Terms of Service

By subscribing to services offered by 6Sense Insights, Inc. ("6sense") through the AWS Marketplace, you agree to purchase 6sense services pursuant to the Terms of Service below and pursuant to any ordering terms and/or documents as presented through the AWS Marketplace or directly by 6sense for such purpose that references these Terms of Service (the "Order Form"). These Terms of Service, along with the Order Form and any additional contract documentation included by 6sense for your acceptance and/or signature either directly or within the AWS Marketplace purchase process ("6sense AWS Marketplace Contract Document(s)"), govern your purchase and use of 6sense Services. These Terms of Service and the AWS Marketplace Contract Documents are together, the "Agreement."

BY ACCEPTING THE AGREEMENT, EITHER BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY EXECUTING AN ORDER FORM THAT REFERENCES THE AGREEMENT, YOU (hereafter, "You" "Your" or "Customer") AGREE TO THE TERMS OF THIS AGREEMENT.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY TO THIS AGREEMENT, IN WHICH CASE THE TERMS "YOU" OR "YOUR" OR "CUSTOMER" SHALL REFER TO SUCH ENTITY. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THIS AGREEMENT, YOU MUST NOT SUBSCRIBE TO THE SERVICES AND MAY NOT USE THE SERVICES.

This Agreement is effective between You and 6sense as of the earlier of the date both You and 6sense executed the Order Form referencing these Terms of Service or the date You clicked your acceptance ("**Effective Date**") and may be amended only as set forth herein.

Section 1. Definitions.

In addition to terms defined elsewhere in this Agreement, the Order Form and as otherwise referenced herein, whenever used in this Agreement the following capitalized terms shall have the following specified meanings:

"**Affiliate**" means any entity which 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 fifty percent (50%) of the voting interests of the subject entity.

"**Contact Data**" means business contact information generated by 6sense and made available to Customer through the Services.

"**Customer Data**" means any of Customer's information or data (including Customer's ad content, if applicable) that Customer uploads into the Hosted Services or otherwise makes available to 6sense with respect to the Services, as may be further described in an Order Form.

"**Documentation**" means 6sense's user manuals or other documentation regarding the Services, accessible via Customer's account within the Services or from the 6sense support team, as may be updated by 6sense from time to time.

"**Fees**" has the meaning set forth in Section 3 below.

"**Hosted Services**" has the meaning set forth in the Order Form.

"**Intellectual Property Rights**" means any and all patents, copyrights, moral rights, trademarks, trade secrets and any other form of intellectual property or proprietary rights recognized in any jurisdiction, including applications and registrations for any of the foregoing.

"**Order Form**" means each ordering document for Customer's purchase of subscription(s) to the Services, including addenda thereto, each of which are signed or electronically delivered by Customer and accepted by 6sense from time to time. Each Order Form shall be subject to these Terms of Service and shall be deemed incorporated herein by reference.

"**Results**" means customized results created through the use of the Hosted Services as identified on the Order Form, including predictions and attributes, and which could be at the company, contact or anonymized level.

"**Scoring Model**" means 6sense's proprietary scoring algorithms, software and methodologies used to deliver the Services.

"**Services**" means the Hosted Services and such other services that are described on and ordered by Customer under an Order Form.

"**Subscription**" means a subscription to the Services that Customer or an Affiliate purchases under an Order Form.

"**Service Term**" means the subscription period for the Subscription as specified in an Order Form, subject to any renewal as set forth therein.

"**Users**" means Customer's authorized users of the Services.

2. Licenses and Restrictions.

2.1 <u>Licenses</u>. Subject to all terms and conditions of this Agreement, 6sense hereby grants Customer during the Service Term, and subject to Customer's payment of all applicable Fees (defined in Section 3.1), a nonexclusive, nontransferable, nonsublicensable, revocable and limited license to: (a) use the Services as described on the applicable Order Form for Customer's

internal business purposes; and (b) reproduce and use internally the Documentation to support training and use of the Services.

2.2 <u>Users</u>. Users must be Customer's employees or contractors under Customer's direction and control who use and access the Services only for Customer's benefit and subject to all terms and conditions of this Agreement (including but not limited to the restrictions set forth in Section 2.3 below). Customer shall be responsible for all actions of all Users under this Agreement.

2.3 <u>Restrictions.</u> Customer acknowledges that the Services constitute valuable property and trade secrets of 6sense and Customer agrees not to do nor allow any of the following, and that no User shall do nor allow any of the following, without the express written authorization of 6sense: (a) make the Services available to any third party other than Customer and Customer's designated Users; (b) sell, resell, rent, lease, modify, translate or create derivative works of any part of the Services; (c) decompile, reverse engineer or reverse assemble any portion of the Services, or attempt to discover any source code or underlying ideas or algorithms of the 6sense software underlying the Services; (d) access the Services in order to build a competitive product or service or for benchmarking to a competitive service, or copy any features, functions or graphics of the Services; (e) use the Services to store or transmit material in violation of third party privacy rights or applicable privacy laws; (f) transmit unsolicited commercial or non-commercial email via the Services; (g) use the Services to store or transmit malicious code; (h) interfere with or disrupt the integrity or performance of the Services or third party data contained therein; (i) attempt to gain unauthorized access to the Services or related systems or networks; (j) remove or alter any trademark, logo, copyright or other proprietary notices associated with the Services; (k) upload onto the Services any data or software in violation of any Intellectual Property Rights of any third party; or (l) access the Services for any unlawful purpose or otherwise in violation of any applicable law. 6sense has the right, but not the obligation, to monitor Customer's use of the Services to determine compliance with the terms of this Agreement. 6sense reserves the right, without limiting any other right or remedy, upon written notice to Customer, (or without notice if 6sense reasonably determines that the actions are causing or will cause imminent harm to 6sense or its customers) to suspend Customer's access (and therefore, all Users access) to and use of the Services if 6sense determines that Customer is engaging (or has engaged) in any of the prohibited activities set forth in this Section 2.3.

2.4 <u>Contact Data Use Restrictions</u>. Without limiting section 2.3 above, Customer agrees to the following additional restrictions with respect to any Contact Data provided by 6sense in connection with the Services:

1. Customer may use the Contact Data solely for lawful purposes and shall comply with all relevant laws and regulations that govern use, including, by way of example, laws governing privacy, mass email, spam, export control, consumer protection, unfair competition and false advertising;
2. Customer must use the Contact Data solely for its internal business purposes to support Customer's business-to-business marketing and sales efforts and may not sell the Contact Data to third parties;
3. Customer may not use the Contact Data in connection with determining any individual credit worthiness or for any financial, employment or insurance decisions, or to create or

contribute to a "Consumer Report" as set forth in the U.S. Fair Credit Reporting Act or with respect to eligibility for any government-granted license or benefit or authorize or permit any third parties to do any of the foregoing.

4. Customer must review on a monthly basis a 6sense-provided list of persons who have requested that their personal data be removed from 6sense's databases (the "Opt-Out List") and remove from the Contact Data in Customer's possession any data of the data subjects listed as requesting removal.

3. Fees and Payment.

3.1 <u>Fees</u>. Customer will be charged the fees as specified in the applicable Order Form(s) ("Fees"). Except as otherwise specified herein or in an Order Form, Fees are quoted and payable in United States dollars and payment obligations are non-cancelable and Fees paid are non-refundable. Customer shall pay all Fees due in accordance with the terms set forth on the applicable Order Form(s) and in this Section 3.

3.2 <u>Fee Increases</u>. 6sense reserves the right to increase Fees for its Services, provided that 6sense will not increase Fees during the initial Service Term stated in an Order Form (unless otherwise provided therein). Any price increases will be mutually agreed in a follow-on Order Form or Addendum.

3.3 <u>Payments.</u> Customer will pay Fees via check, electronic transfer, or by other means specified by 6sense in an applicable Order Form. 6sense will invoice Customer in advance of the provision of applicable Services or otherwise in accordance with the relevant Order Form. Customer will pay invoices in accordance with the payment terms set forth in the applicable Order Form, or if no timing is specified on the applicable Order Form, then within thirty (30) days of the invoice date. If 6sense has not received payment of Fees by the applicable due date on an invoice, then, in addition to any other rights or remedies available, 6sense may: (a) assess a late fee of one and one-half percent (1.5%) per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid; and/or (b) suspend Customer's access to the Services until payment is made; and/or (c) condition future Services and Order Forms on payment terms shorter than those specified herein.

3.4 <u>Taxes</u>. Unless otherwise stated, the Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including but not limited to value-added, sales, use or withholding taxes, assessable by any local, state, provincial, federal or foreign jurisdiction (collectively, "Taxes"). Customer is responsible for paying all Taxes (except those based on 6sense's income) associated with the Services purchased hereunder.

4. Intellectual Property Rights.

4.1 <u>6sense Ownership</u>. As between the parties, 6sense owns all right, title and interest in and to the Services, including but not limited to all Scoring Models, 6sense software and systems generated in connection with or accessed through the Services, all documentation or other resources that may be assigned to Customer, and all modifications, improvements and derivatives of any of the foregoing (collectively, the "6sense Technology"), and including

without limitation any invention or discovery related to the Services that may be made as a consequence of Customer's using the Services (but excluding in any case any Customer's Data or Confidential Information of Customer), and any and all Intellectual Property Rights embodied in all of the foregoing and, without limiting the foregoing, Customer hereby assigns and agrees to assign all of Customer's rights therein to 6sense. Without limiting the foregoing, Customer acknowledges that the trademarks, logos and service marks ("Marks") displayed within the Services are the property of their respective owners.

4.2 Customer Data and Results. As between Customer and 6sense, Customer owns all Customer Results and Customer Data. Notwithstanding the foregoing, Customer shall not, nor allow any third party to, sell or offer for sell, sublicense, distribute, transfer or publicly perform or display any Results provided under this Agreement as all Results are for Customer's internal use and benefit only. Customer grants to 6sense and its subcontractors and vendors as applicable during the Service Term the limited right to use the Customer Data for the purpose of performing the Services and as authorized in this Agreement. 6sense will only disclose Customer Data to its subcontractors on a need to know basis to provide the Results and perform the Services and such disclosure shall be subject to confidentiality and applicable privacy terms that provide no less protection to Customer Data than as provided herein. Customer is responsible for and shall obtain all licenses, rights and permissions necessary for the provision to, and use by 6sense and its subcontractors of Customer Data under this Agreement.

4.3 Reservation of Rights. Each party reserves all rights not expressly granted in this Agreement, and no licenses are granted by either party to the other party under this Agreement, whether by implication, estoppel or otherwise, except as expressly set forth in this Agreement.

4.4 Feedback. In consideration of Customer's access to the Services, (i) Customer may notify 6sense of any problems, bugs, usability or performance or other issues Customer discovers with respect to the Services; and (ii) Customer may share with the 6sense suggestions, improvements, ideas for enhancements or other feedback regarding the Services (together, (i) and (ii) are "Feedback"). All such Feedback shall be owned exclusively by 6sense and Customer hereby assigns and agrees to assign to 6sense all right, title and interest in and to such Feedback and all Intellectual Property Rights therein.

4.5 6sense Data Usage. 6sense may collect data and other information in connection with the provision, use, and performance of the 6sense Services, and use and analyze such data, including Customer Data and the Results, on a de-identified/aggregated basis to maintain, improve, and enhance 6sense's products and services.

5. Confidential Information.

For purposes of this Agreement, "Confidential Information" means all confidential and proprietary information of a party ("Disclosing Party") disclosed to the other party ("Receiving Party"), whether orally, in non-tangible form or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure, including the terms and conditions of this Agreement (including pricing and other terms reflected in all Order Forms), and the 6sense Technology (including the

Scoring Models), all of which shall be 6sense Confidential Information, and Customer Data, which shall be Customer's Confidential Information. Confidential Information shall not include information that (i) is or becomes generally known to the public through no fault of or breach of this Agreement by the Receiving Party; (ii) is rightfully known by the Receiving Party at the time of disclosure without an obligation of confidentiality; (iii) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (iv) is rightfully obtained by the Receiving Party from a third party without restriction on use or disclosure. The Receiving Party agrees to protect the confidentiality of the Confidential Information of the Disclosing Party in its possession and control in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind, but in no event shall the Receiving Party exercise less than reasonable care in protecting such Confidential Information. The Receiving Party shall not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party's prior written permission. The Receiving Party may disclose the Disclosing Party's Confidential Information if compelled by law or court order to do so, provided that the Receiving Party provides the Disclosing Party, to the extent permitted under applicable law, reasonable written notice prior to any such disclosure, and assists in seeking an order protecting the information from disclosure, or limiting the scope of disclosure.

6. Security & Privacy.

6.1 Security. 6sense shall: (i) maintain appropriate administrative, physical, and technical safeguards to protect the security and integrity of the Service and the confidentiality of the Customer Data; and (ii) access and use the Customer Data solely to perform its obligations in accordance with the terms of this Agreement and as otherwise expressly permitted in this Agreement ("Security Program"). Such Security Program will conform with the 6sense security protocols which are further described in 6sense's most recently completed Service Organization Control 2 (SOC 2) audit reports or other similar independent third party annual audit report ("Audit Report"). Upon Customer's request, 6sense shall provide Customer with a copy of 6sense's then-current Audit Report. In no event during the Term shall 6sense materially diminish the protections provided by the controls set forth in 6sense then-current Audit Report. In addition to the security obligations above, the following shall apply:

6.2 Data Processing Addendum. To the extent that in connection with the performance of the Services 6sense processes on Customer's behalf any Personal Data subject to the European Data Protection Laws and Regulations (as defined in the DPA) contained in the Customer Data, the terms of the data processing addendum ("DPA") available at 6sense.com/DPA (password: 6sense) (or such other DPA executed by both parties that references this Agreement), shall apply and the parties agree to comply with such terms. The DPA may be updated by 6sense if required by applicable law. For the purposes of the Standard Contractual Clauses attached to the DPA, when and as applicable, Customer and its applicable Affiliates are each the data exporter, and Customer's signing of this Agreement, and an applicable Affiliate's signing of an Order Form, shall be treated as the signing of the Standard Contractual Clauses and their Appendices. If Customer accesses Contact Data via the Services that includes contacts that are subject to European Data Protection Law (as defined in the DPA), the controller-to-controller terms of the

Amendment to the Data Processing Addendum at: 6sense.com/dpa-addendum (pw: 6sense) shall apply, and Customer agrees to comply with such terms.

6.3 CCPA. To the extent that in connection with the performance of the Services 6sense processes data on Customer's behalf that is subject to the California Consumer Privacy Act of 2018 ("CCPA"), as amended by the California Privacy Rights Act of 2020 ("CPRA"), 6sense shall process Customer Data that is personal information subject to the CCPA ("Personal Information") only on Customer's instructions and as set forth in this Agreement in accordance with the applicable terms of the CCPA. 6sense will maintain reasonable security procedures and practices appropriate to the nature of the Personal Information disclosed by Customer to 6sense, to protect such Personal Information from unauthorized access, destruction, or use, in accordance with applicable requirements of the CCPA. **Unless otherwise directed, authorized, approved by, or instructed by Customer,** 6sense shall: (i) act as a "service provider" (as defined in the CCPA) with respect to such Personal Information, in accordance with the applicable terms of the CCPA, (ii) not retain, use, or disclose the Personal Information other than for the business purposes specified this Agreement, including retaining, using, or disclosing the Personal Information for a commercial purpose other than the business purposes specified in this Agreement or as otherwise permitted by the CCPA; (iii) not combine the Personal Information it receives from or on behalf of the Customer with personal information under the CCPA that it receives from another Customer, or collects from its own interaction with consumers, unless otherwise provided for in the applicable terms of the CCPA; and (iv) not, nor permit any subprocessor of 6sense to disclose or transfer the Customer Personal Information to any third party in a manner that qualifies as "selling" or "sharing" Personal Information under the CCPA. Customer has the right to take reasonable and appropriate steps as outlined in the "Audits" section of the DPA to verify that 6sense's use of Personal Information in connecting with the Services is consistent with Customer's obligations under the CCPA. If 6sense or Customer cannot provide compliance with the CCPA for any reason, or any variation is required to this Agreement as a result of a change in the CCPA or other applicable California data protection laws, then either Party may provide written notice to the other party of that non-compliance or that change in law. The Parties will discuss and negotiate in good faith any necessary variations to this Agreement or processes with a view to agreeing and implementing those or alternative variations designed to address the requirements identified in the notice as soon as reasonably practicable, provided that a party may suspend or terminate the applicable Order Form(s) with respect to those aspects of the Service affected by the requirements identified in the notice if compliance is not achievable despite the good faith efforts of the Parties.

Sales and/or Shares: Certain advertising features, as identified in 6sense Documentation and/or in-platform may constitute the sale or share of Customer Personal Information. Customer's election to use such identified Services authorizes and recognizes 6sense is a third party in connection with the provision of such Services for Customer's benefit. 6sense will maintain the level of privacy protection as is required by the CCPA. Customer acknowledges that it shall have the sole responsibility for (i) the accuracy, quality, and legality of Personal Information that it submits to 6sense for purposes of using the features, (ii) the means by which Customer acquired such Personal Information and (iii) with respect to its use of the features, shall be responsible for complying with any requirements that might apply to a business when selling or sharing Personal Information with a third party under the CCPA.

7. Warranties.

7.1 <u>6sense Warranties</u>. 6sense warrants that (i) it has full power and authority to enter into this Agreement and to carry out the transactions contemplated herein; (ii) this Agreement has been duly and validly executed and delivered by 6sense and, once duly executed and delivered by Customer, constitutes the legal, valid and binding obligation of 6sense; (iii) it will not knowingly introduce software viruses, Trojan horses, worms, or other similar malicious programs or code into the Services; <u>(iv) it will perform the Services in a professional manner in material conformance with the requirements of the Agreement;</u> and (v) 6sense, in its delivery of the Services to Customer, will comply with all applicable laws; provided, however, that 6sense shall not be deemed in breach of this warranty in this Section 7.1(v) if 6sense's non-compliance with this warranty would not have occurred but for Customer's non-compliance with its warranties in Section 7.3 below.

7.2. <u>WARRANTY DISCLAIMER</u>. EXCEPT AS PROVIDED IN SECTION 7.1 ABOVE, THE SERVICES ARE PROVIDED "AS IS" AND 6SENSE MAKES NO WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND 6SENSE SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR WARRANTIES THAT MAY ARISE BY OPERATION OF LAW. WITHOUT LIMITING THE FOREGOING, 6SENSE DOES NOT MAKE ANY WARRANTIES THAT ITS SOFTWARE OR SERVICES ARE FREE FROM ANY BUGS, ERRORS OR OMISSIONS NOR THAT IT WILL BE ABLE TO ACHIEVE ANY SPECIFIC PREDICTIVE RESULTS OR SUCCESS WITH RESPECT TO THE RESULTS. THE FOREGOING DISCLAIMERS WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

7.3. <u>Customer's Warranties</u>. Customer warrants that: (a) Customer has the legal power to enter into this Agreement, and doing so will not conflict with any agreements or obligations its owes to any third party; (b) Customer has the right and authority to and has obtained all necessary consents required to use and provide Customer Data for the purposes described herein and any other of Customer's content or data used in connection with the Services; (c) use of Customer Data in connection with the Services shall not infringe the Intellectual Property Rights or privacy rights of any third party; and (d) Customer will comply with all applicable laws in connection with Customer's actions under this Agreement.

8. Indemnity.

8.1 <u>Indemnity</u>. 6sense will defend, indemnify and hold Customer harmless from and against any and all actual or threatened claims, suits, actions or proceedings brought by a third party against Customer arising from its use of the Services ("Claim") to the extent caused by infringement by the Hosted Services of any U.S. patent or copyright, or misappropriation of any trade secret, of any third party. Customer will defend, indemnify and hold 6sense and its directors, officers, employees, suppliers, consultants, contractors and agents harmless from and against any and all Claims arising out of or relating to 6sense's authorized use of Customer Data in connection with

the Hosted Services, Customer's use of the Results in violation of this Agreement, or Customer's failure to comply with its obligations in Sections 2.4 and 10.4.

8.2 <u>Procedures</u>. With respect to indemnity obligations arising pursuant to this Section 8, the indemnified party (the "Indemnified Party") shall promptly notify the indemnifying party (the "Indemnifying Party") when it becomes aware of any Claim eligible for indemnification by the Indemnifying Party under this Section 8, provided that any delay in providing such notice shall not relieve the Indemnifying Party of its indemnity obligations under this Agreement unless, and only to the extent, the Indemnifying Party was prejudiced by the delay. The Indemnified Party shall reasonably cooperate with Indemnifying Party in the defense of such Claim at the Indemnifying Party's expense. The Indemnifying Party shall have the right to control the defense and all negotiations relative to the settlement of any such Claim, including without limitation selection of counsel, and provided further that no settlement imposing any affirmative or negative obligations on the part of the Indemnified Party, including any settlement that includes admission of liability or wrongdoing by the Indemnified Party, may be made without the express written consent of the Indemnified Party.

8.3 <u>Exclusions</u>. 6sense's indemnification obligations under this Section 8 do not apply to, and 6sense will not indemnify Customer from, any Claim related to: (i) 6sense's use of or reliance on Customer Data or content in performing the Services or any third party data; (ii) use or combination of the Hosted Services with software, hardware, or other materials not provided by 6sense, where such Claim would not have arisen but for such use or combination or (iii) any use of Results that are altered or modified after delivery to Customer. If Customer's use of the Hosted Services is or is likely, in 6sense's determination, to be enjoined, 6sense may, without limiting its indemnity obligations hereunder, procure the right for Customer to continue to use the Hosted Services or modify the Hosted Services in a manner that has materially equivalent functionality so as to avoid such injunction. If the foregoing options are not available on commercially reasonable terms and conditions, 6sense may cancel the Services and refund to Customer on a prorata basis all pre-paid Fees unused for the Services. This Section 8 states 6sense's entire liability and Customer's exclusive remedy for any claim of infringement.

9. LIMITATION OF LIABILITY. EXCEPT IN THE EVENT OF GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, IN NO EVENT WILL EITHER PARTY'S AND ITS SUPPLIERS BE LIABLE TO CUSTOMER, ITS AFFILIATES, USERS OR ANY OTHER THIRD PARTY FOR ANY LOSS OF PROFITS, LOSS OF USE, LOSS OF REVENUE, LOSS OF GOODWILL, LOSS OF CUSTOMER DATA OR CUSTOMER'S SOFTWARE (OR ANY DATA RELATED THERETO) OR ANY INTERRUPTION OF BUSINESS, OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE SERVICES, REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE, EVEN IF A PARTY HAS BEEN ADVISED OR IS OTHERWISE AWARE OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. EXCEPT FOR EITHER PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR CUSTOMER'S OBLIGATION TO PAY FEES DUE, IN NO EVENT WILL EITHER PARTY'S TOTAL AGGREGATE LIABILITY

ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE SUBSCRIPTION FEES PAID BY CUSTOMER TO 6SENSE DURING THE TWELVE (12) MONTHS PRECEDING THE INITIAL CLAIM. MULTIPLE CLAIMS WILL NOT EXPAND THIS LIMITATION. THE FOREGOING DISCLAIMER WILL APPLY TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW.

10. Term and Termination.

10.1 <u>Term of Agreement</u>. The term of this Agreement commences on the Effective Date and, unless earlier terminated as provided herein, continues until the expiration or termination of the last Order Form entered into under this Agreement ("Term").

10.2 <u>Termination</u>. A party (the "Non-Breaching Party") may terminate this Agreement or any individual Order Form for cause if the other party ("Breaching Party") breaches this Agreement or an Order Form and such Breaching Party does not remedy the breach within thirty (30) days after its receipt of written notice of such breach.

10.3 <u>Transition of Customer Data</u>. For a period of thirty (30) days following termination or expiration of this Agreement, Customer may retrieve Customer Data from the Services. If after such thirty (30)-day period following termination or expiration of this Agreement, whether or not Customer has downloaded or retrieved Customer Data from the Service, then unless prohibited by applicable laws, 6sense will delete or erase any and all of Customer Data on 6sense's systems in connection with the Services. Except as provided in this Section 10.3, 6sense shall have no obligation to continue to store or permit Customer to retrieve any of Customer Data following termination of this Agreement.

10.4 <u>Effect of Termination</u>. Upon any expiration or termination of this Agreement: (a) Customer's right to use the Services shall cease, and 6sense shall have no further obligation to make the Services available to Customer; (b) all rights and licenses granted to Customer under this Agreement will immediately cease; (c) except as provided in Section 10.3, 6sense will have no obligation with respect to any of Customer Data; (d) except in the event Customer terminates the Agreement for cause under Section 10.2,Customer will pay any unpaid Fees payable for the remainder of the Services Term under any applicable Order Form in effect prior to the termination date; (e) in the event Customer rightfull terminates the Agreement for cause under Section 10.2, 6sense will refund to Customer on a prorata basis all pre-paid Fees unused for the Services; and (f) unless Customer has established an independent basis for retaining Contact Data in its possession in compliance with applicable privacy laws, Customer must delete all Contact Data in its possession delivered to Customer through the Services within thirty (30) days after the date of termination. Customer will, if requested by 6sense, provide 6sense with a certificate of deletion and 6sense reserves the right to audit Customer's compliance with the obligations in this subsection (f).

10.5 <u>Survival</u>. The following provisions will survive any expiration or termination of this Agreement: Sections 1 (Definitions), 2.3 (Restrictions), 3 (Fees and Payment), 4 (Intellectual Property Rights), 5 (Confidential Information), 8 (Indemnity), 9 (Limitations of Liability), 10.3

(Transition of Customer Data), 10.4 (Effect of Termination), 10.5 (Survival) and 11 (Miscellaneous).

11. Miscellaneous.

11.1 <u>Export Compliance</u>. Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Services. Without limiting the foregoing: (a) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports; and (b) Customer shall not permit access to or use of the Services in violation of any U.S. export embargo, prohibition or restriction. If Customer accesses the Services from outside the United States, Customer does so at Customer's own risk and are responsible for compliance with the laws of Customer's jurisdiction.

11.2 <u>Choice of Law</u>. This Agreement shall be governed, construed and enforced in accordance with the laws of the State of Delaware, without regard to its conflict of laws provisions. The parties irrevocably consent to the exclusive jurisdiction of the state and federal courts in Delaware for the resolution of any disputes or conflicts arising out of or related to this Agreement.

11.3 <u>Notices</u>. Any notice or communication required or permitted to be given hereunder must be in writing, signed or authorized by the party giving notice, and may be: (a) delivered by hand, deposited with an overnight courier; (b) sent by email; or (c) mailed by registered or certified mail, return receipt requested, postage prepaid, to the following:

Notices to Customer: to the address set forth in the applicable Order Form or to Customer's email address on file. 6sense may also send notices to Customer through the Service. Customer may, at its option, designate an email contact for privacy and security within its instance of the platform.

Notices to 6sense: 6Sense Insights, Inc., 450 Mission Street, Suite 201, San Francisco, CA 94105, Attn: CEO; Email: legal@6sense.com.

Notices of Non-Renewal applicable to Order Forms subject to Auto-Renewal: RevenueContractManagement@6sense.com.

11.4 <u>Relationship of Parties</u>. Neither party will, for any purpose, be deemed to be an agent, franchisor, franchisee, employee, representative, owner or partner of the other party, and the relationship between the parties will solely be that of independent contractors.

11.5 <u>Assignment</u>. Neither this Agreement nor any right or duty under this Agreement may be transferred, assigned or delegated by either party without the prior written consent of the other party, except to an Affiliate or in connection with a corporate reorganization, merger, acquisition or other change in control of the assigning party (provided that Customer may not assign to a competitor of 6sense). Subject to the foregoing, this Agreement will be binding upon and will inure to the benefit of the parties and their respective representatives, heirs, administrators, successors and permitted assigns.

11.6 <u>Waiver, Severability</u>. Failure of either party to enforce a right under this Agreement shall not act as a waiver of that right or the ability to later assert that right relative to the particular claim involved, nor shall any course of conduct between 6sense and Customer or any third party be deemed to modify any provision of this Agreement. If any provision of this Agreement shall be found by a court to be void, invalid or unenforceable, the same shall be reformed to comply with applicable law or stricken if not so conformable, so as not to affect the validity or enforceability of this Agreement.

11.7 <u>Injunctive Relief</u>. The parties agree that a breach by Customer of Sections 2, 4 or 5 would result in irreparable and continuing damage to 6sense for which there will be no adequate remedy at law, and 6sense shall be entitled to injunctive relief and/or a decree for specific performance, without the necessity of proving damages or posting any bond, and such other relief as may be proper (including monetary damages if appropriate).

11.8 <u>Entire Agreement; Amendment</u>. These Terms of Service, together with each Order Form, and the 6sense AWS Marketplace Contract Document(s) are the entire agreement of the parties regarding the subject matter hereof, superseding all other agreements between them, whether oral or written. 6sense may update or revise these Terms of Service from time to time in its sole discretion without notice to you, and 6sense recommends that You review these Terms of Service on a regular basis to stay abreast of the most current version. The most current version will be posted on the Site. Your continued use of the Services after any update or revision to these Terms of Service constitutes Your acceptance of the updates or revisions. Except as expressly stated in these Terms of Service, no terms or conditions stated in a Customer purchase order or other Customer ordering document (other than with respect to duration, service and pricing that are consistent with the applicable executed Order Form) shall be incorporated into or form any part of this Agreement (notwithstanding any language to the contrary therein), and all such terms or conditions shall be null and void. Order Forms governed by these Terms of Service may be executed in one or more counterparts, each of which when so executed and delivered or transmitted by facsimile, e-mail or other electronic means, shall be deemed to be an original and all of which taken together shall constitute but one and the same instrument. A facsimile or electronic signature is deemed an original signature for all purposes under this Agreement. All headings contained in this Agreement are inserted for identification and convenience and will not be deemed part of this Agreement for purposes of interpretation. All remedies set forth in this Agreement are cumulative.