

Pelanor Subscription Agreement

Version: May 20th, 2025

THIS SUBSCRIPTION AGREEMENT, INCLUDING ANY OF ITS EXHIBITS, ANNEXES AND APPENDIXES (COLLECTIVELY, THE “**AGREEMENT**”) CONSTITUTES BINDING TERMS BY AND BETWEEN PELANOR (“**COMPANY**”) AND THE ENTITY EXECUTING THE CORRESPONDING ORDER FORM (“**CUSTOMER**”) (EACH, A “**PARTY**” AND COLLECTIVELY, THE “**PARTIES**”). BY SIGNING THE ORDER FORM, CUSTOMER ACKNOWLEDGES THESE TERMS AND REPRESENTS THAT IT HAS FULLY READ AND UNDERSTOOD, AND AGREES TO BE BOUND BY THIS AGREEMENT (THE DATE OF SUCH OCCURRENCE BEING THE “**EFFECTIVE DATE**”). CUSTOMER MAY USE THE SERVICES (AS DEFINED BELOW) SUBJECT TO THE TERMS BELOW.

IF CUSTOMER HAS PURCHASED THE LICENSE GRANTED HEREUNDER FROM A PARTNER, RESELLER OR DISTRIBUTOR AUTHORIZED BY COMPANY (“**PARTNER**”), TO THE EXTENT THERE IS ANY CONFLICT BETWEEN THIS AGREEMENT AND THE AGREEMENT ENTERED BETWEEN CUSTOMER AND THE RESPECTIVE PARTNER, INCLUDING ANY PURCHASE ORDER (“**PARTNER ORDER FORM**”), THEN, AS BETWEEN CUSTOMER AND COMPANY, THIS AGREEMENT SHALL PREVAIL. ANY RIGHTS GRANTED TO CUSTOMER IN SUCH PARTNER ORDER FORM WHICH ARE NOT CONTAINED IN THIS AGREEMENT, APPLY ONLY IN CONNECTION WITH SUCH PARTNER. IN THAT CASE, CUSTOMER MUST SEEK REDRESS OR REALIZATION OR ENFORCEMENT OF SUCH RIGHTS SOLELY WITH SUCH PARTNER AND NOT COMPANY.

1. **Definitions.** The following capitalized terms have the meanings set forth below:

- 1.1 “**Feature**” means any module, tool, functionality, or feature of the Service.
- 1.2 “**Order Form**” means a written or electronic order form, to which this Agreement is attached or incorporated, and which is executed by the Parties. The “Order Form” shall include the relevant usage and volume parameters, as well as the commercial terms, agreed between the Parties.
- 1.3 “**Subscription Scope**” means any Service usage and/or limitations set forth in the Order Form or Partner Order Form (if purchased via Partner).
- 1.4 “**Subscription Term**” means the Service subscription period specified in the Order Form or Partner Order Form.
- 1.5 “**Users**” means an employee of Customer authorized to access and use the Service.

2. **Subscription.**

- 2.1 Access Right. Subject to the terms and conditions of this Agreement, Company hereby grants Customer a limited, worldwide, non-exclusive, non-sublicensable, non-transferable and revocable right to remotely access (i.e. on a SaaS basis) the Company's software-as-a-service (the “**Service**”) during the Subscription Term (as defined below), solely for Customer's internal purposes (collectively, the “**Subscription**”). Unless otherwise indicated, the term “**Subscription**” also includes any appliance and any manual or documentation provided or made available to Customer in connection with the operation of the Service (“**Documentation**”). Customer may use the Service subject to the use limitations specified in this Agreement and the respective Order Form or Partner Order Form (if purchased via Partner) and applicable laws and regulations.

Customer shall be solely responsible for providing all equipment, systems, assets, access, and ancillary goods and services needed to access and use the Service, for ensuring their compatibility with the Service.

- 1.1 Additional Purchases. Purchases of access to additional Features and/or purchases of additional volume under the Subscription Scope (collectively,

“**Additional Purchases**”), shall be made by mutually signed written addendum to the Order Form or by executing a new order form, in each case according to the pricing agreed between the Parties (or the pricing pre-agreed in the Order Form, if any). If Additional Purchases take effect during a Subscription Term, the Subscription Fees and the term therefor will be prorated to be coterminous with said Subscription Term.

- 1.2 Account Setup. In order to access the Service, Customer is required to set up an administrative account with Company, by submitting the information requested in the applicable Service interface (“**Account**”), and each User may need to set up a user account (each, a “**User Account**”, and references herein to the “Account” shall be deemed to include all such User Accounts if applicable). Customer warrants that all information submitted during the registration process is, and will thereafter remain, complete and accurate. Customer shall be responsible and liable for all activities that occur under or in the Account. Customer will require that all Users keep user ID and password information strictly confidential and not share such information with any unauthorized person. Customer will be fully responsible and liable for any breach of this Agreement by a User. Any unauthorized access or use of the Service must be immediately reported to the Company.
- 1.3 Hosting. The Service is hosted by a third party hosting services provider selected by Company (currently Amazon Web Services) (“**Hosting Provider**”), and accordingly the availability of the Service shall be in accordance with the Hosting Provider's then-current uptime commitments.

2. **Support Services and Professional Services.**

- 2.1 Company shall provide support and maintenance services in accordance with Company's then current Service Level Agreement (“**SLA**”). The support and maintenance services may be performed by Company, a Partner and/or Company's certified third party providers. Company shall be responsible for such service providers' performance of the support and maintenance services. The term Subscription shall include the services provided under the SLA and any

Professional Services (as defined below). Customer acknowledges and agrees that Company may from time to time, during the Subscription Term, develop bug fixes, patches ("**Updates**") which may remotely and automatically update and maintain the Service components (including if installed on Customer's premises). For clarity, such Updates do not include any generally-available release of the Service that typically includes new features, functionality and/or enhancements which is subject to the payment of separate fees.

- 2.2 If Customer has purchased the Subscription directly from Company this Section 3.2 shall apply. In the event Customer wishes to receive any additional services from Company which are not included in the SLA, such as installation, deployment, configuration, customization, integration, training, or other professional services ("**Professional Services**") Customer shall request same from Company in writing, and, subject to Company's agreement in its sole discretion, such Professional Services shall be set out in sequential Statements of Work to this Agreement, as shall be negotiated and executed by both Parties (each, a "**SOW**"). Professional Services shall be charged in accordance with the fees and payment terms specified within the applicable SOW. Each SOW is hereby deemed incorporated into this Agreement by reference. To the extent of any conflict between the main body of this Agreement and a respective SOW, the former shall prevail, unless and to the extent that the SOW expressly states otherwise.

3. **Subscription Fees.**

- 3.1 **Subscription Fees.** If Customer has purchased the Subscription directly from Company, this Section 4.1 shall apply.

Customer shall pay Company the Subscription fees specified in the Order Form (the "**Subscription Fees**").

- 3.2 **Other Fees.** Customer shall pay Company whatever other fees or charges are specified in the Order Form ("**Other Fees**", and together with the Subscription Fees, the "**Fees**").

- 3.3 **General.** Unless expressly stated otherwise in the Order Form: (a) all Fees are stated, and are to be paid, in U.S. Dollars; (b) all payments under this Agreement are non-refundable, and are without any right of set-off or cancellation; (c) all Fees are payable, and shall be invoiced, in advance, and shall be paid within thirty (30) days of receipt of invoice; and (d) any amount not paid when due will accrue interest on a daily basis until paid in full, at the lesser of the rate of one and a half percent (1.5%) per month and the highest amount permitted by applicable law.

- 3.4 **Suspension.** Company reserves the right to temporarily suspend provision of Service: (a) if Customer is seven (7) days or more overdue on a payment; (c) if Company deems such suspension necessary as a result of Customer's breach under Section 5 (Subscription Restrictions); (c) if Company reasonably determines suspension is necessary to avoid material harm to Company or its other customers, including if the Service's cloud infrastructure is experiencing denial of service attacks or other attacks or disruptions outside of Company's control, or (d) as required by law or at the request of governmental entities.

- 3.5 **Taxes.** Amounts payable under this Agreement are

exclusive of all applicable sales, use, consumption, VAT, GST, and other taxes, duties or governmental charges, except for taxes based upon Company's net income. In the event that Customer is required by any law applicable to it to withhold or deduct taxes for any payment under this Agreement, then the amounts due to Company shall be increased by the amount necessary so that Company receives and retains, free from liability for any deduction or withholding, an amount equal to the amount it would have received had Customer not made any such withholding or deduction. If a purchase order (or purchase order number) is required by Customer in order for an invoice to be paid, then Customer shall promptly provide such purchase order (or number) to Company. Any terms or conditions (whether printed, hyperlinked, or otherwise) in a purchase order or related correspondence, which purport to modify or supplement this Agreement (or the corresponding Order Form), shall be void and of no effect.

- 3.6 If Customer purchased the Subscription via a Partner, the Subscription is subject to the full payment of the applicable fees as set forth in the Partner Order Form between Customer and the respective Partner. All payments shall be made directly to Partner, as agreed between Customer and Partner. If Customer is entitled to a refund under the terms and conditions of this Agreement, then, unless Company specifies otherwise, Company will refund any applicable fees to the Partner, and the Partner alone will be responsible for refunding the appropriate amounts to Customer.

4. **Subscription Restrictions.** As a condition to the Subscription, and except as expressly permitted otherwise under this Agreement, Customer shall not do (or permit or encourage to be done) any of the following subscription restrictions (in whole or in part): (a) copy, "frame" or "mirror" the Service; (b) sell, assign, transfer, lease, rent, sublicense, or otherwise distribute or make available the Service to any third party (such as offering it as part of a time-sharing, outsourcing or service bureau environment); (c) publicly perform, display or communicate the Service; (d) modify, alter, adapt, arrange, or translate the Service; (e) decompile, disassemble, decrypt, reverse engineer, extract, or otherwise attempt to discover the source code or non-literal aspects (such as the underlying structure, sequence, organization, file formats, non-public APIs, ideas, or algorithms) of, the Service; (f) remove, alter, or conceal any proprietary rights notices displayed on or in the Service; (g) circumvent, disable or otherwise interfere with security-related or technical features or protocols of the Service; (h) make a derivative work of the Service, or use it to develop any service or product that is the same as (or substantially similar to) it; (i) store or transmit any robot, malware, Trojan horse, spyware, or similar malicious item intended (or that has the potential) to damage or disrupt the Service; or (j) take any action that imposes or may impose (as determined in Company's reasonable discretion) an unreasonable or disproportionately large load on the servers, network, bandwidth, or other cloud infrastructure which operate or support the Service, or otherwise systematically abuse or disrupt the integrity of such servers, network, bandwidth, or infrastructure.

5. **Personal Data.** To the extent that Customer needs a data processing agreement, Customer shall request Company to provide it with Company's Data Processing Agreement ("**DPA**") and return it signed to

Company as described therein. The DPA, once executed shall be deemed as an exhibit to this agreement and shall be deemed as an integral part of this Agreement.

6. **Mutual Warranties.** Each Party represents and warrants that it is duly organized, validly existing and in good standing under the laws of its jurisdiction of incorporation or organization; and that the execution and performance of this Agreement will not conflict with other agreements to which it is bound or violate applicable law.

7. **Intellectual Property Rights.**

7.1 **Service.** As between the Parties, Company is, and shall be, the sole and exclusive owner of all intellectual property rights in and to: (a) the Service and all related software and intellectual property; and (b) any and all improvements, derivative works, and/or modifications of/to the foregoing, regardless of inventorship or authorship. Customer shall make, and hereby irrevocably makes, all assignments necessary or reasonably requested by Company to ensure and/or provide Company the ownership rights set forth in this paragraph. Company shall be entitled, from time to time, to modify and replace the Features (but not material functionalities, unless it improves the material functionality) and user interface of the Service. Nothing herein constitutes a waiver of Company's intellectual property rights under any law.

7.2 **Feedback.** If Company receives any feedback (which may consist of questions, comments, suggestions or the like) regarding any of the Services (collectively, "**Feedback**"), all rights, including intellectual property rights in such Feedback shall belong exclusively to Company and such shall be considered Company's Confidential Information. Customer hereby irrevocably and unconditionally transfers and assigns to Company all intellectual property rights it has in such Feedback and waives any and all moral rights that Customer may have in respect thereto. It is further understood that use of Feedback, if any, may be made by Company at its sole discretion, and that Company in no way shall be obliged to make use of the Feedback.

7.3 **Analytic Information.** Any anonymous information, which is derived from the use of the Service (i.e., metadata, aggregated and/or analytics information and/or intelligence relating to the operation, support, and/or Customer's use, of the Service) which is not personally identifiable information and which does not identify Customer ("**Analytics Information**") may be used for providing the Service, for development, and/or for statistical purposes. Such Analytics Information is Company's exclusive property.

7.4 **Customer Data.** While using the Services, certain data, such as personal data or other data, will be made available and/or accessible to Company or the Service (the "**Customer Data**"). Customer hereby grants Company and its affiliates a worldwide, non-exclusive, non-assignable (except as provided herein), non-sublicensable (except to Company's subcontractors, if applicable), non-transferable right and license, to access and use the Customer Data, including without limitation for Company's provision of the Services and related services hereunder. As the exclusive owner of the Customer Data, Customer represents, warrants and

covenants that to the extent the Customer Data includes any personally identifiable information, Customer has received and/or obtained any and all required consents or permits and has acted in compliance with any and all applicable privacy laws, including, without limitation privacy laws, as to allow us to receive, transfer and use the Customer Data solely in order to perform the Service. Customer shall not and shall not allow any User to transmit, submit or upload any Customer Data that: (1) restricts or inhibits use of the Service; (2) violates or results in the violation of the legal rights of others including their intellectual property rights, moral rights, publicity, privacy, or other rights; (3) is (or Customer reasonably believes or should reasonably believe to be) stolen, illegal, counterfeit, fraudulent, pirated, unauthorized, or in furtherance of any illegal, counterfeiting, fraudulent, pirating, or unauthorized activity, or that involves (or Customer reasonably believes or should reasonably believe to involve) any stolen, illegal, counterfeit, fraudulent, pirated, or unauthorized material; (4) does not comply with all applicable laws, rules and regulations; (5) imposes an unreasonably or disproportionately large load on our infrastructure; or (6) posts, stores, transmits, or contains links to any virus, worm, trojan horse, or other harmful or disruptive component or anything that violates any law or regulation. Company may however be required to disclose the Customer Data: (a) to satisfy any applicable law, regulation, legal process, subpoena or governmental request; or (b) to collect, store, transfer, and/or process the Customer Data through Company's affiliates, subsidiaries, third party service providers and vendors as reasonably necessary to provide the Service. Company will maintain commercially reasonable administrative, technical, and physical safeguards designed to protect the security, confidentiality, and integrity of Customer Data.

8. **Third Party Components.** The Service may use or include third party open source software, files, libraries or components that may be distributed to Customer and are subject to third party open source license terms. A list of any third party open source software and related open source licenses will be provided by Company upon request. If there is a conflict between any open source license and the terms of this Agreement, then the open source license terms shall prevail but solely in connection with the related third party open source software. Company makes no warranty or indemnity hereunder with respect to any third party open source software.

9. **Confidentiality. "Confidential Information"** means any information disclosed by or on behalf of one Party ("**Discloser**") to the other Party ("**Recipient**") pursuant to this Agreement that is marked as "confidential," or in some other manner to indicate its confidential nature. Without limiting the foregoing, the Service is Company's Confidential Information. Confidential Information does not include any information which: (i) is or becomes generally known and available to the public through no act of the Recipient; (ii) was already in the Recipient's possession without a duty of confidentiality owed to the Discloser at the time of the Discloser's disclosure; (iii) is lawfully obtained by the Recipient from a third party who has the express right to make such disclosure; or (iv) is independently developed by the Recipient without

breach of an obligation owed to the Discloser. The Recipient may use the Discloser's Confidential Information solely to perform its obligations under this Agreement. Except as set forth in the immediately following sentence, the Recipient will not disclose the Discloser's Confidential Information to any third party except to its employees, consultants, affiliates, agents, and subcontractors having a need to know such information to perform its obligations under this Agreement who have signed a non-disclosure agreement with the Recipient containing terms at least as protective of the Discloser's Confidential Information as those contained herein. The Recipient may disclose the Discloser's Confidential Information to the extent that such disclosure is required by law or by the order or a court of similar judicial or administrative body, provided that it notifies the Discloser's of such required disclosure to enable Discloser's to seek a protective order or otherwise seek to prevent or restrict such disclosure. All right, title, and interest in and to Confidential Information are and will remain the sole and exclusive property of the Discloser. The Recipient will use no less than reasonable efforts to protect the Discloser's Confidential Information from unauthorized access, use, or disclosure. Notwithstanding anything to the contrary in this Agreement, Company's obligations with respect to the protection of Customer Data are solely as set forth in Section 8.4.

10. **DISCLAIMER OF WARRANTIES.** Company represents and warrants that, under normal authorized use, the Service shall substantially perform in conformance with its Documentation. As Customer's sole and exclusive remedy and Company's sole liability for breach of this warranty, Company shall use commercially reasonable efforts to repair the Service. The warranty set forth herein shall not apply if the failure of the Service results from or is otherwise attributable to: (i) repair, maintenance or modification of the Service by persons other than Company or its authorized contractors; (ii) accident, negligence, abuse or misuse of the Service; (iii) use of the Service other than in accordance with the Documentation; or (iv) the combination of the Service with equipment or software not authorized or provided by Company. OTHER THAN AS EXPLICITLY STATED IN THIS AGREEMENT, TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES AND THE RESULTS THEREOF ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. COMPANY DOES NOT WARRANT THAT: (i) THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, OR (ii) THE SERVICE WILL OPERATE ERROR-FREE. EXCEPT AS SET FORTH IN SECTION 7 AND THIS SECTION 11, THE COMPANY EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING MERCHANTABILITY, SATISFACTORY QUALITY TITLE, NON-INFRINGEMENT, NON-INTERFERENCE, FITNESS FOR A PARTICULAR PURPOSE. COMPANY WILL NOT BE LIABLE FOR DELAYS, INTERRUPTIONS, SERVICE FAILURES OR OTHER PROBLEMS INHERENT IN USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS OR FOR ISSUES RELATED TO PUBLIC NETWORKS OR CUSTOMER'S HOSTING SERVICES. COMPANY SHALL NOT BE RESPONSIBLE FOR ANY WARRANTIES AND REPRESENTATIONS MADE BY ANY PARTNER TO CUSTOMER.

CUSTOMER HEREBY ACKNOWLEDGES THAT company DOES NOT MONITOR CUSTOMER data FOR INAPPROPRIATE, ILLEGAL AND/OR ANY

OTHER MATERIALS AND THAT CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR ANY CONSEQUENCES RESULTING FROM THE CUSTOMER data. CUSTOMER SHALL BE SOLELY RESPONSIBLE IN THE EVENT THAT ITS EMPLOYEES OR ANY OTHER USERS ON THE service ARE EXPOSED TO MATERIALS WITHIN THE CUSTOMER data THAT ARE (A) OFFENSIVE (INCLUDING MATERIAL PROMOTING OR GLORIFYING HATE, VIOLENCE, BIGOTRY, OR ENTITIES DEDICATED TO OR ASSOCIATED WITH SUCH CAUSES); (B) MATERIAL THAT IS RACIALLY OR ETHNICALLY INSENSITIVE, MATERIAL THAT IS DEFAMATORY, HARASSING OR THREATENING; (C) PORNOGRAPHY OR OBSCENE MATERIAL; AND/OR (D) MATERIAL THAT IS OTHERWISE INAPPROPRIATE OR OFFENSIVE. PELANOR SHALL HAVE NO LIABILITY IN CONNECTION WITH THE FOREGOING.

11. **LIMITATION OF LIABILITY.** EXCEPT FOR DAMAGES RESULTING FROM ANY BREACH OF EITHER PARTY'S CONFIDENTIALITY OBLIGATIONS HEREIN, WILLFUL MISCONDUCT, AND/OR CUSTOMER'S MISAPPROPRIATION OR OTHERWISE VIOLATION OF COMPANY'S INTELLECTUAL PROPERTY RIGHTS (INCLUDING VIOLATION OF THE SUBSCRIPTION RESTRICTIONS BY CUSTOMER): NEITHER PARTY (INCLUDING ITS DIRECTORS, OFFICERS, EMPLOYEES AND AFFILIATE) SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR ANY LOSS OF REVENUE, REPUTATION, PROFITS, DATA, OR DATA USE, OR THE COST OF PROCURING ANY SUBSTITUTE GOODS OR SERVICES. COMPANY'S MAXIMUM LIABILITY FOR ANY DAMAGES ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT OR TORT, OR OTHERWISE, SHALL IN NO EVENT EXCEED, IN THE AGGREGATE, THE TOTAL AMOUNTS ACTUALLY PAID OR PAYABLE TO COMPANY BY CUSTOMER IN THE SIX (6) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. THIS LIMITATION OF LIABILITY IS CUMULATIVE AND NOT PER INCIDENT.

12. **Indemnification.**

12.1 Company agrees to defend, at its expense, any third party action or suit brought against Customer alleging that the Services, when used as permitted under this Agreement, infringes intellectual property rights of a third party ("**IP Infringement Claim**"); and Company will pay any damages finally awarded by court against Customer that are attributable to any such IP Infringement Claim, provided that (i) Customer promptly notifies Company in writing of such claim; and (ii) Customer grants Company the sole authority to handle the defense or settlement of any such claim and provides Company with all reasonable information and assistance in connection therewith, at Company's expense. Company will not be bound by any settlement that Customer enters into without Company's prior written consent.

12.2 If the Service becomes, or in Company's opinion is likely to become, the subject of an IP Infringement Claim, then Company may, at its sole discretion: (a) procure for Customer the right to continue using the Service; (b) replace or modify the Service to avoid the IP Infringement Claim; or (c) if options (a) and (b) cannot be accomplished

despite Company's reasonable efforts, then Company may terminate this the affected Order Form(s) upon written notice to Customer, and Customer shall be entitled to receive a pro-rated refund of any prepaid Subscription Fees under such Order Form(s) based on the remaining period of the corresponding Subscription Term(s).

12.3 Notwithstanding the foregoing, Company shall have no responsibility for IP Infringement Claims resulting from or based on: (i) Company's compliance with Customer's instructions or specification; or (ii) combination or use of the Services with equipment, devices or software not supplied by Company.

12.4 This Section 13 states Company's entire liability, and Customer's exclusive remedy, for any IP Infringement Claim.

13. **Term and Termination.**

13.1 Term. This Agreement commences on the Effective Date and, unless terminated in accordance herewith, shall continue in full force and effect for the duration of the Subscription Term.

13.2 Termination for Breach. Each Party may terminate this Agreement and the respective Order Form(s) immediately upon written notice to the other Party if the other Party commits a material breach under this Agreement and, if curable, fails to cure that breach within sixty (60) days after receipt of written notice specifying the material breach (except that for payment defaults, such cure period will be seven (7) days).

13.3 Termination for Bankruptcy. Each Party may terminate this Agreement and the respective Order Form(s) upon written notice to the other Party upon the occurrence of any of the following events in respect of such other Party: (a) a receiver is appointed for the other Party or its property, which appointment is not dismissed within sixty (60) days; (b) the other Party makes a general assignment for the benefit of its creditors; (c) the other Party commences, or has commenced against it, proceedings under any bankruptcy, insolvency or debtor's relief Law, which proceedings are not dismissed within sixty (60) days; or (d) the other Party is liquidating, dissolving or ceasing normal business operations.

13.4 Effect of Termination; Survival. Upon termination of this Agreement for any reason: (a) the Subscription shall automatically terminate, (b) Customer shall cease all access and use of the Services thereunder, and (c) Customer shall (as directed) permanently erase and/or return all Confidential Information of Company in Customer's possession or control. Following termination, all outstanding Fees and other charges that accrued as of termination, which become immediately due and payable, and if necessary Company shall issue a final invoice therefor. The provisions of this Agreement that, by their nature and content, must survive the termination of this Agreement in order to achieve the fundamental purposes of this Agreement (including limitation of liability) shall so survive. Termination shall not affect any rights and obligations accrued as of the effective date of termination.

14. **Miscellaneous.** This Agreement, including DPA (if applicable), and any exhibits attached or referred hereto, represents the entire agreement between the Parties concerning the subject matter

hereof, replaces all prior and contemporaneous oral or written understandings and statements, and may be amended only by a written agreement executed by both Parties. Any terms and conditions printed, or linked to, within any Customer's purchase order which are in addition to and/or inconsistent with the terms and conditions of this Agreement, shall be of no effect. The failure of either Party to enforce any rights granted hereunder or to take action against the other Party in the event of any breach shall not be deemed a waiver by that Party as to subsequent enforcement or actions in the event of future breaches. Any waiver granted hereunder must be in writing. If any provision of this Agreement is held by a court of competent jurisdiction to be illegal, invalid or unenforceable, the remaining provisions of this Agreement shall remain in full force and effect and such provision shall be reformed only to the extent necessary to make it enforceable. Any use of the Service by an agency, department, or other entity of the United States government shall be governed solely by the terms of this Agreement. Customer hereby agrees that (i) Company may use Customer's name and logo to identify Customer as a customer of Company or user of the Service, on Company's web site, presentations, marketing materials or otherwise; and (ii) Customer, to the extent requested by Company, shall use commercially reasonable efforts to positively address communications it receive from Company potential customers. In addition, it is hereby agreed that Customer will cooperate with Company for creating a quote / case study that will be published on the Company website. Following the termination of this Agreement Customer may request Company to remove such customer reference. Except as stated otherwise herein, this Agreement is for the sole benefit of the Parties hereto and nothing herein, express or implied, shall give, or be construed to give, any rights hereunder to any other person. Neither Party may assign its rights or obligations under this Agreement without the prior written consent of the other Party, which consent may not be unreasonably withheld or delayed. No modifications to this Agreement can be made except in writing, signed by the Customer and Company. Notwithstanding the foregoing, this Agreement may be assigned by either Party in connection with a merger, consolidation, sale of all of the equity interests of such Party, or a sale of all or substantially all of the assets of the Party to which this Agreement relates. Without derogating from and subject to the abovementioned, this Agreement will bind and benefit each Party and its respective successors and assigns. This agreement shall be governed by and construed in accordance with the laws of the State of New York without regard to principles of conflicts of law. All disputes arising out of or in connection with the present contract shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one arbitrator appointed in accordance with the said Rules. The place of arbitration shall be the state of New York, NY. The language of the arbitration shall be English. Notwithstanding the foregoing, each Party may seek equitable relief in any court of competent jurisdiction in order to protect its proprietary rights. Each Party irrevocably waives its right to trial of any issue by jury. This Agreement does not, and shall not be construed to create any relationship, partnership, joint venture, employer-employee, agency, or franchisor-franchisee relationship between the Parties. Neither Party has any authority to enter into agreements of any kind on behalf of the other Party. Company will not be liable for any delay or failure to provide the Services resulting from circumstances or

causes beyond the reasonable control of Company including, but not limited to on account of strikes, shortages, riots, insurrection, fires, flood, storms, explosions, acts of God, war, government or quasi-governmental authorities actions, riot, acts of terrorism, earthquakes, explosions, power outages, pandemic or epidemic (or similar regional health crisis), or any other cause that is beyond the reasonable control of Company. Notices to either Party shall be deemed

given (a) four (4) business days after being mailed by airmail, postage prepaid, (b) the same business day, if dispatched by facsimile or electronic mail before 13:00 hour (EST time) and sender receives acknowledgment of receipt, or (c) the next business day, if dispatched by facsimile or electronic mail after the hour 13:00 (EST time) and sender receives acknowledgment of receipt.
