

## **Bluescape GSA Terms and Conditions**

*Effective Date: June 23, 2024*

Bluescape Buyer, LLC (“Bluescape”) has developed the Bluescape Service, a web-based service that provides certain features and functionalities designed to facilitate enterprise project teams working within a collaborative visual workspace in real-time and manage associated collaborative workflows (the “Bluescape Service”).

Bluescape has two different types of users depending on the Bluescape Service used: Customers who use the free version of the Bluescape Service are called “Freemium Users.” While Freemium Users can access and use the Bluescape Service, they have access to a more limited set of Bluescape Service features and functionality than Subscribers.

Customers who use the Bluescape Service as part of a paid Bluescape subscription plan (“Subscription Plan” or “Additional Services”) are called a “Subscriber.” The two types of users are collectively referred to as “Customer” or “you” for purposes of these Terms and Conditions.

**The Terms and Conditions (“Terms” or “Agreement”) are a legal agreement between Bluescape and you governing the right to access and/or use Bluescape Service whether directly from Bluescape or indirectly through one of its resellers (in either case, “Seller”).**

By accepting the Terms in writing by executing a written purchase order, you represent and warrant that you are over the age of 16 have the authority to enter into this Agreement, and you are agreeing to be bound by all the Terms. By executing a written order for the Bluescape Service, the Ordering Activity under GSA Schedule contracts identified in the Purchase Order (“Customer”) agrees to the Terms. If you do not agree, Customer will not access or use the Bluescape Service. Please note that if you have a separate written agreement with Bluescape for your access and use of the Bluescape Service, then to the extent that the terms and conditions of the prior written agreement directly contradict the Terms, the terms and conditions of the prior written agreement will govern.

### **1. Services**

1.1 Orders. The details of a Subscription Plan shall be as set forth in an ordering document offered by Seller and accepted by Subscriber (“Order”) and will set forth the specific details and parameters of the Bluescape Service being ordered, including, as applicable, the License Type and License Term, Users, Training, Maintenance and Support, Uptime Commitment, and any other details, restrictions, or limitations. Orders may be in paper form or may be provided digitally, including through a Bluescape E-commerce platform, and upon mutual acceptance will be incorporated by reference into, and made a part of, this Agreement. In the event that Seller agrees to accept an Order submitted on Subscriber’s form of ordering document (purchase orders, etc.), any additional or conflicting terms provided thereon will be expressly rejected unless Bluescape and Customer both agree expressly agree to additional terms in writing. Upon execution (through the mechanism provided in the applicable offer), Orders shall be deemed incorporated by reference into, and made a part of this Agreement.

1.2 Provision of Bluescape Service. Bluescape shall make the Subscription Plan available to Subscriber during the term identified in the Order (“License Term”) pursuant to this Agreement. The Subscription Plan includes those components and features, including third-party software (“Third-Party Software”), set forth or referenced in the license package identified in each Order (a current list of which is available online at <https://www.bluescape.com/pricing/> (the “License Type”), along with all then-current user manuals or other documentation provided by Bluescape (“Documentation”). As applicable, all use of Third-Party Software shall be governed by the respective licenses for such Third-Party Software, a partial list of which may be found at <https://www.bluescape.com/third-party-terms-and-conditions/>. Nothing herein shall bind the Ordering Activity to any Third-Party terms unless the terms are provided for review and agreed to in writing by all parties. Bluescape shall have the right to modify the Bluescape Service, including adding or subtracting Third-Party Software, components, features or functionality, at any time without notice to Customer. Any such modification shall not materially reduce the functionality of the components or features that Ordering Activity has contracted for. Any license identified in the applicable package or Order as evaluation, beta, test, trial, or similar designation (“Eval Licenses”) are provided on limited terms and are offered on an as-is, where-is basis without warranty, liability, or service commitment of any kind, and accordingly Sections 1.5, 1.6, 3.4, 7.1, and 8.1, nor any other commitment or obligation of Bluescape with respect thereto shall not apply. Unless otherwise specified in the applicable Order or expressly renewed by mutual agreement in writing, Eval Licenses expire after ninety (90) days. Unless otherwise specified in the applicable Order, all other License Types are granted to Subscribers for an initial License Term of one (1) year, which term may be renewed for subsequent one (1) year periods by executing a written order for the subsequent one (1) year period. The License Term commences upon execution of an Order.

1.3 Authorized Users. “Users” means individuals authorized by Customer to use the Bluescape Service who have been supplied user identifications and passwords by Customer (or by Bluescape at Customer’s request), including Customer’s employees, consultants, clients, and third-party collaborators. An Order may designate specific types of Users. The Bluescape Service provided under a Subscription Plan may be accessed and used only by Authorized Users (including a limit to any specific type of User); provided however, that Customer may add additional Users at the pricing set forth in the applicable Order in accordance with the GSA Schedule Pricelist, pro-rated for the remainder of the applicable annual period at the time such additional Users are added.

1.4 Training. Bluescape may provide training to Subscribers in the Bluescape Service’s use if described in an Order (“Training”).

1.5 Availability of Bluescape Service. Bluescape will use commercially reasonable efforts consistent with prevailing industry standards to maintain the Bluescape Service to be available 24 hours per day, 7 days per week, including holidays. The Bluescape Service may be temporarily unavailable for scheduled maintenance (conducted weekly, typically in connection with a new release or service pack, but not during Support Hours (as defined below)), for unscheduled emergency maintenance, or because of other causes beyond Bluescape’s reasonable control. Notwithstanding the above, in no event will Bluescape be liable to a Freemium User or any third party for any modification, suspension or discontinuance of any part of the Bluescape Service. EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE BLUESCAPE SERVICE IS PROVIDED ON AN “AS AVAILABLE” BASIS.

1.6 Maintenance and Support. Bluescape shall provide Freemium Users and Subscriber with the maintenance and support for the Bluescape Service (“Maintenance and Support”) found at

<https://community.bluescape.com/pub/gsa-support-policy> and attached hereto as Exhibit A which Bluescape may non-materially update from time to time.

(a) Subscriber acknowledges that Bluescape shall provide Subscriber with access to bug fixes, updates and improvements to the Bluescape Service that are released by Bluescape for general availability to its other commercial customers (“Updates”) on a continuous basis. All Updates will be deemed to be part of the Bluescape Service for purposes of this Subscription Agreement and subject to all of the terms, conditions and restrictions of this Subscription Agreement. In connection with such Updates, Subscriber may be required to implement upgrades or modifications to Subscriber’s networks and other systems. Bluescape shall provide Subscriber with advance notice of all upcoming Updates which require modifications to Subscriber’s systems and shall work with Subscriber’s System Administrator (as defined below) to coordinate the release schedule and installation of such Updates. Subscriber shall implement all required modifications to Subscriber’s systems in accordance with the timing and conditions specified by Bluescape, at Subscriber’s sole expense.

(b) Except as set forth above, no other support services are provided by Bluescape. Bluescape will have no obligation to provide maintenance or support services of any kind to any Freemium User or for problems in the operation or performance of the Bluescape Service to the extent caused by any of the following (“Customer-Generated Error”): (i) any data, files, database or non-Bluescape software used in conjunction with the Bluescape Service; (ii) Customer’s use of the Bluescape Service other than as authorized in this Subscription Plan ; or (iii) Customer’s use of an outdated Bluescape Service (ie. any Bluescape Service ninety (90) days or older from the current release or Updates). If Bluescape determines that it is necessary to perform services for a problem in the operation or performance of the Bluescape Service that is caused by a Customer-Generated Error, then Bluescape will notify Customer as soon as Bluescape is aware of such Customer-Generated Error. Bluescape will not commence any such services until approved by Customer. If such services are performed, Bluescape will have the right to invoice Customer at Bluescape’s then-current professional services rates for such services performed by Bluescape.

1.7 Additional Services. Bluescape may provide implementation services to Subscribers with respect to the Bluescape Service and may provide other services to Subscribers as set forth in an Order (“Additional Services”).

1.8 Additional Applications. To the extent that Customer uses any third-party applications (“Apps”) in conjunction with Bluescape Service, such Apps are strictly governed by their respective terms and conditions. Customer is solely responsible for any use, service, or maintenance of Apps.

## **2. USE OF THE BLUESCAPE SERVICE**

2.1 Use. The Bluescape Service is intended for business use only. Customer shall (a) use the Bluescape Service only for Customer’s internal business purposes, which may include collaboration with outside agencies on Customer’s projects and collaboration with Customer’s clients; (b) be responsible for its Users’ compliance with the applicable License Type and the terms and conditions of this Subscription Agreement and any additional requirements and limitations set forth in the applicable Order; and (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Bluescape Service and shall promptly notify Bluescape of any such unauthorized access or use of which it becomes aware.

2.2 Restrictions. Customer shall not use the Bluescape Service for consumer purposes, as the Bluescape Service is intended for businesses use only. Customer shall not use the Bluescape Service or any component thereof except as expressly authorized in the Terms, an applicable Order, and by applicable law. Customer shall not, and shall not instruct any person, directly or indirectly, to: (a) reverse engineer, decompile or disassemble the software contained in the Controller, or otherwise attempt to obtain, directly or indirectly, source code for such software or any portion of such software; (b) use the Bluescape Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (c) use the Bluescape Service in a managed services arrangement; (d) attempt to gain unauthorized access to or use of the Bluescape Service or damage, disrupt, or impede the operation of Bluescape’s services or systems; (e) transmit any viruses, worms, defects, Trojan horses, or any programming of a destructive nature.; (f) use the Bluescape Service for illegal purposes or for promotion of dangerous activities (g) upload or display publicly any content that contains threatening, abusive, harassing, defamatory, libelous, invasive, hateful, or racially, ethnically or otherwise objectionable material; or (h) use the Services in any manner that may harm minors or that interacts with or targets people under the age of thirteen.

If you are a school, school district, or related person, entity or organization (such as an administrator or educator who accesses the Bluescape Service on their behalf) (each a “School”), then You agree (a) to only provide access to the Bluescape Service to those individuals employed by or enrolled as students in your School or classroom and (b) to be responsible for any Content, communications, and activity that occur under such accounts. To the extent a School offers or requires access to the Bluescape Service to Minors, the School will be responsible for those Users. You agree to uphold Your responsibilities under the FERPA, the Protection of Pupil Rights Amendment (“PPRA”), and the Children’s Online Privacy and Protection Act (“COPPA”). COPPA requires that online service providers obtain clear and verifiable parental consent before collecting personal information from children under the age of 13. You represent and warrant that you have the authority to provide consent on behalf of parents in order for Bluescape to collect information from students before allowing children under the age of 13 to access the Bluescape Service. If you are located outside of the United States, you will obtain any required consent or approval from the parent or guardian of any student covered by similar laws and, as a condition to your students’ use of the Services, you agree that you will be responsible for complying with such laws

You agree to only provide access to the Bluescape Service to those individuals who have signed either the Bluescape Rules of Behavior, Version 1.0, 2021-07, attached hereto as Exhibit B, or an equivalent Agency Rules of Behavior which is no less restrictive.

2.3 You acknowledge that the Bluescape Service, or a portion thereof, may be subject to the Export Administration Regulations, 15 C.F.R. Parts 730-774, of the United States and may be subject to other applicable country export control and trade sanctions laws (“Export Control and Sanctions Laws”). You and Your End Users may not access, use, export, re-export, divert, transfer or disclose any portion of the Bluescape Service or any related technical information or materials, directly or indirectly, in violation of Export Control and Sanctions Laws. You represent and warrant that: (i) You and Your End Users (a) are not citizens of, or located within, a country or territory that is subject to U.S. trade sanctions or other significant trade restrictions (including without limitation Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) and that You and Your End Users will not access or use the Bluescape Service, or export, re-export, divert, or transfer the Bluescape Service, in or to such countries or territories; (b) are not persons, or owned 50% or more, individually or in the aggregate by persons, identified on the U.S. Department of the Treasury’s Specially Designated Nationals and Blocked Persons List or Foreign Sanctions Evaders Lists; and (c) are not persons on

the U.S. Department of Commerce's Denied Persons List, Entity List, or Unverified List, or U.S. Department of State proliferation-related lists; (ii) You and Your End Users located in China, Russia, or Venezuela are not Military End Users and will not put the Bluescape Service to a Military End Use, as defined in 15 C.F.R. 744.21; (iii) no Content created or submitted by You or Your End Users is subject to any restriction on disclosure, transfer, download, export or re-export under the Export Control and Sanctions Laws; and (iv) You and Your End Users will not take any action that would constitute a violation of, or be penalized under, U.S. antiboycott laws administered by the U.S. Department of Commerce or the U.S. Department of the Treasury. You are solely responsible for complying with the Export Control and Sanctions Laws and monitoring them for any modifications.

### **3. RESPONSIBILITIES**

3.1 Feedback. If Customer provides Bluescape with information, feedback, suggestions and comments regarding the Bluescape Service's features and performance ("Feedback"), Bluescape has the right, but not the obligation, to use Feedback in any way without restriction or obligation to Customer. Bluescape shall be the exclusive owner of, and shall be free to use for any purpose, any ideas, concepts, know-how, or techniques resulting from Feedback, including, without limitation, any modifications or enhancements to the Bluescape Service. Bluescape acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.

3.2 Subscriber Onsite Support. If Bluescape shall provide Training or Maintenance and Support on-site at a Subscriber Site, Subscriber agrees (a) Subscriber shall make the on-site components of the Bluescape Service available to Bluescape during normal business hours; (b) Subscriber shall provide Bluescape personnel storage, working space, electricity, a telephone line and any other assistance reasonably requested by Bluescape; (c) Subscriber shall provide Bluescape with sufficient space and sufficient resources to conduct Training; and (d) the premises where the Bluescape Service is located are in a safe condition and that Bluescape's personnel shall not be subject to undue risk or danger while on the premises.

3.3 Customer Data. All data that Customer either utilizes or uploads in connection with usage of any Bluescape Service is defined as ("Customer Data"). Customer will have sole discretion as to which Customer Data it will utilize in connection or use of the Bluescape Service. Customer Data is the sole property of Customer. Customer covenants, represents and warrants that it will comply with (a) its applicable privacy and security policy(ies) and (b) all applicable federal, state, local and international privacy, data protection, and security laws, rules and regulations, including without limitation, laws relating to the collection, use, reuse, processing, storage, security, protection, handling, cross-border transfer and disclosure of personal or regulated data. Customer covenants, represents and warrants that it has all rights and has obtained all necessary consents, permissions and authorization with respect to Customer Data, including without limitation the provision of Customer Data to Bluescape and the collection, use, reuse, processing, storage, security, protection, handling, cross-border transfer and disclosure of personal or regulated data of the Customer Data in connection with Bluescape's provision of the Services, including but not limited to, Statistical Data as set forth in Section 5.4 below. Customer authorizes Bluescape to access or process the Customer Data in an encrypted state and only with Customer's prior written consent in an unencrypted state, as required to provide the Bluescape Service and the Maintenance and Support to Customer.

3.4 Security. Bluescape shall use commercially reasonable efforts in accordance with industry accepted standards used or observed by comparable suppliers of similar services/applications, which standards shall in no event be less than reasonable standards of care in all circumstances, to protect the security and integrity

of Customer Data. To the extent that Customer Data is subject to EU General Data Protection Regulation (“GDPR”), Bluescape shall process Customer Data in accordance with GDPR Processing Terms & Conditions, which such terms and conditions may be found at <https://bluescape.com/gdpr-processing-terms/> and attached hereto as Exhibit C. Unless prohibited by law, Bluescape shall promptly inform Customer of all security-related issues that threaten the security of Customer Data discovered or brought to Bluescape’s attention (“Security Issue”). Bluescape shall use all commercially reasonable efforts consistent with sound software development practices, taking into account the severity of the risk, to resolve all Security Issues as quickly as possible.

#### **4. FEES AND PAYMENT**

4.1 Fees. Subscriber shall pay Seller the fees set forth in all Orders in accordance with the GSA Schedule Pricelist (the “Fees”).

4.2 Additional Costs and Expenses.

(a) Bluescape or its authorized reseller as applicable shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 552.212-4(k).

(b) Subscriber shall reimburse Bluescape for all reasonable travel and living expenses incurred by Bluescape in performing Training, Maintenance and Support or any Additional Services on-site, including transportation, lodging, meals, and other incidental expenses in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, provided that Subscriber has first authorized such expenses, which authorization shall not be unreasonably withheld. Bluescape shall invoice Subscriber for any such expenses on a monthly basis.

4.3 Invoices and Payments. Bluescape or its authorized reseller on its behalf as applicable shall invoice Subscribers for the Fees according to the schedule set forth in the applicable Order. All Fees shall be due and payable within thirty (30) days after receipt of Bluescape’s corresponding invoice unless otherwise stated in an applicable Order. Subscribers may elect to allow Bluescape to charge Fees to a credit card on an annual or monthly recurring basis. Bluescape may elect to utilize a PCI compliant third-party to process any such credit card charges. All payments shall be in U.S. Dollars.

4.4 Late Fees. If Subscriber fails to pay any Fees or other charges due by their applicable due date, at Bluescape’s discretion, such charges may accrue late charges at the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

4.5 Reserved.

4.6 Audits. During the Term, Subscriber shall maintain accurate and complete records with respect to its use of the Bluescape Service. Bluescape shall have the right, at its own expense, not more than once per year, on reasonable notice to Subscriber, to perform an audit of such records in order to confirm Subscriber’s compliance with the Terms, including the number of authorized Users. Any such audit shall be conducted subject to Government security requirements, during normal business hours and in a manner designed to not

unreasonably interfere with Subscriber's ordinary business operations. If an audit discovers that Subscriber has exceeded the number of authorized Users set forth in the Orders, Subscriber shall promptly pay Bluescape the Fees due for such additional Users.

## **5. OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS**

5.1 Limited License. Bluescape grants to Customer a nonexclusive, nontransferable, revocable, worldwide license, without right of sublicense, to access and use the Bluescape Service and any applicable Additional Services for Customer's internal use as set forth in this Agreement. The foregoing license and Customer's use of the Bluescape Service and any Additional Services are also subject to any and all Documentation.

5.2 Ownership by Bluescape. Bluescape owns and shall retain any and all proprietary rights to the Bluescape Service, Training, Maintenance and Support, Additional Services, all Feedback, all data relating to the Bluescape Service's and Additional Services' performance, and all intellectual property, work product, content, ideas, know-how, concepts, methods and techniques created or employed by Bluescape in the delivery of the Bluescape Service and Additional Services, whether pre-existing or developed in the course of providing the Bluescape Service and Additional Services (collectively, the "Bluescape IP"). In the event any right, title or interest arises or vests at any time in Customer to any Bluescape IP, Customer assigns to Bluescape all such right, title and interest. Customer shall execute, and cause its employees and other representatives to execute, all necessary documents to give legal effect to such assignment or otherwise secure Bluescape's ownership of the Bluescape IP.

5.3 Ownership of Customer Data. Customer owns and shall retain all right, title and interest, including all intellectual property rights, in and to the Customer Data.

5.4 Statistical Data. Notwithstanding Section 5.3, Bluescape may aggregate and use for Bluescape's internal business purposes those portions of the Customer Data that relate to how Customer uses the Bluescape Service and Additional Services ("Statistical Data").

5.5 Reservation of Rights. Other than the explicit rights granted in this Agreement, nothing in this Agreement shall be construed or interpreted as granting to Customer any rights or licenses, including any rights of ownership or any other proprietary rights in or to the Bluescape IP or any portion, including any intellectual property rights. Other than the explicit rights granted in this Agreement, nothing in this Agreement shall be construed or interpreted as granting to Bluescape any rights or licenses, including any rights of ownership or any other proprietary rights in or to the Customer Data or any portion, including any intellectual property rights.

## **6. CONFIDENTIALITY**

6.1 Definition. "Confidential Information" means any information that is disclosed by or on behalf of a party (the "Disclosing Party") to the other party (the "Receiving Party") (whether disclosed in writing, orally, by electronic delivery, by inspection of tangible objects, on office or site visits, or otherwise) that relates to the Disclosing Party's business, finances, affiliates, licensees, licensors, customers, products, services, pricing (excluding GSA Schedule pricing), or intellectual property. Without limitation of the foregoing, all information relating to the Bluescape IP, including the Bluescape Service and Additional Services, shall be deemed Bluescape's Confidential Information and all Customer Data shall be deemed Customer's Confidential Information. Notwithstanding the foregoing, Confidential Information does not include information that: (a)

is generally known to the public when first disclosed by or on behalf of the Disclosing Party or thereafter becomes generally known to the public through no act or fault of the Receiving Party; (b) the Receiving Party already had obtained or obtains, without breaching any duty to the Disclosing Party, from a third party that was not under an obligation of nondisclosure; or (c) was or is independently developed by the Receiving Party without use or reference to any information obtained from the Disclosing or any party acting on behalf of the Disclosing Party, as demonstrated by the Disclosing Party's written records.

6.2 Obligations. The Receiving Party shall not: (a) reproduce the Disclosing Party's Confidential Information; (b) use the Disclosing Party's Confidential Information for any purpose other than to perform its obligations under and in accordance with this Agreement; or (c) disclose the Disclosing Party's Confidential Information to any party other than an employee or independent contractor of the Receiving Party having a need to know such Confidential Information and who is under a binding obligation of confidentiality and limitation of use and disclosure consistent with the terms hereof. Neither party, nor any party affiliated with such party, shall remove any copyright or proprietary marking from the other party's Confidential Information.

6.3 Required Disclosure. Notwithstanding anything in this Agreement to the contrary, the Receiving Party may disclose the Disclosing Party's Confidential Information if required by law or court, or by a lawful subpoena issued by any state or Federal court, arbitral, or other governmental order or process, provided the Receiving Party: (a) gives the Disclosing Party immediate written notice as soon as it learns of such requirements in order to permit the Disclosing Party to seek a protective order or other appropriate relief; (b) assists the Disclosing Party in connection with such efforts; and (c) discloses only the Confidential Information required to be disclosed. The Receiving Party shall continue to treat any Confidential Information disclosed pursuant to this Section 6.3 as Confidential Information for all other purposes. Bluescape recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

## **7. WARRANTIES AND DISCLAIMERS**

7.1 Bluescape warrants that the Bluescape Service will achieve in all material respects the functionality described in the Documentation. Customer's sole and exclusive remedy for Bluescape's breach of this warranty shall be that Bluescape shall be required to use commercially reasonable efforts to modify the Bluescape Service to achieve in all material respects the functionality described in the Documentation and if Bluescape is unable to so modify the Bluescape Service, Customer shall be entitled to terminate this Subscription Agreement and receive a pro-rata refund of the annual Fees pre-paid under this Subscription Agreement for the Bluescape Service for the terminated portion of the Subscription Agreement. Bluescape shall have no obligation with respect to a warranty claim unless notified of such claim within 60 days of Customer's being aware of the first instance of any material functionality problem. Any such notice must be sent to [legal@Bluescape.com](mailto:legal@Bluescape.com). The warranties set forth in this Section are made to and for the benefit of Customer only. Such warranties shall only apply if the applicable Bluescape Service has been utilized in accordance with this Subscription Agreement.

7.2 Customer Warranty. Customer warrants that it has the full right, power, and authority to allow its Users use the Bluescape Service, including to provide and make available all applicable data and information to Bluescape for the purpose of providing the Bluescape Service, and that Bluescape's use of such data and information in providing the Bluescape Service to Customer and its Users as provided herein does not and will



not infringe, misappropriate, or otherwise violate any right (including intellectual property rights, privacy rights, publicity rights, trade secrets, or contractual rights), or any applicable law or regulation.

#### 7.3 YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

(a) YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BLUESCAPE EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT; (b) BLUESCAPE DOES NOT WARRANT THAT (i) THE SERVICES WILL MEET ALL OF YOUR REQUIREMENTS; (ii) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, OR ERROR-FREE; OR (iii) ERRORS IN THE SOFTWARE WILL BE CORRECTED; and (c) ANY TRANSMISSION OF CONTENTS THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM ANY SUCH TRANSMISSION.

7.4 CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 7.1, THE BLUESCAPE SERVICE, TRAINING, MAINTENANCE AND SUPPORT, ADDITIONAL SERVICES, THE BLUESCAPE IP AND ALL COMPONENTS OF ALL OF THE FOREGOING ARE PROVIDED “AS IS”. BLUESCAPE DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, OR NON-INFRINGEMENT; (B) RELATING TO THE PERFORMANCE OF THE BLUESCAPE SERVICE TRAINING, MAINTENANCE AND SUPPORT, OR ADDITIONAL SERVICES; (C) WITH RESPECT TO ANY RESULTS TO BE OBTAINED FROM THE BLUESCAPE SERVICE, TRAINING, MAINTENANCE AND SUPPORT, OR ADDITIONAL SERVICES; (D) THAT USE OF THE BLUESCAPE SERVICE AND ADDITIONAL SERVICES SHALL BE UNINTERRUPTED OR ERROR FREE; OR (E) WITH RESPECT TO THE ACCURACY, QUALITY, RELIABILITY, SUITABILITY, OR EFFECTIVENESS OF ANY DATA, RESULTS, CONTENT OR OTHER INFORMATION OBTAINED OR GENERATED BY CUSTOMER THROUGH ITS USE OF THE BLUESCAPE SERVICE AND ADDITIONAL SERVICES.

## **8. INDEMNIFICATION**

8.1 Bluescape shall indemnify, have the right to intervene to defend and hold harmless Customer (and its officers, directors, employees, shareholders and agents) from and against any and all third party claims, actions, suits, proceedings, liabilities, losses, damages, fines, injuries, interest or expenses (including reasonable attorneys’ fees and costs of investigation and defense) (“Losses”) arising from or relating to any claim that the Bluescape Service, when used as permitted in this Subscription Agreement, violate or infringe any intellectual property rights of any third party. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice’s right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

8.2 The obligation to indemnify under this Agreement is conditioned on the party receiving the benefit of the indemnity (the “Indemnified Party”) providing the party with the obligation (the “Indemnifying Party”) with (a) prompt written notice of covered claim, action, suit or proceeding (“Claim”); (b) proper and full information and reasonable assistance to defend and/or settle any such Claim. The Indemnifying Party may not settle any such Claim in any manner that binds the Indemnified Party without the Indemnified Party’s prior written consent. Notwithstanding the foregoing, the Indemnified Party may, at its own expense, participate in the defense and settlement of any such Claim.

8.3 Infringement. In the event that a claim subject to Section 8.1 is made or threatened, or Bluescape reasonably believes that Customer's use of the Bluescape Service or any Additional Service is likely to be infringing, Bluescape, at its option and expense, may either (a) secure for Customer the rights necessary to continue to use the applicable Service; (b) modify such Service so that it becomes non-infringing, (c) replace the potentially infringing portion of such Service with a functionally equivalent non-infringing product or service; This Section 8 sets forth Bluescape's entire liability and obligation, and Customer sole and exclusive remedy with respect to any claims of infringement or misappropriation of any intellectual property rights of any other party.

8.4 Exceptions. Notwithstanding the provisions of Section 8, Bluescape shall have no obligation to indemnify Customer with respect to any Losses to the extent resulting from (a) the combination of the Bluescape Service or any Additional Service or portions thereof with products or services not provided by Bluescape or reasonably anticipated to be used in conjunction with the Bluescape Services or Additional Services; (b) the modification of the Bluescape Service or any Additional Service by any party other than Bluescape; or (c) the use of the Bluescape Service or Additional Services in a manner not expressly permitted by this Subscription Agreement.

## **9. LIMITATION OF LIABILITY**

9.1 Limitation of Cumulative Liability. EXCEPT FOR BLUESCAPE'S LIABILITY UNDER SECTION 8.1, BLUESCAPE'S TOTAL CUMULATIVE LIABILITY, WHETHER IN CONTRACT, TORT OR OTHERWISE, WITH RESPECT TO THE BLUESCAPE IP, THE BLUESCAPE SERVICE AND THE ADDITIONAL SERVICES PROVIDED UNDER THIS SUBSCRIPTION AGREEMENT SHALL BE LIMITED TO THE FEES ACTUALLY PAID BY CUSTOMER TO BLUESCAPE UNDER THE APPLICABLE ORDER.

9.2 Waiver of Consequential Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SUBSCRIPTION AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS REVENUE, LOSS PROFITS, LOSS BUSINESS) WHETHER IN CONTRACT, IN TORT (INCLUDING BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY IN TORT) OR OTHERWISE RESULTING FROM ITS PERFORMANCE OR ANY FAILURE TO PERFORM UNDER THIS SUBSCRIPTION AGREEMENT (INCLUDING LOSS OF DATA OR LOSS OF ANTICIPATED PROFITS OR BENEFITS) EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

## **10. TERM AND TERMINATION**

10.1 Term. The term of a Subscription Plan shall commence on the date of execution of the first applicable Order and lasts until the termination or expiration of all License Terms under all applicable Orders executed hereunder (the "Term"). Bluescape shall provide Customer with written notice of any increases in the Fees for any Renewal Term at least sixty (60) days prior to the end of the then-current License Term. Fees for any Renewal term shall be in accordance with the then current GSA Schedule Pricelist.

10.2 Termination for Cause. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Bluescape shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

10.3 Effect of Termination. Upon the expiration or termination of this Agreement for any reason,

(a) Customer shall immediately cease all use of the Bluescape Service and the Additional Services and all licenses granted under this Subscription Agreement shall terminate. To the extent that Customer is using any solution except for a Bluescape hosted solution, Customer shall immediately delete any and all instances and related Bluescape code.

(b) Except with respect to termination by Subscriber for Bluescape's breach, within thirty (30) days of the invoice receipt date following such expiration or termination, Customer shall pay all outstanding amounts then due.

(c) In the event of termination, Bluescape shall refund to Subscriber any pre-paid Fees covering the remainder of the Term.

(d) Upon written request, each party shall return to the other party or, pursuant to the other party's written instructions, destroy, all materials in its possession or control containing Confidential Information of the other party;

(e) Unless specified otherwise, all Customer Data, as well as created or uploaded content, will be securely destroyed by Bluescape within 90 days of termination; and

(f) The following provisions shall survive: 4.3, 4.4, 5.2-5.4, 6, 7.2, 8, 9, 10.4 and 12.

## **11. FORCE MAJEURE**

Excusable delays shall be governed by FAR 552.212-4(f).

## **12. MISCELLANEOUS PROVISIONS**

12.1 General. This Agreement shall be construed in accordance with the Federal law of the United States, without reference to its conflict of law principles. The parties are independent contractors and nothing in this Subscription Agreement shall be construed as establishing a joint venture, partnership, employment or agency relationship between the parties. In the event that any provision of the Agreement shall be determined to be illegal or unenforceable, a modified provision or written agreement shall be substituted which carries out as nearly as possible the original intent of the parties, and the validity, legality and enforceability of any of the remaining provisions shall not in any way be affected or impaired thereby. With respect to its subject matter, this Agreement (together with its Exhibits and all Orders, all of which are incorporated into this Agreement by reference) represents the parties' entire agreement and supersedes all prior agreements, understandings and representations, written or oral, between the parties. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns and may not be amended except by a writing signed by the duly authorized representatives of both parties. The failure of a party to require performance

of any provision of this Agreement shall in no manner affect its right to enforce the provision, and no delay or failure by either party to exercise any right or remedy shall operate as a waiver thereof. Bluescape may assign or transfer any and all rights or obligations under this Agreement Party to a successor who acquires substantially all of its relevant assets or business at any time in accordance with the provisions set forth at FAR 42.1204. Except as expressed herein, you may not assign or transfer (whether by operation of law, merger, consolidation, change of control or otherwise) any rights or obligations under this Agreement without the prior written consent of Bluescape. This Agreement may be executed in one or more counterparts and by facsimile or other electronic transmission (including via email in “portable document format” or, in the case of Customer click through), each of which shall be deemed an original, but all of which shall constitute the same instrument. Notwithstanding anything else in the Agreement, As Bluescape’s business evolves, we may change the non-material Terms. You can review the most current version of the Terms at any time by visiting this website. Any material revisions to the Terms must be agreed to in writing by both parties. If you use the Bluescape Service after the effective date of any changes, that use will constitute your acceptance of the non-materially revised terms and conditions.

12.2 Notices. You agree that Bluescape may provide you with notices regarding the Bluescape Service by email, post or postings on the website(s) related to the affected Bluescape Service, in our discretion, and that we may rely upon the contact information you have provided as being accurate, complete and current. Except where this Agreement specifically provide for use of a different means or address for notice, any notice hereunder to Bluescape must be delivered by email to [legal@bluescape.com](mailto:legal@bluescape.com). This email address may be updated as part of any update to this Agreement.

12.3 Conflict. To the extent of any conflict or inconsistency between this Subscription Agreement and any Exhibit, Order, or any other document related to the parties’ obligations under this Agreement, the terms of this body of this Agreement shall govern unless otherwise expressly agreed by the parties in writing. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding Order) shall be incorporated into or form any part of this Subscription Agreement, and all such terms or conditions shall be null and void.

12.4 Interpretation. The words “include,” “includes” and “including” shall be deemed to be followed by the words “without limitation;” and the words “such as”, “for example” “e.g.” and any derivatives shall mean by way of example and the items that follow these words shall not be deemed an exhaustive list. The descriptive headings and labels of the articles, sections, and subsections of this Agreement are for convenience and reference only and shall not affect this Agreement’s construction or interpretation.

**EXHIBIT A**  
**Bluescape GSA Maintenance and Support Policy**  
**Effective April 1, 2022**

This Bluescape Maintenance and Support Policy (“Maintenance and Support”) is issued under and forms a component of the Bluescape Terms and Conditions which references this policy. Any capitalized terms not defined herein shall have the meaning ascribed to them in the Bluescape Terms and Conditions. Bluescape may modify this Maintenance and Support Policy from time to time, however any modifications to the Maintenance and Support Policy will not materially decrease Bluescape’s support obligations.

Bluescape provides Maintenance and Support based on the Bluescape Service tier provisioned by the Customer.

<b>Bluescape Tier</b>	<b>Support Type</b>
Free/Go	Community
Whiteboard Edition	Community + Email Support
Agency Edition	Community + Email Support + Video Chat Support + SLA
Defense Edition	Community + Private Community + Email Support + Video Chat + SLA
Sovereign Edition	Community + Private Community + Email Support + Video Chat + SLA
Defense or Sovereign Edition - Enhanced	Community + Private Community + Email Support + Video Chat + SLA + Dedicated Technical Support Agent

**Bluescape Community**

The Bluescape Community is located at <https://community.bluescape.com/>. The Bluescape Community provides access to all product documentation and tutorials, as well as a Q&A section between Community members and Bluescape community and support personnel. The Bluescape Community is publicly available, so Bluescape advises all who have access the community to not post any private or confidential data to the Bluescape Community.

**Bluescape Private Community**

The Bluescape Private Community is a private community within the general community used to escalate support inquiries, product feedback, and account specific questions. The Bluescape community team and support team have access to the Bluescape Private Community, so Bluescape advises all who have access to a Private Community to not post any private or confidential data to the Bluescape Community.

**Email Support**

Bluescape Email Support enables customers to submit a ticket (“Ticket”) to Bluescape support if they experience a problem with the Bluescape Service that they are not able to solve through the Bluescape

Community. Tickets are submitted to [support@bluescape.com](mailto:support@bluescape.com). In connection with submitting a Ticket, Subscriber will: (i) notify Bluescape promptly of problems Subscriber has experienced with the Bluescape Service, and provide Bluescape with information regarding the problem sufficient to enable Bluescape to reproduce the problem; (ii) provide Bluescape with reasonable assistance, as requested, in addressing a resolution of the problem; and (iii) provide Bluescape with appropriate access consistent with Subscriber's confidentiality, safety and security procedures to enable Bluescape to reproduce the problem (where any information obtained from such access shall be considered Confidential Information (as defined below of Subscriber)). Bluescape will acknowledge receipt of a Request immediately via its automated response system, but in any event within a commercially reasonable time thereafter.

### Video Chat Support

Bluescape Video Chat Support provides customers with the ability to speak to Bluescape support directly through a dedicated AV conferencing support room during Bluescape Standard Support Hours.

### Dedicated Technical Support Agent

The Bluescape Enterprise Edition – Enhanced tier provides the Customer with a dedicated technical support agent. This direct access to a technical support agent will provide additional escalation of Ticket submissions and consistent communications with a technical support agent who is aware of the Customer history of accessing the Bluescape Service.

### Bluescape SLA

Severity Level	Priority	Support Hours Type	Acknowledge Receipt	Begin Investigation	Provide Updates to Customer
Level 1 <ul style="list-style-type: none"> <li>▪ Service Crash</li> <li>▪ Security &amp; Data Breach</li> <li>▪ 0-day Security Fix</li> <li>▪ User is unable to access service/is completely blocked</li> <li>▪ Any crash &amp; compromise around a user profile / permission model</li> </ul>	Critical	24 by 7 Support	< 1 hour	Immediately	Every hour
Level 2 <ul style="list-style-type: none"> <li>▪ Group productivity impaired</li> <li>▪ Confidential information getting stored in the logs</li> <li>▪ Issue unable to be avoided on a temporary basis</li> </ul>	High	Standard Support	< 4 hours	< 4 hours	Every 4 hours

<b>Level 3</b> <ul style="list-style-type: none"> <li>▪ Individual productivity impaired</li> <li>▪ GDPR request to query / remove user personal information</li> </ul>	Medium	Standard Support	< 24 hours (1 business day)	< 24 hours	Every 24 hours
<b>Level 4</b> <ul style="list-style-type: none"> <li>▪ All other issues</li> </ul>	Low	Standard Support	< 24 hours (1 business day)	< 5 business days	Every 48 hours

**Bluescape Standard Support Hours**

Bluescape Standard Support (“Standard Support”) are Monday through Friday, US national holidays excluded, from 5:00 AM PST to 5:00 PM PST. For Level 1 Critical Tickets, Bluescape will provide support 24 hours a day, 7 days a week (“24 by 7 Support”).

**Bluescape Support for Customer On-Prem Deployments**

If Subscriber is hosting the Bluescape Service either on-premises or through a non-Bluescape managed captive cloud, Bluescape support service shall be limited to supporting a staging environment only and shall have no responsibility for Subscriber’s production or live environments. Bluescape will provide scripts and programmatic routines to perform upgrades to staging environment. These scripts can be modified by the Subscriber to perform production upgrades; the Subscriber is responsible for using the release scripts to perform upgrades and modifications of any kind to the production environments. Bluescape will require access to the staging environments through VPN or other mutually agreed upon means in order to perform upgrades and maintenance in keeping with the Bluescape development process and schedule.

If Subscriber utilizes the Bluescape Services on-premises or through a non-Bluescape managed captive cloud, rather than through a Bluescape hosted environment, and fails to upgrade within ninety (90) days of any release, Bluescape support and maintenance shall be limited to making the current version of Update available to Subscriber.

**Bluescape Support Exclusions**

Except as set forth above, no other support services are provided by Bluescape. Bluescape will have no obligation to provide maintenance or support services of any kind for problems in the operation or performance of the Bluescape Service to the extent caused by any of the following (“Customer-Generated Error”): (i) any data, files, database or non-Bluescape software used in conjunction with the Bluescape Service; (ii) Customer’s use of the Bluescape Service other than as authorized in this Subscription Plan ; or (iii) Customer’s use of an outdated Bluescape Service (ie. any Bluescape Service ninety (90) days or older from the current release or Updates). If Bluescape determines that it is necessary to perform services for a problem in the operation or performance of the Bluescape Service that is caused by a Customer-Generated Error, then Bluescape will notify Customer as soon as Bluescape is aware of such Customer-Generated Error. Bluescape will not commence any such services until approved by Customer. If such services are performed, Bluescape will have the right to invoice Customer at Bluescape’s then-current professional services rates for such services performed by Bluescape.

**EXHIBIT B**  
**Rules of Behavior for External Users**

You must conduct only authorized business on the system.

Your level of access to systems and networks owned by Bluescape is limited to ensure your access is no more than necessary to perform your legitimate tasks or assigned duties. If you believe you are being granted access that you should not have, you must immediately notify the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) or login in to report an issue at <https://community.bluescape.com/c/support>.

You must maintain the confidentiality of your authentication credentials such as your password. Do not reveal your authentication credentials to anyone; a Bluescape employee should never ask you to reveal them.

You must follow proper logon/logoff procedures. You must manually logon to your session; do not store your password locally on your system or utilize any automated logon capabilities. You must promptly logoff when session access is no longer needed. If a logoff function is unavailable, you must close your browser. Never leave your computer unattended while logged into the system.

You must report all security incidents or suspected incidents (e.g., lost passwords, improper or suspicious acts) related to Bluescape systems and networks to the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) or login in to report an issue at <https://community.bluescape.com/c/support>.

You must not establish any unauthorized interfaces between systems, networks, and applications owned by Bluescape.

Your access to systems and networks owned by Bluescape is governed by, and subject to, all federal laws, including, but not limited to, the Privacy Act, 5 U.S.C. 552a, if the applicable Bluescape system maintains individual Privacy Act information. Your access to Bluescape systems constitutes your consent to the retrieval and disclosure of the information within the scope of your authorized access, subject to the Privacy Act, and applicable state and federal laws.

You must safeguard system resources against waste, loss, abuse, unauthorized use or disclosure, and misappropriation.

You must not process U.S. classified national security information on the system.

You must not browse, search or reveal information hosted by Bluescape except in accordance with that which is required to perform your legitimate tasks or assigned duties.

You must not retrieve information, or in any other way disclose information, for someone who does not have authority to access that information.

You must ensure that Web browsers use Secure Socket Layer (SSL) version 3.0 (or higher) and Transport Layer Security (TLS) 1.2 (or higher). SSL and TLS must use a minimum of 128-bit, encryption.



You must ensure that your web browser is configured to warn about invalid site certificates.

You must ensure that web browsers warn if the user is changing between secure and non-secure mode.

You must ensure that your web browser window used to access systems owned by Bluescape is closed before navigating to other sites/domains.

You must ensure that your web browser checks for a publisher's certificate revocation.

You must ensure that your web browser checks for server certificate revocation.

You must ensure that web browser checks for signatures on downloaded files.

You must ensure that web browser empties/deletes temporary Internet files when the browser is closed.

By your signature or electronic acceptance (such as by clicking an acceptance button on the screen) you must agree to these rules.

You understand that any person who obtains information from a computer connected to the Internet in violation of her employer's computer-use restrictions is in violation of the Computer Fraud and Abuse Act.

You agree to contact the Bluescape Chief Information Security Officer or the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) if you do not understand any of these rules.

## ACCEPTANCE AND SIGNATURE

I have read the above Rules of Behavior for External Users for Bluescape systems and networks. By my electronic acceptance and/or signature below, I acknowledge and agree that my access to all Bluescape systems and networks is covered by, and subject to, such Rules. Further, I acknowledge and accept that any violation by me of these Rules may subject me to civil and/or criminal actions and that Bluescape retains the right, at its sole discretion, to terminate, cancel or suspend my access rights to the Bluescape systems at any time, without notice.

User's Legal  
Name: \_\_\_\_\_ (printed)

User's  
Signature: \_\_\_\_\_ (signature)

Date: [Click here to enter a date.](#)

Comments: [Click here to enter text.](#)

## **EXHIBIT C**

### **GDPR PROCESSING TERMS & CONDITIONS**

Bluescape as data importer shall comply with all requirements that the General Data Protection Regulation 2016/679 (GDPR) imposes on data processors and is collectively referred to as "processor" in this Addendum. You, as our Customer and the "controller" is the data exporter. All terms herein shall take on the meaning as defined in the General Data Protection Regulation 2016/679 (GDPR). Without limiting the generality of the foregoing, processor agrees, warrants and represents that it:

a) processes the personal data only on documented instructions from the controller, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by Union or Member State law to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest; also, the processor shall immediately inform the controller if, in its opinion, an instruction infringes the GDPR, national data protection laws in the EU or other applicable law;

b) ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

c) takes all measures required pursuant to Article 32 of the GDPR (security of processing);

d) respects the conditions referred to in paragraphs 2 and 4 of Article 28 of the GDPR for engaging another processor;

e) taking into account the nature of the processing, assists the controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR, including, without limitation, right to access, rectification, erasure and portability of the data subject's personal data; (for the avoidance of doubt, processor shall only assist and enable controller to meet controllers obligations to satisfy data subjects' rights, but processor shall not respond directly to data subjects);

f) assists the controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR (Security of personal data) taking into account the nature of processing and the information available to the processor;

g) at the choice of the controller, deletes or returns all the personal data to the controller after the end of the provision of services relating to processing, and deletes existing copies unless Union or Member State law requires storage of the personal data;

h) makes available to the controller all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller;

i) provides notification as required by the GDPR and any other applicable law regarding any loss or breach of security of the personal data;

j) complies with this Addendum, the GDPR and applicable law until termination of services and upon termination, at controller's choice: (1) destroy all personal data processed and any copies thereof and certify to controller on request having done so; or (2) return all data and copies thereof to controller; and

k) monitors and self-audits its own compliance with its obligations under applicable national data protection law and the GDPR and provide controller with periodic reports, at least annually.

## **Bluescape Terms and Conditions**

*Effective Date: June 23, 2024*

Bluescape Buyer, LLC ("Bluescape") has developed the Bluescape Service, a web-based service that provides certain features and functionalities designed to facilitate enterprise project teams working within a collaborative visual workspace in real-time and manage associated collaborative workflows (the "Bluescape Service").

Bluescape has two different types of users depending on the Bluescape Service used: Customers who use the free version of the Bluescape Service are called "Freemium Users." While Freemium Users can access and use the Bluescape Service, they have access to a more limited set of Bluescape Service features and functionality than Subscribers.

Customers who use the Bluescape Service as part of a paid Bluescape subscription plan ("Subscription Plan" or "Additional Services") are called a "Subscriber." The two types of users are collectively referred to as "Customer" or "you" for purposes of these Terms and Conditions.

**The Terms and Conditions ("Terms" or "Agreement") are a legal agreement between Bluescape and you governing the right to access and/or use Bluescape Service whether directly from Bluescape or indirectly through one of its resellers (in either case, "Seller").**

By accepting the Terms in writing by executing a written purchase order, you represent and warrant that you are over the age of 16 have the authority to enter into this Agreement, and you are agreeing to be bound by all the Terms. By executing a written order for the Bluescape Service, the Ordering Activity under GSA Schedule contracts identified in the Purchase Order ("Customer") agrees to the Terms. If you do not agree, Customer will not access or use the Bluescape Service. Please note that if you have a separate written agreement with Bluescape for your access and use of the Bluescape Service, then to the extent that the terms and conditions of the prior written agreement directly contradict the Terms, the terms and conditions of the prior written agreement will govern.

## **13. Services**

1.1 Orders. The details of a Subscription Plan shall be as set forth in an ordering document offered by Seller and accepted by Subscriber ("Order") and will set forth the specific details and parameters of the Bluescape Service being ordered, including, as applicable, the License Type and License Term, Users, Training, Maintenance and Support, Uptime Commitment, and any other details, restrictions, or limitations. Orders may be in paper form or may be provided digitally, including through a Bluescape E-commerce platform, and upon mutual acceptance will be incorporated by reference into, and made a part of, this Agreement. In the event that Seller agrees to accept an Order submitted on Subscriber's form of ordering document (purchase orders, etc.), any additional or conflicting terms provided thereon will be expressly rejected unless Bluescape

and Customer both agree expressly agree to additional terms in writing. Upon execution (through the mechanism provided in the applicable offer), Orders shall be deemed incorporated by reference into, and made a part of this Agreement.

1.2 Provision of Bluescape Service. Bluescape shall make the Subscription Plan available to Subscriber during the term identified in the Order (“License Term”) pursuant to this Agreement. The Subscription Plan includes those components and features, including third-party software (“Third-Party Software”), set forth or referenced in the license package identified in each Order (a current list of which is available online at <https://www.bluescape.com/pricing/> (the “License Type”), along with all then-current user manuals or other documentation provided by Bluescape (“Documentation”). As applicable, all use of Third-Party Software shall be governed by the respective licenses for such Third-Party Software, a partial list of which may be found at <https://www.bluescape.com/third-party-terms-and-conditions/>. Nothing herein shall bind the Ordering Activity to any Third-Party terms unless the terms are provided for review and agreed to in writing by all parties. Bluescape shall have the right to modify the Bluescape Service, including adding or subtracting Third-Party Software, components, features or functionality, at any time without notice to Customer. Any such modification shall not materially reduce the functionality of the components or features that Ordering Activity has contracted for. Any license identified in the applicable package or Order as evaluation, beta, test, trial, or similar designation (“Eval Licenses”) are provided on limited terms and are offered on an as-is, where-is basis without warranty, liability, or service commitment of any kind, and accordingly Sections 1.5, 1.6, 3.4, 7.1, and 8.1, nor any other commitment or obligation of Bluescape with respect thereto shall not apply. Unless otherwise specified in the applicable Order or expressly renewed by mutual agreement in writing, Eval Licenses expire after ninety (90) days. Unless otherwise specified in the applicable Order, all other License Types are granted to Subscribers for an initial License Term of one (1) year, which term may be renewed for subsequent one (1) year periods by executing a written order for the subsequent one (1) year period. The License Term commences upon execution of an Order.

1.3 Authorized Users. “Users” means individuals authorized by Customer to use the Bluescape Service who have been supplied user identifications and passwords by Customer (or by Bluescape at Customer’s request), including Customer’s employees, consultants, clients, and third-party collaborators. An Order may designate specific types of Users. The Bluescape Service provided under a Subscription Plan may be accessed and used only by Authorized Users (including a limit to any specific type of User); provided however, that Customer may add additional Users at the pricing set forth in the applicable Order in accordance with the GSA Schedule Pricelist, pro-rated for the remainder of the applicable annual period at the time such additional Users are added.

1.4 Training. Bluescape may provide training to Subscribers in the Bluescape Service’s use if described in an Order (“Training”).

1.5 Availability of Bluescape Service. Bluescape will use commercially reasonable efforts consistent with prevailing industry standards to maintain the Bluescape Service to be available 24 hours per day, 7 days per week, including holidays. The Bluescape Service may be temporarily unavailable for scheduled maintenance (conducted weekly, typically in connection with a new release or service pack, but not during Support Hours (as defined below)), for unscheduled emergency maintenance, or because of other causes beyond Bluescape’s reasonable control. Notwithstanding the above, in no event will Bluescape be liable to a Freemium User or any third party for any modification, suspension or discontinuance of any part of the Bluescape Service. EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE BLUESCAPE SERVICE IS PROVIDED ON AN “AS AVAILABLE” BASIS.

1.6 Maintenance and Support. Bluescape shall provide Freemium Users and Subscriber with the maintenance and support for the Bluescape Service (“Maintenance and Support”) found at <https://community.bluescape.com/pub/gsa-support-policy> and attached hereto as Exhibit A which Bluescape may non-materially update from time to time.

(a) Subscriber acknowledges that Bluescape shall provide Subscriber with access to bug fixes, updates and improvements to the Bluescape Service that are released by Bluescape for general availability to its other commercial customers (“Updates”) on a continuous basis. All Updates will be deemed to be part of the Bluescape Service for purposes of this Subscription Agreement and subject to all of the terms, conditions and restrictions of this Subscription Agreement. In connection with such Updates, Subscriber may be required to implement upgrades or modifications to Subscriber’s networks and other systems. Bluescape shall provide Subscriber with advance notice of all upcoming Updates which require modifications to Subscriber’s systems and shall work with Subscriber’s System Administrator (as defined below) to coordinate the release schedule and installation of such Updates. Subscriber shall implement all required modifications to Subscriber’s systems in accordance with the timing and conditions specified by Bluescape, at Subscriber’s sole expense.

(b) Except as set forth above, no other support services are provided by Bluescape. Bluescape will have no obligation to provide maintenance or support services of any kind to any Freemium User or for problems in the operation or performance of the Bluescape Service to the extent caused by any of the following (“Customer-Generated Error”): (i) any data, files, database or non-Bluescape software used in conjunction with the Bluescape Service; (ii) Customer’s use of the Bluescape Service other than as authorized in this Subscription Plan ; or (iii) Customer’s use of an outdated Bluescape Service (ie. any Bluescape Service ninety (90) days or older from the current release or Updates). If Bluescape determines that it is necessary to perform services for a problem in the operation or performance of the Bluescape Service that is caused by a Customer-Generated Error, then Bluescape will notify Customer as soon as Bluescape is aware of such Customer-Generated Error. Bluescape will not commence any such services until approved by Customer. If such services are performed, Bluescape will have the right to invoice Customer at Bluescape’s then-current professional services rates for such services performed by Bluescape.

1.7 Additional Services. Bluescape may provide implementation services to Subscribers with respect to the Bluescape Service and may provide other services to Subscribers as set forth in an Order (“Additional Services”).

1.8 Additional Applications. To the extent that Customer uses any third-party applications (“Apps”) in conjunction with Bluescape Service, such Apps are strictly governed by their respective terms and conditions. Customer is solely responsible for any use, service, or maintenance of Apps.

## **14. USE OF THE BLUESCAPE SERVICE**

2.1 Use. The Bluescape Service is intended for business use only. Customer shall (a) use the Bluescape Service only for Customer’s internal business purposes, which may include collaboration with outside agencies on Customer’s projects and collaboration with Customer’s clients; (b) be responsible for its Users’ compliance with the applicable License Type and the terms and conditions of this Subscription Agreement and any additional requirements and limitations set forth in the applicable Order; and (c) use commercially reasonable

efforts to prevent unauthorized access to or use of the Bluescape Service and shall promptly notify Bluescape of any such unauthorized access or use of which it becomes aware.

2.2 Restrictions. Customer shall not use the Bluescape Service for consumer purposes, as the Bluescape Service is intended for businesses use only. Customer shall not use the Bluescape Service or any component thereof except as expressly authorized in the Terms, an applicable Order, and by applicable law. Customer shall not, and shall not instruct any person, directly or indirectly, to: (a) reverse engineer, decompile or disassemble the software contained in the Controller, or otherwise attempt to obtain, directly or indirectly, source code for such software or any portion of such software; (b) use the Bluescape Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (c) use the Bluescape Service in a managed services arrangement; (d) attempt to gain unauthorized access to or use of the Bluescape Service or damage, disrupt, or impede the operation of Bluescape's services or systems; (e) transmit any viruses, worms, defects, Trojan horses, or any programming of a destructive nature.; (f) use the Bluescape Service for illegal purposes or for promotion of dangerous activities (g) upload or display publicly any content that contains threatening, abusive, harassing, defamatory, libelous, invasive, hateful, or racially, ethnically or otherwise objectionable material; or (h) use the Services in any manner that may harm minors or that interacts with or targets people under the age of thirteen.

If you are a school, school district, or related person, entity or organization (such as an administrator or educator who accesses the Bluescape Service on their behalf) (each a "School"), then You agree (a) to only provide access to the Bluescape Service to those individuals employed by or enrolled as students in your School or classroom and (b) to be responsible for any Content, communications, and activity that occur under such accounts. To the extent a School offers or requires access to the Bluescape Service to Minors, the School will be responsible for those Users. You agree to uphold Your responsibilities under the FERPA, the Protection of Pupil Rights Amendment ("PPRA"), and the Children's Online Privacy and Protection Act ("COPPA"). COPPA requires that online service providers obtain clear and verifiable parental consent before collecting personal information from children under the age of 13. You represent and warrant that you have the authority to provide consent on behalf of parents in order for Bluescape to collect information from students before allowing children under the age of 13 to access the Bluescape Service. If you are located outside of the United States, you will obtain any required consent or approval from the parent or guardian of any student covered by similar laws and, as a condition to your students' use of the Services, you agree that you will be responsible for complying with such laws

You agree to only provide access to the Bluescape Service to those individuals who have signed either the Bluescape Rules of Behavior, Version 1.0, 2021-07, attached hereto as Exhibit B, or an equivalent Agency Rules of Behavior which is no less restrictive.

2.3 You acknowledge that the Bluescape Service, or a portion thereof, may be subject to the Export Administration Regulations, 15 C.F.R. Parts 730-774, of the United States and may be subject to other applicable country export control and trade sanctions laws ("Export Control and Sanctions Laws"). You and Your End Users may not access, use, export, re-export, divert, transfer or disclose any portion of the Bluescape Service or any related technical information or materials, directly or indirectly, in violation of Export Control and Sanctions Laws. You represent and warrant that: (i) You and Your End Users (a) are not citizens of, or located within, a country or territory that is subject to U.S. trade sanctions or other significant trade restrictions (including without limitation Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) and that You and Your End Users will not access or use the Bluescape Service, or export, re-export, divert, or

transfer the Bluescape Service, in or to such countries or territories; (b) are not persons, or owned 50% or more, individually or in the aggregate by persons, identified on the U.S. Department of the Treasury's Specially Designated Nationals and Blocked Persons List or Foreign Sanctions Evaders Lists; and (c) are not persons on the U.S. Department of Commerce's Denied Persons List, Entity List, or Unverified List, or U.S. Department of State proliferation-related lists; (ii) You and Your End Users located in China, Russia, or Venezuela are not Military End Users and will not put the Bluescape Service to a Military End Use, as defined in 15 C.F.R. 744.21; (iii) no Content created or submitted by You or Your End Users is subject to any restriction on disclosure, transfer, download, export or re-export under the Export Control and Sanctions Laws; and (iv) You and Your End Users will not take any action that would constitute a violation of, or be penalized under, U.S. antiboycott laws administered by the U.S. Department of Commerce or the U.S. Department of the Treasury. You are solely responsible for complying with the Export Control and Sanctions Laws and monitoring them for any modifications.

## **15. RESPONSIBILITIES**

3.1 Feedback. If Customer provides Bluescape with information, feedback, suggestions and comments regarding the Bluescape Service's features and performance ("Feedback"), Bluescape has the right, but not the obligation, to use Feedback in any way without restriction or obligation to Customer. Bluescape shall be the exclusive owner of, and shall be free to use for any purpose, any ideas, concepts, know-how, or techniques resulting from Feedback, including, without limitation, any modifications or enhancements to the Bluescape Service. Bluescape acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.

3.2 Subscriber Onsite Support. If Bluescape shall provide Training or Maintenance and Support on-site at a Subscriber Site, Subscriber agrees (a) Subscriber shall make the on-site components of the Bluescape Service available to Bluescape during normal business hours; (b) Subscriber shall provide Bluescape personnel storage, working space, electricity, a telephone line and any other assistance reasonably requested by Bluescape; (c) Subscriber shall provide Bluescape with sufficient space and sufficient resources to conduct Training; and (d) the premises where the Bluescape Service is located are in a safe condition and that Bluescape's personnel shall not be subject to undue risk or danger while on the premises.

3.3 Customer Data. All data that Customer either utilizes or uploads in connection with usage of any Bluescape Service is defined as ("Customer Data"). Customer will have sole discretion as to which Customer Data it will utilize in connection or use of the Bluescape Service. Customer Data is the sole property of Customer. Customer covenants, represents and warrants that it will comply with (a) its applicable privacy and security policy(ies) and (b) all applicable federal, state, local and international privacy, data protection, and security laws, rules and regulations, including without limitation, laws relating to the collection, use, reuse, processing, storage, security, protection, handling, cross-border transfer and disclosure of personal or regulated data. Customer covenants, represents and warrants that it has all rights and has obtained all necessary consents, permissions and authorization with respect to Customer Data, including without limitation the provision of Customer Data to Bluescape and the collection, use, reuse, processing, storage, security, protection, handling, cross-border transfer and disclosure of personal or regulated data of the Customer Data in connection with Bluescape's provision of the Services, including but not limited to, Statistical Data as set forth in Section 5.4 below. Customer authorizes Bluescape to access or process the Customer Data in an encrypted state and only with Customer's prior written consent in an unencrypted state, as required to provide the Bluescape Service and the Maintenance and Support to Customer.



3.4 Security. Bluescape shall use commercially reasonable efforts in accordance with industry accepted standards used or observed by comparable suppliers of similar services/applications, which standards shall in no event be less than reasonable standards of care in all circumstances, to protect the security and integrity of Customer Data. To the extent that Customer Data is subject to EU General Data Protection Regulation (“GDPR”), Bluescape shall process Customer Data in accordance with GDPR Processing Terms & Conditions, which such terms and conditions may be found at <https://bluescape.com/gdpr-processing-terms/> and attached hereto as Exhibit C. Unless prohibited by law, Bluescape shall promptly inform Customer of all security-related issues that threaten the security of Customer Data discovered or brought to Bluescape’s attention (“Security Issue”). Bluescape shall use all commercially reasonable efforts consistent with sound software development practices, taking into account the severity of the risk, to resolve all Security Issues as quickly as possible.

## **16. FEES AND PAYMENT**

4.1 Fees. Subscriber shall pay Seller the fees set forth in all Orders in accordance with the GSA Schedule Pricelist (the “Fees”).

4.2 Additional Costs and Expenses.

(a) Bluescape or its authorized reseller as applicable shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 552.212-4(k).

(b) Subscriber shall reimburse Bluescape for all reasonable travel and living expenses incurred by Bluescape in performing Training, Maintenance and Support or any Additional Services on-site, including transportation, lodging, meals, and other incidental expenses in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, provided that Subscriber has first authorized such expenses, which authorization shall not be unreasonably withheld. Bluescape shall invoice Subscriber for any such expenses on a monthly basis.

4.3 Invoices and Payments. Bluescape or its authorized reseller on its behalf as applicable shall invoice Subscribers for the Fees according to the schedule set forth in the applicable Order. All Fees shall be due and payable within thirty (30) days after receipt of Bluescape’s corresponding invoice unless otherwise stated in an applicable Order. Subscribers may elect to allow Bluescape to charge Fees to a credit card on an annual or monthly recurring basis. Bluescape may elect to utilize a PCI compliant third-party to process any such credit card charges. All payments shall be in U.S. Dollars.

4.4 Late Fees. If Subscriber fails to pay any Fees or other charges due by their applicable due date, at Bluescape’s discretion, such charges may accrue late charges at the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

4.5 Reserved.

4.6 Audits. During the Term, Subscriber shall maintain accurate and complete records with respect to its use of the Bluescape Service. Bluescape shall have the right, at its own expense, not more than once per year, on

reasonable notice to Subscriber, to perform an audit of such records in order to confirm Subscriber's compliance with the Terms, including the number of authorized Users. Any such audit shall be conducted subject to Government security requirements, during normal business hours and in a manner designed to not unreasonably interfere with Subscriber's ordinary business operations. If an audit discovers that Subscriber has exceeded the number of authorized Users set forth in the Orders, Subscriber shall promptly pay Bluescape the Fees due for such additional Users.

## **17. OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS**

5.1 Limited License. Bluescape grants to Customer a nonexclusive, nontransferable, revocable, worldwide license, without right of sublicense, to access and use the Bluescape Service and any applicable Additional Services for Customer's internal use as set forth in this Agreement. The foregoing license and Customer's use of the Bluescape Service and any Additional Services are also subject to any and all Documentation.

5.2 Ownership by Bluescape. Bluescape owns and shall retain any and all proprietary rights to the Bluescape Service, Training, Maintenance and Support, Additional Services, all Feedback, all data relating to the Bluescape Service's and Additional Services' performance, and all intellectual property, work product, content, ideas, know-how, concepts, methods and techniques created or employed by Bluescape in the delivery of the Bluescape Service and Additional Services, whether pre-existing or developed in the course of providing the Bluescape Service and Additional Services (collectively, the "Bluescape IP"). In the event any right, title or interest arises or vests at any time in Customer to any Bluescape IP, Customer assigns to Bluescape all such right, title and interest. Customer shall execute, and cause its employees and other representatives to execute, all necessary documents to give legal effect to such assignment or otherwise secure Bluescape's ownership of the Bluescape IP.

5.3 Ownership of Customer Data. Customer owns and shall retain all right, title and interest, including all intellectual property rights, in and to the Customer Data.

5.4 Statistical Data. Notwithstanding Section 5.3, Bluescape may aggregate and use for Bluescape's internal business purposes those portions of the Customer Data that relate to how Customer uses the Bluescape Service and Additional Services ("Statistical Data").

5.5 Reservation of Rights. Other than the explicit rights granted in this Agreement, nothing in this Agreement shall be construed or interpreted as granting to Customer any rights or licenses, including any rights of ownership or any other proprietary rights in or to the Bluescape IP or any portion, including any intellectual property rights. Other than the explicit rights granted in this Agreement, nothing in this Agreement shall be construed or interpreted as granting to Bluescape any rights or licenses, including any rights of ownership or any other proprietary rights in or to the Customer Data or any portion, including any intellectual property rights.

## **18. CONFIDENTIALITY**

6.1 Definition. "Confidential Information" means any information that is disclosed by or on behalf of a party (the "Disclosing Party") to the other party (the "Receiving Party") (whether disclosed in writing, orally, by electronic delivery, by inspection of tangible objects, on office or site visits, or otherwise) that relates to the Disclosing Party's business, finances, affiliates, licensees, licensors, customers, products, services, pricing (excluding GSA Schedule pricing), or intellectual property. Without limitation of the foregoing, all information

relating to the Bluescape IP, including the Bluescape Service and Additional Services, shall be deemed Bluescape's Confidential Information and all Customer Data shall be deemed Customer's Confidential Information. Notwithstanding the foregoing, Confidential Information does not include information that: (a) is generally known to the public when first disclosed by or on behalf of the Disclosing Party or thereafter becomes generally known to the public through no act or fault of the Receiving Party; (b) the Receiving Party already had obtained or obtains, without breaching any duty to the Disclosing Party, from a third party that was not under an obligation of nondisclosure; or (c) was or is independently developed by the Receiving Party without use or reference to any information obtained from the Disclosing or any party acting on behalf of the Disclosing Party, as demonstrated by the Disclosing Party's written records.

6.2 Obligations. The Receiving Party shall not: (a) reproduce the Disclosing Party's Confidential Information; (b) use the Disclosing Party's Confidential Information for any purpose other than to perform its obligations under and in accordance with this Agreement; or (c) disclose the Disclosing Party's Confidential Information to any party other than an employee or independent contractor of the Receiving Party having a need to know such Confidential Information and who is under a binding obligation of confidentiality and limitation of use and disclosure consistent with the terms hereof. Neither party, nor any party affiliated with such party, shall remove any copyright or proprietary marking from the other party's Confidential Information.

6.3 Required Disclosure. Notwithstanding anything in this Agreement to the contrary, the Receiving Party may disclose the Disclosing Party's Confidential Information if required by law or court, or by a lawful subpoena issued by any state or Federal court, arbitral, or other governmental order or process, provided the Receiving Party: (a) gives the Disclosing Party immediate written notice as soon as it learns of such requirements in order to permit the Disclosing Party to seek a protective order or other appropriate relief; (b) assists the Disclosing Party in connection with such efforts; and (c) discloses only the Confidential Information required to be disclosed. The Receiving Party shall continue to treat any Confidential Information disclosed pursuant to this Section 6.3 as Confidential Information for all other purposes. Bluescape recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

## **19. WARRANTIES AND DISCLAIMERS**

7.1 Bluescape warrants that the Bluescape Service will achieve in all material respects the functionality described in the Documentation. Customer's sole and exclusive remedy for Bluescape's breach of this warranty shall be that Bluescape shall be required to use commercially reasonable efforts to modify the Bluescape Service to achieve in all material respects the functionality described in the Documentation and if Bluescape is unable to so modify the Bluescape Service, Customer shall be entitled to terminate this Subscription Agreement and receive a pro-rata refund of the annual Fees pre-paid under this Subscription Agreement for the Bluescape Service for the terminated portion of the Subscription Agreement. Bluescape shall have no obligation with respect to a warranty claim unless notified of such claim within 60 days of Customer's being aware of the first instance of any material functionality problem. Any such notice must be sent to legal@Bluescape.com. The warranties set forth in this Section are made to and for the benefit of Customer only. Such warranties shall only apply if the applicable Bluescape Service has been utilized in accordance with this Subscription Agreement.

7.2 Customer Warranty. Customer warrants that it has the full right, power, and authority to allow its Users use the Bluescape Service, including to provide and make available all applicable data and information to

Bluescape for the purpose of providing the Bluescape Service, and that Bluescape's use of such data and information in providing the Bluescape Service to Customer and its Users as provided herein does not and will not infringe, misappropriate, or otherwise violate any right (including intellectual property rights, privacy rights, publicity rights, trade secrets, or contractual rights), or any applicable law or regulation.

#### 7.3 YOU EXPRESSLY UNDERSTAND AND AGREE THAT:

(a) YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BLUESCAPE EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT; (b) BLUESCAPE DOES NOT WARRANT THAT (i) THE SERVICES WILL MEET ALL OF YOUR REQUIREMENTS; (ii) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, OR ERROR-FREE; OR (iii) ERRORS IN THE SOFTWARE WILL BE CORRECTED; and (c) ANY TRANSMISSION OF CONTENTS THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM ANY SUCH TRANSMISSION.

7.4 CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 7.1, THE BLUESCAPE SERVICE, TRAINING, MAINTENANCE AND SUPPORT, ADDITIONAL SERVICES, THE BLUESCAPE IP AND ALL COMPONENTS OF ALL OF THE FOREGOING ARE PROVIDED "AS IS". BLUESCAPE DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, OR NON-INFRINGEMENT; (B) RELATING TO THE PERFORMANCE OF THE BLUESCAPE SERVICE TRAINING, MAINTENANCE AND SUPPORT, OR ADDITIONAL SERVICES; (C) WITH RESPECT TO ANY RESULTS TO BE OBTAINED FROM THE BLUESCAPE SERVICE, TRAINING, MAINTENANCE AND SUPPORT, OR ADDITIONAL SERVICES; (D) THAT USE OF THE BLUESCAPE SERVICE AND ADDITIONAL SERVICES SHALL BE UNINTERRUPTED OR ERROR FREE; OR (E) WITH RESPECT TO THE ACCURACY, QUALITY, RELIABILITY, SUITABILITY, OR EFFECTIVENESS OF ANY DATA, RESULTS, CONTENT OR OTHER INFORMATION OBTAINED OR GENERATED BY CUSTOMER THROUGH ITS USE OF THE BLUESCAPE SERVICE AND ADDITIONAL SERVICES.

## **20. INDEMNIFICATION**

8.1 Bluescape shall indemnify, have the right to intervene to defend and hold harmless Customer (and its officers, directors, employees, shareholders and agents) from and against any and all third party claims, actions, suits, proceedings, liabilities, losses, damages, fines, injuries, interest or expenses (including reasonable attorneys' fees and costs of investigation and defense) ("Losses") arising from or relating to any claim that the Bluescape Service, when used as permitted in this Subscription Agreement, violate or infringe any intellectual property rights of any third party. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

8.2 The obligation to indemnify under this Agreement is conditioned on the party receiving the benefit of the indemnity (the "Indemnified Party") providing the party with the obligation (the "Indemnifying Party") with (a) prompt written notice of covered claim, action, suit or proceeding ("Claim"); (b) proper and full information and reasonable assistance to defend and/or settle any such Claim. The Indemnifying Party may not settle any such Claim in any manner that binds the Indemnified Party without the Indemnified Party's prior written

consent. Notwithstanding the foregoing, the Indemnified Party may, at its own expense, participate in the defense and settlement of any such Claim.

8.3 Infringement. In the event that a claim subject to Section 8.1 is made or threatened, or Bluescape reasonably believes that Customer's use of the Bluescape Service or any Additional Service is likely to be infringing, Bluescape, at its option and expense, may either (a) secure for Customer the rights necessary to continue to use the applicable Service; (b) modify such Service so that it becomes non-infringing, (c) replace the potentially infringing portion of such Service with a functionally equivalent non-infringing product or service; This Section 8 sets forth Bluescape's entire liability and obligation, and Customer sole and exclusive remedy with respect to any claims of infringement or misappropriation of any intellectual property rights of any other party.

8.4 Exceptions. Notwithstanding the provisions of Section 8, Bluescape shall have no obligation to indemnify Customer with respect to any Losses to the extent resulting from (a) the combination of the Bluescape Service or any Additional Service or portions thereof with products or services not provided by Bluescape or reasonably anticipated to be used in conjunction with the Bluescape Services or Additional Services; (b) the modification of the Bluescape Service or any Additional Service by any party other than Bluescape; or (c) the use of the Bluescape Service or Additional Services in a manner not expressly permitted by this Subscription Agreement.

## **21. LIMITATION OF LIABILITY**

9.1 Limitation of Cumulative Liability. EXCEPT FOR BLUESCAPE'S LIABILITY UNDER SECTION 8.1, BLUESCAPE'S TOTAL CUMULATIVE LIABILITY, WHETHER IN CONTRACT, TORT OR OTHERWISE, WITH RESPECT TO THE BLUESCAPE IP, THE BLUESCAPE SERVICE AND THE ADDITIONAL SERVICES PROVIDED UNDER THIS SUBSCRIPTION AGREEMENT SHALL BE LIMITED TO THE FEES ACTUALLY PAID BY CUSTOMER TO BLUESCAPE UNDER THE APPLICABLE ORDER.

9.2 Waiver of Consequential Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SUBSCRIPTION AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS REVENUE, LOSS PROFITS, LOSS BUSINESS) WHETHER IN CONTRACT, IN TORT (INCLUDING BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY IN TORT) OR OTHERWISE RESULTING FROM ITS PERFORMANCE OR ANY FAILURE TO PERFORM UNDER THIS SUBSCRIPTION AGREEMENT (INCLUDING LOSS OF DATA OR LOSS OF ANTICIPATED PROFITS OR BENEFITS) EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

## **22. TERM AND TERMINATION**

10.1 Term. The term of a Subscription Plan shall commence on the date of execution of the first applicable Order and lasts until the termination or expiration of all License Terms under all applicable Orders executed hereunder (the "Term"). Bluescape shall provide Customer with written notice of any increases in the Fees for

any Renewal Term at least sixty (60) days prior to the end of the then-current License Term. Fees for any Renewal term shall be in accordance with the then current GSA Schedule Pricelist.

10.2 Termination for Cause. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Bluescape shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

10.3 Effect of Termination. Upon the expiration or termination of this Agreement for any reason,

(a) Customer shall immediately cease all use of the Bluescape Service and the Additional Services and all licenses granted under this Subscription Agreement shall terminate. To the extent that Customer is using any solution except for a Bluescape hosted solution, Customer shall immediately delete any and all instances and related Bluescape code.

(b) Except with respect to termination by Subscriber for Bluescape's breach, within thirty (30) days of the invoice receipt date following such expiration or termination, Customer shall pay all outstanding amounts then due.

(c) In the event of termination, Bluescape shall refund to Subscriber any pre-paid Fees covering the remainder of the Term.

(d) Upon written request, each party shall return to the other party or, pursuant to the other party's written instructions, destroy, all materials in its possession or control containing Confidential Information of the other party;

(e) Unless specified otherwise, all Customer Data, as well as created or uploaded content, will be securely destroyed by Bluescape within 90 days of termination; and

(f) The following provisions shall survive: 4.3, 4.4, 5.2-5.4, 6, 7.2, 8, 9, 10.4 and 12.

## **23. FORCE MAJEURE**

Excusable delays shall be governed by FAR 552.212-4(f).

## **24. MISCELLANEOUS PROVISIONS**

12.1 General. This Agreement shall be construed in accordance with the Federal law of the United States, without reference to its conflict of law principles. The parties are independent contractors and nothing in this Subscription Agreement shall be construed as establishing a joint venture, partnership, employment or agency relationship between the parties. In the event that any provision of the Agreement shall be determined to be illegal or unenforceable, a modified provision or written agreement shall be substituted which carries out as nearly as possible the original intent of the parties, and the validity, legality and enforceability of any of the remaining provisions shall not in any way be affected or impaired thereby. With respect to its subject matter, this Agreement (together with its Exhibits and all Orders, all of which are incorporated into this Agreement by reference) represents the parties' entire agreement and supersedes all prior agreements, understandings and

representations, written or oral, between the parties. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns and may not be amended except by a writing signed by the duly authorized representatives of both parties. The failure of a party to require performance of any provision of this Agreement shall in no manner affect its right to enforce the provision, and no delay or failure by either party to exercise any right or remedy shall operate as a waiver thereof. Bluescape may assign or transfer any and all rights or obligations under this Agreement Party to a successor who acquires substantially all of its relevant assets or business at any time in accordance with the provisions set forth at FAR 42.1204. Except as expressed herein, you may not assign or transfer (whether by operation of law, merger, consolidation, change of control or otherwise) any rights or obligations under this Agreement without the prior written consent of Bluescape. This Agreement may be executed in one or more counterparts and by facsimile or other electronic transmission (including via email in "portable document format" or, in the case of Customer click through), each of which shall be deemed an original, but all of which shall constitute the same instrument. Notwithstanding anything else in the Agreement, As Bluescape's business evolves, we may change the non-material Terms. You can review the most current version of the Terms at any time by visiting this website. Any material revisions to the Terms must be agreed to in writing by both parties. If you use the Bluescape Service after the effective date of any changes, that use will constitute your acceptance of the non-materially revised terms and conditions.

12.2 Notices. You agree that Bluescape may provide you with notices regarding the Bluescape Service by email, post or postings on the website(s) related to the affected Bluescape Service, in our discretion, and that we may rely upon the contact information you have provided as being accurate, complete and current. Except where this Agreement specifically provide for use of a different means or address for notice, any notice hereunder to Bluescape must be delivered by email to [legal@bluescape.com](mailto:legal@bluescape.com). This email address may be updated as part of any update to this Agreement.

12.3 Conflict. To the extent of any conflict or inconsistency between this Subscription Agreement and any Exhibit, Order, or any other document related to the parties' obligations under this Agreement, the terms of this body of this Agreement shall govern unless otherwise expressly agreed by the parties in writing. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding Order) shall be incorporated into or form any part of this Subscription Agreement, and all such terms or conditions shall be null and void.

12.4 Interpretation. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation;" and the words "such as", "for example" "e.g." and any derivatives shall mean by way of example and the items that follow these words shall not be deemed an exhaustive list. The descriptive headings and labels of the articles, sections, and subsections of this Agreement are for convenience and reference only and shall not affect this Agreement's construction or interpretation.

**EXHIBIT A**  
**Bluescape GSA Maintenance and Support Policy**  
**Effective April 1, 2022**

This Bluescape Maintenance and Support Policy (“Maintenance and Support”) is issued under and forms a component of the Bluescape Terms and Conditions which references this policy. Any capitalized terms not defined herein shall have the meaning ascribed to them in the Bluescape Terms and Conditions. Bluescape may modify this Maintenance and Support Policy from time to time, however any modifications to the Maintenance and Support Policy will not materially decrease Bluescape’s support obligations.

Bluescape provides Maintenance and Support based on the Bluescape Service tier provisioned by the Customer.

<b>Bluescape Tier</b>	<b>Support Type</b>
Free/Go	Community
Whiteboard Edition	Community + Email Support
Agency Edition	Community + Email Support + Video Chat Support + SLA
Defense Edition	Community + Private Community + Email Support + Video Chat + SLA
Sovereign Edition	Community + Private Community + Email Support + Video Chat + SLA
Defense or Sovereign Edition - Enhanced	Community + Private Community + Email Support + Video Chat + SLA + Dedicated Technical Support Agent

**Bluescape Community**

The Bluescape Community is located at <https://community.bluescape.com/>. The Bluescape Community provides access to all product documentation and tutorials, as well as a Q&A section between Community members and Bluescape community and support personnel. The Bluescape Community is publicly available, so Bluescape advises all who have access the community to not post any private or confidential data to the Bluescape Community.

**Bluescape Private Community**

The Bluescape Private Community is a private community within the general community used to escalate support inquiries, product feedback, and account specific questions. The Bluescape community team and support team have access to the Bluescape Private Community, so Bluescape advises all who have access to a Private Community to not post any private or confidential data to the Bluescape Community.

**Email Support**

Bluescape Email Support enables customers to submit a ticket (“Ticket”) to Bluescape support if they experience a problem with the Bluescape Service that they are not able to solve through the Bluescape



Community. Tickets are submitted to [support@bluescape.com](mailto:support@bluescape.com). In connection with submitting a Ticket, Subscriber will: (i) notify Bluescape promptly of problems Subscriber has experienced with the Bluescape Service, and provide Bluescape with information regarding the problem sufficient to enable Bluescape to reproduce the problem; (ii) provide Bluescape with reasonable assistance, as requested, in addressing a resolution of the problem; and (iii) provide Bluescape with appropriate access consistent with Subscriber's confidentiality, safety and security procedures to enable Bluescape to reproduce the problem (where any information obtained from such access shall be considered Confidential Information (as defined below of Subscriber). Bluescape will acknowledge receipt of a Request immediately via its automated response system, but in any event within a commercially reasonable time thereafter.

### Video Chat Support

Bluescape Video Chat Support provides customers with the ability to speak to Bluescape support directly through a dedicated AV conferencing support room during Bluescape Standard Support Hours.

### Dedicated Technical Support Agent

The Bluescape Enterprise Edition – Enhanced tier provides the Customer with a dedicated technical support agent. This direct access to a technical support agent will provide additional escalation of Ticket submissions and consistent communications with a technical support agent who is aware of the Customer history of accessing the Bluescape Service.

### Bluescape SLA

Severity Level	Priority	Support Hours Type	Acknowledge Receipt	Begin Investigation	Provide Updates to Customer
Level 1 <ul style="list-style-type: none"> <li>▪ Service Crash</li> <li>▪ Security &amp; Data Breach</li> <li>▪ 0-day Security Fix</li> <li>▪ User is unable to access service/is completely blocked</li> <li>▪ Any crash &amp; compromise around a user profile / permission model</li> </ul>	Critical	24 by 7 Support	< 1 hour	Immediately	Every hour
Level 2 <ul style="list-style-type: none"> <li>▪ Group productivity impaired</li> <li>▪ Confidential information getting stored in the logs</li> <li>▪ Issue unable to be avoided on a temporary basis</li> </ul>	High	Standard Support	< 4 hours	< 4 hours	Every 4 hours

Level 3 <ul style="list-style-type: none"> <li>▪ Individual productivity impaired</li> <li>▪ GDPR request to query / remove user personal information</li> </ul>	Medium	Standard Support	< 24 hours (1 business day)	< 24 hours	Every 24 hours
Level 4 <ul style="list-style-type: none"> <li>▪ All other issues</li> </ul>	Low	Standard Support	< 24 hours (1 business day)	< 5 business days	Every 48 hours

**Bluescape Standard Support Hours**

Bluescape Standard Support (“Standard Support”) are Monday through Friday, US national holidays excluded, from 5:00 AM PST to 5:00 PM PST. For Level 1 Critical Tickets, Bluescape will provide support 24 hours a day, 7 days a week (“24 by 7 Support”).

**Bluescape Support for Customer On-Prem Deployments**

If Subscriber is hosting the Bluescape Service either on-premises or through a non-Bluescape managed captive cloud, Bluescape support service shall be limited to supporting a staging environment only and shall have no responsibility for Subscriber’s production or live environments. Bluescape will provide scripts and programmatic routines to perform upgrades to staging environment. These scripts can be modified by the Subscriber to perform production upgrades; the Subscriber is responsible for using the release scripts to perform upgrades and modifications of any kind to the production environments. Bluescape will require access to the staging environments through VPN or other mutually agreed upon means in order to perform upgrades and maintenance in keeping with the Bluescape development process and schedule.

If Subscriber utilizes the Bluescape Services on-premises or through a non-Bluescape managed captive cloud, rather than through a Bluescape hosted environment, and fails to upgrade within ninety (90) days of any release, Bluescape support and maintenance shall be limited to making the current version of Update available to Subscriber.

**Bluescape Support Exclusions**

Except as set forth above, no other support services are provided by Bluescape. Bluescape will have no obligation to provide maintenance or support services of any kind for problems in the operation or performance of the Bluescape Service to the extent caused by any of the following (“Customer-Generated Error”): (i) any data, files, database or non-Bluescape software used in conjunction with the Bluescape Service; (ii) Customer’s use of the Bluescape Service other than as authorized in this Subscription Plan ; or (iii) Customer’s use of an outdated Bluescape Service (ie. any Bluescape Service ninety (90) days or older from the current release or Updates). If Bluescape determines that it is necessary to perform services for a problem in the operation or performance of the Bluescape Service that is caused by a Customer-Generated Error, then Bluescape will notify Customer as soon as Bluescape is aware of such Customer-Generated Error. Bluescape will not commence any such services until approved by Customer. If such services are performed, Bluescape will have the right to invoice Customer at Bluescape’s then-current professional services rates for such services performed by Bluescape.

**EXHIBIT B**  
**Rules of Behavior for External Users**

You must conduct only authorized business on the system.

Your level of access to systems and networks owned by Bluescape is limited to ensure your access is no more than necessary to perform your legitimate tasks or assigned duties. If you believe you are being granted access that you should not have, you must immediately notify the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) or login in to report an issue at <https://community.bluescape.com/c/support>.

You must maintain the confidentiality of your authentication credentials such as your password. Do not reveal your authentication credentials to anyone; a Bluescape employee should never ask you to reveal them.

You must follow proper logon/logoff procedures. You must manually logon to your session; do not store your password locally on your system or utilize any automated logon capabilities. You must promptly logoff when session access is no longer needed. If a logoff function is unavailable, you must close your browser. Never leave your computer unattended while logged into the system.

You must report all security incidents or suspected incidents (e.g., lost passwords, improper or suspicious acts) related to Bluescape systems and networks to the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) or login in to report an issue at <https://community.bluescape.com/c/support>.

You must not establish any unauthorized interfaces between systems, networks, and applications owned by Bluescape.

Your access to systems and networks owned by Bluescape is governed by, and subject to, all federal laws, including, but not limited to, the Privacy Act, 5 U.S.C. 552a, if the applicable Bluescape system maintains individual Privacy Act information. Your access to Bluescape systems constitutes your consent to the retrieval and disclosure of the information within the scope of your authorized access, subject to the Privacy Act, and applicable state and federal laws.

You must safeguard system resources against waste, loss, abuse, unauthorized use or disclosure, and misappropriation.

You must not process U.S. classified national security information on the system.

You must not browse, search or reveal information hosted by Bluescape except in accordance with that which is required to perform your legitimate tasks or assigned duties.

You must not retrieve information, or in any other way disclose information, for someone who does not have authority to access that information.

You must ensure that Web browsers use Secure Socket Layer (SSL) version 3.0 (or higher) and Transport Layer Security (TLS) 1.2 (or higher). SSL and TLS must use a minimum of 128-bit, encryption.

You must ensure that your web browser is configured to warn about invalid site certificates.

You must ensure that web browsers warn if the user is changing between secure and non-secure mode.

You must ensure that your web browser window used to access systems owned by Bluescape is closed before navigating to other sites/domains.

You must ensure that your web browser checks for a publisher's certificate revocation.

You must ensure that your web browser checks for server certificate revocation.

You must ensure that web browser checks for signatures on downloaded files.

You must ensure that web browser empties/deletes temporary Internet files when the browser is closed.

By your signature or electronic acceptance (such as by clicking an acceptance button on the screen) you must agree to these rules.

You understand that any person who obtains information from a computer connected to the Internet in violation of her employer's computer-use restrictions is in violation of the Computer Fraud and Abuse Act.

You agree to contact the Bluescape Chief Information Security Officer or the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) if you do not understand any of these rules.

## ACCEPTANCE AND SIGNATURE

I have read the above Rules of Behavior for External Users for Bluescape systems and networks. By my electronic acceptance and/or signature below, I acknowledge and agree that my access to all Bluescape systems and networks is covered by, and subject to, such Rules. Further, I acknowledge and accept that any violation by me of these Rules may subject me to civil and/or criminal actions and that Bluescape retains the right, at its sole discretion, to terminate, cancel or suspend my access rights to the Bluescape systems at any time, without notice.

User's Legal  
Name: \_\_\_\_\_ (printed)

User's  
Signature: \_\_\_\_\_ (signature)

Date: [Click here to enter a date.](#)

Comments: [Click here to enter text.](#)

## **EXHIBIT C**

### **GDPR PROCESSING TERMS & CONDITIONS**

Bluescape as data importer shall comply with all requirements that the General Data Protection Regulation 2016/679 (GDPR) imposes on data processors and is collectively referred to as "processor" in this Addendum. You, as our Customer and the "controller" is the data exporter. All terms herein shall take on the meaning as defined in the General Data Protection Regulation 2016/679 (GDPR). Without limiting the generality of the foregoing, processor agrees, warrants and represents that it:

- a) processes the personal data only on documented instructions from the controller, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by Union or Member State law to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest; also, the processor shall immediately inform the controller if, in its opinion, an instruction infringes the GDPR, national data protection laws in the EU or other applicable law;
- b) ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- c) takes all measures required pursuant to Article 32 of the GDPR (security of processing);
- d) respects the conditions referred to in paragraphs 2 and 4 of Article 28 of the GDPR for engaging another processor;
- e) taking into account the nature of the processing, assists the controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR, including, without limitation, right to access, rectification, erasure and portability of the data subject's personal data; (for the avoidance of doubt, processor shall only assist and enable controller to meet controllers obligations to satisfy data subjects' rights, but processor shall not respond directly to data subjects);
- f) assists the controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR (Security of personal data) taking into account the nature of processing and the information available to the processor;
- g) at the choice of the controller, deletes or returns all the personal data to the controller after the end of the provision of services relating to processing, and deletes existing copies unless Union or Member State law requires storage of the personal data;
- h) makes available to the controller all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller;
- i) provides notification as required by the GDPR and any other applicable law regarding any loss or breach of security of the personal data;

j) complies with this Addendum, the GDPR and applicable law until termination of services and upon termination, at controller's choice: (1) destroy all personal data processed and any copies thereof and certify to controller on request having done so; or (2) return all data and copies thereof to controller; and

k) monitors and self-audits its own compliance with its obligations under applicable national data protection law and the GDPR and provide controller with periodic reports, at least annually.

## **Bluescape Terms and Conditions**

*Effective Date: June 23, 2024*

Bluescape Buyer, LLC ("Bluescape") has developed the Bluescape Service, a web-based service that provides certain features and functionalities designed to facilitate enterprise project teams working within a collaborative visual workspace in real-time and manage associated collaborative workflows (the "Bluescape Service").

Bluescape has two different types of users depending on the Bluescape Service used: Customers who use the free version of the Bluescape Service are called "Freemium Users." While Freemium Users can access and use the Bluescape Service, they have access to a more limited set of Bluescape Service features and functionality than Subscribers.

Customers who use the Bluescape Service as part of a paid Bluescape subscription plan ("Subscription Plan" or "Additional Services") are called a "Subscriber." The two types of users are collectively referred to as "Customer" or "you" for purposes of these Terms and Conditions.

**The Terms and Conditions ("Terms" or "Agreement") are a legal agreement between Bluescape and you governing the right to access and/or use Bluescape Service whether directly from Bluescape or indirectly through one of its resellers (in either case, "Seller").**

By accepting the Terms in writing by executing a written purchase order, you represent and warrant that you are over the age of 16 have the authority to enter into this Agreement, and you are agreeing to be bound by all the Terms. By executing a written order for the Bluescape Service, the Ordering Activity under GSA Schedule contracts identified in the Purchase Order ("Customer") agrees to the Terms. If you do not agree, Customer will not access or use the Bluescape Service. Please note that if you have a separate written agreement with Bluescape for your access and use of the Bluescape Service, then to the extent that the terms and conditions of the prior written agreement directly contradict the Terms, the terms and conditions of the prior written agreement will govern.

## **25. Services**

1.1 Orders. The details of a Subscription Plan shall be as set forth in an ordering document offered by Seller and accepted by Subscriber ("Order") and will set forth the specific details and parameters of the Bluescape Service being ordered, including, as applicable, the License Type and License Term, Users, Training, Maintenance and Support, Uptime Commitment, and any other details, restrictions, or limitations. Orders may be in paper form or may be provided digitally, including through a Bluescape E-commerce platform, and upon mutual acceptance will be incorporated by reference into, and made a part of, this Agreement. In the event that Seller agrees to accept an Order submitted on Subscriber's form of ordering document (purchase orders, etc.), any additional or conflicting terms provided thereon will be expressly rejected unless Bluescape

and Customer both agree expressly agree to additional terms in writing. Upon execution (through the mechanism provided in the applicable offer), Orders shall be deemed incorporated by reference into, and made a part of this Agreement.

1.2 Provision of Bluescape Service. Bluescape shall make the Subscription Plan available to Subscriber during the term identified in the Order (“License Term”) pursuant to this Agreement. The Subscription Plan includes those components and features, including third-party software (“Third-Party Software”), set forth or referenced in the license package identified in each Order (a current list of which is available online at <https://www.bluescape.com/pricing/> (the “License Type”), along with all then-current user manuals or other documentation provided by Bluescape (“Documentation”). As applicable, all use of Third-Party Software shall be governed by the respective licenses for such Third-Party Software, a partial list of which may be found at <https://www.bluescape.com/third-party-terms-and-conditions/>. Nothing herein shall bind the Ordering Activity to any Third-Party terms unless the terms are provided for review and agreed to in writing by all parties. Bluescape shall have the right to modify the Bluescape Service, including adding or subtracting Third-Party Software, components, features or functionality, at any time without notice to Customer. Any such modification shall not materially reduce the functionality of the components or features that Ordering Activity has contracted for. Any license identified in the applicable package or Order as evaluation, beta, test, trial, or similar designation (“Eval Licenses”) are provided on limited terms and are offered on an as-is, where-is basis without warranty, liability, or service commitment of any kind, and accordingly Sections 1.5, 1.6, 3.4, 7.1, and 8.1, nor any other commitment or obligation of Bluescape with respect thereto shall not apply. Unless otherwise specified in the applicable Order or expressly renewed by mutual agreement in writing, Eval Licenses expire after ninety (90) days. Unless otherwise specified in the applicable Order, all other License Types are granted to Subscribers for an initial License Term of one (1) year, which term may be renewed for subsequent one (1) year periods by executing a written order for the subsequent one (1) year period. The License Term commences upon execution of an Order.

1.3 Authorized Users. “Users” means individuals authorized by Customer to use the Bluescape Service who have been supplied user identifications and passwords by Customer (or by Bluescape at Customer’s request), including Customer’s employees, consultants, clients, and third-party collaborators. An Order may designate specific types of Users. The Bluescape Service provided under a Subscription Plan may be accessed and used only by Authorized Users (including a limit to any specific type of User); provided however, that Customer may add additional Users at the pricing set forth in the applicable Order in accordance with the GSA Schedule Pricelist, pro-rated for the remainder of the applicable annual period at the time such additional Users are added.

1.4 Training. Bluescape may provide training to Subscribers in the Bluescape Service’s use if described in an Order (“Training”).

1.5 Availability of Bluescape Service. Bluescape will use commercially reasonable efforts consistent with prevailing industry standards to maintain the Bluescape Service to be available 24 hours per day, 7 days per week, including holidays. The Bluescape Service may be temporarily unavailable for scheduled maintenance (conducted weekly, typically in connection with a new release or service pack, but not during Support Hours (as defined below)), for unscheduled emergency maintenance, or because of other causes beyond Bluescape’s reasonable control. Notwithstanding the above, in no event will Bluescape be liable to a Freemium User or any third party for any modification, suspension or discontinuance of any part of the Bluescape Service. EXCEPT AS EXPRESSLY SET FORTH ABOVE, THE BLUESCAPE SERVICE IS PROVIDED ON AN “AS AVAILABLE” BASIS.



1.6 Maintenance and Support. Bluescape shall provide Freemium Users and Subscriber with the maintenance and support for the Bluescape Service (“Maintenance and Support”) found at <https://community.bluescape.com/pub/gsa-support-policy> and attached hereto as Exhibit A which Bluescape may non-materially update from time to time.

(a) Subscriber acknowledges that Bluescape shall provide Subscriber with access to bug fixes, updates and improvements to the Bluescape Service that are released by Bluescape for general availability to its other commercial customers (“Updates”) on a continuous basis. All Updates will be deemed to be part of the Bluescape Service for purposes of this Subscription Agreement and subject to all of the terms, conditions and restrictions of this Subscription Agreement. In connection with such Updates, Subscriber may be required to implement upgrades or modifications to Subscriber’s networks and other systems. Bluescape shall provide Subscriber with advance notice of all upcoming Updates which require modifications to Subscriber’s systems and shall work with Subscriber’s System Administrator (as defined below) to coordinate the release schedule and installation of such Updates. Subscriber shall implement all required modifications to Subscriber’s systems in accordance with the timing and conditions specified by Bluescape, at Subscriber’s sole expense.

(b) Except as set forth above, no other support services are provided by Bluescape. Bluescape will have no obligation to provide maintenance or support services of any kind to any Freemium User or for problems in the operation or performance of the Bluescape Service to the extent caused by any of the following (“Customer-Generated Error”): (i) any data, files, database or non-Bluescape software used in conjunction with the Bluescape Service; (ii) Customer’s use of the Bluescape Service other than as authorized in this Subscription Plan ; or (iii) Customer’s use of an outdated Bluescape Service (ie. any Bluescape Service ninety (90) days or older from the current release or Updates). If Bluescape determines that it is necessary to perform services for a problem in the operation or performance of the Bluescape Service that is caused by a Customer-Generated Error, then Bluescape will notify Customer as soon as Bluescape is aware of such Customer-Generated Error. Bluescape will not commence any such services until approved by Customer. If such services are performed, Bluescape will have the right to invoice Customer at Bluescape’s then-current professional services rates for such services performed by Bluescape.

1.7 Additional Services. Bluescape may provide implementation services to Subscribers with respect to the Bluescape Service and may provide other services to Subscribers as set forth in an Order (“Additional Services”).

1.8 Additional Applications. To the extent that Customer uses any third-party applications (“Apps”) in conjunction with Bluescape Service, such Apps are strictly governed by their respective terms and conditions. Customer is solely responsible for any use, service, or maintenance of Apps.

## **26. USE OF THE BLUESCAPE SERVICE**

2.1 Use. The Bluescape Service is intended for business use only. Customer shall (a) use the Bluescape Service only for Customer’s internal business purposes, which may include collaboration with outside agencies on Customer’s projects and collaboration with Customer’s clients; (b) be responsible for its Users’ compliance with the applicable License Type and the terms and conditions of this Subscription Agreement and any additional requirements and limitations set forth in the applicable Order; and (c) use commercially reasonable

efforts to prevent unauthorized access to or use of the Bluescape Service and shall promptly notify Bluescape of any such unauthorized access or use of which it becomes aware.

2.2 Restrictions. Customer shall not use the Bluescape Service for consumer purposes, as the Bluescape Service is intended for businesses use only. Customer shall not use the Bluescape Service or any component thereof except as expressly authorized in the Terms, an applicable Order, and by applicable law. Customer shall not, and shall not instruct any person, directly or indirectly, to: (a) reverse engineer, decompile or disassemble the software contained in the Controller, or otherwise attempt to obtain, directly or indirectly, source code for such software or any portion of such software; (b) use the Bluescape Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (c) use the Bluescape Service in a managed services arrangement; (d) attempt to gain unauthorized access to or use of the Bluescape Service or damage, disrupt, or impede the operation of Bluescape's services or systems; (e) transmit any viruses, worms, defects, Trojan horses, or any programming of a destructive nature.; (f) use the Bluescape Service for illegal purposes or for promotion of dangerous activities (g) upload or display publicly any content that contains threatening, abusive, harassing, defamatory, libelous, invasive, hateful, or racially, ethnically or otherwise objectionable material; or (h) use the Services in any manner that may harm minors or that interacts with or targets people under the age of thirteen.

If you are a school, school district, or related person, entity or organization (such as an administrator or educator who accesses the Bluescape Service on their behalf) (each a "School"), then You agree (a) to only provide access to the Bluescape Service to those individuals employed by or enrolled as students in your School or classroom and (b) to be responsible for any Content, communications, and activity that occur under such accounts. To the extent a School offers or requires access to the Bluescape Service to Minors, the School will be responsible for those Users. You agree to uphold Your responsibilities under the FERPA, the Protection of Pupil Rights Amendment ("PPRA"), and the Children's Online Privacy and Protection Act ("COPPA"). COPPA requires that online service providers obtain clear and verifiable parental consent before collecting personal information from children under the age of 13. You represent and warrant that you have the authority to provide consent on behalf of parents in order for Bluescape to collect information from students before allowing children under the age of 13 to access the Bluescape Service. If you are located outside of the United States, you will obtain any required consent or approval from the parent or guardian of any student covered by similar laws and, as a condition to your students' use of the Services, you agree that you will be responsible for complying with such laws

You agree to only provide access to the Bluescape Service to those individuals who have signed either the Bluescape Rules of Behavior, Version 1.0, 2021-07, attached hereto as Exhibit B, or an equivalent Agency Rules of Behavior which is no less restrictive.

2.3 You acknowledge that the Bluescape Service, or a portion thereof, may be subject to the Export Administration Regulations, 15 C.F.R. Parts 730-774, of the United States and may be subject to other applicable country export control and trade sanctions laws ("Export Control and Sanctions Laws"). You and Your End Users may not access, use, export, re-export, divert, transfer or disclose any portion of the Bluescape Service or any related technical information or materials, directly or indirectly, in violation of Export Control and Sanctions Laws. You represent and warrant that: (i) You and Your End Users (a) are not citizens of, or located within, a country or territory that is subject to U.S. trade sanctions or other significant trade restrictions (including without limitation Cuba, Iran, North Korea, Syria, and the Crimea region of Ukraine) and that You and Your End Users will not access or use the Bluescape Service, or export, re-export, divert, or

transfer the Bluescape Service, in or to such countries or territories; (b) are not persons, or owned 50% or more, individually or in the aggregate by persons, identified on the U.S. Department of the Treasury's Specially Designated Nationals and Blocked Persons List or Foreign Sanctions Evaders Lists; and (c) are not persons on the U.S. Department of Commerce's Denied Persons List, Entity List, or Unverified List, or U.S. Department of State proliferation-related lists; (ii) You and Your End Users located in China, Russia, or Venezuela are not Military End Users and will not put the Bluescape Service to a Military End Use, as defined in 15 C.F.R. 744.21; (iii) no Content created or submitted by You or Your End Users is subject to any restriction on disclosure, transfer, download, export or re-export under the Export Control and Sanctions Laws; and (iv) You and Your End Users will not take any action that would constitute a violation of, or be penalized under, U.S. antiboycott laws administered by the U.S. Department of Commerce or the U.S. Department of the Treasury. You are solely responsible for complying with the Export Control and Sanctions Laws and monitoring them for any modifications.

## **27. RESPONSIBILITIES**

3.1 Feedback. If Customer provides Bluescape with information, feedback, suggestions and comments regarding the Bluescape Service's features and performance ("Feedback"), Bluescape has the right, but not the obligation, to use Feedback in any way without restriction or obligation to Customer. Bluescape shall be the exclusive owner of, and shall be free to use for any purpose, any ideas, concepts, know-how, or techniques resulting from Feedback, including, without limitation, any modifications or enhancements to the Bluescape Service. Bluescape acknowledges that the ability to use this Agreement and any Feedback provided as a result of this Agreement in advertising is limited by GSAR 552.203-71.

3.2 Subscriber Onsite Support. If Bluescape shall provide Training or Maintenance and Support on-site at a Subscriber Site, Subscriber agrees (a) Subscriber shall make the on-site components of the Bluescape Service available to Bluescape during normal business hours; (b) Subscriber shall provide Bluescape personnel storage, working space, electricity, a telephone line and any other assistance reasonably requested by Bluescape; (c) Subscriber shall provide Bluescape with sufficient space and sufficient resources to conduct Training; and (d) the premises where the Bluescape Service is located are in a safe condition and that Bluescape's personnel shall not be subject to undue risk or danger while on the premises.

3.3 Customer Data. All data that Customer either utilizes or uploads in connection with usage of any Bluescape Service is defined as ("Customer Data"). Customer will have sole discretion as to which Customer Data it will utilize in connection or use of the Bluescape Service. Customer Data is the sole property of Customer. Customer covenants, represents and warrants that it will comply with (a) its applicable privacy and security policy(ies) and (b) all applicable federal, state, local and international privacy, data protection, and security laws, rules and regulations, including without limitation, laws relating to the collection, use, reuse, processing, storage, security, protection, handling, cross-border transfer and disclosure of personal or regulated data. Customer covenants, represents and warrants that it has all rights and has obtained all necessary consents, permissions and authorization with respect to Customer Data, including without limitation the provision of Customer Data to Bluescape and the collection, use, reuse, processing, storage, security, protection, handling, cross-border transfer and disclosure of personal or regulated data of the Customer Data in connection with Bluescape's provision of the Services, including but not limited to, Statistical Data as set forth in Section 5.4 below. Customer authorizes Bluescape to access or process the Customer Data in an encrypted state and only with Customer's prior written consent in an unencrypted state, as required to provide the Bluescape Service and the Maintenance and Support to Customer.

3.4 Security. Bluescape shall use commercially reasonable efforts in accordance with industry accepted standards used or observed by comparable suppliers of similar services/applications, which standards shall in no event be less than reasonable standards of care in all circumstances, to protect the security and integrity of Customer Data. To the extent that Customer Data is subject to EU General Data Protection Regulation (“GDPR”), Bluescape shall process Customer Data in accordance with GDPR Processing Terms & Conditions, which such terms and conditions may be found at <https://bluescape.com/gdpr-processing-terms/> and attached hereto as Exhibit C. Unless prohibited by law, Bluescape shall promptly inform Customer of all security-related issues that threaten the security of Customer Data discovered or brought to Bluescape’s attention (“Security Issue”). Bluescape shall use all commercially reasonable efforts consistent with sound software development practices, taking into account the severity of the risk, to resolve all Security Issues as quickly as possible.

## **28. FEES AND PAYMENT**

4.1 Fees. Subscriber shall pay Seller the fees set forth in all Orders in accordance with the GSA Schedule Pricelist (the “Fees”).

4.2 Additional Costs and Expenses.

(a) Bluescape or its authorized reseller as applicable shall state separately on invoices taxes excluded from the fees, and the Customer agrees either to pay the amount of the taxes (based on the current value of the equipment) or provide evidence necessary to sustain an exemption, in accordance with FAR 552.212-4(k).

(b) Subscriber shall reimburse Bluescape for all reasonable travel and living expenses incurred by Bluescape in performing Training, Maintenance and Support or any Additional Services on-site, including transportation, lodging, meals, and other incidental expenses in accordance with Federal Travel Regulation (FTR)/Joint Travel Regulations (JTR), as applicable, provided that Subscriber has first authorized such expenses, which authorization shall not be unreasonably withheld. Bluescape shall invoice Subscriber for any such expenses on a monthly basis.

4.3 Invoices and Payments. Bluescape or its authorized reseller on its behalf as applicable shall invoice Subscribers for the Fees according to the schedule set forth in the applicable Order. All Fees shall be due and payable within thirty (30) days after receipt of Bluescape’s corresponding invoice unless otherwise stated in an applicable Order. Subscribers may elect to allow Bluescape to charge Fees to a credit card on an annual or monthly recurring basis. Bluescape may elect to utilize a PCI compliant third-party to process any such credit card charges. All payments shall be in U.S. Dollars.

4.4 Late Fees. If Subscriber fails to pay any Fees or other charges due by their applicable due date, at Bluescape’s discretion, such charges may accrue late charges at the interest rate established by the Secretary of the Treasury as provided in 41 U.S.C. 7109, which is applicable to the period in which the amount becomes due, and then at the rate applicable for each six-month period as fixed by the Secretary until the amount is paid.

4.5 Reserved.

4.6 Audits. During the Term, Subscriber shall maintain accurate and complete records with respect to its use of the Bluescape Service. Bluescape shall have the right, at its own expense, not more than once per year, on

reasonable notice to Subscriber, to perform an audit of such records in order to confirm Subscriber's compliance with the Terms, including the number of authorized Users. Any such audit shall be conducted subject to Government security requirements, during normal business hours and in a manner designed to not unreasonably interfere with Subscriber's ordinary business operations. If an audit discovers that Subscriber has exceeded the number of authorized Users set forth in the Orders, Subscriber shall promptly pay Bluescape the Fees due for such additional Users.

## **29. OWNERSHIP OF INTELLECTUAL PROPERTY RIGHTS**

5.1 Limited License. Bluescape grants to Customer a nonexclusive, nontransferable, revocable, worldwide license, without right of sublicense, to access and use the Bluescape Service and any applicable Additional Services for Customer's internal use as set forth in this Agreement. The foregoing license and Customer's use of the Bluescape Service and any Additional Services are also subject to any and all Documentation.

5.2 Ownership by Bluescape. Bluescape owns and shall retain any and all proprietary rights to the Bluescape Service, Training, Maintenance and Support, Additional Services, all Feedback, all data relating to the Bluescape Service's and Additional Services' performance, and all intellectual property, work product, content, ideas, know-how, concepts, methods and techniques created or employed by Bluescape in the delivery of the Bluescape Service and Additional Services, whether pre-existing or developed in the course of providing the Bluescape Service and Additional Services (collectively, the "Bluescape IP"). In the event any right, title or interest arises or vests at any time in Customer to any Bluescape IP, Customer assigns to Bluescape all such right, title and interest. Customer shall execute, and cause its employees and other representatives to execute, all necessary documents to give legal effect to such assignment or otherwise secure Bluescape's ownership of the Bluescape IP.

5.3 Ownership of Customer Data. Customer owns and shall retain all right, title and interest, including all intellectual property rights, in and to the Customer Data.

5.4 Statistical Data. Notwithstanding Section 5.3, Bluescape may aggregate and use for Bluescape's internal business purposes those portions of the Customer Data that relate to how Customer uses the Bluescape Service and Additional Services ("Statistical Data").

5.5 Reservation of Rights. Other than the explicit rights granted in this Agreement, nothing in this Agreement shall be construed or interpreted as granting to Customer any rights or licenses, including any rights of ownership or any other proprietary rights in or to the Bluescape IP or any portion, including any intellectual property rights. Other than the explicit rights granted in this Agreement, nothing in this Agreement shall be construed or interpreted as granting to Bluescape any rights or licenses, including any rights of ownership or any other proprietary rights in or to the Customer Data or any portion, including any intellectual property rights.

## **30. CONFIDENTIALITY**

6.1 Definition. "Confidential Information" means any information that is disclosed by or on behalf of a party (the "Disclosing Party") to the other party (the "Receiving Party") (whether disclosed in writing, orally, by electronic delivery, by inspection of tangible objects, on office or site visits, or otherwise) that relates to the Disclosing Party's business, finances, affiliates, licensees, licensors, customers, products, services, pricing (excluding GSA Schedule pricing), or intellectual property. Without limitation of the foregoing, all information

relating to the Bluescape IP, including the Bluescape Service and Additional Services, shall be deemed Bluescape's Confidential Information and all Customer Data shall be deemed Customer's Confidential Information. Notwithstanding the foregoing, Confidential Information does not include information that: (a) is generally known to the public when first disclosed by or on behalf of the Disclosing Party or thereafter becomes generally known to the public through no act or fault of the Receiving Party; (b) the Receiving Party already had obtained or obtains, without breaching any duty to the Disclosing Party, from a third party that was not under an obligation of nondisclosure; or (c) was or is independently developed by the Receiving Party without use or reference to any information obtained from the Disclosing or any party acting on behalf of the Disclosing Party, as demonstrated by the Disclosing Party's written records.

6.2 Obligations. The Receiving Party shall not: (a) reproduce the Disclosing Party's Confidential Information; (b) use the Disclosing Party's Confidential Information for any purpose other than to perform its obligations under and in accordance with this Agreement; or (c) disclose the Disclosing Party's Confidential Information to any party other than an employee or independent contractor of the Receiving Party having a need to know such Confidential Information and who is under a binding obligation of confidentiality and limitation of use and disclosure consistent with the terms hereof. Neither party, nor any party affiliated with such party, shall remove any copyright or proprietary marking from the other party's Confidential Information.

6.3 Required Disclosure. Notwithstanding anything in this Agreement to the contrary, the Receiving Party may disclose the Disclosing Party's Confidential Information if required by law or court, or by a lawful subpoena issued by any state or Federal court, arbitral, or other governmental order or process, provided the Receiving Party: (a) gives the Disclosing Party immediate written notice as soon as it learns of such requirements in order to permit the Disclosing Party to seek a protective order or other appropriate relief; (b) assists the Disclosing Party in connection with such efforts; and (c) discloses only the Confidential Information required to be disclosed. The Receiving Party shall continue to treat any Confidential Information disclosed pursuant to this Section 6.3 as Confidential Information for all other purposes. Bluescape recognizes that Federal agencies are subject to the Freedom of Information Act, 5 U.S.C. 552, which may require that certain information be released, despite being characterized as "confidential" by the vendor.

## **31. WARRANTIES AND DISCLAIMERS**

7.1 Bluescape warrants that the Bluescape Service will achieve in all material respects the functionality described in the Documentation. Customer's sole and exclusive remedy for Bluescape's breach of this warranty shall be that Bluescape shall be required to use commercially reasonable efforts to modify the Bluescape Service to achieve in all material respects the functionality described in the Documentation and if Bluescape is unable to so modify the Bluescape Service, Customer shall be entitled to terminate this Subscription Agreement and receive a pro-rata refund of the annual Fees pre-paid under this Subscription Agreement for the Bluescape Service for the terminated portion of the Subscription Agreement. Bluescape shall have no obligation with respect to a warranty claim unless notified of such claim within 60 days of Customer's being aware of the first instance of any material functionality problem. Any such notice must be sent to legal@Bluescape.com. The warranties set forth in this Section are made to and for the benefit of Customer only. Such warranties shall only apply if the applicable Bluescape Service has been utilized in accordance with this Subscription Agreement.

7.2 Customer Warranty. Customer warrants that it has the full right, power, and authority to allow its Users use the Bluescape Service, including to provide and make available all applicable data and information to

Bluescape for the purpose of providing the Bluescape Service, and that Bluescape's use of such data and information in providing the Bluescape Service to Customer and its Users as provided herein does not and will not infringe, misappropriate, or otherwise violate any right (including intellectual property rights, privacy rights, publicity rights, trade secrets, or contractual rights), or any applicable law or regulation.

**7.3 YOU EXPRESSLY UNDERSTAND AND AGREE THAT:**

(a) YOUR USE OF THE SERVICES IS AT YOUR SOLE RISK. THE SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS. TO THE MAXIMUM EXTENT PERMITTED BY LAW, BLUESCAPE EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO THE IMPLIED WARRANTIES AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE AND NON-INFRINGEMENT; (b) BLUESCAPE DOES NOT WARRANT THAT (i) THE SERVICES WILL MEET ALL OF YOUR REQUIREMENTS; (ii) THE SERVICES WILL BE UNINTERRUPTED, TIMELY, OR ERROR-FREE; OR (iii) ERRORS IN THE SOFTWARE WILL BE CORRECTED; and (c) ANY TRANSMISSION OF CONTENTS THROUGH THE USE OF THE SERVICES IS DONE AT YOUR OWN DISCRETION AND RISK AND YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOUR COMPUTER OR OTHER DEVICE OR LOSS OF DATA THAT RESULTS FROM ANY SUCH TRANSMISSION.

7.4 CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 7.1, THE BLUESCAPE SERVICE, TRAINING, MAINTENANCE AND SUPPORT, ADDITIONAL SERVICES, THE BLUESCAPE IP AND ALL COMPONENTS OF ALL OF THE FOREGOING ARE PROVIDED "AS IS". BLUESCAPE DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING BUT NOT LIMITED TO (A) ANY IMPLIED WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, PERFORMANCE, SUITABILITY, OR NON-INFRINGEMENT; (B) RELATING TO THE PERFORMANCE OF THE BLUESCAPE SERVICE TRAINING, MAINTENANCE AND SUPPORT, OR ADDITIONAL SERVICES; (C) WITH RESPECT TO ANY RESULTS TO BE OBTAINED FROM THE BLUESCAPE SERVICE, TRAINING, MAINTENANCE AND SUPPORT, OR ADDITIONAL SERVICES; (D) THAT USE OF THE BLUESCAPE SERVICE AND ADDITIONAL SERVICES SHALL BE UNINTERRUPTED OR ERROR FREE; OR (E) WITH RESPECT TO THE ACCURACY, QUALITY, RELIABILITY, SUITABILITY, OR EFFECTIVENESS OF ANY DATA, RESULTS, CONTENT OR OTHER INFORMATION OBTAINED OR GENERATED BY CUSTOMER THROUGH ITS USE OF THE BLUESCAPE SERVICE AND ADDITIONAL SERVICES.

**32. INDEMNIFICATION**

8.1 Bluescape shall indemnify, have the right to intervene to defend and hold harmless Customer (and its officers, directors, employees, shareholders and agents) from and against any and all third party claims, actions, suits, proceedings, liabilities, losses, damages, fines, injuries, interest or expenses (including reasonable attorneys' fees and costs of investigation and defense) ("Losses") arising from or relating to any claim that the Bluescape Service, when used as permitted in this Subscription Agreement, violate or infringe any intellectual property rights of any third party. Nothing contained herein shall be construed in derogation of the U.S. Department of Justice's right to defend any claim or action brought against the U.S., pursuant to its jurisdictional statute 28 U.S.C. §516.

8.2 The obligation to indemnify under this Agreement is conditioned on the party receiving the benefit of the indemnity (the "Indemnified Party") providing the party with the obligation (the "Indemnifying Party") with (a) prompt written notice of covered claim, action, suit or proceeding ("Claim"); (b) proper and full information and reasonable assistance to defend and/or settle any such Claim. The Indemnifying Party may not settle any such Claim in any manner that binds the Indemnified Party without the Indemnified Party's prior written

consent. Notwithstanding the foregoing, the Indemnified Party may, at its own expense, participate in the defense and settlement of any such Claim.

8.3 Infringement. In the event that a claim subject to Section 8.1 is made or threatened, or Bluescape reasonably believes that Customer's use of the Bluescape Service or any Additional Service is likely to be infringing, Bluescape, at its option and expense, may either (a) secure for Customer the rights necessary to continue to use the applicable Service; (b) modify such Service so that it becomes non-infringing, (c) replace the potentially infringing portion of such Service with a functionally equivalent non-infringing product or service; This Section 8 sets forth Bluescape's entire liability and obligation, and Customer sole and exclusive remedy with respect to any claims of infringement or misappropriation of any intellectual property rights of any other party.

8.4 Exceptions. Notwithstanding the provisions of Section 8, Bluescape shall have no obligation to indemnify Customer with respect to any Losses to the extent resulting from (a) the combination of the Bluescape Service or any Additional Service or portions thereof with products or services not provided by Bluescape or reasonably anticipated to be used in conjunction with the Bluescape Services or Additional Services; (b) the modification of the Bluescape Service or any Additional Service by any party other than Bluescape; or (c) the use of the Bluescape Service or Additional Services in a manner not expressly permitted by this Subscription Agreement.

### **33. LIMITATION OF LIABILITY**

9.1 Limitation of Cumulative Liability. EXCEPT FOR BLUESCAPE'S LIABILITY UNDER SECTION 8.1, BLUESCAPE'S TOTAL CUMULATIVE LIABILITY, WHETHER IN CONTRACT, TORT OR OTHERWISE, WITH RESPECT TO THE BLUESCAPE IP, THE BLUESCAPE SERVICE AND THE ADDITIONAL SERVICES PROVIDED UNDER THIS SUBSCRIPTION AGREEMENT SHALL BE LIMITED TO THE FEES ACTUALLY PAID BY CUSTOMER TO BLUESCAPE UNDER THE APPLICABLE ORDER.

9.2 Waiver of Consequential Damages. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS SUBSCRIPTION AGREEMENT, IN NO EVENT SHALL EITHER PARTY BE RESPONSIBLE FOR INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS REVENUE, LOSS PROFITS, LOSS BUSINESS) WHETHER IN CONTRACT, IN TORT (INCLUDING BREACH OF WARRANTY, NEGLIGENCE AND STRICT LIABILITY IN TORT) OR OTHERWISE RESULTING FROM ITS PERFORMANCE OR ANY FAILURE TO PERFORM UNDER THIS SUBSCRIPTION AGREEMENT (INCLUDING LOSS OF DATA OR LOSS OF ANTICIPATED PROFITS OR BENEFITS) EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO (1) PERSONAL INJURY OR DEATH RESULTING FROM LICENSOR'S NEGLIGENCE; (2) FOR FRAUD; OR (3) FOR ANY OTHER MATTER FOR WHICH LIABILITY CANNOT BE EXCLUDED BY LAW.

### **34. TERM AND TERMINATION**

10.1 Term. The term of a Subscription Plan shall commence on the date of execution of the first applicable Order and lasts until the termination or expiration of all License Terms under all applicable Orders executed hereunder (the "Term"). Bluescape shall provide Customer with written notice of any increases in the Fees for



any Renewal Term at least sixty (60) days prior to the end of the then-current License Term. Fees for any Renewal term shall be in accordance with the then current GSA Schedule Pricelist.

10.2 Termination for Cause. When the End User is an instrumentality of the U.S., recourse against the United States for any alleged breach of this Agreement must be brought as a dispute under the contract Disputes Clause (Contract Disputes Act). During any dispute under the Disputes Clause, Bluescape shall proceed diligently with performance of this Agreement, pending final resolution of any request for relief, claim, appeal, or action arising under the Agreement, and comply with any decision of the Contracting Officer.

10.3 Effect of Termination. Upon the expiration or termination of this Agreement for any reason,

(a) Customer shall immediately cease all use of the Bluescape Service and the Additional Services and all licenses granted under this Subscription Agreement shall terminate. To the extent that Customer is using any solution except for a Bluescape hosted solution, Customer shall immediately delete any and all instances and related Bluescape code.

(b) Except with respect to termination by Subscriber for Bluescape's breach, within thirty (30) days of the invoice receipt date following such expiration or termination, Customer shall pay all outstanding amounts then due.

(c) In the event of termination, Bluescape shall refund to Subscriber any pre-paid Fees covering the remainder of the Term.

(d) Upon written request, each party shall return to the other party or, pursuant to the other party's written instructions, destroy, all materials in its possession or control containing Confidential Information of the other party;

(e) Unless specified otherwise, all Customer Data, as well as created or uploaded content, will be securely destroyed by Bluescape within 90 days of termination; and

(f) The following provisions shall survive: 4.3, 4.4, 5.2-5.4, 6, 7.2, 8, 9, 10.4 and 12.

### **35. FORCE MAJEURE**

Excusable delays shall be governed by FAR 552.212-4(f).

### **36. MISCELLANEOUS PROVISIONS**

12.1 General. This Agreement shall be construed in accordance with the Federal law of the United States, without reference to its conflict of law principles. The parties are independent contractors and nothing in this Subscription Agreement shall be construed as establishing a joint venture, partnership, employment or agency relationship between the parties. In the event that any provision of the Agreement shall be determined to be illegal or unenforceable, a modified provision or written agreement shall be substituted which carries out as nearly as possible the original intent of the parties, and the validity, legality and enforceability of any of the remaining provisions shall not in any way be affected or impaired thereby. With respect to its subject matter, this Agreement (together with its Exhibits and all Orders, all of which are incorporated into this Agreement by reference) represents the parties' entire agreement and supersedes all prior agreements, understandings and

representations, written or oral, between the parties. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns and may not be amended except by a writing signed by the duly authorized representatives of both parties. The failure of a party to require performance of any provision of this Agreement shall in no manner affect its right to enforce the provision, and no delay or failure by either party to exercise any right or remedy shall operate as a waiver thereof. Bluescape may assign or transfer any and all rights or obligations under this Agreement Party to a successor who acquires substantially all of its relevant assets or business at any time in accordance with the provisions set forth at FAR 42.1204. Except as expressed herein, you may not assign or transfer (whether by operation of law, merger, consolidation, change of control or otherwise) any rights or obligations under this Agreement without the prior written consent of Bluescape. This Agreement may be executed in one or more counterparts and by facsimile or other electronic transmission (including via email in "portable document format" or, in the case of Customer click through), each of which shall be deemed an original, but all of which shall constitute the same instrument. Notwithstanding anything else in the Agreement, As Bluescape's business evolves, we may change the non-material Terms. You can review the most current version of the Terms at any time by visiting this website. Any material revisions to the Terms must be agreed to in writing by both parties. If you use the Bluescape Service after the effective date of any changes, that use will constitute your acceptance of the non-materially revised terms and conditions.

12.2 Notices. You agree that Bluescape may provide you with notices regarding the Bluescape Service by email, post or postings on the website(s) related to the affected Bluescape Service, in our discretion, and that we may rely upon the contact information you have provided as being accurate, complete and current. Except where this Agreement specifically provide for use of a different means or address for notice, any notice hereunder to Bluescape must be delivered by email to [legal@bluescape.com](mailto:legal@bluescape.com). This email address may be updated as part of any update to this Agreement.

12.3 Conflict. To the extent of any conflict or inconsistency between this Subscription Agreement and any Exhibit, Order, or any other document related to the parties' obligations under this Agreement, the terms of this body of this Agreement shall govern unless otherwise expressly agreed by the parties in writing. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or in any other Customer order documentation (excluding Order) shall be incorporated into or form any part of this Subscription Agreement, and all such terms or conditions shall be null and void.

12.4 Interpretation. The words "include," "includes" and "including" shall be deemed to be followed by the words "without limitation;" and the words "such as", "for example" "e.g." and any derivatives shall mean by way of example and the items that follow these words shall not be deemed an exhaustive list. The descriptive headings and labels of the articles, sections, and subsections of this Agreement are for convenience and reference only and shall not affect this Agreement's construction or interpretation.

**EXHIBIT A**  
**Bluescape GSA Maintenance and Support Policy**  
**Effective April 1, 2022**

This Bluescape Maintenance and Support Policy (“Maintenance and Support”) is issued under and forms a component of the Bluescape Terms and Conditions which references this policy. Any capitalized terms not defined herein shall have the meaning ascribed to them in the Bluescape Terms and Conditions. Bluescape may modify this Maintenance and Support Policy from time to time, however any modifications to the Maintenance and Support Policy will not materially decrease Bluescape’s support obligations.

Bluescape provides Maintenance and Support based on the Bluescape Service tier provisioned by the Customer.

<b>Bluescape Tier</b>	<b>Support Type</b>
Free/Go	Community
Whiteboard Edition	Community + Email Support
Agency Edition	Community + Email Support + Video Chat Support + SLA
Defense Edition	Community + Private Community + Email Support + Video Chat + SLA
Sovereign Edition	Community + Private Community + Email Support + Video Chat + SLA
Defense or Sovereign Edition - Enhanced	Community + Private Community + Email Support + Video Chat + SLA + Dedicated Technical Support Agent

**Bluescape Community**

The Bluescape Community is located at <https://community.bluescape.com/>. The Bluescape Community provides access to all product documentation and tutorials, as well as a Q&A section between Community members and Bluescape community and support personnel. The Bluescape Community is publicly available, so Bluescape advises all who have access the community to not post any private or confidential data to the Bluescape Community.

**Bluescape Private Community**

The Bluescape Private Community is a private community within the general community used to escalate support inquiries, product feedback, and account specific questions. The Bluescape community team and support team have access to the Bluescape Private Community, so Bluescape advises all who have access to a Private Community to not post any private or confidential data to the Bluescape Community.

**Email Support**

Bluescape Email Support enables customers to submit a ticket (“Ticket”) to Bluescape support if they experience a problem with the Bluescape Service that they are not able to solve through the Bluescape

Community. Tickets are submitted to [support@bluescape.com](mailto:support@bluescape.com). In connection with submitting a Ticket, Subscriber will: (i) notify Bluescape promptly of problems Subscriber has experienced with the Bluescape Service, and provide Bluescape with information regarding the problem sufficient to enable Bluescape to reproduce the problem; (ii) provide Bluescape with reasonable assistance, as requested, in addressing a resolution of the problem; and (iii) provide Bluescape with appropriate access consistent with Subscriber's confidentiality, safety and security procedures to enable Bluescape to reproduce the problem (where any information obtained from such access shall be considered Confidential Information (as defined below of Subscriber)). Bluescape will acknowledge receipt of a Request immediately via its automated response system, but in any event within a commercially reasonable time thereafter.

### Video Chat Support

Bluescape Video Chat Support provides customers with the ability to speak to Bluescape support directly through a dedicated AV conferencing support room during Bluescape Standard Support Hours.

### Dedicated Technical Support Agent

The Bluescape Enterprise Edition – Enhanced tier provides the Customer with a dedicated technical support agent. This direct access to a technical support agent will provide additional escalation of Ticket submissions and consistent communications with a technical support agent who is aware of the Customer history of accessing the Bluescape Service.

### Bluescape SLA

Severity Level	Priority	Support Hours Type	Acknowledge Receipt	Begin Investigation	Provide Updates to Customer
Level 1 <ul style="list-style-type: none"> <li>▪ Service Crash</li> <li>▪ Security &amp; Data Breach</li> <li>▪ 0-day Security Fix</li> <li>▪ User is unable to access service/is completely blocked</li> <li>▪ Any crash &amp; compromise around a user profile / permission model</li> </ul>	Critical	24 by 7 Support	< 1 hour	Immediately	Every hour
Level 2 <ul style="list-style-type: none"> <li>▪ Group productivity impaired</li> <li>▪ Confidential information getting stored in the logs</li> <li>▪ Issue unable to be avoided on a temporary basis</li> </ul>	High	Standard Support	< 4 hours	< 4 hours	Every 4 hours

Level 3 <ul style="list-style-type: none"> <li>▪ Individual productivity impaired</li> <li>▪ GDPR request to query / remove user personal information</li> </ul>	Medium	Standard Support	< 24 hours (1 business day)	< 24 hours	Every 24 hours
Level 4 <ul style="list-style-type: none"> <li>▪ All other issues</li> </ul>	Low	Standard Support	< 24 hours (1 business day)	< 5 business days	Every 48 hours

**Bluescape Standard Support Hours**

Bluescape Standard Support (“Standard Support”) are Monday through Friday, US national holidays excluded, from 5:00 AM PST to 5:00 PM PST. For Level 1 Critical Tickets, Bluescape will provide support 24 hours a day, 7 days a week (“24 by 7 Support”).

**Bluescape Support for Customer On-Prem Deployments**

If Subscriber is hosting the Bluescape Service either on-premises or through a non-Bluescape managed captive cloud, Bluescape support service shall be limited to supporting a staging environment only and shall have no responsibility for Subscriber’s production or live environments. Bluescape will provide scripts and programmatic routines to perform upgrades to staging environment. These scripts can be modified by the Subscriber to perform production upgrades; the Subscriber is responsible for using the release scripts to perform upgrades and modifications of any kind to the production environments. Bluescape will require access to the staging environments through VPN or other mutually agreed upon means in order to perform upgrades and maintenance in keeping with the Bluescape development process and schedule.

If Subscriber utilizes the Bluescape Services on-premises or through a non-Bluescape managed captive cloud, rather than through a Bluescape hosted environment, and fails to upgrade within ninety (90) days of any release, Bluescape support and maintenance shall be limited to making the current version of Update available to Subscriber.

**Bluescape Support Exclusions**

Except as set forth above, no other support services are provided by Bluescape. Bluescape will have no obligation to provide maintenance or support services of any kind for problems in the operation or performance of the Bluescape Service to the extent caused by any of the following (“Customer-Generated Error”): (i) any data, files, database or non-Bluescape software used in conjunction with the Bluescape Service; (ii) Customer’s use of the Bluescape Service other than as authorized in this Subscription Plan ; or (iii) Customer’s use of an outdated Bluescape Service (ie. any Bluescape Service ninety (90) days or older from the current release or Updates). If Bluescape determines that it is necessary to perform services for a problem in the operation or performance of the Bluescape Service that is caused by a Customer-Generated Error, then Bluescape will notify Customer as soon as Bluescape is aware of such Customer-Generated Error. Bluescape will not commence any such services until approved by Customer. If such services are performed, Bluescape will have the right to invoice Customer at Bluescape’s then-current professional services rates for such services performed by Bluescape.

**EXHIBIT B**  
**Rules of Behavior for External Users**

You must conduct only authorized business on the system.

Your level of access to systems and networks owned by Bluescape is limited to ensure your access is no more than necessary to perform your legitimate tasks or assigned duties. If you believe you are being granted access that you should not have, you must immediately notify the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) or login in to report an issue at <https://community.bluescape.com/c/support>.

You must maintain the confidentiality of your authentication credentials such as your password. Do not reveal your authentication credentials to anyone; a Bluescape employee should never ask you to reveal them.

You must follow proper logon/logoff procedures. You must manually logon to your session; do not store your password locally on your system or utilize any automated logon capabilities. You must promptly logoff when session access is no longer needed. If a logoff function is unavailable, you must close your browser. Never leave your computer unattended while logged into the system.

You must report all security incidents or suspected incidents (e.g., lost passwords, improper or suspicious acts) related to Bluescape systems and networks to the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) or login in to report an issue at <https://community.bluescape.com/c/support>.

You must not establish any unauthorized interfaces between systems, networks, and applications owned by Bluescape.

Your access to systems and networks owned by Bluescape is governed by, and subject to, all federal laws, including, but not limited to, the Privacy Act, 5 U.S.C. 552a, if the applicable Bluescape system maintains individual Privacy Act information. Your access to Bluescape systems constitutes your consent to the retrieval and disclosure of the information within the scope of your authorized access, subject to the Privacy Act, and applicable state and federal laws.

You must safeguard system resources against waste, loss, abuse, unauthorized use or disclosure, and misappropriation.

You must not process U.S. classified national security information on the system.

You must not browse, search or reveal information hosted by Bluescape except in accordance with that which is required to perform your legitimate tasks or assigned duties.

You must not retrieve information, or in any other way disclose information, for someone who does not have authority to access that information.

You must ensure that Web browsers use Secure Socket Layer (SSL) version 3.0 (or higher) and Transport Layer Security (TLS) 1.2 (or higher). SSL and TLS must use a minimum of 128-bit, encryption.

You must ensure that your web browser is configured to warn about invalid site certificates.

You must ensure that web browsers warn if the user is changing between secure and non-secure mode.

You must ensure that your web browser window used to access systems owned by Bluescape is closed before navigating to other sites/domains.

You must ensure that your web browser checks for a publisher's certificate revocation.

You must ensure that your web browser checks for server certificate revocation.

You must ensure that web browser checks for signatures on downloaded files.

You must ensure that web browser empties/deletes temporary Internet files when the browser is closed.

By your signature or electronic acceptance (such as by clicking an acceptance button on the screen) you must agree to these rules.

You understand that any person who obtains information from a computer connected to the Internet in violation of her employer's computer-use restrictions is in violation of the Computer Fraud and Abuse Act.

You agree to contact the Bluescape Chief Information Security Officer or the Bluescape Operations Center at [support@bluescape.com](mailto:support@bluescape.com) if you do not understand any of these rules.

## ACCEPTANCE AND SIGNATURE

I have read the above Rules of Behavior for External Users for Bluescape systems and networks. By my electronic acceptance and/or signature below, I acknowledge and agree that my access to all Bluescape systems and networks is covered by, and subject to, such Rules. Further, I acknowledge and accept that any violation by me of these Rules may subject me to civil and/or criminal actions and that Bluescape retains the right, at its sole discretion, to terminate, cancel or suspend my access rights to the Bluescape systems at any time, without notice.

User's Legal  
Name: \_\_\_\_\_ (printed)

User's  
Signature: \_\_\_\_\_ (signature)

Date: [Click here to enter a date.](#)

Comments: [Click here to enter text.](#)



## **EXHIBIT C**

### **GDPR PROCESSING TERMS & CONDITIONS**

Bluescape as data importer shall comply with all requirements that the General Data Protection Regulation 2016/679 (GDPR) imposes on data processors and is collectively referred to as "processor" in this Addendum. You, as our Customer and the "controller" is the data exporter. All terms herein shall take on the meaning as defined in the General Data Protection Regulation 2016/679 (GDPR). Without limiting the generality of the foregoing, processor agrees, warrants and represents that it:

- a) processes the personal data only on documented instructions from the controller, including with regard to transfers of personal data to a third country or an international organisation, unless required to do so by Union or Member State law to which the processor is subject; in such a case, the processor shall inform the controller of that legal requirement before processing, unless that law prohibits such information on important grounds of public interest; also, the processor shall immediately inform the controller if, in its opinion, an instruction infringes the GDPR, national data protection laws in the EU or other applicable law;
- b) ensures that persons authorised to process the personal data have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;
- c) takes all measures required pursuant to Article 32 of the GDPR (security of processing);
- d) respects the conditions referred to in paragraphs 2 and 4 of Article 28 of the GDPR for engaging another processor;
- e) taking into account the nature of the processing, assists the controller by appropriate technical and organisational measures, insofar as this is possible, for the fulfilment of the controller's obligation to respond to requests for exercising the data subject's rights laid down in Chapter III of the GDPR, including, without limitation, right to access, rectification, erasure and portability of the data subject's personal data; (for the avoidance of doubt, processor shall only assist and enable controller to meet controllers obligations to satisfy data subjects' rights, but processor shall not respond directly to data subjects);
- f) assists the controller in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR (Security of personal data) taking into account the nature of processing and the information available to the processor;
- g) at the choice of the controller, deletes or returns all the personal data to the controller after the end of the provision of services relating to processing, and deletes existing copies unless Union or Member State law requires storage of the personal data;
- h) makes available to the controller all information necessary to demonstrate compliance with the obligations laid down in Article 28 of the GDPR and allow for and contribute to audits, including inspections, conducted by the controller or another auditor mandated by the controller;
- i) provides notification as required by the GDPR and any other applicable law regarding any loss or breach of security of the personal data;

j) complies with this Addendum, the GDPR and applicable law until termination of services and upon termination, at controller's choice: (1) destroy all personal data processed and any copies thereof and certify to controller on request having done so; or (2) return all data and copies thereof to controller; and

k) monitors and self-audits its own compliance with its obligations under applicable national data protection law and the GDPR and provide controller with periodic reports, at least annually.