

**MOVEMBER X  
[INSERT SERVICE  
PROVIDER]  
MASTER SERVICES  
AGREEMENT**

## DETAILS

Section A: Important information		
1.	<b>Movember</b>	<b>Movember Group Pty Ltd as Trustee for the Movember Foundation</b> ABN: 48 894 537 905 Address: 21-31 Goodwood St, Richmond VIC 3051 Email: <a href="mailto:info@movember.com">info@movember.com</a> Phone: 1300 GROW MO (1300 4796 66)
2.	<b>Movember Contact</b>	Name: [insert name] Email: [insert email address]
3.	<b>Movember Accounts Contact</b>	[insert email address]
4.	<b>Service Provider</b>	Company Name: [insert] ABN: [insert] Address: [insert] Email: [insert] Phone: [insert]
5.	<b>Service Provider Contact</b>	Name: [insert name] Email: [insert email address]
6.	<b>Service Provider Accounts Contact</b>	[insert email address]
7.	<b>Commencement Date</b>	[insert commencement date]
8.	<b>End Date</b>	[insert end date]

Section B: Services information		
9.	<b>Services</b>	<b>As set out in the Statement of Work</b>
10.	<b>Deliverables</b>	<b>As set out in the Statement of Work</b>
11.	<b>Milestones</b>	<b>As set out in the Statement of Work</b>
12.	<b>Fee</b>	<b>As set out in the Statement of Work</b>

## **BACKGROUND**

- A. Movember is a company and registered charity that seeks to raise awareness about, and money for, men's health.
- B. Movember wishes to receive, and the Service Provider wishes to provide, the Services set out in the Statement of Work and on the terms set out in this Agreement.

## **TERMS & CONDITIONS OF AGREEMENT**

### **1. TERM AND TERMINATION**

- 1.1 This Agreement commences on the Commencement Date and ends on the End Date unless terminated earlier in accordance with this clause 1 (**Term**).
- 1.2 Each Statement of Work commences on the Statement of Work Commencement Date and continues until the earlier of the following:
  - (a) the Statement of Work End Date;
  - (b) the date all Services under the Statement of Work have been provided by the Service Provider in accordance with the relevant Statement of Work (in Movember's reasonable opinion); or
  - (c) if terminated by a Party in accordance with this clause 1.
- 1.3 Either Party may immediately terminate this Agreement or a Statement of Work without further liability by giving written notice:
  - (a) if a Party commits a material breach of this Agreement (which includes a breach of warranty provided pursuant to this Agreement) and such breach is not capable of remedy, or is not remedied within 14 days following receipt of written notice from the non-defaulting Party setting out details of the breach;
  - (b) if in a Party's reasonable opinion, its image, reputation or brand name has been or could be materially adversely affected by continuing the Agreement; or
  - (c) the other Party becomes insolvent.
- 1.4 Movember may terminate this Agreement or a Statement of Work, for any reason, by giving the Service Provider 14 days' written notice.
- 1.5 Upon the End Date or termination of this Agreement (whichever occurs earlier):
  - (a) the Service Provider must stop providing the Services, unless otherwise requested by Movember;
  - (b) Movember will pay the Supplier the Fee relevant to the Services provided up until the date of termination (unless the Supplier has terminated this Agreement in accordance with clause 1.2).
  - (c) any accrued rights and obligations will not be affected;
  - (d) each Party, at its own cost, must immediately remove and cease to refer to or use the other Party's Intellectual Property Rights which includes the other Party's name and logo;
  - (e) each Party must deliver or destroy (at its own cost) any marketing material and other material in its possession (including such material bearing the other Party's name, logo or branding), as requested by the other Party. For the avoidance of doubt, neither Party is required to delete such material pursuant to this clause 1.5(e) if the Parties mutually agree; and

- (f) no Party will have any claim against the other Party for any alleged loss sustained because of this Agreement expiring or terminating.

## **2. PROVISION OF SERVICES**

- 2.1 Subject to clause 2.4, Movember may request that the Service Provider provide the Services by submitting a Statement of Work to the Service Provider during the Term.
- 2.2 On the Statement of Work Commencement Date, the Statement of Work becomes binding on the Parties and in consideration of the Fee, the Service Provider will provide the Services to Movember in accordance with the terms of this Agreement.
- 2.3 In providing the Services, the Service Provider must:
  - (a) deliver the Services in accordance with the Milestones and Deliverables;
  - (b) act in a diligent and professional manner, with due skill, care and attention;
  - (c) employ staff with qualifications and experience appropriate for the provision of the Services;
  - (d) comply with all legal and regulatory requirements;
  - (e) complete all filings and documentation as required by any relevant governmental authorities and agencies and obtain all required consents, approvals and permits as needed;
  - (f) ensure appropriate records are maintained in relation to its performance of the Services, and provide Movember access to such record upon the reasonable request of Movember;
  - (g) provide Movember with a financial reconciliation of all Fees spent upon reasonable request of Movember; and
  - (h) ensure that goods and products used and produced in relation to the Services (including any Deliverables):
    - (i) are of good quality and fit for purpose;
    - (ii) are produced in conformity with all relevant ethical trading and sourcing regulations;
    - (iii) minimises the impact on the environment from its operations; and
    - (iv) are sourced with processes in place to ensure similar standards are met within the Service Provider's own supply chains for goods and products sourced for Movember pursuant to this Agreement as set out in clauses 2.3(h)(i) to 2.3(h)(iii) above.
- 2.4 The Service Provider agrees that Movember:
  - (a) has no obligation to enter into a Statement of Work with the Service Provider;
  - (b) has no obligation to purchase a minimum amount of Services from the Service Provider; and
  - (c) may engage with or purchase other services that are similar or equivalent to the Services from any third party (in its discretion).

## **3. NON-CONFORMING SERVICES**

- 3.1 If the Services (or part of the Services) do not, in the reasonable opinion of Movember, comply with this Agreement, the Service Provider must, at the election of Movember and without limiting any other remedy of Movember pursuant to this Agreement or at Law:
  - (a) re-supply the Services, at the Service Provider's own cost; or
  - (b) credit to Movember the total amounts Movember has paid in relation to the Services or not invoice Movember for such Services (as applicable).

#### **4. COMPLIANCE AND GOVERNANCE**

- 4.1 The Service Provider must comply with all relevant Laws applicable to providing the Services under this Agreement, including without limitation by obtaining all necessary permits and approvals.

#### **5. INTELLECTUAL PROPERTY RIGHTS**

- 5.1 The Parties agree that all right, title and interest in and to any Contract IP are the exclusive property of Movember. To give effect to this clause 5.1, the Service Provider must execute all such documents and do all such acts as Movember may reasonably require.
- 5.2 Movember grants the Service Provider, for the Term, a non-exclusive, royalty free, non-transferrable licence to use the Contract IP solely for the purposes of performing its obligations under this Agreement.
- 5.3 The Parties acknowledge and agree that any Background IP remains the property of that Party.
- 5.4 The Service Provider grants Movember a non-exclusive, perpetual, irrevocable, world-wide, royalty-free licence to use, reproduce, publish, modify, and adopt its Background IP to the extent necessary to fully exercise its rights in the Contract IP.

#### **6. PAYMENT AND TAX**

- 6.1 In consideration of the Service Provider supplying the Services to Movember in accordance with this Agreement, Movember will pay to the Service Provider the Fee following receipt of a valid tax invoice from the Service Provider.
- 6.2 The Parties acknowledge and agree that, subject to clause 7 of this Agreement:
- (a) any amount payable pursuant to this Agreement is inclusive of all costs, taxes, duties, charges and disbursements (as applicable); and
  - (b) each party will comply with their own relevant tax obligations for their entities.

#### **7. GST**

- 7.1 Unless otherwise expressly stated, all amounts payable or consideration to be provided under this Agreement are exclusive of GST (as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) (GST Law).
- 7.2 If GST is payable in respect of any supply made by a supplier of goods or services under this Agreement, then the recipient of the goods or services will pay to the supplier an amount equal to the GST payable on the supply. The recipient is to make the GST payment at the same time and in the same manner as they pay the consideration for the supply provided under this Agreement.
- 7.3 The Parties agree that:
- (a) the Parties must be registered persons within the meaning of the GST Law;
  - (b) the Service Provider must provide tax invoices and if applicable adjustment notes to Movember in the form prescribed by or for the purposes of the GST Law; and
  - (c) costs required to be reimbursed or indemnified excludes any amount that represents GST for which an input tax credit within the meaning of the GST Law can be claimed.

## **8. BRANDING AND ACKNOWLEDGEMENT**

8.1 Pursuant to clause 8.2, publication of any materials whether written or otherwise relating to this Agreement and which incorporate the other Party's name, logo or branding may only be published with the prior written approval of that Party (which will not be unreasonably withheld) and provided such approval is sought, at least five (5) Business Days prior to the production deadline.

8.2 In the event that:

- (a) either Party reasonably refuses to provide its consent pursuant to clause 8.1, the Parties will use their reasonable endeavours to agree upon any relevant alterations required to such material. The Parties acknowledge and agree that both Parties must provide consent prior to the publication of any altered material; or
- (b) the relevant Party does not provide written consent within five Business Days, the other Party can assume consent has been given for the purpose of clause 8.1.

8.3 For the purpose of clause 8.1, such material includes but is not limited to:

- (a) promotional materials including badges, banners, brochures, certificates, forms, invitations, posters, printed clothing, programs, signs, tickets and uniforms; and
- (b) publicity material, media releases and similar material (whether digital or otherwise).

## **9. CONFIDENTIALITY**

9.1 Subject to clause 9.2, a Party must not, without the prior written consent of the other Party, disclose any Confidential Information of the other Party.

9.2 The obligations on the Parties under this clause 9 will not be taken to have been breached to the extent that Confidential Information:

- (a) is disclosed by a Party to its personnel in order to comply with its obligations, or to exercise rights, under this Agreement;
- (b) is in the public domain other than by a breach of this clause 9; or
- (c) is required to be disclosed by Law.

## **10. PRIVACY**

10.1 The Parties must:

- (a) only use or disclose Personal Information obtained pursuant to this Agreement for the purpose of this Agreement;
- (b) take all reasonable steps to safeguard Personal Information;
- (c) comply with the Privacy Laws; and
- (d) immediately notify the other Party if it becomes aware of any threatened, suspected or actual breach of any obligation contained in this clause 10, whether by such Party or its personnel and:
  - (i) provide the other Party with all reasonable assistance required to mitigate, investigate and resolve the breach; and
  - (ii) consult with the other Party before making any notifications to regulators, impacted individuals or third parties.

## **11. DATA PROTECTION**

- 11.1 Each Party agrees that it will, in relation to personal data processed in connection with this Agreement:
- (a) use reasonable security measures to protect such data in its possession against unauthorised access, use, loss or disclosure, including establishing and maintaining reasonable safeguards which are no less rigorous than industry best practice; and
  - (b) collect, process and store all such personal data in accordance with the Data Protection Legislation.

## **12. INSURANCE**

- 12.1 The Service Provider must take out and maintain the following insurance policies for the purpose of this Agreement:
- (a) Public Liability: not less than \$10m
  - (b) Professional Indemnity: not less than \$5m
- 12.2 The Service Provider must provide certificates of currency or other appropriate evidence of such insurance on the reasonable request of Movember.

## **13. INDEMNITY**

- 13.1 The Service Provider indemnifies Movember with respect to all damages, costs, claims, demands, liabilities and expenses or other liability suffered because of the Service Provider, or its agents, employees or contractor's act/omission, negligence, reckless or intentional default, including any breach of the Agreement, save to the extent that such damages, costs, claims, demands, liabilities or expenses are caused by Movember.

## **14. REPRESENTATION AND WARRANTIES**

- 14.1 Each Party represents and warrants to the other Party that:
- (a) it has the legal capacity and power to enter into this Agreement and is able to meet its obligations set out in this Agreement;
  - (b) entering into this Agreement will not breach any of its obligations to any third party which includes the Intellectual Property Rights of a third party;
  - (c) it has made no assignments, grants, licences, encumbrances, obligations or agreement whether written, oral or implied, inconsistent with the terms of this Agreement;
  - (d) it is in sound financial standing, and it will immediately notify the other Party in writing of any events that occur or circumstances that arise which adversely affect, or could adversely affect, any such standing;
  - (e) it has or will obtain, at its own expense, all approvals, certifications, registrations, licenses, consents and/or permits from all relevant governmental agencies necessary to perform its obligation under this Agreement; and
  - (f) it will comply with all Laws applicable to this Agreement and will not do or omit to do anything which may cause the other Party to breach any such Laws.
- 14.2 The Service Provider represents and warrants to Movember:

- (a) it will perform the Services with due care, skill and diligence and in a professional manner consistent with this Agreement, applicable standards, principles, practices and Laws (which, for the avoidance of doubt, includes compliance with Anti-Slavery Laws); and
- (b) its personnel are appropriately qualified to provide the Services.

## **15. ASSIGNMENT AND SUBCONTRACTING**

15.1 The Service Provider must not without the prior written approval of Movember:

- (a) transfer or assign any of its rights or obligations under this Agreement; or
- (b) subcontract the performance of the Services (or part of the Services).

## **16. RELATIONSHIP OF THE PARTIES**

16.1 The Service Provider has no authority, right or power to contract on behalf of Movember or bind Movember in any way to any third party or to assume or create any obligation or responsibility (whether express or implied) on behalf of Movember, except with the prior written consent of Movember.

16.2 No joint venture or relationship of partnership, principal and agent, employer and employee or trustee and beneficiary is intended by this Agreement.

## **17. DISPUTE RESOLUTION**

17.1 Each Party must make a representative available to meet and discuss any queries, concerns, issues or disputes arising under or in connection with this Agreement.

17.2 The Parties agree that each respective representative will meet in good faith with a view to resolving such dispute within 14 days of the dispute arising. For the avoidance of doubt, and for the purpose of this clause 17, the Parties agree that such meeting may be facilitated over the telephone or through the utilisation of video-conferencing facilities.

17.3 Nothing in this clause 17 is to be taken as preventing either Party from seeking interlocutory relief in respect of such a dispute.

## **18. GOVERNING LAW**

18.1 This Agreement is governed by the Laws in force in the State of Victoria, Australia and the Parties submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in the State of Victoria, Australia.

## **19. NOTICES**

19.1 Any notice, demand, consent or other communication given or made under this Agreement must be in writing and signed by a person duly authorised by the sender and delivered to the intended recipient of the relevant Party by pre-paid post, by hand or by email.

## **20. SURVIVAL**

20.1 Clauses 1.5, 9, 13, 14, 17, 18, 19, 21 and this clause 20 survive the expiration or termination of this Agreement (whichever occurs earlier).

## **21. DEFINED TERMS**

21.1 In this Agreement, these terms have the following meaning:

<b>Agreement</b>	means this agreement, as amended from time to time including any Statement of Work issued pursuant to it.
<b>Anti-Slavery Laws</b>	means: <ul style="list-style-type: none"> <li>• Division 270 and 271 of the <i>Criminal Code Act 1995</i> (Cth);</li> <li>• the <i>Modern Slavery Act 2018</i> (Cth); and</li> <li>• any other Law which prohibits exploitation of a worker, human trafficking, slavery, slavery-like behaviour, servitude, forced labour, child labour, debt bondage or deceptive recruiting for labour or services (or similar), and is applicable in the jurisdiction in which a Party is registered or conduct business or in which activities relevant to this agreement are to be performed.</li> </ul>
<b>Background IP</b>	means any Intellectual Property Rights existing prior to the Commencement Date or developed independently of this Agreement.
<b>Commencement Date</b>	means the commencement date as set out in the Details.
<b>Confidential Information</b>	means any technical, scientific, commercial, financial or other information of, about or in any way related to a Party, including information designated by a Party as confidential, which is disclosed, made available, communicated or delivered to the other Party for the purpose of this Agreement, but excludes information which is in, or which subsequently enters the public domain other than as a result of a breach of this Agreement and which a Party can demonstrate was: <ul style="list-style-type: none"> <li>• in its possession prior to the date of this Agreement;</li> <li>• independently developed by a Party; or</li> <li>• lawfully obtained by a Party from another person entitled to disclose such information.</li> </ul>
<b>Contract IP</b>	means any Intellectual Property Rights created directly as a result of, or in the course of, the Service Provider providing the Services to Movember.
<b>Data Protection Legislation</b>	means all applicable legislation in force from time to time relating to the processing of personal data and privacy, including the <i>Privacy Act 1988</i> (Cth) and the EU General Data Protection Regulation 2016/679 (if applicable).
<b>Deliverables</b>	means the deliverables as set out in the Details.
<b>End Date</b>	means the end date as set out in the Details.
<b>Fee</b>	means the fee as set out in the Details.
<b>Intellectual Property Rights</b>	means all intellectual property rights, including but not limited to the following rights: <ul style="list-style-type: none"> <li>• patents, copyright, rights in circuit layouts, designs, moral rights, trade and service marks (including goodwill in those marks), domain names and trade names and any right to have confidential information kept confidential;</li> <li>• any application or right to apply for registration of any of the rights referred to above; and</li> </ul>

	<ul style="list-style-type: none"> <li>all rights of a similar nature to any of the rights above which may subsist anywhere in the world, whether or not such rights are registered or capable of being registered.</li> </ul>
<b>Law</b>	means any statute, ordinance, code, regulation, by-law, local law, official directive, order, instrument, undertaking, applicable Government policy or guideline, applicable judicial, administrative or regulatory decree, judgment or order and any related conditions, authorisations, licences, permits, consents, or similar requirements, including all applicable rights and obligations under the common law.
<b>Milestones</b>	means the milestones as set out in the Details.
<b>Parties</b>	means Movember and the Service Provider and Party means either one of them.
<b>Personal Information</b>	has the meaning given in the definitions for 'personal information' or 'health information' (as applicable) in the relevant Privacy Law.
<b>Privacy Laws</b>	means the: <ul style="list-style-type: none"> <li><i>Privacy Act 1988</i> (Cth) and the Australian Privacy Principles contained in this Act;</li> <li><i>Health Records Act 2001</i> (Vic) and the Health Privacy Principles contained in this Act;</li> <li>any approved privacy code that applies to either of the Parties; and</li> <li>EU General Data Protection Regulation 2016/679 (if applicable).</li> </ul>
<b>Services</b>	means the services as set out in the Details which includes the Deliverables and Milestones.
<b>Statement of Work</b>	means a statement of work issued under this Agreement In the form set out in Appendix 1.
<b>Statement of Work Commencement Date</b>	means the commencement date set out in the relevant Statement of Work.
<b>Statement of Work End Date</b>	means the end date set out in the relevant Statement of Work.
<b>Term</b>	has the meaning given in clause 1.1.

## 22. INTERPRETATION

22.1 In this Agreement, unless the context indicates a contrary intention:

- (a) expressions have the meaning given to them in the Details and Defined Terms sections of this Agreement;
- (b) including and similar expressions are not to be treated as words of limitation;
- (c) an obligation not to do something includes an obligation not to cause and not to permit it to be done;
- (d) words denoting the singular include the plural and vice versa;
- (e) a reference to:

- (i) an individual or person includes a corporation, partnership, venture, association, authority, trust, state or government;
- (ii) a party is a party to this Agreement and includes that party's executors, administrators, successors and permitted assignees;
- (iii) a document, including this Agreement, is to that document as amended, novated, renewed, substituted or supplemented at any time;
- (iv) any legislation is to any amendment, re-enactment, substitution or consolidation of that legislation, and includes any subordinate legislation issued under that legislation;
- (v) dollars, AUD or \$ is to an amount in Australian currency; and
- (vi) this Agreement is not to be construed against a Party because that Party was responsible for the drafting of this Agreement.

## **23. GENERAL**

- 23.1 This Agreement is the entire agreement and understanding between the Parties on everything connected with the subject matter of this Agreement and supersedes any prior agreement or understanding on anything connected with that subject matter.
- 23.2 Any variation to this Agreement must be affected in writing and executed by each Party.
- 23.3 Each Party must promptly do whatever the other Party reasonably requires of it to give effect to this Agreement and to perform its obligations under it.
- 23.4 This Agreement may consist of a number of counterparts and if so, the counterparts taken together constitute one document.
- 23.5 Each Party must pay its own legal and other costs and expenses of negotiating, preparing, executing, and performing its obligations under this Agreement.
- 23.6 A single or partial exercise or waiver by a Party of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.
- 23.7 A Party is not liable for any loss, cost or expense of any other Party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.
- 23.8 Any provision of this Agreement which is invalid or unenforceable is to be read down, if possible, to be valid and enforceable, and, if that is not possible, the provision shall, to the extent that it is capable, be severed to the extent of the invalidity or unenforceability, without affecting the remaining provisions.
- 23.9 Except as expressly stated otherwise in this Agreement, the rights of a Party under this Agreement are cumulative and are in addition to any other rights of that Party.

# EXECUTION

Agreed by **Movember**

Signed for The Movember Group Pty Ltd as trustee for the Movember Foundation by its authorised representative:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Position \_\_\_\_\_

Agreed by **Service Provider**

Signed for [insert name of the Service Provider] by its authorised representative:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Position \_\_\_\_\_

**APPENDIX 1 - STATEMENT OF WORK (TEMPLATE)**

This Statement of Work is entered into and made a part of the Master Services Agreement dated [insert] (**Agreement**) between The Movember Group Pty Ltd as trustee for the Movember Foundation (**Movember**) and [insert name] (**Service Provider**).

In the event of any conflict between the terms and conditions of this Agreement and those of this Statement of Work, the terms and conditions of this Agreement will take precedence unless explicitly stated otherwise below. Any capitalized terms used but not defined herein shall have the meanings ascribed in the Agreement.

The Service Provider agrees to provide the Services and Movember agrees to pay the Fee in accordance with the terms of the Agreement.

<b>Statement of Work</b>		
<b>1.</b>	<b>Services</b>	<b>[insert the services being provided by the Service Provider to Movember pursuant to this Agreement]</b>
<b>2.</b>	<b>Deliverables</b>	<b>[insert deliverables]</b>
<b>3.</b>	<b>Milestones</b>	<b>[insert milestones]</b>
<b>4.</b>	<b>Fee</b>	<b>[\$[insert fee]</b>
<b>5.</b>	<b>Statement of Work Commencement Date</b>	<b>The date this Statement of Work is signed by both Parties</b>
<b>6.</b>	<b>Statement of Work End Date</b>	<b>[insert]</b>

Signed on behalf of The Movember Group Pty Ltd as trustee for the Movember Foundation by its authorised representative:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Position \_\_\_\_\_

Signed on behalf of [insert name of the Service Provider] by its authorised representative:

Signature \_\_\_\_\_ Date \_\_\_\_\_

Print Name \_\_\_\_\_ Position \_\_\_\_\_