

THIS ENTERPRISE SUBSCRIPTION AGREEMENT FOR ONLINE MARKETPLACES (THIS "AGREEMENT") IS BETWEEN QUILT DATA, INC. AND ITS AFFILIATES ("QUILT DATA") AND YOU ("YOU"). IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER ENTITY, YOU REPRESENT THAT YOU ARE THE EMPLOYEE OR AGENT OF SUCH COMPANY (OR OTHER ENTITY) AND YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT ON BEHALF OF SUCH COMPANY (OR OTHER ENTITY). YOU FURTHER AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN AGREEMENT SIGNED BY YOU (ON BEHALF OF SUCH COMPANY OR OTHER ENTITY) AND LEGALLY BINDING BETWEEN YOU (AND SUCH COMPANY OR OTHER ENTITY) AND QUILT DATA.

BY ACTIVATING THE SOFTWARE THROUGH THE ONLINE MARKETPLACE, YOU ACKNOWLEDGE AND AGREE THAT YOU HAVE READ ALL OF THE TERMS AND CONDITIONS SET FORTH BELOW (THE "T&Cs"), UNDERSTAND ALL OF THE T&Cs, AND AGREE TO BE BOUND BY ALL OF THE T&Cs. IF YOU DO NOT AGREE TO ANY OF THE T&Cs, DO NOT USE THE SOFTWARE.

Evaluation Users: If you receive free, trial or evaluation access to the Software, you are deemed a "Customer" under this Agreement except that you are subject to the additional restrictions and limitations set forth in Section 2.2 (Evaluation License) below.

1. Definitions.

Affiliate: means each legal entity that is directly or indirectly controlled by you on or after the Effective Date and for so long as such entity remains directly or indirectly controlled by you (where "controlled" means the ownership of, or the power to vote, directly or indirectly, a majority of any class of voting securities of a corporation or limited liability company, or the ownership of any general partnership interest in any general or limited partnership).

Authorized User: means the number of individuals for whom the applicable license fees have been paid, as stated on the Ordering Document, who are authorized by you to install and/or use the functionality in the Software for any purpose regardless of whether those individuals are actively using the programs at any given time. Licenses granted on an Authorized User basis may be reassigned between your users over time but may not be reassigned so frequently as to enable the sharing of a single license between multiple users.

Contractor: means those independent third parties who perform services related to this Agreement for you.

Customer Data: means data generated by you or your Authorized User and used by or imported into the Software.

Documentation: means any supporting product help and technical specifications documentation provided by Quilt Data with the Software to you.

Effective Date: means the date upon which you activate the Software through the online marketplace.

License Term: means the Software license term specified on the applicable Ordering Document or by an Authorized Partner. The License Term may be a fixed term, a limited term for Evaluation Versions, or perpetual.

Ordering Document: means any order on a Quilt Data order form which references this Agreement. Each Ordering Document which references this Agreement shall be deemed a part of this Agreement.

Software: means the proprietary Quilt Data software product(s) provided in connection with this Agreement in object code form (or as otherwise specified in any related Ordering Document). "Software" shall also include any Support and Maintenance Services releases provided to you under this Agreement. Unless otherwise noted, the Software and Documentation are referred to collectively herein as "Software".

Services: means the Professional Services, as defined in Section 9, and Support and Maintenance Services.

2. Quilt Data Software Products.

2.1 **Quilt Data Software.** In some cases, in order to use the Software under this Agreement, you may be required to activate your copy of the Software with a license key or activation code provided to you at the time of purchase and/or submit a uniquely identifiable user registration when prompted, in accordance with the scope of use and other terms specified for each type of Software, the Documentation, and as set forth in this Section 2 of this Agreement. Your license will be subject to either user-based, container-based, or other restrictions, as identified on the applicable Ordering Document. If your Software license is designated as user-based, the total count of Authorized Users enabled to use such Software must not exceed the number of licenses purchased on the applicable Ordering Document(s).

2.2 **Evaluation License ("Evaluation License").** If an evaluation period (or free trial) is included in your Ordering Document, you may install the Software to determine whether to purchase a non-Evaluation License of the Software. You may not use the Evaluation License for any other purposes, including but not limited to competitive analysis, commercial, professional, or for-profit purposes. You may only use the Evaluation License for the period as described in your Ordering Document ("**Evaluation Period**"). Unless you pay the applicable license fee for the Software, the Software may become inoperable and, in any event, your right to use the Software automatically expires at the end of the Evaluation Period. Notwithstanding any other provision of this Agreement, the Software subject to the Evaluation License is provided "AS IS" without warranty or support of any kind, express or implied. Quilt Data may terminate your Evaluation License upon written notice at any time for any reason and without liability of any kind. AS MAY BE MORE FULLY DESCRIBED IN THE ORDERING DOCUMENT, IF YOU CONTINUE TO USE THE SOFTWARE BEYOND THE EVALUATION PERIOD, YOUR EVALUATION LICENSE SHALL IMMEDIATELY TERMINATE AND WITH NO OTHER REQUIRED ACTION CONVERT TO A NON-EVALUATION LICENSE AND YOU EXPRESSLY AGREE THAT, UNLESS YOU HAVE A SEPARATE SIGNED LICENSE AGREEMENT GOVERNING YOUR USE OF THE SOFTWARE, THIS AGREEMENT, AND THE TERMS AND CONDITIONS HEREIN, SHALL GOVERN YOUR USE OF SUCH NON-EVALUATION LICENSE SOFTWARE.

3. License.

3.1 **Grant of License.** Subject to all of the terms and conditions of this Agreement, and except as set forth in Section 6 (Term and Termination), during the applicable License Term, Quilt Data grants you a limited, worldwide, non-transferable, non-sublicensable, non-exclusive license to use the Software for which you have been authorized by Quilt Data or an Authorized Partner, but only in accordance with: (a) the Documentation; (b) the restrictions in Section 2 (Quilt Data Software Products), Section 3.5 (License Restrictions) and any restrictions on the applicable Ordering Document; and (c) the number of Authorized Users and/or permitted number of Clusters (as applicable), on the platforms and configurations or any other restrictions mutually agreed upon by you and an Authorized Partner. You may allow your Contractors and Affiliates to use the Software in accordance with this Agreement, provided you shall remain liable for all acts and omissions of your Affiliates and Contractors as if their acts or omissions were your own.

3.2 **Archive Copies.** You are entitled to make a reasonable number of copies of the Software for archival purposes.

3.3 **Third-Party Code.** The Software may contain or be provided with components which are licensed from third parties ("**Third Party Code**"), including components subject to the terms and conditions of "open source" software licenses ("**Open Source Software**"). Open Source Software may be identified in the Documentation, or in a list of the Open Source Software provided to you upon your written request. To the extent required by the license that accompanies the Open Source Software, the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open Source Software, including, without limitation, any provisions governing access to source code, modification or reverse engineering.

3.4 **Electronic Delivery.** All Software and Documentation shall be delivered by electronic means unless otherwise specified on the applicable Ordering Document. Software shall be deemed delivered when it is made available for download by you ("**Delivery**").

3.5 **License Restrictions.** As a condition of your license, you shall not (and shall not allow any third party to): (a) decompile, disassemble, or otherwise reverse engineer the Software or Third Party Code or attempt to reconstruct or discover any source code, underlying ideas, algorithms, file formats or programming interfaces of the Software or Third Party Code by any means whatsoever (except and only to the extent that applicable law prohibits or restricts reverse engineering restrictions, or

as permitted by an applicable Open Source Software license); (b) distribute, sell, sublicense, rent, lease or use the Software or Third Party Code (or any portion thereof) for time sharing, hosting, service provider or like purposes, except as expressly permitted under Sections 3.1 and 3.5 of this Agreement; (c) remove any product identification, proprietary, copyright trademark, service mark, or other notices contained in the Software or Third Party Code; (d) modify any part of the Software or Third Party Code, create a derivative work of any part of the Software or Third Party Code; (e) publicly disseminate performance information or analysis (including, without limitation, benchmarks) from any source relating to the Software; (f) utilize any equipment, device, software, or other means designed to circumvent or remove any form of product key (if required) or copy protection used by Quilt Data in connection with the Software, or use the Software together with any authorization code, product key, serial number, or other copy protection device not supplied by Quilt Data or through an Authorized Partner; (g) use the Software to develop a product which is competitive with any Quilt Data product offerings; (h) as applicable to user-based licenses, enable access to the Software for a greater number of Authorized Users than the sum quantity of licenses purchased on the applicable Ordering Document(s); (i) as applicable to user-based licenses, reassign license rights between Authorized Users so frequently as to enable a single license to be shared between multiple users; or (j) assert, nor will you authorize, assist or encourage any third-party to assert, against Quilt Data or any of its affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding any Software or Support and Maintenance or Professional Services you have purchased or used hereunder.

4. Ownership. Notwithstanding anything to the contrary contained herein, except for the limited license rights expressly provided herein, Quilt Data and its licensors have and will retain all rights, title and interest (including, without limitation, all patent, copyright, trademark, trade secret and other intellectual property rights) in and to the Software, Third Party Code, and all copies, modifications and derivative works thereof (including any changes which incorporate any of your ideas, feedback or suggestions). You acknowledge that you are obtaining only a limited license right to the Software and Third Party Code and that irrespective of any use of the words "purchase", "sale" or like terms hereunder no ownership rights are being conveyed to you under this Agreement or otherwise.

5. Payment; Taxes. You shall pay all fees associated with the Software licensed and any services purchased hereunder as set forth in the applicable Ordering Document. All payments shall be made in the currency noted on the applicable Ordering Document within 30 days of the date of the applicable electronic invoice. Except as expressly set forth herein, all fees are non-refundable once paid. The fees do not include taxes. You will withhold taxes on payments to if required to do so by any government and will pay such taxes to the appropriate tax authority. You will utilize Your best efforts and cooperate with Quilt Data to make sure that taxes withheld are minimized to the extent possible under the applicable law and/or tax treaty and will provide all the necessary documents to enable Quilt Data to claim the withheld tax refund as a United States tax credit. You will pay any and all sales, use, excise, import, export, value added or similar taxes and all government permit or license fees, and all customs, duty, tariff and similar fees levied upon the sale of the Software, and the provision of the Services under the Agreement, and any costs associated with the collection or withholding thereof, including penalties and interest.

6. Term and Termination.

6.1 Term of License. Unless sooner terminated as provided herein, your license to Software expires at the end of the applicable License Term. License Terms may be renewed if mutually agreed by the parties in a renewal Ordering Document.

6.2 Term of Agreement. This Agreement commences on the Effective Date and continues for as long as you have an active subscription to the Software and/or an active Ordering Document for Services (the "Term"). Either party may terminate this Agreement (including all related Ordering Documents) if the other party: (a) fails to cure any material breach of this Agreement within 30 days after written notice of such breach including without limitation your failure to pay, provided that Quilt Data may terminate this Agreement and the Software license(s) (including termination of the Software license(s) if this Agreement has already expired or has been terminated) immediately upon any breach of Section 3.5 (License Restrictions); (b) ceases operation without a successor; or (c) seeks protection under any bankruptcy, receivership, trust deed, creditors arrangement, composition or comparable proceeding, or if any such proceeding is instituted against such party (and not dismissed within sixty (60) days). Unless otherwise specified herein, termination is not an exclusive remedy and the exercise by either party of any remedy under this Agreement will be without prejudice to any other remedies it may have under this Agreement, by law, or otherwise.

6.3 Termination. Upon any expiration or termination of this Agreement, you shall cease any and all use of any Software, destroy all copies thereof and so certify to Quilt Data in writing.

6.4 Survival. Sections 3.5 (License Restrictions), 4 (Ownership), 5 (Payment), 6 (Term and Termination), 7.4 (Disclaimer of Warranties), 10.1, 10.2, 10.3 and 10.5 (Limitation of Remedies; Indemnification and Damages), 11 (Confidential Information), 12 (Export Compliance) and 13 (General) shall survive any termination or expiration of this Agreement.

7. Limited Warranty and Disclaimer.

7.1 Limited Product Warranty. Quilt Data warrants to you that for a period of thirty (30) days from Delivery (the "Warranty Period") the Software shall operate in substantial conformity with the Documentation. Quilt Data does not warrant that your use of the Software will be uninterrupted or error-free or that any security mechanisms implemented by the Software will not have inherent limitations. Quilt Data's sole liability (and your exclusive remedy) for any breach of this warranty shall be, in Quilt Data's sole discretion, to use commercially reasonable efforts to provide you with an error-correction or work-around which corrects the reported non-conformity, or if Quilt Data determines such remedies to be impracticable within a reasonable period of time, to refund the license fee paid for the applicable Software. Quilt Data shall have no obligation with respect to a warranty claim unless notified of such claim within the Warranty Period. For the avoidance of doubt, this warranty applies only to the initial Delivery of Software under an Ordering Document and does not renew or reset, for example, with renewal License Terms or the delivery of Software updates or maintenance releases.

7.2 Limited Services Warranty. Quilt Data warrants to You that it will perform the Services in a professional manner and consistent with industry standards. For any Services that do not conform to this warranty, You must notify Quilt Data within thirty (30) days of the delivery of any non-conforming Services, and as Quilt Data's sole obligation and Your exclusive remedy, Quilt Data, at its sole discretion, will either: (i) reperform such non-conforming Services at no additional charge to You, or (ii) refund any Services fees paid to Quilt Data for such non-conforming Services (where, if the affected Services are Quilt Data Support, the refunded Services fees will be adjusted pro-rata for the remainder of the then-current License Term), and terminate the applicable Ordering Document.

7.3 Exclusions. The above product warranty shall not apply: (a) if the Software is used with hardware or software not authorized in the Documentation; (b) if any modifications are made to the Software by you or any third party; (c) to defects in the Software due to accident, abuse or improper use by you; or (d) to any Evaluation Version or other Software provided on a no charge or evaluation basis.

7.4 Disclaimer of Warranties. THIS SECTION 7 IS A LIMITED WARRANTY AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION 7, THE SOFTWARE, INCLUDING WITHOUT LIMITATION THE THIRD-PARTY CODE, AND ALL SERVICES ARE PROVIDED "AS IS". NEITHER QUILT DATA NOR ITS LICENSORS MAKES ANY OTHER WARRANTIES, CONDITIONS OR UNDERTAKINGS, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, INCLUDING BUT NOT LIMITED TO WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. YOU MAY HAVE OTHER STATUTORY RIGHTS. HOWEVER, TO THE FULL EXTENT PERMITTED BY LAW, THE DURATION OF STATUTORILY REQUIRED WARRANTIES, IF ANY, SHALL BE LIMITED TO THE APPLICABLE WARRANTY PERIOD.

8. Support and Maintenance. Subject to the terms and conditions of this Agreement, during the License Term, you may purchase support and maintenance services for the Software as set forth in Quilt Data's then-current Support and Maintenance Policies ("Support and Maintenance Services") and as specified in your Ordering Document. All Support and Maintenance Services renewals will be subject to the terms and conditions of this Agreement including Quilt Data's then-current Support and Maintenance Policies. Quilt Data may collect and use error messaging data generated by the Software in a non-identifiable form for customer support and for improvement of the Quilt Data products and services.

9. Professional Services. Quilt Data shall provide the number of person-days or other measure of professional consulting or training services ("Professional Services") purchased in the applicable Ordering Document or online ordering process. The parties acknowledge that the scope of the Professional Services provided hereunder consists solely of either or both of: (a) assistance with Software installation, customization, deployment, and usage; and (b) training in use of the Software. You shall have a license right to use any deliverables (including any documentation, code, Software, training materials or other work product) delivered as part of the Professional Services ("Deliverables") solely in connection with your permitted use of the Software, subject to all the same terms and conditions as apply to your Software license (including in Section 3.5 (License Restrictions)), and subject to any additional terms and conditions provided with the Deliverables. You may order Professional Services under a Statement of Work ("SOW") describing the work to be performed, fees and any applicable milestones, dependencies and other technical specifications or related information. Each SOW must be signed by both parties before Quilt Data shall commence work under such SOW. If the parties do not execute a separate SOW, the Professional Services shall be provided as stated on the Ordering Document. You will reimburse Quilt Data for reasonable travel and lodging expenses as incurred.

10. Limitation of Remedies; Indemnification and Damages.

10.1 BUT FOR: (A) EITHER PARTY'S BREACH OF SECTION 11 (CONFIDENTIAL INFORMATION), (B) YOUR BREACH OF SECTION 3.5 (LICENSE RESTRICTIONS) OR SECTION 12 (EXPORT COMPLIANCE), OR (C) YOUR INDEMNIFICATION OBLIGATIONS UNDER SECTION 10.5, NEITHER PARTY SHALL BE LIABLE FOR ANY LOSS OF USE, LOST DATA, FAILURE OF SECURITY MECHANISMS, INTERRUPTION OF BUSINESS, OR ANY INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING LOST PROFITS OR COSTS OF COVER), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF INFORMED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE.

10.2 BUT FOR: (A) EITHER PARTY'S BREACH OF SECTION 11 (CONFIDENTIAL INFORMATION), (B) YOUR BREACH OF SECTION 3.5 (LICENSE RESTRICTIONS), OR SECTION 12 (EXPORT COMPLIANCE), OR (C) YOUR INDEMNIFICATION OBLIGATIONS UNDER SECTION 10.5, EACH PARTY'S ENTIRE LIABILITY UNDER THIS AGREEMENT SHALL NOT EXCEED THE FEES PAID OR OWED BY YOU UNDER THIS AGREEMENT DURING THE TWELVE MONTHS PRECEDING THE CLAIM.

10.3 The parties agree that the limitations specified in this Section 10 will survive and apply even if any limited remedy specified in this Agreement is found to have failed of its essential purpose.

10.4 Quilt Data Indemnification: Quilt Data shall defend you from and against any claim by a third party alleging that the Software when used as authorized under this Agreement infringes a U.S. patent, U.S. copyright, or U.S. trademark and shall indemnify and hold you harmless from and against any damages and costs awarded against you or agreed in settlement by Quilt Data (including reasonable attorneys' fees) resulting from such claim, provided that Quilt Data shall have received from you: (a) prompt written notice of such claim (but in any event notice in sufficient time for Quilt Data to respond without prejudice); (b) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (c) all reasonably necessary cooperation from you. If your use of the Software is (or in Quilt Data's opinion is likely to be) enjoined, if required by settlement or if Quilt Data determines such actions are reasonably necessary to avoid material liability, Quilt Data may, in its sole discretion: (i) substitute for the Software substantially functionally similar programs and documentation; (ii) procure for you the right to continue using the Software; or if (i) and (ii) are not commercially reasonable, (iii) terminate this Agreement and refund to you any prepaid, unused license fees for the duration of the then-current License Term (or, if your License Term is perpetual, your refund will equal the license fee paid by you as reduced to reflect a five year straight-line depreciation from the applicable license purchase date). The foregoing obligations of Quilt Data shall not apply: (1) if the Software is modified by any party other than Quilt Data, but solely to the extent the alleged infringement is caused by such modification; (2) if the Software is combined with products or processes not provided or authorized by Quilt Data, but solely to the extent the alleged infringement is caused by such combination; (3) to any unauthorized use of the Software; (4) to any unsupported release of the Software; (5) to any Third-Party Code contained within the Software; or (6) if you settle or make any admissions with respect to a claim without Quilt Data's prior written consent. THIS SECTION 10.4 SETS FORTH QUILT DATA'S AND ITS LICENSORS' SOLE LIABILITY AND YOUR SOLE AND EXCLUSIVE REMEDY WITH RESPECT TO ANY CLAIM OF INTELLECTUAL PROPERTY INFRINGEMENT.

10.5 Indemnification by You. Subject to this Section 10, you shall defend Quilt Data from and against all claims, arising out of any claim by third parties (including any Contractors) resulting from or relating to any breach by you of Section 3.5 (License Restrictions), and shall indemnify and hold Quilt Data harmless from and against any damages and costs awarded against Quilt Data or agreed in settlement by you (including reasonable attorney's fees) resulting from such claims, provided that you shall have received from Quilt Data: (i) prompt written notice of such claim (but in any event notice in sufficient time for you to respond without prejudice); (ii) the exclusive right to control and direct the investigation, defense, and settlement (if applicable) of such claim; and (iii) all reasonably necessary cooperation from Quilt Data. You may not settle any such claim relating to the Software without Quilt Data's prior written consent, which shall not be unreasonably withheld, conditioned or delayed.

11. **Confidential Information.** Each party agrees that all code, inventions, know-how, business, technical and financial information it obtains ("**Receiving Party**") from the disclosing party ("**Disclosing Party**") constitute the confidential property of the Disclosing Party ("**Confidential Information**"), provided that it is identified as confidential at the time of disclosure or should be reasonably known by the Receiving Party to be Confidential Information due to the nature of the information disclosed and the circumstances surrounding the disclosure. Any software, pricing, documentation or technical information provided by Quilt Data (or its agents), performance information relating to the Software, and the terms of this Agreement shall be deemed Confidential Information of Quilt Data without any marking or further designation. Except as expressly authorized herein, the Receiving Party will hold in confidence and not use or disclose any Confidential Information. The Receiving Party's nondisclosure obligation shall not apply to information which the Receiving Party can document: (a) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (b) is or has become public knowledge through no fault of the Receiving Party; (c) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; (d) is independently developed by employees of the Receiving Party who had no access to such information; or (e) is required to be disclosed pursuant to a regulation, law or court order (but only to the minimum extent required to comply with such regulation or order and with advance notice to the Disclosing Party). The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party, the Disclosing Party shall be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

12. **Export Compliance.** You acknowledge that the Software is subject to United States export control and economic sanctions laws, regulations and requirements and to import laws, regulations and requirements of certain foreign governments. You shall not, and shall not allow any third party to, export from the United States or allow the re-export or re-transfer of any part of the Software: (a) to any country subject to export control embargo or economic sanctions implemented by any agency of the U.S. Government; (b) to any person or entity on any of the U.S. Government's Lists of Parties of Concern (<http://www.bis.doc.gov/index.php/policy-guidance/lists-of-parties-of-concern>); (c) to any known end-user or for any known end-use related to the proliferation of nuclear, chemical or biological weapons or missiles, without first obtaining any export license or other approval that may be required by any U.S. Government agency having jurisdiction with respect to the transaction; or (d) otherwise in violation of any export or import laws, regulations or requirements of any United States or foreign agency or authority.

13. General.

13.1 Assignment. This Agreement will bind and inure to the benefit of each party's permitted successors and assigns. Quilt Data may assign this Agreement to any affiliate or in connection with a merger, reorganization, acquisition or other transfer of all or substantially all of Quilt Data's assets or voting securities. You may not assign or transfer this Agreement, in whole or in part, without Quilt Data's written consent except that you may assign your rights and obligations under this Agreement, in whole but not in part, without Quilt Data's written consent in connection with any merger, consolidation, sale of all or substantially all of your assets, or any other similar transaction provided that: (a) the assignee is not a direct competitor of Quilt Data; (b) you provide prompt written notice of such assignment to Quilt Data; (c) the assignee is capable of fully performing your obligations under this Agreement; and (d) the assignee agrees to be bound by the terms and conditions of this Agreement. Any attempt to transfer or assign this Agreement without such written consent will be null and void.

13.2 Severability. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited to the minimum extent necessary so that this Agreement shall otherwise remain in effect.

13.3 Governing Law; Jurisdiction and Venue. Excluding conflict of laws rules, this Agreement shall be governed by and construed under: (a) the laws of the State of California, U.S. All disputes arising out of or in relation to this Agreement shall be submitted to the exclusive jurisdiction of the courts of San Francisco, California. Nothing in this section shall restrict Quilt Data's right to bring an action (including for example a motion for injunctive relief) against you in the jurisdiction where your place of business is located. The United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act, as currently enacted by any jurisdiction or as may be codified or amended from time to time by any jurisdiction, do not apply to this Agreement.

13.4 Attorneys' Fees and Costs. The prevailing party in any action to enforce this Agreement will be entitled to recover its attorneys' fees and costs in connection with such action.

13.5 Notices and Reports. Any notice or report hereunder shall be in writing. If to Quilt Data, such notice or report shall be sent to Quilt Data at 544 Pacific Ave., San Francisco, CA 94133 to the attention of "Legal Department". If to you, such notice or report shall be sent to the address you provided upon placing your order. Notices and reports shall be deemed given: (a) upon receipt if by personal delivery; (b) upon receipt if sent by certified or registered mail (return receipt requested); or (c) one day after it is sent if by next day delivery by a major commercial delivery service.

13.6 Modifications; Waiver. Quilt Data reserves the right to modify or replace this Agreement at any time and in Quilt Data's sole discretion. Quilt Data will indicate at the top of this Agreement the date such document was last updated. Quilt Data will post the revised version on the Quilt Data website or make such modified or new Agreement available through the URL furnished to you during Your initial ordering process or such other methods as determined by Quilt Data. Any modifications or replaced terms will be effective following your renewal of this Agreement. Your continued use of the Software or Services or renewal under the Agreement following the posting or availability of any changes to this Agreement will constitute your acceptance of such changes. If you do not agree to the changes, you must stop using the Software and

Services. No waiver will be implied from conduct or failure to enforce or exercise rights under this Agreement, nor will any waiver be effective unless in a writing signed by a duly authorized representative on behalf of the party claimed to have waived.

13.7 Entire Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements and communications relating to the subject matter of this Agreement. Notwithstanding the foregoing, if you have entered into a separate written license agreement signed by Quilt Data for use of the Software, the terms and conditions of such other agreement shall prevail over any conflicting terms or conditions in this Agreement.

13.8 Independent Contractors. The parties to this Agreement are independent contractors. There is no relationship of partnership, joint venture, employment, franchise or agency created hereby between the parties. Neither party will have the power to bind the other or incur obligations on the other party's behalf without the other party's prior written consent.

13.9 Audit. During the term of the Agreement and for two years thereafter, Quilt Data and/or an independent auditor on behalf of Quilt Data will have the right to audit Your applicable systems, books and records, no more than once every calendar year, during Your normal business hours and in a manner that does not unreasonably interfere with Your normal business operations, to ensure Your compliance with the terms and conditions of the Agreement. Each party will pay the costs that it incurs in the course of the audit. If the audit reveals an underpayment, or a failure by You to fully comply with all the payment terms and conditions of the Agreement, then You will immediately pay Quilt Data the underpaid amount, with interest accruing at the rate of 1.5% per month, or the highest rate permitted by law, whichever is lower, from the date such amount is due until the date such amount is finally paid in full. In addition, if any audit reveals an underpayment of more than three percent (3%) for any reporting period, then, without limiting Quilt Data's other rights and remedies at law or in equity, You will also reimburse Quilt Data for its reasonable costs incurred in conducting such audit.

13.10 Force Majeure. Neither party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events, which occur after the signing of this Agreement and which are beyond the reasonable control of the parties, such as strikes, blockade, war, terrorism, riots, natural disasters, refusal of license by the government or other governmental agencies, in so far as such an event prevents or delays the affected party from fulfilling its obligations and such party is not able to prevent or remove the force majeure at reasonable cost.

13.11 Government End-Users. The Software is commercial computer software. If the user or licensee of the Software is an agency, department, or other entity of the United States Government, the use, duplication, reproduction, release, modification, disclosure, or transfer of the Software, or any related documentation of any kind, including technical data and manuals, is restricted by a license agreement or by the terms of this Agreement in accordance with Federal Acquisition Regulation 12.212 for civilian purposes and Defense Federal Acquisition Regulation Supplement 227.7202 for military purposes. The Software was developed fully at private expense. All other use is prohibited.

13.12 Authorized Partner. If you received the Software under an agreement ("**Partner Agreement**") with an authorized Quilt Data reseller, partner, OEM, including an online marketplace operator ("**Authorized Partner**") then, notwithstanding anything to the contrary in this Agreement: (a) your use of the Software is subject to any additional terms in the Partner Agreement, including any limitations on use of the Software in conjunction with third-party applications; and (b) you agree to pay the Authorized Partner the fees agreed in the Partner Agreement and you have no direct payment obligations to Quilt Data for that purchase under Section 5 above. If your warranty and support terms stated in your Partner Agreement are different than what is stated in Section 7 or 8 herein, then Quilt Data has no warranty or support obligations to you under this Agreement (although the disclaimers of warranties in Section 7.4 still apply to you). If your warranty and support terms passed on in your Partner Agreement are as stated herein, then Section 7 and 8 shall apply to you as written. Notwithstanding anything in this Agreement to the contrary, (i) the Partner Agreement may not modify any of the remaining terms of this Agreement and (ii) the Partner Agreement is between you and the Authorized Partner and is not binding on Quilt Data. Quilt Data may terminate this Agreement (including your right to use the Software) in the event Quilt Data fails to receive payment for your use of the Software from the Authorized Partner or if you breach any term of this Agreement.

13.13 Anti-Corruption Compliance. Each party will comply with all applicable anti-corruption laws, including the U.S. Foreign Corrupt Practices Act ("FCPA"), the U.K. Anti-Bribery Act, and all other applicable anti-corruption laws. Each party acknowledges and agrees that no payment or gift of money or anything of value has been or will be offered, authorized, promised, provided or paid, directly or indirectly, to any government official, state-owned enterprise official, public international organization official, political party official (or candidate for such office) or political party for the purpose of influencing official acts and decisions (including failures to act or decide) in order to assist the other party in obtaining or retaining an improper business advantage. Each party will promptly notify the other party if it receives a request to take any action which may violate its obligations under this Section.

13.14 Third-Party Beneficiary. Quilt Data licensors may be third party beneficiaries of this Agreement. No other third party, including without limitation your Contractors, is intended to be a beneficiary of this Agreement entitled to enforce its terms directly.

13.15 Language. Regardless of any language into which this Agreement may be translated, the official, controlling and governing version of this Agreement shall be exclusively the English language version.

13.16 Quilt Data's Customer List. You agree that Quilt Data may, upon receiving your written approval, disclose you as a customer of Quilt Data and use your name and company logo on Quilt Data's web site and in Quilt Data's promotional materials.

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