

MASTER SUBSCRIPTION AGREEMENT

This **MASTER SUBSCRIPTION AGREEMENT** (the “**Agreement**”) is entered into as of the acceptance date (the “**Effective Date**”), by and between the party subscribing to the service (“**Customer**”) and **IDEALRATINGS, INC.**, a Delaware corporation, located at 50 California Street, Suite 1500, San Francisco, CA 94111 (“**IdealRatings**”).

RECITALS

WHEREAS, IdealRatings supply and sell to Customer, and Customer will receive and purchase, respectively, a Subscription Fees to the Data as set forth in the DSA Offer in accordance with this Agreement. A Subscription Fees, as described in the applicable DSA Offer, includes Data distributed via AWS Marketplace which may be downloaded via Amazon Simple Storage Services (Amazon S3) or other available functionality (collectively, “Downloaded Data”). The frequency of updates to the Data via data revisions by IdealRatings, as well as fees or rates for the Subscription Fees, shall be as set forth in the applicable DSA Offer; and

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and in return for good and valuable consideration, the receipt and adequacy of which are hereby specifically acknowledged, the parties hereby covenant and agree as follows:

1. DEFINITIONS

Unless otherwise defined in the Agreement, all capitalized terms shall have the meanings set forth in this Section 1.

- 1.1. “**Confidential Information**” means any and all technical and non-technical information, whether in written, oral, graphic or electronic form, which one party provides the other hereunder which is marked or identified in writing at the time of disclosure as confidential or proprietary, including trade secret, know-how and proprietary information, designs, schematics, techniques, software code, technical documentation, plans or any other information relating to any research project, work in process, future development, engineering, marketing or business plan or financial or personnel matter relating to the disclosing party, its present or future products, services, suppliers, customers, employees, investors or business.
- 1.2. “**Content**” means all data and information, including Third Party Content, documents, software, products and services made available to Customer in the course of using the Service.
- 1.3. “**Customer Data**” means any data or information owned or possessed by Customer and provided or submitted by Customer to IdealRatings in the course of using the Service, but excluding any IdealRatings Data.
- 1.4. “**Designated Location**” means: Global
- 1.5. “**IdealRatings Data**” has the meaning set forth in Section 6.2 below.
- 1.6. “**Intellectual Property Rights**” means all intangible, intellectual, proprietary and industrial property rights and all intangible embodiments and derivative works thereof, including any and all now known or hereafter existing in any jurisdiction throughout the world, in and to: (a) trademarks, trade names, service marks, slogans, domain names, uniform resource locators or logos; (b) copyrights, moral rights, and other rights in works of authorship; (c) patents and patent applications, patentable ideas, inventions and innovations; (d) know-how and trade secrets; and (e) registrations, applications, renewals, extensions, continuations, divisions or reissues of any of the foregoing.

- 1.7. **“IdealRatings Technology”** means all of IdealRatings’ proprietary technology (including data, software, hardware, products, processes, algorithms, user interfaces, know-how, techniques, designs and other tangible or intangible technical material or information) made available to Customer by IdealRatings in providing the Service.
- 1.8. **“Service”** means the specific edition of IdealRatings’ data identified in the applicable DSA Offer (including Third Party Data) and any other data, including any revisions, updates, modifications, enhancements, and additional data that Provider provides, or is obligated to provide, under this Agreement which are developed, operated, and maintained by IdealRatings, accessible via AWS Marketplace, to which Customer is being granted access under the Agreement, including the IdealRatings Technology and the Content.
- 1.9. **“Subscription Fees”** means the total amount the Customer needs to pay IdealRatings annually for the use of the IdealRatings Service in AWS Marketplace under the terms of this Agreement and the DSA Offer.
- 1.10. **“Third Party Content”** means the data and information licensed to IdealRatings by third parties and made available to Customer in the course of using the Service.
- 1.11. **“User(s)”** means Customer’s employees, representatives, consultants, contractors or agents who are authorized to use the Service and who have been supplied user identifications and passwords by Customer (or by IdealRatings at Customer’s request).
- 1.12. **“AWS Marketplace”** means the marketplace operated by Amazon Web Services, Inc. located at <https://aws.amazon.com/marketplace/> as it may be updated from time to time.
- 1.13. **“DSA Offer”** means the offer by Provider for a subscription to Data, as set forth in the detail page on AWS Marketplace and subject to the terms and conditions of the Agreement.

2. LICENSE GRANT AND RESTRICTIONS

- 2.1. **License.** Subject to the terms and conditions of the Agreement, IdealRatings hereby grants Customer a limited, non-exclusive, non-transferable right to access and use the Service from the Designated Locations, solely for its own internal business purposes, during the Term of the Agreement. Customer may permit only the number of Users specified in **Exhibit A** to access and use the Service in accordance with this Section 2.1. Customer shall access the Service via the Internet and only from computers which are owned or controlled by Customer and which are located at the Designated Location. All rights not expressly granted to Customer are hereby reserved by IdealRatings and its licensors.
- 2.2. **Restrictions.** Customer shall not: (a) license, sublicense, sell, resell, export, re-export, distribute or otherwise commercially exploit or make available to any third party the Service or the Content, including any of IdealRatings’ underlying information, software or Technology, in any way; (b) modify or make derivative works based upon the Service or the Content; (c) create Internet “links” to the Service or “frame” or “mirror” any Content on any other server or wireless or Internet-based device; (d) access the Service for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes; or (e) reverse-engineer or access the Service in order to (i) build a competitive product or service, (ii) build a product using similar ideas, features, functions or graphics of the Service, or (iii) copy any ideas, features, functions or graphics of the Service.
- a) Customer may use the Service only for its internal business purposes and shall not: (1) send Spam or otherwise duplicative or unsolicited messages in violation of applicable laws; (2) send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or in violation of third party

privacy rights; (3) send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (4) interfere with or disrupt the integrity or performance of the Service or the data contained therein; or (5) attempt to gain unauthorized access to the Service or its related systems or networks.

- b) Customer will receive user identifications and passwords for the number of Users specified in **Exhibit A**. IdealRatings shall not be responsible, and hereby disclaims any and all attendant liability whatsoever, if Customer or any User fails to maintain the confidentiality of its passwords. Customer agrees to immediately notify IdealRatings of any unauthorized use of the Service or any other breach of security known to Customer. User licenses cannot be shared or used by more than one individual User. User licenses may be reassigned from time to time, however, to new Users who are replacing former Users who have terminated employment or otherwise changed job status or function and no longer use the Service.

- 2.3. Audit.** Customer will maintain all records relevant to use of the Service and the payment of Subscription Fees under the Agreement as of each anniversary of the Effective Date, for a two (2) year period following the year in which any payments pertaining to such Subscription Fees were due. IdealRatings will have the right (a) to examine Customer's records, including, but not limited to, documentation, from time to time to determine the correctness of any Subscription Fee payments made under the Agreement and (b) to inspect the Designated Location and equipment used to access the Service to confirm Customer's compliance with the terms of the Agreement. Any examination will be conducted at reasonable times during Customer's normal business hours and upon at least ten (10) business days advance notice and in a manner so as not to unreasonably interfere with the conduct of Customer's business. If any such examination indicates that Customer has underpaid IdealRatings by more than five percent (5%) of the aggregate payments due for the period subject to such examination, then Customer will (a) immediately pay the amount of any undisputed underpayment to IdealRatings and (b) reimburse IdealRatings for the reasonable costs of the examination. The parties will amend the Agreement in writing to reflect any such adjustments which they determine to be appropriate based on such audits.

3. FEES AND PAYMENTS

- 3.1. Subscription Fees.** In consideration of the license granted hereunder, Customer agrees to pay to IdealRatings the annual fees set forth on **Exhibit A** for use of the Services during the Term ("**Subscription Fees**"). The annual Subscription Fees include use of the Service by the number of Users specified in **Exhibit A**.

3.2. Invoicing and Payments.

- a) IdealRatings will invoice and collect payment of Subscription Fees from Customer in advance for use of the Service. One hundred percent (100%) of the first year's Subscription Fee shall be payable by Customer upon the Effective Date. IdealRatings will issue an invoice to Customer each year prior to the subsequent anniversary of the Effective Date for use of the Service during the immediately following year. The renewal charge will be equal to the then-current number of total User licenses times the annual Subscription Fee in effect during the prior year during the Term, unless the parties modify the annual Subscription Fee for subsequent years during the Term in accordance with **Exhibit A**.
- b) Payments for all amounts due hereunder, other than the first year's Subscription Fee which will be due and payable in accordance with Section 3.2(a), will be due and payable within thirty (30) calendar days following Customer's receipt of an invoice for such amounts. All amounts will be invoiced and payable in U.S. dollars. Except as set forth in Section 7, in no event will Customer be entitled to a refund of any Subscription Fees or other invoiced amounts paid by Customer to IdealRatings. If Customer fails to timely pay any of the Subscription Fees or any other amounts due and payable to IdealRatings under the Agreement, in addition to any remedies available to IdealRatings under applicable law, (i)

those amounts will bear a late payment fee of one percent (1.0%) or the maximum rate permitted by law, whichever is less, compounded monthly commencing from the payment due date, plus all expenses of collection, and (ii) IdealRatings reserves the right to suspend or terminate the Agreement and Customer's access to the Service. Customer will continue to be charged for User licenses during any period of suspension. IdealRatings reserves the right to impose a reconnection fee in the event Customer is suspended and thereafter requests access to the Service.

- 3.3. Taxes.** IdealRatings' Subscription Fees are exclusive of all taxes, levies, and duties imposed by taxing authorities, and Customer shall be responsible for payment of all such taxes, levies, and duties, excluding only United States (federal or state) taxes based solely on IdealRatings' income.

4. TERM AND TERMINATION

- 4.1. Term.** The Agreement commences on the Effective Date and will remain in effect for an initial term of three (3) years (the "**Initial Term**"), unless terminated earlier in accordance with the terms of Section 4.2 below. Upon the expiration of the Initial Term, the Agreement will automatically renew for successive one (1) year periods (each period, a "**Renewal Term**" and together with the Initial Term, the "**Term**"), unless either party notifies the other party in writing at least forty-five (45) days prior to the end of the Initial Term or any Renewal Term of its intent not to renew the Agreement.

4.2. Termination.

- a) **For Convenience.** At any time following the completion of the first year of the Initial Term, Customer may elect to terminate the Agreement for convenience, upon the issuance of thirty (30) days prior written notice to IdealRatings and by paying IdealRatings one hundred percent (100%) of any remaining Subscription Fees payable during the Initial Term or any Renewal Term. Such amount shall be due and payable to IdealRatings on or prior to the effective date of termination of the Agreement.
- b) **For Cause.** Either party may terminate the Agreement immediately upon receipt by the other party of written notice of that party's intent to terminate: (i) if a bankruptcy proceeding is instituted by or against the other party which is not dismissed within sixty (60) days from the commencement thereof; or (ii) if the other party materially breaches any provisions of the Agreement and such breach is not cured within thirty (30) days of receipt of notice specifying the breach from the non-breaching party. Notwithstanding the foregoing, IdealRatings may terminate the Agreement immediately in the event that Customer fails to cure a breach of its payment obligations within five (5) business days after Customer's receipt of notice of late payment.
- c) **Effect of Termination.** Upon any termination or expiration of the Agreement: (i) Customer shall immediately pay all amounts due and payable to IdealRatings through the effective date of termination or expiration (unless IdealRatings terminates the Agreement pursuant to Section 7.2(c)); (ii) all licenses and rights granted to Customer hereunder will immediately terminate; (iii) the parties shall return or destroy with written certification all Confidential Information of the other party and any and all derivatives thereof; and (iv) IdealRatings will make available to Customer a file of the Customer Data within thirty (30) days of termination if Customer so requests at the time of termination of the Agreement, provided that such termination has not arisen as a result of Customer's breach of the Agreement.

- 4.3. Survival.** Notwithstanding any statement to the contrary contained herein, the following Sections shall survive any termination or expiration of the Agreement: Sections 4 (only with respect to Customer's payment obligations thereunder), 4.2(c), 4.3, 5, 6, 7, 8.3, 8.4, 9 and 10.

5. CONFIDENTIALITY

- 5.1.** Both parties will maintain in confidence all Confidential Information disclosed by the other

party (the “**Disclosing Party**”). A receiving party hereunder (the “**Receiving Party**”) will not use, disclose or grant use of such Confidential Information except as expressly authorized by the Agreement. To the extent that disclosure is authorized by the Agreement, the Receiving Party will cause its employees, agents and consultants to comply with the same confidentiality obligations set forth in the Agreement. The Receiving Party will use at least the same standard of care as it uses to protect its own confidential information of similar nature to ensure that such employees, agents or consultants do not disclose or make any unauthorized use of such Confidential Information. The Receiving Party will promptly notify the Disclosing Party upon discovery of any unauthorized use or disclosure of the Confidential Information.

5.2. Exceptions. The obligations of confidentiality contained in Section 5.1 will not apply to the extent that it can be established by the Receiving Party that such Confidential Information:

- A) was already known to the Receiving Party, other than under an obligation of confidentiality, at the time of disclosure by the Disclosing Party;
- B) was generally available to the public or otherwise part of the public domain at the time of its disclosure to the Receiving Party;
- C) became generally available to the public or otherwise part of the public domain after its disclosure and other than through any act or omission of the Receiving Party in breach of the Agreement;
- D) was disclosed to the Receiving Party, other than under an obligation of confidentiality, by a third party who had no obligation to the other party not to disclose such information to others;
- E) was developed independently by the Receiving Party without any use of Confidential Information; or
- F) is disclosed publicly pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party sufficient prior notice to contest such order.

5.3. Injunction. In the event of actual or threatened breach of the provisions of this Section 5, the non-breaching party will be entitled to seek immediate injunctive and other equitable relief, without waiving any other rights or remedies available to it.

6. INTELLECTUAL PROPERTY OWNERSHIP; IDEALRATINGS DATA AND CUSTOMER DATA

6.1. Intellectual Property Ownership; IdealRatings Data. IdealRatings alone (and its licensors, where applicable) shall own all right, title and interest, including all related Intellectual Property Rights, in and to the IdealRatings Technology, the Content and the Service and any suggestions, ideas, enhancement requests, feedback, recommendations or other information provided by Customer (other than Customer Data), including by any of its Users, or by any third parties relating to the Service. The Agreement is not a sale and does not convey to Customer any rights of ownership in or related to the Service, the Content, the IdealRatings Technology or the Intellectual Property Rights owned by IdealRatings. The IdealRatings name, the IdealRatings logo, and the product names associated with the Service are trademarks of IdealRatings or third parties, and no right or license is granted to use them.

6.2. IdealRatings Data. IdealRatings owns all right, title and interest in and to any and all information and data that is generated, collected, received or obtained by IdealRatings in the course of providing the Service to Customer, including without limitation any search queries and all traffic and usage data, except for information or data first provided or submitted to IdealRatings by Customer in the course of utilizing the Service (“**IdealRatings Data**”). To the extent any such data or information constitutes Confidential Information of the providing party, the Receiving Party will treat such information in accordance with

Section 6 above. Subject to compliance with applicable law, IdealRatings is free to use the IdealRatings Data without restriction and to disclose and distribute such information and data, as it deems appropriate.

- 6.3. Customer Data.** IdealRatings does not own Customer Data. Notwithstanding the foregoing, Customer hereby grants IdealRatings, under all of Customer's Intellectual Property Rights, a perpetual, non-exclusive, worldwide license, with right to sublicense, to use, copy, modify, publicly display, distribute and create derivative works of the Customer Data solely for purposes of offering, marketing and providing the Service to third parties; provided, however, that such data is used in a manner and in a form that is not attributable to Customer. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data, and IdealRatings shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data. IdealRatings reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, Customer's non-payment. Upon termination of the Agreement by IdealRatings for cause, Customer's right to access or use Customer Data immediately ceases, and IdealRatings shall have no obligation to maintain or forward any Customer Data.

7. INDEMNITY

- 7.1. Customer Indemnity.** Customer shall defend, indemnify and hold IdealRatings, its licensors and each such party's parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising out of or in connection with: (a) a claim alleging that use of the Customer Data infringes the rights of, or has caused harm to, a third party; (b) a claim, which if true, would constitute a violation by Customer of its representations and warranties; (c) a claim arising from the breach by Customer or its Users of the Agreement; or (d) a claim arising from any infringement of the Intellectual Property Rights of a third party arising from the combination of the Service with any of Customer's products, services, hardware, data or business processes; provided that IdealRatings complies with the terms of Section 7.3 below.
- 7.2. IdealRatings Indemnity.** IdealRatings shall defend, indemnify and hold Customer and its parent organizations, subsidiaries, affiliates, officers, directors, employees, attorneys and agents harmless from and against any and all claims, costs, damages, losses, liabilities and expenses (including attorneys' fees and costs) arising directly out of a claim brought by a third party alleging that the Service directly infringes a copyright, a U.S. patent issued as of the Effective Date, or a trademark of such third party; provided that Customer complies with the terms of Section 7.3 below. In the event that the Service is, or in IdealRatings' sole opinion is likely to be, subject to an infringement claim of the type referenced in the preceding sentence, then IdealRatings may, at its option and expense, (a) modify or replace the Service or portion thereof which is the subject of the claim with functionally equivalent, non-infringing technology, (b) obtain a license for Customer's continued use of the Service, or (c) if IdealRatings determines that neither (a) nor (b) are feasible, terminate the Agreement and issue to Customer a pro-rata refund of any pre-paid Subscription Fees relating to use of the Service following the effective date of such termination. IdealRatings' obligations set forth in this Section 7.2 shall not apply with respect to any claim which arises from any of the following: (i) the use of a superseded or modified release of the Service, if the claim would have been avoided by the use of the current or unmodified release and provided such Service was made available to Customer by IdealRatings; (ii) the use, operation, or combination of the Service with any programs, data, equipment, services, products, business processes or other materials not provided by IdealRatings, if the claim would have been avoided by the use of the Service without such programs, data, equipment, services, products, business processes or other materials; or (iii) Customer's continuance of allegedly infringing activity after being informed of the

infringement and provided with modifications that would avoid the alleged infringement. THIS SECTION 7.2 STATES THE ENTIRE LIABILITY OF IDEALRATINGS HEREUNDER AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ALLEGED OR ACTUAL INFRINGEMENT OF PATENTS, COPYRIGHTS, TRADE SECRETS, TRADEMARKS OR OTHER INTELLECTUAL PROPERTY RIGHTS BY THE SERVICE.

- 7.3. Procedure.** In claiming any indemnification under this Section 7, the indemnified party shall promptly provide the indemnifying party with notice of any claim that the indemnified party believes is within the scope of the obligation to indemnify. The indemnified party may, at its own expense, assist in the defense if it so chooses, but the indemnifying party shall have sole control of the defense and all negotiations relative to the settlement of any such claim. The indemnified party will provide the indemnifying party with reasonable assistance, at the indemnifying party's expense, in the defense, negotiations and settlement of any claims. Any settlement intended to bind the indemnified party shall not be final without the indemnified party's written consent, which consent shall not be unreasonably withheld, conditioned or delayed.

8. WARRANTIES; DISCLAIMERS

- 8.1. Mutual Warranty.** Each party represents and warrants that it has the legal power and authority to enter into the Agreement.
- 8.2. Performance Warranty.** IdealRatings represents and warrants that it will provide the Service in a manner consistent with general industry standards reasonably applicable to the provision thereof and that the Service will perform substantially in accordance with the online IdealRatings help documentation under normal use and circumstances.
- 8.3. Customer Warranty.** Customer represents that: (a) it is not a person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders or a person or entity acting on behalf of such person or entity; and (b) it is not a person or entity otherwise prohibited by the regulations of the Office of Foreign Assets Control of the U.S. Department of Treasury or the Bureau of Industry Security of the U.S. Department of Congress from purchasing the Service, or a person or entity acting on behalf of such person or entity.
- 8.4. Disclaimer of Warranties.** IDEALRATINGS AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE OR ANY CONTENT. IDEALRATINGS AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT (A) THE USE OF THE SERVICE WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA, (B) THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS OR EXPECTATIONS, (C) ANY CONTENT WILL BE ACCURATE OR RELIABLE, (D) ERRORS OR DEFECTS IN THE SERVICE WILL BE CORRECTED, OR (E) THE SERVICE OR THE SERVER(S) THAT MAKE THE SERVICE AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. EXCEPT AS EXPRESSLY SET FORTH IN SECTION 8.2, THE SERVICE AND ALL CONTENT IS PROVIDED TO CUSTOMER WITHOUT ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND. WITHOUT LIMITING ANY OF THE FOREGOING, IDEALRATINGS AND ITS LICENSORS HEREBY DISCLAIM, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS.
- 8.5. Internet Delays.** IDEALRATINGS' SERVICE MAY BE SUBJECT TO

LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. IDEALRATINGS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

9. LIMITATION OF LIABILITY

IN NO EVENT SHALL IDEALRATINGS' MAXIMUM AGGREGATE LIABILITY FOR ANY CLAIMS ARISING UNDER OR RELATED TO THE AGREEMENT EXCEED THE AMOUNTS ACTUALLY PAID BY CUSTOMER IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH CLAIM. IN NO EVENT SHALL IDEALRATINGS OR ITS LICENSORS BE LIABLE TO CUSTOMER, OR TO ANY PERSON CLAIMING BY OR THROUGH CUSTOMER, FOR ANY LOST PROFITS, LOST BUSINESS, LOST REVENUE OR FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF DATA, USE OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH THE SERVICE, INCLUDING BUT NOT LIMITED TO THE USE OR INABILITY TO USE THE SERVICE, OR FOR ANY CONTENT OBTAINED FROM OR THROUGH THE SERVICE, REGARDLESS OF THE THEORY UNDER WHICH SUCH DAMAGES ARE CLAIMED (INCLUDING CONTRACT, TORT, NEGLIGENCE, ETC.) AND EVEN IF IDEALRATINGS OR ITS LICENSORS HAVE BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. Each party acknowledges that the foregoing limitations are an essential element of the Agreement and that in the absence of such limitations the pricing and other terms set forth in the Agreement would be substantially different.

10. MISCELLANEOUS

- 10.1. English Language Only.** The Agreement is in the English language only, which language shall be controlling in all respects, and all versions hereof in any other language shall be for accommodation only and shall not be binding upon the parties hereto. All communications to be made or given pursuant to the Agreement and all dispute resolution procedures shall be in the English language.
- 10.2. Publicity.** The parties may agree to issue a joint press release promptly after the Effective Date, which release would contain statements and trademarks of each party as mutually agreed by the parties. In addition, IdealRatings may (i) display Customer's name and logo on IdealRatings' website and IdealRatings' promotional materials to indicate that Customer is a user of the Service and (ii) conduct a case study with respect to Customer's use of the Service and issue a press release containing Customer's name and logo that announces the results of such case study.
- 10.3. Notices.** Any notice required for or permitted by the Agreement will be in writing and will be delivered as follows, with notice deemed given as indicated: (a) by personal delivery; (b) by internationally recognized express courier upon written verification of receipt; or (c) by telecopy or facsimile transmission when confirmed by telecopier or facsimile transmission report. All notices must be sent to the addresses below:

if to IdealRatings,

Mohamed Donia

IdealRatings, Inc.

50 California Street, Suite 1500

San Francisco, CA 94111

Fax: +1 415 397 6309

Telephone: +1 415 955 2737

with a copy to:

Latham and Watkins LLP
140 Scott Drive
Menlo Park, CA 94025
Fax: +1 650 463 2600
Telephone: +1 650 328 4600

or to such other address that the receiving party may have provided for the purpose of notice in accordance with this Section 10.3.

- 10.4. No Assignment.** Neither party may transfer the Agreement, or assign any rights or delegate any obligations hereunder, in whole or in part, whether voluntarily or by operation of law, without the prior written consent of the other party; provided, however, that IdealRatings may assign the Agreement without Customer's prior consent in connection with any merger, consolidation, acquisition or sale of all or substantially all of the assets of IdealRatings. Any purported transfer, assignment or delegation by either party in violation of this Section will be null and void and of no force or effect. The Agreement is binding on each party and their respective permitted heirs, successors or assigns.
- 10.5. No Third Party Beneficiaries.** All rights and obligations of the parties hereunder are personal to the party that holds the rights or has the obligation. The Agreement is not intended to benefit, nor will it be deemed to give rise to, any rights in any third party.
- 10.6. Governing Law; Venue.** The Agreement will be governed and construed, to the extent applicable, in accordance with the laws of the State of California, without regard to its conflict of law principles. The rights and obligations of the parties under the Agreement will not be governed by, and the parties hereby expressly disclaim the application of, the provisions of the 1980 United Nations Convention on Contracts for the International Sale of Goods. Each party submits to the non-exclusive jurisdiction and venue for actions related to the subject matter hereof in the California state courts located in Santa Clara and San Mateo Counties or the United States District Court for the Northern District of California (or, in the case of appeals, the appellate court having jurisdiction over any such court), and both parties hereby consent to such jurisdiction.
- 10.7. Local Laws and Export Control.**
- a) Customer acknowledges and agrees that the Service shall not be used, and none of the underlying information, software, or technology, including any IdealRatings Technology or Content, may be transferred or otherwise exported or re-exported to any other person.
 - b) Regardless of the location of Customer's use of the Service, Customer is solely responsible for compliance with all applicable laws, including, but not limited to, the laws of the United States and the laws of any other country of use, with respect to its use of the Service.
- 10.8. Force Majeure.** Neither party shall be liable to the other party in any way whatsoever for any failure or delay in performance of any of the obligations under the Agreement (other than obligations to make payment), arising out of any event or circumstance beyond the reasonable control of such party (including war, rebellion, civil commotion, acts of

terror, strikes, lock-outs or industrial disputes, fire, explosion, earthquake, acts of God, flood, drought or the requisitioning or other act or order by any government department, council or other constituted body).

- 10.9. Compliance with Laws.** Each party is responsible for compliance with all applicable laws, rules and regulations, if any, related to the performance of its obligations under the Agreement.
- 10.10. Waiver.** Except as explicitly set forth in the Agreement, the failure or delay of either party to require performance by the other party of any provision will not affect the full right to require such performance at any time thereafter; nor will the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself
- 10.11. Severability.** If any provision of the Agreement is held by a court of competent jurisdiction to be contrary to law, the parties agree that such provision will be changed and interpreted so as to best accomplish the objectives of the original provision to the fullest extent allowed by law, and the remaining provisions of the Agreement will remain in full force and effect.
- 10.12. Counterparts.** The Agreement may be executed simultaneously in two (2) counterparts, each of which will be considered an original, but both of which together will constitute one and the same instrument.
- 10.13. Construction.** When reference is made in the Agreement to a Section, such reference shall be to a Section of the Agreement unless otherwise indicated. The headings contained in the Agreement are for convenience of reference purposes only and shall not affect in any way the meaning or interpretation of the Agreement. Whenever the words “include”, “includes” or “including” are used in the Agreement, they shall be deemed to be followed by the words “without limitation”. The Agreement shall be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting or causing any instrument to be drafted. The meanings given to terms defined herein shall be equally applicable to both the singular and plural forms of such terms.
- 10.14. Entire Agreement.** The Agreement and its exhibits set forth the complete, exclusive and final statement of the agreement among the parties with respect to the subject matter hereof. The Agreement supersedes and replaces any and all prior and contemporaneous negotiations, agreements, term sheets, communications, and understandings, both written and oral, among the parties regarding such subject matter. The Agreement may only be modified, or any rights under it waived, by a written document executed by the parties.