QC WARE TERMS OF SERVICE

This QC Ware Terms of Service (this "**Terms of Service**") is entered into between QC Ware Corp., a Delaware Corporation ("**Licensor**") and the subscriber to Licensor's Product ("**Buyer**").

1. Scope.

1.1 Terms and Conditions. This Terms of Service sets forth the terms and conditions applicable to the licensing of the Product from Licensor by the Buyer, made available as SaaS Service from Licensor's Computing Environment. The offer of the Product pursuant to this Terms of Service, and Buyer's acceptance of the corresponding Subscription, constitutes each Party's respective acceptance of this Terms of Service and their entry into this Agreement (defined below). Unless defined elsewhere in this Terms of Service, terms in initial capital letters have the meanings set forth in Section 13. Buyer and Licensor may be referred to collectively as the "**Parties**" or individually as a "**Party**".

1.2 Product Subscription. Licensor will fulfill the Subscription to Buyer. A Subscription, as described in the applicable Product Listing and the corresponding purchase transaction, is for Product deployed via SaaS Service through Licensor's Computing Environment. Fees and term are set forth in or referenced by the Product Listing. Additional information concerning the Product and included services that is included or referenced in the Product Listing is a part of the Product Listing; such information may include but is not limited to: intended geographic use of the Product, any technical requirements for use of the Product, Support Services (which may vary by geography), information regarding Open Source Software and description of Licensor's security practices.

1.3 Agreement. Each Subscription is subject to and governed by this Terms of Service, the applicable Product Listing (excluding any standard contract referenced by the Product Listing), the Privacy and Security Terms for SaaS Service Subscriptions, and any amendments to any of the foregoing as may be agreed upon by the Parties, which together constitute the agreement between Buyer and Licensor (the "**Agreement**"). Each Subscription is a separate agreement between Buyer and Licensor. In the event of any conflict between the terms and conditions of the various components of this Agreement, the following order of precedence will apply: (a) any amendment agreed upon by the parties; (b) the Privacy and Security Terms for SaaS Service Subscriptions; (c) this Terms of Service; and (d) the Product Listing, provided that, Product Listing terms may take precedence over this Terms of Service if the Product Listing expressly identifies the section of this Terms of Service that shall be modified by such terms.

2. Licenses.

2.1 Licensed Materials.

2.1.1 Subject to payment of all applicable fees, Licensor hereby grants to Buyer during the term of the Subscription, subject to Section 2.1.2, a nonexclusive, worldwide (subject to Section 12.4), and nontransferable (except in connection with an assignment permitted under Section 12.2) license under all Proprietary Rights in and to the Product, or the applicable Product component, to access and use the Product via the SaaS Service and to allow its Users to access and use the Product, or the applicable Product component, and SaaS Service, in accordance with the Product Listing.

2.1.2 Subject to the restrictions in this Agreement, including, without limitation, Section 2.3, Buyer may only use the Product in support of the internal operations of Buyer's and its Affiliates' business(es) or organization(s), in connection with Buyer's and its Affiliates' products and services (but, for clarity, not as a stand-alone product or service of Buyer or its Affiliates), and/or in connection with Buyer's and its Affiliate's interactions with Users.

2.1.3 Licensor hereby grants to Buyer during the term of the Subscription a nonexclusive, worldwide (subject to Section 12.4), and nontransferable (except in connection with an assignment permitted under Section 12.2) license to use the Documentation in connection with the Subscription. Buyer may make a

reasonable number of copies of the Documentation as necessary to use such Product in accordance with the rights granted under this Agreement, provided that Buyer includes all proprietary legends and other notices on all copies. Licensor retains all rights not expressly granted to Buyer under this Agreement.

2.1.4 Notwithstanding anything to the contrary in the foregoing, Buyer may not use the Product in the Prohibited Field of Use and any license set forth in these Terms of Service excludes any right to use the Product in the Prohibited Field of Use.

2.2 Affiliates and Contractors. With respect to Affiliates and Contractors that Buyer allows to use the Licensed Materials: (a) Buyer remains responsible for all obligations hereunder arising in connection with such Affiliate's or Contractor's use of the Licensed Materials; and (b) Buyer agrees to be directly liable for any act or omission by such Affiliate or Contractor to the same degree as if the act or omission were performed by Buyer such that a breach by an Affiliate or a Contractor of the provisions of this Agreement will be deemed to be a breach by Buyer. The performance of any act or omission under this Agreement by an Affiliate or a Contractor for, by or through Buyer will be deemed the act or omission of Buyer.

2.3 Restrictions. Except as specifically provided in this Agreement, Buyer and any other User of any Licensed Materials, in whole or in part, may not: (a) copy the Licensed Materials, in whole or in part; (b) distribute copies of Licensed Materials, in whole or in part, to any third party; (c) modify, adapt, translate, make alterations to or make derivative works based on Licensed Materials or any part thereof; (d) except as permitted by Law, decompile, reverse engineer, disassemble or otherwise attempt to derive source code, algorithms or the underlying structure of the Product; (e) rent, loan, sub-license, lease, distribute or attempt to grant other rights to any part of the Licensed Materials to third parties; (f) use the Licensed Materials to act as a consultant, service bureau or application service provider; (g) permit access of any kind to the Licensed Materials to any third party; (h) use the Licensed Materials to develop or aid in the development of a product that directly and/or indirectly competes with the Product; (i) use the Licensed Material for commercial purposes of providing benchmarks or any other information regarding the performance of the Licensed Materials to third parties unless agreed to in writing by the CEO, CFO or COO of Licensor in advance (Buyer may use the Licensed Material for non-commercial publication of benchmarks or other information regarding the performance of the Licensed Materials, provided that, upon Licensor's written request, Buyer shall provide to Licensor all information needed to recreate such performance data); (j) violate any restriction set forth in the applicable Order Form or (k) use the Licensed Materials and/or any data generated by the Licensed Materials to train models that are sold, licensed and/or distributed to any third parties. Notwithstanding anything to the contrary in this Agreement, if Buyer violates subsection 2.3(k), Licensor may immediately terminate this Agreement and Buyer shall be obligated to immediately delete and destroy all copies of models trained in violation of such subsection.

2.4 Open Source Software. Subject to the requirements of Section 5.1(b), Product may contain or be provided with Open Source Software. If Buyer's use of the Product subjects Buyer to the terms of any license governing the use of Open Source Software, then information identifying such Open Source Software and the applicable license shall be incorporated or referenced in the Product Listing or Documentation. The terms of this Agreement apply to Open Source Software (i) to the extent not prohibited by the license to which the Open Source Software is subject, including without limitation, warranties and indemnification, (ii) and except to the extent required by the license to which the Open Source Software is subject, in which case the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open Source Software, including without limitation, any provisions governing attribution, access to source code, modification and reverse-engineering.

2.5 No Additional Terms. No shrink-wrap, click-acceptance or other terms and conditions outside this Agreement provided with any Licensed Materials or any part thereof ("**Additional Terms**") will be binding on Buyer or its Users, even if use of the Licensed Materials, or any part thereof, requires an affirmative acceptance of such Additional Terms before access to or use of the Licensed Materials, or any part thereof, is permitted. All such Additional Terms will be of no force or effect and will be deemed rejected by Buyer in their entirety. For clarity, the Product Listing and/or Documentation are not Additional Terms subject to this Section. No purchase order terms or other terms and conditions outside this Agreement provided by Buyer will be binding on Licensor.

2.6 High-Risk Activities. The Product is not designed or developed for use in high-risk, hazardous environments requiring fail-safe performance, including without limitation in the operation of nuclear facilities, aircraft navigation or control systems, air traffic control, or weapons systems, or any other application in which the failure of the Product could lead to severe physical or environmental damages ("**High Risk Activities**"). Buyer will not use the Product for High Risk Activities.

3. Services.

3.1 SaaS Service. Licensor will provide the Product to Buyer as a SaaS Service in accordance with the Product Listing promptly following purchase of the Subscription and continuing until termination of the Subscription. Licensor will provide Buyer all license keys, access credentials and passwords necessary for access and use of the Product via the SaaS Service ("**Keys**") as set forth in the Product Listing.

3.2 Support Services. Licensor will make available to Buyer Documentation concerning the use and operation of the Product, and Licensor will provide Support Services to Buyer to the extent described, incorporated or referenced in the Product Listing.

4. Proprietary Rights.

4.1 Licensed Materials. Subject to the licenses granted herein, Licensor will retain all right, title and interest it may have in and to the Licensed Materials, including all Proprietary Rights therein. Nothing in this Agreement will be construed or interpreted as granting to Buyer any rights of ownership or any other proprietary rights in or to the Licensed Materials or any Proprietary Rights therein.

4.2 Feedback. If Buyer provides any suggestions, ideas, enhancement requests, recommendations or feedback in connection with this Agreement, including regarding the Licensed Materials ("**Feedback**"), Buyer agrees that Licensor may use and incorporate such Feedback in Licensor's products and services without limitation and without any compensation to Buyer. Buyer further agrees that Licensor shall fully own any improvements made to the Licensed Materials that in any way are based on and/or incorporate Buyer's Feedback. All Feedback is provided by Buyer "as is" and without warranty of any kind.

5. Warranties.

5.1 Licensed Materials. Licensor represents and warrants that: (a) Licensor will use industry standard practices designed to detect and protect the Product against any viruses, Trojan horses, worms, spyware, adware or other harmful code designed or used for unauthorized access to or use, disclosure, modification or destruction of information within the Product or interference with or harm to the operation of the Product or any systems, networks or data, including, as applicable, periodically scanning the Product for malware and other security vulnerabilities and with up to date scanning software or service prior to making the Product available to Buyer; and (b) the Product, and Buyer's use thereof as permitted under this Agreement, will not be subject to any license or other terms that require that any Buyer Data, Buyer Materials or any software, documentation, information or other materials integrated, networked or used by Buyer with the Product, in whole or in part, be disclosed or distributed in source code form, be licensed for the purpose of making derivative works, or be redistributable at no charge.

5.2 Services. Licensor represents and warrants that any Support Services will be performed in a professional manner with a level of care, skill and diligence performed by experienced and knowledgeable professionals in the performance of similar services and in accordance with the Product Listing and Documentation.

5.3 Remedies. If any Product or Service fails to conform to the foregoing warranties, Licensor promptly will, at its option and expense, correct the Product and re-perform the Services as necessary to conform to the warranties. If Licensor does not correct the Product or re-perform the Services to conform to the warranties within a reasonable time, not to exceed 30 days (or such other period as may be agreed upon by the Parties) (the "**Cure Period**"), as Buyer's sole remedy and Licensor's exclusive liability (except as provided in Section 9), Buyer

may for a period of 30 days following the conclusion of the Cure Period (or such other period as may be agreed upon by the Parties), elect to terminate the Subscription and this Agreement without further liability and Licensor will provide Buyer with a refund of any fees prepaid to Licensor by Buyer, prorated for the portion of the Subscription unused at the time Buyer reported the breach of warranty to Licensor.

5.4 Warranty Exclusions. Licensor will have no liability or obligation with respect to any warranty to the extent attributable to any: (a) use of the Product by Buyer in violation of this Agreement or applicable Law; (b) modifications to the Licensed Materials not provided by Licensor or its Personnel; (c) use of the Product in combination with third-party equipment or software not provided or made accessible by Licensor or contemplated by the Product Listing or Documentation; or (d) use by Buyer of Product in conflict with the Documentation, to the extent that the breach of warranty would not have occurred absent such use or modification by Buyer.

5.5 Compliance with Laws. Each Party represents and warrants that it will comply with all applicable international, national, state and local laws, ordinances, rules, regulations and orders, as amended from time to time ("**Laws**") applicable to such Party in its performance under this Agreement.

5.6 Power and Authority. Each Party represents and warrants that: (a) it has full power and authority to enter in and perform this Agreement and that the execution and delivery of this Agreement has been duly authorized; and (b) this Agreement and such Party's performance hereunder will not breach any other agreement to which the Party is a party or is bound or violate any obligation owed by such Party to any third party.

5.7 Disclaimer. EXCEPT FOR THE WARRANTIES SPECIFIED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, REGARDING THE LICENSED MATERIALS, SERVICES, BUYER MATERIALS AND BUYER DATA, AND EACH PARTY HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NONINFRINGEMENT. LICENSOR DOES NOT WARRANT: (A) THAT THE LICENSED MATERIALS WILL MEET BUYER'S REQUIREMENTS; (B) THAT THE OPERATION OF THE PRODUCT AND SAAS SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; OR (C) THAT THE DATA OR RESULTS GENERATED BY THE PRODUCT WILL BE ACCURATE.

6. Confidentiality.

6.1 Confidential Information. "**Confidential Information**" means any nonpublic information directly or indirectly disclosed by either Party (the "**Disclosing Party**") to the other Party (the "**Receiving Party**") or accessible to the Receiving Party pursuant to this Agreement that is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, reasonably should be considered as confidential, including without limitation technical data, trade secrets, know-how, research, inventions, processes, designs, drawings, strategic roadmaps, product plans, product designs and architecture, security information, marketing plans, pricing and cost information, marketing and promotional activities, business plans, customer and supplier information, employee and User information, business and marketing plans, and business processes, and other technical, financial or business information, and any third party information that the Disclosing Party is required to maintain as confidential. Confidential Information will not, however, include any information which: (a) was publicly known or made generally available to the public prior to the time of disclosure; (b) becomes publicly known or made generally available after disclosure through no fault of the Receiving Party; (c) is in the possession of the Receiving Party, without restriction as to use or disclosure, at the time of disclosure by the Disclosing Party; (d) was lawfully received, without restriction as to use or disclosure, from a third party (who does not have an obligation of confidentiality or restriction on use itself); or (e) is developed by the Receiving Party independently from this Agreement and without use of or reference to the Disclosing Party's Confidential Information or Proprietary Rights. Except for rights expressly granted in this Agreement, each Party reserves all rights in and to its Confidential Information. The Parties agree that the Licensed Materials are Confidential Information of Licensor.

6.2 Obligations. The Parties will maintain as confidential and will avoid disclosure and

unauthorized use of Confidential Information of the other Party using reasonable precautions. Each Party will protect such Confidential Information with the same degree of care that a prudent person would exercise to protect its own confidential information of a like nature, and to prevent the unauthorized, negligent, or inadvertent use, disclosure, or publication thereof or access thereto. Each Party will restrict Confidential Information to individuals who need to know such Confidential Information and who are bound to confidentiality obligations at least as protective as the restrictions described in this Section 6. Except as necessary for the proper use of the Product, the exercise of a Party's rights under this Agreement, performance of a Party's obligations under this Agreement or as otherwise permitted under this Agreement, neither Party will use Confidential Information of the other Party for any purpose except in fulfilling its obligations or exercising its rights under this Agreement. Each Party will promptly notify the other Party if it becomes aware of any unauthorized use or disclosure of the other Party's Confidential Information, and reasonably cooperate with the other Party in attempts to limit disclosure.

6.3 Compelled Disclosure. If and to the extent required by law, including regulatory requirements, discovery request, subpoena, court order or governmental action, the Receiving Party may disclose or produce Confidential Information but will give reasonable prior notice (and where prior notice is not permitted by applicable Law, notice will be given as soon as the Receiving Party is legally permitted) to the Disclosing Party to permit the Disclosing Party to intervene and to request protective orders or confidential treatment therefor or other appropriate remedy regarding such disclosure. Disclosure of any Confidential Information pursuant to any legal requirement will not be deemed to render it non-confidential, and the Receiving Party's obligations with respect to Confidential Information of the Disclosing Party will not be changed or lessened by virtue of any such disclosure. Notwithstanding any provisions herein, if Buyer is a government agency or entity, Buyer will comply with all Laws applicable to it with respect to disclosure of public information.

7. Additional Obligations and Responsibilities.

7.1 Acceptable Use; Restrictions on Sensitive Information.

7.1.1 Buyer will not intentionally use the Product or SaaS Service to: (a) store, download or transmit infringing or illegal content, or any viruses, Trojan horses or other harmful code; (b) engage in phishing, spamming, denial-of-service attacks or fraudulent or illegal activity; (c) interfere with or disrupt the integrity or performance of the Product or data contained therein or on Licensor's system or network or circumvent the security features of the Product; or (d) perform penetration testing, vulnerability testing or other security testing on the Product or Licensor's systems or networks or otherwise attempt to gain unauthorized access to the Product or Licensor's systems or networks.

7.1.2 Buyer will not use the SaaS Services to store or process Highly Sensitive Information. "**Highly Sensitive Information**" means, for purposes of this Agreement: (1) special categories of data enumerated in applicable Data Protection Laws, including European Union Regulation 2016/679, Article 9(1) or any successor legislation; (2) patient, medical, or other protected health information regulated by the Health Insurance Portability and Accountability Act (as amended and supplemented) ("**HIPAA**"); (3) credit, debit, or other payment card data, including bank account numbers; (4) social security numbers, driver's license numbers, or other government identification numbers; (5) other information subject to additional protections or regulation under specific laws such as the Children's Online Privacy Protection Act or Gramm-Leach-Bliley Act (or related rules or regulations).

7.2 Buyer Data and Buyer Materials.

7.2.1 Buyer is and will continue to be the sole and exclusive owner of all Buyer Materials, Buyer Data and other Confidential Information of Buyer, including all Proprietary Rights therein. Nothing in this Agreement will be construed or interpreted as granting to Licensor any rights of ownership or any other proprietary rights in or to the Buyer Data and Buyer Materials.

7.2.2 Buyer will obtain all necessary consents, authorizations and rights and provide all necessary notices and disclosures in order to provide Buyer Data to Licensor and for Licensor to use Buyer Data in the performance of its obligations in accordance with the terms and conditions of this Agreement, including

any access or transmission to third parties with whom Buyer shares or permits access to Buyer Data.

7.2.3 The Parties agree that Buyer Data and Buyer Materials are Confidential Information of Buyer. Buyer hereby grants to Licensor a nonexclusive, nontransferable (except in connection with an assignment permitted under Section 12.2), revocable license, under all Proprietary Rights, to reproduce and use Buyer Materials and Buyer Data solely for the purpose of, and to the extent necessary for, performing Licensor's obligations under this Agreement. In no event will Licensor access, use or disclose to any third party any Buyer Data or any Buyer Materials for any purpose whatsoever other than as necessary for the purpose of providing the Product and Services to Buyer and performing its obligations under this Agreement. Licensor will not aggregate, anonymize or create any data derivatives of Buyer Data other than as necessary to provide the Product or Services and to perform its obligations in accordance with the terms and conditions of this Agreement.

7.2.4 Buyer will have full access to, and has the right to review and retain, the entirety of Buyer Data contained in the Product. At no time will any computer or electronic records containing Buyer Data be stored or held in a form or manner not readily accessible to Buyer through the ordinary operation of the Product. Licensor will provide to Buyer all passwords, codes, comments, keys and documentation necessary for such access and use of the Product, and Buyer will be entitled to delete, or have Licensor delete, Buyer Data as expressly specified by Buyer.

7.3 System Data. To the extent that System Data identifies or permits, alone or in conjunction with other data, identification, association, or correlation of or with Buyer, its Affiliates, Users, customers, suppliers or other persons interacting with any of the foregoing, or any Confidential Information of Buyer or any device as originating through or interacting with Buyer or its Affiliates ("**Identifiable System Data**"), Licensor may only collect and use Identifiable System Data internally to administer, provide and improve the Product and Services as a generally available service offering, to identify opportunities for Buyer to optimize its use of the Product, including the provision of additional training, and to identify to Buyer complementary uses of Licensor's other products and services. Licensor will not target any data analysis at, or otherwise use any Identifiable System Data to derive or attempt to derive information regarding, Buyer and its Affiliates, their businesses, operations, finances, users, customers, prospective customers, suppliers or other persons interacting with Buyer and its Affiliates. Licensor will not target any development efforts arising from its use of Identifiable System Data at any person on the basis of the intended recipient's relationship with Buyer or any of its Affiliates or the intended recipient being in same industry or market as Buyer or any of its Affiliates. Licensor will not use or disclose any Identifiable System Data for any other purpose unless otherwise agreed in writing by the Parties, and will, except for the use permitted in this Section, maintain the confidentiality and security of Identifiable System Data as Confidential Information.

7.4 Use of Other Data. Notwithstanding the foregoing, nothing in this Agreement will restrict: (a) Licensor's use of System Data or data derived from System Data that does not identify or permit, alone or in conjunction with other data, identification, association, or correlation of or with (i) Buyer, its Affiliates, Users, customers, suppliers or other persons interacting with Buyer and its Affiliates or any Confidential Information of Buyer, or (ii) any device (e.g., computer, mobile telephone, or browser) used to access or use the Product as originating through Buyer or its Affiliates or interacting with Buyer or its Affiliates; or (b) either Party's use of any data, records, files, content or other information related to any third party that is collected, received, stored or maintained by a Party independently from this Agreement.

7.5 Security; Breach Notification. Licensor will comply with the security practices (if any) incorporated or referenced in the Product Listing and Documentation for the Product, provided however that at all times Licensor will, consistent with industry standard practices, implement and maintain physical, administrative and technical safeguards and other security measures: (a) to maintain the security and confidentiality of Buyer Data; and (b) to maintain the availability and integrity of Buyer Data and to protect Buyer Data from known or reasonably anticipated threats or hazards to its security, including accidental loss, unauthorized use, access, alteration or disclosure. Licensor will inform Buyer promptly upon discovery of any material unauthorized access to, any unauthorized loss, use or disclosure of any Buyer Data (a "**Security Incident**"), provided that such notification is not prohibited by Law. Licensor will investigate the cause of the Security Incident and take reasonable steps to prevent further unauthorized access, loss, use or disclosure of Buyer Data. At Buyer's request and cost, Licensor will reasonably cooperate with Buyer in complying with its obligations under applicable law

pertaining to responding to a Security Incident. Licensor's obligation to report or respond to a Security Incident under this Section is not an acknowledgement by Licensor of any fault or liability with respect to the Security Incident.

7.6 Data Protection Legislation.

7.6.1 Each Party will comply with all Data Protection Laws, and any implementations of such Laws, applicable to its performance under this Agreement. The Parties acknowledge and agree that they will consider in good faith implementing any codes of practice and best practice guidance issued by relevant authorities as they apply to applicable country specific Data Protection Laws or their implementations.

7.6.2 Without limiting the generality of the foregoing, if Licensor is collecting or furnishing Personal Data to Buyer or if Licensor is processing, storing or transferring Personal Data on behalf of Buyer, then Licensor and Buyer and/or their Affiliate(s), as applicable, will agree to supplemental privacy and security terms consistent with applicable Law. Unless Licensor and Buyer expressly agree to be bound by other terms and conditions that reflect their respective legal obligations with respect to Personal Data, Licensor and Buyer agree to the terms and conditions of the attached Data Processing Addendum. For the avoidance of doubt, no Personal Data should be processed or transferred under this Agreement without Privacy and Security Terms necessary for compliance with applicable Law.

7.6.3 Buyer represents and warrants that it will not upload Personal Data to or store Personal Data on the Product or SaaS Services or use the Product and SaaS Services to process Personal Data without obtaining Licensor's prior written consent which may be withheld in Licensor's sole discretion.

7.7 Remedies. Each Party agrees that in the event of a breach or threatened breach of this Section 7, the non-breaching Party will be entitled to injunctive relief against the breaching Party in addition to any other remedies to which the non-breaching Party may be entitled.

8. Limitations of Liability.

8.1 Disclaimer; General Cap. SUBJECT TO SECTIONS 8.2, 8.3 AND 8.4, IN NO EVENT WILL (A) EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, PUNITIVE, INCIDENTAL OR CONSEQUENTIAL DAMAGES ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, AND (B) EITHER PARTY'S AGGREGATE LIABILITY UNDER THIS AGREEMENT, WHETHER SUCH DAMAGES ARE BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY, EXCEED THE FEES AND OTHER AMOUNTS PAID AND REQUIRED TO BE PAID UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE DAMAGES.

8.2 Exception for Gross Negligence, Willful Misconduct or Fraud. THE EXCLUSIONS OF AND LIMITATIONS ON LIABILITY SET FORTH IN SECTION 8.1(A) AND (B) WILL NOT APPLY TO A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR FRAUD.

8.3 Exception for Certain Obligations. THE EXCLUSIONS OF AND LIMITATIONS ON LIABILITY SET FORTH IN SECTION 8.1(A) WILL NOT APPLY TO ANY PARTY'S CONFIDENTIALITY, INDEMNIFICATION AND DEFENSE OBLIGATIONS UNDER THIS AGREEMENT. THE EXCLUSIONS OF AND LIMITATIONS ON LIABILITY SET FORTH IN SECTIONS 8.1(A) AND 8.1(B) WILL NOT APPLY TO BUYER'S BREACH OF SECTIONS 2.3 OR 7.1.

8.4 Special Cap for Security Breach.

8.4.1 THE EXCLUSIONS OF AND LIMITATIONS ON LIABILITY SET FORTH IN SECTIONS 8.1(A) AND (B) WILL NOT APPLY TO, AND INSTEAD SECTION 8.4.2 WILL APPLY TO: (A) GOVERNMENT FINES AND PENALTIES INCURRED BY BUYER AND BUYER'S OUT-OF-POCKET, REASONABLE AND DOCUMENTED COSTS OF INVESTIGATION, NOTIFICATION, REMEDIATION AND MITIGATION SPECIFIED IN SECTION 9.5 RESULTING FROM ANY SECURITY INCIDENT

RESULTING FROM BREACH OF LICENSOR'S OBLIGATIONS UNDER THE PRIVACY AND SECURITY TERMS OR ANY VIOLATION BY LICENSOR OF DATA PROTECTION LAWS, AND LICENSOR'S OBLIGATIONS WITH RESPECT THERETO PURSUANT TO SECTION 9.5; AND (B) ANY LIABILITIES ARISING FROM CLAIMS BROUGHT BY THIRD PARTIES AGAINST BUYER ARISING FROM ANY SECURITY INCIDENT RESULTING FROM BREACH OF LICENSOR'S OBLIGATIONS UNDER ANY PRIVACY AND SECURITY TERMS OR ANY VIOLATION BY LICENSOR OF DATA PROTECTION LAWS, INCLUDING OUT-OF-POCKET COSTS OF DEFENSE AND ANY AMOUNTS AWARDED AGAINST BUYER BY A COURT OF COMPETENT JURISDICTION OR AGREED UPON PURSUANT TO A SETTLEMENT AGREEMENT.

8.4.2 LICENSOR'S AGGREGATE LIABILITY UNDER THIS AGREEMENT FOR ANY SECURITY INCIDENT RESULTING FROM BREACH OF LICENSOR'S OBLIGATIONS UNDER THE PRIVACY AND SECURITY TERMS OR ANY VIOLATION BY LICENSOR OF DATA PROTECTION LAWS, INCLUDING GOVERNMENT FINES AND PENALTIES INCURRED BY BUYER AND BUYER'S OUT-OF-POCKET, REASONABLE AND DOCUMENTED COSTS SET FORTH IN SECTION 9.5 AND LICENSOR'S INDEMNIFICATION AND DEFENSE OBLIGATIONS PURSUANT TO SECTION 9.1(b), WHETHER SUCH DAMAGES ARE BASED IN CONTRACT, TORT OR OTHER LEGAL THEORY, WILL NOT EXCEED (IN LIEU OF AND NOT IN ADDITION TO THE AMOUNT SET FORTH IN SECTION 8.1) THREE TIMES THE FEES AND OTHER AMOUNTS PAID AND REQUIRED TO BE PAID UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE DAMAGES.

9. Indemnification.

9.1 Licensor Indemnity. Licensor will, at its expense, defend Buyer and its Affiliates and their respective officers, directors, employees, agents and representatives (collectively "**Buyer Indemnified Parties**") from and against any and all claims, actions, proceedings and suits brought by a third party (including government investigations), ("**Claims**") to the extent arising out of or alleging any of the following: (a) infringement, misappropriation or violation of any Proprietary Rights by the Licensed Materials or Buyer's use thereof as permitted under this Agreement; and (b) any unauthorized access, use or disclosure of Buyer Data resulting from breach of Licensor's obligations under the Privacy and Security Terms or any violation by Licensor of Data Protection Laws. Licensor will pay all costs, damages and amounts finally awarded by a court or agreed upon in settlement (as set forth in Section 9.3 below) and any government fines and penalties assessed against or incurred by Buyer Indemnified Parties in any such Claims.

9.2 Buyer Indemnity. Buyer will, at its expense, defend Licensor and its Affiliates and their respective officers, directors, employees, agents and representatives (collectively "**Licensor Indemnified Parties**") from and against any and all Claims to the extent arising out of or alleging any of the following: (a) infringement, misappropriation or violation of any Proprietary Rights by the Buyer Materials or Buyer Data or Licensor's use thereof as permitted under this Agreement; and (b) any unauthorized or unlawful receipt, processing, transmission or storage of Buyer Data by Licensor in the performance of its obligations as permitted under this Agreement resulting from breach of Buyer's obligations under Section 7.2.2. Buyer will pay all costs, damages and amounts finally awarded by a court or agreed upon in settlement (as set forth in Section 9.3 below) and any government fines and penalties assessed against or incurred by Licensor Indemnified Parties in any such Claims. Notwithstanding any provisions herein, if Buyer is a government entity, this Section 9.2 will not apply except as permitted by applicable Law.

9.3 Process. The party(ies) seeking indemnification pursuant to this Section 9 (each, an "**Indemnified Party**" and collectively, the "**Indemnified Parties**") will give the other Party (the "**Indemnifying Party**") prompt notice of each Claim for which it seeks indemnification, provided that failure or delay in providing such notice will not release the Indemnifying Party from any obligations hereunder except to the extent that the Indemnifying Party is prejudiced by such failure. The Indemnified Parties will give the Indemnifying Party their reasonable cooperation in the defense of each Claim for which indemnity is sought, at the Indemnifying Party's expense. The Indemnifying Party will keep the Indemnified Parties informed of the status of each Claim. An Indemnified Party may participate in the defense at its own expense. The Indemnifying Party will control the defense or settlement of the Claim, provided that the Indemnifying Party, without the Indemnified

Parties' prior written consent: (a) will not enter into any settlement that: (i) includes any admission of guilt or wrongdoing by any Indemnified Party; (ii) imposes any financial obligations on any Indemnified Party that Indemnified Party is not obligated to pay under this Section 9; (iii) imposes any non-monetary obligations on any Indemnified Party; or (iv) does not include a full and unconditional release of any Indemnified Parties; and (b) will not consent to the entry of judgment, except for a dismissal with prejudice of any Claim settled as described in (a). The Indemnifying Party will ensure that any settlement into which it enters for any Claim is made confidential, except where not permitted by applicable Law.

9.4 Infringement Remedy. In addition to Licensor's obligations under Section 9.1, if the Product or other Licensed Materials is held, or in Licensor's opinion is likely to be held, to infringe, misappropriate or violate any Proprietary Rights, or, if based on any claimed infringement, misappropriation or violation of Proprietary Rights, an injunction is obtained, or in Licensor's opinion an injunction is likely to be obtained, that would prohibit or interfere with Buyer's use of the Licensed Materials under this Agreement, then Licensor will at its option and expense either: (a) procure for Buyer the right to continue using the affected Licensed Materials in accordance with the license granted under this Agreement; or (b) modify or replace the affected Licensed Materials so that the modified or replacement Licensed Materials are reasonably comparable in functionality, interoperability with other software and systems, and levels of security and performance and do not infringe, misappropriate or violate any third-party Proprietary Rights. If, in such circumstances, Licensor cannot successfully accomplish any of the foregoing actions on a commercially reasonable basis, Licensor will notify Buyer and either Party may terminate the Subscription and this Agreement, in which case Licensor will refund to Buyer any fees prepaid to Licensor by Buyer prorated for the unused portion of the Subscription. For clarity, Licensor's indemnification and defense obligations under this Section include infringement Claims based on use of the Licensed Materials by Buyer Indemnified Parties following an initial infringement Claim except that, if Licensor responds to an infringement Claim by accomplishing the solution in (b), Licensor will have no obligation to defend and indemnify Buyer for infringement Claims arising from Buyer's use after the accomplishment of (b) of the infringing Licensed Materials for which Licensor provided modified or replacement Licensed Materials and a reasonable time to implement the modified or replacement Licensed Materials.

9.5 Security Breach Remedy. In addition to Licensor's obligations under Section 9.1, in the event of any Security Incident resulting from breach of Licensor's obligations under any Privacy and Security Terms or any violation by Licensor of Data Protection Laws, Licensor will pay the government fines and penalties and other out-of-pocket costs incurred by Buyer, to the extent reasonable and documented, for (a) investigating and responding to the Security Incident; (b) legal advice regarding the Security Incident; (c) providing notification to affected individuals, applicable government and relevant industry self-regulatory agencies and the media; (d) providing credit monitoring and/or identity theft services to affected individuals; (e) operating a call center to respond to questions from affected individuals; and (f) any other investigation, mitigation, remediation, or notification required by law or regulators to be undertaken by Buyer in response to such Security Incident.

9.6 Limitations.

9.6.1 Licensor will have no liability or obligation under this Section 9 with respect to any infringement Claim to the extent attributable to any: (a) modifications to the Licensed Materials not provided by Licensor or its Personnel; (b) use of the Product in combination with third-party equipment or software not provided or made accessible by Licensor or not specifically referenced for use with the Licensed Materials by the Product Listing or Documentation; or (c) use of the Licensed Materials by Buyer in breach of this Agreement.

9.6.2 Buyer will have no liability or obligation under this Section 9 with respect to any infringement Claim to the extent attributable to any: (a) modifications to the Buyer Materials or Buyer Data not provided by Buyer or its Personnel; or (b) use of the Buyer Materials or Buyer Data by Licensor in breach of this Agreement.

9.6.3 This Section 9 states the entire liability of Licensor with respect to infringement, misappropriation or violation of Proprietary Rights of third parties by any Licensed Materials or any part thereof or by any use thereof by Buyer, and this Section 9 states the entire liability of Buyer with respect to infringement, misappropriation or violation of Proprietary Rights of third parties by any Buyer Materials, Buyer Data or any part thereof or by any use, receipt, storage or processing thereof by Licensor.

9.7 Not Limiting. The foregoing indemnities will not be limited in any manner whatsoever by any required or other insurance coverage maintained by a Party.

10. Invoicing and Payment, Term and Termination.

10.1 Invoicing, Payment and Billing Information. The fees due from Buyer to Licensor for the Product and SaaS Service shall be set forth in the Product Listing. New or premium Product features that are not expressly set forth in the applicable Product Listing may be subject to additional fees. At Licensor's sole discretion, included compute time/credits may be used to purchase new or premium Product features. If Licensor add a new or premium Product feature and makes such feature available to Buyer, the compute time/credit rates applicable to such feature shall be the then-current rates published on the Promethium platform, unless otherwise agreed by the Parties in an Order Form. Buyer's use of new or premium Product features shall be considered Buyer's acceptance of such rates. Licensor may update fees based on pay-as-you-go compute time at any time by updating the pricing webpage referred to in the Product Listing, if applicable, or upon thirty (30) days prior written notice to Buyer. For the avoidance of doubt, additional fees may be charged for premium features and/or functionality, including features and/or functionality added after the effective date of the Agreement.

The following sentences specifically apply to Subscriptions that are not through AWS Marketplace. Unless otherwise agreed to by the Parties, Licensor may immediately invoice for all fees due for a Subscription upon the effective date of the Agreement and, for any renewal, as soon as the deadline for opting out of such renewal has passed. Fees for pay-as-you-go or use exceeding the included use in a Subscription shall be invoiced monthly in arears. Unless otherwise agreed upon by the Parties in an Order Form, Buyer shall pay each invoice no later than thirty (30) days after Buyer's receipt thereof. Late payment shall be subject to accrued interest at the rate of one and one-half percent (1.5%) per month of the outstanding balance or the maximum amount permitted by law, whichever is lower. Upon Licensor's request, Buyer shall promptly provide all billing information necessary for Licensor to invoice Buyer and receive payment. Licensor may suspend Buyer's or a User's right to access or use any portion or all of the Product and/or SaaS Service if Buyer has not provided such billing information as determined in Licensor's reasonable discretion.

10.1.1 Academic or Other Special Pricing. Licensor may, in its sole discretion, offer "Academic" or other special discounted fees or benefits to customers that meet certain qualifications ("**Special Pricing**"). Licensor shall have sole and absolute discretion to determine whether Buyer qualifies for Special Pricing. Licensor may change its determination of whether Buyer qualifies for Special Pricing and/or cancel any Special Pricing at any time, in its sole and absolute discretion. Notwithstanding anything to the contrary in this Agreement or any Product Listing, if Licensor determines that Buyer no longer qualifies for Special Pricing and/or cancels applicable Special Pricing, Licensor may provide written notice to Buyer that Buyer no longer will receive Special Pricing, and Licensor's standard fees and benefits shall apply to Buyer starting ten (10) days after Licensor provides such notice. If Buyer receives Special Pricing in connection with providing false information to Licensor regarding Buyer's qualifications, Licensor may terminate Special Pricing immediately and (1) Buyer shall owe additional fees to Licensor for past use based on Licensor's standard fees and benefits and (2) Licensor's standard fees and benefits shall apply to Buyer for all future use.

10.2 Taxes. All fees payable to Licensor set forth in the Product Listing do not include any sales, use, value added or other applicable taxes, tariffs or duties, payment of which will be the sole responsibility of Buyer (excluding any taxes based on Licensor's net income) and may be included in invoices by Licensor. To the extent payment of fees by Buyer is subject to withholding tax, fees set forth in the Order Form shall be the net amount, after withholding tax, to be received by Licensor. Buyer will promptly reimburse Licensor for any taxes that Licensor pays on Buyer's behalf and will be responsible for directly paying any taxes that may be required to be paid directly by Buyer to the appropriate authority.

For Japanese customers only: The transaction may be a digital service provision as defined in Article 2(1)8-3 of the Consumption Tax Act in Japan ("CTA") and subject to the reverse charge system for the "provision of B-to-B digital services" as defined in Article 2(1)8-4. Thus, we hereby inform you pursuant to Article 62 of the CTA that your company may have an obligation to account for and pay the applicable consumption tax of Japan on this

transaction to the competent Japanese tax office. Please consult your company's tax advisor for further details of the tax treatment to be applied.

10.3 Term. This Agreement will continue in full force and effect until conclusion of the Subscription, unless terminated earlier by either Party as provided by this Agreement. If the Product Listing does not identify a specific Subscription term, the term of the subscription shall continue until terminated by either Party as provided by this Agreement.

10.4 Monthly Subscription - Automatic Renewals. Subscriptions with a monthly term shall automatically renew for additional periods of one month each unless either Party provides fifteen (15) days advance written notice to the other Party opting out of such renewal. Licensor may update applicable monthly fees, included compute time and/or other features of a monthly Subscription by providing thirty (30) days advance written notice of such update to Buyer. If Buyer wishes to reject an update to applicable monthly fees, included compute time, and/or features, Buyer shall provide written notice opting out of renewal before such update becomes effective, thereby terminating the Subscription in accordance with the terms of this Agreement.

10.5 Termination for Convenience. Either Party may terminate the Subscription or this Agreement upon 90 days prior written notice to the other Party.

10.6 Termination for Breach. Either Party may terminate the Subscription or this Agreement if the other Party materially breaches this Agreement and does not cure the breach within 30 days following its receipt of written notice of the breach from the non-breaching Party. Termination by Licensor pursuant to this Section does not prejudice Buyer's right, and Licensor's obligation, to extract or assist with the retrieval or deletion of Buyer Data as set forth in Section 10.8.2 following such termination.

10.7 Free Trial. Notwithstanding anything to the contrary in this Agreement, if the Subscription is an unpaid trial of the Product (a "Free Trial"), such Subscription may be terminated at any time, without prior notice by Licensor. Licensor shall not have any liability to Buyer in connection with the termination of a Free Trial.

10.8 Effect of Termination.

10.8.1 Upon termination or expiration of the Subscription or this Agreement, Buyer's right to use the Product licensed under such Subscription will terminate, and Buyer's access to the Product and Service provided under such Subscription may be disabled and discontinued. If Buyer's access to the Product is not immediately terminated upon termination or expiration of the Subscription or this Agreement, the terms of this Agreement shall continue to apply to any use of the Product until termination of access to the Product notwithstanding anything to the contrary in this Agreement. Termination or expiration of any Subscription purchased by Buyer from Licensor will not terminate or modify any other Subscription purchased by Buyer from Licensor. Other than as expressly set forth in this Agreement, Buyer shall not be entitled to any refund of fees paid for the Subscription. All compute time shall expire at the end of the then-applicable term for the Subscription, which shall not include any subsequent renewal periods, without any refund or credit for unused compute time (i.e., unused compute time shall not roll over to or otherwise be available for use in subsequent renewal terms or term extensions).

10.8.2 Within 45 days (or such other period as may be agreed upon by the Parties) following termination or expiration of any SaaS Service Subscription for any reason or at any time before termination or expiration of any SaaS Service Subscription, upon Buyer's written request, to the extent practical, Licensor will extract from the Product and/or Licensor's Computing Environment (as applicable) and return to Buyer all Buyer Data, or if Buyer is able directly to retrieve or delete Buyer Data using the SaaS Service, then for a period of 45 days (or such other period as may be agreed upon by the Parties) following termination or expiration of this Agreement for any reason, Buyer may retrieve or delete Buyer Data itself with support from Licensor as reasonably requested by Buyer. If Buyer retrieves or deletes Buyer Data itself, Licensor will assist Buyer, as reasonably requested by Buyer, in validating whether the retrieval or deletion was successful. Buyer Data must be provided or extractable in a then-current, standard nonproprietary format. Notwithstanding anything herein to the

contrary, Licensor's duty to return or enable Buyer's retrieval or deletion of the Buyer Data pursuant to this Section (a) may be delayed but will not be discharged due to the occurrence of any Force Majeure event and (b) shall be excused to the extent it is not practically feasible to retrieve Buyer Data due to security measures intended to restrict Buyer's access to Buyer Data. Following delivery to Buyer of the Buyer Data and Buyer's confirmation thereof, or Buyer's retrieval or deletion of Buyer Data and Licensor's validation thereof or expiration of the applicable period, whichever is soonest, Licensor may, and within a reasonable time thereafter will, permanently delete and remove Buyer Data (if any) from its electronic and hard copy records and will, upon Buyer's request, certify to such deletion and removal to Buyer in writing. If Licensor is not able to delete any portion of the Buyer Data or Buyer Confidential Information, it will remain subject to the confidentiality, privacy and data security terms of this Agreement.

10.8.3 In the event that Buyer terminates pursuant to Section 10.5 or Licensor terminates pursuant to Section 10.6, Buyer shall owe all fees due under the Agreement for the full term of the Subscription and shall not be entitled to any refund of fees already paid to Licensor.

10.8.4 In the event Licensor terminates pursuant to Section 10.5 or Buyer terminates pursuant to Section 10.6, Licensor will provide Buyer with a refund of any fees prepaid to Licensor by Buyer, prorated for the portion of the Subscription unused at the time of termination.

10.8.5 Sections 4 (Proprietary Rights), 6 (Confidentiality), 7.2.1 (Buyer Data and Buyer Materials), 8 (Limitations of Liability), 9 (Indemnification), 10.8 (Effect of Termination), 11 (Insurance), 12 (General) and 13 (Definitions) and any perpetual license granted under this Agreement, together with all other provisions of this Agreement that may reasonably be interpreted or construed as surviving expiration or termination, will survive the expiration or termination of this Agreement for any reason.

10.9 Suspension. Licensor may suspend Buyer's or a User's right to access or use any portion or all of the Product and/or SaaS Service immediately upon notice to Buyer if (a) Licensor, after reasonable due diligence given the nature and severity of the issue, reasonably determines that: (i) Buyer or a User's use of the Product and/or SaaS Service poses a material risk to the security or operation of Licensor's systems, the Product or the systems or data of any other customer, or (ii) Buyer's or a User's use of the Product and/or SaaS Services violates Section 2.3 or 7.1 or is illegal or fraudulent; (b) Buyer fails to pay any undisputed amounts within 30 days after notice of past due amounts; or (c) Buyer's Subscription is a consumption-based payment Subscription and Buyer has not engaged in any paid use in the past six (6) months.

11. Insurance.

11.1 Coverages. Each Party will obtain and maintain appropriate insurance necessary for implementing and performing under this Agreement in accordance with applicable Law and in accordance with the requirements of this Section 11. Licensor will at its own cost and expense, acquire and continuously maintain the following insurance coverage during the term of this Agreement and for one year after:

11.1.1 Commercial General Liability insurance with limits of at least $1,000,000 per occurrence and $2,000,000 general aggregate;

11.1.2 Professional Liability insurance, covering liabilities for financial loss resulting or arising from acts, errors or omissions in rendering Services in connection with this Agreement with limits of at least $2,000,000 each claim and annual aggregate;

11.1.3 If a SaaS Service Subscription, Cyber Liability or Technology Errors and Omissions, with limits of $2,000,000 each claim and annual aggregate.

11.2 Umbrella Insurance. The limits of insurance may be satisfied by any combination of primary and umbrella/excess insurance.

11.3 Certificates and Other Requirements. Prior to execution of this Agreement and annually thereafter during the term, Buyer may request that Licensor furnish to Buyer a certificate of insurance evidencing

the coverages set forth above. The stipulated limits of coverage above will not be construed as a limitation of any potential liability to Buyer, and failure to request evidence of this insurance will not be construed as a waiver of Licensor's obligation to provide the insurance coverage specified.

12. General.

12.1 Applicable Law. This Agreement will be governed and interpreted under the laws of the State of New York, excluding its principles of conflict of laws. The Parties agree that any legal action or proceeding relating to this Agreement will be instituted solely in the state and federal courts located in New York City, New York. Each Party irrevocably submits to the jurisdiction of such courts, and each Party waives any objection that it may have to the laying of the venue of any such action or proceeding in the manner provided in this Section. The Parties agree that the United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

12.2 Assignment. Neither Party may assign or transfer this Agreement or any rights or delegate any duties herein without the prior written consent of the other Party, which will not be unreasonably withheld, delayed or conditioned. Notwithstanding the foregoing, and without gaining Buyer's written consent, Licensor may assign this Agreement, in its entirety, and delegate its obligations to its Affiliates or to any entity acquiring all or substantially all of its Product business, whether by sale of assets, sale of stock, merger or otherwise and Buyer may assign this Agreement, in its entirety, to any Affiliates or entity acquiring all or substantially all of its assets related to Buyer's account or the Buyer's entire business, whether by sale of assets, sale of stock, merger or otherwise. Any attempted assignment, transfer or delegation in contravention of this Section will be null and void. This Agreement will inure to the benefit of the Parties hereto and their permitted successors and assigns.

12.3 Entire Agreement. This Agreement constitutes the entire agreement between the Parties relating to the subject matter hereof, and there are no other representations, understandings or agreements between the Parties relating to the subject matter hereof. This Agreement is solely between Buyer and Licensor. NEITHER PARTY WILL BE BOUND BY, AND EACH SPECIFICALLY OBJECTS TO, ANY PROVISION THAT IS DIFFERENT FROM OR IN ADDITION TO THIS AGREEMENT (WHETHER PROFFERED ORALLY OR IN ANY QUOTATION, PURCHASE ORDER, INVOICE, SHIPPING DOCUMENT, ONLINE TERMS AND CONDITIONS, ACCEPTANCE, CONFIRMATION, CORRESPONDENCE, OR OTHERWISE), UNLESS SUCH PROVISION IS SPECIFICALLY AGREED TO IN A WRITING SIGNED BY BOTH PARTIES.

12.4 Export Laws. Each Party will comply with all applicable customs and export control laws and regulations of the United States and/or such other country, in the case of Buyer, where Buyer or its Users use the Product or Services, and in the case of Licensor, where Licensor provides the Product or Services. Each Party certifies that it and its Personnel are not on any of the relevant U.S. Government Lists of prohibited persons, including but not limited to the Treasury Department's List of Specially Designated Nationals and the Commerce Department's list of Denied Persons. Neither Party will export, re-export, ship, or otherwise transfer the Licensed Materials, Services or Buyer Data to any country subject to an embargo or other sanction by the United States or other applicable jurisdiction.

12.5 Force Majeure. Neither Party will be liable hereunder for any failure or delay in the performance of its obligations in whole or in part, on account of riots, fire, flood, earthquake, explosion, epidemics, war, strike or labor disputes (not involving the Party claiming force majeure), embargo, civil or military authority, act of God, governmental action or other causes beyond its reasonable control and without the fault or negligence of such Party or its Personnel and such failure or delay could not have been prevented or circumvented by the non-performing Party through the use of alternate sourcing, workaround plans or other reasonable precautions (a "**Force Majeure Event**"). If a Force Majeure Event continues for more than 14 days for any Subscription, Buyer may cancel the unperformed portion of the Subscription and receive a pro rata refund of any fees prepaid by Buyer to Licensor for such unperformed portion.

12.6 Government Rights. As defined in FARS §2.101, the Product and Documentation are "commercial items" and according to DFARS §252.227 and 7014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation". Consistent with FARS §12.212 and

DFARS §227.7202, any use, modification, reproduction, release, performance, display or disclosure of such commercial software or commercial software documentation by the U.S. government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

12.7 Headings. The headings throughout this Agreement are for reference purposes only, and the words contained therein will in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

12.8 No Third-Party Beneficiaries. Except as specified in Section 9 with respect to Buyer Indemnified Parties and Licensor Indemnified Parties, nothing express or implied in this Agreement is intended to confer, nor will anything herein confer, upon any person other than the Parties and the respective successors or assigns of the Parties, any rights, remedies, obligations or liabilities whatsoever.

12.9 Notices. To be effective, notice under this Agreement must be given in writing. Each Party consents to receiving electronic communications and notifications from the other Party in connection with this Agreement. Licensor agrees that it may receive notices from Buyer regarding this Agreement by email at notices@qcware.com. Buyer agrees that it may receive notices from Licensor: (a) by email to the email address provided by Buyer in connection with the creation of its account or as otherwise designated in writing by Buyer; (b) by personal delivery; (c) by registered or certified mail, return receipt requested; or (d) by nationally recognized courier service. Notice will be deemed given upon receipt.

12.10 Updates. Licensor may, in its sole discretion, amend this Terms of Service at any time by posting updated terms at https://www.promethium.qcware.com/legal/terms-of-service. Changes to this Terms of Service shall only apply from the date such changes are posted and shall not be retroactive. Buyer's continued use of the Product constitutes agreement to the updated Terms of Service.

12.11 Nonwaiver. Any failure or delay by either Party to exercise or partially exercise any right, power or privilege under this Agreement will not be deemed a waiver of any such right, power or privilege under this Agreement. No waiver by either Party of a breach of any term, provision or condition of this Agreement by the other Party will constitute a waiver of any succeeding breach of the same or any other provision hereof. No such waiver will be valid unless executed in writing by the Party making the waiver.

12.12 Publicity. Buyer grants Licensor a limited, non-exclusive, royalty-free right to use Buyer's name and logo solely for the purpose of identifying Buyer as a user of the Product in Licensor's marketing materials, websites, and presentations. Other than as set forth in the previous sentence, neither Party will issue any publicity materials or press releases that refer to the other Party or its Affiliates, or use any trade name, trademark, service mark or logo of the other Party or its Affiliates in any advertising, promotions or otherwise, without the other Party's prior written consent.

12.13 Relationship of Parties. The relationship of the Parties will be that of independent contractors, and nothing contained in this Agreement will create or imply an agency relationship between Buyer and Licensor, nor will this Agreement be deemed to constitute a joint venture or partnership or the relationship of employer and employee between Buyer and Licensor. Each Party assumes sole and full responsibility for its acts and the acts of its Personnel. Neither Party will have the authority to make commitments or enter into contracts on behalf of, bind, or otherwise oblige the other Party.

12.14 Severability. If any term or condition of this Agreement is to any extent held invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement will not be affected thereby, and each term and condition will be valid and enforceable to the fullest extent permitted by law.

12.15 Subcontracting. Licensor may use Subcontractors in its performance under this Agreement, provided that: (a) Licensor remains responsible for all its duties and obligations hereunder and the use of any Subcontractor will not relieve or reduce any liability of Licensor or cause any loss of warranty under this Agreement; and (b) Licensor agrees to be directly liable for any act or omission by such Subcontractor to the same degree as if the act or omission were performed by Licensor such that a breach by a Subcontractor of the provisions of this Agreement will be deemed to be a breach by Licensor. The performance of any act or omission

under this Agreement by a Subcontractor for, by or through Licensor will be deemed the act or omission of Licensor. Upon request, Licensor will identify to Buyer any Subcontractors performing under this Agreement, including any that have access to Buyer Data, and such other information reasonably requested by Buyer about such subcontracting.

13. Definitions.

13.1 "**Affiliate**" means, with respect to a Party, any entity that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with such Party.

13.2 "**AWS Marketplace**" means the marketplace operated by Amazon Web Services, Inc. located at https://aws.amazon.com/marketplace/ as it may be updated from time to time.

13.3 "**Buyer Data**" means all data, records, files, information or content, including text, sound, video, images and software, that is (a) input or uploaded by Buyer or its Users to or collected, received, transmitted, processed, or stored by Buyer or its Users using the Product or SaaS Service in connection with this Agreement, or (b) derived from (a). Buyer Data is Confidential Information of Buyer.

13.4 "**Buyer Materials**" means any property, items or materials, including Buyer Data, furnished by Buyer to Licensor for Licensor's use in the performance of its obligations under this Agreement.

13.5 "**Contractor**" means any third-party contractor of Buyer or other third party performing services for Buyer, including outsourcing suppliers.

13.6 "**Data Protection Laws**" means all data protection and privacy laws applicable to the processing of Personal Data under the Agreement, including Regulation 2016/679 (General Data Protection Regulation) ("GDPR"), and Cal. Civ. Code 1798.100 et seq. (California Consumer Privacy Act) ("CCPA").

13.7 "**Documentation**" means the user guides, manuals, instructions, specifications, notes, documentation, printed updates, "read-me" files, release notes and other materials related to the Product (including all information included or incorporated by reference in the applicable Product Listing), its use, operation or maintenance, together with all enhancements, modifications, derivative works, and amendments to those documents, that Licensor publishes or provides under this Agreement.

13.8 "**International Data Transfer Mechanism**" means the special protections that some jurisdictions require two or more parties that transfer information across international borders to adopt to make the transfer lawful, e.g., Standard Contractual Clauses, Binding Corporate Rules, or statutory obligations that require the parties to adopt certain technical, organizational, or contractual measures. "**Transfer**," in the context of an International Data Transfer Mechanism, means to disclose or move personal data from a storage location in one jurisdiction to another, or to permit a party in one jurisdiction to access Personal Data that the other party stores in another jurisdiction that requires an International Data Transfer Mechanism.

13.9 "**Licensed Materials**" means the Product, Documentation and any other items, materials or deliverables that Licensor provides, or is obligated to provide, as part of a Subscription.

13.10 "**Licensor's Computing Environment"** means the computing infrastructure and systems used by Licensor to provide the Product in connection with SaaS Service.

13.11 "**Open Source Software"** means software distributed under a licensing or distribution model that is publicly available and makes the source code to such software available to licensees for use, modification and redistribution.

13.12 "**Personal Data**" means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a data subject. "Personal Data" includes equivalent terms in other Data Protection Law, such as the CCPA-defined term "Personal Information," as context requires, to the extent such information forms part of the Buyer Data.

13.13 "**Personnel**" means a Party or its Affiliate's directors, officers, employees, non-employee workers, agents, auditors, consultants, contractors, subcontractors and any other person performing services on behalf of such Party (but excludes the other Party and any of the foregoing of the other Party).

13.14 "**Privacy and Security Terms**" means Section 7.5, the attached Data Processing Addendum (if applicable), and any other terms and conditions regarding the privacy and security of data agreed upon by the parties that are a part of this Agreement, whether in an addendum or amendment to this Terms of Service.

13.15 "**Product**" means the computer software and any associated data, content and/or services identified in the applicable Product Listing that Licensor provides or is obligated to provide as part of a Subscription, including any patches, bug fixes, corrections, remediation of security vulnerabilities, updates, upgrades, modifications, enhancements, derivative works, new releases and new versions of the foregoing that Licensor provides, or is obligated to provide, as part of the Subscription. For the avoidance of doubt, new and/or premium features that are not expressly identified in the applicable Product Listing, such as the use of more advanced processors or premium workflows, shall not be considered as part of the Product unless Licensor makes such features available to Buyer and Buyer pays the then-applicable fees for such features. Notwithstanding anything to the contrary in the Agreement, the availability of a specific processor shall not be considered part of the Product at any time that such processor is not made available to Licensor by its cloud services provider on a commercially reasonable basis as determined by Licensor in its reasonable discretion. Licensor shall provide notice to Buyer, which may be done by posting to the Promethium website, if a previously available processor will no longer be available as part of the Product.

13.16 **"Product Listing"** means the description of Product and other product information, including applicable pricing, listed on or referenced by an order form accepted by Buyer (an "**Order Form**"), a purchase order provided by Buyer and accepted by Licensor (but only with respect to the applicable price, duration, and quantity of the Product Subscription), or Licensor's ordering page for the Subscription, which may be an AWS Marketplace offering, through which Buyer orders a Subscription for the Product. The Product Listing may include a description of Support Services and Licensor's policies and procedures incorporated or referenced in the product information. Legal terms set forth in a Buyer purchase order shall not be considered part of the Product Listing. For the avoidance of doubt, other Licensor materials, including, without limitation, marketing presentations and pages of Licensor's website that do not directly enable ordering a Subscription, shall not be considered part of the Product Listing unless expressly incorporated therein. In the event of any conflict between the terms and conditions of an Order Form and the ordering page/AWS Marketplace offering, the Order Form shall control.

13.17 "**Prohibited Field of Use**" means the development of organic light emitting diode, or OLED, and organo photovoltaic, or OPV, materials and technology.

13.18 "**Proprietary Rights**" means all intellectual property and proprietary rights throughout the world, whether now known or hereinafter discovered or invented, including, without limitation, all: (a) patents and patent applications; (b) copyrights and mask work rights; (c) trade secrets; (d) trademarks; (e) rights in data and databases; and (f) analogous rights throughout the world.

13.19 **"SaaS Service"** means access and use of the Product, or a component of a Product, as deployed and hosted by Licensor in the Licensor's Computing Environment, and any software and other technology provided or made accessible by Licensor in connection therewith (and not as a separate product or service) that Buyer is required or has the option to use in order to access and use the Product.

13.20 "**Services**" means all services and tasks that Licensor provides or is obligated to provide under this Agreement, including without limitation Support Services.

13.21 **"Subcontractor"** means any third-party subcontractor or other third party to whom Licensor delegates any of its duties and obligations under this Agreement.

13.22 "**Subscription**" means a Product subscription, which may include making a Product available with

consumption-based pricing, by Buyer and fulfilled by Licensor for the licensing and provision of Product provided as a SaaS Service through Licensor's Computing Environment.

13.23 "**Support Services**" means the support and maintenance services for the Product that Licensor provides, or is obligated to provide, as described in the Product Listing.

13.24 "**System Data**" means data and data elements (other than Buyer Data) collected by the Product, SaaS Service or Licensor's Computing Environment regarding configuration, environment, usage, performance, vulnerabilities and security of the Product or SaaS Service that may be used to generate logs, statistics and reports regarding performance, availability, integrity and security of the Product or SaaS Service.

13.25 "**User**" means Buyer, its Affiliates and any person or software program or computer systems authorized by Buyer or any of its Affiliates to access and use the Product as permitted under this Agreement, including Contractors of Buyer or its Affiliates.

Data Processing Addendum

This Data Processing Addendum (this "**Addendum**") is part of the QC Ware Terms of Service (the "**Terms of Service**") between Licensor (who is the Processor) and Buyer (who is the Controller) and governs Licensor's processing of Personal Data in its capacity as a Processor in connection with Licensor's provision of the Services it provides pursuant to the Terms of Service. This Addendum shall only apply if Licensor and Buyer have not entered into a separate data processing agreement or similar contractual arrangement with respect to the processing of Personal Data. All capitalized terms used but not defined in this Addendum have the meanings given to them in the Terms of Service.

Processing of Personal Data

I. DEFINITIONS

1. "**Controller**" means the entity that determines the purposes and means of the processing of Personal Data. "Controller" includes equivalent terms in other Data Protection Law, such as the CCPA-defined term "Business" or "Third Party," as context requires.

2. "**Personal Data Breach**" means a confirmed breach of security of the Services that caused an accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data, or an event that qualifies as a reportable data breach under applicable Data Protection Law.

3. "**Processor**" means an entity that processes personal data on behalf of another entity. "Processor" includes equivalent terms in other Data Protection Law, such as the CCPA-defined term "Service Provider," as context requires.

4. "**Sensitive Data**" means the following types and categories of data: data revealing racial or ethnic origin, political opinions, religious or philosophical beliefs, or trade union membership; genetic data; biometric data; data concerning health, including protected health information governed by the Health Insurance Portability and Accountability Act; data concerning a natural person's sex life or sexual orientation; government identification numbers (e.g., SSNs, driver's license); payment card information; nonpublic personal information governed by the Gramm-Leach-Bliley Act; an unencrypted identifier in combination with a password or other access code that would permit access to a data subject's account; and precise geolocation.

II. INTERNATIONAL DATA TRANSFERS

1. **International Data Transfer.** Before Buyer transfers Personal Data to Licensor or permits Licensor to access Personal Data located in a jurisdiction that requires an International Data Transfer Mechanism, Buyer will notify Licensor of the relevant requirement and the parties will work together in good faith to fulfill the requirements of that International Data Transfer Mechanism. The parties will institute and comply with any International Data Transfer Mechanism that may be required by applicable Data Protection Law.

III. DATA PROTECTION GENERALLY

1. **Compliance**. The parties will comply with their respective obligations under Data Protection Law and their respective privacy notices.

2. **Confidentiality.** Licensor will restrict access to Personal Data to those authorized persons who need such information to provide the Services. Such authorized persons are obligated to maintain the confidentiality of any Personal Data.

3. **Security.** Licensor will implement appropriate technical and organizational measures to ensure a level of security appropriate to the Personal Data provided by Buyer and processed by Licensor. Such security measures will be at least as protective as the security requirements set forth in the Terms of Service. When choosing security controls, Licensor will consider the state of the art, the cost of implementation, the nature, scope, context,

and purposes of Personal Data processing, and the risk to data subjects of a security incident or Personal Data Breach affecting Personal Data.

4. Retention. Personal Data received from Buyer will be retained only for so long as may be reasonably required in connection with Licensor's performance of the Terms of Service or as otherwise required under Data Protection Law.

5. Cooperation. Licensor will cooperate to the extent reasonably necessary in connection with Buyer's requests related to data protection impact assessments and consultation with supervisory authorities and for the fulfillment of Buyer's obligation to respond to requests for exercising a data subject's rights under Data Protection Law. Licensor reserves the right to charge Buyer for its reasonable costs in collecting and preparing Personal Data for transfer and for any special arrangements for making the transfer.

6. Third Party Requests. If Licensor receives a request from a third party in connection with any government investigation or court proceeding that Licensor believes would require it to produce any Personal Data, Licensor will inform Buyer in writing of such request and cooperate with Buyer if Buyer wishes to limit, challenge or protect against such disclosure, to the extent permitted by applicable Law.

7. Instructions from the Buyer. Notwithstanding anything in the Terms of Service to the contrary, Licensor will only process Personal Data in order to provide the Services to Buyer, in accordance with Buyer's written instructions, as permitted by the last sentence of Section III.8 below, or as required by applicable Law. Licensor will promptly inform Buyer if following Buyer instructions would result in a violation of Data Protection Law or where Licensor must disclose Personal Data in response to a legal obligation (unless the legal obligation prohibits Licensor from making such disclosure).

8. Scope of Processing. Licensor is prohibited from: (a) Selling (as such term is defined in the CCPA) Personal Data, (b) retaining, using, or disclosing Personal Data for any purpose other than for the specific business purpose of performing Buyer's documented instructions for the business purposes defined in this Addendum, including retaining, using, or disclosing the Personal Data for a commercial purpose other than performing Buyer's instructions, or (c) retaining, using, or disclosing the Personal Data outside of the direct business relationship between the parties as defined in this Agreement. Licensor certifies that it understands these restrictions. Notwithstanding the foregoing, Licensor may process Personal Data to retain or employ another person as a sub-Processor (as defined in Section III.10 below) in accordance with this Addendum, for internal use by the Licensor to improve the quality of its services (provided that Licensor does not use the Personal Data to perform services on behalf of another person), or to detect data security incidents or protect against malicious, deceptive, fraudulent or illegal activity.

9. Sensitive Information. Buyer will inform Licensor if Personal Data is Sensitive Data.

10. Sub-processors. Buyer grants Licensor general authorization, as a processor, to engage other processors ("**Sub-processors**") to assist in providing the Services consistent with the Terms of Service. Licensor will make a list of such Sub-processors accessible to Buyer upon Buyer's request.

11. Sub-processor Liability. Where Licensor engages a Sub-processor for carrying out specific processing activities on behalf of Buyer, substantially similar data protection obligations as set out in this Addendum will be imposed on that Sub-processor by way of a contract, in particular providing sufficient guarantees to implement appropriate technical and organizational measures in such a manner that the processing will meet the requirements of Data Protection Law. Licensor will be liable for the acts or omissions of its Sub-processors to the same extent as Licensor would be liable if performing the services of the Sub-processor directly.

12. Recordkeeping. Upon a request issued by a supervisory authority for records regarding Personal Data, Licensor will cooperate to provide the supervisory authority with records related to processing activities performed on Buyer's behalf, including information on the categories of Personal Data processed and the purposes of the processing, the use of service providers with respect to such processing, any data disclosures or transfers to third parties and a general description of technical and organizational measures to protect the security of such data.

13. Transfer of Personal Data; Appointment. Buyer authorizes Licensor to transfer, store or process Personal Data in the United States or any other country in which Licensor or its Sub-processors maintain facilities. Buyer appoints Licensor to perform any such transfer of Personal Data to any such country and to store and process Personal Data in order to provide the Services. Licensor will conduct all such activity in compliance with the Terms of Service, this Addendum, data protection Law, any applicable International Data Transfer Mechanism and Buyer instructions.

14. Deletion or Return. When instructed by Buyer, Licensor will delete any Personal Data or return it to Buyer in a secure manner and delete all remaining copies of Personal Data after such return except where otherwise required under applicable Law. Licensor will relay Buyer's instructions to all Sub-processors.

15. Breach Notification. After becoming aware of a Personal Data Breach, Licensor will notify Buyer without undue delay of: (a) the nature of the Personal Data Breach; (b) the number and categories of data subjects and data records affected; and (c) the name and contact details for the relevant contact person at Licensor.