

MASTER SERVICE AGREEMENT

This W&B Master Service Agreement (“**Agreement**”) is made between Weights and Biases, Inc., a Delaware corporation having its principal place of business at 1479 Folsom Street, San Francisco, CA 94103 (“**W&B**”), and Customer (defined below) and governs the Customer’s use of the W&B Assets (defined below).

“**Customer**” means a person or entity that accepts and agrees to the terms of this Agreement as of the earlier of (“**Effective Date**”) when such person or entity (a) clicks a box indicating acceptance of this Agreement or (b) uses a W&B Asset. W&B reserves the right to modify or update this Agreement in its sole discretion, the effective date of such updates and/or modifications will be the earlier of: (i) 30 days from the date of such update or modification; or (ii) Customer’s continued use of the W&B Asset.

IF YOU DO NOT ACCEPT THIS AGREEMENT, YOU MAY NOT ACCESS OR USE THE W&B ASSETS. THE W&B ASSETS ARE INTENDED FOR THE CUSTOMER AND ITS AUTHORIZED USERS ONLY AND ARE NOT FOR USE BY CHILDREN UNDER 13 YEARS OF AGE. IF AN INDIVIDUAL IS ENTERING INTO THIS AGREEMENT ON BEHALF OF A LEGAL ENTITY, SUCH PERSON REPRESENTS AND WARRANTS THAT IT HAS THE LEGAL AUTHORITY TO BIND SUCH LEGAL ENTITY TO THIS AGREEMENT AND THIS AGREEMENT APPLIES TO SUCH ENTITY WHICH IS DEEMED THE CUSTOMER.

If Customer and W&B have executed a written agreement governing Customer’s access to and use of the W&B Assets as a W&B customer, then the terms of such signed agreement will govern and will supersede this Agreement.

1. Definitions

- a. “**Affiliate**” means, with respect to an entity, any entity or person which directly or indirectly controls, is controlled by, or is under common control with that entity.
- b. “**Authorized User**” means one individual (no concurrent usage with other users is permitted), whether for themselves or on behalf of their entity, that are authorized by Customer to use the Software or Service.
- c. “**BAA**” means W&B’s Business Associate Agreement available at: <https://wandb.ai/site/baa>.
- d. “**Beta Features**” means any features, functionality or services which W&B may make available to Customer to try at no additional cost, and which is designated as beta, trial, preview or another similar designation.
- e. “**Confidential Information**” means any information of a confidential or proprietary nature provided by a party to the other party, which includes any information that should be reasonably understood as confidential under the circumstances, including the terms of this Agreement and each Order Form, and: (i) with respect to W&B, the W&B Assets and Beta Features; and (ii) with respect to Customer, the Customer Data. Confidential Information does not include information that: (A) is or becomes public knowledge without any action by, or involvement of, the party to which the Confidential Information is disclosed; (B) is documented as being known to the Receiving Party prior to its disclosure by the Disclosing Party; (C) is independently developed by Receiving Party without reference or access to the Confidential Information of the Disclosing Party and is so documented; or (D) is obtained by Receiving Party without restrictions on use or disclosure from a third party.
- f. “**Customer Data**” means any data, content or material that Customer (including its Authorized Users) inputs into the Software or Service, including machine learning models, deep learning research projects and any visualizations, analyses, and other reports generated by the Software or Service.
- g. “**Customer Environment**” means equipment, systems and servers owned or managed solely by Customer.
- h. “**Deployment Type**” means the deployment type of the Software or Service subscribed to by Customer, as identified in an Order Form.

- i. **“Documentation”** means the documentation related to the Software or Services located at: <https://docs.wandb.ai/>.
- j. **“DPA”** means W&B’s Data Processing Addendum located at: <https://wandb.ai/site/dpa>.
- k. **“Malicious Code”** means any harmful, malicious, or hidden code, programs, procedures, routines, or mechanisms that would: (i) cause the Software or Service to cease functioning; (ii) damage or corrupt any W&B owned or controlled data, programs, equipment, systems, servers or communications; or (iii) interfere with the operations of the Software or Service (e.g., Trojan horses, viruses, worms, time bombs, time locks, devices, traps, access codes, or drop dead or trap door devices).
- l. **“Order Form”** means: (i) each order document executed in writing between the parties for the purchase of a subscription to the Software or Service; or (ii) the purchase of a subscription through the Service (e.g., by means of the Service dashboard).
- m. **“Prohibited Content”** means content that: (i) is illegal under any applicable law; (ii) violates any third-party rights including privacy, intellectual property rights and trade secrets; (iii) contains false, misleading, or deceptive statements, depictions, or practices; (iv) contains Malicious Code; or (v) is otherwise objectionable to W&B in its sole, but reasonable, discretion.
- n. **“Service”** means W&B’s proprietary cloud service as identified in an Order Form, which includes the Software.
- o. **“Service Level Agreement”** or **“SLA”** means W&B’s service level agreement located at: <https://wandb.ai/site/service-level-agreement>.
- p. **“Software”** means W&B’s proprietary software, which includes all Updates.
- q. **“Subscription Term”** means the length of the subscription specified in the Order Form.
- r. **“Support”** means support for the Software or Service as described in the Support Policy located at: <https://wandb.ai/site/support-policy>.
- s. **“Taxes”** means any and all customs, duties, national and local sales, use, or value added taxes, goods and services tax, consumption tax, withholding tax, or similar charges, federal, state or otherwise, including penalties and interest however designated, which are levied or imposed by any governmental entity.
- t. **“Updates”** means any corrections, fixes, patches, workarounds, modifications and version changes to the Software or Service that W&B makes available in connection with this Agreement.
- u. **“VAT ID”** means any valid and existing tax identification number issued by the relevant tax authorities to Customer for the registration for value added tax, goods and services tax or any other indirect tax.
- v. **“W&B Assets”** means the Software, Service and Documentation.

2. **Service & Software**

- a. W&B Multi-Tenant Public Cloud & W&B Dedicated Cloud. For W&B Multi-Tenant Public Cloud and W&B Dedicated Cloud Deployment Types, Customer may access and use the Service for Customer’s internal business purposes during the Subscription Term, subject to this Agreement.
- b. Customer Managed Single-Tenant Cloud & Customer Managed On-Premise. For Customer Managed Single-Tenant Cloud and Customer Managed On-Premise Deployment Types, W&B grants Customer a limited, non-exclusive, non-sublicensable, non-transferable (except as otherwise provided herein) license during the Subscription Term to download, install and use the Software in the Customer Environment for Customer’s internal business purposes, subject to this Agreement.
- c. Service & Software Restrictions. Customer will not (and will not allow any third party to): (i) allow anyone other than Authorized Users to access and use the W&B Assets; (ii) share any W&B issued access credentials with any third party; (iii) resell, distribute or rent the Software or Service (iv) reverse engineer, decompile, disassemble, or otherwise attempt to discern the source code or interface protocols of the Software; (v) modify, adapt, or translate the Software or remove or modify any proprietary markings or

restrictive legends placed on or within the W&B Assets; (vi) make copies, store, or archive, any portion of the W&B Assets without the prior written permission of W&B except: (1) where necessary to accomplish the Deployment Type within the Customer Environment; or (2) for Customer Data generated by Customer through the intended functionality as set forth in the Documentation; (vii) use the W&B Assets in violation of any applicable law; (viii) introduce, any Malicious Code into the Software or Service; or (ix) exploit the Software or Service in any unauthorized manner including by circumventing any process W&B has put in place to safeguard the Software or Service (e.g., deleting runs), or by deploying spiders, web-bots, screen-scrappers, or web crawlers, that may damage or adversely affect server or network capacity or Software infrastructure (together, (i) through (ix) the “**Restrictions**”). The foregoing Restrictions will be inapplicable to the extent prohibited by applicable law.

- d. **Trial Period.** Subject to the terms of this Agreement and Order Form (if applicable), Customer will have the right to use the W&B Assets for internal evaluation purposes during the period designated by W&B, or for 30 days (if not otherwise designated) (“**Trial Period**”). Either party may terminate the Trial Period at any time for any reason.
- e. **Personal and Academic Use.** W&B offers the W&B Assets free of charge to any Customer that is an individual or an academic institution pursuing research not connected to a for-profit entity, and in each case, using the W&B Assets not for any commercial purposes (“**Non-Commercial User**”). If any Non-Commercial User exceeds the limits set forth in their Personal or Academic subscription plan or uses such account for commercial purposes, W&B will bill Customer at W&B’s then-current standard pricing, located at <https://wandb.ai/site/pricing>.
- f. **Beta Features.** Beta Features made available by W&B are provided to Customer for testing purposes only. W&B makes no commitments to provide Beta Features in any future versions of the W&B Assets. Customer is not obligated to use Beta Features. W&B may immediately and without notice remove Beta Features for any reason without liability to Customer. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THIS AGREEMENT, W&B DOES NOT OFFER ANY WARRANTY, INDEMNITY, SLA OR SUPPORT FOR BETA FEATURES.
- g. **Marketing & Logo Rights.** Customer grants W&B the right to use Customer's name and logo on W&B's website for the sole purpose of identifying Customer as a customer. Customer grants W&B the right to create, and Customer will participate in, a "Co-Branded Case Study" that will include approved responses and feedback from the Customer from the usage of W&B's products and services.
- h. **Export Compliance.** The W&B Assets are subject to export control laws and regulations. Customer may not access or use the W&B Assets or any underlying information or technology except in full compliance with all applicable United States export control laws. Neither the W&B Assets nor any underlying information or technology may be accessed or used: (i) by any individual or entity in any country to which the United States has embargoed goods; or (ii) by anyone on the U.S. Treasury Department’s list of specially designated nationals or the U.S. Commerce Department’s list of prohibited countries or debarred or denied persons or entities.

3. **Updates and Support**

- a. **Updates.** W&B may make available Updates to the W&B Assets from time to time during the Subscription Term. For the applicable Deployment Types, Customer will be responsible for implementing Updates for the Software within the Customer Environment. Customer will implement such Updates in a timely fashion. If Customer fails to do so, performance of the Software may be impacted.
- b. **Support.** W&B will provide customers with Support during each Subscription Term in accordance with the Support Policy. The fee for Support is included in the cost of the subscription set forth on the Order Form.

4. **Data**

- a. **Customer Data.** In connection with its use of the Software or Service, Customer may transfer Customer Data to W&B and W&B may use Customer Data to provide the Software and Service. Customer grants

W&B a limited right during each Subscription Term to use Customer Data as provided for in this Section 4(a) and in accordance with this Agreement, the DPA and BAA (as applicable).

- b. Usage Data. W&B may collect and analyze data and other information relating to the provision, use and performance of the Software and Service (“**Usage Data**”), solely for internal purposes to improve and support the Software and Service. W&B may disclose insights drawn from Usage Data, but all Usage Data in such disclosure will be anonymized and aggregated, will not identify Customer or Customer’s users, and will not be disclosed in a manner that would permit a third party to determine Customer’s or its users’ identity. If Customer disables the usage tracker within the Software, Customer will, no later than the end of each calendar quarter during the Subscription Term, provide W&B with information reasonably requested by W&B to determine the number of additional user seats Customer requires for any true-up.
- c. DPA. W&B will process all Customer Data for the purposes set forth in this Agreement and in accordance with the DPA. The parties will comply with the DPA, which is incorporated into this Agreement.
- d. BAA. W&B will process all Customer Data for the purposes set forth in this Agreement and in accordance with the BAA, only for Enterprise Customers and only if the BAA is included in Customer’s Order Form.
- e. Security & Privacy. W&B maintains industry-standard physical, technical, and administrative safeguards to protect Customer Data.

5. Fees

- a. Payments. W&B will invoice Customer for all fees as set forth in the applicable Order Form and any applicable Taxes. Unless otherwise provided for in the applicable Order Form: (i) W&B may invoice Customer at any time after the execution of the Order Form; (ii) all amounts are due and payable to W&B within 30 days from the date of W&B’s invoice; and (iii) all payment obligations are non-cancellable and fees are non-refundable, except as set forth in Section 6(d).
- b. Taxes. Customer will pay all applicable Taxes excluding only those based on W&B’s net income. If Customer is required under applicable law to withhold or deduct any such Taxes, Customer will (i) withhold or deduct the required amount and promptly remit such Taxes to the applicable taxing authority and (ii) pay W&B such additional amounts as shall be necessary in order that the net amounts received by W&B after such withholding or deduction shall equal the full amount W&B would have received without the withholding or deduction. At W&B’s request, Customer shall provide W&B with reasonably satisfactory documentation evidencing the payment to the appropriate governmental entity of any amounts so withheld or deducted. Any applicable direct pay permits, VAT ID or valid Tax-exempt certificates must be provided to W&B prior to the execution of this Agreement. If W&B is required to collect and remit Taxes on Customer’s behalf, W&B will invoice Customer for such Taxes, and Customer will pay W&B for such Taxes in accordance with Section 5(a). If either party receives any refund of any Taxes that are borne by the other party pursuant to this Agreement, the party receiving such refund shall promptly pay the other party the amount of such refund (net of any additional Taxes the receiving party incurs as a result of the receipt of such refund).
- c. Late Payments. In the event of late payments, W&B may: (i) charge interest of the lesser of 1.5% per month or the maximum rate permitted by law; (ii) condition future Order Forms on payment terms shorter than those specified in Section 5(a); or (iii) suspend or terminate Customer’s use of the Software or Service pursuant to Section 6(b).
- d. Pricing and Credit Card Processing. Unless the parties agree otherwise in a separately executed written agreement, fees and limitations for use of the Service shall be based on the pricing published at <https://wandb.ai/site/pricing>. For online Order Forms that require Customer’s payment by credit card, W&B uses a third-party credit card processing service to process payments. Customer consents to the use of such service and to the transfer of Customer’s credit card details to such third-party processor for the purposes of such transaction. Customer agrees to be bound by any separate terms applicable to the processing service. Customer’s credit card will be charged fees automatically for Customer’s use of the Service at the end of each billing cycle. Online Order Forms will automatically renew for additional periods of the same duration as the expiring term. If Customer does not want to auto-renew, Customer

must submit a support request at least three (3) days before the expiration of the then current term. W&B reserves the right to provide notice of non-renewal at least fifteen (15) days before the end of any online Order Form term.

6. **Term & Termination**

- a. **Term.** The term of this Agreement commences on the Effective Date and will remain in effect so long as there is an active subscription or until terminated earlier in accordance with this Agreement.
- b. **Suspension & Termination for Non-Payment.** W&B may suspend Customer's use of the Software or Service upon written notice to Customer if any amount due to W&B under any invoice is past due. If Customer fails to pay within 30 days of receipt of W&B's notice of suspension for late payment, W&B may terminate this Agreement or the applicable Order forms immediately upon written notice to Customer.
- c. **Termination.** Either party may terminate this Agreement and any Order Form: (i) upon 30 days' notice to the other party if the other party materially breaches this Agreement and such breach remains uncured at the expiration of such 30 day period; or (ii) immediately, if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, liquidation, or assignment for the benefit of creditors.
- d. **Effect of Termination.** If Customer terminates this Agreement in accordance with Section 6(c)(i), W&B will reimburse Customer on a pro-rata basis for any pre-paid fees allocable to the remaining Subscription Term as of the date of such termination. Customer is solely responsible for exporting Customer Data from the Software or Service prior to expiration or termination of this Agreement. Upon termination of this Agreement, W&B will delete Customer Data in the ordinary course and in accordance with its policies, subject to the DPA and BAA (if applicable). Customer may also request deletion of Customer Data post-termination by submitting an email request to support@wandb.com, and W&B will initiate deletion within 30 days of receipt.
- e. **Survival.** The following provisions will survive any expiration or termination of this Agreement: Sections 7 (Confidentiality), 8 (Ownership), 10 (Indemnification), 11 (Limitation on Liability), 13 (Miscellaneous, as applicable), 14 (Governing Law and Courts), and 15 (Notices).

7. **Confidentiality**

- a. Each party that receives ("**Receiving Party**") Confidential Information of the other party ("**Disclosing Party**") will protect and preserve such Confidential Information as confidential, using no less care than that with which it protects and preserves its own confidential and proprietary information (but in no event less than a reasonable degree of care), and will not use or disclose the Confidential Information for any purpose except to perform its obligations and exercise its rights under this Agreement and applicable Order Forms.
- b. Receiving Party may disclose, distribute, or disseminate Disclosing Party's Confidential Information to any of its officers, directors, members, managers, partners, employees, contractors, or agents (its "**Representatives**"), provided Receiving Party reasonably believes that its Representatives have a need to know and such Representatives are bound by confidentiality obligations at least as restrictive as those contained herein. The Receiving Party will at all times remain responsible for any violations of this Agreement by any of its Representatives.
- c. A Receiving Party will not violate its confidentiality obligations if it discloses Disclosing Party's Confidential Information if required by applicable laws, including by court subpoena or similar instrument so long as the Receiving Party provides the Disclosing Party with written notice of the required disclosure so as to allow the Disclosing Party to contest or seek to limit the disclosure or obtain a protective order. If no protective order or other remedy is obtained, the Receiving Party will furnish only that portion of the Confidential Information that is legally required, and agrees to exercise reasonable efforts to ensure that confidential treatment will be accorded to the Confidential Information so disclosed.

- d. Each party acknowledges that any violation or threatened violation of this Section 7 may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.

8. **Ownership**

- a. W&B Property. As between the parties, W&B owns and retains all right, title and interest in and to the W&B Assets. Except for the limited rights granted to Customer in Sections 2(a) and 2(b), W&B does not by means of this Agreement or otherwise transfer any other rights to Customer.
- b. Customer Property. As between the parties, Customer owns and retains all right, title and interest in and to the Customer Data. Except for the rights granted to W&B in Section 4(a), Customer does not by means of this Agreement or otherwise transfer any other rights to W&B.
- c. Feedback. If Customer provides any comments, suggestions or recommendations to W&B with respect to the W&B Assets (“**Feedback**”), W&B may use such Feedback without any restriction or obligation.

9. **Representations & Warranties**

- a. Mutual Representations and Warranties. Each party represents and warrants it (i) has validly entered into this Agreement and has the legal power to do so and (ii) will comply with all laws that apply to its performance under this Agreement.
- b. W&B’s Representations and Warranties. W&B will provide the Software and Service in substantial conformance with this Agreement, the Order Form(s) and Documentation.
- c. Customer Representations and Warranties. Customer represents and warrants it: (i) has all rights necessary to use Customer Data and grant W&B the rights with respect to such Customer Data, in each case, as set forth in this Agreement, without violating any third-party intellectual property, privacy or other rights; and (ii) will not transmit any Prohibited Content to W&B in connection with Customer’s use of the Software, Service or Support.
- d. Disclaimer. EXCEPT AS SET FORTH IN THIS SECTION 9, THE W&B ASSETS AND BETA FEATURES ARE PROVIDED “AS IS” AND W&B EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF PERFORMANCE, MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSES AND NON-INFRINGEMENT. W&B DOES NOT WARRANT THAT THE W&B ASSETS OR BETA FEATURES ARE ERROR-FREE, WILL PERFORM UNINTERRUPTED OR WILL MEET CUSTOMER’S REQUIREMENTS. THESE DISCLAIMERS APPLY TO THE FULLEST EXTENT PERMITTED BY LAW.

10. **Indemnification**

- a. By W&B. W&B will defend Customer and its Affiliates, including each of the foregoing's officers, directors, employees and agents (collectively, "**Customer Indemnified Parties**"), from any third-party claim, demand, dispute, suit or proceeding and W&B will indemnify Customer Indemnified Parties from and against any related losses, liabilities, damages, costs or expenses (including reasonable attorneys’ fees), finally awarded against the Customer Indemnified Parties to such third party, by a court of competent jurisdiction or agreed to in settlement, alleging that the W&B Assets, including Customer’s permitted use thereof, infringes or misappropriates any United States patent, trademark or copyright of such third party.

If W&B becomes, or in W&B’s opinion is likely to become, the subject of an infringement or misappropriation claim, W&B may, at its option and expense: (i) procure for Customer the right to continue using the W&B Assets; (ii) replace the W&B Assets (including any component part) with a non-infringing substitute subject to Customer’s prior written approval; or (iii) modify the W&B Assets so that it becomes non-infringing. If none of the foregoing alternatives are available, W&B shall notify Customer, and Customer may elect to terminate the license immediately pursuant to Section 6(c)(i).

W&B will not be obligated to defend or be liable for costs or damages solely to the extent the infringement or misappropriation is attributable to: (a) any unauthorized use, reproduction, or distribution

of the W&B Assets or W&B's intellectual property rights by the Customer Indemnified Parties which is the subject of the claim; or (b) any unauthorized combination of, or modification to, the W&B Assets or W&B's intellectual property rights, other than as expressly approved by W&B that causes the underlying claim where such claim would have not occurred but for such unauthorized act.

- b. By Customer. Customer will defend W&B, and its Affiliates, including each of the foregoing's officers, directors, employees and agents (collectively, "**W&B Indemnified Parties**"), from any third-party claim, demand, dispute, suit or proceeding, and Customer will indemnify the W&B Indemnified Parties from and against any related losses, liabilities, damages, costs or expenses (including reasonable attorneys' fees), finally awarded against the W&B Indemnified Parties related to: (i) Customer or an Authorized User violating a Restriction; (ii) Customer's breach of Section 9(c) (Customer Representations & Warranties); and (iii) any allegation by a governmental body that use of Customer Data, as permitted by W&B under this Agreement or at Customer's request or direction, has violated any applicable law.
- c. Indemnification Process. The indemnified parties will: (i) give the indemnifying party prompt written notice of any claim, action or demand for which indemnity is claimed; (ii) give the indemnifying party sole control over the defense and settlement of the claim, provided that the indemnifying party will not settle any claim that involves the payment of money or acknowledgement of wrongdoing on the part of the indemnified parties without indemnified parties' prior written approval such approval not to be unreasonably withheld, conditioned or delayed; and (iii) provide the indemnifying party with reasonable cooperation, at the indemnified parties' expense, in connection with the defense and settlement of the claim. THIS SECTION 10 SETS FORTH EACH PARTY'S EXCLUSIVE REMEDY FOR ANY THIRD PARTY INFRINGEMENT CLAIM.

11. Limitation on Liability

- a. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES THAT MAY ARISE OUT OF THIS AGREEMENT, EVEN IF NOTIFIED OF THE POSSIBILITY IN ADVANCE AND REGARDLESS OF THE FORM OF ACTION, WHETHER BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, SERVICES LIABILITY OR OTHERWISE.
- b. EXCEPT WITH RESPECT TO EXCLUDED CLAIMS AND UNCAPPED CLAIMS, EACH PARTY'S ENTIRE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL NOT EXCEED THE TOTAL FEES PAID BY CUSTOMER UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRIOR TO THE EVENT GIVING RISE TO THE LIABILITY.
- c. "**Excluded Claims**" means any claim or liability arising out of or related to any breach by W&B of its confidentiality, privacy and security obligations or any violation of data protection laws, including any breach of Section 4 and Section 7. W&B's entire liability for all Excluded Claims will not exceed 3 times the total fees paid by Customer under this Agreement during the 12-month period prior to the event giving rise to the liability.
- d. "**Uncapped Claims**" means any claim or liability arising out of or related to: (i) either party's respective indemnification obligations under Section 10; or (ii) any liability of a party which cannot be limited under applicable law, including gross negligence, recklessness, or intentional misconduct.
- e. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY AND SO FAR AS PERMITTED BY LAW, W&B'S ENTIRE LIABILITY RELATING TO BETA FEATURES, NON-COMMERCIAL USERS AND ANY W&B SERVICES PROVIDED FREE OF CHARGE, INCLUDING ANY FREE TRIALS, WILL BE LIMITED TO \$200.

12. Insurance W&B will maintain in full force and effect during the term of this Agreement:

- a. Commercial general liability insurance on an occurrence basis for bodily injury, death, property damage, and personal injury, with coverage limits of not less than \$1,000,000 per occurrence and \$2,000,000 general aggregate for bodily injury and property damage;

- b. Auto liability insurance covering non-owned and hired vehicles, with coverage limits of not less than \$1,000,000 per occurrence for bodily injury and property damage;
- c. Worker's compensation insurance as required by applicable law; and
- d. Technology Errors & Omissions and Cyber-risk on an occurrence or claims-made form, for limits of not less than \$3,000,000 annual aggregate covering liabilities for financial loss resulting or arising from acts, errors or omissions in the rendering of the W&B Assets, or from data damage, destruction, or corruption, including unauthorized access, unauthorized use, virus transmission, denial of service, and violation of privacy from network security failures in connection with the Software or Service.

Insurance carriers will be rated A-VII or better by A.M. Best Provider. W&B's coverage will be considered primary without right of contribution of Customer's insurance policies. In no event will the foregoing coverage limits affect W&B's contractual liability under this Agreement.

13. **Miscellaneous**

This Agreement is the entire agreement between the parties and supersedes all prior agreements and understandings concerning the subject matter hereof. The parties are independent contractors, and this Agreement will not establish any relationship of partnership, joint venture, or agency between the parties. Failure to exercise any right under this Agreement will not constitute a waiver. There are no third-party beneficiaries to this Agreement. If any provision of this Agreement is found unenforceable, this Agreement will be construed as if it had not been included. Neither party may assign this Agreement without the prior, written consent of the other party, except that either party may assign this Agreement without such consent in connection with an acquisition of the assigning party or a sale of all or substantially all of its assets. Neither party will be liable for failures or delays in performance of its obligations hereunder (except for the payment of money owed) due to events beyond its reasonable control. To the extent there is an inconsistency between the terms of this Agreement, an Order Form, the DPA or the BAA, such documents and their terms will be controlled in the following order of precedence: (a) Order Form; (b) Agreement; (c) DPA; and (d) BAA (if applicable). Any term in any order, purchase order, confirmation or other document furnished by Customer, which is in any way inconsistent with, or in addition to, this Agreement is expressly rejected and is superseded by this Agreement. In this Agreement, headings are for convenience only and "including" and similar terms are to be construed without limitation.

- 14. **Governing Law and Courts** This Agreement is governed by the laws of California without reference to conflicts of law rules. For any dispute relating to this Agreement, the parties consent to personal jurisdiction and the exclusive venue of the courts in San Francisco County, California. If any dispute, controversy or claim cannot be settled by the parties within 30 days of written notice from either party to the other of such dispute, controversy or claim, then, except as set forth below, any dispute, controversy or claim arising under, out of or relating to this Agreement, will be finally determined by arbitration conducted by the JAMS by a single arbiter who will be fluent in written and spoken English. The place of such arbitration will be in San Francisco, California, U.S.A. The sole and exclusive language of arbitration will be English. The judgment of the arbitration will be final, non-appealable (to the extent not inconsistent with applicable law) and binding upon the parties, and judgment may be entered upon the arbitral award in any court of competent jurisdiction. The foregoing does not limit or restrict either party from seeking injunctive or other equitable relief with respect to its intellectual property rights hereunder.
- 15. **Notices** Notices must be in writing to the address (a) set forth above, if to W&B and (b) associated with Customer's account, if to Customer. Such notice will be deemed given: (i) upon receipt if by personal delivery or certified or registered U.S. mail, return receipt requested (with an electronic copy to legal@wandb.com if to W&B), or (ii) upon delivery if by email to legal@wandb.com, if to W&B or the email address associated with Customer's account, if to Customer. W&B may also send operational notices through the Service.