

AMC Technology Data Processing Agreement

REVISED 3/29/2021

This AMC Technology LLC (“AMC,” “us,” or “we”) Data Processing Agreement and its exhibits (“DPA”) reflect the parties’ agreement with respect to the Processing of Personal Data by us on behalf of you (“you,” “your,” or “customer”) in connection with the services provided under the AMC cloud services agreement between you and us (“Agreement”). This DPA is incorporated by reference into, and forms an integral part of, the Agreement. This DPA is effective upon its incorporation into the Agreement, which may be specified in the Agreement or in an executed amendment to the Agreement. The parties agree that this DPA governs the processing and security of Personal Data. Separate terms, including different privacy and security terms, govern your use of products and services not offered by AMC. In case of any conflict or inconsistency with the terms of the Agreement, this DPA will take precedence over the terms of the Agreement to the extent of such conflict or inconsistency. We update the terms in this DPA from time to time. If you have an active subscription with us, we will let you know when we do on the AMC website or via in-software notifications. The term of this DPA will follow the term of the Agreement. Terms not otherwise defined will have the meaning as set forth in the Agreement. This Data Processing Agreement applies to AMC’s Processing of Personal Data on your behalf as Controller as defined herein, and AMC as a Processor for the provision of the Services specified in the Agreement. Unless otherwise expressly stated, this version of the Data Processing Agreement shall be effective and remain in force for the term of the Agreement.

You must comply with all laws and regulations applicable to your use of the Services, including but not limited to laws relating to confidentiality of communications and Data Protection Laws. You are responsible for determining whether the Services are appropriate for storage and processing subject to any specific law or regulation and for using the Services in a manner consistent with your legal and regulatory obligations.

2. DEFINITIONS

“Affiliate” or “Affiliates” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control” for purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“California Personal Information” means Personal Data that is subject to the protection of the CCPA.

“CCPA” means California Civil Code §1798.100 et seq. (also known as the California Consumer Privacy Act of 2018).

“Consumer”, “Business”, “Sell” and “Service Provider” will have the meanings given to them in the CCPA.

“Controller” means the natural or legal person, public authority, agency, or other body which, alone or jointly with others, determines the purposes and means of the Processing of Personal Data.

“Data Protection Laws” means the CCPA, GDPR, Local EU/EEA Data Protection Laws, and any applicable laws, regulations, and other legal requirements relating to: (i) privacy and data security; and (ii) the use, collection, retention, storage, security, disclosure, transfer, disposal, and other processing of any Personal Data; in each case as amended, repealed, consolidated or replaced from time to time.

“Data Subject” means the individual to whom Personal Data relates.

“Europe” means, strictly for the purpose of this DPA, the European Union, the European Economic Area and/or their member states, Switzerland, and the United Kingdom.

“European Data” means Personal Data that is subject to the protection of European Data Protection Laws.

“European Data Protection Laws” means data protection laws applicable in Europe as defined herein, including: (i) Regulation 2016/679 of the European Parliament and of the Council on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) ; (ii) Directive 2002/58/EC concerning the processing of personal data and the protection of privacy in the electronic communications sector; and (iii) applicable national implementations of (i) and (ii); or (iii) in respect of the United Kingdom, any applicable national legislation that replaces or converts in domestic law the General Data Protection Regulation or any other law relating to data and privacy as a consequence of the United Kingdom leaving the European Union; and (iv) Swiss Federal Data Protection Act of June 19, 1992 and its ordinance; in each case, as may be amended, superseded or replaced.

“GDPR” means Regulation (EU) 2016/679 of the European parliament and of the council of April 27, 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC .

“Instructions” means the written, documented instructions issued by a Controller to a Processor, and directing the same to perform a specific or general action with regard to Personal Data (including, but not limited to, depersonalizing, blocking, deletion, making available).

“Local EU/EEA Data Protection Laws” means any subordinate legislation and regulation implementing the GDPR.

“Permitted Affiliates” means any of your Affiliates that (i) are permitted to use the Services pursuant to the Agreement, but have not signed their own separate agreement with us and are not a “Customer” as defined under the Agreement, (ii) qualify as a Controller of Personal Data Processed by us, and (iii) are subject to European Data Protection Laws.

“Personal Data” means any information relating to an identified or identifiable individual where such information is contained within, generated as a result of, or necessary to provide the Services, and is protected similarly as personal data, personal information, or personally identifiable information under applicable Data Protection Laws.

“Personal Data Breach” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to, Personal Data transmitted, stored, or otherwise Processed by us and/or our Sub-Processors in connection with the provision of the Services.

“Personal Data Breach” will not include unsuccessful attempts or activities that do not compromise the security of Personal Data, including unsuccessful log-in attempts, pings, port scans, denial of service attacks, and other network attacks on firewalls or networked systems.

“Privacy Shield” means the EU-U.S. and Swiss-US Privacy Shield self-certification program operated by the U.S. Department of Commerce and approved by the European Commission pursuant to its Decision of July, 12 2016 and by the Swiss Federal Council on January 11, 2017 respectively; as may be amended, superseded or replaced.

“Privacy Shield Principles” means the Privacy Shield Principles (as supplemented by the Supplemental Principles) contained in Annex II to the European Commission Decision of July, 12 2016; as may be amended, superseded, or replaced.

“Processing” means any operation or set of operations which is performed on Personal Data, encompassing the collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, or erasure of Personal Data. The terms “Process”, “Processes” and “Processed” will be construed accordingly.

“Processor” means a natural or legal person, public authority, agency, or other body which Processes Personal Data on behalf of the Controller.

“Services” or “Service” means the offering elaborated in Section 1.5 of the Agreement.

“Standard Contractual Clauses” means the standard data protection clauses for the transfer of Personal Data to processors established in countries that do not ensure an adequate level of data protection as described in Article 46 of GDPR and approved pursuant to the European Commission’s decision (C(2010)593) of 5 February 2010, as may be amended, superseded or replaced.

“Sub-Processor” means any Processor engaged by us to assist in fulfilling our obligations with respect to the provision of the Services under the Agreement. Sub-Processors may include third parties but will exclude any AMC employee.

3. CUSTOMER RESPONSIBILITIES

Compliance with Laws. Within the scope of the Agreement and in your use of the Services, you will be responsible for complying with all requirements that apply to you under applicable Data Protection Laws with respect to your Processing of Personal Data and the Instructions you issue to us.

In particular but without prejudice to the generality of the foregoing, you acknowledge and agree that you will be solely responsible for: (i) the accuracy, quality, and legality of Personal Data and the means by which you acquired Personal Data; (ii) complying with all necessary transparency and lawfulness requirements under applicable Data Protection Laws for the collection and use of the Personal Data, including obtaining any necessary consents and authorizations (particularly for use by you for marketing purposes); (iii) ensuring you have the right to transfer, or provide access to, the Personal Data to us for Processing in accordance with the terms of the Agreement (including this DPA); (iv) ensuring that your Instructions to us regarding the Processing of Personal Data comply with applicable laws, including Data Protection Laws; and (v) complying with all laws (including Data Protection Laws) applicable to any emails or other content created, sent or managed through the Services, including those relating to obtaining consents (where required) to send emails, the content of the emails and its email deployment practices. You will inform us without undue delay if you are not able to comply with your responsibilities under this sub-section (a) or applicable Data Protection Laws.

Controller Instructions. The parties agree that the Agreement (including this DPA), together with your use of the Services in accordance with the Agreement, constitute your complete and final Instructions to us in relation to the Processing of Personal Data, and additional instructions outside the scope of the Instructions shall require prior written agreement between AMC and you.

AMC'S OBLIGATIONS

Compliance with Instructions. AMC will use and otherwise process Personal Data only in accordance with your documented instructions as shown at Exhibit 1 attached, and as described and subject to the limitations provided herein (i) to provide you with the Services; and (b) to the extent otherwise required by applicable law. We are not responsible for compliance with any Data Protection Laws applicable to you or your industry that are not generally applicable to us.

Conflict of Laws. If we become aware that we cannot Process Personal Data in accordance with your Instructions due to a legal requirement under any applicable law, we will (i) promptly notify you of that legal requirement to the extent permitted by the applicable law; and (ii) where necessary, cease all Processing (other than merely storing and maintaining the security of the affected Personal Data) until such time as you issue new Instructions with which we are able to comply. If this provision is invoked, we will not be liable to you under the Agreement for any failure to perform the applicable Services until such time as you issue new lawful Instructions with regards to the Processing.

Security. We will implement and maintain appropriate technical and organizational measures to protect Personal Data from Personal Data Breaches, as described under Exhibit 2 to this DPA ("Security Measures"). Notwithstanding any provision to the contrary, we may modify or update the Security Measures at our discretion provided that such modification or update does not result in a material degradation in the protection offered by the Security Measures.

Confidentiality. We will ensure that any personnel whom we authorize to Process Personal Data on our behalf is subject to appropriate confidentiality obligations (whether a contractual or statutory duty) with respect to that Personal Data.

Personal Data Breaches. We will notify you without undue delay after AMC becomes aware of any Personal Data Breach and will provide timely information relating to the Personal Data Breach as it becomes known or reasonably requested by you. At your request, we will promptly provide you with such reasonable assistance as necessary to enable you to report relevant Personal Data Breaches to competent authorities and/or affected Data Subjects, if you are required to do so under Data Protection Laws.

Deletion or Return of Personal Data. We will delete or return all Customer Data, including Personal Data (including copies thereof) Processed pursuant to this DPA, on termination or expiration of the Agreement in accordance with the procedures and timeframes set out in the Agreement, save that this requirement shall not apply to the extent we are required by applicable law to retain some or all of the Personal Data AMC has archived on back-up systems, which data we will securely isolate and protect from any further Processing and delete in accordance with AMC's deletion practices. You may request the deletion of your AMC account after expiration or termination of your subscription by sending a request to support@amctechnology.com.

DATA SUBJECT REQUESTS

The Service provides you with a number of controls that you can use to retrieve, correct, delete or restrict Personal Data, which you can use in connection with obligations under Data Protection Laws, including your obligations relating to responding to requests from Data Subjects to exercise their rights under applicable Data Protection Laws ("Data Subject Requests").

To the extent that you are unable to independently address a Data Subject Request through the Service, then upon your written request we will provide reasonable assistance to you to respond to any Data Subject Requests or requests from data protection authorities relating to the Processing of Personal Data under the Agreement. You shall reimburse us for the commercially reasonable costs arising from this assistance.

If a Data Subject Request or other communication regarding the Processing of Personal Data under the Agreement is made directly to us, we will promptly inform you and will advise the Data Subject to submit their request to you. You will be solely responsible for responding substantively to any such Data Subject Requests or communications involving Personal Data.

SUB PROCESSORS

You agree that we may engage Sub-Processors to Process Personal Data on your behalf. Where we engage Sub-Processors, we will impose data protection terms on the Sub-Processors that provide at least the same level of protection for Personal Data as those in this DPA (including, where appropriate, the Standard Contractual Clauses), to the extent applicable to the nature of the services provided by such Sub-Processors. We will remain responsible for each Sub-Processor's compliance with the obligations of this DPA and for any acts or omissions of such Sub-Processor that cause us to breach any of AMC's obligations under this DPA.

ADDITIONAL PROVISIONS FOR EUROPEAN DATA

Scope of This Section . This 'Additional Provisions for European Data' section shall apply only with respect to European Data.

Roles of the Parties. When Processing European Data in accordance with your Instructions, the parties acknowledge and agree that you are the Controller of European Data and we are the Processor.

Instructions. If we believe that your Instruction infringes European Data Protection Laws (where applicable), we will inform you without delay.

Data Protection Impact Assessments and Consultation with Supervisory Authorities. To the extent that the required information is reasonably available to us, and you do not otherwise have access to the required information, we will provide reasonable assistance to you with any data protection impact assessments, and prior consultations with supervisory authorities or other competent data privacy authorities to the extent required by European Data Protection Laws.

TRANSFER MECHANISMS FOR DATA TRANSFERS

A. AMC shall not transfer European Data to any country or recipient not recognized as providing an adequate level of protection for Personal Data (within the meaning of applicable European Data Protection Laws), unless it first takes all such measures as are necessary to ensure the transfer is in compliance with applicable European Data Protection Laws. Such measures may include (without limitation) transferring such data to a recipient that is covered by a suitable framework or other legally adequate transfer mechanism recognized by the relevant authorities or courts as providing an adequate level of protection for Personal Data, to a recipient that has achieved binding corporate rules authorization in accordance with European Data Protection Laws, or to a recipient that has executed appropriate Standard Contractual Clauses, in each case as adopted or approved in accordance with applicable European Data Protection Laws.

B. You acknowledge that in connection with the performance of the Services, AMC is a recipient of European Data in the United States. The parties acknowledge and agree the following:

I. Standard Contractual Clauses: AMC agrees to abide by and process European Data in compliance with the Standard Contractual Clauses.

II. Privacy Shield: Although AMC does not rely on the EU-US Privacy Shield as a legal basis for transfers of Personal Data in light of the judgment of the Court of Justice of the EU in Case C-311/18, for as long as AMC is self-certified to the Privacy Shield AMC will process European Data in compliance with the Privacy Shield Principles and let you know if it is unable to comply with this requirement.

C. The parties agree that (i) purely for the purposes of the descriptions in the Standard Contractual Clauses, AMC will be deemed the “data importer” and you will be deemed the “data exporter” (notwithstanding that you may yourself be located outside Europe and/or be acting as a processor on behalf of third party controllers), (ii) notwithstanding the foregoing, where the AMC contracting entity under the Agreement is not AMC, you provide such contracting entity with a mandate to enter into the Standard Contractual Clauses with AMC in its name and on its behalf, such contracting entity (not AMC) will remain fully and solely responsible and liable to you for the performance of the Standard Contractual Clauses by AMC, and you will direct any instructions, claims or enquiries in relation to the Standard Contractual Clauses to such contracting entity; and (iii) if and to the extent the Standard Contractual Clauses (where applicable) conflict with any provision of this DPA, the Standard Contractual Clauses will prevail to the extent of such conflict.

D. Demonstration of Compliance. We will make all information reasonably necessary to demonstrate compliance with this DPA available to you and allow for and contribute to audits, including inspections by you in order to assess compliance with this DPA. You acknowledge and agree that you will exercise your audit rights under this DPA by instructing us to comply with the audit measures described in this sub-section (g). You acknowledge that the Service is hosted by our data center partners who maintain independently validated security programs and that our systems are regularly tested by independent third party penetration testing firms. Upon request, we will supply (on a confidential basis) a summary copy of its penetration testing report(s) to you so that you can verify our compliance with this DPA.

Further, at your written request, we will provide written responses (on a confidential basis) to all reasonable requests for information made by you necessary to confirm our compliance with this DPA, provided that you will not exercise this right more than once per calendar year.

ADDITIONAL PROVISIONS FOR CALIFORNIA PERSONAL INFORMATION

Scope of This Section . The ‘Additional Provisions for California Personal Information’ section of the DPA will apply only with respect to California Personal Information.

Roles of the Parties. When processing California Personal Information in accordance with your Instructions, the parties acknowledge and agree that you are a Business and we are a Service Provider for the purposes of the CCPA.

Responsibilities. The parties agree that we will Process California Personal Information as a Service Provider strictly for the purpose of performing the Services under the Agreement (the “Business Purpose”) or as otherwise permitted by the CCPA..

GENERAL PROVISIONS

Amendments. Notwithstanding anything else to the contrary in the Agreement we reserve the right to make any updates and changes to this DPA..

Severability. If any individual provisions of this DPA are determined to be invalid or unenforceable, the validity and enforceability of the other provisions of this DPA will not be affected.

Limitation of Liability. Each party and each of their Affiliates' liability, taken in aggregate, arising out of or related to this DPA (and any other DPAs between the parties) and the Standard Contractual Clauses (where applicable), whether in contract, tort or under any other theory of liability, will be subject to the limitations and exclusions of liability set out in Section 15 of the Agreement and any reference in such section to the liability of a party means aggregate liability of that party and all of its Affiliates under the Agreement (including this DPA).

Governing Law. This DPA will be governed by and construed in accordance with venue and dispute resolution provisions in Section 22 of the Agreement.

PARTIES TO THIS DPA

A. Affiliates. By signing the Agreement, you enter into this DPA on behalf of yourself and, to the extent required under applicable Data Protection Laws, in the name and on behalf of your Affiliates, thereby establishing a separate DPA between us and each such Affiliate subject to the Agreement and the 'General Provisions' and 'Parties to this DPA' sections of this DPA. Each Affiliate agrees to be bound by the obligations under this DPA and, to the extent applicable, the Agreement. For the purposes of this DPA only, and except where indicated otherwise, the terms "Customer", "you" and "your" will include you and such Affiliates.

B. Authorization. The party agreeing to and entering into this DPA represents that it is authorized to agree to and enter into this DPA for and on behalf of you and, as applicable, each of your relevant Affiliates.

C. Remedies. Except where applicable Data Protection Laws require an affiliate to exercise a right or seek any remedy under this DPA against us directly by itself, the parties agree that (i) solely the entity that is the contracting party to the Agreement will exercise any right or seek any remedy any Affiliate may have under this DPA , and (ii) the entity that is the contracting party to the Agreement will exercise any such rights under this DPA not separately for each affiliate individually but in a combined manner for itself and all of its affiliates together. The entity that is the contracting entity is responsible for coordinating all communication with us under the DPA and will be entitled to make and receive any communication related to this DPA on behalf of its affiliates.

D. Other rights. The parties agree that you will, when reviewing our compliance with this DPA pursuant to the 'Demonstration of Compliance' section, take all reasonable measures to limit any impact on us and our Affiliates by combining several audit requests carried out on behalf of the Customer entity that is the contracting party to the Agreement and all of its Affiliates in one single audit.

Exhibit 1 – Details of Processing

This Exhibit forms part of the DPA.

A. Nature and Purpose of Processing

We will Process Personal Data as necessary to provide the Services pursuant to the Agreement, as further specified in the Order Form, and as further instructed by you in your use of the Services.

B. Duration of Processing

Subject to the 'Deletion or Return of Personal Data' section of this DPA, we will Process Personal Data for the duration of the Agreement, unless otherwise agreed in writing.

C. Categories of Data subjects

You may submit Personal Data in the course of using the Service, the extent of which is determined and controlled by you in your sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of Data Subjects:

Your Contacts and other end users including your employees, contractors, collaborators, customers, prospects, job applicants, suppliers, and subcontractors. Data Subjects may also include individuals attempting to communicate with or transfer Personal Data to your end users.

D. Categories of Personal Data

You may submit Personal Data to the Services, the extent of which is determined and controlled by you in your sole discretion, and which may include but is not limited to the following categories of Personal Data:

- Contact Information (such as name, home address, home telephone or mobile number, fax number, email address).
- Any other Personal Data submitted by, sent to, or received by you, or your end users, via the Service.

E. Special categories of data (if appropriate)

The parties do not anticipate the transfer of special categories of data.

F. Processing operations

Personal Data will be Processed in accordance with the Agreement (including this DPA) and may be subject to the following Processing activities:

- a) Storage and other Processing necessary to provide, maintain and improve the Services provided to you; and/or
- b) Disclosure in accordance with the Agreement (including this DPA) and/or as compelled by applicable laws.

Exhibit 2 – Security Measures

This Exhibit forms part of the DPA.

We currently observe the Security Measures described in this Exhibit 2. All capitalized terms not otherwise defined herein shall have the meanings as set forth in the Master Terms.

a) Access Control

i) Preventing Unauthorized Product Access

Outsourced processing: We host our Service with outsourced cloud infrastructure providers. Additionally, we maintain contractual relationships with vendors in order to provide the Service in accordance with our DPA. We rely on contractual agreements, privacy policies, and vendor compliance programs in order to protect data processed or stored by these vendors.

Physical and environmental security: We host our product infrastructure with multi-tenant, outsourced infrastructure providers. We are CSA Star Level 1 certified and we also reference SOC 2 Type II and ISO 27001 criteria in our assessments.

Authentication: We implement a uniform password policy for our customer products.

Customers who interact with the products via the user interface must authenticate before accessing non-public customer data.

Authorization: Customer Data is stored in multi-tenant storage systems accessible to Customers via only application user interfaces and application programming interfaces. Customers are not allowed direct access to the underlying application infrastructure. The authorization model in each of our products is designed to ensure that only the appropriately assigned individuals can access relevant features, views, and customization options. Authorization to data sets is performed through validating the user's permissions against the attributes associated with each data set.

Application Programming Interface (API) access: Public product APIs may be accessed using an API key or through OAuth authorization.

ii) Preventing Unauthorized Product Use

We implement industry standard access controls and detection capabilities for the internal networks that support its products.

Access controls: Network access control mechanisms are designed to prevent network traffic using unauthorized protocols from reaching the product infrastructure. The technical measures implemented differ between infrastructure providers and include Virtual Private Cloud (VPC) implementations, security group assignment, and traditional firewall rules .

Intrusion detection and prevention: We implement a Web Application Firewall (WAF) solution to protect hosted customer websites and other internet-accessible applications. The WAF is designed to identify and prevent attacks against publicly available network services.

Static code analysis: Security reviews of code stored in our source code repositories is performed, checking for coding best practices and identifiable software flaws.

Penetration testing: We utilize OWASP-based third party scanning tools.

iii) Limitations of Privilege & Authorization Requirements

Product access: A subset of our employees have access to the products and to customer data via controlled interfaces. The intent of providing access to a subset of employees is to provide effective customer support, to troubleshoot potential problems, to detect and respond to security incidents and implement data security. Access is enabled through "just in time" requests for access; all such requests are logged.

Employees are granted access by role, and reviews of high-risk privilege grants are conducted frequently. Employee roles are reviewed at least quarterly, upon hiring, termination, or role change.

Background checks: All AMC Technology LLC employees undergo a third-party background check prior to being extended an employment offer, in accordance with and as permitted by the applicable laws. All AMC Technology LLC employees are required to conduct themselves in a manner consistent with company guidelines, non-disclosure requirements, and ethical standards.

b) Transmission Control

In-transit: We make HTTPS encryption (also referred to as SSL or TLS) available on every one of its login interfaces and for free on every customer site hosted on the AMC Technology LLC products. Our HTTPS implementation uses industry standard algorithms and certificates.

At-rest: We store user passwords following policies that follow industry standard practices for security. We have implemented technologies to ensure that stored data is encrypted at rest.

c) Input Control

Detection: We designed our infrastructure to log extensive information about the system behavior, traffic received, system authentication, and other application requests. Internal systems aggregated log data and alert appropriate employees of malicious, unintended, or anomalous activities. Our personnel, including security, operations, and support personnel, are responsive to known incidents.

Response and tracking: We maintain a record of known security incidents that includes description, dates and times of relevant activities, and incident disposition. Suspected and confirmed security incidents are investigated by security, operations, or support personnel; and appropriate resolution steps are identified and documented. For any confirmed incidents, we will take appropriate steps to minimize product and Customer damage or unauthorized disclosure. Notification to you will be in accordance with the terms of the Agreement.

d) Availability Control

Infrastructure availability: The infrastructure providers use commercially reasonable efforts to ensure a minimum of 99.7% uptime. If you deploy an App on your infrastructure or on a third-party infrastructure, you are responsible for the availability of the App running within that infrastructure. AMC is responsible for ensuring that connections from DaVinci iPaaS are operational, but AMC is not responsible for the end-to-end connection or its configuration.

Data Backups: Backup strategies are designed to ensure redundancy protection during a significant processing failure. Customer data is backed up to multiple durable data stores and replicated across multiple availability zones.

AMC Technology Cloud Services Agreement

REVISED 3/29/2021

This AMC TECHNOLOGY Cloud Services Agreement (this “Agreement”) is between AMC TECHNOLOGY, LLC (“AMC”) and the individual or entity that has executed this Agreement (“Company”). This Agreement sets forth the terms and conditions that govern orders placed by Company for Services (as defined herein) under this Agreement.

BY (1) CLICKING A BOX INDICATING ACCEPTANCE, OR (2) EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, COMPANY ACKNOWLEDGES THAT IT HAS READ AND UNDERSTANDS THIS AGREEMENT AND ACCEPTS THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM “COMPANY” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

1. Definitions

1.1. “Company Data” means any data, information or material provided or submitted by Company for processing by Company, or to AMC, in the course of using the Software as defined below, or Services.

1.2. “Documentation” means the applicable AMC system specifications, hardware requirements, configuration files, architecture documents, test case documents, manuals, and all other user instructions regarding the capabilities, operation, installation and use of the Software, including all help files (on-line or otherwise), frequently asked questions (FAQ) and other use instruction, to the extent that such information is provided to Company by AMC.

1.3. . “Intellectual Property Rights” means unpatented inventions, patent applications, patents, design rights, copyrights, trademarks, service marks, trade names, code, domain name rights, mask work rights, inventions, know-how and other trade secret rights, and all other intellectual property rights, derivatives thereof, and forms of protection of a similar nature, whether or not such rights are registered or perfected in the United States and worldwide.

1.4. “Order Form” means an ordering document or online order specifying the Services or Software to be provided hereunder that is entered into between AMC and Company, including any addenda and supplements thereto.

1.5. “Services” means AMC’s Software as a Service offering, including but not limited to the information technology services, software, data and software hosting, also including software maintenance and technical support services as well as any additional services (i.e., training) performed in accordance with a Statement of Work (as defined herein) issued pursuant to the terms of this Agreement.

1.6. “Software” means AMC proprietary software programs set forth in Exhibit 1, updates, releases, bug fixes, and enhancements thereto provided by AMC to Company or other maintenance materials provided by AMC hereunder, as well as the Documentation.

1.7. “Statement of Work” means task specific schedules to which the parties may agree from time to time covering the performance of installation, implementation, development services, training or other services. Each Statement of Work shall specify, in detail, the work to be performed, personnel, milestone dates, and associated fees. Each Statement of Work shall be governed by the terms of a Master Services Agreement (“MSA”) and shall be binding upon the parties and shall be deemed to constitute a part of this Agreement.

1.8. “Term” means the Term identified as such in Section 15 below.

1.9. “User(s)” means, in the case of an individual accepting these terms on his or her own behalf, such individual, or, in the case of an individual accepting this Agreement on behalf of a company or other legal entity, an individual who is authorized by Company to use the Services, for whom Company has purchased a subscription (or in the case of any Services provided by AMC without charge, for whom the Services have been provisioned), and to whom Company (or, when applicable, AMC at Company’s request) has supplied a user identification and password (for Services utilizing authentication). Users may include, for example, employees, consultants, contractors and agents of Company, and third parties with which Company transacts business.

2. Licenses

Subject to all of the terms and conditions of this Agreement, AMC hereby grants to Company and Company hereby accepts a limited term, non-exclusive, non-transferable, non-sub-licensable license to permit Users to access and use the Software and Services, during the Term, solely through URL addresses and log-in functions provided by AMC, and solely to support Company’s internal operations as an end-user of the Software and Services.

Subject to the terms of this Agreement, Company grants to AMC the non-exclusive, worldwide right to use, copy, store, transmit and display Company Data, to the extent necessary to fulfill AMC's obligations hereunder. Except as otherwise expressly permitted herein, Company shall not (i) download, re-license, sublicense, sell, resell, rent, transfer, assign, copy, distribute or otherwise make available to any third party the Software or Services, (ii) make derivative works based upon the Software or other AMC Technology; (iii) cause or permit reverse engineering or decompilation of the Software, (iv) delete, alter, add to or fail to reproduce in and on any copy of the Software and media any copyright or other notices appearing in or on any copy, media or master or package materials provided by AMC or which may be required by AMC at any time; (v) commercially exploit the Software or other AMC Technology in any way; (vi) allow access to the Software or Services by more than the number of Users which have been licensed by Company; or (vii) access the Software or Services from any location other than a location owned or controlled by Company or occupied by an employee or contractor of the Company, without making appropriate safeguards to protect the security of the Software and assure its use in accordance with the terms of this Agreement. Company will prevent unauthorized use of the Services through any Internet URL addresses or log-in functions provided to it and shall terminate any such unauthorized use that it discovers. Company will promptly notify AMC of any unauthorized use of, or access to, the Services of which it becomes aware. Company warrants, represents, and will assure that only one individual is permitted to access the Services or Software per User log-in ID provided as part of the Services log-in functionality.

3. Free Trial

If Company registers on AMC's website for a free trial, AMC will make the applicable Service(s) available to Company on a trial basis free of charge until the earlier of (a) the end of the free trial period for which Company registered to use the applicable Service(s), or (b) the start date of any purchased Services ordered by Company for such Service(s), or (c) termination by AMC in its sole discretion. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding.

ANY DATA COMPANY ENTERS INTO THE SERVICES, AND ANY CUSTOMIZATIONS MADE TO THE SERVICES BY OR FOR COMPANY DURING FREE TRIAL WILL BE PERMANENTLY LOST UNLESS COMPANY PURCHASES A SUBSCRIPTION TO THE SAME SERVICES AS THOSE COVERED BY THE TRIAL, PURCHASES APPLICABLE UPGRADED SERVICES, OR EXPORTS SUCH DATA, BEFORE THE END OF THE TRIAL PERIOD. COMPANY CANNOT TRANSFER DATA ENTERED OR CUSTOMIZATIONS MADE DURING THE FREE TRIAL TO A SERVICE THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL (E.G., FROM ENTERPRISE EDITION TO PROFESSIONAL EDITION); THEREFORE, IF COMPANY PURCHASES A SERVICE THAT WOULD BE A DOWNGRADE FROM THAT COVERED BY THE TRIAL, COMPANY MUST EXPORT COMPANY DATA (?) BEFORE THE END OF THE TRIAL PERIOD OR COMPANY DATA WILL BE PERMANENTLY LOST.

NOTWITHSTANDING THE “REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS” SECTION AND “INDEMNIFICATION BY AMC” SECTION BELOW, DURING THE FREE TRIAL THE SERVICES ARE PROVIDED “AS-IS” WITHOUT ANY WARRANTY AND AMC SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE SERVICES FOR THE FREE TRIAL PERIOD UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE AMC’S LIABILITY WITH RESPECT TO THE SERVICES PROVIDED DURING THE FREE TRIAL SHALL NOT EXCEED \$1,000.00. WITHOUT LIMITING THE FOREGOING, AMC AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO COMPANY THAT: (A) COMPANY’S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD WILL MEET COMPANY’S REQUIREMENTS, (B) COMPANY’S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, AND (C) USAGE DATA PROVIDED DURING THE FREE TRIAL PERIOD WILL BE ACCURATE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE “LIMITATION OF LIABILITY” SECTION BELOW, COMPANY SHALL BE FULLY LIABLE UNDER THIS AGREEMENT TO AMC FOR ANY DAMAGES ARISING OUT OF COMPANY’S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD, ANY BREACH BY COMPANY OF THIS AGREEMENT AND ANY OF COMPANY’S INDEMNIFICATION OBLIGATIONS HEREUNDER. COMPANY SHALL REVIEW THE APPLICABLE SERVICE’S DOCUMENTATION DURING THE TRIAL PERIOD TO BECOME FAMILIAR WITH THE FEATURES AND FUNCTIONS OF THE SERVICES BEFORE MAKING A PURCHASE.

4. Provision of Purchased Service

AMC will (a) make the Services and Content available to Company pursuant to this Agreement, and the applicable Order Forms and Documentation, (b) provide applicable AMC standard support for the Services to Customer at no additional charge, (c) use commercially reasonable efforts to make the online Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which AMC shall give advance electronic notice), and (ii) any unavailability caused by circumstances beyond AMC’s reasonable control, including but not limited to an act of God, act of government, flood, fire, earthquake, civil unrest, public health crisis or emergency, declared pandemic, act of terror, strike or other labor problem (other than one involving an AMC employees), Internet service provider failure or delay, (d) provide the Services in accordance with laws and government regulations applicable to AMC’s provision of its Services to its customers generally (i.e., without regard for Company’s particular use of the Services), and subject to Company’s use of the Services in accordance with this Agreement, the Documentation and the applicable Order Form.

5. Use of Services

Company is required to accept all patches, bug fixes, updates, maintenance, and service packs (collectively, “Patches”) necessary for the proper function and security of the Services, as such Patches are generally released by AMC.

6. Usage Limits

If the Services permit Company to exceed the ordered quantity (e.g., soft limits on counts for Users, sessions, storage, etc.), then Company is responsible for promptly purchasing the additional quantity to account for any excess usage. For any month that Company does not promptly purchase such additional quantity, AMC may require Company to pay, in addition to the fees for the additional quantity, an excess usage fee for those Services equivalent to 10% of the total fees for the month in which such excess usage occurred.

7. Ownership

Company will have no rights to AMC's proprietary technology used to deliver and manage the Services described herein, including without limitation its Software, Documentation, and know-how. Company hereby acknowledges and agrees that all Software, Documentation, and all Intellectual Property Rights contained herein, or appurtenant thereto are and shall remain the sole and exclusive property of AMC and its licensors. AMC and its licensors reserve all rights in the Software, Documentation, and any other Intellectual Property Rights not expressly granted to Company.

8. License by Company to Use Feedback

If the Company provides any feedback, comments, suggestions, ideas, description of processes, or other information to AMC about or in connection with the Services or deliverables provided under this Agreement, including without limitation any ideas, concepts, know-how or techniques contained therein ("Feedback"), then it shall grant AMC a worldwide, royalty-free, non-exclusive, perpetual and irrevocable license to use, copy, modify and otherwise exploit the Feedback for any purpose, without any compensation to Company or any restriction or obligation on account of Intellectual Property Rights or otherwise, except as expressly provided herein..

9. Internet Delays

ACCESS TO AMC SOFTWARE AND SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. AMC SHALL NOT BE RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

10. Company Data

(a) All Company Data shall remain the sole property of Company and its licensors unless specifically noted in writing by Company in advance. Company, not AMC, shall be solely responsible for entering Company Data into the Services, for the maintenance of the Company Data supplied by it, and for the accuracy, quality, integrity, legality, reliability, appropriateness and copyright of all Company Data.

(b) Company hereby represents and warrants to AMC that the Company Data is free of all viruses, Trojan horses, and comparable elements which could harm the systems or software used by AMC or its subcontractors to provide the Service.

(c) All facilities used to store and process Company Data will adhere to commercially reasonable security standards no less protective than the security standards at facilities where AMC stores and processes its own information of a similar type. AMC has implemented commercially reasonable systems and procedures to ensure the security and confidentiality of Company Data, protect against anticipated threats or hazards to the security or integrity of Company Data, and protect against unauthorized access to or use of Company Data. AMC does not control the transfer of data, including but not limited to Company Data, over telecommunications facilities, including the Internet, and AMC does not warrant secure operation of the Service or that such security technologies will be able to prevent third party disruptions of the Service. As part of providing the Services and for the avoidance of doubt, Company consents to AMC's transfer, storage and processing of Company Data in the United States or any other country in which AMC or its agents maintain facilities.

11. Charges and Payment of Fees

All fees for Services are nonrefundable, due and payable within 30 days following date of invoice, or as terms mutually agreed to and stated on invoice. Invoices shall be issued annually, in advance, at the beginning of each anniversary, unless specified otherwise.

11.1. Electronic Invoicing. AMC will invoice the Company electronically to the responsible person or department identified in the purchase order.

All communications about the invoices will be addressed to AMC's Accounting department, which can be contacted via email at accounting@amctechnology.com.

11.2. Non-Payment. Delinquent invoices (accounts in arrears) are subject to interest of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is less, plus all expenses of collection.

11.3. Suspension of Service. In addition to any other rights and remedies granted to AMC herein or available at law or in equity, AMC reserves the right to suspend Company's access to, and right to access, the Software, and any Services, if Company's account becomes past due.

11.4. Taxes. All fees set forth in this Agreement are exclusive of all taxes and similar fees. Company shall be responsible for and shall pay in full all sales, use, excise or similar governmental taxes imposed by any federal, state, or local governmental entity upon the fees charged Company under this Agreement, exclusive, however, of taxes based on AMC income, which taxes shall be paid by AMC. If any tax for which Company is responsible hereunder is paid by AMC, Company will promptly reimburse AMC upon Company's receipt of proof of payment. If, at any time, Company claims that its purchase of Services, or support services hereunder is exempt from any taxes, it shall be Company's responsibility to provide AMC with the appropriate tax exemption certificate(s).

12. Modifications

AMC may make commercially reasonable changes and/or updates to the Services from time to time. If AMC makes a material change to the Services, AMC will inform Company promptly. If the change has a material adverse impact on Company and Company does not agree to the change, Company must so notify AMC through its maintenance and support services contact within thirty days after receiving notice of the change.

13. Warranties; Disclaimer; Exclusive Remedy.

AMC REPRESENTS AND WARRANTS THAT IT HAS THE RIGHT TO LICENSE (OR SUB-LICENSE) AND PROVIDE TO COMPANY, THE SOFTWARE AND SERVICES AS PROVIDED HEREIN. THE SOFTWARE, AND SERVICES PROVIDED IN CONNECTION WITH THIS AGREEMENT BY AMC AND ITS SUPPLIERS ARE OTHERWISE PROVIDED "AS IS" AND WITH ALL FAULTS. AMC AND ITS SUPPLIERS DISCLAIM ALL WARRANTIES OR CONDITIONS, WHETHER EXPRESS OR IMPLIED, OR ARISING BY OPERATION OF LAW OR OTHERWISE, WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT OR FITNESS FOR A PARTICULAR PURPOSE OR ANY IMPLIED WARRANTIES ARISING OUT OF COURSE OF PERFORMANCE, COURSE OF DEALING OR USAGE OF TRADE.

COMPANY AGREES THAT IN EVENT OF A BREACH OF A WARRANTY AS PROVIDED HEREIN BY AMC, COMPANY'S SOLE AND EXCLUSIVE REMEDY SHALL BE FOR AMC TO REPAIR, REPLACE OR REFUND THE FEES ATTRIBUTABLE TO THE SOFTWARE OR SERVICES FOR THE THREE-MONTH PERIOD PRECEDING THE BREACH, AT AMC'S OPTION.

14. Indemnification.

AMC shall indemnify, defend and hold harmless the Company against any loss, cost, expense, or liability ("Losses") resulting from or arising out of a claim brought by a third party ("Third Party Claim") against Company to the extent that such Third-Party Claim alleges the infringement of such third party's U.S. patent or copyright by AMC Services. The foregoing indemnity shall not apply if the infringement arises out of: (a) specifications or designs furnished by Company and implemented by AMC at Company's request; (b) AMC Services are modified by, combined with, added to, interconnected with and/or used with any equipment, apparatus, device, data, or software not supplied or approved by AMC; (c) the modification to the AMC Service by any person or entity other than AMC or a AMC authorized technician (each of (a) through (c), an "Exclusion").

If a Third Party Claim under the above paragraph has occurred, or in AMC's opinion is likely to occur, AMC shall, at AMC's option and expense do one of the following: (a) procure for Company the right to continue using the affected AMC Service; (b) replace with non-infringing alternates or modify the relevant AMC Service so that it becomes non-infringing but its functionality after modification is substantially equivalent; or (c) discontinue the AMC Service, and refund to Company the prorated fees for any unused prepaid subscription. The collective obligations of AMC pursuant to this paragraph state the sole and exclusive liability of AMC, and Company's sole and exclusive remedy, with respect to intellectual property infringement by AMC.

Company shall indemnify, defend and hold harmless AMC from and against any Losses resulting from or arising out of a third-party claim brought against AMC ("Third Party Claim") to the extent that such Third Party Claim alleges the infringement of a third party's U.S. patent or copyright and is based upon exclusion.

Promptly after a party seeking indemnification obtains knowledge of the existence or commencement of a Third Party Claim for which it is entitled to be indemnified under this Section, the Party to be indemnified ("Indemnified Party") will notify the other party ("Indemnifying Party") of such Third Party Claim in writing, provided, however, that any failure to give such notice will not waive any rights of the Indemnified Party except to the extent that the rights of the Indemnifying Party are actually prejudiced thereby. The Indemnifying Party will assume the defense and settlement of such Third-Party Claim; provided, however, that the Indemnified Party may join in the defense and settlement of such Third-Party Claim and employ counsel at its own expense, and will reasonably cooperate with the Indemnifying Party in the defense and settlement of such Third Party Claim. The Indemnifying Party may settle any Third-Party Claim without the Indemnified Party's written consent unless such settlement: (a) does not include a release of all covered claims pending against the Indemnified Party; (b) contains an admission of liability or wrongdoing by the Indemnified Party; or (c) imposes any obligations upon the Indemnified Party other than an obligation to cease using any infringing items.

15. Limitation of Liability

EXCEPT FOR A BREACH OF CONFIDENTIALITY UNDER SECTION 16 HEREIN, OR VIOLATION BY ONE PARTY OF THE OTHER'S INTELLECTUAL PROPERTY OR OTHER OWNERSHIP RIGHTS, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY (OR THE INDEMNIFIED PARTIES OF SUCH PARTY) FOR: (a) ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES OR LOSSES, INCLUDING LOSS OF USE, LOSS OF OR DAMAGE TO RECORDS OR DATA, COST OF PROCUREMENT OR SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY, LOST REVENUE AND/OR PROFITS SUSTAINED OR INCURRED REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT OR OTHERWISE, INCLUDING NEGLIGENCE, STRICT LIABILITY, INDEMNITY OR OTHERWISE, AND WHETHER OR NOT SUCH DAMAGES WERE FORESEEN OR UNFORESEEN AND REGARDLESS OF WHETHER SUCH PARTY HAD RECEIVED NOTICE OR HAD BEEN ADVISED, OR KNEW OR SHOULD HAVE KNOWN, OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES; OR (b) DIRECT DAMAGES IN EXCESS OF THE FEES PAYABLE (IN THE CASE OF THE COMPANY'S LIABILITY) OR ACTUALLY PAID IN THE THREE MONTH PERIOD PRIOR TO THE DATE THE CAUSE OF ACTION AROSE UNDER THE PURCHASE ORDER OR STATEMENT OF WORK.

16. Confidentiality

16.1. Each party to this Agreement acknowledges that it may have access to certain confidential data not generally known about the other party's business or which the other party is required to maintain as confidential on behalf of a third party. "Confidential Information" shall mean all Company Data, documents, AMC Technology, Software and Documentation, Internet URL addresses, passwords, log-in names, and log-in functions provided to Company by AMC, reports, financial or other data, records, forms, tools, products, services, methodologies, present and future research, technical knowledge, marketing plans, trade secrets, the terms of this Agreement, and other materials disclosed by a party in the course of performing hereunder, whether tangible or intangible and whether or not stored, compiled, or memorialized physically, electronically, graphically or in writing.

Confidential Information shall include without limitation all records and information (i) that have been marked or identified as “proprietary,” “confidential,” or a “trade secret,” (ii) whose confidential nature has not been made known, or (iii) that due to their character and nature a reasonable person under like circumstances would treat as confidential.

16.2. Each party to this Agreement agrees that it will not disclose any of the other party’s Confidential Information or furnish copies of any written materials relating to such Confidential Information to any other person, firm or entity, except to the extent that disclosure may be required by law. Each party further agrees that it will only use the other party’s Confidential Information for purposes of exercising its rights and fulfilling its obligations hereunder. Finally, each party agrees to hold the other’s Confidential Information and any information derived therefrom in strict confidence and use all reasonable efforts with respect to the handling and protection of such Confidential Information (including, without limitation, all precautions it employs with respect to its own confidential information).

16.3. The term Confidential Information does not include any information that (i) was lawfully in the other party’s possession prior to its disclosure, or (ii) is or becomes generally available to the public other than as a result of disclosure in violation of this Agreement.

16.4. Company acknowledges that the AMC Technology is proprietary to and constitutes valuable Confidential Information of AMC. AMC acknowledges that Company Data is proprietary and constitutes valuable Confidential Information of Company. Neither AMC nor Company shall acquire any right or interest in such property of the other, except for the license granted in Section 2 above.

17. Term of Agreement

The Term of this Agreement will begin as of the Effective Date or the date of last signature below and will continue for a period of twelve (12) months unless terminated earlier as provided in Section 11. Thereafter, and until terminated as provided in Section 9, the Term will be automatically renewed for an additional Twelve (12) month periods.

17.1. Term of Purchased Subscriptions. The term for the Services shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is longer), unless either party gives the other written notice (email acceptable) at least 60 days before the end of the relevant subscription term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Company’s applicable list price in effect at the time of the applicable renewal.

Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term’s per-unit pricing.

18. Assignment

Company may not assign this Agreement or any rights or obligations arising under this Agreement without the prior written consent of AMC, which shall not be unreasonably withheld. If Company assigns this Agreement with the required consent, then Company or its successor will pay AMC in advance for any technical work that is required to be performed by AMC related to the Assignment. Any assignment by Company in violation of this Section 15 will be void and without effect.

19. Export Compliance.

The Software, Services, proprietary information and technology owned by AMC and derivatives thereof, and Intellectual Property Rights owned by AMC (together, “Content”) may be subject to export laws and regulations of the United States and other jurisdictions. Company shall comply with such laws and regulations and notwithstanding any reference to geographical scope or territory in this Agreement agrees not to export, re-export or transfer the Software and Services, without first obtaining all required U.S. government authorizations or licenses. AMC and Company each agrees to provide the other such information and assistance as may reasonably be required by the other in connection with securing such authorizations or licenses, and to take timely action to obtain all required support documents. AMC and Company each represents that it is not named on any U.S. government denied-party list. Company will not permit any User to access or use any content in a U.S.- embargoed country or region or in violation of any U.S. export law or regulation.

20. Anti-Corruption.

Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

21. Data Protection

21.1. Company’s instructions exceeding the scope of services offered by AMC will be at Company’s expense and subject to technical and organizational feasibility by AMC. AMC and Company will implement all technical and organizational measures necessary to meet the requirements of applicable data protection laws to protect personal data against misuse.

21.2. To the extent that personal data of Company are being processed, AMC shall obligate its personnel entrusted with the processing of Company’s data to data protection and data secrecy in accordance with applicable law.

21.3. AMC is authorized to engage subcontractors for the processing of personal data to the extent necessary for fulfilling its contractual obligations under this Agreement. AMC shall obligate its subcontractors to comply with all relevant data protection rules. In case that such subcontractor is located outside the EU, AMC shall provide for a level of data protection deemed adequate under EU data protection regulations.

21.4. The Services consist in part of a server software component implementing the Services, which is located on servers provided or made available to AMC owned and operated by one or more third parties (“Third Party Providers”), and thus the Services—or certain aspects of the Services—may be provided subject to the terms, conditions, policies, and availability or uptime of Third Party Providers. Third Party Providers are identified in Exhibit 3, which is hereby incorporated into this Agreement, and this Agreement represents Company’s agreement to, and a representation of compliance with, such Third-Party Providers’ terms, conditions, and policies. In addition, the off-site hosting of Company Data and/or website is in a “cloud” environment, which can include, but is not limited to, virtual server space apportioned and managed by AMC in a data center operated by one or more Third Party Provider. Company also agrees, and hereby authorizes such Third Party Providers to host and/or store Company Data and/or website, and acknowledges that Company Data may be transmitted or communicated over the internet or cloud to such Third Party Providers.

21.5. Except for any access rights expressly granted herein, Company reserves all right, title, and interest in and to the Software, Services, and Documentation, and all Intellectual Property Rights therein. As between the parties, AMC or any Third Party Provider, owns or shall own all right, title, interest, copyright, and patent rights in and to the original and all modified versions of the Software, Services, and Documentation including, without limitation, all modifications thereto. AMC reserves the right to provide access to the Services to any third party.

21.6. Except with respect to a free trial, the terms of the data processing addendum Exhibit 2 (“DPA”) are hereby incorporated by reference and shall apply to the extent Company Data includes Personal Data, as defined in the DPA. To the extent Personal Data from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by AMC, its Processor Binding Corporate Rules, the EU-US and/or Swiss-US Privacy Shield, and/or the Standard Contractual Clauses shall apply, as further set forth and defined in the DPA.

21.7. Company ensures that no legal requirements on Company’s side prevent AMC from fulfilling its contractual obligations under this Agreement in compliance with applicable law. This includes, but is not limited to, ensuring that all concerned individuals have previously declared consent to a possible processing of personal data.

21.8. Governing Law. This Agreement shall be governed by and construed according to the laws of the State of New York. Each party consents to personal jurisdiction and venue in the federal or state courts of New York, New York.

22. This Agreement constitutes the complete and exclusive statement of the agreement between AMC and Company.

This Agreement may be modified only in writing signed by both parties. This Agreement prevails over any additional, conflicting, or inconsistent terms and conditions appearing on any purchase order submitted by Company.

23. Force Majeure

In the event either party is unable to carry out its material obligations under this Agreement by reason of “force majeure” (defined below) those obligations will be suspended during the continuance of the force majeure, provided the cause of the force majeure is remedied as quickly as practicable. The term “force majeure” means any event caused by occurrences beyond a party’s reasonable control, including, but not limited to, acts of God, fire or flood, war, terrorism, cyber terrorism, cyber mischief, declared pandemics, a national health crisis, governmental regulations, policies or actions enacted or taken subsequent to execution of the Agreement, or any labor, telecommunications or other utility shortage, outage or curtailment (except that the settlement of any strike, lockout or other labor disturbance will be wholly within the control of the party whose obligations are suspended and, therefore, not a force majeure event). This Section does not excuse either party’s obligation to take reasonable steps to follow its normal disaster recovery procedures or Company’s obligation to pay for the Services.

24. Marketing and Press

Following the execution of the Agreement by both Parties, and subject to receiving Company's prior written consent as to the content and any Company quotes contained therein, AMC shall have the right to issue a press release regarding its relationship with Company under this Agreement (the "Initial Press Release"). Company shall not unreasonably withhold, delay, or condition its approval of the Initial Press Release. Additionally, during the Term of the Agreement, provided that AMC has obtained Company's prior written consent in each instance, AMC shall have the right to use Company's graphics, trademarks, logos, imagery, and name (the "Company Materials"), in accordance with Company's trademark and use guidelines, in AMC's general promotional, advertising, and marketing materials, including the posting of any such materials on AMC's website (the "AMC Marketing Materials"). Company shall not unreasonably withhold, delay, or condition its consent to AMC's use of any Company Materials in any AMC Marketing Materials. Upon AMC's reasonable request, during the Term of this Agreement, Company agrees to serve as a reference for AMC.

25. Entire Agreement

This Agreement and the attached exhibits contain the entire understanding and agreement of the parties and supersede any and all oral or written agreements or understandings between the parties, as to the subject matter hereof. This Agreement may not be modified unless agreed to by both parties in writing and any changes to this Agreement must be signed by both parties in writing.

26. General

The parties to this Agreement are independent entities, and no agency, partnership, franchise, joint venture or employee-employer relationship is intended or created by this Agreement. The waiver of a breach hereunder does not waive any other or subsequent breach. If any provision is held to be invalid or unenforceable, the remaining provisions will continue in full force without being impaired or invalidated in any way. Any notices hereunder will be in writing and delivered to the address specified below or such other address as specified in writing.

27. How To Contact AMC

If you have any questions regarding this Agreement, you may contact us by email at legal@amctechnology.com or by mail at AMC Technology, LLC, ATTN: Legal, 1707 Summit Avenue, Suite 201, Richmond, Virginia 23230.

EXHIBIT 1
SOFTWARE
AMC DaVinci

EXHIBIT 2
DATA PROTECTION AGREEMENT FOR AMC SERVICES
("DPA")