



**PLATFORM SERVICES AGREEMENT
(Negotiated)**

THIS PLATFORM SERVICES AGREEMENT (“AGREEMENT”) IS A LEGALLY BINDING CONTRACT BETWEEN YOU, ON BEHALF OF THE LEGAL ENTITY YOU REPRESENT (“LICENSEE”), AND IRU, INC. (“IRU”). THIS AGREEMENT GOVERNS THE LICENSEE’S PURCHASE AND USE OF IRU’S PRODUCTS AND SERVICES (“SERVICES”), REGARDLESS OF HOW SUCH PRODUCTS ARE OBTAINED, INCLUDING DIRECT PURCHASES FROM IRU, PURCHASES VIA AUTHORIZED RESELLERS, CHANNEL PARTNERS, OR ANY OTHER APPROVED SOURCES.

BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR BY OTHERWISE ACCEPTING OR USING THE PRODUCTS, LICENSEE:

- (A) REPRESENTS AND WARRANTS THAT YOU HAVE AUTHORITY TO BIND LICENSEE TO THIS AGREEMENT ; AND
- (B) AGREE THAT THE LICENSEE IS LEGALLY BOUND BY AND WILL COMPLY WITH THIS AGREEMENT.

IF THE LICENSEE AND IRU HAVE ENTERED INTO A SEPARATE, NEGOTIATED WRITTEN AGREEMENT GOVERNING THE USE OF THE PRODUCTS, THAT AGREEMENT WILL TAKE PRECEDENCE AND CONTROL. UNLESS OTHERWISE AGREED IN WRITING BY IRU, THESE TERMS APPLY TO ALL PURCHASES, INCLUDING THOSE MADE THROUGH RESELLERS OR CHANNEL PARTNERS.

IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT INSTALL, ACCESS, OR USE THE SERVICES.

This Agreement was last updated by the parties on _____. It is effective between Licensee and Iru as of the date Licensee accepts it by executing an Order Form that references this Agreement

1. DEFINITIONS.

“**Affiliate**” 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.

“**Agreement**” means this Platform Services Agreement (“PSA”), Order Form(s) referencing this Platform Services Agreement, and information contained in a URL or policy referenced in this Platform Services Agreement and/or Documentation, as defined below.

“**Devices**” means the authorized electronic Devices that are managed by the Services.

“**Documentation**” means Iru’s user guides and other end user documentation for the applicable Services, which may be available on the online help feature of the Services, including without limitation the Product Specifications, materials available at <https://support.iru.com/>, and the “Trust and Compliance” documentation available at trust.iru.com, each as updated from time to time.

“**Free Services**” means, individually and collectively, Services that Iru makes available to Licensee free of charge. Free Services exclude services provided as a Free Trial and Services for which Licensee has paid Fees.

“**Free Trial**” means a temporary subscription to the Services for which no Fees are charged, subject to the terms and conditions of this Agreement.

“Iru” means Iru, Inc. and/or its Affiliates as identified in the relevant Order Form.

“Licensee” means, in the case of an individual accepting this Agreement on their own behalf, such individual, or, in the case of an individual accepting this Agreement on behalf of a company or other legal entity, such company or other legal entity and the Affiliates of that company or other legal entity (for so long as they remain Affiliates).

“Licensee's Data” means all electronic data submitted by Licensee or on Licensee's behalf to the Services, including but not limited to, data generated or collected in connection with Licensee's management of its secure environment, such as logs, session data, telemetry data, support data, usage data, threat intelligence or actor data, statistics, netflow data, potentially malicious files detected by the Services, and derivatives thereof.

“Malicious Code” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“Order Form” means an ordering document or online purchasing or registration portal, including, in either case, any addenda and supplements thereto, that specifies the Services to which Licensee has subscribed. By entering into an Order Form that references this Agreement, Licensee and Licensee's Affiliates agree to be bound by the terms of this Agreement as if each were an original party to this Agreement.

“Services” means the products purchased by Licensee and provided by Iru, as specified on an Order Form. “Services” excludes Free Services, Free Trials, and Third Party Services.

“Service Specifications” means the technical and functional descriptions of the Services as set forth in the applicable service documentation available at <https://www.iru.com/pricing>, which may be updated from time to time.

“Third-Party Services” means a web-based, offline, mobile, or other software application functionality that is provided by Licensee or a third party and interoperates with a Service.

“User” means individuals who are authorized by Licensee to use the Services, for whom a subscription to the Services has been procured. Users may include, for example, Licensee's and Licensee's Affiliates' employees, consultants, clients, external users, contractors, agents, and third parties with which Licensee do business.

2. IRU'S OBLIGATIONS.

2.1. Access to Services. Iru will make the Services available to Licensee pursuant to this Agreement and all Order Forms during the applicable Subscription Term (as defined below), and grants Licensee a limited, non-sublicensable, non-exclusive, non-transferable right during the Subscription Term to allow Licensee and Licensee's Users to access and use the Services in accordance with the Documentation, solely for internal business purposes and only for the quantity specified in the applicable Order Form. During a Subscription Term, the functionality of the Services will not materially decrease. In accordance with Iru's SLA (found here <https://docs.iru.com/en/iru/iru-support/service-level-agreement>, Iru will (a) provide Licensee with industry-standard support; (b) will use commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, except for: (i) planned downtime for maintenance, and (ii) any unavailability caused by circumstances beyond Iru's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Iru employees), Internet service provider failure or delay, Third-Party Services, or denial of service attack, and (c) provide the Services in accordance with laws and government regulations applicable to Iru's provision of its Services to its Licensee s generally (as opposed to Licensee's particular use of the Services), and subject to Licensee and Licensee's Users' use of the Services in accordance with this Agreement, the Documentation and the applicable Order Form.

2.2. Free Trial. If you register for a Free Trial, Kandji will provide access to the Services at no charge until the earlier of: (a) the Free Trial period's end, (b) commencement of a paid subscription, or (c) termination by Kandji. Data entered or customizations made during a Free Trial will be lost unless you purchase an equivalent subscription or export such data prior to the end of the Free Trial. Data cannot be transferred to a downgraded service. Free Trial Services are provided as-is, without warranty, and Kandji's liability is excluded to the fullest extent permitted by law. If exclusion of liability is not enforceable, Kandji's liability for Free Trial Services is limited to \$500. Licensee are fully liable for damages caused by Licensee's use of the Free Trial, as permitted by law.

2.3. Free Services. Free Services. Kandji may provide Free Services as described in the Documentation, subject to this Agreement. Free Services are provided without charge, subject to documented usage limits. Use beyond those limits requires a paid subscription. Kandji may terminate access to Free Services at any time with or without notice. Licensee is responsible for exporting Licensee Data before

termination. Where required by law, Kandji will provide a reasonable opportunity (up to 30 days) to retrieve data after termination. Free Services are provided as-is, without warranty; Kandji's liability is excluded to the fullest extent allowed by law. Where exclusion is not enforceable, Kandji's liability for Free Services is limited to \$500. Licensee remain fully liable for damages arising from Licensee's use or breach.

3. USE OF SERVICES

3.1. Subscriptions. Licensee's right to access and use the Services is purchased as subscriptions for the term stated in the applicable Order Form. Licensee agree that Licensee's purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Iru regarding future functionality or features.

3.2. Licensee's Responsibilities. Licensee are responsible for all activities conducted under Licensee's and Licensee's Users' logins to the Services. Licensee will use the Services in compliance with this Agreement, the applicable Order Form, and all Documentation.

3.3. Usage Limits. The Services may be subject to usage or license-count limits as specified in the applicable Order and Documentation. If Licensee or Licensee's Users exceed a contractual limit, Iru may work with you to either (i) execute an Order Form for additional subscriptions of the applicable Services or (b) reduce usage so that it conforms to that limit. If, notwithstanding Iru's efforts, Licensee are unable or unwilling to abide by a contractual limit, Iru may suspend or otherwise decrease the functionality of Licensee's Services to the extent necessary to bring Licensee's use in compliance with the applicable contractual limit.

3.4. Usage Restrictions. Licensee will not, or cause Licensee's Authorized Users to: (a) sell, resell, license, sublicense, distribute, rent or lease the Services; (b) store in the Services any personal health data, credit card data, personal financial data or other such sensitive data which may be, without limitation, subject to the Health Insurance Portability and Accountability Act, Gramm-Leach-Bliley Act, or the Payment Card Industry Data Security Standards; (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful material, or to store or transmit material in violation of third-party privacy rights; (d) use the Services to store or transmit Malicious Code; (e) attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Services or the data contained therein; (f) permit direct or indirect access to or use of any Services in a way that circumvents a contractual usage limit; (g) modify, copy or create derivative works based on the Services, or any portion thereof; (h) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile the Services or access it to (i) build a competitive product or service, (ii) build a product or service using similar ideas, features, functions or graphics of the Services, (iii) copy any ideas, features, functions or graphics of the Services, or (iv) determine whether the Services are within the scope of any patent.

3.5. Third-Party Services. The Services may permit integration with certain third-party offerings including apps, browsers, software and/or services ("Third-Party Services") which Licensee may access through the Services. The terms of use, terms of service, end user license agreement or other terms or conditions of any Third-Party Product, including, without limitation, registration, payment of fees and exchange of data between Licensee and the third-party provider, is solely between Licensee and the applicable third party. Licensee's use of Third-Party Services is in Licensee's sole discretion, and Iru does not warrant, guarantee or support such Third-Party Services. Iru cannot guarantee the continued availability of such integrations and may cease providing them without entitling Licensee to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third-Party Product ceases to make the Third-Party Product available for interoperation with the corresponding

Services' features in a manner acceptable to Iru. Licensee will not use the Services in a manner which violates or breaches any Third-Party Product terms. If Licensee elect to use a Third-Party Product with the Services, Licensee grant Iru permission to allow the Third-Party Product and its provider to access Licensee's Data as required for the use of that product with the Services. Iru is not responsible for any disclosure, modification, or deletion of Licensee's Data resulting from any such access by third-party providers. Iru cannot guarantee the continued availability of any Third-Party Services; for example, if the provider of any Third-Party Product ceases to make the Third-Party Product available for use through the Services on reasonable terms, Iru may cease providing such Services' features and such cessation of any or all of the Services features shall not entitle Licensee to any refund, credit, or other compensation. Iru is not responsible for any disclosure, modification or deletion of Licensee's Data resulting from access by any Third-Party Product or its provider. If Licensee receive notice that a Third-Party Product must be removed, modified and/or disabled to avoid violating applicable law or third-party rights, Licensee will promptly do so. If Licensee do not take the required action in accordance with the above, or if in Iru's judgment continued violation is likely to reoccur, Iru may disable the Services and/or Third-Party Product.

4. PROPRIETARY RIGHTS.

4.1. Reservation of Rights. Subject to the limited rights expressly granted in this Agreement, Iru, its Affiliates, and its and their licensors reserve all rights, title, and interest in and to the Services (including all updates, customizations, and/or modifications), its and their trade and service marks, and the Aggregate Data (defined below), including in each case all related intellectual property rights. No rights are granted to Licensee or Licensee's Users other than as expressly stated in this Agreement.

4.2. Licensee's Data. As between Iru and Licensee, Licensee exclusively owns all rights, title, and interest in and to Licensee's Data. Licensee grant Iru, its Affiliates and applicable contractors a limited, personal, non-transferable, non-assignable (except as expressly permitted in this Agreement), worldwide, non-exclusive license to host, copy, use, transmit, and display Licensee's Data, as reasonably necessary for Iru to ensure proper operation of the Services and associated systems in accordance with this Agreement. Notwithstanding the foregoing, Licensee agrees that Iru has the right to: (a) access and use Licensee Data (i) to provide, maintain, and update the Services; (ii) for the purpose of providing statistical insights and analysis related to usage of the Services; and (b) anonymize and aggregate Licensee Data (such anonymized and aggregated data, "Aggregate Data") to prepare reports, studies, analyses, and other work products resulting from such Aggregate Data, provided that under no circumstances will Iru distribute or otherwise make available to any third party any data that is identifiable as Licensee's Data.

4.3. Feedback. Licensee and Licensee's Users grant Iru and its Affiliates a non-exclusive, worldwide, perpetual, irrevocable, royalty-free, transferable and assignable license to use or incorporate into its products and services any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Licensee or Licensee's Users relating to the features, functionality or operation of the Services ("Feedback"). Iru will have no obligation to use Feedback, and Licensee will have no obligation to provide Feedback.

5. FEES AND PAYMENT

5.1. Fees. If a Licensee purchases directly from Iru, Licensee will pay all fees specified in an Order Form ("Fees"). If a Licensee purchases through a Iru authorized reseller, all fees and other procurement and delivery terms will be between Licensee and the reseller. Except as otherwise specified in this Agreement or in the applicable Order Form: (a) Fees are based on subscriptions to the Services

purchased and not actual usage; (b) payment obligations are non-cancellable, and Fees paid are non-refundable; and (c) quantities purchased cannot be decreased during the relevant Subscription Term.

- 5.2. Invoicing and Payment.** Licensee agree to provide Iru with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Iru. If Licensee provides credit card information to Iru, Licensee authorizes Iru to charge such credit card for all Fees due hereunder. Except as otherwise set forth in the applicable Order Form, payment of Fees shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. Unless otherwise stated in the Order Form, invoiced Fees are due net 30 days from the invoice date. Licensee are responsible for providing complete and accurate billing and contact information to Iru and notifying Iru of any changes to such information, as well as for payment of any fees or charges associated with Licensee's payment other than those charged by Iru's or its Affiliates' bank.
- 5.3. Overdue Charges.** If payment of any Fees is not received by Iru by the due date, then, without limiting Iru's other rights or remedies, (a) the Fees may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, and/or (b) Iru may condition future subscription renewals and Order Forms on payment terms shorter than those specified in the "Invoicing and Payment" section above.
- 5.4. Suspension.** If any Fees owed by Licensee under this Agreement are more than 30 days overdue, Iru may, without limiting its other rights and remedies, suspend Licensee's access to the Services until such amounts are paid in full.
- 5.5. Payment Disputes.** Iru will not exercise its rights under the "Overdue Charges" or "Suspension" section above for 60 days if Licensee are disputing the applicable Fees reasonably and in good faith and are cooperating diligently to resolve the dispute.
- 5.6. Taxes.** 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"). Licensees are responsible for paying all Taxes associated with purchases hereunder. If Iru has the legal obligation to pay or collect Taxes for which Licensee are responsible under this Section, Iru will invoice Licensee and Licensee will pay that amount unless Licensee provides Iru with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Iru is solely responsible for taxes assessable against it based on its income, property, and employees.

6. TERM AND TERMINATION

- 6.1. Term of Agreement.** This Agreement commences on the date Licensee first accepts it and continues until all Subscription Terms have expired or have been terminated.
- 6.2. Renewal of Subscription Terms.** The term of each subscription shall be as specified in the applicable Order Form ("Subscription Term"). Except as otherwise specified in an Order Form, each Subscription Term will automatically renew for additional periods equal to the expiring Subscription Term or one year (whichever is shorter), unless either party gives the other written notice (email is acceptable) of non-renewal at least 30 days before the end of the expiring Subscription Term. The per-unit pricing during any automatically renewed renewal term may increase by up to 7% from the applicable pricing in the prior term, unless Iru provides Licensee notice of different pricing at least 60 days prior to the applicable renewal Subscription Term. Except as expressly provided in the applicable Order Form, renewal of

promotional or one-time priced subscriptions will be at Iru's applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume for any Services has decreased from the prior term will result in repricing at renewal without regard to the prior term's per-unit pricing.

- 6.3. Termination.** Either party may terminate this Agreement, and all Order Forms hereunder, for cause upon (a) 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (b) the institution by or against the other party of insolvency, receivership, or bankruptcy proceedings or any other proceedings for the settlement of the other party's debts, (c) the other party making an assignment for the benefit of creditors, or (d) the other party's dissolution or ceasing to do business. A material breach under this Section includes, but is not limited to, failure to pay the applicable Fees when due. Termination or expiration of this Agreement or an Order Form shall not extinguish any of Licensee's or Iru's obligations under this Agreement that, by their nature, continue after the date of termination or expiration, including but not limited to the obligation to pay any unpaid but due Fees and the confidentiality obligations of each party hereunder.
- 6.4. Refund or Payment Upon Termination.** Upon any termination for cause by Licensee, Iru will refund to Licensee any prepaid Fees covering the remainder of the then-current Subscription Term after the effective date of termination. Upon any termination for cause by Iru, Licensee shall pay any unpaid Fees covering the remainder of the then-current Subscription Term. In no event shall any termination relieve Licensee of the obligation to pay Fees payable to Iru for the period prior to the effective date of termination.
- 6.5. Surviving Provisions.** The sections titled "Free Services," "Use of Services," "Proprietary Rights," "Fees and Payment," "Confidentiality," "Disclaimer," "Indemnification," "Limitation of Liability," "Refund or Payment upon Termination," "Surviving Provisions" and "General" will survive any termination or expiration of this Agreement, and the section titled "Data Protection" will survive any termination or expiration of this Agreement for so long as Iru retains possession of Licensee's Data.
- 7. DATA PROTECTION.** Iru will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Licensee's Data, as described in the Documentation and documentation made available to Licensee at [Trust.iru.com](https://www.iru.com). Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Licensee's Data (other than by Licensee, Licensee's Affiliates, Users, and/or Authorized Persons). The terms of the data processing addendum available <https://www.iru.com/data-processing-agreement> (or other designated or replacement URL) ("DPA") are hereby incorporated by reference. To the extent Personal Data (as defined in the DPA) from the European Economic Area (EEA), the United Kingdom, and Switzerland are processed by Iru or its Affiliates as part of Licensee's use of the Services, the Standard Contractual Clauses will apply, as further described in the DPA. For the purposes of the Standard Contractual Clauses, Licensee and Licensee's applicable Affiliates are each the data exporter, and Licensee's acceptance of this Agreement, and an applicable Affiliate's execution of an Order Form, shall be treated as its execution of the Standard Contractual Clauses and Appendices. Upon Licensee's request made within 60 days after the effective date of termination or expiration of this Agreement, Iru will make Licensee's Data available to Licensee for export or download. After such 60-day period, Iru will have no obligation to maintain or provide any of Licensee's Data, and will thereafter delete or destroy all copies of Licensee's Data in its systems or otherwise in its possession or control, unless legally prohibited.
- 8. CONFIDENTIALITY.**

8.1. Definition of Confidential Information. As used in this Agreement, “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether electronically, orally, or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and/or the circumstances of disclosure. Licensee's Confidential Information includes Licensee's Data and this Agreement; Iru's Confidential Information includes the Services, the Aggregate Data, the Documentation, any Schedule(s) and all Order Forms (including pricing). Confidential Information of each party includes business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that: (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a third party without breach of any obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party without reference to, or reliance upon, the Confidential Information of the Disclosing Party. For the avoidance of doubt: (i) the non-disclosure obligations set forth in this “Confidentiality” section apply to Confidential Information exchanged between the parties in connection with any Free Trials and/or Free Services as well as the evaluation of any of additional Services and (ii) each party retains all ownership, right, and title in and to its Confidential Information.

8.2. Protection of Confidential Information. Except as otherwise permitted in writing by the Disclosing Party, the Receiving Party will (a) use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but in no event less than reasonable care) to protect the Confidential Information of the Disclosing Party; (b) not use any Confidential Information of the Disclosing Party for any purpose not authorized by this Agreement; and (c) except as otherwise authorized by the Disclosing Party in writing, limit access to, and disclosure of, the Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need access for purposes consistent with this Agreement and who have confidentiality obligations with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel, and accountants without the other party's prior written consent; provided that a party that makes any such disclosure to its Affiliate, legal counsel, or accountants will remain responsible for such Affiliate's, legal counsel's, or accountant's compliance with this “Confidentiality” section. Notwithstanding the foregoing: (i) Iru may disclose the terms of this Agreement and any applicable Order Form to a subcontractor or Third-Party Provider to the extent necessary perform Iru's obligations related to this Agreement, under terms of confidentiality materially as protective those set forth herein and (ii) Iru may provide access to Licensee's Confidential Information to those of Licensee's Users, employees, contractors, and agents whom Licensee permit to use and manage Licensee's access and use of the Services.

8.3. Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

9. REPRESENTATIONS, WARRANTIES, AND DISCLAIMER.

9.1. Mutual Representations. Each party represents that it has validly entered into this Agreement and has the legal power to do so.

9.2. Representations and Warranties by Iru. Iru warrants that during an applicable Subscription Term (a) the Services will perform materially in accordance with the applicable Documentation, (b) Iru will not materially decrease the overall security of the Services, and (c) except as described in the "Third-Party Services" section, Iru will not materially decrease the overall functionality of the Services. For any breach of a warranty above, Licensee's exclusive remedies are those described in the "Termination" and "Refund or Payment upon Termination" sections below.

9.3. Representations and Warranties by Licensee. Licensee represent and warrant to Iru that: (a) Licensee's Data does not and will not infringe, misappropriate or otherwise violate any third party rights (including any intellectual property rights), (b) will ensure that Licensee have all necessary and appropriate consents and notices in place to enable lawful transfer and processing of personal data (as defined under data protection laws) and (c), to the extent that Licensee permit Licensee's Users to use a personally owned Device to provide services to Licensee's organization ("BYOD"), Licensee have implemented and continually monitor and enforce an agreement or policy with Licensee's Users that addresses (i) confidentiality and security provisions for Licensee's Data, Iru's data, and any personal data used in connection with the applicable devices, (ii) permitted and impermissible use by Users subject to the policy, and (iii) data collection, retention, anti-commingling and destruction obligations.

10. INDEMNIFICATION.

10.1. Indemnification by Iru. Iru will defend Licensee against any third party claim, demand, suit, or proceeding made or brought against Licensee alleging that the Services infringe or misappropriate such third party's intellectual property rights (a "Claim Against Licensee"), and will indemnify Licensee from any damages, attorney fees, and costs finally awarded against Licensee as a result, or for amounts paid by Licensee under a settlement approved by Iru in writing, of a Claim Against Licensee: provided that Licensee: (a) promptly give Iru written notice of the Claim Against Licensee; (b) give Iru sole control of the defense and settlement of the Claim Against Licensee (except that Iru may not settle any Claim Against Licensee unless it unconditionally releases Licensee of all liability); and (c) give Iru all reasonable assistance, at Iru's expense. If Iru receives information about an infringement or misappropriation claim related to the Services, Iru may in its discretion and at no cost to Licensee (i) modify the Services so as to no longer infringe or misappropriate as claimed, without breaching the representations and warranties under "Representations and Warranties by Iru," (ii) obtain a license for Licensee's continued use of the Services in accordance with this Agreement, or (iii) terminate Licensee's subscriptions for the Services, in whole or in part, upon thirty (30) days' written notice and refund to Licensee any prepaid Fees covering the remainder of the then-current Subscription Term for the terminated subscriptions or parts thereof. The above defense and indemnification obligations do not apply if: (1) a Claim Against Licensee arises from the use or combination of the Services, or any part thereof, with software, hardware, data, or processes not provided by Iru, if the Services or use thereof would not infringe without such combination; (2) a Claim Against Licensee arises from Free Services or a Free Trial; or (3) a Claim Against Licensee arises from a Third-Party Product or Licensee's breach of this Agreement, the Documentation, or the applicable Order Form.

10.2. Indemnification by Licensee. Licensee will defend Iru and its Affiliates against any third party claim, demand, suit, or proceeding made or brought against Iru or its Affiliate arising out of or in connection with (a) an allegation that (i) Licensee's Data (ii) a Third-Party Product, or (iii) a combination of a Third-Party Product provided by Licensee and used with the Services infringes or misappropriates such third

party's intellectual property rights, (b) any unauthorized or illegal use of the Services by Licensee, Licensee's Users, or a third party using Licensee's User information ((a) and (b) each a "Claim Against Iru"), and will indemnify Iru and its Affiliates from any damages, attorney fees, and costs finally awarded against Iru or its Affiliate as a result, or for any amounts paid by Iru or its Affiliate under a settlement approved by Licensee in writing, of a Claim Against Iru, provided that Iru: (i) promptly gives Licensee written notice of the Claim Against Iru; (ii) gives Licensee sole control of the defense and settlement of the Claim Against Iru (except that Licensee may not settle any Claim Against Iru unless it unconditionally releases Iru and its Affiliates of all liability); and (iii) gives Licensee all reasonable assistance, at Licensee's expense. The above defense and indemnification obligations do not apply if a Claim Against Iru arises from Iru's or its Affiliate's breach of this Agreement, the Documentation, or the applicable Order Form.

11. LIMITATION OF LIABILITY.

11.1. Limitation of Liability. EXCEPT FOR INFRINGEMENT OR MISAPPROPRIATION OF IRU'S INTELLECTUAL PROPERTY RIGHTS IN AND TO THE SERVICES AND LICENSEE'S INDEMNIFICATION OBLIGATIONS, AND WHERE FORBIDDEN BY APPLICABLE LAWS, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY, TOGETHER WITH ALL OF ITS AFFILIATES, ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY LICENSEE AND LICENSEE'S AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY BUT WILL NOT LIMIT LICENSEE AND LICENSEE'S AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT" SECTION ABOVE.

11.2. Exclusion of Consequential and Related Damages. EXCEPT FOR INFRINGEMENT OR MISAPPROPRIATION OF IRU'S INTELLECTUAL PROPERTY RIGHTS IN AND TO THE SERVICES, IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, DATA, USE, OR OTHER ECONOMIC ADVANTAGE, OR FOR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION, OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE.

12. GENERAL.

12.1. Entire Agreement. This Agreement is the entire agreement between Licensee and Iru regarding Licensee's use of the Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The parties agree that any term or condition stated in a purchase order or in any other order documentation (excluding Order Forms) provided by Licensee is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement, and (3) the Documentation. Titles and headings of sections of this Agreement are for convenience only and shall not affect the construction of any provision of this Agreement.

12.2. Assignment. Neither party may assign or delegate any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld); provided, however, that either party may assign this Agreement in its entirety (including all Order Forms), without the other party's prior written consent (a) to an Affiliate or (b) in

connection with a change of control, merger, stock transfer, sale or other disposition of substantially all the assets of the assigning party's business. Subject to the foregoing, this Agreement and each Order Form will bind and inure to the benefit of the parties and their respective successors and permitted assigns.

- 12.3. Use of Name.** Iru may use Licensee's name and logo to identify Licensee as Iru Licensee of the Services, including on Iru's public website and in sales and marketing collateral. Iru agrees that any such use will be subject to Iru's compliance with any written guidelines that Licensee provides to Iru regarding the use of Licensee's name and logo and will not be considered Licensee's endorsement of the Services.
- 12.4. Export Compliance.** The Services may be subject to export laws and regulations of the United States and other jurisdictions. Licensee and Iru each represent that it is not on any U.S. government denied-party list. Licensee will not permit any User to access or use any Services in a U.S.-embargoed country or region (currently Cuba, Iran, North Korea, Syria or Crimea) or in violation of any U.S. export law or regulation.
- 12.5. Anti-Corruption.** Licensee agree that Licensee have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Iru employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Licensee learn of any violation of the above restriction, Licensee will use reasonable efforts to promptly notify Iru.
- 12.6. Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.
- 12.7. Third Party Beneficiaries.** There are no third-party beneficiaries under this Agreement.
- 12.8. Waiver.** No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.
- 12.9. Severability.** If any provision of this Agreement or any Order Form, shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court of competent jurisdiction finds that any provision of this Agreement or any Order Form is invalid or unenforceable, but that by limiting such provision it would become valid or enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.
- 12.10. Governing Law; Venue.** This Agreement and any disputes arising out of or related hereto shall be governed by and construed in accordance with the laws of the State of Delaware, without regard to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods and each party consents to the personal jurisdiction and venue of the state or federal courts located in Delaware.
- 12.11. Dispute Resolution and Arbitration.** The parties agree that most disputes can be resolved without resort to litigation. The parties agree to first attempt to resolve any dispute arising under this Agreement through mediation with JAMS in Kent County, Delaware. If such dispute cannot be resolved by mediation, the parties agree that all disputes arising out of or in any way relating to this Agreement, including without limitation its existence, validity or termination, shall be resolved according to Delaware law and exclusively by binding arbitration before a single arbitrator with the Judicial Arbitration and Mediation

Service (JAMS) and pursuant to the then existing arbitration rules at JAMS. If the parties cannot agree upon selection of an arbitrator, then JAMS shall appoint an arbitrator experienced in the enterprise software industry. The place of the arbitration will be Kent County, Delaware unless otherwise agreed upon by the parties. The arbitration will be conducted in English. The arbitrator shall provide detailed written findings of fact and conclusions of law in support of any award. Judgment upon any such award may be enforced in any court of competent jurisdiction. The parties further agree that the arbitration shall be conducted in their individual capacities only and not as a class action or other representative action, and the parties expressly waive their right to file a class action or seek relief on a class basis. If any court or arbitrator determines that the class action waiver set forth herein is void or unenforceable for any reason or that an arbitration can proceed on a class basis, then the portions of this "Dispute Resolution and Arbitration" section mandating arbitration shall be deemed null and void in its entirety and the parties shall be deemed to have not agreed to arbitrate disputes. Licensee may opt out and not be bound by the arbitration and class action waiver provisions by sending written notice to Iru within thirty (30) days from the date Licensee first accept this Agreement. If Licensee opt out of arbitration, Iru also will not be bound to arbitrate. Disputes, claims, or controversies concerning either party's intellectual property rights or claims of piracy or unauthorized use of the Service shall not be subject to arbitration. The parties further agree that the prevailing party in any action or proceeding to enforce any right or provisions under this Agreement, including any arbitration or court proceedings, will be entitled to recover its reasonable costs and attorneys' fees.

12.12.

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