

GECKO LABS INC. SUBSCRIPTION AGREEMENT

Customer Name:	
Contact Name:	
Address:	
Effective Date:	

This Gecko Labs Inc. Subscription Agreement (this “**Agreement**”) is entered into as of the date of last signature set forth below (“**Effective Date**”) by and between Gecko Labs, Inc. (“**Gecko**”), a company incorporated in Delaware with its registered office at Suite 400, 2711 Centerville Road, Wilmington, Delaware 19808 and the party listed above (“**Customer**”), and describes the terms and conditions pursuant to which Gecko will provide Customer access to the Services (as defined below). The Agreement consists of this cover sheet (the “**Cover Sheet**”), the Gecko Labs Standard Terms and Conditions attached as **Exhibit A** (the “**Standard Terms**”), the Support Services Policy attached as **Exhibit B** (the “**Support Services Policy**”) and the Data Protection and Management Policy attached as **Exhibit C** (the “**Data Protection Policy**”), each of which is hereby incorporated by reference into and made a part of this Agreement.

1. **Products:**

Gecko will provide the Services in accordance with the Agreement for the following product(s):

Gecko Product(s):

[Gecko Product Name, 1 per line]

Set-Up Fees Included? YES

2. **Term:**

3 years

3. **Access Type & Users:**

[] Department

[] Enterprise-wide

[1] Authorized individual Chatbots (if applicable)

30 Authorized users

4. **Subscription Fee and Payment Terms:**

Subscription Fee	Year	Payment Terms
\$xx,000 annual	1	due and payable in full upon the Effective Date
\$xx,000 annual	2	due and payable in full upon the first anniversary of the Effective Date
\$xx,000 annual	3	due and payable in full upon the second anniversary of the Effective Date

[SIGNATURE PAGE FOLLOWS]

ACCEPTED AND AGREED TO BY:

Gecko Labs, Inc.

Customer

Signed: _____

Signed: _____

Name: _____

Name: _____

Date: _____

Date: _____

Title: _____

Title: _____

- Attachments:
- Standard Terms (**Exhibit A**)
 - Support Services Policy (**Exhibit B**)
 - Data Protection Policy (**Exhibit C**)

EXHIBIT A
GECKO LABS STANDARD TERMS AND CONDITIONS

1. Definitions.

a. **“Confidential Information”** means any information disclosed by either party to the other party, whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of the disclosure. Gecko’s Confidential Information includes the Services and Documentation.

b. **“Customer Data”** means any data about the Customer or its clients, students or activities, which is provided to Gecko by or on behalf of the Customer or is otherwise obtained by Gecko from the Customer’s systems, operations, client databases and contact relationship databases.

c. **“Customer Content”** means any Customer trademarks, service marks, logos, works of authorship or other content (**“Customer Content”**) provided by Customer to Gecko in connection with receipt of the Services, including, by way of example, contact forms and website content in the case of Gecko Form, Gecko Chat and Gecko Call2.a.

d. **“Documentation”** means the online documentation made available to Customer by Gecko which accompanies the Services, including the user instructions for the Services.

e. **“End User”** means an end user of the Services.

f. **“Initial Term”** has the meaning set forth in Section 9.a below.

g. **“Personal Data”** means information that alone or when in combination with other information may be used to readily identify, contact, or locate an individual, such as: name, address, email address, or phone number. Personal Data does not include information that has been anonymized so that it does not allow a third party to easily identify a specific individual.

h. **“Renewal Term”** has the meaning set forth in Section 9.a below.

i. **“Services”** means the proprietary Gecko products or online platforms identified on the Cover Sheet to which a subscription is provided to Customer pursuant to this Agreement, together with the Documentation. The Services include administrative tools which allow Customer to configure the Services or provide Customer Content for use in connection with the Services.

j. **“Subscription Fee”** means the subscription fee set forth on the Order Form.

k. **“Term”** has the meaning set forth in Section 9.a.

2. Access to Services.

a. **Grant by Gecko.** The licenses granted by each party under this Agreement will depend on the Products that Gecko will provide to Customer, as described on the Cover Sheet. Subject to the terms and conditions of this Agreement, Gecko hereby grants to Customer, for the features and functionality indicated on the Cover Sheet, a nonexclusive, nontransferable, right and license during the Term to allow the number of its personnel indicated on the Cover Sheet to access and use, the Services to manage its interactions with students and potential students.

b. **Grant by Customer.** During the Term, Customer hereby grants to Gecko a nonexclusive, nontransferable, royalty-free, right and license to use, reproduce, prepare derivative works of, distribute to the public, perform publicly, modify, transmit and display the Customer Content solely as necessary for Gecko to provide the Services. The license granted in this Section allows Gecko to reformat Customer Content as necessary to incorporate it into the Services hereunder.

c. **Reservation of Rights.** Customer acknowledges that it is only granted access to the Services during the Term and for the purposes set forth in Section 2.a and agrees that it will not use the Services except as permitted under Section 2.a. Customer acknowledges that Gecko retains title to the Services, the Product and the Documentation. Gecko hereby reserves all rights to the Services or any

copyrights, patents, trademarks or other intellectual property rights embodied or used in connection therewith, except for the rights expressly granted herein.

d. **Additional Restrictions.** Except as expressly set forth in Section 2.a above, Customer will not itself, or through any parent, subsidiary, affiliate, agent or other third party: (i) transfer, distribute, sell, lease, license or sublicense access to the Services; (ii) attempt to copy, modify, create derivative works from, download, display, transmit, or distribute any portion of the Services; (iii) attempt to decompile, disassemble, or reverse engineer the Services, in whole or in part; (iv) allow access to the Services by any person other than an Authorized User; (v) write or develop any derivative software or any other software program based upon the Services or any Confidential Information or which competes with the Services; (vi) use the Services to provide processing services to third parties, or otherwise use the Services on a 'service bureau' basis; (vii) access, store, distribute or transmit any worms, Trojans or viruses, or any material that is unlawful, harmful, threatening, defamatory, obscene, infringing, harassing or racially or ethnically offensive, that facilitates illegal activity, that depicts sexually explicit images, that promotes unlawful violence, that is discriminatory or that otherwise causes damage or injury to any person or property; (viii) provide, disclose, divulge or make available to, or permit use of the Services by any third party; or (ix) assist any third party in any of the foregoing, in each case without Gecko's prior written consent.

e. **Downtime.** Gecko agrees to use commercially reasonable efforts to make the Services available to Customer at all times, other than scheduled maintenance and unavailability caused by circumstances beyond Gecko's reasonable control. Gecko will use commercially reasonable efforts to schedule maintenance during non-peak usage hours and to give Customer at least 6 hours' prior notice of any scheduled maintenance.

f. **Customer Support.** In addition to the Services, Gecko will provide the Customer with Gecko's standard customer support services as set forth in Gecko's Support Services Policy attached as **Exhibit B** to this Agreement, which may be amended in Gecko's sole discretion from time to time. Gecko will provide Customer with a revised copy of the

Support Services Policy upon any such amendment. Customer may purchase enhanced customer support services from Gecko at Gecko's then-current rates by entering into a mutually-executed amendment of this Agreement.

g. **Authorized Users.** Customer is responsible for all use or misuse of the Services by its personnel, and a breach by any such personnel of any term of this Agreement will be deemed a breach under this Agreement. Gecko reserves the right to immediately suspend access to the Services if Gecko believes, in its reasonable discretion, that Customer personnel have misused the Services. Each Services account login provided to Customer is personal to a specific individual and may not be transferred, sold or otherwise assigned to or shared with any other individual or entity. Customer will maintain a written, current list of all personnel to whom it provides access to the Services and will provide such list to Gecko within 7 days of Gecko's written request.

h. **Feedback.** From time to time, Customer may provide to Gecko (either on its own accord or at Gecko's request) feedback, analysis, suggestions and comments (including, but not limited to, bug reports and test results, and design suggestions or ideas) related to the Services (collectively, "**Feedback**"). Customer hereby grants to Gecko perpetual, irrevocable and worldwide right and license to use, modify, reproduce, create derivative works of, sublicense and otherwise exploit all or part of the Feedback or any derivative thereof in any manner or media now known or hereafter devised without any remuneration, compensation or credit to Customer.

3. **Subscription Fee.**

a. **Payment of Fees.** In consideration for the access granted to the Services, Customer will pay the Subscription Fee within 30 days after the date of each invoice submitted by Gecko to Customer. If any invoiced amounts remain unpaid within 30 days of the date of such invoice, Gecko may disable the Customer's password, account and access to all or part of the Services without liability to Customer and without obligation to provide the Services while such amounts remain unpaid. Additionally, such overdue amounts will be subject to interest at the lower of

1.5% per month, or the maximum interest rate allowable by law.

b. **Fee Increase.** After the Initial Term (as defined in Section 9.a below) and after each Renewal Term, Gecko reserves the right to increase the Subscription Fee up to a maximum of 10% over the previous Renewal Term or Initial Term Subscription Fee. Gecko will notify Customer of such increase at least 30 days before such increase will take effect, and Customer may terminate the Agreement within such 30-day notice period.

c. **Taxes.** All charges and fees provided for in this Agreement are exclusive of any taxes, duties, or similar charges imposed by any government. Customer will pay or reimburse Gecko for all federal, state, dominion, provincial, or local sales, use, personal property, excise or other taxes, fees, or duties arising out of this Agreement or the transactions contemplated by this Agreement (other than taxes on the net income of Gecko).

4. **Customer Obligations.** Customer will (a) use commercially reasonable efforts to prevent unauthorized access to or use of the Services, and notify Gecko immediately of any such unauthorized access and/or use of which Customer becomes aware; (b) use the Services only in accordance with this Agreement and all applicable laws and government regulations; and (c) provide Gecko with all necessary cooperation in relation to the Agreement and all necessary access to such information as may be required by Gecko in order to provide the Services, including but not limited to Customer Data, security access information and configuration services. In addition, Customer will include on its websites a privacy policy that allows Customer to disclose End Users' information to Gecko as necessary for Gecko to provide the Services.

5. **Customer Data.** Customer hereby grants to Gecko a nonexclusive, nontransferable, royalty-free right and license to collect, use, host, display, copy and transmit Customer Data solely as necessary (i) to perform the Services; and (ii) maintain aggregated and anonymized compilations of Customer Data and use these compilations of Customer Data to improve Gecko's products and services.

a. Gecko shall collect, use, and disclose Customer Data only in accordance with

the terms of this Agreement and any lawful instructions reasonably given by the Customer from time to time. Gecko shall not disclose Customer Data to any third parties except as necessary to provide the Services. If Gecko discloses Customer Data to a third party, Gecko will prohibit the third party from using the Customer Data for any other purpose and require the third party to protect the security and privacy of the Customer Data to the same level as required of Gecko by this Agreement.

b. Each party shall implement commercially reasonable technical and organizational measures to protect against unauthorized or unlawful use and/or disclosure of Customer Data or its accidental loss, destruction, corruption, or damage. Please see **Exhibit B** for a description of Gecko's technical and organizational measures.

c. Subject to the terms and conditions of this Agreement, Gecko warrants that all Customer Data will be stored by Gecko only on servers located within the continental United States. However, Customer acknowledges and agrees that Customer Data may originate from or be transmitted outside of the continental United States if Customer or Customer's personnel access the Services from outside the continental United States.

6. **Representations and Warranties; Disclaimer and Limitation of Liability.**

a. **Mutual Representations and Warranties.** Each party hereby represents and warrants to the other party that: (i) it is duly organized and validly existing under the laws of the state of its incorporation and has full corporate power and authority, and is duly authorized, to enter into the Agreement and to carry out the provisions thereof; (ii) the person executing the Agreement on behalf of the party is authorized to do so; (iii) the execution, delivery and performance of the Agreement by such party does not violate any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it; and (iv) such party will comply with all

applicable federal, state and local laws, rules and regulations in fulfilling its obligations hereunder.

b. **Gecko Warranties.** Gecko represents and warrants that (i) the Services will substantially in accordance with the Documentation; (ii) it has and will maintain all necessary licenses, consents, and permissions necessary for the performance of its obligations under the Agreement; and (iii) with respect to its use of Customer Data, it complies and will comply with all applicable privacy, it complies and will comply with all applicable privacy and data security laws and regulations.

c. **Customer Warranties.** Customer represents and warrants to Gecko that Customer will (i) obtain and maintain all necessary licenses, consents and permissions necessary for Gecko, its contractors and agents to collect and make use of the Customer Data and Customer Content for the purpose of providing the Services hereunder and (ii) ensure that its network and systems comply with the relevant specifications provided by Gecko from time to time and will be solely responsible for procuring and maintaining its network connections and telecommunications links from its systems to Gecko's data centers.

d. **Disclaimer.** Except as expressly set forth in Section 6 above, Gecko makes no warranties, whether express, implied, or statutory regarding or relating to the Services, or any materials or services furnished or provided to Customer under this Agreement. GECKO HEREBY DISCLAIMS ALL IMPLIED WARRANTIES OF NON-INFRINGEMENT, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE SERVICES AND SAID OTHER MATERIALS AND SERVICES, AND WITH RESPECT TO THE USE OF ANY OF THE FOREGOING. In addition, Gecko:

i. does not warrant that the Customer's use of the Services will be uninterrupted or error-free; or that the Services, Documentation and/or the information obtained by the Customer through the Services will meet the Customer's requirements; and

ii. is not responsible for any delays, delivery failures, or any other loss or damage resulting from the transfer of data over communications networks and facilities, including

the internet, and the Customer acknowledges that the Services and Documentation may be subject to limitations, delays and other problems inherent in the use of such communications facilities.

e. **Limitation of Liability.** IN NO EVENT WILL GECKO BE LIABLE FOR ANY LOSS OF PROFITS, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF DATA, COST OF COVER OR INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND IN CONNECTION WITH OR ARISING OUT OF THE FURNISHING OR PERFORMANCE OF THE SERVICES, WHETHER ALLEGED AS A BREACH OF CONTRACT OR TORTIOUS CONDUCT, INCLUDING NEGLIGENCE, EVEN IF GECKO HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. GECKO'S LIABILITY UNDER THIS AGREEMENT WILL NOT, IN ANY EVENT, EXCEED THE SUBSCRIPTION FEE PAID BY CUSTOMER TO GECKO UNDER THIS AGREEMENT.

7. **Indemnification.**

a. **Indemnity.**

i. **By Gecko.** Gecko will, at its expense, defend Customer against any claim, action or allegation brought by a third party against Customer alleging that the Services infringe any of that third party's intellectual property rights (a "**Gecko Claim**") and will pay any final judgments awarded or settlements entered into with respect to Gecko Claims. Notwithstanding the foregoing, Gecko will have no liability under this Section if the actual or alleged infringement arises from or relates to (A) Customer's breach of this Agreement; (B) any modification, alteration or addition made to the Services or any use thereof, including any combination of the Services with software or other materials not provided by Gecko; (C) Customer's failure to use any corrections or modifications made available by Gecko that would not result in any material loss of functionality; (D) use of the Services in a manner or in connection with a product or data not contemplated by this Agreement; or (E) any settlements entered into by Customer or costs incurred by Customer for such claim that are not pre-approved by Gecko in writing. In the event any Gecko Claim is brought or threatened, Gecko may, at its sole option and expense: (x) procure for Customer the

right to continue use of the Services or infringing part thereof; (y) modify or amend the Services or infringing part thereof, or replace the Services or infringing part thereof with other software having substantially the same or better capabilities; or, (z) if neither of the foregoing is commercially practicable, terminate this Agreement and repay to Customer a pro rata portion, if any, of any pre-paid Subscription Fee. Gecko and Customer will then be released from any further obligation to the other under this Agreement, except for the obligations of indemnification provided for above and such other obligations that survive termination.

ii. **By Customer.** Customer will, at its expense, defend Gecko against any claim, action or allegation brought by a third party against Gecko (A) alleging any Customer Data infringes or violates any third party's intellectual or proprietary rights (including privacy rights, publicity rights, and copyrights); (B) relating to a breach by Customer of this Agreement or a contract between Customer and a third party; or (C) relating to or arising out of a claim of negligence of Customer or any of Customer's officers or employees.

iii. **Procedure.** The obligations in this Section 7.a are contingent upon the indemnified party (A) giving prompt written notice to the indemnifying party of any such claim, action or allegation of infringement; (B) giving the indemnifying party the assistance, authority and information as the indemnified party may reasonably require to settle or oppose such claims; and (C) giving the indemnifying party the authority to proceed as contemplated herein. The indemnifying party will have the exclusive right to defend any such claim, action or allegation and make settlements thereof at its own discretion, and the indemnified party may not settle or compromise such claim, action or allegation, except with prior written consent of the indemnifying party.

b. **Limitation.** THIS SECTION 7 STATES THE ENTIRE LIABILITY OF GECKO WITH RESPECT TO INFRINGEMENT OF ANY PATENT, COPYRIGHT, TRADE SECRET OR OTHER PROPRIETARY RIGHT.

8. **Confidential Information.**

a. **Non-Use and Non-Disclosure.** Each party agrees not to use any Confidential

Information of the other party for any purpose except to exercise its rights and perform its obligations under this Agreement. Each party agrees not to disclose any Confidential Information of the other party to third parties or to such party's employees who do not have a need to know. Notwithstanding the foregoing, a receiving party may disclose such Confidential Information that (i) was publicly known and made generally available in the public domain prior to the time of disclosure by the disclosing party; (ii) becomes publicly known and made generally available after disclosure by the disclosing party to the receiving party through no action or inaction of the receiving party; (iii) is already in the possession of the receiving party at the time of disclosure by the disclosing party as shown by the receiving party's files and records immediately prior to the time of disclosure; (iv) is obtained by the receiving party from a third party without a breach of such third party's obligations of confidentiality; (v) is independently developed by the receiving party without use of or reference to the disclosing party's Confidential Information, as shown by documents and other competent evidence in the receiving party's possession; or (vi) is required by law to be disclosed if the receiving party gives the disclosing party prompt written notice of such requirement prior to such disclosure and assistance in obtaining an order protecting the information from public disclosure. Neither party will reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder.

b. Notwithstanding any other confidentiality obligations herein, for the purposes of providing the Services hereunder, Gecko may disclose, transmit or make available Confidential Information and/or Customer Data to third party service providers with whom it has entered into agreements containing confidentiality or non-disclosure terms similarly protective of such data as found in this Agreement.

c. **Maintenance of Confidentiality.** Each party agrees that it will take reasonable measures to protect the secrecy of and avoid disclosure and unauthorized use of the Confidential Information of the other party. Without limiting the foregoing, each party will take at least those measures that it takes to protect its own most highly

confidential information and will ensure that its employees who have access to Confidential Information of the other party have signed a non-use and non-disclosure agreement in content similar to the provisions hereof, prior to any disclosure of Confidential Information to such employees. Neither party will make any copies of the Confidential Information of the other party unless the same are previously approved in writing by the other party. Each party will reproduce the other party's proprietary rights notices on any such approved copies, in the same manner in which such notices were set forth in or on the original.

d. **Return of Materials.** Within 30 days of any termination or expiration of this Agreement, each party will deliver to the other party all of such other party's Confidential Information that such party may have in its possession or control.

e. **FERPA.** In addition to the confidentiality obligations herein, Gecko agrees to abide by the limitations on re-disclosure of education records and/or personally identifiable information from education records as set forth in applicable law, including the Family Educational Rights and Privacy Act (20 U.S.C. § 1232g; 34 C.F.R. Part 99) ("FERPA") and any implementing regulations.

9. **Term and Termination.**

a. **Term.** This Agreement will take effect on the Effective Date and will remain in force until the earlier of (i) termination pursuant to this Section 9 and (ii) the expiration of the period set forth on the Cover Sheet (the "**Initial Term**"). Upon the expiration of the Initial Term, the Term of the agreement will renew automatically on the same Term duration until terminated pursuant to Section 9.b (each annual period after the expiration of the Initial Term, a "**Renewal Term**").

b. **Termination for Cause.** Either party may, by written notice to the other party, terminate this Agreement if (i) the other party is in material breach of any nonmonetary term, condition or provision of this Agreement, which breach, if capable of being cured, is not cured within thirty (30) days after the non-breaching party gives the other party written notice of such breach; or (ii) the other party (A) terminates or suspends its business, (B) becomes insolvent, admits in writing its inability to pay its debts as they mature, makes an assignment for the

benefit of creditors, or becomes subject to direct control of a trustee, receiver or similar authority, or (C) becomes subject to any bankruptcy or insolvency proceeding under federal or state statutes. Additionally, Gecko may terminate this Agreement if Customer fails to pay any amount due Gecko within thirty (30) days after Gecko gives Customer written notice of such nonpayment (collectively, with (i) and (ii) of this Section, "**Termination Events**"). If any Termination Event occurs, termination will become effective immediately or on the date set forth in the written notice of termination. Customer may also terminate the Agreement within 30 days of notification by Gecko of a Subscription Fee increase, as stated in Section 3.b above.

c. **Effect of Termination.**

Immediately upon expiration or termination of this Agreement for any reason whatsoever, Customer will cease all access to and use of the Services and all licenses granted under this Agreement will terminate. Upon Customer's reasonable written request, Gecko agrees to destroy or otherwise dispose of, and direct its third party service providers to destroy or otherwise dispose of, all Customer Data in Gecko's possession or in the possession of such third party service provider, or to return such Customer Data to Customer to the extent commercially feasible. Customer will pay all reasonable expenses incurred by Gecko in returning or disposing of Customer Data.

d. **Survival.** Sections 1, 2.c, 2.d, 2.h, 3.c, 7, 8, 9.c, and 10 will survive any termination or expiration of this Agreement.

10. **Miscellaneous.**

a. **Assignment.** This Agreement may not be assigned by either party without the other party's prior written consent, except that either party may assign this Agreement without the other party's prior written consent to a wholly-owned subsidiary, parent company or company under common control, or to any successor entity by way of merger, reorganization, consolidation, operation of law or through the acquisition of all or substantially all of its assets or capital stock. The assigning party will provide notice to the non-assigning party of any such permitted assignment. Any assignment permitted hereunder will not relieve the assigning party of any obligations that have accrued prior to the date of such assignment.

b. **Notices.** Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be (i) delivered in person, (ii) sent by first class registered mail, or air mail, as appropriate, or (iii) sent by commercial courier, in each case properly posted and fully prepaid to the appropriate address set forth in the first paragraph of this Agreement. Either party may change its address for notice by notice to the other party given in accordance with this Section. Notices will be considered to have been given at the time of actual delivery in person, two (2) business days after deposit in the mail as set forth above, or on the date and time of signature of the delivery receipt if delivered by courier service.

c. **Limitation on Claims.** No action arising out of any breach or claimed breach of this Agreement or transactions contemplated by this Agreement may be brought by either party more than one year after the cause of action has accrued. For purposes of this Agreement, a cause of action will be deemed to have accrued when a party knew or reasonably should have known of the breach or claimed breach.

d. **No Warranties.** No employee, agent, representative or affiliate of Gecko has authority to bind Gecko to any oral representations or warranty concerning the Services. Any written representation or warranty not expressly contained in this Agreement will not be enforceable.

e. **Force Majeure.** Neither party will incur any liability to the other party on account of any loss or damage resulting from any delay or failure to perform all or any part of this Agreement if such delay or failure is caused, in whole or in part, by events, occurrences, or causes beyond the control and without negligence of the parties. Such events, occurrences, or causes will include, without limitation, acts of God, strikes, lockouts, riots, acts of war, earthquake, fire and explosions, but the inability to meet financial obligations is expressly excluded.

f. **Waiver.** 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 this Agreement or its rights or remedies at any time, will not be construed and will not be deemed to be a waiver of such party's rights under this Agreement and will not in any way affect

the validity of the whole or any part of this Agreement or prejudice such party's right to take subsequent action. No exercise or enforcement by either party of any right or remedy under this Agreement will preclude the enforcement by such party of any other right or remedy under this Agreement or that such party is entitled by law to enforce.

g. **Severability.** If any term, condition, or provision in this Agreement is found to be invalid, unlawful or unenforceable to any extent, the parties will endeavor in good faith to agree to such amendments that will preserve, as far as possible, the intentions expressed in this Agreement. If the parties fail to agree on such an amendment, such invalid term, condition or provision will be severed from the remaining terms, conditions and provisions, which will continue to be valid and enforceable to the fullest extent permitted by law.

h. **Integration.** This Agreement (including any addenda hereto and Order Forms signed by both parties) contains the entire agreement of the parties with respect to the subject matter of this Agreement and supersedes all previous communications, representations, understandings and agreements, either oral or written, between the parties with respect to said subject matter. This Agreement may not be amended, except by a writing signed by both parties.

i. **Purchase Orders.** No terms, provisions or conditions of any purchase order, acknowledgement or other business form that Customer may use in connection with the acquisition or licensing of the Services will have any effect on the rights, duties or obligations of the parties under, or otherwise modify, this Agreement, regardless of any failure of Gecko to object to such terms, provisions or conditions.

j. **Export.** Customer acknowledges that the Services may contain features subject to United States and local country laws governing import, export, distribution and use. Customer is responsible for compliance by the Customer and its Authorized Users with United States and local country laws and regulations and will not export, use or transmit the Services (i) in violation of any export control laws of the United States or any other country, or (ii) to anyone on the United States Treasury Department's list of Specially Designated Nationals

or the U.S. Commerce Department's Table of Deny Order.

k. **U.S. Government Restricted Rights.** If the Services is accessed or used by any agency or other part of the U.S. Government, the U.S. Government acknowledges that Gecko provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Gecko to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

l. **Trademarks.** Upon obtaining the other party's prior written consent in each instance, each party may use the other party's name, trademarks, tradenames, service marks, and logos, in its client or service provider, as applicable, list in the same manner in which it uses the names of its other clients and service providers, as applicable. Any other obligations relating to publicity of the parties' relationship will be set forth in the Order Form.

m. **Counterparts.** This Agreement may be executed in counterparts, each of which so executed will be deemed to be an original and such counterparts together will constitute one and the same agreement.

n. **Governing Law.** This Agreement will be governed by the laws of the State of New York, without reference to conflict of laws principles. Any dispute between the parties regarding this Agreement will be subject to the exclusive venue of the state and federal courts in New York County, New York. The parties hereby consent to the exclusive jurisdiction and venue of such courts.

EXHIBIT B
SUPPORT SERVICES POLICY

1. HELPDESK

- a. Gecko will make available an email helpdesk facility for the purposes of:
 - i. assisting the Customer with the configuration of the Service and the integration of the Service with the Customer's other systems;
 - ii. assisting the Customer with the proper use of the Service; and/or
 - iii. determining the causes of errors and fixing errors in the Service.
- b. The Customer must make all requests for support services through the helpdesk, and all such requests must include at least the following information: operating system name, browser name, browser version, mobile operating system, mobile operating system version, screenshots (where applicable), and a description of steps taken.

2. RESPONSE AND RESOLUTION TIMES

- a. Gecko will:
 - i. use commercially reasonable efforts to respond to requests for support services made through the helpdesk; and
 - ii. use commercially reasonable efforts to resolve issues raised by the Customer, promptly / in accordance with the following response time matrix.

Severity	Examples	Response time	Resolution time
Critical	Service outage	1 hour	2 hours
Serious	Service online, but data not being stored	2 hours	4 hours
Moderate	Service online, data being stored, but unable to view data.	4 hours	8 hours
Minor	Form not displaying correctly	12 hours	24 hours

- b. Gecko will determine, acting reasonably, in to which severity category an issue raised through the support services falls.
- c. All support services will be provided remotely unless expressly agreed otherwise by the Gecko.

3. LIMITS ON SUPPORT SERVICES

- a. Where the total person-hours spent by Gecko performing the support services under clause 2 during any month exceed 4 hours, then:
 - i. Gecko will cease to have an obligation to provide those support services to the Customer during that period; providing that
 - ii. Gecko may agree to provide additional such support services to the Customer during that period, but the provision of such services will be subject to payment by the Customer of additional charges at Gecko's standard hourly rate from time to time. Gecko will not provide, and Customer will not be responsible for payment of, any billable support services unless Customer has requested services in writing, Gecko has informed Customer in writing that the requested services are billable and provided a good faith estimate of the cost, and Customer has agreed to the estimated cost of the services in writing signed by Customer.
- b. Gecko shall have no obligation under this policy to provide support services in respect of any fault or error caused by the improper use of the Service.

4. UPGRADES

- a. The Customer acknowledges that from time to time during the Term Gecko may make technical changes to the Service that are required to enhance, or improve its functionality ("**Upgrades**"), and that such Upgrades may, subject to clause 4. b., result in changes the appearance and/or functionality of the Service.
- b. No Upgrade shall disable, delete or significantly impair functionality relating to the collection, and management of data via mobile and web browser forms.
- c. Gecko will give to the Customer prior written notice of the application of any significant Upgrade to the Service. Such notice shall include details of the specific changes to the functionality of the Service resulting from the application of the Upgrade.
- d. The Customer shall not be subject to any additional charges arising out of the application of the Upgrade, save where Customer has ordered and agreed to such charges in an amendment to this Agreement and:
 - i. the Upgrade introduces new functionality to the Service;
 - ii. that new functionality does not serve the same purpose as legacy functionality that ceases or has ceased to be available as a result of any Upgrade;
 - iii. access to or use of the new functionality is chargeable to the customers of Gecko using the Service generally; and
 - iv. any decision by the Customer not to pay the charges for the new functionality will not prejudice the Customer's access to and use of the rest of the Service.

5. BACK-UP AND RESTORATION

- a. Subject to clause 5. b., Gecko will:
 - i. make back-ups of the Customer Data stored on the Service on an hourly basis, and will retain such back-ups for at least 30 days; and

- ii. at least once every 7 days, Gecko will arrange for the off-site storage of a current back-up of the Customer Data stored on the Service (which will be over-written on the following off-site back-up date).

In the event of the loss of, or corruption of, Customer Data stored on the Service being notified by the Customer to Gecko, Gecko shall if so directed by the Customer use all reasonable endeavors to restore the Customer Data from the most recent available back-up copy.

EXHIBIT C

DATA PROTECTION AND MANAGEMENT POLICY

The parties shall in all matters arising in the performance of the Agreement and the Services comply with all applicable privacy and data security laws and regulations. Both parties' represent and warrant that any data, information, applications, or other materials that either party provides to each other are owned by the relevant party and/or licensed for use by Customer and by Gecko for all uses contemplated by this Agreement.

Gecko shall not store, copy, disclose, use, or permit third party access to Customer Data except as necessary for the performance of its obligations under this Agreement or as otherwise expressly authorized by the Customer. To the extent that Customer Data is stored or used by Gecko, Gecko shall supply that Customer Data to the Customer as requested by the Customer. Gecko shall not disclose Customer Data to any third parties except as necessary to provide the Services. If Gecko discloses Customer Data to a third party, Gecko will prohibit the third party from using the Customer Data for any other purpose and require the third party to protect the security and privacy of the Customer Data to the same level as required of Gecko by this Agreement. For the purpose of this Agreement, Gecko shall ensure that all Customer Data is hosted in the United States and will comply with all policies set forth below.

Gecko shall implement commercially reasonable technical and organizational measures to protect against unauthorized or unlawful use and/or disclosure of Customer Data or its accidental loss, destruction, corruption, or damage and to preserve the integrity and accuracy of Customer Data it maintains. Gecko shall perform secure back-ups of all Customer Data and shall ensure that up-to-date back-ups are stored off-site, as appropriate. Gecko shall implement commercially reasonable measures to protect its network and systems on which Customer Data is held, including back-up data, from unauthorized access. Such measures may include, but are not limited to, *security reviews and assessments, network firewalls, intrusion detection systems, anti-virus and anti-malware systems, and system and network access controls*. Gecko shall train its employees on its policies and the appropriate use, handling, and protection of Customer Data.

If Customer Data is corrupted, lost or materially degraded as a result of Gecko's action, error or other default (or those of its agents or employees), the Customer may require Gecko to restore or procure the restoration of Customer Data, if technically possible, and Gecko shall do so as soon as practicable.

If at any time Gecko suspects or has reason to believe that Customer Data has or may become corrupted, lost, accessed without authorization, or sufficiently degraded in any way for any reason, Gecko shall notify the Customer as soon as practicable and inform the Customer of the remedial action(s) that it proposes to take.

Gecko shall use reasonable efforts to assist the Customer in compliance with any obligations regarding the privacy and security of Customer Data.

At the termination or expiration of this Agreement, Gecko will immediately cease all use of the Customer Data, return all of the Customer Data in an agreed format, and destroy all Customer Data held in a secure manner.