



1. Services and SOW(s). The services associated with these terms and conditions include Professional Services, Software, Project Management or other related services agreed to in the applicable Sales Agreement and Statement Of Work(s) (each an "SOW") and provided by Provider or its Affiliates and/or Subcontractors (the "Services"). SOW(s) may be executed by Client and Provider or by Client and a Provider Affiliate and must incorporate these terms and conditions by reference and in conjunction with these terms and conditions shall form a separate agreement between Client and Provider or between Client and the Provider Affiliate that executes the applicable SOW(s). Client shall look only to the Provider Affiliate that executes the SOW(s) with respect to any right or obligation with respect to such SOW.

2. Term and Termination.

2.1. Term. These terms and conditions will continue from the Effective Date until the expiration or termination of the latest-ending SOW(s). Each SOW(s) will specify its duration (each an "SOW Term"). The termination of any SOW shall not otherwise effect these terms and conditions or any other SOW(s).

2.2. Termination of an SOW(s) For Cause. Any SOW(s) may be terminated as follows: (a) by either party upon the failure by the other party to perform any material obligation related to such SOW(s) that is not cured within thirty (30) days after receipt of written notice and demand for cure from the affected party; (b) by either party upon the violation by the other party of any applicable state or federal law, statute, rule or regulation in relation to its performance of the SOW (c) by Provider, upon thirty (30) days written notice if undisputed payments are in arrears. In addition, Provider may take any or all of the following actions any time undisputed payments are more than thirty (30) days in arrears: (i) suspend the Services; or (ii) withhold data, materials or reports.

3. Charges. Client agrees to pay for the Services in accordance with the rates set forth in the applicable SOW(s) in addition to all applicable taxes, fees and surcharges set forth on Client's invoice-Any sum due Provider hereunder will be due and payable via electronic funds, (ACH, EFT or wire), check or credit card thirty (30) from the date of invoice. Invoices will be transmitted electronically. Client will pay interest on all past due sums at a rate which is the lesser of one and a half percent (1.5%) per month, or the highest rate allowed by law. In the event part of an invoice is in dispute, Client agrees to pay the undisputed portion of the invoice and make a note on the invoice regarding the disputed portion within thirty (30) days from the date of the invoice, otherwise Client will be deemed to agree to such charges and Provider will not be subject to making adjustments to charges or invoices.

4. Maintenance of Service. Provider agrees to provide and maintain the Services in a workmanlike manner customary for service providers in the industry. Provider does not warrant or guarantee in any way the results from the Services. In the event Services include integration with Client's systems, equipment, and/or software, Client agrees to provide and maintain systems and materials reasonably required to perform the Services, including as applicable, but not limited to: scripts; program content and materials; conferencing content; Client or third party databases; current process performance statistics; Client or third party software, hardware, systems, routing and network addresses and configurations; and key contacts for problem escalation (collectively the "Client Systems and Materials"). Provider shall not be liable hereunder relating to the Client Systems and Materials including the failure by Client to timely provide the Client Systems and Materials.

5. Representations and Warranties.

5.1. Each party represents and warrants to the other that: (a) its execution and performance of these terms and conditions and the applicable SOW(s) will not violate any provision of law, rule, regulation to which such party is subject; and (b) such party will comply with all laws, rules and regulations pursuant to which such party conducts its business.

5.2. Each party represents and warrants to the other that: (a) it has all requisite corporate power and authority to execute, deliver and perform its obligations under these terms and conditions and the applicable SOW(s); (b) the execution, delivery and performance of these terms and conditions and the applicable SOW(s) have been duly authorized by such party; (c) no approval, authorization or consent of any governmental or regulatory authority is required to be obtained by it in order for it to enter into and perform its obligations under these terms and conditions and the applicable SOW(s); and (d) the signatory to these terms and conditions and the applicable SOW(s) possesses all necessary authority to enter into the Agreement and applicable SOW(s).

5.3 Provider represents and warrants that Provider can grant the licenses, and privileges granted by these terms and conditions ("Licensed Materials"). Provider expressly disclaims any warranty of merchantability or fitness of the Licensed Materials for a particular purpose and any other warranty, including that the Licensed Materials will not infringe any patent or other proprietary right. Provider further represents and warrants that Provider has no actual knowledge of any infringement claims filed against Provider for practicing the Licensed Materials anywhere in the world. Except as set forth in this section, Provider makes no representation, express or implied, with regard to infringement of any Licensed Materials. The Licensed Materials are provided "AS IS."

5.4 Client represents and warrants that: (a) the Client Systems and Materials, all representations to be made by Provider as a part of Client's programs, and the content, timing, recipients and nature of all programs will be in compliance with all laws, rules, regulations; and (b) Client is solely responsible for the content and rights to use the Client Systems and Materials and Provider's use of the Client Systems and Materials shall not violate the rights of any third party or any law, rule or regulation. Client specifically acknowledges and agrees that Provider has not and is not expected to provide Client with any analysis, interpretation or advice regarding the compliance

of any aspect of Client's Materials or programs with any third party rights or laws, rules, or regulations. Upon request, Client shall provide reasonable proof of compliance with the provisions set forth in this section and Provider shall have no obligation to provide Services where Provider reasonably believes that Client has not so complied.

6. License. Subject to Client's compliance with the terms and conditions of these terms and conditions, Provider hereby grants Client a non-exclusive license during the applicable SOW(s) Term to use the Services set forth in the applicable SOW(s). Except as specifically set forth herein, Provider or its suppliers retain all right, title, and interest, including all intellectual property rights, relating to or embodied in the Services, including without limitation all technology, Provider supplied telephone numbers, web addresses, software, or systems relating to the Services. Client agrees not to reverse engineer, decompile, disassemble, translate, or attempt to learn the source code of any software related to the Services. Other than using the Services for Client's internal business purposes, Client may not resell the Services or otherwise generate income from the Services.

7. Confidentiality and Proprietary Information.

7.1. Each party may disclose (the "Discloser") confidential and proprietary information ("Confidential Information") to the other party (the "Recipient"). In each such case, the Recipient shall hold such Confidential Information in confidence and shall not disclose such Confidential Information except to a party's Affiliates, employees or agents who have a need to know such Confidential Information in order to perform such party's obligations under these terms and conditions. Client's Confidential Information shall include of all information relating to the trade secrets or business affairs of Client including consumer data, merchandising plans, marketing plans and product design and information. Provider's Confidential Information shall include the computers, systems and software operating the Service and all documentation, development tools, phone numbers, know-how and data related thereto, and any derivative works thereof as well as physical property, analytical procedures, techniques, skills, ideas, models, research, development, trade secrets or business affairs of Provider, its Affiliates or their employees, suppliers or agents. Neither party shall have any rights in the other party's Confidential Information and shall return or destroy all such Confidential Information upon the termination of the applicable SOW(s) or the request of the Discloser. Notwithstanding the foregoing, the parties acknowledge that Recipient shall not be required to return to Discloser or destroy those copies of Confidential Information residing on Recipient's backup, disaster recovery, or business continuity systems and the obligations hereunder with respect to such Confidential Information shall survive until such Confidential Information is destroyed.

7.2. Notwithstanding any other term hereof, the term "Confidential Information" shall not include information that: (a) was already in the lawful possession of the Recipient prior to receipt thereof, directly or indirectly, from the Discloser; (b) lawfully becomes available to Recipient on a non-confidential basis from a source other than Discloser that is not under an obligation to keep such information confidential; (c) is generally available to the public other than as a result of a breach of these terms and conditions by Recipient or its representative(s); or (d) is subsequently and independently developed by employees, consultants or agents of the Recipient without reference to the Confidential Information disclosed hereunder. In addition, a party shall not be considered to have breached its obligations by disclosing Confidential Information of the other party as required to satisfy any request of a competent governmental body provided that, promptly upon receiving any such request and to the extent that it may legally do so, such party advises the other party of the request prior to making such disclosure in order that the other party may interpose an objection to such disclosure, take action to assure confidential handling of the Confidential Information, or take such other action as it deems appropriate to protect the Confidential Information.

8. Indemnification.

8.1. General Indemnity. Client shall indemnify, defend and hold Provider, its Affiliates and their officers, directors, employees and agents harmless from and against any and all third party claims of loss, damages, liability, costs, and expenses (including reasonable attorneys' fees and expenses) arising out of or resulting from: (a) a breach by Client of any term of these terms and conditions or an SOW(s); (b) the Client Systems and Materials; or (c) a claim relating to any defect in any product or service offered by Client, its Affiliates or any of their agents or customers. Provider shall indemnify, defend and hold Client, its Affiliates and their officers, directors, employees and agents harmless from and against any and all third party claims of loss, damages, liability, costs, and expenses (including reasonable attorneys' fees and expenses) arising out of or resulting from a breach by Provider of any term of these terms and conditions or an SOW(s). Nothing herein shall require the Provider to indemnify the Client for any claim or any portion of any claim that arises from the Client's reckless, wanton, wrongful, or otherwise negligent acts of the Client.

8.2. Provider Intellectual Property Indemnity. Provider will have the obligation and right at the entire expense of Provider to defend any claim, suit or proceeding brought against Client its Affiliates or their officers, directors, employees or agents so far as it is based on a third party claim that the Services supplied by Provider infringe a United States copyright or a United States patent issued as of the effective date of the applicable SOW(s), provided that Provider will have no indemnity obligation or other liability hereunder arising from: (1) Client's willful, reckless, wanton, wrongful, or otherwise negligent acts, (2) breach of the Agreement or an SOW(s) or alteration of the Services as provided by Provider; (3) the Client Systems and Materials or Services that are based upon the Client Systems and Materials, or information, design, specifications, directions, instruction, software, data, or material not furnished by Provider; (4) combination of the Services with the Client Systems and Materials or any materials, products or services not provided by Provider; or any (5) third party products or services. If such a claim is or is likely to be made, Provider will, at its own expense and sole discretion, exercise one or the following remedies: (1) obtain for Client the right to continue to use, the Services consistent with these terms and conditions; (2) modify the Services so they are non-infringing and in compliance with these terms and conditions; (3) terminate the applicable Services without liability for such termination other than the ongoing indemnity obligation hereunder. The foregoing

states the entire obligation of Provider and its suppliers, and the exclusive remedy of Client, with respect to infringement of proprietary rights.

9. Miscellaneous.

9.1. Entire Agreement and Integration. These terms and conditions, in conjunction with the applicable SOW(s) constitutes the entire agreement between the parties to such SOW(s) with respect to the subject matter of these terms and conditions and the applicable SOW(s) and supersede all prior agreements, discussions, proposals, representations or warranties, whether written or oral. The Agreement and SOW(s) may be executed by fax or scanned electronic copy, and/or in any number of counterparts, all of which shall together be considered an original and may be evidenced by a fax or scanned electronic (e.g. .PDF, .TIF) copy.

9.2. Notices. Any notice to be provided shall be in writing and shall be deemed given: (a) if by hand delivery, upon receipt thereof, (b) if mailed, three (3) days after deposit in the United States mail, postage prepaid, certified mail return receipt requested, or (c) if by next day delivery service, upon such delivery, or (d) if by facsimile transmission of scanned electronic copy, upon receipt of such transmission, to the addresses, facsimile numbers, or email addresses set forth below the signature block or to such other addresses or facsimile numbers as either party may designate from time to time by written notice to the other party hereto.

9.3. Assignment. These terms and conditions and SOW(s) may not be assigned or transferred by a party thereto without the prior written consent of the other party thereto, which consent shall not be unreasonably withheld. Notwithstanding the foregoing, Provider may freely assign these terms and conditions and SOW(s) to an Affiliate or to an acquirer of all or part of Provider's business or assets, whether by merger or acquisition.

9.4. Waiver. No course of dealing or failure of a party to enforce strictly any term or provision or to exercise any right, obligation, or option provided, will waive such term, provision, right, obligation or option.

9.5. Independent Contractors. The Agreement and SOW(s) are not a joint venture or partnership, and each party is entering the relationship as a principal and not as an agent of the other. The parties hereto agree that Provider is an independent contractor in performing the Services.

9.6. Choice of Law. These terms and conditions and all associated SOW(s) shall be governed under the laws of Missouri without regard for its choice of law principles. Client agrees that any legal action involving these terms and conditions or SOW(s) in any way will be instituted in a court of competent jurisdiction located in St. Louis, Missouri, and Client consents to jurisdiction of the state or Federal courts in the State of Missouri over Client's person for purpose of such legal action.

9.7. Change Management. Either party may request changes or enhancements to the Services. In such event, the following procedure shall be followed by the parties (the "Change Policy"). The requesting party shall provide a written description of the change and the parties shall meet in good faith to discuss the change and any additional costs or other required terms and any such change shall only become effective upon mutual agreement on a change order or amendment. For the avoidance of doubt, if the Agreement or an SOW(s) otherwise allows either party to unilaterally alter the Services or any policies, rules or procedures applicable to these terms and conditions or the SOW(s), either party may implement the Change Policy prior to any such changes becoming effective or binding if such unilateral change will cause time or cost impact to such party.

9.8. Non-solicit. Without the prior written consent of the other party, during the applicable SOW(s) Term and continuing through the first anniversary of the termination of the applicable SOW(s) Term, neither party shall, and shall ensure that its Affiliates do not, directly or indirectly, solicit or attempt to solicit for employment any employees or agents of the other party who are directly involved in carrying out the obligations of such party related to the Services. If any employee or agent of a party, as a result of active recruitment solicitation by the other party, becomes employed by such other party within the time periods defined above, such other party agrees to pay the party at the time of such employment an amount equal to fifty percent (50%) of the employee's or agent's estimated income during the first year of employment. This paragraph does not pertain to unsolicited individuals that voluntarily approach a party for employment or respond to general advertising.

9.9. Taxes. Provider shall add to each invoice and Client shall pay any applicable sales, use, excise, value-added, gross receipts, services, labor related, consumption and other similar taxes or surcharges, however designated, that are levied by any taxing authority in connection with the provision or use of Services under these terms and conditions or any SOW. If at any time during the Term of these terms and conditions or any SOW, Provider believes that it is required by law to collect any new or additional taxes for which Client would be responsible for paying, Provider shall notify Client of such taxes, collect such taxes directly from Client and remit such taxes to the appropriate governmental authority. If any taxing authority determines at any time that Provider has incorrectly determined any tax liability regarding taxes for which Client is responsible pursuant to these terms and conditions or any SOW, Provider shall have the right to invoice Client for such taxes determined by such taxing authority to be due and owing.

9.10. Severability. If any provision of these terms and conditions or the applicable SOW(s) is held invalid or unenforceable at law, such provision shall be modified, rewritten or interpreted to include as much of its nature and scope as will render it enforceable and the remainder of these terms and conditions and the applicable SOW(s) will continue in effect and be valid and enforceable to the fullest extent.

9.11. No Third party Beneficiaries. These terms and conditions and SOW(s) are for the sole benefit of the parties to such SOW(s) and are not intended to, nor shall it be construed to, create any right or confer any benefit on or against any third party.

9.12. Interpretation. “Including” means “including, without limitation”, and “days” refers to calendar days. These terms and conditions and each SOW(s) is the joint work product of the parties thereto, and no inference may be drawn or rules of construction applied against either party to interpret ambiguities. If any terms of these terms and conditions and an SOW(s) conflict, the terms of the SOW(s) will govern for that SOW(s) only. No preprinted or form terms, including on any purchase order, will apply.

9.13. Force Majeure. Neither party shall be liable for delays and/or defaults in its performance (other than Client's obligation to pay fees for Services performed) due to causes beyond its reasonable control, including, but without limiting the generality of the foregoing: acts of god or of the public enemy; fire or explosion; flood; stability or availability of the Internet; the elements; telecommunication system failure; war; technology attacks, epidemic; acts of terrorism; riots; embargoes; quarantine; viruses; strikes; lockouts; disputes with workmen or other labor disturbances; total or partial failure of transportation, utilities, delivery facilities, or supplies; acts or requests of any governmental authority; or any other cause beyond its reasonable control, whether or not similar to the foregoing.

9.14. Amendments. Each amendment, change, waiver, or discharge shall only be valid if made in writing by authorized representatives of all applicable parties.

9.15. Survival. All provisions of these terms and conditions or any SOWs which by their nature should survive termination shall survive termination including Sections 2, 3, 5, 6, 7, 8 and 9 of these terms and conditions.

10. Limited Warranty and Limitation of Liability.

10.1. EXCEPT AS EXPRESSLY PROVIDED HEREIN, PROVIDER MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES, AND PROVIDER EXPRESSLY DISCLAIMS ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. PROVIDER EXPRESSLY DENIES ANY REPRESENTATION OR WARRANTY ABOUT THE ACCURACY OR CONDITION OF DATA OR THAT THE SERVICES OR RELATED SYSTEMS WILL OPERATE UNINTERRUPTED OR ERROR-FREE.

10.2. NO CAUSE OR ACTION WHICH ACCRUED MORE THAN TWO (2) YEARS PRIOR TO THE FILING OF A SUIT ALLEGING SUCH CAUSE OF ACTION MAY BE ASSERTED UNDER THESE TERMS AND CONDITIONS BY EITHER PARTY.

10.3. NEITHER PARTY WILL BE LIABLE TO THE OTHER FOR ANY INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, CONSEQUENTIAL, OR INCIDENTAL DAMAGES OR LOSS OF GOODWILL, DATA OR PROFITS, OR COST OF COVER. THE TOTAL LIABILITY OF PROVIDER FOR ANY REASON, SHALL BE LIMITED TO THE AMOUNT ACTUALLY PAID TO PROVIDER BY CLIENT UNDER THE SOW(S) APPLICABLE TO THE EVENT GIVING RISE TO SUCH ACTION DURING THE SIX (6) MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. THE LIMITS ON LIABILITY IN THIS SECTION SHALL APPLY IN ALL CASES INCLUDING IF THE APPLICABLE CLAIM ARISES OUT OF BREACH OF EXPRESS OR IMPLIED WARRANTY, CONTRACT, TORT (INCLUDING NEGLIGENCE), OR STRICT PRODUCT LIABILITY, AND EVEN IF THE PARTY HAS BEEN ADVISED THAT SUCH DAMAGES ARE POSSIBLE OR FORESEEABLE.