

## GLOBAL SAAS MASTER SERVICES AGREEMENT

Version 1.4: 27 September 2024

### Preamble

This Global Master Services Agreement (the “**MSA**”) is between the Crownpeak legal entity (“**Crownpeak**”) and the customer legal entity (“**Customer**”), each as identified on the Order Form (as defined below) is effective from the date of countersignature of the Order Form. Crownpeak and Customer are referred to herein together as the “Parties,” and each as a “Party.”

In consideration of the mutual covenants contained herein and such other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

### 1. Scope of Services and License

**1.1** This MSA, the Order Form, any Statement of Work or Offer of Professional Services, the Crownpeak Standards (as defined in Section 2 (Crownpeak’s Obligations)), the AI Addendum and other specific exhibits and schedules as agreed between the Parties, govern Customer’s use of the Services. The following set order of precedence shall apply: (i) the Order Form (ii) the Statement of Work (iii) the AI Addendum (iv) this MSA (v) the Crownpeak Standards (all together the “**Agreement**”). Definitions can be found at Appendix 1 unless expressly defined herein.

**1.2** The provision of Services always excludes (i) the provision of any software or services that are not provided to Customer by Crownpeak (including applications or on-premise software provided by third parties and external websites), even if they interoperate with the Services, or can be accessed from the Services or are offered in an online marketplace provided by Crownpeak; (ii) the transmission of data or software to and from the exit of the wide area network of the data centers used by Crownpeak to provide the respective Services; and (iii) any hardware to use the Services that is not provided by Crownpeak.

**1.3** Subject to the terms and conditions of the Agreement, Crownpeak hereby grants to Customer a limited, non-exclusive and non-transferable right during the applicable Services Term to use and access the Services referenced in an Ordering Document, solely for its internal business purposes as set forth in this Agreement. The Services are not sold, and are subject to license or subscription rights, as the case may be, for the duration of the Services Term. Customization, configuration and training are not included in the provision of the Services unless otherwise agreed in the Ordering Documents.

### 2. Crownpeak’s Obligations

Crownpeak shall: (i) comply with all Applicable Laws in providing the Services; (ii) not use or modify the Customer Data except as otherwise set forth in this Agreement; (iii) use commercially reasonable efforts to maintain the security and integrity of the Services and maintain appropriate administrative, physical, and technical safeguards designed to protect the security, confidentiality, and integrity of Customer Data as set forth in Crownpeak’s Information Security Manual, a copy of which is accessible in the Crownpeak Governance Center; and (iv) use commercially reasonable efforts to make the Cloud Services available in accordance with its service levels in the SLA, a copy of which is accessible at the Crownpeak Governance Center; and (v) process any personal data in accordance with the Crownpeak standard data processing addendum, accessible at the Crownpeak Governance Center which shall be incorporated into this Agreement. The foregoing security procedures, service levels and data processing addendum are collectively referred to as the “**Crownpeak Standards.**” Crownpeak may amend and update the Crownpeak Standards at any time in its sole discretion provided that any updates shall not materially diminish the level of security, the service levels or the privacy obligations set forth in such Crownpeak Standards during the Services Term in which Crownpeak updates such Crownpeak Standards. Customer may review Crownpeak’s current service levels, security overview, and privacy stance and specific addenda for certain products at the Crownpeak Governance Center.

### 3. Customer’s Obligations

Customer is responsible for all its, its Affiliates’ and its Authorized Users’ activity that occurs in the use of the Services and its compliance with this Agreement. Customer shall: (i) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data, and for the means it acquires and shares the data; (ii) take all steps to maintain legally required or otherwise appropriate security and protection measures, including retention, backup and archiving, of Customer Data; (iii) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Services, and notify Crownpeak promptly of any such unauthorized access or use; (iv) abide by any Customer obligations in the Crownpeak Standards (v) not provide Crownpeak with any Customer Data that is personally identifying information subject to specialized security regimes.

### 4. Restrictions

Customer shall not, and shall not attempt to (and shall not authorize or allow Authorized Users or any third party to attempt to): (i) disassemble, reverse-engineer, decompile, or otherwise attempt to derive source code from the Services in whole or in part; (ii) modify, adapt, create derivative works based upon, or translate the Services; (iii) assign, transfer, re-license, sublicense, lease, loan, resell, distribute or otherwise grant any rights in the Services in any form to any other party (other than Authorized Users); (iv) input, upload, transmit, or otherwise provide to or through the Services, any information or materials that are unlawful or injurious, or contain, transmit, or activate any harmful code; (v) damage, destroy, disrupt, disable, impair, interfere with, or otherwise impede or harm the Services in any manner; (vi) access the Services in order to build a competitive product or service or to engineer a solution in such a way as to reduce Customer’s obligations to Crownpeak under this Agreement; or copy any ideas, features, functions, or graphics of the Services; (vii) use the Services on behalf of any third party or for any purpose other than Customer’s internal business purposes. The prohibition against modifying or reverse engineering the software does not apply to the extent that Customer is allowed to do so by applicable law including, but not limited to, the *European Union Directive on the Interoperability of Software* or its implementing legislation in EU countries.

### 5. Customer Data

As between Crownpeak and Customer, Customer retains ownership of all rights, title, and interest in and to all Customer Data. Customer Data is deemed the Confidential Information of Customer under this Agreement. Customer grants Crownpeak a non-exclusive, worldwide, royalty-free, license to copy, modify, retain, distribute and disclose, display, and otherwise use Customer Data to provide the Services and to De-identify Customer Data. “**De-identified**” means that the data cannot reasonably identify, relate to, describe, be capable of being associated with, or be

linked, directly or indirectly, to a particular company, or individual person which could reasonably identify, when taken in the aggregate, a specific company, organization, or individual. Customer Data that has been De-identified shall not be deemed Confidential Information or Customer Data, i.e., Crownpeak may copy, modify, retain, distribute and disclose, display, and otherwise use and commercialize such De-identified data for any purpose permitted under Applicable Laws.

## **6. Intellectual Property Rights Ownership, Use**

**6.1** Crownpeak alone, its Affiliates (and their third party providers, where applicable) shall own all right, title, and interest, including all related Intellectual Property Rights, in and to all of Crownpeak's Proprietary Technology, as defined in Section 11 (Confidentiality) below, including software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs, and other tangible or intangible technical material or information ("Crownpeak Technology") made available to Customer by Crownpeak in providing the Services and the Crownpeak Technology and Customer hereby assigns to Crownpeak any suggestions, ideas, enhancement requests, feedback, recommendations, or other information, in all cases excluding Customer Data and Customer Confidential Information, provided by Customer or its Authorized Users relating to the Services and the Crownpeak Technology (the "Feedback"). To the extent an assignment of such rights is not possible under applicable law, the foregoing shall be deemed the grant of a comprehensive royalty free, exclusive, worldwide, unlimited, transferable, sublicensable, irrevocable, perpetual license to exploit, modify, create derivative works of, and otherwise use in any way or incorporate Feedback into the Services. Customer agrees to take such further reasonable actions, at Crownpeak's cost, as Crownpeak may request to give effect to this Section. Crownpeak may use such Feedback as it deems appropriate in its sole discretion. This Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the Services and the Crownpeak Technology, or the Intellectual Property Rights owned by Crownpeak, its Affiliates, and its third-party providers.

**6.2** The Crownpeak name, the Crownpeak logo, and the Crownpeak product names associated with the Services are trademarks of Crownpeak, its Affiliates, and its third party providers, and unless expressly granted herein, no right or license is granted to use them. Customer will not accrue any residual rights to the Crownpeak Technology or the Services, including any rights to the Intellectual Property Rights in connection therewith except where expressly set out in this Agreement including in any Statement of Work.

## **7. Third Party Solutions**

**7.1** The Services may contain or require the use of additional products and services that are provided with the software, including open-source software, an application, service or other software (a "**Third-Party Solution**").

**7.2** A Third-Party Solution may be licensed by Crownpeak to the Customer as set out in the Order Form and its use will be governed under the Agreement (a "CP Third-Party Solution"), or, a Third-Party Solution may be licensed by a third party vendor to the Customer under separate license terms, "read me" files, notice files, or other such documents or information. Customer's rights to use a Vendor Third-Party Solution are subject to such separate license terms entered into between Customer and the provider of the Vendor Third-Party Solution and are not restricted in any way by this MSA. Use of certain Third-Party Solutions may incur additional charges for Overages as defined in Section 8.3 and the Fair Use Policy which can be found at the the Crownpeak Governance Center.

## **8. Fees and Payment**

**8.1 Fees.** Fees for the Services shall be set forth in the Ordering Documents. All payment obligations are non-cancelable, and except as expressly permitted in this Agreement, fees paid are non-refundable. Unless otherwise agreed in an Order Form, fees for the Cloud Services are based on a per Unit basis as specified in the Order Form. The amount and value of Units purchased cannot be decreased or reduced during a Services Term. Fees will increase by six percent (6%) or the then current consumer price index, whichever is higher, on each anniversary of the Services Start Date (the "RPI Increase"). Fees for Professional Services are agreed on a time and materials basis unless otherwise agreed between the Parties.

**8.2 Payment Terms.** Unless otherwise stated in the Ordering Documents, fees shall be due and payable annually in advance, net thirty (30) days after the date of the applicable invoice, in the currency set forth on the Ordering Documents. Customer agrees to accept invoices via email at the billing contact email address specified in the applicable Order Form, as may be updated by Customer upon prior written notice.

### **8.3 Overages.**

**8.3.1** Crownpeak shall be entitled to audit Customer's use of, and/or the number of Queries generated by, the Services to monitor Customer's compliance with this Agreement. Where there are any users, use, generated Queries or other overages in excess of that agreed on the Order Form and/or the Fair Use Policy (an "**Overage**"), Crownpeak will invoice the Overage for non-Query overages (i) from the date of the Overage at the rate on the Order Form plus a 20% premium for the remaining Services Term; (ii) for Overages that are Queries, at a rate equivalent to the fees for the Services Period in which the Overage is identified by Crownpeak plus the number of subscribed query capacity for a Services Period plus fifteen (15%) per each million Queries used above the Services Period's allowance in the Order Form, including linear proration to hundreds of thousands queries if less than one million, in accordance with the terms of this Agreement.

**8.3.2** Fees for the Overages will be invoiced for Overages for the period from the date of the Overage to the end of the Services Period in which the invoice is sent by Crownpeak. Unused Services in any Services Period may not be carried forward or set off against another Services Period. Order Forms subsequent to the Services Period in which the Overage was invoiced will automatically include the fees for the Overages.

**8.4 Purchase Orders.** Where Customer has requested the use of a purchase order, the Customer shall submit the purchase order at least thirty (30) days prior to the due date of the fees. Notwithstanding as otherwise agreed in the Agreement, in the event that the Customer does not provide the purchase order on time, Crownpeak reserves the right, at its sole discretion, to either (i) issue the invoice without any purchase order, or (ii) issue the invoice when the purchase order has been received and the invoice shall be immediately due and payable.

**8.5 Disputes.** If Customer has a good faith belief that a particular invoice is incorrect, Customer must contact Crownpeak in writing within sixty (60) days of such invoice date detailing the basis of the dispute. Customer may only withhold payment on the timely disputed amount in accordance with this Section.

**8.6 Late Payment.** If any invoiced amount is not received by Crownpeak by the due date and not subject to a good faith dispute, without limiting Crownpeak's rights or remedies, then Customer will pay late interest at the rate of 1.5% of the outstanding balance per month, or the

maximum rate permitted by law, whichever is higher. If any invoiced amount is not received by Crownpeak by the due date, and without prejudice to its termination rights, Crownpeak may suspend or limit use of the Services until such amounts are paid in full.

**8.7 Taxes and Deductions.** Fees due to Crownpeak shall be paid without deductions or offsets. Unless otherwise stated, Crownpeak's fees do not include any direct or indirect local, state, federal, or foreign taxes, levies, duties, or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "Taxes"). All payments under this Agreement shall be made free and clear and without deduction of Taxes by Customer. Customer is responsible for paying all Taxes associated with its purchases hereunder, excluding taxes based on Crownpeak's net income or property. If Customer withholds any Taxes, Customer will gross up the payment to Crownpeak for the amount specified in the Order Form. If Crownpeak has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section, the appropriate amount shall be invoiced to and paid by Customer, unless Customer provides Crownpeak with a valid tax exemption certificate authorized by the appropriate taxing authority.

## **9. Term**

**9.1 Duration.** As used in this Agreement, the Services Term means the Initial Term (as defined herein) and each Renewal Term (as defined below), as applicable. The "Initial Term" is for the period, and commences on the Services Start Date, specified on Customer's first Order Form or, if blank, thirty-six (36) months. This Agreement shall continue in effect from the date of execution of the first Order Form until all Ordering Documents subject to this Agreement have expired or terminated unless terminated earlier in accordance with this Agreement.

**9.2 Renewals.** At the end of the Initial Term, the Order Form shall renew automatically for a further twelve (12) months ("Renewal Term"), adding the RPI Increase, unless either party gives the other written notice of termination at least sixty (60) days prior to the end of the Initial Term or the end of each Renewal Term, as applicable.

## **10. Suspension and Termination**

**10.1 Termination.** In the event of a material breach of the Agreement by either party, the non-breaching party shall have the right to terminate the Cloud Services portion of Agreement immediately if such breach is incapable of remedy, or if capable of remedy, has not been cured within thirty (30) days of written notice from the non-breaching party to the breaching party, specifying the breach in detail. Non-payment or late payment of fees, or Customer's breach of Section 4 (Restrictions) of the MSA, are agreed to be breaches incapable of remedy.

**10.2 Suspension.** Without prejudice to the termination rights above, Crownpeak immediately may suspend Customer's access and use of the Services as follows (i) where there is a breach capable of remedy by the Customer, during the remedy period or (ii) if continued use and access may result in any damage (including reputational damage) to a Party, third parties or the Services.

**10.3 Effects.** Any suspension or termination by Crownpeak of the Services shall not excuse Customer from its obligations to pay all amounts which have accrued prior to such termination, as well as all sums remaining unpaid for the remainder of the Services Term, plus all applicable taxes. Upon any termination of the Agreement Customer's right to access and use the Services shall terminate and Crownpeak may take appropriate technical measures to prevent Customer's continued use of the Service; Crownpeak, consequently, shall be relieved of its obligation to grant access to and provide the Services affected by the termination. Customer shall immediately: (i) cease using the affected Services; and (ii) return or, if instructed by Crownpeak, destroy or delete any information made available to Customer by or on behalf of Crownpeak in relation to the affected Services.

## **11. Confidentiality**

**11.1 Confidential Information.** As used herein, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving 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 or the circumstances of disclosure, including (a) the terms and conditions of this Agreement (including pricing and other terms reflected in all Order Forms and Statements of Work hereunder), (b) the Customer Data, (c) a party's proprietary technology or computer software in all versions and forms of expression and the Services, whether or not the same has been patented or the copyright thereto registered, is the subject of a pending patent or registration application, or forms the basis for a patentable invention (collectively the "Proprietary Technology"), (d) the Crownpeak Standards, Crownpeak's security information, audits, or reports, and (e) each party's respective business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information does not include information (i) which is or becomes generally available to the public without breach of any obligation owed to the Disclosing Party or (ii) was in its possession or known by it prior to receipt from the Disclosing Party or (iii) was rightfully disclosed to it by a third party or (iv) was independently developed by it without use of any Confidential Information of the Disclosing Party.

**11.2 Confidential Obligations.** The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission. Either party may disclose Confidential Information to its personnel, auditors, accountants, attorneys, or advisors and those of its affiliates who are subject to confidentiality obligations at least as protective as those herein.

**11.3 Protection.** Receiving Party will use at least the same level of care to prevent unauthorized use of the Confidential Information as it uses for its own confidential and proprietary information of like kind, but in no event less than a reasonable standard of care. The confidentiality obligations contained herein supersede and replace any prior non-disclosure agreement between the parties regarding the subject matter covered by this Agreement.

**11.4 Legal Disclosure.** A Receiving Party may disclose Confidential Information when required by law, provided that, if legally permitted, it shall: promptly notify the Disclosing Party; take reasonable precaution to disclose the minimum amount necessary; and reasonably cooperate with the Disclosing Party's efforts to protect the confidentiality of such Confidential Information.

**11.5 Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of the confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies are inadequate.

## **12. Warranties & Disclaimers**

**12.1 Crownpeak Warranties.** Crownpeak warrants (i) that it will provide the Cloud Services in a manner consistent with the SLA and Crownpeak's entire liability for a breach of this warranty is set out in the SLA and (ii) it will perform all Professional Services in a professional and workmanlike manner and Crownpeak's entire liability for a breach of this warranty, is for Crownpeak, on receipt of written notice from the Customer, to re-perform the applicable Professional Services; if Crownpeak determines that it is unable to reperform such Professional Services as warranted within a commercially reasonable time, Customer shall be entitled to terminate the applicable SOW and recover the portion of the fees paid for such non-conforming Professional Services. These limited warranties do not cover (i) problems caused by misuse by Customer of the Services or beyond the reasonable control of Crownpeak; (ii) problems caused by any failure by Customer to meet minimum system requirements; and (iii) beta services or free offerings.

**12.2 DISCLAIMER.** Other than the limited warranties above or as limited by Applicable Laws, including Sections 535 et seq. of the German Civil Code, Crownpeak disclaims all warranties, whether express, implied, statutory, or otherwise, including warranties of merchantability or fitness for a particular purpose. Customer understands and agrees that the Services are provided "as is" and Crownpeak, its Affiliates, third party providers, partners and its licensors make no warranties of any kind whether express, implied, statutory, or otherwise, and specifically disclaim all implied warranties, including any warranties of merchantability, fitness for a particular purpose, quiet enjoyment, and non-infringement of third party rights, to the maximum extent permitted by applicable law. In addition, Customer acknowledges and agrees that: (a) the service does not constitute the provision of legal advice in any manner; (b) the Services do not ensure Customer's compliance with applicable privacy laws; and (c) Customer is solely responsible for its compliance with all Applicable Laws.

**12.3 Customer Warranties.** Customer warrants that it is in compliance with all applicable data protection laws and that it has obtained all necessary consents as required by Applicable Laws in respect of the Customer Data and personal data that Customer transfers or makes available to Crownpeak for processing in the course of the Services under this MSA and will indemnify Crownpeak in respect of all costs, claims, liabilities and demands incurred by Crownpeak in respect of any breach of this warranty

### **13. Indemnification**

**13.1 Crownpeak Indemnification.** Crownpeak will defend and indemnify Customer and its employees, officers, and directors as well as Customer Affiliates against any third-party claim alleging that the Cloud Services infringe or misappropriate that third party's intellectual property rights; in the event of such a claim, Crownpeak will indemnify Customer and its Affiliates against all damages finally awarded against Customer and any costs (including reasonable attorneys' fees) incurred in connection with such a claim.

**13.2** For any claim covered by Section 13.1 (Crownpeak Indemnification), Crownpeak will, at its election, either: (i) procure the rights to use that portion of the Cloud Services alleged to be infringing; (ii) replace or modify the alleged infringing portion of the Cloud Services with a non-infringing alternative, with no material decrease in functionality; or (iii) terminate the allegedly infringing portion of the Cloud Services or of the Agreement.

**13.3 Customer Indemnification.** Customer will defend and indemnify Crownpeak and its Affiliates and subcontractors ("**Crownpeak Group**") against any third-party claim related to Customer Data and Customer's use of the Services; in the event of such a claim, Customer will indemnify Crownpeak Group against all damages finally awarded against Crownpeak Group and any costs (including reasonable attorneys' fees) incurred in connection with such a claim.

**13.4 Indemnification Terms.** No Party will have obligations or liability under this Section 13 (Indemnification) arising from infringement caused by modification, misuse or combinations of the Services or Customer Data, as applicable, with any other product, service, software, data, content, or method. In addition, Crownpeak will have no obligations or liability arising from Customer's or any of its end user's use of the Services after notification to discontinue such use.

**13.5** The remedies provided in this Section 13 (Indemnification) are the sole and exclusive remedies for any third-party claims of infringement or misappropriation of intellectual property rights by the Services or by use of Customer Data.

**13.6** The obligations under this Section 13 (Indemnification) will apply only if the Party seeking defense, payment or indemnity from another party: (a) gives that Party prompt notice of the claim; (b) permits that Party to control the defense and settlement of the claim; and (c) reasonably cooperates with that Party (at that party's expense) in the defense and settlement of the claim. Any settlement of a claim will not include a financial or specific performance obligation on, or admission of liability by, the Party against whom the claim is brought.

### **14. Limitation of Liability**

#### **14.1 Limitations. Subject to Section 14.2 (Exclusion of Consequential and Related Damages) and to Applicable Laws:**

(a) EXCEPT AS SET FORTH IN SECTIONS 14.1(b) AND 14.1(c), IN NO EVENT SHALL EITHER PARTY'S OR ITS LICENSORS' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT ACTUALLY PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE ORDER FORM OR SOW FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE LIABILITY.

(b) WITH RESPECT TO EITHER PARTY'S BREACH OF SECTION 11 (CONFIDENTIALITY), IN NO EVENT SHALL EITHER PARTY'S OR ITS LICENSORS' AGGREGATE LIABILITY EXCEED TWICE THE AMOUNTS ACTUALLY PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE ORDER FORM OR SOW IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.

(c) CUSTOMER'S BREACH OF SECTION 8 (FEES AND PAYMENTS) OR SECTION 4 (RESTRICTIONS), OR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS IN SECTIONS 13.1 AND 13.3 (INDEMNIFICATION) ARE NOT SUBJECT TO THE LIMITATION OF LIABILITY IN SECTION 14.1 (a) and 14.1(b) ABOVE OR SECTION 14.2 BELOW.

**14.2 Exclusion of Consequential and Related Damages.** EXCEPT IN THE CASE OF PERSONAL INJURY OR DEATH, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT TO THE OTHER PARTY OR ITS LICENSORS FOR ANY LOST PROFITS OR FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR REVENUE, BUSINESS

INTERRUPTION, COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER ARISING AND, WHETHER IN CONTRACT, TORT, OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

## **15. Force Majeure**

Neither party shall be responsible for failure or delay of performance under the Agreement (except payment obligations) if caused by any event outside their reasonable control, which cannot be remedied using commercially reasonable measures, including acts of war, acts of God, earthquake, flood, epidemic, pandemic, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet (not resulting from the actions or inactions of the parties), provided that the delayed party: (i) gives the other party prompt notice of such cause, and (ii) uses commercially reasonable efforts to promptly correct such failure or delay in its performance. If such event continues for more than thirty (30) days, the party unable to perform may cancel the Agreement upon written notice. The party affected shall be relieved from its obligations (or part thereof) as long as the Force Majeure Event lasts and hinders the performance of said obligations (or part thereof), it being understood that a Force Majeure Event shall not excuse any obligation of Customer to pay invoices due in accordance with the provisions hereof. The party affected shall promptly notify the other party and make reasonable efforts to mitigate the effects of the Force Majeure Event with a reasonable time. Either party may terminate this Agreement in the event the Force Majeure Event continues for more than forty-five (45) days.

## **16. Change in Law**

**16.1** Crownpeak reserves the right to change, amend or adapt certain Services or any functionality of the Services during the Services Period if and to the extent required to conform with Applicable Laws, a court decision, or a request from a governmental body, if such conformity cannot be ensured otherwise by Crownpeak acting commercially reasonably; (ii) Crownpeak's relationship with a third-party supplier of services or technology required for providing the Services or functionality expires, terminates or requires Crownpeak to change the way it uses such services or technology or (v) Crownpeak has decided to make such changes, amendments or adaptations for business reasons.

**16.2** Any material functional reduction or temporary interruption of Services by Crownpeak in accordance with a change in law shall be subject to a reasonable notice period.

## **17. Export Controls; Compliance**

**17.1 Export Control.** Customer and its Authorized Users shall not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this Agreement without first complying with all export control laws and regulations that may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Customer operates or does business, such as the Export Administration Regulations ("EAR") maintained by the United States Department of Commerce, trade and economic sanctions maintained by the United States Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations ("ITAR") maintained by the United States Department of State, and shall not cause Crownpeak to violate the same.

**17.2 Compliance.** Customer agrees to comply with all applicable anti-corruption and anti-bribery related laws, statutes, and regulations. Customer further agrees that it has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Crownpeak's employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Customer learns of any violation of the above restriction, Customer will use reasonable efforts to promptly notify Crownpeak.

## **18. Governing Law and Jurisdiction**

**18.1** If the Customer's registered office is in the United States of America, the Agreement is governed by and construed in accordance with the substantive laws of California, USA, without giving effect to any choice-of-law rules that may require the application of the laws of another jurisdiction. The exclusive place of jurisdiction for all disputes shall be Los Angeles, California. The UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

**18.2** If the Customer's registered office is in Germany, the Agreement is governed by and construed in accordance with the substantive laws of Germany, without giving effect to any choice-of-law rules that may require the application of the laws of another jurisdiction. The exclusive place of jurisdiction for all disputes shall be Dortmund, Germany. The UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

**18.3** If the Customer's registered office is neither in the USA or Germany, this Agreement is governed by the laws of England and Wales without regard to its conflict of laws' provisions and any legal action or proceeding relating to this Agreement shall be brought exclusively in the courts located in London, UK. The UN Convention on Contracts for the International Sale of Goods shall not apply to this Agreement.

## **19. Entire Agreement**

The Agreement is made up of this MSA, the applicable Order Form, Statement of Work, and documents referenced therein, and represents the Parties' entire understanding relating to the Services, and supersedes any prior or contemporaneous communications. The terms and conditions of the Agreement may be amended by written agreement of the Parties. General terms and conditions as well as other pre-printed provisions on documents of Customer, including, without limitation, purchase orders and acknowledgements of purchase orders, shall not apply to the Agreement.

## **20. Miscellaneous**

**20.1 Back-Ups.** Unless otherwise stated in the specification of the Ordering Documents, it is Customer's sole responsibility to ensure sufficient back-up of its Customer Data. The Services are not a substitute for Customer's primary data sources, are not intended for back-up purposes and do not substitute any back-up or storage system for electronic data.

**20.2 Notices.** Crownpeak may give notices by posting to its public website, service portal or Community. Crownpeak may give notices specific to Customer by: (i) electronic mail to Customer's e-mail address on record; or (ii) by written communication sent by first class mail or pre-paid post to Customer's address on record. Customer may give notices to Crownpeak by email to the dedicated customer success manager and cc: [legal@crowpeak.com](mailto:legal@crowpeak.com)

**20.3 Modifications.** If any provision of the Agreement is held by any court or administrative body of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be deemed modified to the extent necessary to make it valid and enforceable.

**20.4 Waiver.** The failure of either party to enforce any right or provision in the MSA shall not constitute a waiver of such right or provision unless acknowledged and agreed to by such party in writing.

**20.5 Relationship.** No joint venture, partnership, employment, or agency relationship exists between Crownpeak and Customer as a result of the Agreement or use of the Services. Neither Party shall directly solicit the personnel of the other Party.

**20.6 Assignment.** Neither party may assign the Agreement without the prior written approval of the other, such approval not to be unreasonably withheld or delayed, provided that such approval shall not be required in connection with a merger or acquisition of all or substantially all of the assets of the assigning company. Notwithstanding the preceding sentence, Customer acknowledges and agrees that Crownpeak may, from time to time, assign, factor, or otherwise transfer its rights to receive payments from the Customer under this Agreement to third parties, without notifying the Customer or requiring the Customer's consent.

**20.7 Survival.** All sections of this MSA that by their nature should survive termination, will survive termination, including, without limitation, accrued rights to payment, use restrictions and indemnity obligations, confidentiality obligations, warranty disclaimers, and limitations of liability.

**20.8 Third Parties.** Except in the case of a valid assignment under this Agreement, no person other than a Party to the Agreement shall have any rights to enforce any term of the Agreement.

**20.9 Publicity.** Crownpeak may refer to Customer as a Crownpeak customer on Crownpeak's website and public-facing marketing material.

## Appendix 1: Definitions

**"Affiliate"** means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity; and "control" for the purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity, provided that any such Affiliate shall be deemed an Affiliate only for so long as such control lasts. Customer Affiliates may purchase Services that are subject to the terms and conditions of this MSA by executing an Order Form hereunder.

**"AI Addendum"** means the additional addendum which forms part of this Agreement and applies to use of Crownpeak's AI Assistant Suite or similar future AI products or Services if purchased by a Customer as can be found in the Crownpeak Governance Center.

**"Applicable Laws"** means: (i) in the case of Crownpeak, applicable laws, rules, regulations, and ordinances of any governmental body relating to the provision of the Services; and/or (ii) in relation to the Customer, applicable laws, rules, regulations, and ordinances of any governmental body relating to the access or use of the Services by the Customer.

**"Authorized Users"** means Customer's or Customer's Affiliates' (i) employees and contractors and (ii) consultants and agents that require access to the Services and agree to limit their use of the Services solely in support of the Customer's or the Customer Affiliates' internal business and in accordance with terms and conditions similar to those in this Agreement. An Authorized User is not a party to this Agreement and excludes competitors of Crownpeak.

**"Cloud Services"** means certain software programs, platforms and related products and services delivered by Crownpeak via a software-as-a-service methodology ("**Cloud Services**"). Any new releases, corrections, updates and/or other software provided to Customer by Crownpeak shall be deemed Cloud Services under this Agreement.

**"Customer Content"** means the information that the Customer upload so the Crownpeak platform to use the Services (including, inter alia, and depending on the type of Services provided, website content or Customer's product descriptions).

**"Customer Data"** means any information, program, software, application, code in any form, script, library, or data that is entered, uploaded onto, or stored using the Services (including, inter alia, and depending on the type of Services provided, any user forum related to the platform, audit reports showing consents for opting in or out, product search results using AI), in connection with Customer's or Customer's Affiliates or any Authorized User's use of the Services, in addition to including Customer Content.

**"Dashboard"** means for DQM, a logical grouping of webpages that are reported on within Crownpeak DQM. It typically includes all pages of a single website but can also represent just a section of a website.

**"Environment"** means, for distinct configuration or instance of a software system, where certain tasks, testing, or operations are conducted, including development, testing and production environments, and for Fredhopper products, as further described in the Fredhopper Product Description.

**"Fredhopper Product Description"** means the then-current Fredhopper product description that is available from Crownpeak on request.

**"Initial Term"** has the meaning in Section 9.

**"Instance"** means a customer-level account or accounts usually sold as part of the FirstSpirit or DQM Package.

**"Intellectual Property Right"** means any unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, domain name rights, mask work rights, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature anywhere in the world.

**"Order Form"** means an order form mutually executed by Crownpeak and Customer or Customer's Affiliate evidencing the purchase of Units specifying, depending on the products, inter alia, the Services, the Services Term, the number of Units, the applicable fees, and the billing period and any other commercial terms as agreed to between the Parties. Each Order Form, once mutually executed, shall be governed by, and become part of this Agreement, and is hereby incorporated by this reference.

**"Ordering Documents"** means both an Order Form and a SOW together, or individually, depending on the type of the Services.

**"Personal Data"** has the meaning assigned in the DPA as set out in Section 2 (Crownpeak Obligations).

**"Professional Services"** means (i) consulting services (such as implementation, training, strategic advice and technical services) and (ii) managed services as described in a Statement of Work. Professional Services excludes the Services.

**"Project"** means, for FirstSpirit, a logical grouping of content and configuration, suitable for deployment of content to a digital experience, often a website.

**"Query"** or **"Queries"** means the request for information made by a third-party user of the Customer's site to a search system in the site. This request usually consists of one or more keywords or phrases that the user enters, as further described in the Fredhopper Product Description..

**"Renewal Term"** has the meaning in Section 9.

**"Services"** means the Cloud Services and Professional Services provided by Crownpeak to Customer under the Agreement. The Services shall include the Professional Services unless otherwise expressly indicated. The specific Cloud Services are set forth in an Order Form and the specific Professional Services may be set out in an Order Form and/ or a Statement of Work.

**“Service Level Agreement”** means the service level agreement setting out the service levels such as availability set out in Section 2 (Crownpeak Obligations).

**“Services Period”** means each twelve-month period starting from the Services Start Date.

**“Services Start Date”** means the date set out in the Order Form.

**“Services Term”** has the meaning given in Section 9.

**“Statement of Work” or “SOW”** means a document executed by the parties that describes certain Professional Services as purchased by Customer under this Agreement. For FirstSpirit Professional Services, this may be referred to as an **“Offer.”** Each Statement of Work incorporates and is subject to this Agreement unless indicated otherwise.

**“Subscription”** means each subscription to the Services provided by Crownpeak to the Customer for an Authorized User where applicable.

**“Third-Party Provider”** means a provider of a Third-Party Solution, other than Crownpeak or its Affiliates.

**“Third-Party Solution”** is described in Section 7 (Third-Party Solutions).

**“Unit”** means a Project, an Instance, a Subscription, a Query, an Environment, a Dashboard, an agreed volume of usage, a Third-Party Solution or any other units or metrics depending on the Crownpeak Services and as set out in detail on the Order Form.