

SyncStream Solutions SUBSCRIPTION SERVICES AGREEMENT

This Subscription Services Agreement, including the Quote which by this reference is incorporated herein (this "**Agreement**"), is a binding agreement between SyncStream Solutions, LLC ("**Provider**") and the person or entity identified on the Quote as the Customer of the Software ("**Customer**"). Company hereby agrees to give an approved business or individual ("**User**") access to certain of Company's Services as defined and referenced in the Quote (as defined below) to User and to provide certain services associated with such Services (the "**Services**") to User, subject to the terms and conditions set forth in this Agreement.

PROVIDER PROVIDES THE SERVICES SOLELY ON THE TERMS AND CONDITIONS SET FORTH IN THIS AGREEMENT AND ON THE CONDITION THAT CUSTOMER ACCEPTS AND COMPLIES WITH THEM. BY [CLICKING THE "ACCEPT" BUTTON/CHECKING THE "ACCEPT" BOX ON THE ORDER FORM] YOU (A) ACCEPT THIS AGREEMENT AND AGREE THAT CUSTOMER IS LEGALLY BOUND BY ITS TERMS; AND (B) REPRESENT AND WARRANT THAT: (I) YOU ARE OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT; AND (II) IF CUSTOMER IS A CORPORATION, GOVERNMENTAL ORGANIZATION, OR OTHER LEGAL ENTITY, YOU HAVE THE RIGHT, POWER, AND AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF CUSTOMER AND BIND CUSTOMER TO ITS TERMS. IF CUSTOMER DOES NOT AGREE TO THE TERMS OF THIS AGREEMENT, PROVIDER WILL NOT AND DOES NOT LICENSE THE SERVICES TO CUSTOMER AND YOU MAY NOT UTILIZE SERVICES.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT OR YOUR OR CUSTOMER'S ACCEPTANCE OF THE TERMS AND CONDITIONS OF THIS AGREEMENT, NO LICENSE IS GRANTED (WHETHER EXPRESSLY, BY IMPLICATION, OR OTHERWISE) UNDER THIS AGREEMENT, AND THIS AGREEMENT EXPRESSLY EXCLUDES ANY RIGHT, CONCERNING ANY SERVICES THAT CUSTOMER DID NOT ACQUIRE LAWFULLY.

1. DEFINITIONS

- 1.1. **Affiliate** means any company that (i) controls, (ii) is controlled by or (iii) is under common control with either Party or its parent corporation. A company shall be deemed to control a company if it has the power to direct or cause the direction of the management or policies of such company, whether through the ownership of voting securities, by contract, or otherwise.
- 1.2. **Agreement** means this Subscription Services Agreement, Quote, Schedules (attached to or within the Quote), and such other documents, attachments and exhibits that the parties' authorized representatives mutually agree to in writing.
- 1.3. **Client** means the entity set forth on the Quote and receiving Subscription Services under the Agreement.
- 1.4. **Client Data** means all required electronic data or information submitted by Client to Company for the provision of Subscription Services.
- 1.5. **Collection Fees** has the meaning set forth in Section 3.2.
- 1.6. **Company** means the entity set forth on the Quote and providing Subscription Services under the Agreement.
- 1.7. **Content** means materials provided or posted by Company in connection with the Subscription Services, including but not limited manuals, instructions, or other documents or materials that the Provider provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Services or Content, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.
- 1.8. **Documentation** means any manuals, instructions, or other documents or materials that the Provider provides or makes available to Customer in any form or medium and which describe the functionality, components, features, or requirements of the Services or Provider Materials, including any aspect of the installation, configuration, integration, operation, use, support, or maintenance thereof.
- 1.9. **Effective Date** means the date defined within the Quote, or if no such date is defined, the date Customer accepts this Agreement by clicking 'Accept'.
- 1.10. **Initial Term** has the meaning set forth in Section 8.1.
- 1.11. **Intellectual Property** means any and all intellectual property rights, recognized in any country or jurisdiction in the world, now or hereafter existing, and whether or not perfected, filed or recorded, including without limitation inventions, technology, patent rights (including patent applications and disclosures), copyrights, trade secrets, trademarks, service marks, trade dress, methodologies, procedures, processes, know-how, tools, utilities, techniques, various concepts, ideas, methods, models, templates, software, source code, algorithms, the generalized features of the structure, sequence and organization of software, User interfaces and screen designs, general purpose consulting and software tools, utilities and routines, logic, coherence and methods of operation of systems, training methodology and materials, which Company has created, acquired or otherwise has rights in, and may, in connection with the performance of Subscription hereunder, create, employ, provide, modify, acquire or otherwise obtain rights in.
- 1.12. **Quote** means the document(s), regardless of actual name, executed by the parties from time to time, which incorporates by reference the terms of this Agreement and describes order-specific information such as description of Subscription Services ordered, fees, and other business terms. Statement of Work (SOW) shall be synonymous with Quote.
- 1.13. **Renewal Term** has the meaning set forth in Section 8.2.
- 1.14. **Resultant Data** means data and information related to Customer's use of the Services that is used by Provider in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services.
- 1.15. **Schedule** means a product-specific set of terms and conditions that serves as an addendum to the Quote.
- 1.16. **Site** means the web interface at a URL designated by Company.
- 1.17. **Subscription Services** means services described in the relevant schedule.
- 1.18. **Subscription Start Date** means the date specified on the Quote.
- 1.19. **Term** has the meaning set forth in Section 8.2.
- 1.20. **User(s)** means those persons who (a) have been authorized by Client to access and use the Subscription Services; (b) have complied with any registration requirements reasonably requested by Company, (c) have been issued a personal and unique User ID and Password; and (c) have acknowledged, where required, the terms and conditions applicable to the particular Subscription Services. Only current employees and independent contractors of Client are eligible to be Users.

2. USE RIGHTS

- 2.1. **Grant of Use.** Subject to and conditioned on Customer's and its Users' compliance with the terms of the Agreement, Company grants to Client the right to access and use the Subscription Services described in the Quote, solely for its internal business purposes.

- 2.2. Documentation License.** Provider hereby grants to Customer a non-exclusive, non-sublicenseable, non-transferable (except in compliance with Section 9.3) license to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services
- 2.3. Authorized Users.** Client shall provide Company with the required demographic data for all Users in the specified electronic format provided by Company to complete the initial registration process. Client agrees not to activate and deactivate Users repeatedly as a method of keeping the number of Users within range of the Quote.
- 2.4. Acceptable Use.** Client and all Users shall use the Subscription Services exclusively for authorized and legal purposes, consistent with all applicable laws and regulations. Client agrees and shall ensure that Users agree not to post or upload any content or data which (i) is libelous, defamatory, obscene, pornographic, abusive, harassing or threatening; (ii) contains computer viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs; (iii) violates the rights of others, such as data which infringes on any intellectual property rights or violates any right of privacy or publicity; or (iv) otherwise violates any applicable law. Client further agrees and shall ensure that Users agree not to interfere or disrupt networks connected to the Subscription Services, not to interfere with another entity's use of similar services and to comply with all regulations, policies and procedures of networks connected to the Subscription Services. Company may remove any violating content posted on the Subscription Services or transmitted through the Subscription Services without notice. Company may suspend or terminate any User's access to the Subscription Services in the event that Company reasonably determines that such User has violated the terms and conditions of this Agreement.
- 2.5. Restrictions.** Client shall not itself, or through any affiliate, employee, contractor, agent or other third party (i) sell, resell, distribute, host, lease, rent, license or sublicense any Services, the Site, or Content or access thereto to any Person, in whole or in part, including on or in connection with the internet or any time-sharing, service bureau, software as a service, cloud, or other technology or service; (ii) decipher, decompile, disassemble, reverse assemble, modify, translate, reverse engineer or otherwise attempt to derive source code, algorithms, tags, specifications, architecture, structure or other elements of the Subscription Services, in whole or in part; (iii) allow access to, provide, divulge or make available the Site or the Subscription Services to anyone other than an authorized User; (v) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm in any manner the Services, Company's Systems, or Company's provision of services to any third party, in whole or in part (iv) create derivative works based upon the Subscription Services; or modify, adapt, translate or otherwise make any changes to the Subscription Services or any part thereof; (vi) disclose or publish, without Company's prior written consent, performance or capacity statistics or the results of any benchmark test performed on the Subscription Services; or (vii) remove from any Subscription Services or other materials owned by Company identification, patent, copyright, trademark or other notices. Proprietary notices, including without limitation patents, copyrights and trademarks notices, as well as disclaimer notices, must be reproduced on any such authorized copies.
- 2.6. Enforcement.** Client shall (i) ensure that all Users of Subscription Services comply with the terms and conditions of this Agreement, (ii) promptly notify Company of for all acts and omissions of its Users in connection with their access and use of the Subscription Services.
- 2.7. Environment.** The Subscription Services will be hosted on a server that is maintained by Company or its designated third-party subcontractor. User access to the Subscription Services is provided through the Site. Client is solely responsible for obtaining and maintaining, at its own expense, all equipment needed to access the Site, including but not limited to Internet access and telecommunications network with adequate bandwidth.
- 2.8. Availability.** Company shall use commercially reasonable efforts to make the Subscription Services available 24x7, except for scheduled downtime events where notice is provided to Client, emergency downtime events, or Internet service provider failures or delays. Company will use commercially reasonable efforts to perform scheduled downtime events outside of normal business hours. Client acknowledges that the Subscription Services may be subject to limitations, delays, and other problems inherent in the use of the Internet and electronic communications; Company is not responsible for any delays, delivery failures, or other damage resulting from such problems.
- 2.9. Content.** Access to Content, if applicable, shall be provided by Company through the Subscription Services. Client is responsible for selecting which Content will be available to authorized Users. Company continuously reviews and updates Content based on an ongoing-needs analysis. Company reserves the right to add, revise, or withdraw from its Content any item or part of an item in its sole discretion.
- 2.10. Passwords.** Client is responsible for maintaining the confidentiality of all passwords and for ensuring that each password is used only by the authorized User. Client is entirely responsible for any and all activities that occur under its account. Client shall immediately notify Company of any unauthorized use or any other breach of security known to Client. Company shall have no liability for any loss or damage arising from Client's failure to comply with these requirements.
- 2.11. Client Data Responsibilities.** Client shall be solely responsible for the accuracy, quality, integrity and legality of data uploaded in the Subscription Services by Client. Client shall own or shall obtain all proprietary rights necessary, including copyrights, patents, and trade secrets, in and to any content or data it provides, develops, or uploads for use in the Subscription Services. Client authorizes Company and the data center to serve as the host and repository for the data Client enters into the Subscription Services.
- 2.12. Changes.** Company reserves the right, in its sole discretion, to make changes to the Services and Content that it deems necessary to: (a) maintain or enhance: (i) the quality or delivery of Provider's services to its customers; (ii) the competitive strength of or market for Provider's services; or (iii) the Services' cost efficiency or performance; (b) to comply with applicable Law; (c) add and/or substitute functionally equivalent products in the event of (i) product unavailability; (ii) end-of-life, changes to software requirements; or (iii) to comply with applicable law. Company regularly updates the Subscription Services, meaning that such Subscription Services are continually evolving. Some of these changes will occur automatically, while others may require Client to schedule and implement the changes.

3. FINANCIAL TERMS

- 3.1. Fees, Payment Terms, and Taxes.** Fees and payment terms are specified in the applicable Quote. All payments made hereunder shall be in US Dollars. Company may, after the first twelve (12) months of the Initial Term, and not more than once in a twelve (12) month period, modify the fees for Subscription Services upon sixty (60) days' written notice. Payment of all fees is due thirty (30) days after the invoice date.
- 3.2. Late Payment.** All late payments shall bear interest at the lesser of the rate of 1% per month or the highest rate permissible under applicable law, calculated daily and compounded monthly. Failure to make timely payments shall be a material breach of the Agreement. Customer shall reimburse Company for all costs incurred by Provider in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees (collectively the "Collection Fees")
- 3.3. Suspension of Services.** Company may suspend, terminate, or otherwise deny Customer's or any other Person's access to or use of all or any part of the Subscription Services or Content, without incurring any resulting obligation or liability, if: (i) immediately in the event Client is in breach of Section 2.4, above; or (ii) hereunder upon thirty (30) days' written notice to Client until all past due amounts have been paid, inclusive of any Collection Fees; or (iii) upon thirty (30) days' written notice to Client in the event Client is otherwise in breach of this Agreement; or (iv) Company receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Provider to do so. Company may impose an additional charge to reinstate service following such suspension; or (iv) Company believes, in its sole discretion, that: (a) Customer or any Authorized User has failed to comply with any term of this Agreement, or accessed or used the Services beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any instruction or requirement of the specifications; (b) Customer or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Services; or (c) this Agreement expires or is terminated. This Section 3.3 does not limit any of Provider's other rights or remedies, whether at law, in equity, or under this Agreement.
- 3.4. Taxes.** Unless expressly provided otherwise, prices do not include taxes. Client agrees to pay any federal, state or local sales, use, personal property, excise taxes or other taxes arising out of this Agreement.
- 3.5. No Contingencies.** Client agrees that its purchases hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written comments made by Company regarding future functionality or features.

3.6. **No Deductions or Setoffs.** All amounts payable to Provider under this Agreement shall be paid by Client to Company in full without any setoff, recoupment, counterclaim, deduction, debit, or withholding for any reason (other than any deduction or withholding of tax as may be required by applicable Law).

3.7. **Credit Card on File.** If paying by credit card, you hereby authorize Company to charge the credit card supplied for the payment of all Services and Fees. The credit card provided will be kept on file and will remain in effect until the expiration of the credit card account. Customer may revoke this authorization by submitting a written request to Company. Customer agrees to pay the cost for any returned or challenged payments.

4. CONFIDENTIALITY

4.1. **Confidential Information.** Each party hereby agrees that it will not use or disclose any Confidential Information received from the other party other than as expressly permitted under the terms of this Agreement or as expressly authorized in writing by the other party. “**Confidential Information**” means any and all information disclosed by either party to the other which is marked “confidential” or “proprietary” or which should be reasonably understood by each party to be confidential or proprietary, including, but not limited to, the terms and conditions (but not the existence) of this Agreement, all trade secrets, Intellectual Property as well as results of testing and benchmarking of the Subscription Services. Each party will protect the other party’s Confidential Information from unauthorized dissemination and use the same degree of care that each such party uses to protect its own confidential information, but in no event less than a reasonable amount of care. Company may use, for purposes outside of this Agreement, anonymous, de-identified data; however, Company agrees not to use or disclose this information to the extent prohibited by applicable law. Information shall not be considered Confidential Information to the extent, but only to the extent, that the receiving party can establish that such information (i) is or becomes generally known or available to the public through no fault of the receiving party; (ii) was lawfully in the receiving party’s possession before receipt from the disclosing party without a duty of confidentiality; (iii) is lawfully obtained from a third-party who has the right to make such disclosure on a non-confidential basis; or (iv) has been independently developed by one party without reference to any Confidential Information of the other.

4.2. **Compelled Disclosure.** A party (“**Disclosing Party**”) may disclose Confidential Information of the other party if it is compelled by law to do so, provided the Disclosing Party gives the other party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the other party’s cost, if the other party wishes to contest the disclosure.

5. OWNERSHIP

5.1. **Reservation of Rights.** All rights not expressly granted in this Agreement are reserved by Company and its licensors.

5.2. **Service and System Control.** Company has and will retain sole and exclusive ownership of, and all rights, title, and interest in, Subscription Services and the Site, including without limitation (a) Intellectual Property embodied or associated therein, and (b) all derivative works and copies thereof.

5.3. **Provider Materials.** All right, title, and interest in and to the Provider Materials, including all Intellectual Property Rights therein, are and will remain with Provider and, with respect to Third-Party Materials, the applicable third-party providers own all right, title, and interest, including all Intellectual Property Rights, in and to the Third-Party Materials. Customer has no right, license, or authorization with respect to any of the Provider Materials except as expressly set forth in Section 2.1 or the applicable third-party license, in each case subject to Section 2.5. All other rights in and to the Provider Materials are expressly reserved by Provider. In furtherance of the foregoing, Customer hereby unconditionally and irrevocably grants to Provider an assignment of all right, title, and interest in and to the Resultant Data, including all Intellectual Property Rights relating thereto.

6. WARRANTIES, DISCLAIMERS, AND LIMITATION OF LIABILITY

6.1. **General.** Each party represents and warrants that it has the legal power and authority to enter into this Agreement.

6.2. **DISCLAIMERS OF WARRANTIES.** THE SERVICES ARE PROVIDED TO USER “AS IS, WHERE IS”, WITH ALL FAULTS AND WITHOUT WARRANTY OF ANY KIND. EXCEPT AS EXPRESSLY PROVIDED UNDER THIS AGREEMENT, THE COMPANY AND ITS AFFILIATES, OFFICERS, DIRECTORS, EMPLOYEES AND AGENTS: (A) DO NOT WARRANT THE ACCURACY, COMPLETENESS, COMPREHENSIVENESS OR CURRENCY OF THE SERVICES OR SERVICES, THE CONTENT PROVIDED THEREON OR THE FORMS, REPORTS OR RESPONSES GENERATED FROM THE SERVICES; AND (B) EXPRESSLY DISCLAIM ALL WARRANTIES AND CONDITIONS, EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT. USER IS INSTRUCTED TO USE THE COMPANY’S SERVICES AND SERVICES AT THEIR OWN RISK. THE COMPANY MAKES NO WARRANTY OR GUARANTEE THAT THE SERVICES OR SERVICES WILL BE UNINTERRUPTED, AVAILABLE AT ANY TIME OR FROM A PARTICULAR LOCATION, SECURE OR ERROR-FREE, THAT DEFECTS WILL BE CORRECTED OR THAT THE SERVICES IS/ARE FREE OF VIRUSES OR OTHER POTENTIALLY HARMFUL COMPONENTS. NOTWITHSTANDING THE FOREGOING, THE COMPANY AGREES THAT IT WILL USE ITS COMMERCIALY REASONABLE BEST EFFORTS TO MAINTAIN THE SECURITY, COMPLETENESS, COMPREHENSIVENESS AND CURRENCY OF THE SERVICES FROM VIRUSES OR OTHER POTENTIALLY HARMFUL COMPONENTS..

6.3. **EXCLUSION OF DAMAGES.** IN NO EVENT WILL PROVIDER OR ANY OF ITS LICENSORS, SERVICE PROVIDERS, OR SUPPLIERS BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL OR REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.

6.4. **CAP ON MONETARY LIABILITY.** IN NO EVENT WILL THE COLLECTIVE AGGREGATE LIABILITY OF PROVIDER, ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE TOTAL AMOUNTS PAID TO LICENSOR UNDER THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

NO CLAIM ARISING OUT OF THE AGREEMENT, REGARDLESS OF FORM, MAY BE BROUGHT MORE THAN THE SHORTER OF ONE YEAR OR THE PERIOD ALLOWED BY LAW AFTER THE CAUSE OF ACTION HAS OCCURRED.

THIS SECTION 6 SHALL SURVIVE FAILURE OF ANY EXCLUSIVE REMEDY.

7. INDEMNIFICATION

7.1. **Client Indemnification.** Client shall indemnify and hold Company, its affiliates, suppliers, data center, employees, officers, and owners (“**Company Indemnified Parties**”) harmless from and against all liability, claims, damages, fines, losses, expenses (including reasonable attorney’s fees and court costs, and the cost of

enforcing this indemnity) suffered or incurred by Company or any Company Indemnified Party arising out of or result from, or are alleged to rise out of or result from: (i) Customer Data, including any Processing of Customer Data by or on behalf of Company in accordance with this Agreement; or (ii) any use or reliance by Client or any User of any Subscription Services, including all third-party claims, causes of action, suits, and legal proceedings asserted against Company or a Company Indemnified Party arising out of, or relating to, the use of or reliance by Client or any User on any Subscription Services; or (iii) any other materials or information (including any documents, data, specifications, software, content, or technology) provided by or on behalf of Customer or any Authorized User, including Provider's compliance with any specifications or directions provided by or on behalf of Customer or any Authorized User to the extent prepared without any contribution by Provider; or (iv) allegation of facts that, if true, would constitute Customer's breach of any of its representations, warranties, covenants, or obligations under this Agreement; or (v) negligence or more culpable act or omission (including recklessness or willful misconduct) by Customer, any Authorized User, or any third party on behalf of Customer or any Authorized User, in connection with this Agreement.

7.2. Company Indemnification. Company shall indemnify and hold harmless Client and its principals, officers, directors, agents, and employees (**Client Indemnified Parties**), and at Company's option, either defend Client Indemnified Parties or pay their attorney's fees and court costs, from any loss, cost, damage, or expense incurred by Client that is finally awarded by a court of law to any third party as a result of a claim alleging that the Subscription Services infringe or misappropriate a U.S. patent, U.S. copyright, U.S. trademark or U.S. trade secret of a third party, solely provided such alleged infringement or misappropriation does not arise from: (i) a modification of the Subscription Services as delivered to Client, (ii) the combination of the Subscription Services with any other process, hardware, software, data, or functionality, (iii) any Client-originating data or content communicated using such Subscription Services; or, (iv) any use of the Subscription Services by Client in a manner inconsistent with the documentation or instructions provided by Company or otherwise in breach of this Agreement.

7.3. Indemnification Procedure. The indemnifications made hereunder are solely provided upon the following conditions: (i) the indemnifying party controls any settlement or any suit or claim indemnified hereunder (ii) the indemnified party's prior written consent, which shall not be unreasonably withheld or delayed, is obtained prior to any settlement by the indemnifying party that affects the indemnified party's rights and obligations; (iii) the indemnifying party is promptly informed of any third-party claim indemnified hereunder; and, (iv) in the case of Client, Client ceases any alleged infringing activity upon actual or constructive notice of any claim or allegation of infringement.

8. TERM AND TERMINATION

8.1. Initial Term. This Agreement shall remain in effect for one (1) year, unless otherwise terminated as set forth herein (the "**Initial Term**").

8.2. Renewal Term. This Agreement will automatically renew for successive one (1) year terms at the then-current rates unless earlier terminated pursuant to this Agreement's express provisions or either party gives the other party written notice of non-renewal at least 60 days prior to the expiration of the then-current term (each a "**Renewal Term**" and, collectively, together with the Initial Term, the "**Term**"). The pricing for any Renewal Term shall be provided by Company to Client in writing no less than sixty (60) days prior to the end of the initial term or any renewal term.

8.3. Termination. Either party may terminate the Agreement including all Quotes executed thereunder immediately upon written notice (i) in the event that the other party commits a non-remediable material breach of the Agreement, or if the other party fails to cure any remediable material breach or provide a written plan of cure acceptable to the non-breaching party within thirty (30) days of being notified in writing of such breach; or (ii) in the event of institution of bankruptcy, receivership, insolvency, reorganization, or other similar proceedings by or against the other party under any section or chapter of the United States Bankruptcy Code, as amended, or under any similar laws or statutes of the United States or any state thereof, if such proceedings have not been dismissed or discharged within thirty (30) calendar days after they are instituted; or the insolvency or making of an assignment for the benefit of creditors or the admittance by either party of any involuntary debts as they mature or the institution of any reorganization arrangement or other readjustment of debt plan of either party not involving the United States Bankruptcy Code.

8.4. Partial Termination. Where a party has rights to terminate, the non-breaching party may at its discretion either terminate the entire Agreement or the applicable Quotes. Quotes that are not terminated shall continue in full force and effect under the terms of this Agreement.

8.5. Effect of Termination or Expiration. Following termination or expiration of this Agreement (for whatever reason provided for under the Agreement), Client shall certify that Client has returned or destroyed all copies of the Subscription Services, Confidential Information and Intellectual Property of Company and all materials or documents relating to the Subscription Services in any format and residing on any media. Client acknowledges that its rights to use the same are relinquished and shall immediately cease all use of any Services. If Provider terminates this Agreement pursuant to Section 8.3, all Fees that would have become payable had the Agreement remained in effect until expiration of the Term will become immediately due and payable, and Customer shall pay such Fees, together with all previously-accrued but not yet paid. Termination for any reason shall not excuse Client's obligation to pay in full any and all amounts due or that become due through such termination or that arise under Section 9.18, nor shall termination result in a refund of fees paid, except as expressly provided otherwise in this Agreement.

8.6. Client Data after Termination or Expiration. Company has no obligation to retain Client Data after sixty (60) days following the expiration or termination of Subscription Services, provided that Client has at that time paid all then outstanding and any amounts payable after or as a result of such expiration or termination, including Collection Fees; however, Company shall provide Client Data to Client, upon reasonable request and during Company's normal business hours, for no additional fee during these sixty (60) days, after which additional fees may be incurred. Client Data will be provided to Client in whatever manner Company deems appropriate.

9. GENERAL PROVISIONS

9.1. Force Majeure. Neither party shall incur any liability to the other party on account of any loss, claim, damage, or liability to the extent resulting from any delay or failure to perform any part of this Agreement (except for payment obligations) to the extent caused, by events, occurrences, or causes beyond the control and without any negligence on the part of the party seeking protection under this subsection. Such events may include, but are not limited to acts of God, strikes, lockouts, riots, acts of war, terrorism, earthquake, fire, or explosions; however lack of funds shall not be deemed to be a reason beyond a party's control. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

9.2. Subcontractors. Company, in its sole discretion, may subcontract or delegate Subscription Services to any third party without Client's prior written consent, provided that Company shall remain responsible to Client for any services for which it subcontracts or delegates.

9.3. Assignment. This Agreement is binding upon the successors and assigns of the parties hereto. Notwithstanding anything to the contrary contained herein, this Agreement is not assignable sub-licensable or transferrable, except upon the prior written consent of Company. Assigning, transferring or sublicensing this Agreement shall not relieve Client of its obligations hereunder.

9.4. Non-solicitation. During the term of this Agreement and for a period of one (1) year following its termination, neither party will solicit for employment directly or through other parties, without the other party's written permission, any individual employed by the other party, provided however that the solicitation or hiring of individuals responding to general public marketing and recruiting advertisements and events shall not be a violation of this provision; only active, targeted solicitation is prohibited.

9.5. Compliance. Company reserves the right to utilize Client Data to verify compliance with the terms of this Agreement. Company may monitor the usage, performance and operation of the Subscription Services using electronic, remote and other means and without notice to Client.

9.6. Construction. Headings in this Agreement are inserted solely for convenience of reference and will neither constitute a part of this Agreement nor affect its meaning, construction or intent. Whenever used in this Agreement, unless the context indicates otherwise, the singular will include the plural, the plural will include the singular, and the male gender will include the female gender. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation," unless otherwise specified.

9.7. Notices. Whenever any notice may be or is required to be given hereunder, such notice shall be in writing and sent by United States first class mail, postage prepaid; or by overnight delivery service, where receipt is given, and addressed to such party at its last address appearing in the records of the party who is providing the notice; or by e-mailing such person at his, her or its last known e-mail address with a confirmation copy delivered in accordance with this provision.

- 9.8. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever.
- 9.9. Invalidity.** If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired to the fullest extent permitted by applicable law.
- 9.10. No Waiver.** No waiver or failure by either party to exercise any option, right or privilege under the terms of this Agreement on any occasion or occasions will be construed to be a waiver of the same on any other occasion or of any other option, right or privilege. Any waiver of the provisions of this Agreement or of a party's rights or remedies under this Agreement must be in writing to be effective. Failure, neglect, or delay by a party to enforce the provisions of the Agreement or its rights or remedies at any time, shall not be construed and shall not be deemed to be a waiver of such party's rights under the Agreement and shall not in any way affect the validity of the whole or any part of the Agreement or prejudice such party's right to take subsequent action.
- 9.11. Entire Agreement.** This Agreement, including Quotes and other attachments incorporated by reference, constitutes the parties' entire agreement relating to its subject matter. It cancels and supersedes all prior or contemporaneous oral or written communications, agreements, proposals, conditions, representations, warranties, or other communication between the parties relating to its subject matter as well as any prior contractual agreements between the parties. No modification to the Agreement will be binding unless in writing signed by an authorized representative of each party. All pre-printed or standard terms of any of Client's purchase order or other business processing document shall have no effect.
- 9.12. No Third-Party Beneficiaries.** No provision of this Agreement shall confer upon any person, including but not limited to, Clients, other than the parties hereto any rights or remedies hereunder.
- 9.13. Waiver of Jury Trial.** Each party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement or the transactions contemplated hereby.
- 9.14. Attorneys' Fees.** In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either party against the other party arising out of [or related to] this Agreement, the prevailing party is entitled to recover its [reasonable/actual] attorneys' fees and court costs from the non-prevailing party.
- 9.15. Governing Law and Venue.** This Agreement shall be construed and governed by the laws of the State of Louisiana, without regard to principles of conflicts of law. The parties agree, and despite any choice of law statute/rule, or other jurisdictional law, that they affirmatively waive any objection to venue of any action brought pursuant to this Agreement and/or services shall be only in the Parish of Jefferson, or the United States District Court, Eastern District of Louisiana.
- 9.16. Headings and Drafting.** The headings in the Agreement shall not be used to construe or interpret the Agreement. The Agreement shall not be construed in favor of or against a party based on the author of the document.
- 9.17. Conflict of Documents.** If there is a conflict between the provisions of this Subscription Services Agreement and any other documents concerning the Subscription Services performed under this Subscription Services Agreement, the order of precedence for purposes of resolution shall be: (i) this Subscription Services Agreement, (ii) any applicable Schedule identified in the Quote, (iii) the Quote, (iv) any other document executed by the parties.
- 9.18. Survival.** The following provisions will survive any termination or expiration of the Agreement or Quotes: Sections 3, 3.7, 5, 6, 7, 8, 9, and all corresponding Sections in the attached Schedule(s).

[END DOCUMENT]