

SOFTWARE SUBSCRIPTION TERMS AND CONDITIONS

These Software Subscription Terms and Conditions (this “**Agreement**”) are by and between Hoptek Inc. (“**Company**”) and you or the entity on behalf of which you are accepting this Agreement (“**Customer**”) and governs Customer’s access to and use of the Subscription Services and Professional Services, if any, that Customer receives from Company. This Agreement includes and incorporates the Registration accepted pursuant to this Agreement. Company and Customer may be referred to herein collectively as the “**Parties**” or individually as a “**Party**”. This Agreement is effective upon the date of Customer’s Registration or Customer’s first access to and use of the Subscription Services, whichever is earlier (the “**Effective Date**”).

If you have registered electronically for the Subscription Services, then please read this Agreement carefully, as it governs the use of the Subscription Services by you or the entity of which you are acting on behalf in registering for the Subscription Services.

BY ACCEPTING THESE TERMS (INCLUDING BY ACCESSING THE SUBSCRIPTION SERVICES), YOU, AS THE INDIVIDUAL REGISTERING FOR THE SUBSCRIPTION SERVICES ON BEHALF OF CUSTOMER: (A) ACKNOWLEDGE THAT YOU HAVE READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT AND WARRANT THAT YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT AND HAVE LEGAL AUTHORITY TO BIND CUSTOMER; AND (C) ACCEPT THIS AGREEMENT ON BEHALF OF CUSTOMER AND AGREE THAT CUSTOMER IS LEGALLY BOUND BY ITS TERMS. IF YOU DO NOT AGREE TO THIS AGREEMENT, NEITHER YOU NOR ANY INDIVIDUAL ON BEHALF OF CUSTOMER MAY ACCESS OR USE THE SUBSCRIPTION SERVICES.

1. DEFINITIONS.

“**Company IP**” means the Subscription Services, the underlying software, algorithms, interfaces, technology, databases, tools, know-how, processes and methods used to provide or deliver the Subscription Services or any Professional Services, and Documentation and Aggregate Data, all improvements, modifications or enhancements to, or derivative works of, the foregoing (regardless of inventorship or authorship), and all intellectual property rights in and to any of the foregoing.

“**Customer Materials**” means all information, data, content and other materials, in any form or medium, that is transmitted or otherwise provided by or on behalf of Customer through the Subscription Services or to Company in connection with Customer’s Use of the Subscription Services, but excluding, for clarity, Aggregate Data and any other Company IP.

“**Documentation**” means the operator and user manuals, training materials,

specifications, minimum system configuration requirements, compatible device and hardware list and other similar materials in hard copy or electronic form if and as provided by Company to Customer (including any revised versions thereof) relating to the Subscription Services, which may be updated from time to time upon notice to Customer.

“**HOPTEK EXCHANGE™**” means Company’s Software-as-a-Service offering that enables participating parties to exchange shipper spot freight through an autonomous, rules-governed matching and bidding engine via www.hoptek.ai (including any updates, patches, bug fixes and upgrades provided by Company), as more particularly described or identified in the applicable Order Form. For purposes of this Agreement, the Subscription Services shall include Customer’s use of the HOPTEK EXCHANGE™ as applicable.

“**Licensed Volume**” means the limits, volume or other measurement or conditions of permitted Use for the applicable Subscription Service as set forth in the applicable Order Form.

“**Order Form**” means any (i) online registration

completed and accepted by Customer; (ii) mutually executed commercial agreement, order form, or other mutually agreed upon ordering document; (iii) purchase order issued by Customer and accepted by Company in writing; or (iv) quote issued by Company and accepted by Customer, in each case which references this Agreement and sets forth the applicable Subscription Services and/or Professional Services to be provided by Company.

“**Originating Party**” means the entity which receives a shipment tender from a shipper and offers the shipment tender to the Performing Carrier through the HOPTEK EXCHANGE™.

“**Performing Carrier**” means the entity which receives a shipment tender from the Originating Party through the HOPTEK EXCHANGE™ and agrees to perform motor carrier transportation.

“**Professional Services**” means the implementation and/or other professional services, if any, described in the applicable Order Form or agreed upon statement of work.

“**Subscription Services**” means Company’s Software-as-a-Service offering to analyze and optimize routes for logistics and shipping, as provided via www.hoptek.ai (including any updates, patches, bug fixes and upgrades provided by Company), as more particularly described or identified in the applicable Order Form.

“**Trade**” means the transaction between Originating Party and Performing Carrier with respect to the applicable shipment.

“**Use**” means to use and access the Subscription Services in accordance with this Agreement and the Documentation.

2. SUBSCRIPTION SERVICES.

(a) Right to Use the Subscription Services. As between Customer and Company, Company owns and retains all right, title and interest in and to the Subscription Services, Documentation and

the Professional Services, including all intellectual property rights therein and Customer further assigns to Company any feedback provided by or on behalf of Customer. Subject to Customer’s compliance with the terms and conditions of this Agreement, Company hereby grants to Customer a limited, non-exclusive, non-transferable (except pursuant to Section 13(e)) right to Use the Subscription Services in accordance with, and subject to, the Licensed Volume during the applicable Term. Subject to the limited rights expressly granted hereunder, Company reserves and, as between the Parties will solely own, the Company IP and all rights, title and interest in and to the Company IP. No rights are granted to Customer hereunder (whether by implication, estoppel, exhaustion or otherwise) other than as expressly set forth herein.

(b) Use Restrictions. Customer will not and will not permit any person or entity (including, without limitation, Authorized Users) to, directly or indirectly: (i) copy, modify or create any derivative work of any portion of the Subscription Services or the Documentation; (ii) reverse engineer, decompile, decode, or disassemble or otherwise attempt to derive or gain improper access to any software component of the Subscription Services, in whole or in part; (iii) frame, mirror, sell, resell, market, sublicense, publish, distribute, reproduce, assign, transfer, rent, lease or loan any portion of the Subscription Services to any other person or entity, or otherwise allow any person or entity to Use the Subscription Services for any purpose other than for the benefit of Customer in accordance with this Agreement; (iv) Use the Subscription Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property rights or other right of any person or entity, or that violates any applicable law; (v) access or search the Subscription Services (or download any data or content contained therein or transmitted thereby) through the use of any engine, software, tool, agent, device or mechanism (including spiders, robots, crawlers or any other similar data mining tools) other than software or Subscription Services features provided by Company for use expressly for such purposes; or (vi) Use the Subscription Services, Documentation or any other Company Confidential Information for benchmarking or competitive analysis with respect to competitive or related products or services, or to develop, commercialize, license or sell any product, service or technology that could, directly or

indirectly, compete with the Subscription Services.

(c) Authorized Users. Customer will not allow any person or entity other than its employees or contractors that it authorizes to Use the Subscription Services on its behalf (“**Authorized Users**”). Customer may permit Authorized Users to Use the Subscription Services, provided that (i) the Use, including the number of Authorized Users, does not exceed the Licensed Volume; and (ii) Customer ensures that all Authorized Users comply with the terms and conditions of this Agreement, including, without limitation, with Customer’s obligations and the restrictions set forth in Section 2(b). Company may suspend or terminate any Authorized User’s access to the Subscription Services upon notice to Customer in the event that Company reasonably determines that such Authorized User violated this Agreement. Customer is responsible for all acts or omissions by its Authorized Users in connection with their Use of the Subscription Services Customer will, and will require all Authorized Users to, use all reasonable means to secure user names and passwords, hardware and software used to access the Subscription Services in accordance with customary security protocols, and will promptly notify Company if Customer knows or reasonably suspects that any user name and/or password has been compromised. Each account for the Subscription Services may only be accessed and used by the specific Authorized User for whom such account is created.

3. **HOPTEK EXCHANGE™**

(a) Scope. The terms and conditions in this Section 3 shall apply to Customer’s use of the HOPTEK EXCHANGE™ and shall apply to the extent of any conflict with any other terms and conditions in this Agreement.

(b) Overview. The HOPTEK EXCHANGE™ leverages the Originating Party’s and Performing Carrier’s respective preset Shipment Criteria (as defined below) and established contractual relationships between the parties to evaluate available capacity and automate the tender and acceptance process with respect to certain

shipment tenders offered by the Originating Party. The shipment tenders offered by the Originating Party on the HOPTEK EXCHANGE™ are tenders which Originating Party chooses not to transport under its own motor carrier authority. Specifically, the HOPTEK EXCHANGE™ allows: (i) Originating Party to receive and automatically accept eligible shipment tenders from existing relationships with third-party shippers (each, a “**Shipper**”) via HOPTEK FREIGHT FINDER™ platform; (ii) Originating Party to offer eligible shipment tenders which the Originating Party will not transport under its own motor carrier to third party motor carriers; (iii) the evaluation of the shipment tender through the Shipment Criteria of both the Originating Party and Performing Carrier; (iv) the selection of the Performing Carrier by the Originating Party; and (v) the automatic acceptance of the shipment tender by the Performing Carrier.

(c) Eligibility. Customer must have a current HOPTEK FREIGHT FINDER™ account to access and be onboarded to the HOPTEK EXCHANGE™. When acting as the Originating Party, Customer represents and warrants that they: (i) have a valid broker-carrier contract between the Originating Party and the Performing Carrier; and (ii) are a freight broker authorized by the United States Department of Transportation (“**USDOT**”) and the Federal Motor Carrier Safety Administration (“**FMCSA**”). When acting as the Performing Carrier, Customer represents and warrants that they: (iii) have a valid broker-carrier agreement between the Performing Carrier and the Originating Party; (iv) are licensed as a motor carrier by the USDOT and FMCSA; and (v) have a pre-commitment to execute the Trade if awarded. The foregoing representations and warranties form a material condition for the use of the HOPTEK EXCHANGE™.

(d) Shipment Criteria. The Originating Party and Performing Carrier must each submit sufficient details regarding the shipment and their respective pricing requirements (collectively, “**Shipment Criteria**”) to the HOPTEK EXCHANGE™ for purposes of shipment evaluation and matchmaking. Shipment Criteria includes, but is not limited to, cargo types (dry-van, reefer, hazmat, etc.), origin and destination locations, pricing details (margin, rates, accessorials, etc.), and any other detail requested

by Company to allow the shipment tender to be placed on the HOPTEK EXCHANGE™. The Shipment Criteria of the Originating Party and Performing Carrier shall not be made available to each other and shall be considered Confidential Information under this Agreement.

(e) Selection. The HOPTEK EXCHANGE™ reviews each shipment tender against the respective Shipment Criteria provided by Originating Party and Performing Carrier. Each shipment tender offered by a Shipper which meets the Originating Party's Shipment Criteria shall be accepted by the Originating Party placed on the HOPTEK EXCHANGE™. For each shipment tender placed on the HOPTEK EXCHANGE™ by the Originating Party, Company will evaluate each eligible motor carrier and provide a rate to the Originating Party for each eligible motor carrier's service. The Originating Party will review each eligible motor carrier and select which motor carrier will be the Performing Carrier. The Performing Carrier shall accept every shipment tendered to it by the Originating Party.

(f) Performing Carrier Payment. Originating Party is solely responsible for the payment of Performing Carrier's invoice, and any disputes arising from the same, pursuant to the contractual relationship between the parties. Originating Party shall defend, indemnify, and hold harmless Company against any claims by of non-payment or underpayment by Performing Carrier.

(g) Enablement Fee. Company shall receive a fee from both the Originating Party and Performing Carrier, respectively, for each shipment accepted by the Originating Party (the "**Enablement Fee**"). The Enablement Fee shall be as provided in the Order Form and shall be included in the total Fees owed to Company as provided in Section 4. The Enablement Fee shall be due and owing to Company irrespective of the performance of the Originating Party and Performing Carrier, including any instance of non-performance by the Performing Carrier.

(h) Disclaimer; Limitation of Liability. CUSTOMER UNDERSTANDS AND ACKNOWLEDGES THAT COMPANY IS NOT A FREIGHT BROKER

AND IS NOT ARRANGING FOR TRANSPORTATION FOR COMPENSATION IN CONNECTION WITH THE HOPTEK EXCHANGE™. ALL FREIGHT BROKER SERVICES ARE PROVIDED BY THE ORIGINATING PARTY PURSUANT TO ESTABLISHED CONTRACTUAL RELATIONSHIPS WITH THE PERFORMING CARRIER. THIS SECTION 3(H) APPLIES IN ADDITION TO, AND DOES NOT LIMIT, SECTION 11.

(i) Data Isolation. Company enforces strict role-based isolation of commercial data; each of the Originating Party and Performing Carrier sees only the rate and fee components relevant to their role on a given Trade.

(j) Execution. Company does not verify load assignment, track pickup/transit/delivery, enforce execution SLAs or penalties, automatically reassign or rebid loads, or mediate disputes between the Originating Party and the Performing Carrier.

4. FEES. In consideration for Company providing the Subscription Services and, if applicable, the Professional Services, Customer will pay Company the non-refundable fees set forth in the applicable Order Form ("**Fees**") in accordance with the payment terms set forth therein and without offset or deduction. Except as otherwise provided in the relevant Order Form or agreed by the Parties, Company will issue monthly invoices to Customer during the Term, and Customer will pay all amounts set forth on any such invoice no later than thirty (30) days after the date of such invoice. If Customer has signed up for automatic billing, Company will charge Customer's selected payment method (e.g., credit card, debit card, ACH transfer) for any Fees on the applicable payment date, including any applicable taxes. If Company cannot charge Customer's selected payment method for any reason (such as expiration or insufficient funds), Customer remains responsible for any uncollected amounts, and Company will attempt to charge the payment method again as Customer may update its payment method information. In accordance with local law, Company may update information regarding Customer's selected payment method if provided such information by Customer's financial institution.

5. CUSTOMER MATERIALS AND DATA.

Company acknowledges that, as between Customer and Company, Customer owns and retains all right, title and interest in and to all Customer Materials. Company may use, display and modify the Customer Materials solely to provide and improve the Subscription Services and Professional Services during the Term (as defined below). In addition, Company may develop or derive data or insights that are in aggregated and deidentified form from (i) any Customer Materials; or (ii) Customer's and/or its Authorized Users' Use of the Subscription Services, including, without limitation, any usage data or trends with respect to the Subscription Services ("**Aggregate Data**"); any Aggregate Data constitutes Company IP. Without limiting the foregoing, Company may use the Customer Materials without identifying Customer in connection with Company's demonstration, promotion and marketing of the Subscription Services and Company's other software and services.

Company may provide to its customers, including Customer, the ability to participate in a data exchange, whereby customers may provide data to certain other customers of the Subscription Services in exchange for additional benefits or functionality (the "**Data Exchange**"). If Customer agrees to participate in the Data Exchange pursuant to the Order Form, then Customer grants to Company and the applicable third-party customers the right to use such data in connection with their provision or use, as applicable, of the Subscription Services. Customer agrees and acknowledges that (a) any such data provided by Customer will no longer constitute Confidential Information of Customer and neither Company nor any other customer will be obligated to keep such data confidential and (b) any data provided to Customer pursuant to the Data Exchange is provided on an as-is basis and Company hereby disclaims all express and implied warranties, including any warranties of accuracy or completeness, with respect to such data.

6. REPRESENTATIONS AND WARRANTIES.

(a) Each Party represents and warrants

to the other Party that: (i) it has full power and authority to enter into this Agreement; and (ii) the execution, delivery and performance of this Agreement by it have been duly authorized by all necessary actions and do not violate its organizational documents. Customer represents and warrants that Company's use of the Customer Materials in accordance with this Agreement will not violate any applicable laws or regulations or cause a breach of any agreement or obligations between Customer and any third-party.

(b) Customer represents and warrants that it all sufficient rights and/or licenses to provide the Customer Materials for the purposes of this Agreement, and that it is authorized to provide Company with such Customer Materials. Customer shall be responsible for the accuracy and completeness of all Customer Materials and information it provides to Company. Customer further warrants that the Customer Materials provided to Company do not infringe upon or violate any applicable law or right of any person or other entity, including any proprietary rights, trademark, copyright, patent, or trade secret rights, or any rights of privacy or publicity.

7. TERM. The initial term of this Agreement begins on the Effective Date and expires at the end of the Initial Term specified in the relevant Order Form (the "**Initial Term**"). Except as otherwise set forth in the Order Form, following the Initial Term, this Agreement will automatically renew for additional periods in duration equal to the Initial Term (each, a "**Renewal Term**," and together with the Initial Term, the "**Term**"), unless either Party provides the other with at least thirty (30) days' written notice of its intent not to renew this Agreement prior to the end of the then-current Term.

8. TERMINATION. Either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and, if able to be cured, such breach remains uncured thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach. Company may further terminate this Agreement immediately upon written notice to Customer in the event that Customer breaches Sections 2(b) or 2(c), or infringes or otherwise violates Company's intellectual property rights in and to the Subscription Services.

9. EFFECT OF TERMINATION.

(a) Upon expiration or termination of the Order Form: (i) each Party will make no further use of any Confidential Information belonging to the other Party, and will promptly return to the other Party (or destroy) all Confidential Information of the other Party in its possession or control, except for any archived electronic communications which may be stored confidentially, (ii) Customer's and its Authorized Users' right to Use the Subscription Services pursuant to such Order Form will immediately terminate; and (iii) all Fees owed by Customer to Company pursuant to the Order Form will be immediately due; provided that if Customer terminates for cause in accordance with Section 8, Company will refund to Customer a pro rata amount of any Fees paid up-front based on the remainder of the applicable Term.

(b) The rights and obligations of Company and Customer contained in Sections 4, 5, 6, 9, 10, 11, 12 and 13 will survive any expiration or termination of this Agreement.

10. CONFIDENTIALITY.

(a) Confidentiality. As used herein, "**Confidential Information**" means any information that one Party (the "**Disclosing Party**") provides to the other Party (the "**Receiving Party**") in connection with this Agreement, whether orally or in writing, that is marked as "confidential" or "proprietary" or should otherwise reasonably be considered to be confidential or proprietary given the nature of the information and/or the circumstances of disclosure. For clarity, the Subscription Services, Documentation, and Aggregate Data will be deemed Confidential Information of Company. The Receiving Party will not use or disclose any Confidential Information of the Disclosing Party except as necessary to perform its obligations or exercise its rights under this Agreement. The Receiving Party may disclose Confidential Information of the Disclosing Party only: (i) to those of its employees, contractors, agents and advisors who have a bona fide need to know such Confidential Information to perform under this Agreement and who are

bound by written agreements with use and nondisclosure restrictions at least as protective of the Confidential Information as those set forth in this Agreement, (ii) as such disclosure may be required by the order or requirement of a court, administrative agency or other governmental body, subject to the Receiving Party providing to the Disclosing Party reasonable written notice to allow the Disclosing Party to seek a protective order or otherwise contest the disclosure or (iii) as provided in Section 4 above. The terms and conditions of this Agreement will constitute Confidential Information of each Party but may be disclosed on a confidential basis to a Party's advisors, attorneys, actual or bona fide potential acquirers, investors or other sources of funding (and their respective advisors and attorneys) for due diligence purposes.

(b) Exclusions. Confidential Information shall not include any information that: (i) is or becomes generally known to the public through no fault or breach of this Agreement by the Receiving Party; (ii) is rightfully known by the Receiving Party at the time of disclosure without an obligation of confidentiality; (iii) is independently developed by the Receiving Party without access to or use of any Confidential Information of the Disclosing Party that can be evidenced in writing; or (iv) is rightfully obtained by the Receiving Party from a third-party without restriction on use or disclosure.

11. DISCLAIMERS; LIMITATION OF LIABILITY.

(a) Disclaimer. THE SUBSCRIPTION SERVICES, PROFESSIONAL SERVICES, AND OTHER COMPANY IP ARE PROVIDED ON AN "AS IS" BASIS, AND COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS TO CUSTOMER, ITS AUTHORIZED USERS OR TO ANY OTHER PARTY REGARDING THE COMPANY IP, THE SUBSCRIPTION SERVICES, PROFESSIONAL SERVICES OR ANY OTHER SERVICES OR MATERIALS PROVIDED HEREUNDER. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, COMPANY HEREBY DISCLAIMS ALL WARRANTIES AND REPRESENTATIONS, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES

OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, AND ANY WARRANTIES ARISING OUT OF COURSE OF DEALING OR USAGE OF TRADE. WITHOUT LIMITING THE FOREGOING, COMPANY HEREBY DISCLAIMS ANY WARRANTY THAT USE OF THE SUBSCRIPTION SERVICES OR PROFESSIONAL SERVICES WILL BE ERROR-FREE, BUG-FREE OR UNINTERRUPTED.

(b) THE SUBSCRIPTION SERVICES PROVIDE CUSTOMER WITH SUGGESTIONS AND INFORMATION FOR CUSTOMER'S INTERNAL USE ONLY, AND SUCH SUGGESTIONS AND INFORMATION MAY NOT ACCOUNT FOR LEGAL OR REGULATORY COMPLIANCE, AND MAY BE BASED ON OUTDATED OR OTHERWISE INACCURATE INFORMATION. CUSTOMER IS SOLELY RESPONSIBLE FOR DETERMINING WHETHER OR NOT TO OPERATIONALIZE A SUGGESTION PROVIDED BY THE SUBSCRIPTION SERVICE AND FOR EVALUATING THE SAFETY OF AND COMPLIANCE WITH LAW AND REGULATION ASSOCIATED WITH ANY SUGGESTION OR INFORMATION PROVIDED BY THE SUBSCRIPTION SERVICE. COMPANY DOES NOT OPERATE AS A TRANSPORTATION BROKER, TRUCKING COMPANY, FREIGHT FORWARDER OR ARRANGER OF THE MOVEMENT OF FREIGHT (COLLECTIVELY, **"EXCLUDED ACTIVITIES"**). ANY EXCLUDED ACTIVITIES ARE UNDERTAKEN SOLELY BY CUSTOMER. COMPANY IS NOT RESPONSIBLE FOR THE TERMS AND CONDITIONS PURSUANT TO WHICH CUSTOMER UNDERTAKES ANY EXCLUDED ACTIVITIES, INCLUDING WITHOUT LIMITATION THE PRICING OR PAYMENT TERMS AGREED TO IN CONNECTION WITH EXCLUDED ACTIVITIES. NO AGENCY, PARTNERSHIP, JOINT VENTURE, EMPLOYEE—EMPLOYER OR FRANCHISEE—FRANCHISOR

RELATIONSHIP IS INTENDED OR CREATED BY CUSTOMER'S USE OF THE SERVICES OR BY THIS AGREEMENT.

(c) BY USING THE SUBSCRIPTION SERVICES CUSTOMER ACKNOWLEDGES AND AGREES THAT ANY USE OF THE SUBSCRIPTION SERVICES IS UNDERTAKEN BY CUSTOMER SOLELY AT CUSTOMER'S OWN RISK AND EXPENSE. COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES REGARDING THE ACCURACY OR TIMELINESS OF THE SUBSCRIPTION SERVICES. COMPANY ACCEPTS NO LIABILITY OR RESPONSIBILITY FOR INACCURACIES, ERRORS OR OMISSIONS IN THE SUBSCRIPTION SERVICES. WITHOUT LIMITING THE FOREGOING IN ANY WAY, COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES WHATSOEVER: (I) REGARDING THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY OR AVAILABILITY OF THE SUBSCRIPTION SERVICES, (II) THAT THE SUBSCRIPTION SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE, OR (III) REGARDING THE QUALITY OR ACCURACY OF: (i) SUGGESTED ROUTES OR SUGGESTED STOPS, OR THE SAFETY THEREOF, (ii) HOURS OF SERVICE CALCULATIONS, INTERPRETATIONS AND APPLICATIONS, (iii) THE APPLICATION OR INTERPRETATION OF ANY LAWS, RULES OR REGULATIONS, (iv) ANY SUGGESTED SHIPMENTS THROUGH A THIRD PARTY APPLICATION, OR THE SAFETY THEREOF. IN ADDITION, BY USING THE SUBSCRIPTION SERVICES, CUSTOMER ACKNOWLEDGES AND AGREES THAT COMPANY HAS NO DUTY TO CONDUCT ANY INVESTIGATIONS OR EVALUATIONS RELATING TO ANY OF THE FOREGOING. CUSTOMER FULLY AND COMPLETELY ASSUMES ALL RISK OF USING THE SUBSCRIPTION SERVICES AND ANY CONTENT, MATERIALS OR INFORMATION PROVIDED TO CUSTOMER BY COMPANY OR ANY OTHER USER OF THE SUBSCRIPTION SERVICE.

(d) THE SUBSCRIPTION SERVICES MAY INCORPORATE,

REFLECT OR INCLUDE THIRD PARTY PRODUCTS, SERVICES, INFORMATION AND CONTENT. SUCH MATERIALS ARE NOT WITHIN COMPANY'S CONTROL AND IN NO EVENT WILL COMPANY BE RESPONSIBLE OR LIABLE FOR SUCH ANY THIRD-PARTY PRODUCTS, SERVICES, INFORMATION AND CONTENT. BY ITS USE OF THE SUBSCRIPTION SERVICES, CUSTOMER ACKNOWLEDGES AND ACCEPTS THAT DIFFERENT TERMS OF USE AND PRIVACY POLICIES MAY APPLY TO CUSTOMER'S USE OF SUCH THIRD-PARTY PRODUCTS, SERVICES, INFORMATION AND CONTENT.

(e) Exclusion of Damages. EXCEPT FOR (I) BREACH OF CONFIDENTIALITY, (II) FRAUD OR WILLFUL MISCONDUCT BY EITHER PARTY, (III) BREACH OF CUSTOMER'S PAYMENT OBLIGATIONS AND (IV) INFRINGEMENT OR VIOLATION OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF INCOME, DATA, PROFITS, REVENUE OR BUSINESS INTERRUPTION, OR THE COST OF COVER OR SUBSTITUTE SERVICES OR OTHER ECONOMIC LOSS, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT, THE COMPANY IP OR THE PROVISION OF THE SUBSCRIPTION SERVICES AND PROFESSIONAL SERVICES, WHETHER SUCH LIABILITY ARISES FROM ANY CLAIM BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, AND WHETHER OR NOT SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

(f) Total Liability. IN NO EVENT WILL COMPANY'S TOTAL LIABILITY TO CUSTOMER OR ITS AUTHORIZED USERS IN CONNECTION

WITH THIS AGREEMENT, THE COMPANY IP OR THE PROVISION OF THE SUBSCRIPTION SERVICES OR PROFESSIONAL SERVICES EXCEED THE FEES ACTUALLY PAID BY CUSTOMER TO COMPANY IN THE TWELVE (12) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM, REGARDLESS OF THE LEGAL OR EQUITABLE THEORY ON WHICH THE CLAIM OR LIABILITY IS BASED, AND WHETHER OR NOT COMPANY WAS ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE.

(g) Basis of the Bargain. THE PARTIES HEREBY ACKNOWLEDGE AND AGREE THAT THE LIMITATIONS OF LIABILITY IN THIS SECTION 11 ARE AN ESSENTIAL PART OF THE BASIS OF THE BARGAIN BETWEEN COMPANY AND CUSTOMER, AND WILL APPLY EVEN IF THE REMEDIES AVAILABLE HEREUNDER ARE FOUND TO FAIL THEIR ESSENTIAL PURPOSE.

12. INDEMNIFICATION.

(a) Indemnification by Company. Subject to Section 12(b), Company will defend Customer against any claim, suit or proceeding brought by a third-party ("Claims") alleging that Customer's Use of the Subscription Services infringes or misappropriates such third party's intellectual property rights, and will indemnify and hold harmless Customer against any damages and costs awarded against Customer or agreed in settlement by Company (including reasonable attorneys' fees) resulting from such Claim.

(b) Exclusions. Company's obligations under Section 12(a) will not apply if the underlying Claim arises from or as a result of: (i) Customer's breach of this Agreement, negligence, willful misconduct or fraud; (ii) any Customer Materials; (iii) Customer's failure to use any enhancements, modifications, or updates to the Subscription Services that have been provided by Company; (iv) modifications to the Subscription Services by anyone other than Company; (v) combinations of the Subscription Services with software, data or materials not provided by Company; or Customer's continued Use of a prior version of the Subscription Services

that has been superseded by a non-infringing version subsequently made available by Company.

(c) If Company reasonably believes the Subscription Services (or any component thereof) could infringe any third party's intellectual property rights, Company may, at its sole option and expense, use commercially reasonable efforts to: (i) modify or replace the Subscription Services, or any component or part thereof, to make it non-infringing; or (ii) procure the right for Customer to continue Use. If Company determines that neither alternative is commercially practicable, Company may terminate this Agreement, in its entirety or with respect to the affected component, by providing written notice to Customer. The rights and remedies set forth in this Section 12 will constitute Customer's sole and exclusive remedy for any infringement or misappropriation of intellectual property rights in connection with the Subscription Services.

(d) Indemnification by Customer. Customer will defend (or settle), indemnify and hold harmless Company from and against any damages and liabilities (including court costs and reasonable attorneys' fees) awarded in a final judgment against Company, and amounts agreed to in settlement with respect to each of the foregoing, to the extent arising from a Claim against Company that: (i) the Customer Materials or its use by Company in accordance with this Agreement infringes, misappropriates or violates a third-party's intellectual property rights, or rights of publicity or privacy, or result in the violation of any applicable law or regulation; (ii) is based on Customer's or an Authorized User's Use of the Subscription Services or Documentation; (iii) Customer's violation of any law, rule or regulation or the rights of a third party, (iv) any traffic incident or violation of law, rule or regulation by a driver or route in connection with the Services, (v) is based on the manufacture, sale, distribution or marketing of any Customer's products or services; or (vi) is based on a breach of Section 2(b) by Customer.

(e) The Party seeking defense and indemnity (the "**Indemnified Party**") will promptly (and in any event no later than thirty (30) days after becoming aware of facts or circumstances that could reasonably give rise to any Claim) notify the other Party (the "**Indemnifying Party**") of the Claim for which indemnity is being sought, and will reasonably cooperate with the Indemnifying Party in the defense and/or settlement thereof. The Indemnifying Party will have the sole right to conduct the defense of any Claim for which the Indemnifying Party is responsible hereunder (provided that the Indemnifying Party may not settle any Claim without the Indemnified Party's prior written approval unless the settlement is for a monetary amount, unconditionally releases the Indemnified Party from all liability without prejudice, does not require any admission by the Indemnified Party, and does not place restrictions upon the Indemnified Party's business, products or services). The Indemnified Party may participate in the defense or settlement of any such Claim at its own expense and with its own choice of counsel or, if the Indemnifying Party refuses to fulfill its obligation of defense, the Indemnified Party may defend itself and seek reimbursement from the Indemnifying Party.

13. MISCELLANEOUS.

(a) Export Regulation. Customer will fully comply with all applicable federal laws, regulations and rules that prohibit or restrict the export or re-export of the Subscription Services or software, or any Customer Materials, outside the United States ("**Export Rules**"), and will complete all undertakings required by Export Rules, including obtaining any necessary export license or other governmental approval.

(b) Data Privacy. Customer represents and warrants that any personal data (or such similar term as defined by applicable law) it provides to Company or grants Company access to in connection with the Agreement has been and will be collected or otherwise obtained in compliance with applicable law. Customer further represents and warrants that at all times fair processing and all other appropriate notices have been provided to data subjects of such personal data (and all necessary consents from such data subjects obtained and at all times maintained) to the extent required by applicable data protection laws in connection with all

processing activities in respect of the personal data that may be undertaken by Company and its subcontractors in accordance with the Agreement.

If Company's provision of the Subscription Service includes the processing of personal data by Company, then the parties will negotiate in good faith a specific data processing agreement where such data processing agreement is required by applicable law.

(d) Force Majeure. Neither Party will be responsible for any failure or delay in the performance of its obligations under this Agreement (except for any payment obligations) due to causes beyond its reasonable control, which may include, without limitation, labor disputes, strikes, lockouts, shortages of or inability to obtain energy, raw materials or supplies, denial of service or other malicious attacks, telecommunications failure or degradation, pandemics, epidemics, public health emergencies, governmental orders and acts (including government-imposed travel restrictions and quarantines), material changes in law, war, terrorism, riot, or acts of God.

(e) Equitable Relief. Customer agrees that a breach or threatened breach by Customer of any of its obligations under Section 2(c) or Section 10 would cause Company irreparable harm and significant damages for which there may be no adequate remedy under law and that, in the event of such breach or threatened breach, Company will have the right to seek immediate equitable relief, including a restraining order, an injunction, specific performance and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity or otherwise.

(f) Modification to Terms. Company reserves the right to modify this Agreement or its policies relating to the

Subscription Service at any time by posting of an updated version of this Agreement on the Subscription Service. Company will post the modified Agreement at least thirty (30) days prior to the proposed effective date and the modified Agreement will be deemed accepted and become effective following such thirty (30) day review period unless Customer provides Company written notice of rejection. Customer is responsible for regularly reviewing this Agreement. Continued use of the Subscription Service after the effective date and silence during the foregoing review period shall constitute Customer's consent and approval to the modified Agreement, which shall thereby replace the prior version of this Agreement in its entirety.

(g) General. Company may use Customer's name, trademark, and associated logos in its marketing and promotional efforts, including by publicly naming Customer as a customer of Company. Customer may not assign or transfer this Agreement, by operation of law or otherwise, without Company's prior written consent, and any attempt by you to do so, without such consent, will be void. Subject to the foregoing, this Agreement is binding upon and will inure to the benefit of each of the Parties and their respective successors and permitted assigns. If any provision of this Agreement is held invalid, illegal or unenforceable, that provision will be enforced to the maximum extent permitted by law, given the fundamental intentions of the Parties, and the remaining provisions of this Agreement will remain in full force and effect. This Agreement, including the applicable Order Form, is the complete and exclusive agreement between the Parties with respect to its subject matter and supersedes all prior or contemporaneous agreements, communications and understandings, both written and oral, with respect to its subject matter. This Agreement may be amended or modified only by a written document executed by duly authorized representatives of the Parties. Nothing in this Agreement will be construed to create a partnership, joint venture or agency relationship between the Parties. Neither Party will have the power to bind the other or to incur obligations on the other's behalf without such other party's prior written consent. There will be no express or implied third-party beneficiaries capable of enforcing the terms of this Agreement other than

the Parties whom execute this Agreement. Except as expressly set forth in this Agreement, the exercise by either Party of any remedy under this Agreement will be without prejudice to its other remedies under this Agreement or otherwise. Either Party's failure to enforce any provision of this Agreement will not constitute a waiver of future enforcement of that or any other provision. No waiver of any provision of this Agreement will be effective unless it is in writing and signed by the Party granting the waiver. This Agreement will be governed by and construed in accordance with the laws of the State of New York without giving effect to any principles of conflict of laws that would lead to the application of the laws of another jurisdiction. The Parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in New York, New York and the Parties irrevocably consent to the personal jurisdiction and venue therein. All notices required to be sent hereunder will be in writing and will be deemed to have been given when mailed by certified mail, overnight express, or sent by email, with receipt confirmed to the applicable address in the Order Form.