SAAS AGREEMENT TERMS AND CONDITIONS

THESE TERMS AND CONDITIONS ("**TERMS**") GOVERN YOUR ACCESS TO AND USE OF COMPANY'S SAAS SERVICES IDENTIFIED IN ANY ORDER FORM, INCLUDING ANY CONTENT THEREIN (THE "**SAAS SERVICES**").

BY ACCEPTING THESE TERMS, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THESE TERMS, YOU AGREE TO THESE TERMS. THE TERM "**AGREEMENT**" AS USED HEREIN SHALL MEAN THESE TERMS, TOGETHER WITH THE ORDER FORM ENTERED INTO BY THE PARTIES. IF YOU ARE ACCEPTING THESE TERMS ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS, IN WHICH CASE "**YOU**" OR "**YOUR**" OR "**CUSTOMER**" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

This Agreement is effective as of the date of your acceptance of this Agreement. Reference to "**we**", "**our**" and "**us**" in its related variations and "**Company**" shall mean [insert company name] or its affiliates, as applicable, from whom you receive the SaaS Services.

1.   **AUTHORIZED USE**.

        1.1   Applicable to Customer. By accepting these Terms, you agree to these Terms on behalf of yourself, your organization and any entity that you represent or on behalf of which you use the SaaS Services. You further agree that you have the authority to bind that organization to these Terms and that you are authorized to be an Authorized User on behalf such organization. The SaaS Services may only be used for your internal business purposes (the "**Authorized Use**"). You are responsible for Authorized Users' compliance with this Agreement, and any act or omission of any Authorized User shall be treated as if undertaken by You.

        1.2   Applicable to Authorized User. By accepting these Terms, you agree to these Terms on behalf of yourself. You further represent and agree that you have been granted the authority by Customer to use the Services and that you are authorized to be an Authorized User on behalf of Customer. The Services may only be used for the Authorized Use.

2.   **DEFINITIONS.** Capitalized terms will have the meanings set forth in this Section 2, or in the section where they are first used.

        2.1   "**Access Protocols**" means the passwords, access codes, technical specifications, connectivity standards or protocols, or other relevant procedures, as may be necessary to allow Customer or any Authorized Users to access the SaaS Services.

        2.2   "**Authorized User**" means an employee, independent contractor or customer of Customer that is authorized by Customer to access and/or use the Services under this Agreement.

        2.3   "**Customer Content**" means any content and information provided or submitted by, or on behalf of, Customer or its Authorized Users for use with the SaaS Services.

        2.4   "**Data Protection Laws**" means any applicable Laws, regulations, orders, or judgments issued by a governmental authority that govern the privacy, security, confidentiality, protection, processing or transfer of the Personal Data or that govern the rights of Authorized Users with regard to that Personal Data.

        2.5   "**Documentation**" means the technical materials provided by Company to Customer in hard copy or electronic form describing the use and operation of the SaaS Services.

        2.6   "**Error**" means a reproducible failure of the SaaS Services to substantially conform to the Documentation.

2.7   "**Error Corrections**" means bug fixes or workarounds intended to correct Errors in the SaaS Services.

2.8   "**Intellectual Property Rights**" means any and all now known or hereafter existing (a) rights associated with works of authorship, including copyrights, mask work rights, and moral rights; (b) trademark or service mark rights; (c) trade secret rights; (d) patents, patent rights, and industrial property rights; (e) layout design rights, design rights, and other proprietary rights of every kind and nature other than trademarks, service marks, trade dress, and similar rights; and (f) all registrations, applications, renewals, extensions, or reissues of the foregoing, in each case in any jurisdiction throughout the world.

2.9   "**Law(s**)" means with respect to any party, in each case to the extent applicable to such party, its property, any of the Platform Services or in connection with this Agreement, any federal, national, provincial, state, county, municipal or local law, ordinance, statute, rule, regulation, code, policy, notice, treaty, judgment, executive order, decree, injunction, permit, issuance or other determination or finding of any governmental authority which is legally enforceable by a governmental entity.

2.10   "**Order Form**" means an online purchase form completed by Customer for purchase of our SaaS Services or other offerings and/or any other order form that is signed by both parties and references this Agreement.

2.11   "**Personal Data**" means any information relating to an identified or identifiable natural person, and all information that is "personal data," "personal information," "personally identifiable information."

2.12   "**Processing**" (including "Process", "Processes", "Processed", and other variants of the term) means any operation or set of operations that is performed upon Personal Data, whether or not by automatic means, such as collection, collation, recording, organization, storage, adaptation or alteration, retrieval, consultation, analysis, interpretation, compilation, aggregation, use, disclosure by transmission, dissemination, viewing, copying, deleting, or otherwise making available, alignment or combination, blocking or erasure, or destruction.

2.13   "**Professional Services**" means professional services provided by Company to Customer as described in any Order Form (as may be further elaborated in any statement of work), including services relating to the provision of technical support for Software by Company to Customer.

2.14   "**Registered User**" means an individual who is authorized to access and use the SaaS Services pursuant to Your rights under this Agreement.

2.15   "**Services**" means any services provided by Company to Customer under this Agreement as set forth in an Order Form, including, but not limited to, provision of the SaaS Services and Professional Services.

2.16   ["**Software**" means Company supported versions of [insert name] open source software, which may be found at [insert URL].]

2.17   "**Supported Environment**" means the minimum hardware, software, and connectivity configuration specified from time to time by Company as required for use of the SaaS Services. The current requirements are described in the Documentation.

3.   **PROVISION OF SERVICES**

3.1   **Access.** Subject to the terms and conditions of this Agreement, and Customer's payment of the Fees, Company will provide Customer with access to the SaaS Services. On or as soon as reasonably practicable after the Effective Date Company will provide to Customer the necessary passwords, security protocols and policies and network links or connections and Access Protocols to allow Customer and its Authorized Users to access the SaaS Services in accordance with the Access Protocols. Customer will use commercially reasonable efforts to prevent unauthorized access to, or use of, the SaaS Services, and notify Company promptly of any such unauthorized use known to or suspected by Customer.

3.2   **Support Services.** Subject to the terms and conditions of this Agreement, Company will exercise commercially reasonable efforts to (a) provide support for the use of the SaaS Services to Customer, and (b) keep the SaaS Services operational and available to Customer, in each case in accordance with its standard policies and procedures.

3.3   **Hosting.** Company will, at its own expense, provide for the hosting of the SaaS Services, provided that nothing herein will be construed to require Company to provide, or bear any responsibility with respect to, any telecommunications or computer network hardware required by Customer or any Authorized User to access the SaaS Services from the Internet.

4.   **INTELLECTUAL PROPERTY**

4.1   **License Grant.** Subject to the terms and conditions of this Agreement, Company grants to Customer a non-exclusive, non-transferable (except as permitted under Section 13.5) license during the Term (as defined below), solely within the Supported Environment, for the Authorized Use, (a) to access and use the SaaS Services and in accordance with the Documentation; and (b) to use and reproduce a reasonable number of copies of the Documentation solely to support Customer's use of the SaaS Services. Customer may permit any Authorized Users to access and use the features and functions of the SaaS Services as contemplated by this Agreement.

4.2   **Restrictions.** Customer will not, and will not permit any Authorized User or other party to: (a) allow any third party to access the SaaS Services, or Documentation, except as expressly allowed herein; (b) modify, adapt, alter or translate the SaaS Services or Documentation; (c) sublicense, lease, sell, resell, rent, loan, distribute, transfer or otherwise allow the use of the SaaS Services or Documentation for the benefit of any unauthorized third party; (d) reverse engineer, decompile, disassemble, or otherwise derive or determine or attempt to derive or determine the source code (or the underlying ideas, algorithms, structure or organization) of the SaaS Services, except as permitted by law; (e) interfere in any manner with the operation of the SaaS Services or the hardware and network used to operate the SaaS Services; (f) modify, copy or make derivative works based on any part of the SaaS Services, or Documentation; (g) access or use the SaaS Services to build a similar or competitive product or service; (h) attempt to access the SaaS Services through any unapproved interface; or (i) otherwise use the SaaS Services or Documentation in any manner that exceeds the scope of use permitted under Section 4.1 or in a manner inconsistent with applicable law, the Documentation, or this Agreement. Customer will not remove, alter, or obscure any proprietary notices (including copyright and trademark notices) of Company or its licensors on the Documentation or any copies thereof.

4.3   **Ownership.** The SaaS Services and Documentation, and all worldwide Intellectual Property Rights in each of the foregoing, are the exclusive property of Company and its suppliers. All rights in and to the SaaS Services and Documentation not expressly granted to Customer in this Agreement are reserved by Company and its suppliers. Except as expressly set forth herein, no express or implied license or right of any kind is granted to Customer regarding the SaaS Services, Documentation, or any part thereof.

4.4   **Open Source Software.** Certain items of software may be provided to Customer with the SaaS Services and are subject to "open source" or "free software" licenses ("**Open Source Software**"). Some of the Open Source Software is owned by third parties. The Open Source Software is not subject to the terms and conditions of Sections 4.1 or 11. Instead, each item of Open Source Software is licensed under the terms of the end-user license that accompanies such Open Source Software. Nothing in this Agreement limits Customer's rights under, or grants Customer rights that supersede, the terms and conditions of any applicable end user license for the Open Source Software. If required by any license for particular Open Source Software, Company makes such Open Source

Software, and Company's modifications to that Open Source Software, available by written request at the notice address specified below.

4.5   **Feedback.** Customer hereby grants to Company a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback provided by Customer, including Authorized Users, relating to the Services. Company will not identify Customer as the source of any such feedback.

5.   **FEES AND EXPENSES; PAYMENTS**

5.1   **Fees.** In consideration for the access rights granted to Customer and the Services performed by Company under this Agreement, Customer will pay to Company the Fees as set forth in the Order Form. Such Fees will be charged to the payment method specified in the Order Form ("**Payment Method**") [monthly][annually] in advance. Customer hereby agrees to Company's automatic charging of such Fees to Customer's Payment Method as described herein and that no further consent is required for such charges. Company reserves the right to modify the Fees payable hereunder upon written notice to Customer at least thirty (30) days prior to effectuating the change. Company reserves the right (in addition to any other rights or remedies Company may have) to discontinue the SaaS Services and suspend all Authorized Users' and Customer's access to the Services if Company is unable to process any payment amounts to the Payment Method when due, until such amounts are paid in full. Customer will maintain complete, accurate and up-to-date Customer billing and contact information at all times.

5.2   [**Third Party Payment Processor**. Company uses Stripe, Inc. as its third party provider for payment services (e.g., card acceptance and related services). By selecting a credit card as the Payment Method for paying Fees, Customer agrees to be bound by Stripe's Privacy Policy: https://stripe.com/privacy and hereby consents and authorizes Company to share any information and payment instructions provided herein with Stripe to the minimum extent required to complete Provider's transactions hereunder.]

5.3   **Taxes.** The Fees are exclusive of all applicable sales, use, value-added and other taxes, and all applicable duties, tariffs, assessments, export and import fees, or other similar charges, and Customer will be responsible for payment of all such taxes (other than taxes based on Company's income), fees, duties, and charges and any related penalties and interest, arising from the payment of the fees, the provision of the Services, or the license of the SaaS Services to Customer. Customer will make all payments of Fees to Company free and clear of, and without reduction for, any withholding taxes; any such taxes imposed on payments of Fees to Company will be Customer's sole responsibility, and Customer will provide Company with official receipts issued by the appropriate taxing authority, or such other evidence as the Company may reasonably request, to establish that such taxes have been paid.

5.4   **Interest**. Any amounts not paid when due will bear interest at the rate of one and one half percent (1.5%) per month, or the maximum legal rate if less, from the due date until paid.

6.   **CUSTOMER CONTENT AND RESPONSIBILITIES**

6.1   **License; Ownership.** Customer is solely responsible for any and all obligations with respect to the accuracy, quality and legality of Customer Content. Customer will obtain all third party licenses, consents and permissions needed for Company to use the Customer Content to provide the Services. Without limiting the foregoing, Customer will be solely responsible for obtaining from third parties all necessary rights for Company to use the Customer Content submitted by or on behalf of Customer for the purposes set forth in this Agreement. Customer grants Company a non-exclusive, worldwide, royalty-free and fully paid license (a) during the Term, to use the Customer Content as necessary for purposes of providing and improving the Services, (b) during the Term, to use the Customer trademarks, service marks, and logos as required to provide the Services, and (c) during and after the Term, to use the Customer Content in an aggregated and anonymized form to: (i) improve the Services and Company's related products and services; (ii) provide analytics and benchmarking services; and (iii) generate and disclose statistics regarding use of the Services, provided, however, that no Customer-only statistics will be disclosed to third parties without Customer's consent. The Customer Content, and all worldwide Intellectual Property Rights in it, is the exclusive property of Customer. All rights in and to the Customer Content not expressly granted to Company in this Agreement are reserved by Customer.

6.2   **Customer Warranty.** Customer represents and warrants that any Customer Content will not (a) infringe any copyright, trademark, or patent; (b) misappropriate any trade secret; (c) be deceptive, defamatory, obscene, pornographic or unlawful; (d) contain any viruses, worms or other malicious computer programming codes intended to damage Company's system or data; and (e) otherwise violate the rights of a third party. Customer represents and warrants that no Personal Data Processed by Company under this Agreement is subject to the California Privacy Rights Act of 2020 ("**CPRA**"). Company is not obligated to back up any Customer Content; the Customer is solely responsible for creating backup copies of any Customer Content at Customer's sole cost and expense. Customer agrees that any use of the Services contrary to or in violation of the representations and warranties of Customer in this Section 6.2 constitutes unauthorized and improper use of the Services.

6.3   **Customer Responsibility for Data and Security.** Customer and its Authorized Users will have access to the Customer Content and will be responsible for all changes to and/or deletions of Customer Content and the security of all passwords and other Access Protocols required in order the access the SaaS Services. Customer will have the ability to export Customer Content out of the SaaS Services and is encouraged to make its own back-ups of the Customer Content. Customer will have the sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Content.

7.   **PROFESSIONAL SERVICES.** Where the parties have agreed to Company's provision of Professional Services, the details of such Professional Services will be set out in an Order Form or a mutually executed statement of work ("**SOW**").   The Order Form or SOW, as applicable, will include: (a) a description of the Professional Services; (b) the schedule for the performance of the Professional Services; and (c) the Fees applicable for the performance of the Professional Services. Each Order Form or SOW, as applicable, will incorporate the terms and conditions of this Agreement. To the extent that a conflict arises between the terms and conditions of an Order Form or SOW and the terms of this Agreement, the terms and conditions of this Agreement will govern, except to the extent that the Order Form or SOW, as applicable, expressly states that it supersedes specific language in the Agreement.

7.1   [**Professional Services; Software.** To the extent the Professional Services include Software support services, unless otherwise set forth in an Order Form or SOW, such support services are only valid and available for the Software in a Supported Environment. If Customer is using Software in a non-Supported Environment, in order to be eligible for any support services, all support issues must be verifiable and reproducible on a Company Supported Environment. Company will have no obligation to investigate or correct problems that cannot be reproduced by Company based on information provided by Customer, or that cannot be remedied due either to the operational characteristics of the computer equipment on which the Software is used, or to modifications to the Software made by Customer or any third party. Company will use commercially-reasonable efforts to provide Services under this Agreement, however, Customer acknowledges that Company cannot guarantee that every question, problem, error or issue for which Customer reported by Customer can or will be resolved.

7.2   **Third Party Provider**. Company may use third-party service providers to assist in providing Professional Services to you ("**Third-Party Providers**"). You agree to be bound by each such Third-Party Provider's terms and conditions. You hereby consent and authorize Company to share with such Third-Party Provider and/or for such Third-Party Provider to access your Customer Content and account information to the minimum extent required to provide the Services hereunder.]

8.   **WARRANTIES AND DISCLAIMERS**

8.1   **Limited Warranty.** Company represents and warrants that it will provide the Services and perform its other obligations under this Agreement in a professional and workmanlike manner substantially consistent with general industry standards. Provided that Customer notifies Company in writing of the breach within thirty (30) days following performance of the defective Services, specifying the breach in reasonable detail, Company will, as Customer's sole and exclusive remedy, for any breach of the foregoing, re-perform the Services which gave rise to the breach or, at Company's option, refund the Fees paid by Customer for the Services which gave rise to the breach. Company further warrants to Customer that the SaaS Services will operate free from Errors during the Term, provided that such warranty will not apply to failures to conform to the Documentation to the extent such failures arise, in whole or in part, from (a) any use of the SaaS Services not in accordance with this Agreement or as specified in the Documentation; (b) any use of the SaaS Services in combination with other products, equipment, software or data not supplied by Company; or (c) any modification of the SaaS Services by any person other than

Company or its authorized agents. Provided that Customer notifies Company in writing of any breach of the foregoing warranty during the Term, Company will, as Customer's sole and exclusive remedy, provide the support described in Section 3.2.

8.2 **Disclaimer.** THE LIMITED WARRANTY SET FORTH IN SECTION 8.1 IS MADE FOR THE BENEFIT OF CUSTOMER ONLY. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 8.1, AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND DOCUMENTATION ARE PROVIDED "AS IS," AND COMPANY MAKES NO (AND HEREBY DISCLAIMS ALL) OTHER WARRANTIES, REPRESENTATIONS, OR CONDITIONS, WHETHER WRITTEN, ORAL, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF SATISFACTORY QUALITY, COURSE OF DEALING, TRADE USAGE OR PRACTICE, SYSTEM INTEGRATION, DATA ACCURACY, MERCHANTABILITY, TITLE, NONINFRINGEMENT, OR FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT WARRANT THAT ALL ERRORS CAN BE CORRECTED, OR THAT OPERATION OF THE SAAS SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE.

9. LIMITATION OF LIABILITY

9.1 **Types of Damages.** IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, ANY FAILURE OF DELIVERY, BUSINESS INTERRUPTION, COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, OR LIABILITIES TO THIRD PARTIES ARISING FROM ANY SOURCE, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED OR HAVE PROVEN INEFFECTIVE.

9.2 **Amount of Damages.** THE MAXIMUM LIABILITY OF EITHER PARTY ARISING OUT OF OR IN ANY WAY CONNECTED TO THIS AGREEMENT WILL NOT EXCEED THE FEES PAID BY CUSTOMER TO COMPANY DURING THE TWELVE (12) MONTHS PRECEDING THE ACT, OMISSION OR OCCURRENCE GIVING RISE TO SUCH LIABILITY. NOTHING IN THIS AGREEMENT WILL LIMIT OR EXCLUDE EITHER PARTY'S LIABILITY FOR GROSS NEGLIGENCE OR INTENTIONAL MISCONDUCT OF A PARTY OR ITS EMPLOYEES OR AGENTS OR FOR DEATH OR PERSONAL INJURY.

9.3 **Basis of the Bargain.** The parties agree that the limitations of liability set forth in this Section 9 will survive and continue in full force and effect despite any failure of consideration or of an exclusive remedy. The parties acknowledge that the prices have been set and the Agreement entered into in reliance upon these limitations of liability and that all such limitations form an essential basis of the bargain between the parties.

10. CONFIDENTIALITY

10.1 **Confidential Information.** "**Confidential Information**" means any nonpublic information of a party (the "**Disclosing Party**"), whether disclosed orally or in written or digital media, that is identified as "confidential" or with a similar legend at the time of such disclosure or that the receiving party (the "**Receiving Party**") knows or should have known is the confidential or proprietary information of the Disclosing Party. The Services, Documentation, and all enhancements and improvements thereto will be considered Confidential Information of Company.

10.2 **Protection of Confidential Information.** The Receiving Party agrees that it will not use or disclose to any third party any Confidential Information of the Disclosing Party, except as expressly permitted under this Agreement. The Receiving Party will limit access to the Confidential Information to Authorized Users (with respect to Customer) or to those employees who have a need to know, who have confidentiality obligations no less restrictive than those set forth herein, and who have been informed of the confidential nature of such information (with respect to Company). In addition, the Receiving Party will protect the Disclosing Party's Confidential Information from unauthorized use, access, or disclosure in the same manner that it protects its own proprietary information of a similar nature, but in no event with less than reasonable care. At the Disclosing Party's request or upon termination or expiration of this Agreement, the Receiving Party will return to the Disclosing Party or destroy (or permanently erase in the case of electronic files) all copies of the Confidential Information that the Receiving Party does not have

a continuing right to use under this Agreement, and the Receiving Party will, upon request, certify to the Disclosing Party its compliance with this sentence.

10.3   **Exceptions.** The confidentiality obligations set forth in Section 10.2 will not apply to any information that (a) is at the time of disclosure or becomes generally available to the public through no fault of the Receiving Party; (b) is lawfully provided to the Receiving Party by a third party free of any confidentiality duties or obligations; (c) was already known to the Receiving Party at the time of disclosure free of any confidentiality duties or obligations; or (d) the Receiving Party can demonstrate, by clear and convincing evidence, was independently developed by employees and contractors of the Receiving Party who had no access to the Confidential Information. In addition, the Receiving Party may disclose Confidential Information to the extent that such disclosure is necessary for the Receiving Party to enforce its rights under this Agreement or is required by law or by the order of a court or similar judicial or administrative body, provided that (to the extent legally permissible) the Receiving Party promptly notifies the Disclosing Party in writing of such required disclosure and cooperates with the Disclosing Party if the Disclosing Party seeks an appropriate protective order.

11.   INDEMNIFICATION

11.1   **By Company.** Company will defend at its expense any suit brought against Customer, and will pay any settlement Company makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim by any third party alleging that the SaaS Services infringes such third party's patents, copyrights or trade secret rights under applicable laws of any jurisdiction within the United States of America. If any portion of the SaaS Services becomes, or in Company's opinion is likely to become, the subject of a claim of infringement, Company may, at Company's option: (a) procure for Customer the right to continue using the SaaS Services; (b) replace the SaaS Services with non-infringing software or services which do not materially impair the functionality of the SaaS Services; (c) modify the SaaS Services so that it becomes non-infringing; or (d) terminate this Agreement and refund any unused prepaid Fees for the remainder of the term then in effect, and upon such termination, Customer will immediately cease all use of the SaaS Services and Documentation. Notwithstanding the foregoing, Company will have no obligation under this Section 11.1 or otherwise with respect to any infringement claim based upon (i) any use of the SaaS Services not in accordance with this Agreement or as specified in the Documentation; (ii) any use of the SaaS Services in combination with other products, equipment, software or data not supplied by Company; (iii) any modification of the SaaS Services by any person other than Company or its authorized agents; or (iv) Customer Content (collectively, the "**Exclusions**" and each, an "**Exclusion**"). This Section 11.1 states the sole and exclusive remedy of Customer and the entire liability of Company, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for infringement claims and actions. For the avoidance of doubt, Company shall have no indemnification obligations or other liability for any claim based on Customer Content.

11.2   **By Customer.** Customer will defend at its expense any suit brought against Company, and will pay any settlement Customer makes or approves, or any damages finally awarded in such suit, insofar as such suit is based on a claim arising out of or relating to (a) an Exclusion, (b) Customer's breach or alleged breach of Section 6.2, or (c) Customer Content. This Section 11.2 states the sole and exclusive remedy of Company and the entire liability of Customer, or any of the officers, directors, employees, shareholders, contractors or representatives of the foregoing, for the claims and actions described herein.

11.3   **Procedure.** The indemnifying party's obligations as set forth above are expressly conditioned upon each of the foregoing: (a) the indemnified party will promptly notify the indemnifying party in writing of any threatened or actual claim or suit; (b) the indemnifying party will have sole control of the defense or settlement of any claim or suit; and (c) the indemnified party will cooperate with the indemnifying party to facilitate the settlement or defense of any claim or suit.

12.   TERM AND TERMINATION

12.1   **Term.** This Agreement will begin on the Effective Date and continue in full force and effect as long as any Order Form remains in effect, unless earlier terminated in accordance with the Agreement (the "**Term**"). Unless otherwise stated in the applicable Order Form, the term of an Order Form will begin on the effective date of the Order Form and continue in full force and effect for one (1) year, unless earlier terminated in accordance with the Agreement. Thereafter, the Order Form will automatically renew for additional terms of one (1) year unless

either party gives written notice of non-renewal to the other party at least thirty (30) days prior to the expiration of the then-current term.

12.2 **Termination for Breach.** Either party may terminate this Agreement immediately upon notice to the other party if the other party materially breaches this Agreement, and such breach remains uncured more than thirty (30) days after receipt of written notice of such breach.

12.3 **Effect of Termination.** Upon termination or expiration of this Agreement for any reason: (a) all licenses granted hereunder will immediately terminate; (b) promptly after the effective date of termination or expiration, each Party will comply with the obligations to return all Confidential Information of the other Party, as set forth in Section 10 (Confidentiality); and (c) any amounts owed to Company under this Agreement will become immediately due and payable. Sections 2 (Definitions), 5.2 (Restrictions), 5.3 (Ownership), 5.5 (Open Source Software), 6 (Fees and Expenses; Payments), 8.2 (Disclaimer), 9 (Limitation of Liability), 10 (Confidentiality), 11 (Indemnification), 12.2 (Termination for Breach), 12.3 Effect of Termination), and 13 (Miscellaneous) will survive expiration or termination of this Agreement for any reason.

12.4 **Data Extraction.** For twenty (20) days after the end of the Term, as applicable, Company will make Customer Content available to Customer through the SaaS Services on a limited basis solely for purposes of Customer retrieving Customer Content, unless Company is instructed by Customer to delete such data before that period expires. After such period, Company will discontinue all use of Customer Content and destroy all copies of Customer Content in its possession.

13. **MISCELLANEOUS**

13.1 **Governing Law and Venue.** This Agreement and any action related thereto will be governed and interpreted by and under the laws of the State of Delaware without giving effect to any conflicts of laws principles that require the application of the law of a different jurisdiction. Customer hereby expressly consents to the personal jurisdiction and venue in the state and federal courts for San Francisco County, California for any lawsuit filed there against Customer by Company arising from or related to this Agreement. The United Nations Convention on Contracts for the International Sale of Goods does not apply to this Agreement.

13.2 **Export.** Customer agrees not to export, reexport, or transfer, directly or indirectly, any U.S. technical data acquired from Company, or any products utilizing such data, in violation of the United States export laws or regulations.

13.3 **Severability.** If any provision of this Agreement is, for any reason, held to be invalid or unenforceable, the other provisions of this Agreement will remain enforceable and the invalid or unenforceable provision will be deemed modified so that it is valid and enforceable to the maximum extent permitted by law.

13.4 **Waiver.** Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

13.5 **No Assignment.** Neither party will assign, subcontract, delegate, or otherwise transfer this Agreement, or its rights and obligations herein, without obtaining the prior written consent of the other party, and any attempted assignment, subcontract, delegation, or transfer in violation of the foregoing will be null and void; provided, however, that either party may assign this Agreement in connection with a merger, acquisition, reorganization or sale of all or substantially all of its assets, or other operation of law, without any consent of the other party. The terms of this Agreement will be binding upon the parties and their respective successors and permitted assigns.

13.6 **Compliance with Law.** Customer will always comply with all international and domestic laws, ordinances, regulations, and statutes that are applicable to its purchase and use of the Services, and Documentation.

13.7 **Force Majeure.** Any delay in the performance of any duties or obligations of either party (except the payment of Fees owed) will not be considered a breach of this Agreement if such delay is caused by a labor dispute, shortage of materials, fire, earthquake, flood, or any other event beyond the control of such party, provided that such party uses reasonable efforts, under the circumstances, to notify the other party of the cause of such delay and to resume performance as soon as possible.

13.8 **Independent Contractors.** Customer's relationship to Company is that of an independent contractor, and neither party is an agent or partner of the other. Customer will not have, and will not represent to any third party that it has, any authority to act on behalf of Company.

13.9 **Notices.** All notices required or permitted under this agreement must be delivered in writing, if to Company, by emailing [INSERT EMAIL] and if to Customer by emailing the Customer Point of Contact email address listed on the Cover Page, provided, however, that with respect to any notices relating to breaches of this agreement or termination, a copy of such notice will also be sent in writing to the other party at the address listed on the Cover Page by courier, by certified or registered mail (postage prepaid and return receipt requested), or by a nationally-recognized express mail service. Each party may change its email address and/or address for receipt of notice by giving notice of such change to the other party.

13.10 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which will be taken together and deemed to be one instrument.

13.11 **Entire Agreement.** This Agreement is the final, complete and exclusive agreement of the parties with respect to the subject matters hereof and supersedes and merges all prior discussions between the parties with respect to such subject matters. No modification of or amendment to this Agreement, or any waiver of any rights under this Agreement, will be effective unless in writing and signed by an authorized signatory of Customer and the Company.

<div align="center">

EXHIBIT A

TEMPLATE ORDER FORM

Order Form No. [____]

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This Order Form is entered into by and between [_____] (**"Customer"**) and [insert company name] (**"Company"**) for the provision of Services by Company. This Order Form is made pursuant and subject to the Company's SaaS Agreement which can be found at [insert URL] (the "**Terms**," which together with this Order Form comprise the "**Agreement**"). In the event of a conflict or inconsistency between the Terms and this Order Form, the Terms will control, except to the extent that this Order Form expressly states that it supersedes specific language in the Terms. Capitalized terms not otherwise defined herein will have the meaning ascribed to them in the Terms.

1. **SERVICES.**

Professional Services: Company will render such Professional Services as Customer may from time to time request, including, without limiting the generality of the foregoing:

- [**INSERT DESCRIPTION OF SUPPORT OR OTHER PROFESSIONAL SERVICES**]

SaaS Services: subscription to **[INSERT DESCRIPTION OF SAAS SERVICES]**

2. **RESTRICTIONS ON THE USE OF THE SERVICES.**

[Specify any limits on the Customer's use of the SaaS Services (such as limits on the number of Authorized Users) or other limits on use of Services, generally (such as specific hours for provision of Professional Services).]

3. **TERM.**

[Specify length of term. If no term is specified, the term will default to one year with automatic renewals as provided for in Section 12.1 of the SaaS Agreement]

[[___] month(s), automatically renewing for additional terms of one (1) month unless either party gives written notice of non-renewal to the other party at least thirty (30) days prior to the expiration of the then-current term.]

4.   FEES, EXPENSES AND PAYMENT TERMS.

Fees: <mark>**[Specify monthly/annual fees.]**</mark>

Expenses: Reimbursement for the following, as approved in advance by Customer:

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Company will invoice Customer monthly for such Fees and expenses, if applicable, and will provide such reasonable receipts or other documentation of expenses as Customer might request, including copies of time records.

5.   SCHEDULE OF PROFESSIONAL SERVICES.

The Professional Services will commence on the Effective Date.