



**AURIGO ESSENTIALS ENTERPRISE SOFTWARE SUBSCRIPTION
SERVICE:
TERMS OF USE**

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This Terms of Use (the “Terms”) consists of the terms and conditions that govern the Customer’s access to and use of the applicable Services and the pricing and payment terms related thereto. The Services may also contain other posted notices or codes of conduct incorporated by reference into the Terms.

IMPORTANT NOTICE: THE TERMS CONTAIN A BINDING ARBITRATION PROVISION GOVERNING DISPUTES ARISING FROM USE OF THE SERVICES. IT AFFECTS THE CUSTOMER’S LEGAL RIGHTS AS DETAILED IN THE DISPUTE RESOLUTION SECTION BELOW. PLEASE READ THE TERMS CAREFULLY.

BY USING OF ANY OF THE SERVICES THE CUSTOMER AGREES TO THE TERMS AND CONDITIONS CONTAINED HEREIN. THE CUSTOMER AGREES TO BE BOUND BY THE TERMS, INCLUDING ANY MODIFICATIONS MADE TO IT FROM TIME TO TIME. IF THE CUSTOMER DOES NOT AGREE TO THE TERMS, IT MAY NOT SUBSCRIBE TO OR USE THE SERVICES.

1. DEFINITIONS

“Aurigo” means Aurigo Software Technologies Inc. or its Affiliates.

“Content” means all data, including all text, sounds, or image files and software that are provided to Aurigo by, or on behalf of, the Customer through its use of the Service. The term “Content” does not apply to any test data or the Service themselves.

“Customer” or “you” means the individual that has entered into the Terms.

“Intellectual Property” means any intellectual or industrial property rights protected or protectable under the laws of the United States of America and includes copyrights, moral rights, trade secrets, patent rights, rights in inventions, trademarks, trade names, service marks, as well as applications for, and registrations, extensions, renewals and re-issuances of, the foregoing, in whatever form such rights may exist and whether registered or unregistered.

“License” means the rights granted to copy, install, use, access, display, run and otherwise interact with the Customer Data or Services solely for, as applicable, the Customer's internal business purposes.

“Service” or “Services” means the Aurigo Essentials Online services (including pre-release services and Add-on Services) and software, including any updates, upgrades, support, and content (e.g., audio and visual information, documents) contained or made available to Customer by Aurigo in the course of using the Service.

“Subscription” means enrolment for Services for a defined Term.

“Subscription Fee” means the annual fee the Customer is required to pay for the Subscription to the Services. The Customer is required to pay the Subscription Fees in advance. Payments are due and must be paid in accordance with the Terms. Price level changes are not retroactive. Prices for each price level are fixed when the Subscription is

first placed and will apply throughout the Contract Term. Subscription Fees are subject to change by Aurigo at the end of the initial Contract Term and the end of any contract renewal term.

"Subscription Period" means the one-year period corresponding to a given Subscription Fee.

"Term" means the duration of the Terms, as set forth in section 5.1

"Third Party Software" means software provided by a third party to the Customer (which may or may not be used through the Services) that are subject to additional terms and conditions between the third party and the Customer associated with the Customer's use of such third-party software. The term "Third Party Software" does not include software embedded in the Services or provided to the Customer by Aurigo as part of the Services necessary for the Customer's use of the Services.

"Third Party Services" means services provided by a third party to the Customer (which may or may not be used through the Aurigo Services) that are subject to additional terms and conditions between the third party and the Customer associated with the Customer's use of such third party services. The term "Third Party Services" does not include services provided to the Customer with, or as part of, the Aurigo Services necessary for the Customer's use of the Aurigo Services.

"Third Party Website" means any website belonging to a third party related to Third Party Software and/or Third Party Services.

"User" means the individual who has the right to use the Services.

2. LICENSE GRANT; OWNERSHIP

2.1 Aurigo License to Customer. Aurigo grants the Customer a non-exclusive, non-transferable, non-assignable, limited License to the Services during the Term, subject to the Customer's obligation to pay and to all other terms and conditions in the Terms. The Customer's ability to use the Services may be affected by minimum system requirements or other factors. Aurigo reserves all rights not expressly granted. No implied licenses flow from the Terms.

2.2 Aurigo Ownership. Aurigo shall retain ownership of the Services, Aurigo's Intellectual Property and derivative works created therefrom. The Customer may not use Aurigo's Intellectual Property unless Aurigo has given express permission to do so.

2.3 Customer Data. The Customer shall retain ownership of any content or other data that the Customer may provide or cause to be provided to Aurigo for use with the Services ("**Customer Data**"). The Customer represents and warrants that it has the necessary rights to such Customer Data submitted for the Customer account or through the Services. Aurigo performs regular backups of Content for the purpose of recovery in the event of a failure in Aurigo's data centers. However, notwithstanding the foregoing, the Customer is solely responsible for the Content it provides to Aurigo through the Services either through integrations or manual entry. The Customer, not Aurigo, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use such Content. Aurigo shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Content that the Customer uses with the Service.

2.4 Customer License to Aurigo. Customer Data will be used only to provide the Customer the Services, and in other limited circumstances, including troubleshooting aimed at preventing, detecting, and repairing problems affecting the operation of the Services, the improvement of features including but not limited to those features that involve the detection of, and protection against, emerging and evolving threats to the user (such as malware or spam), and develop new Service capabilities. Aurigo may also use anonymized Customer Data for the limited purposes of marketing, advertising, and customer communications. The Customer hereby grants to Aurigo a limited, nonexclusive license to use the Customer Data for the limited purposes set forth above in this Section 2.3.

3 USE RIGHTS AND LIMITATIONS

3.1 Customer's Use. In using the Service,

Customer agrees to:

- comply with all laws
- comply with any codes of conduct or other notices provided by Aurigo
- keep its password secret
- promptly notify Aurigo if it learns of a security breach or unauthorized access related to the Service

Customer agrees to not:

- use the Services in any way that harms Aurigo or its Affiliates, resellers, distributors and/or vendors, or any customer of the same, or the Services or other Users
- engage in, facilitate, or further unlawful conduct
- damage, disable, overburden or impair the Services (or the networks connected to the Services) or interfere with anyone's use and enjoyment of the Services
- resell or redistribute the Services, or any part of the Services, unless the Customer has a contract with Aurigo that permits it to do so
- use any portion of the Services as a destination linked from any unsolicited bulk messages or unsolicited commercial messages ("spam")
- use any unauthorized automated process or service to access and/or use the Services (such as a BOT, a spider, periodic caching of information stored by Aurigo, or "meta-searching"), however, periodic automated access to the Services for report creation or scheduling is permitted
- use any unauthorized means to modify or reroute, or attempt to modify or reroute, the Services or work around any of the technical limitations in the Services
- modify, create derivative works from, reverse engineer, decompile or disassemble or otherwise attempt to discover any trade secret contained in the Services or in any technology, or system used by Aurigo in connection with providing the Services, except and only to the extent that applicable law expressly permits the Customer to do so despite this limitation
- create a "mirror" of any content of the Services to give the impression that the Customer is offering all the functionality of the Services as its service is located on its servers
- build a product or service using similar ideas, features, functions, or graphics of the Services

- copy any ideas, features, functions, or graphics of the Services

3.2 Limitations on use. The Customer shall not (and shall not permit or assist any third party to) copy, reverse engineer, decompile or disassemble the Services or make works derived from any version of the Services or attempt to generate or access the source code for the Services, whether by converting, translating, decompiling, disassembling or merging any part of the Services with any other software, except where applicable law requires it despite this limitation. The Customer shall not (and shall not permit any third party to) rent, lease, lend, resell, or host to or for third parties any Services. The Customer shall not circumvent or disable any usage rules or other security features of the Services or remove, alter or obscure any proprietary notices or labels.

3.3 Use of Other Aurigo Services. The Customer may need to use certain Aurigo websites or services to access and use the Services. If so, the terms of use associated with those websites or services, as applicable, apply to the Customer's use of them.

3.4 Third Party Services and Third Party Software. Aurigo or its partners may make Third Party Services available to the Customer (a) through the Services or (b) that interface with the Aurigo Services. These Third Party Services are the responsibility of the Third Party Service provider, not Aurigo. The Third Party Service providers may require the Customer to accept additional terms and conditions and/or pay a fee to use their services. Those additional terms and conditions are between the Customer and the Third Party Service provider. The Customer must maintain an active Subscription to use the Aurigo Services with Third Party Services.

Any Third Party Service provider's use of information that the Customer provides as part of using their Third Party Service is subject to the privacy statements and practices of that Third Party Service provider and/or their suppliers. Aurigo encourages the Customer to review the privacy statement of these Third Party Service providers. Aurigo is not responsible for the privacy statements or privacy practices of these Third Party Service providers or their suppliers.

3.5 Third Party Software. Some Third Party Software may be appropriate or necessary for use with the Service. The Customer is solely responsible for any Third Party Software installed in or used with the Aurigo Services. The Customer's right to use such Third Party Software is governed by the terms of any applicable Third Party Software license agreement. Aurigo is not a party to and is not bound by any terms governing the Customer's use of the Third Party Software. The Customer acknowledges that it will direct and control the installation and use of Third Party Software with the Aurigo Services.

The Customer must maintain an active Subscription to use the Aurigo Services with Third Party Software. Aurigo will not run or make any copies of Third Party Software licensed by the Customer except as necessary to support the Customer's use of the Aurigo Services. The Customer may not install or use the Third Party Software in any way that would subject Aurigo's intellectual property or technology to obligations beyond those included in the Terms. Aurigo does not, and will not have any obligation to, provide technical or other support for any Third Party Software. Aurigo does not make any representation or guarantee that any Third Party Software will operate successfully with the Services or

continue performing after an update, upgrade, services patch, support fix, or platform migration has been made to the Service.

3.6 Use of Third Party Software or Third Party Services Websites. If the Customer accesses any Third Party Website to use Third Party Software or Third Party Services in conjunction with the Aurigo Services, the Customer must abide by the third party's terms of use and Aurigo's terms of use for those Third Party Websites, as set forth in Section 8.2.

4 ORDERING, PRICING, PAYMENTS, RENEWALS, AND TAXES

4.1 Trial Period. The trial version of Aurigo Essentials is provided free of charge.

4.2 Subscription. To upgrade to a paid account and continue using the services after the trial period, please contact our sales team at sales@aurigos.com or call (512)-640-3377. The sales team will assist you with the purchase process and provide the necessary information to transition to a paid subscription.

4.3 Changes in Terms. Upon notice prior to further use of the Services, Aurigo may unilaterally update and modify the terms governing the usage of the Services from that date forward; provided that such update d terms will not change the effective date of the trial period or the subscription period, the subscription term, price for the current subscription term or renewal terms, will be prospective in effect, and will be effective on the date of notification to Customer.

4.4 Changes in Pricing Terms. Prices for each subscription price level are fixed when the Subscription is first placed and will apply throughout the Contract Term. Subscription Fees are subject to change by Aurigo, at its discretion, at the end of the initial Contract Term and the end of any contract renewal term.

4.5 Refund. All charges are non-refundable unless expressly stated otherwise or otherwise provided by law.

5 TERM AND TERMINATION

5.1 Term. The Terms will become effective upon use of the Services by the Customer and will remain in force for thirty (30) calendar days. If the Customer elects to continue use of the Service by purchasing a Subscription, the Terms shall automatically renew for successive one year terms, subject to the terms of section 4.4, unless terminated pursuant to this section 5.

5.2 Suspension of Services by Aurigo. Aurigo may immediately suspend the Customer's use of the Services or a portion thereof at any time if (a) Aurigo believes that the Customer's use of the Services represents a direct or indirect threat to its network function or integrity or anyone else's use of the Service, or (b) Aurigo is otherwise required by law to do so. Upon notification by Aurigo of any such suspension, the Customer's right to use the Services will stop immediately. For the avoidance of doubt, during any suspension, the other provisions of the Terms remain in full force and effect.

Aurigo will endeavor to work with the Customer to revoke a suspension, which may include the Customer taking remedial actions, after which the Customer's right to use the Services will resume. If Aurigo determines in its sole discretion that a suspension cannot be revoked,

then Aurigo may terminate the Customer's access to or use of the Services and the Terms by written notice to the Customer.

5.3 Termination by Aurigo. Aurigo may terminate the Customer's access to or use of the Services anytime for any reason, such as if the Customer violates the letter or spirit of the Terms or creates harm, risk, or possible legal exposure for Aurigo, its users, or others. Aurigo will provide seven (7) days' notice to the Customer of Aurigo's intent to terminate the Customer's use of the Services. The Customer shall have until the end of this seven (7) day period to remove all information contained or uploaded to the Services. The Customer forfeits all rights to any information remaining in the Customer Account at the end of the seven (7) day period. After seven (7) days, Aurigo will delete the Customer's account and may delete the Customer's Content permanently from its servers.

5.4 Termination by Customer. The Customer may terminate the Customer's use of the Services at any time by deleting the Customer account. Prior to deleting the Customer account, the Customer is responsible for removing all information contained in or uploaded to the Services. Any information remaining in the Customer account when the Customer deletes such account may be permanently deleted. The Customer is solely responsible for incurring the costs and taking the necessary steps to back up its Content and maintain its primary means of business.

5.5 No liability for the deletion of Content. The Customer acknowledges that, other than as expressly described in the Terms, Aurigo will have no obligation to continue holding, exporting, or returning the Customer's Content. The Customer acknowledges that Aurigo will have no liability whatsoever for the deletion of Content following deletion of the Customer account and termination of the Terms.

6 DATA PRIVACY

6.1 Personal Information. Aurigo's [Privacy Notice](#) describes the data practices, including the types of information Aurigo receives and collects from the Customer, how Aurigo uses and shares this information, and the Customer's rights in relation to the processing of information about the Customer.

6.2 Sharing of Customer Data. Subject to Section 2.1, Aurigo will not otherwise disclose Customer Data to a third party (including law enforcement, other government entity, or civil litigant; excluding Aurigo subcontractors and affiliates) except as Customer directs or unless required by law. Should a third party contact Aurigo with a demand for Customer Data, Aurigo will attempt to redirect the third party to request it directly from Customer. As part of that, Aurigo may provide Customer's basic contact information to the third party. If compelled to disclose customer data to a third party, Aurigo will use commercially reasonable efforts to notify Customer in advance of a disclosure unless legally prohibited. Customer is responsible for responding to requests by third parties defined in this clause regarding Customer's use of the Service, such as a request to take down content under the Digital Millennium Copyright Act.

Aurigo employees and contractors are instructed to maintain the confidentiality of Customer Data using Non-Disclosure Agreements and to limit Customer Data sharing to those required as part of their job.

Aurigo will assist the Customer with handling Data Subject Access Requests both in directing data subjects to the Customer and in following DSAR requests as forwarded to Aurigo by the Customer.

6.3 Privacy and Security of Customer Data. Aurigo will provide appropriate technical and organizational security measures to the Customer Data for protection from accidental or unlawful destruction, alteration, loss, access, or disclosure. These may include pseudonymization, encryption, incident recovery plans, and security tests. Aurigo's compliance will be demonstrable and measurable at the Customer's request via audit. Aurigo will promptly notify the Customer if it learns of a security breach or unauthorized access to the Customer Data.

Aurigo will assist the customer in efforts to complete Data Protection Impact Assessments where Aurigo is processing data in ways that pose high risks to the rights and freedoms of data subjects.

6.4 Sub-processors. Aurigo will only engage sub-processors with the approval of or at the direction of the Customer. Sub-processors will be required to meet the same requirements as described in this section.

The table below shows the currently engaged sub-processors authorized by the Customer.

Sub-processor name	Processing location	Purpose
Amazon Web Services	US, Canada	SaaS cloud hosting
MailGun	US	Simple mail transfer protocol system
Microsoft	US	Email, internal collaboration
Oracle NetSuite	US	Enterprise Resource Planning system
Salesforce	US	Customer Relationship Management system

7 CONFIDENTIALITY

7.1 Scope. Aurigo's "Confidential Information" means all financial, sales, marketing, product (including, without limitation, the source code of the Services and all know-how and trade secrets, relating to, contained in, or embodied in the Services), technical, research, development or other business data and information of Aurigo (whether communicated orally, visually, in writing, or any other recorded or tangible form) which is not in the public domain and which (a) has been marked as confidential or proprietary, (b) whether communicated orally or in writing, Aurigo has advised the Customer of its confidential nature, or (c) due to its character or nature, a reasonable person in a like position and under like circumstances would treat as confidential.

7.2 Restricted Use and Nondisclosure. The Customer acknowledges the proprietary nature of Aurigo's Confidential Information and the business advantage and opportunity provided thereby. The Customer acknowledges and agrees that the Services, its object code and source code, whether or not provided to the Customer, and all ideas, methods, algorithms, formulae, processes, and concepts used in developing or incorporated into the Services, all future updates and upgrades, and all other improvements, revisions, corrections, bug-fixes, hotfixes, patches, modifications, enhancements, releases, signature sets, upgrades, and policy and database updates and other updates in, of, or to the Services, and all copies of the foregoing are trade secrets, Confidential Information and proprietary property of Aurigo, having great commercial value to Aurigo. Accordingly, during and after the term, with respect to Aurigo's Confidential Information, the Customer will: (1) use Aurigo's Confidential Information solely for the purpose for which it was provided; (2) not disclosure such Confidential Information to a third party, except on a need-to-know basis to the Customer's attorneys, consultants, and service providers who are under confidentiality obligations at least as restrictive as those contained herein; and (3) protect such Confidential Information from unauthorized use and disclosure to the same extent (but using no less than a reasonable degree of care) that the Customer would protect

7.3 Exceptions Regarding Disclosure. Nothing in the Terms will prevent the Customer from disclosing Aurigo's Confidential Information to the extent the Customer is legally compelled to do so by any court or governmental investigative or judicial agency pursuant to proceedings over which such agency has jurisdiction, on condition that prior to the disclosure, the Customer shall (i) assert the confidential nature of the Confidential Information; (ii) immediately notify Aurigo in writing of the order or request to disclose; and (iii) cooperate fully with the Aurigo in protecting against any such disclosure and/or obtaining a protective order narrowing the scope of the compelled disclosure and protecting its confidentiality.

8 DISCLAIMERS AND RELEASE

8.1 DISCLAIMER OF AVAILABILITY. Aurigo is always trying to improve its Services. That means Aurigo may expand, add, or remove the Aurigo Services, features, functionalities, and the support of certain devices and platforms. Customer acknowledges and agrees that Aurigo's Services may be interrupted, including for maintenance, repairs, upgrades, or network or equipment failure. Customer further acknowledges and agrees that Aurigo may discontinue some or all of the Services including certain features and the support for certain devices and platforms, at any time.

8.2 DISCLAIMER OF LINKS TO THIRD PARTY WEBSITES. The Services may contain, and the Customer may upload, links to third-party websites belonging to Third Party Software and Third Party Service providers. These third-party websites are not under Aurigo's control, and Aurigo has no responsibility for the content contained in such third-party websites. If Aurigo has included these links in the Services, it provides them as a convenience to the Customer only. The inclusion of these links is not an endorsement by Aurigo of any third-party website, Third Party Software, Third Party Services, or any other third-party service or product. Aurigo reserves the right to disable links to any third-party website that the Customer posts on the Services. The Customer's use of any such third-party website will also be subject to Aurigo's Third Party Terms of Use, available here: <http://www.aurigo.com/third-party-terms-of-use/>

8.3 DISCLAIMER OF OTHER WARRANTIES. AURIGO PROVIDES NO OTHER EXPRESS OR IMPLIED WARRANTIES. AURIGO DISCLAIMS ANY IMPLIED REPRESENTATIONS, WARRANTIES, OR CONDITIONS, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, TITLE, OR NON-INFRINGEMENT. THESE DISCLAIMERS WILL APPLY UNLESS OTHERWISE REQUIRED BY APPLICABLE LAW.

8.4 RELEASE OF LIABILITY. The Customer hereby releases Aurigo, its subsidiaries, affiliates, and its and their respective directors, officers, employees, partners, and agents (hereinafter referred to as “Aurigo Parties”) from any claim, complaint, cause of action, controversy, dispute, or damages (hereinafter referred to as “Claim”), known or unknown, relating to, arising out of, or in any way connected with any Claim that the Customer has or brings against any third parties.

8.5 RELEASE OF THIRD PARTY SOFTWARE AND THIRD PARTY SERVICES CLAIMS. Aurigo will not be liable for any claims arising out of the Customer's use of Third Party Software or Third Party Services, including but not limited to claims pertaining to privacy, performance, availability, or data integrity.

9 DEFENSE OF INFRINGEMENT AND MISAPPROPRIATION CLAIMS

9.1 Agreement to protect. Aurigo will defend the Customer against any claims made by an unaffiliated third party that any Services infringes that third party's patent, copyright, or trademark or makes intentional unlawful use of its trade secrets or confidential information (an “IP Claim”). Aurigo will also pay the amount of any resulting adverse final judgment (or settlement to which Aurigo consents). This Section provides the Customer's exclusive remedy for IP Claims.

9.2 What Customer must do and Aurigo rights: The Customer must notify Aurigo promptly in writing of the claim and give Aurigo control over its defense or settlement of the claim. Aurigo will work with the Customer's designated representative to process and defend against the claim. The Customer's designated representative must provide Aurigo with reasonable assistance in defending the claim. Aurigo will reimburse the Customer for reasonable out-of-pocket expenses incurred in providing that assistance requested by Aurigo, but Aurigo will not be liable to the Customer for any attorney fees of counsel hired by the Customer unless Aurigo has expressly agreed to pay such fees in advance and in writing.

9.3 Limitations on defense obligation. Aurigo's obligations in this Section 9 will not apply to the extent that the claim or award is based on:

- The Customer's use of the Services after Aurigo notifies it to discontinue its use due to a third-party claim
- the Customer's combination of the Services with a non-Aurigo product, data, or business process, including Third Party Software and Third Party Services
- damages attributable to the value of the use of a non-Aurigo product, data, or business process
- the Customer's use of Aurigo's trademark(s) without express written consent to do so
- any trade secret or undisclosed information claim, where the Customer acquires the trade secret or undisclosed information (1) through improper means; (2)

under circumstances giving rise to a duty to maintain its secrecy or limit its use; or (3) from a person (other than Aurigo) who owed to the party asserting the claim a duty to maintain the secrecy or limit the use of the trade secret or undisclosed information

9.4 Remedy. If a third party prevails on its IP Claim or obtains temporary or permanent relief preventing Customer from using any portion of the Services, or if Aurigo believes in good faith that the Services infringe or is believed by Aurigo to infringe, Aurigo shall have the option, at its expense, to (a) replace or modify the Services to be non-infringing, or (b) obtain for Customer a license to continue using the Services. If it is not commercially reasonable to perform either of the foregoing options, then Aurigo may terminate the license for the infringing Services and refund the license fees paid for the Services.

9.5 Exclusive Remedy. This Section 9 sets forth Aurigo's complete liability and Customer's sole and exclusive remedy with respect to infringement of intellectual property rights.

10 LIMITATION OF LIABILITY

10.1 Limitation on liability. Aurigo will not be liable to you for any lost profits or consequential, special, punitive, indirect, or incidental damages relating to, arising out of, or in any way in connection with our terms, Aurigo, or the Service (however caused and on any theory of liability, including negligence), even if Aurigo has been advised of the possibility of such damages. Aurigo aggregate liability relating to, arising out of, or in any way in connection with our terms, Aurigo, or the Service will not exceed the greater of one hundred dollars (\$100) or the amount you have paid Aurigo in the past twelve months. The foregoing disclaimer of certain damages and limitation of liability will apply to the maximum extent permitted by applicable law.

11 INDEMNIFICATION

11.1 General. If a third party brings a claim (hereinafter referred to as "Third-Party Claim") against any Aurigo Parties related to the Customer's actions, information, or content on the Aurigo Service, or any other use of the Services by the Customer, the Customer will, to the maximum extent permitted by applicable law, indemnify, and hold the Aurigo Parties harmless from and against all liabilities, damages, losses, and expenses of any kind (including reasonable legal fees and costs) relating to, arising out of, or in any way in connection with any of the following: (a) the Customer's access to or use of the Service, including information and content provided in connection therewith; (b) the Customer's breach of the Terms or applicable law; (c) any misrepresentation made by the Customer. The Customer will cooperate as fully as required by Aurigo in the defense or settlement of any Third-Party Claim. The Customer's rights with respect to Aurigo are not modified by the foregoing indemnification if the laws of the Customer's country or territory of residence, applicable as a result of the Customer's use of the Services, do not permit.

11.2 Third Party Software and Third Party Services Indemnity for Use. The Customer will indemnify and hold harmless the Aurigo Parties for all claims resulting from, related to, or in connection with the Customer's use of Third Party Software or Third Party Services associated with the Aurigo Services.

12 MISCELLANEOUS

- 12.1 Assignment.** The Customer may not assign the Terms.
- 12.2 Severability.** If a court holds any provision of the Terms to be illegal, invalid, or unenforceable, the rest of the document will remain in effect, and the Terms will be amended to give effect to the eliminated provision to the maximum extent possible.
- 12.3 Waiver.** A waiver of any breach of the Terms is not a waiver of any other breach. Any waiver must be in writing and signed by an authorized representative of Aurigo or the Customer.
- 12.4 Applicable law.** The Terms are governed by the laws of the State of Texas without regard to its conflict of laws principles. The 1980 United Nations Convention on Contracts for the International Sale of Goods and its related instruments will not apply to the Terms. The Services are protected by copyright and other intellectual property rights laws and international treaties.
- 12.5 Dispute Resolution.** The Customer agree that any controversy or claim arising out of or relating to the Terms, or the breach thereof, shall be settled to the extent possible by good faith negotiations. Any dispute that Aurigo and the Customer cannot resolve by good faith negotiations within thirty (30) days or such a longer period as permitted by Aurigo shall be submitted to binding arbitration in accordance with the Commercial Arbitration Rules of the American Arbitration Association by a single arbitrator appointed in accordance with such Rules. The arbitration will take place in Austin, TX, USA, in the English language, and the arbitral decision may be enforced in any court. Notwithstanding the foregoing, claims for injunctive or equitable relief or claims regarding intellectual property rights may be brought in any competent court. Subject to the preceding arbitration provision, the parties consent to exclusive jurisdiction and venue in the state and federal courts located in Austin, TX. Each party waives any right it has to a jury trial.
- 12.6 The Terms are not exclusive.** The Customer is free to enter into agreements to license, use or promote non-Aurigo software or services, subject to the Terms.
- 12.7 Survival.** The following provisions will survive any termination of the Customer's relationship with Aurigo: "License Grant", "Disclaimers and Release", "Limitation Of Liability", "Indemnification", "Dispute Resolution", "Miscellaneous" Provisions regarding fees, restrictions on use, transfer of licenses, export restrictions, defense of infringement and misappropriation claims, limitations of liability, confidentiality, compliance verification, indemnification, obligations on termination, and the provisions in this Section entitled "Miscellaneous" will survive expiration or termination of the Terms.
- 12.8 Force majeure.** Aurigo will not be liable for any failure in performance due to causes beyond it's reasonable control (such as fire, explosion, power blackout, earthquake, flood, severe storms, strike, embargo, labor disputes, acts of civil or military authority, war, terrorism (including cyber-terrorism), acts of God, acts or omissions of Internet traffic carriers, actions or omissions of regulatory or governmental bodies (including the passage of laws or regulations or other acts of government that impact the delivery of Services). This Section does not apply to the Customer's payment obligations under the Terms to the extent that any services continue during the force majeure period, for services rendered prior to the force majeure period, or once services resume following the force majeure period.

12.9 US export jurisdiction. The Services are subject to US export jurisdiction. The Customer must comply with all applicable laws, including the US Export Administration Regulations, the International Traffic in Arms Regulations, and end-user, end-use, and destination restrictions issued by the US and other governments.

12.10 Entire Agreement; Amendment. The Terms and the schedules thereto constitute the entire agreement between the parties and supersede all prior agreements, understandings, and other communications with respect to the subject matter hereof. Except as specifically provided for in the Terms, no modification or amendment of the Terms will be effective unless in writing and executed by a duly authorized representative of each Party.