

STANDARD TERMS AND CONDITIONS

THIS AGREEMENT IS WITH DISPERSE INC., A DELAWARE CORPORATION, (“**PROVIDER**”) AND GOVERNS CUSTOMER’S ACCESS TO AND USE OF THE PLATFORM AND THE REPORTS, AND USE OF THE SERVICES (DEFINED BELOW). This Agreement contains the terms under which Provider will provide to Customer (1) subscription access to an instance of Provider’s proprietary artificial intelligence powered construction management Platform and use of the Reports (as defined below), and (2) Services (defined in Section 1.12) related to Customer’s use of the Platform, each as agreed to by the parties in one or more Order Forms (defined in Section 1.6). The parties agree as follows:

BY ACCEPTING THIS AGREEMENT, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, THAT INDIVIDUAL REPRESENTS AND WARRANTS THAT THEY HAVE THE AUTHORITY TO BIND THAT ENTITY AND ITS AFFILIATES TO THIS AGREEMENT, IN WHICH CASE THE TERM “CUSTOMER” REFERS TO THAT ENTITY. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE AUTHORITY TO BIND THAT ENTITY AND ITS AFFILIATES, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, THAT INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES. IN ADDITION, THE SERVICES MAY NOT BE ACCESSED FOR PURPOSES OF MONITORING THEIR AVAILABILITY, PERFORMANCE OR FUNCTIONALITY, OR FOR ANY OTHER BENCHMARKING OR COMPETITIVE PURPOSES.

1. DEFINITIONS

1.1 “**Authorized User**” means, as to a Project, an employee, contractor, or agent, of Customer, and, if Customer does not own the Project (e.g., is a general contractor), or employee, contractor, or agent of the Project Owner for that Project, which uses or otherwise interacts with the Platform.

1.2 “**Customer Data**” means any customer or third-party data or other materials or information provided by Customer to Provider under this Agreement, and data collected by Provider from Customer Project sites as identified on the Order Form(s) including, to avoid doubt, any data, materials, or other information uploaded to the Platform by or on behalf of Customer.

1.3 “**Machine Learning**” means any data that is based on, derived from, or collected from Customer Data or Customer’s use of the Technology and improvements, modifications, transformations, analyses, adaptations, and derivative works of the Customer Data, including any (i) statistical models, including their parameters and hyperparameters, (ii) intermediate knowledge representations (e.g., machine-induced knowledge graphs or concept graphs), and (iii) other intermediate or derived machine learning data and the associated data structures, generated by Provider in connection with Customer Data or Customer’s use of the Platform.

1.4 “**Documentation**” means Provider-provided user documentation, in all forms, relating to the Platform (e.g., user manuals, on-line help files).

1.5 “**Equipment**” means any cameras, scanners, or other equipment provided by Provider to Customer for its use under this Agreement.

1.6 “**Order Form**” means a written description of the Platform (as limited by any scope restrictions or the like) or Services (or both) to be provided to Customer by Provider under this Agreement that refers to this Agreement and is executed by both parties.

1.7 “**Platform**” means Provider’s proprietary artificial intelligence powered construction management platform hosted at <http://www.disperse.io> (or on any other website notified to the Customer by the Supplier from time to time).

1.8 “**Project(s)**” means the construction project(s) set forth in an Order Form that Customer intends to monitor using the features and functionalities of the Platform.

1.9 “**Reports**” means progress reports, analyses, visualizations, and other progress tracking deliverables developed by Provider as part of the Services, made available to Customer via the Platform (or such other web address notified by Provider to Customer from time to time) or by any other agreed method, and any and all updates, modifications, adaptations and derivative works thereof.

1.10 “**Scope Limitations**” means the limitations on Customer’s access and use of, and Provider’s provision of, the Platform and Reports identified in the applicable Order Form. To avoid doubt, the Projects identified on an Order Form are Scope Limitations, and Customer may not use the Platform and Reports in connection with any Project not pursuant to an in-effect Order Form.

1.11 “**Services**” means the services as set out in an Order Form and in accordance with the functionality as Provider, in its sole discretion, offers on the Platform as well as the scanning of a Project site by Provider, and any other professional services offered by Provider from time to time.

1.12 “**Subscription Term**” means the period during which Customer is authorized to access and use the Platform and Reports made available to Customer via the Platform (or such other web address notified by Provider to Customer from time to time) or by any other agreed method, which period is set forth in the applicable Order Form.

1.13 “**Support Services**” means the support services described in Section 4.4.

1.14 “**Software or Software Products**” means the online software applications provided by Provider as part of the Platform, and any revisions, updates and upgrades thereto.

1.15 “**Technology**” means the Platform, Machine Learning, Software or Software Products, Reports (and Documentation).

2. CUSTOMER DATA

2.1 **Provision.** To enable Provider to provide the Platform and the Services, Customer will provide the required Customer Data as specified in the applicable Order Form or as otherwise reasonably requested by Provider (e.g., in the file formats and via the delivery procedure specified). Customer acknowledges that Provider’s ability to provide the Platform and the Services in a timely manner may be affected if Customer does not provide Customer Data in accordance with this Agreement. Provider and Customer will cooperate in good faith to facilitate Customer’s delivery of the Customer Data to Provider.

2.2 **Platform Implementation.** As to each Project set forth on an Order Form, Provider will use commercially reasonable efforts to integrate Customer Data into the Platform and configure and make available the Platform for that Project in accordance with timeline for implementation set forth in the applicable Order Form (if any). Provider will give Customer notice once the Platform is live and available for use by Authorized Users with respect to a Project.

2.3 **License.** (i) Customer hereby grants to Provider a non-exclusive, worldwide, royalty-free, irrevocable license throughout the term of this Agreement to store, record, host, copy, analyze, display, use, modify, and prepare derivative works and collective works of the Customer Data to the extent necessary to provide the Platform to Customer and to perform the Services, including to clean, sort, tag, process, transform, adapt, and improve the Customer Data and to test, improve, and otherwise develop new Technology, including to create Machine Learning. (ii) Customer hereby grants Provider a worldwide, non-exclusive, perpetual, irrevocable, royalty-free, sublicensable, and transferable license to store, record, host, copy, analyze, display, use, modify, and prepare derivative works and collective works of the Customer Data in a de-identified, anonymous, and/or aggregated format for the improvement

of the Technology, and Provider's other products and services (as may exist now or in the future) and for such other lawful purposes as Provider sees fit.

2.4 **Ownership.** Provider will not have any rights to the Customer Data except as expressly granted or reserved in this Agreement. Customer reserves to itself and its third-party providers all rights, including intellectual property rights, in and to the Customer Data not expressly granted to or reserved by Provider under this Agreement. Provider reserves the right to store, host, copy, display, use, modify, distribute, disclose, prepare derivative works and collective works of, and otherwise exploit all Machine Learning for any purpose and in any manner that does not associate the Machine Learning with Customer. Provider is the sole owner of all Machine Learning, but Provider will use reasonable efforts not to disclose to a third party any Machine Learning in a manner that could reasonably be expected to associate the Machine Learning with Customer.

3. PLATFORM

3.1 **Access To Platform and Use of Reports.** Subject to the terms of this Agreement, Provider grants to Customer a limited, worldwide, non-exclusive, non-transferable, non-sublicensable right during the applicable Subscription Term for Authorized Users to access and use the Platform and the Reports solely for Customer's and, if Customer does not own the applicable Project, the applicable Project Owner's internal use and the other uses, if any, specified in the applicable Order Form. The preceding rights to access and use the Platform and Reports are subject to the applicable Scope Limitations and contingent upon Customer's compliance with the applicable Scope Limitations.

3.2 **Use of the Documentation** Subject to the terms and conditions of this Agreement, Provider grants to Customer a limited, worldwide, non-exclusive, non-transferable, non-sublicensable license during the term of this Agreement to reproduce, without modification, and internally use a reasonable number of copies of the Documentation solely in connection with Customer's permitted access and use of the Platform under this Agreement.

3.3 **Use Restrictions.** Except as otherwise explicitly provided in this Agreement, Customer will not, and will not permit or authorize third parties to: (a) modify or reverse engineer any portion of the Technology; (b) rent, lease, loan, or otherwise permit third parties to access or use any portion of the Technology; (c) use any portion of the Technology to provide services to third parties; (d) circumvent or disable any security or other technological features or measures of any portion of the Technology; nor (e) use any portion of the Technology in any manner that adversely affects Provider or any of its customers, agents, or their data or security. Provider reserves the right to suspend Customer's access or use of the Platform at any time if Provider reasonably believes that Customer has failed to comply with this Agreement or is using the Technology in a manner that violates this Agreement, applicable law or could otherwise damage Provider's customers, business, or reputation.

3.4 **Protection against Unauthorized Use.** Customer is responsible for all activity associated with its Platform accounts. Customer will use its best efforts to prevent any unauthorized use of the Technology and immediately notify Provider in writing of any unauthorized use that comes to Customer's attention. If there is unauthorized use by anyone who obtained access to the Technology directly or indirectly through Customer, Customer will take all steps reasonably necessary to terminate the unauthorized use. Customer will cooperate and assist with any actions taken by Provider to prevent or terminate unauthorized use of any Technology.

3.5 **Compliance with Laws.** Customer's use of the Technology, and any result obtained from Customer's use of the Technology, must be in compliance with all applicable laws and regulations, and Customer will refrain from any unethical conduct or any other conduct that tends to damage the reputation of Provider.

3.6 **No Warranties.** Customer will not make or publish any representations, warranties, guarantees, or commitments on behalf of Provider concerning any matter.

3.7 **Project Owners.** With respect to a Project, if Customer is not the owner of that Project (e.g., is the owner's general contractor), Customer may authorize the employees, contractors, and agents of the Owner as Authorized Users with respect to that Project. In that instance, as with Authorized Users that are Customer's employees, contractors or agents, the actions and omissions of the Project Owner's employees, contractors, or agents will be attributable to Customer.

3.8 **End User License Agreement.** The parties agree that Authorized Users' use of the Platform will at all times be subject to Provider's End User License Agreement, available at www.disperse.io/terms-of-use, as updated by Provider from time to time.

3.9 **Reservation of Rights.** Provider grants to Customer a limited right to use the Technology under this Agreement. Customer will not have any rights to the Technology except as expressly granted in this Agreement. Provider reserves to itself all rights to the Technology not expressly granted to Customer in accordance with this Agreement.

3.10 **Equipment.** Equipment provided under this Agreement, if any, is made available on a loan-to-use basis and is not sold or otherwise transferred to Customer. While Equipment is in Customer's possession, Client will use its best efforts to maintain the Equipment in good working order and will be solely responsible for any loss or damage to the Equipment, normal wear and tear excepted. Customer assumes all risk of loss, damage, theft, or destruction of the Equipment while in Customer or its agents (including any Project Owner's or carrier's) possession or control. If any Equipment is lost, damaged, stolen, or destroyed, Customer will pay Provider, at Provider's option, the repair cost or, if the repair cost exceeds 40% of the replacement cost, the then-current replacement cost for that Equipment. To avoid doubt, Provider may invoice Customer for those repair or replacement costs, and Customer will pay those invoiced amounts in accordance with the terms this Agreement. Customer will, at all times, keep the Equipment in the sole possession and control of Customer. The Equipment must not be moved from the locations of the Project in connection with which Provider provided the Equipment without Provider's prior, written consent (not to be unreasonably delayed, conditioned, or withheld).]

3.11 **Suggestions.** All feedback, suggestions, improvements, corrections, and other contributions provided by Customer regarding the Technology ("**Suggestions**") will be owned by Provider, and Customer hereby assigns to Provider all Suggestions and any intellectual property or other proprietary rights in the Suggestions. Provider may use, in any manner and for any purpose, the Suggestions and any know-how, techniques, or procedures acquired or used by Provider in the performance of the Services under this Agreement without providing any consideration to Customer.

3.12 **Ownership.** Customer will not have any rights to the Technology except as expressly granted or reserved in this Agreement. Provider owns all rights, titles and interests, including all intellectual property rights, in and to the Technology. Customer acknowledges and agrees that all rights, title and interest in and to any intellectual property rights arising from or developed in the course of providing or as a result of the Services such as the ("**Service IP**") vests automatically in Provider. Customer hereby irrevocably assigns to Provider, by way of present assignment of future rights, all rights, title and interest in and to any and all present and future Service IP. To the extent such assignment is not effective for whatever reason, Customer shall hold such Service IP on trust for, and assign it (for no additional charge) on request to Provider. Customer shall, at no additional charge, take such actions, and shall provide Provider with such assistance as Provider shall reasonably request, to protect, and perfect Provider's rights, title and interest in and to the Service IP.

4. SERVICES

4.1 **Performance and Changes.** Subject to the terms and conditions of this Agreement, Provider will perform the Services in accordance with the applicable Order Form. Customer may, upon written notice, request an increase in the scope of Services under the applicable Order Form. If Customer requests an increase in the scope, Customer will notify Provider, and, not more than 15

business days (or other mutually agreed upon period) after receiving the request, Provider will notify Customer whether or not the change has an associated cost impact. If Customer approves, Provider will issue a modified Order Form ("**Change Order Form**"), which will be executed by Provider. To the extent the Services involve the presence of Provider personnel on Customer's or a Project Owner's premises (e.g., on site at a project), Provider will ensure that those personnel abide by the workplace safety and similar policies instructed by Customer (e.g., Project Owner's workplace safety policy).

4.2 **Project Management.** Each Order Form will designate a project leader as a single point of contact within each party's organization to manage the Parties relationship with respect to each Project covered by that Order Form ("**Project Leader**"). The Project Leaders will meet as necessary to manage the provision via the Platform and the Services in connection with that Project. Disputes will be escalated to more senior executives if the Project Leaders are unable to resolve a problem.

4.3 **Customer's Responsibilities and Permissions.** Customer will provide all reasonable assistance, cooperation, information, and personnel reasonably necessary to enable Provider to perform the Services. Customer acknowledges that Provider's ability to provide the Services may be affected if Customer does not provide this reasonable assistance.

4.4 **Support Services.** For so long as Customer is current with its payment of all fees under this Agreement, the Customer Support Lead identified in the applicable Order Form will be entitled to receive Provider's standard email support via support@disperse.io during Provider's regular business hours. Customer is solely responsible for providing support to Authorized Users during the Subscription Term.

4.5 **Error Reporting.** Customer will document and promptly report all detected errors in the Technology to Provider with enough detail to permit Provider to reproduce the error. Customer will assist Provider with recreating and diagnosing each error. Customer will provide Provider with reasonable access to all necessary personnel to answer questions regarding errors and other problems reported by Customer.

4.6 **Error Corrections.** Provider will use reasonable efforts to correct performance errors affecting Customer's use of the Technology with a level of effort commensurate with the severity of the error.

4.7 **Exclusions.** Unless otherwise expressly agreed to by Provider in an Order Form, the Support Services do not include: (a) visits to Customer's site; (b) any work with or relating to any third-party equipment or software; or (c) consultation with any Customer personnel except the Customer Support Lead.

5. FEES AND PAYMENT

5.1 Fees and Payment Terms

(a) Customer will pay Provider the fees and any other amounts owed under this Agreement, plus any applicable sales or other taxes, as specified in each Order Form and in accordance with the schedule set forth in each Order Form. All amounts payable under this Agreement are non-refundable. Unless otherwise specified in the Order Form, Customer will pay all amounts due within 30 days of the date of the applicable invoice.

(b) Any amount not paid when due will be subject to finance charges equal to 1.5% of the unpaid balance per month or the highest rate permitted by applicable usury law, whichever is less, determined and compounded daily from the date due until the date paid. Customer will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by Provider to collect any amount that is not paid when due.

5.2 **Taxes.** Other than federal and state net income taxes imposed on Provider by the United States, Customer will bear all taxes, withholding taxes, and other governmental charges resulting from this Agreement.

6. TERM AND TERMINATION

6.1 **Term of Agreement.** The term of this Agreement will begin on the first Order Form Effective Date and continue until there are no active Order Forms or the Agreement is terminated in accordance with its terms. Termination of the Agreement will automatically terminate all active Order Forms.

6.2 **Term of Order Forms.** The term of each Order Form will begin on the date set forth in the applicable the Order Form (if no explicit date is stated, then the date the Order Form is fully executed) ("**Order Form Effective Date**"), and continue until the later of the end of the Subscription Term set forth in the Order Form, if any, and completion of the specified Services.

6.3 **Termination for Cause.** If either party materially breaches any of its duties or obligations under this Agreement and such breach is not cured, or the breaching party is not diligently pursuing a cure to the non-breaching party's sole satisfaction, within 30 calendar days after written notice of the breach, then the non-breaching party may terminate this Agreement in its entirety or the relevant Order Form, or both, for cause as of a date specified in the notice.

6.4 **Post-Termination Obligations.** If this Agreement or an Order Form is terminated for any reason: (a) Customer will pay to Provider any fees or other amounts that have accrued prior to the date of termination; (b) any and all liabilities accrued prior to the effective date of the termination will survive; (c) Customer shall immediately cease all use of the Technology; and (d) Sections 1, 2.4, 3.9, 3.12, 5, 6.1, 7.3, 9, 10, 11, and 12 will survive termination.

7. WARRANTIES AND DISCLAIMER

7.1 **Mutual Warranties.** Each party represents and warrants to the other that: (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms; (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Agreement; (c) the execution, delivery, and performance of this Agreement does not violate the laws of any jurisdiction or the terms or conditions of any other agreement to which it is a party or by which it is otherwise bound; and (d) it will comply with all applicable laws in connection with this Agreement including, for Customer, all applicable employment laws.

7.2 **Customer Warranties.** Customer represents and warrants that: (a) it has the right to provide the Customer Data to Provider under this Agreement; (b) the exercise by Provider of the rights granted under this Agreement to Customer Data as provided by Customer and Provider's retention of rights to the Machine Learning as set forth in Section 2.4 do not, and will not, infringe any intellectual property rights, privacy rights, or other rights of any third party or give rise to any obligation for the payment of any sums to any third party by Provider or any of its affiliates; (c) the Customer Data will comply with all reasonable requirements communicated in writing to Customer by Provider; and (d) the Customer Data will not, when used by Provider in accordance with this Agreement, subject Provider to any liability or cause Provider to violate any contract or applicable laws.

7.3 **Disclaimer.** EXCEPT FOR THE EXPRESS REPRESENTATIONS AND WARRANTIES STATED IN THIS SECTION 7, PROVIDER MAKES NO ADDITIONAL REPRESENTATION OR WARRANTY OF ANY KIND WHETHER EXPRESS, IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW), OR STATUTORY, AS TO ANY MATTER WHATSOEVER. PROVIDER EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, ACCURACY, TITLE, AND NON-INFRINGEMENT. PROVIDER EXERCISES NO CONTROL OVER AND EXPRESSLY DISCLAIMS ANY LIABILITY ARISING OUT OF OR BASED UPON THE CUSTOMER'S USE OF THE TECHNOLOGY OR MACHINE LEARNING.

8. INFRINGEMENT INDEMNIFICATION

8.1 **Defense of Infringement Claims.** Provider will, at its expense, either defend Customer from or settle any claim, proceeding, or suit ("**Claim**") brought by a third party against Customer alleging that Customer's use of the Platform infringes or misappropriates any United States patent, copyright, or trade secret during the applicable Service Term if: (a) Customer gives Provider prompt

written notice of the Claim; (b) Customer grants Provider full and complete control over the defense and settlement of the Claim; (c) Customer provides assistance in connection with the defense and settlement of the Claim as Provider may reasonably request; and (d) Customer complies with any settlement or court order made in connection with the Claim (e.g., relating to the future use of the Platform). Customer will not defend or settle any Claim relating to the Technology without Provider's prior written consent. Customer will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing, but Provider will have sole control over the defense and settlement of the Claim.

8.2 Indemnification of Infringement Claims. Provider will indemnify Customer from and pay (a) all damages, costs, and attorneys' fees finally awarded against Customer in any Claim under Section 8.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by Customer in connection with the defense of a Claim under Section 8.1 (other than attorneys' fees and costs incurred without Provider's consent after Provider has accepted defense of the Claim); and (c) all amounts that Provider agrees to pay to any third party to settle any Claim under Section 8.1.

8.3 Exclusions from Obligations. Provider will have no obligation under this Section 8 for any infringement or misappropriation to the extent that it arises out of or is based upon (a) use of the Platform in combination with Customer Data or any other products, services, or materials if such infringement or misappropriation would not have arisen but for such combination; (b) the Platform to the extent it is provided to comply with designs, requirements, or specifications required by or provided by Customer, if the alleged infringement or misappropriation would not have arisen but for the compliance with such designs, requirements, or specifications; (c) use of the Platform by Customer for purposes not intended or outside the scope of the limited right to use the Platform granted to Customer; (d) Customer's failure to use the Platform in accordance with instructions provided by Provider, if the infringement or misappropriation would not have occurred but for such failure; or (e) any modification of the Platform not made or authorized in writing by Provider where such infringement or misappropriation would not have occurred absent such modification.

8.4 Conditions to Infringement Indemnity. Provider's infringement obligations under this Section 8 are conditioned on Customer's agreement that if the Platform becomes, or in Provider's opinion is likely to become, the subject of a Claim covered by this Section 8, Provider, at Provider's option and expense, may either procure the right for Customer to continue using the Platform or replace or modify the same with a non-infringing functional equivalent. If the foregoing alternatives are not available to Provider on terms that, in its judgment, are reasonable, Provider will have the right to require Customer to cease using the Platform, in which case Provider will refund to Customer that portion of the fees paid for periods of time which had yet to occur.

8.5 Limited Remedy. This Section 8 states Provider's sole and exclusive liability, and Customer's sole and exclusive remedy, for the actual or alleged infringement or misappropriation of any third-party intellectual property right by the Platform or any other materials or information provided under this Agreement.

9. CUSTOMER INDEMNIFICATION

9.1 Defense. Customer will defend Provider from any actual or threatened Claim arising out of or based upon the Customer Data or Customer's use of the Technology, Machine Learning, or Customer's breach of any of the provisions of this Agreement, excluding any claims for which Provider is responsible under Section 8. Provider will: (a) give Customer prompt written notice of the claim; (b) grant Customer full and complete control over the defense and settlement of the claim; (c) assist Customer with the defense and settlement of the claim as Customer may reasonably request and at Customer's expense; and (d) comply with any settlement or court order made in connection with the claim.

9.2 Indemnification. Customer will indemnify Provider against: (a) all damages, costs, and attorneys' fees finally awarded against Provider in any Claim

under Section 9.1; (b) all out-of-pocket costs (including reasonable attorneys' fees) reasonably incurred by Provider in connection with the defense of such Claim (other than attorneys' fees and costs incurred without Customer's consent after Customer has accepted defense of such Claim); and (c) all amounts that Customer agrees to pay to any third party to settle any Claim under Section 9.1. This Section 9.2 will apply regardless of any insurance coverage held by Provider or any affiliate.

10. LIMITATIONS OF LIABILITY

10.1 Disclaimer of Indirect Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY CONTAINED IN THIS AGREEMENT, PROVIDER WILL NOT, UNDER ANY CIRCUMSTANCES, BE LIABLE TO CUSTOMER FOR CONSEQUENTIAL, INCIDENTAL, SPECIAL, OR EXEMPLARY DAMAGES ARISING OUT OF OR RELATED TO THE TRANSACTION CONTEMPLATED UNDER THIS AGREEMENT, INCLUDING BUT NOT LIMITED TO LOST PROFITS OR LOSS OF BUSINESS, EVEN IF PROVIDER IS APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING.

10.2 Cap on Liability. UNDER NO CIRCUMSTANCES WILL PROVIDER'S TOTAL LIABILITY OF ALL KINDS ARISING OUT OF OR RELATED TO THIS AGREEMENT (INCLUDING BUT NOT LIMITED TO WARRANTY CLAIMS), REGARDLESS OF THE FORUM AND REGARDLESS OF WHETHER ANY ACTION OR CLAIM IS BASED ON CONTRACT, TORT, OR OTHERWISE, EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO PROVIDER UNDER THIS AGREEMENT IN THE 12 MONTHS IMMEDIATELY PRECEDING THE EVENTS GIVING RISE TO THE CLAIM (DETERMINED AS OF THE DATE OF ANY FINAL JUDGMENT IN AN ACTION).

10.3 Independent Allocations of Risk. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY PROVIDER TO CUSTOMER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT. THE LIMITATIONS IN THIS SECTION 10 WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY IN THIS AGREEMENT.

11. CONFIDENTIALITY

11.1 Definition. "**Confidential Information**" means any trade secrets or other information of a party, whether of a technical, business, or other nature (including information relating to a party's technology, software, products, services, designs, methodologies, customers, prospects, and other affairs), that is disclosed to a party during the term of this Agreement and that such party knows or has reason to know is confidential, proprietary, or trade secret information of the disclosing party. Confidential Information does not include any information that: (a) was known to the receiving party prior to receiving the same from the disclosing party in connection with this Agreement; (b) is independently developed by the receiving party without use of or reference to the Confidential Information of the disclosing party; (c) is acquired by the receiving party from another source without restriction as to use or disclosure; or (d) is or becomes part of the public domain through no fault or action of the receiving party.

11.2 Restricted Use and Nondisclosure. During and after the term of this Agreement, each party will: (a) use the other party's Confidential Information solely for the purpose for which it is provided; (b) not disclose the other party's Confidential Information to a third party unless the third party must access the Confidential Information to perform in accordance with this Agreement and the third party has executed a written agreement that contains terms that are substantially similar to the terms contained in this Section 11; and (c) maintain the secrecy of, and protect from unauthorized use and disclosure, the other party's Confidential Information to the same extent (but using no less than a reasonable degree of care) that it protects its own Confidential Information of a similar nature.

11.3 Required Disclosure. If either party is required by law to disclose the Confidential Information or the terms of this Agreement, the disclosing party

must give prompt written notice of such requirement before such disclosure (to the extent permitted by applicable law) and assist the non-disclosing party in obtaining an order protecting the Confidential Information from public disclosure.

11.4 Return of Materials. Upon the termination or expiration of this Agreement, or upon earlier request, each party will deliver to the other all Confidential Information that it may have in its possession or control. Notwithstanding the foregoing, neither party will be required to return materials that it must retain in order to receive the benefits of this Agreement or properly perform in accordance with this Agreement.

12. GENERAL

12.1 Relationship. Provider is an independent contractor (and not an agent or representative of Customer) in the performance of this Agreement. This Agreement will not be interpreted or construed as: (a) creating or evidencing any association, joint venture, partnership, or franchise between the parties; (b) imposing any partnership or franchise obligation or liability on either party; or (c) prohibiting or restricting Provider's performance of any services for any third party or the provision of products to any third party. Except as expressly set forth in an Order Form, this Agreement is nonexclusive and Provider may provide the Technology to, and perform the Services for, any third party, even if considered a competitor of Customer.

12.2 Assignability. Customer may not assign its rights, duties, or obligations under this Agreement without Provider's prior written consent. If consent is given, this Agreement will bind Customer's successors and assigns. Any attempt by Customer to transfer its rights, duties, or obligations under this Agreement except as expressly provided in this Agreement is void. Provider may assign this Agreement without Customer's consent.

12.3 Subcontractors. Provider may utilize one or more subcontractors or other third parties to perform its duties under this Agreement as long as Provider remains responsible for all of its obligations under this Agreement.

12.4 Reference. Subject to Section 11 regarding confidentiality, Customer will: (a) make one or more representatives reasonably available for reference inquiries from potential Provider customers, partners, and investors; (b) permit Provider to create and publish a case study describing in general terms the nature of Customer's use of the Platform; and (c) permit Provider to issue and publish a press release containing a quotation from a representative of Customer announcing that Customer has subscribed to use the Platform and the general context of the intended use. In addition, Customer hereby consents to Provider's display of Customer's logo on Provider's web site where Provider displays the names and logos of its customers.

12.5 Notices. Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by certified or registered mail, or insured courier, return receipt requested, to the appropriate party at the address set forth on the signature page of this Agreement and with the appropriate postage affixed. Either party may change its address for receipt of notice by notice to the other party in accordance with this Section. Notices are deemed given two business days following the date of mailing or one business day following delivery to a courier.

12.6 Force Majeure. Provider will not be liable for or be considered to be in breach of or default under this Agreement on account of, any delay or failure to perform as required by this Agreement as a result of any cause or condition beyond Provider's reasonable control, so long as Provider uses all commercially reasonable efforts to avoid or remove such causes of non-performance.

12.7 Governing Law. This Agreement will be interpreted, construed, and enforced in all respects in accordance with the local laws of the State of New York. Except as specified in Section 12.8, each party hereby irrevocably consents to the exclusive jurisdiction and venue of the federal, state, and local courts in the Southern District of New York in connection with any action arising out of or in connection with this Agreement.

12.8 Arbitration. Except for the right of either party to apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm, any dispute as to the interpretation, enforcement, breach, or termination of this Agreement will be settled by binding arbitration in the Southern District of New York under the Rules of the American Arbitration Association by one arbitrator appointed in accordance with such rules, provided that the arbitrator must have significant relevant industry experience and be mutually acceptable to the parties. All other disputes (excluding the right of either party to apply to a court of competent jurisdiction for a temporary restraining order, a preliminary injunction, or other equitable relief to preserve the status quo or prevent irreparable harm) will be resolved by a court specified in Section 12.7. Judgment upon the award rendered by the arbitrators may be entered in any court of competent jurisdiction. The prevailing party will be entitled to receive from the other party its attorneys' fees and costs incurred in connection with any arbitration or litigation instituted in connection with this Agreement.

12.9 Waiver. The waiver by either party of any breach of any provision of this Agreement does not waive any other breach. The failure of any party to insist on strict performance of any covenant or obligation in accordance with this Agreement will not be a waiver of such party's right to demand strict compliance in the future, nor will the same be construed as a novation of this Agreement.

12.10 Severability. If any part of this Agreement is found to be illegal, unenforceable, or invalid, the remaining portions of this Agreement will remain in full force and effect. If any material limitation or restriction on the use of the Technology under this Agreement is found to be illegal, unenforceable, or invalid, Customer's right to use the Technology will immediately terminate.

12.11 Commencing Legal Action. Customer's action for breach of this Agreement or any other action otherwise arising out of this Agreement must be commenced within one year from the date the right, claim, demand, or cause of action first occurred.

12.12 Interpretation. The parties have had an equal opportunity to participate in the drafting of this Agreement and the attached exhibits, if any. No ambiguity will be construed against any party based upon a claim that that party drafted the ambiguous language. The headings appearing at the beginning of several sections contained in this Agreement have been inserted for identification and reference purposes only and must not be used to construe or interpret this Agreement. Whenever required by context, a singular number will include the plural, the plural number will include the singular, and the gender of any pronoun will include all genders.

12.13 Counterparts. This Agreement may be executed in any number of identical counterparts with the same effect as if the parties had signed the same document.

12.14 Entire Agreement. This Agreement and all Order Forms, is the final and complete expression of the agreement between these parties regarding the Technology. This Agreement supersedes, and the terms of this Agreement govern, all previous oral and written communications regarding these matters, all of which are merged into this Agreement, except that this Agreement does not supersede any prior nondisclosure or comparable agreement between the parties executed prior to this Agreement being executed. No employee, agent, or other representative of Provider has any authority to bind Provider with respect to any statement, representation, warranty, or other expression unless the same is specifically set forth in this Agreement. No usage of trade or other regular practice or method of dealing between the parties will be used to modify, interpret, supplement, or alter the terms of this Agreement. Provider may change the terms of this Agreement on 14 days' notice to Customer. Customer may object to the change in writing within the 14-day notice period. If Customer does object, then both parties will work to reach a mutually agreed solution. Provider will not be bound by, and specifically objects to, any term, condition or other provision that is different from or in addition to this Agreement (whether or not it would materially alter this Agreement) that is proffered by Customer in any receipt, acceptance, confirmation, correspondence, or otherwise, unless



Provider specifically agrees to such provision in writing and signed by an authorized agent of Provider.

Attachment 1

1. CUSTOMER PERSONAL DATA
 - 1.1. Duration of the processing: The duration of the performance of the Services.
 - 1.2. Purpose of the processing: To enable Provider to comply with its obligations pursuant to this Agreement.
 - 1.3. Nature of the processing: Provider will be processing certain Customer Personal Data in order to:
 - (a) validate that the Customer has a current valid license to use the Software and Platform and that the Software and Platform are not already in use, which may include processing of login credentials and contact details of users;
 - (b) to provide the Customer with details in respect of users' use of the Software and Platform; and
 - (c) store and make available the same to the Customer.
 - 1.4. Type of Customer Personal Data: The personal data provided by the Customer in connection with the access to and use of the Software and Platform, the personal data collected by Provider in respect of Customer's access to and use of the Software and Platform, and the personal data otherwise processed by Provider on Customer's behalf under this Agreement, including users' names, [department, location (country and state/region), role, e-mail addresses, phone numbers, and account username and password].
 - 1.5. Categories of data subjects: The data subjects will include: (i) the Customer's employees and other staff; and (ii) Authorized Users.