all taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect taxes for which You are responsible under this section, We will invoice You and You will pay that amount unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority.
- 5.7. **Future Functionality.** You agree that Your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Us regarding future functionality or features.

## 6. Proprietary Rights and Licenses

- 6.1. **Reservation of Rights.** Subject to the limited rights expressly granted hereunder, We and Our licensors reserve all of Our/their right, title and interest in and to the Charket Apps, including all of Our/their related intellectual property rights. No rights are granted to You hereunder other than as expressly set forth herein.
- 6.2. **License by Us to Use Charket Apps.** We grant You a worldwide, limited-term license, under Our applicable intellectual property rights and licenses, to use Charket Apps



acquired by You pursuant to Order Forms, subject to those Order Forms and this Agreement.

- 6.3. **License by You to Use Feedback.** You grant to Us and Our Affiliates a perpetual, irrevocable, royalty-free license to use and incorporate into Charket Apps any suggestion, enhancement request, recommendation, correction or other feedback provided by You or Your Users.

## 7. Confidentiality

- 7.1. **Definition of Confidential Information.** "Confidential Information" means all information disclosed by a party ("Disclosing Party") to the other party ("Receiving Party"), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information includes Your Data; and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any of the following information:

- 7.1.1. Information that is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party,
- 7.1.2. Information that was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party,
- 7.1.3. Information that is received from a third party without breach of any obligation owed to the Disclosing Party,
- 7.1.4. Information that was independently developed by the Receiving Party.

- 7.2. **Protection of Confidential Information.** The Receiving Party will use the same degree of care as it uses to protect the confidentiality of its own Confidential Information of like kind (but not less than reasonable care) to protect the confidentiality of the Disclosing Party's Confidential Information.

- 7.2.1. The Receiving Party will not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement.
- 7.2.2. Except as otherwise authorized by the Disclosing Party in writing, the Receiving Party will limit the access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein.
- 7.2.3. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliates, legal counsel or accountants will remain responsible for such Affiliates', legal counsel's or accountants' compliance.

- 7.3. **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent

legally permitted) and makes reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a member, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

## 8. Representations and Disclaimers

- 8.1. **Representations.** Each party represents that it has validly entered into this Agreement and has the legal power to do so.
- 8.2. **Our Warranties.** For any breach of any following warranty, Your exclusive remedies are those described in Sections 11.3 (Termination) and 11.4 (Refund or Payment upon Termination).
- 8.2.1. We warrant that this Agreement and the Order Forms accurately describe the applicable technical safeguards for protection of the security, confidentiality and integrity of Your Data.
- 8.2.2. We warrant that We will not materially decrease the overall security of Charket Apps during a subscription term.
- 8.2.3. We warrant that we will not materially decrease the functionality of Charket Apps during a subscription term.
- 8.2.4. We warrant that Charket Apps will not introduce malicious code into Your systems.
- 8.3. **Disclaimers.** Except as expressly provided herein, neither party makes any warranty of any kind, whether express, implied, statutory or otherwise, and each party specifically disclaims all implied warranties, including any implied warranty of merchantability, fitness for a particular purpose or non-infringement, to the maximum extent permitted by applicable law. Each party disclaims all liability and indemnification obligations for any harm or damages caused by any third-party hosting providers.

## 9. Mutual Indemnification

- 9.1. **Indemnification by Us.** We will defend You against any claim, demand, suit or proceeding made or brought against You by a third party alleging that the use of a Charket App in accordance with this Agreement infringes or misappropriates such third party's intellectual property rights (a "Claim Against You"), and will indemnify You from any damages, attorney fees and costs finally awarded against You as a result of, or for amounts paid by You under a court-approved settlement of, a Claim Against You, provided You promptly give Us written notice of the Claim Against You, give Us sole control of the defense and settlement of the Claim Against You (except that We may not settle any Claim Against You unless it unconditionally releases You of all liability), and give Us all reasonable assistance, at Our expense. If We receive information about an infringement or misappropriation claim related to a Charket App, We may in Our discretion and at no cost to You modify the app so that it no longer infringes or misappropriates, without breaching Our warranties under Section 8.2 (Our Warranties), obtain a license for Your continued use of that app in accordance with this Agreement, or terminate Your subscriptions for that app upon 30 days' written notice and refund You

any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply to the extent a Claim Against You arises from Your breach of this Agreement.

- 9.2. **Indemnification by You.** You will defend Us against any claim, demand, suit or proceeding made or brought against Us by a third party alleging that Your Data, or Your use of any Charket App in breach of this Agreement, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "Claim Against Us"), and will indemnify Us from any damages, attorney fees and costs finally awarded against Us as a result of, or for any amounts paid by Us under a court-approved settlement of, a Claim Against Us, provided We promptly give You written notice of the Claim Against Us, give You sole control of the defense and settlement of the Claim Against Us (except that You may not settle any Claim Against Us unless it unconditionally releases Us of all liability), and give You all reasonable assistance, at Your expense.
- 9.3. **Exclusive Remedy.** This Section 9 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section 9.

## 10. Limitation of Liability

- 10.1. **Limitation of Liability.** NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED THE AMOUNT PAID BY YOU HEREUNDER IN THE 12 MONTHS PRECEDING THE INCIDENT, PROVIDED THAT IN NO EVENT WILL EITHER PARTY'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY YOU HEREUNDER. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER SECTION 5 (FEES AND PAYMENT).
- 10.2. **Exclusion of Consequential and Related Damages.** IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

## 11. Term and Termination

- 11.1. **Term of Agreement.** This Agreement commences on the date You first accept it and continues until all subscriptions hereunder have expired or have been terminated.
- 11.2. **Term of Purchased Subscriptions.** The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for an additional term equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term. The unit price during any automatic renewal term will be the same as that during the immediately prior term unless We have given You written notice of a pricing increase at



least 60 days before the end of that prior term, in which case the pricing increase will be effective upon renewal and thereafter.

- 11.3. **Termination.** A party may terminate this Agreement for cause upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such term, or if the other party becomes the subject of a petition in bankruptcy or any other proceeding related to insolvency, receivership, liquidation or assignment for the benefit of creditors.
- 11.4. **Refund or Payment upon Termination.** If this Agreement is terminated by You in accordance with Section 11.3 (Termination), We will refund You any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If this Agreement is terminated by Us in accordance with Section 11.3, You will pay any unpaid fees covering the remainder of the term of all Order Forms. In no event will termination relieve You of Your obligation to pay any fees payable to Us for the period prior to the effective date of termination.
- 11.5. **Your Data Portability and Deletion.** It is a Salesforce policy that You will be able to export Your Data from your Salesforce org within 30 days after the effective date of termination or expiration of this Agreement. After that 30-day period, Salesforce will have no obligation to maintain or provide Your Data, and will thereafter delete or destroy all copies of Your Data from your Salesforce org.
- 11.6. **Surviving Provisions.** The Sections titled "Fees and Payment" "Proprietary Rights and Licenses", "Confidentiality", "Disclaimers", "Mutual Indemnification", "Limitation of Liability", "Refund or Payment upon Termination," "Your Data Portability and Deletion", "General Provisions" will survive any termination or expiration of this Agreement.

## 12. General Provisions

- 12.1. **Agreement to Governing Law and Jurisdiction.** Each party agrees to the applicable governing law of California and controlling United States federal law without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of San Francisco, California, U.S.A.
- 12.2. **Anti-Corruption.** You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Us.
- 12.3. **Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.