

## Chronosphere, Inc.

### MASTER SUBSCRIPTION AGREEMENT

This Master Subscription Agreement ("Agreement") is an agreement by and between Chronosphere, Inc., a Delaware corporation ("Chronosphere") and the customer accessing, downloading, or using the Subscription Services ("Customer").

BY DOWNLOADING, INSTALLING, REGISTERING, ACCESSING, EVALUATING OR OTHERWISE USING THE CHRONOSPHERE SERVICE, SOFTWARE, OR CHRONOSPHERE PRODUCTS (COLLECTIVELY, THE "SUBSCRIPTION SERVICES"), YOU ACKNOWLEDGE AND AGREE THAT YOU ARE BOUND TO THIS AGREEMENT. IF YOU DO NOT AGREE TO THE TERMS OF THIS AGREEMENT, DO NOT ACCESS, DOWNLOAD, INSTALL, OR OTHERWISE USE ANY OF THE SUBSCRIPTION SERVICES.

Notwithstanding the foregoing, this Agreement shall not apply if Customer and Chronosphere have entered into a written, fully executed agreement governing Customer's use of the Subscription Services

#### 1. SERVICES

- 1.1. **Chronosphere Service.** Subject to Customer's ongoing compliance with this Agreement (including timely payment of all applicable fees), Chronosphere grants Customer and its Authorized Users a non-exclusive, non-transferable right, during the Subscription Term, to access and use, solely for Customer's internal business purposes, Chronosphere's hosted services expressly identified on each mutually executed order form (each, an "**Order**" or "**Order Form**") and any associated software components (collectively, the "**Chronosphere Service**"), subject to the usage limitations set forth on the applicable Order. "**Authorized User**" means an employee, agent or contractor of Customer who has been supplied user credentials for the Chronosphere Service by Customer or by Chronosphere at Customer's request.
- 1.2. **Software.** If the Customer receives a license to downloadable software from Chronosphere in connection with the Chronosphere Service ("**Software**"), then Chronosphere hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable right and license under Chronosphere's rights in the Software to install and operate the Software in accordance with all applicable Documentation and the restrictions set forth in this Agreement (including the applicable Order).
- 1.3. **APIs.** If an Order indicates that Customer will receive access to an application programming interface, or if Chronosphere provides credentials to Customer that enable Customer to access a Chronosphere-provided application programming interface in connection with the Chronosphere Service (each, an "**API**"), then Chronosphere hereby grants Customer a non-exclusive, non-transferable and non-sublicensable right to access and use such API solely (i) for the Subscription Term set forth in such Order and (ii) in accordance with the restrictions set forth in this Agreement (including the applicable Order). Without limiting the foregoing, Customer will comply with any volume or other usage-based restrictions described in the Order.
- 1.4. **Documentation.** To the extent that the Chronosphere Technology (as defined in Section 1.7) is accompanied by any Chronosphere-provided user manuals, help files, specification sheets, or other documentation, in whatever form ("**Documentation**"), Chronosphere hereby grants to Customer a non-exclusive, non-transferable, non-sublicensable right and license under Chronosphere's rights in the Documentation to use such Documentation solely to enable Customer to exercise its rights to the Chronosphere Technology under this Agreement.
- 1.5. **Service Levels.** Chronosphere will make the Chronosphere Service available in accordance with the service levels set forth in Exhibit A (the "**SLA**"). Customer's sole and exclusive remedy for Chronosphere's failure to meet the SLA will be the service credits set forth in the SLA.
- 1.6. **Beta Products.** From time to time, Chronosphere may make certain products, features or functionality available on a beta, pilot, limited release, preview, early access, or evaluation basis, as notified to Customer in writing (the "**Beta Offering(s)**"). Customer may use the Beta Offerings only for the purpose of evaluating the functions and performance of the Chronosphere Service, solely for the designated time period for the evaluation or trial, and subject to any additional usage restrictions specified by Chronosphere. Customer acknowledges that the Beta Offering may be discontinued at any time and that any data stored in the Beta Offering may become unavailable at that time. NOTWITHSTANDING ANYTHING TO THE

CONTRARY IN THIS AGREEMENT, INCLUDING SECTION 1.5, THE BETA OFFERINGS ARE PROVIDED "AS-IS" WITHOUT ANY WARRANTY AND CHRONOSPHERE WILL HAVE NO INDEMNIFICATION OBLIGATIONS, OBLIGATIONS UNDER THE SLA, NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE BETA OFFERINGS UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE CHRONOSPHERE'S LIABILITY WITH RESPECT TO THE BETA OFFERINGS WILL NOT EXCEED THE GREATER OF AMOUNTS PAID BY CUSTOMER FOR THE BETA OFFERING OR \$100.00. WITHOUT LIMITING THE FOREGOING, CHRONOSPHERE DOES NOT REPRESENT OR WARRANT THAT: (A) CUSTOMER'S USE OF THE BETA OFFERINGS WILL MEET CUSTOMER'S REQUIREMENTS, (B) CUSTOMER'S USE OF THE BETA OFFERINGS WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, OR (C) THAT ITS SECURITY MEASURES WILL PREVENT THIRD PARTY ACCESS TO CUSTOMER DATA. CUSTOMER WILL BE FULLY LIABLE UNDER THIS AGREEMENT TO CHRONOSPHERE FOR ANY DAMAGES ARISING OUT OF CUSTOMER'S USE OF THE BETA OFFERINGS, ANY BREACH BY CUSTOMER OR ITS AUTHORIZED USERS OF THIS AGREEMENT AND ANY OF CUSTOMER'S INDEMNIFICATION OBLIGATIONS HEREUNDER.

- 1.7. Restrictions.** Customer will not, directly or indirectly, and will not authorize any person, to the maximum extent permitted by applicable law, to (i) decompile, disassemble, reverse engineer or attempt to reconstruct or discover any elements of (except as required by law); (ii) reproduce, translate, adapt, or modify; (iii) write or develop any program based upon; (iv) sell, sublicense, transfer any rights in, use for the benefit of or to provide services (e.g., as a service bureau), or allow access to unauthorized persons to; (v) transmit unlawful, infringing or harmful data or code to or from; (vi) replicate significant portions of the Chronosphere Technology or (vii) otherwise use except as expressly permitted hereunder, in each case of (i) – (vii), the Chronosphere Service, Software, APIs, Documentation and Beta Offerings, as applicable (including all technology constituting or used to provide such service) or Chronosphere's data (collectively, "**Chronosphere Technology**"). Customer will prevent any unauthorized use of the Chronosphere Technology and will immediately notify Chronosphere in writing of any unauthorized use of which Customer becomes aware. Customer will immediately terminate any unauthorized use by persons having access to the Chronosphere Technology through Customer. Chronosphere reserves the right to investigate potential violations of this Agreement. In the event Chronosphere reasonably believes a violation has occurred, in addition to any other remedies available at law or in equity (including termination pursuant to Section 3.2), Chronosphere will have the right to suspend Authorized Users suspected of the violation from accessing the Chronosphere Service for so long as is reasonably necessary to address the potential violation.
- 1.8. Personal Data.** Except with regard to Business Contact Information (as defined herein), Customer agrees that it will not provide Chronosphere with any personal data, including Protected Health Information (as defined under Health Insurance Portability and Accountability Act of 1996), either directly or indirectly, in connection with its use of the Chronosphere Service. Notwithstanding the foregoing, the parties may receive business contact information for the other party's personnel for the purpose of fulfilling the business relationship between the parties ("**Business Contact Information**"). To the extent that any Business Contact Information constitutes personal information (as such term is defined in applicable data protection laws), each party shall process such Business Contact Information for the sole purpose of fulfilling the business relationship with the other party and in accordance with all applicable data protection laws. Chronosphere shall have no liability to Customer in connection with Customer's breach of this Section 1.8.
- 1.9. Compliance with Laws.** Customer will use the Chronosphere Technology in compliance with all applicable laws and regulations.
- 1.10. Third Party Integrations.** Chronosphere may provide Customer with integrations to third party services ("**Integrations**") in connection with the Chronosphere Service. By using any Integration, Customer acknowledges and agrees that Chronosphere: (i) does not operate or control the service or products provided by such third parties ("**Third Party Service Providers**") via the Integrations, (ii) provides Customer with Integrations only for Customer's convenience, and this does not imply any endorsement or any association with such Third Party Service Providers; (iii) retains all rights, title, and interest that it has in the Integrations, if any; (iv) may add or remove an Integration at any time; and (v) shall not be held liable and does not accept any liability, obligation, or responsibility whatsoever for any loss or damage Customer may suffer in connection with the Integrations. Customer further agrees that, by using an Integration, Customer hereby consents to and instructs Chronosphere to share any customer data with such Third Party Service Providers as would reasonably be expected to facilitate the purpose of such Integration. Customer uses the third party Integrations at its own risk, and Customer will defend and indemnify Chronosphere against all liabilities, damages, losses, costs, fees (including legal fees), and expenses to the extent arising from (i) Customer's misuse of an Integration, or (ii) violation of this Agreement or the terms of any Third Party Service Providers.

## **2. PAYMENT**

- 2.1. **Fees.** Customer agrees to pay Chronosphere the fees and any other amounts owing under this Agreement and as specified in the applicable Order ("**Fees**"). Fees are calculated based on Customer's usage in accordance with the pricing set forth in the Order.
- 2.2. **Payment.** Fees are due and payable in United States dollars on the terms set forth in the applicable Order Form, without deduction or setoff. Interest accrues from the due date at the lesser rate of 1.5% per month or the highest rate allowed by law. Customer will reimburse any costs or expenses (including, but not limited to, reasonable attorneys' fees) incurred by Chronosphere to collect any amount that is not paid when due. Amounts due from Customer under this Agreement may not be withheld or offset by Customer against amounts due to Customer for any reason.
- 2.3. **Taxes.** Customer must pay all federal, state, local, sales, use, value added, excise, or other taxes, fees, or duties arising out of this Agreement or the transactions contemplated by this Agreement (other than taxes based on Chronosphere's net income).

### 3. TERM AND TERMINATION

- 3.1. **Term.** This Agreement will start on the Effective Date and, unless terminated earlier in accordance with this Agreement, will continue until the last Order expires or terminates. Each Order will start on the date such Order is executed by the parties and, unless terminated earlier in accordance with the terms of this Agreement, will continue until the expiration of the initial term ("**Initial Term**") specified in such Order. The parties may elect to renew any such Order for additional terms. Any renewal terms shall be agreed between the parties in an Order (each, a "**Renewal Term**," and together with the Initial Term, the "**Subscription Term**").
- 3.2. **Termination.** Chronosphere may terminate this Agreement by written notice if any of the following occurs: (i) Customer fails to pay past due amounts within 10 days of written notice of nonpayment; (ii) Customer is in material breach of this Agreement, which is not cured within 30 days of written notice of such breach; or (iii) Customer files for or is adjudicated bankrupt or suffers any other analogous event. Notwithstanding the foregoing, Chronosphere may immediately terminate this Agreement upon notice to Customer: (a) as described in Section 7.2, (b) if Chronosphere reasonably believes that Customer has violated Section 1.7, (c) has attempted to assign or sublicense any right granted by this Agreement except as expressly permitted herein, or (d) has otherwise taken any actions that threaten or challenge Chronosphere's intellectual property rights, including rights in and to any Chronosphere Technology. Without limiting any other provision of this Section 3.2, if Customer fails to timely pay any fees, Chronosphere may, without limitation to any of its other rights or remedies, suspend access to the Chronosphere Technology under all Orders until it receives all amounts due.
- 3.3. **Effect of Termination.** Upon the effective date of expiration or termination of this Agreement for any reason: (i) all outstanding Orders and access to Chronosphere Technology will automatically terminate; (ii) all outstanding payment obligations of Customer become due and payable immediately; and (iii) subject to Section 4.5 of this Agreement, Customer has 30 days to request the return or deletion (at Chronosphere's sole discretion) of Customer Data (after which time, Chronosphere has no further obligation to store or permit retrieval of such Customer Data). The following provisions will survive the expiration or termination of this Agreement for any reason: Sections 1.7 (Restrictions), 3.3 (Effect of Termination), 4 (Confidentiality; Ownership; Data), 5 (Indemnification), 6 (Disclaimer; Limitation of Liability), and 7 (General).

### 4. CONFIDENTIALITY; OWNERSHIP; DATA

- 4.1. **Definition.** "**Confidential Information**" means any information disclosed directly or indirectly by one party ("**Disclosing Party**") to the other party ("**Receiving Party**") pursuant to this Agreement that is either designated as "confidential" or under the circumstances of disclosure or by the nature of the information itself is reasonably understood by the Receiving Party to be the confidential information of the Disclosing Party. Confidential Information does not include any information which (a) is or becomes generally known and available to the public through no act or omission of the Receiving Party; (b) was already in the Receiving Party's possession at the time of disclosure by the Disclosing Party, as shown by the Receiving Party's contemporaneous records; (c) is lawfully obtained by the Receiving Party from a third party who has the express right to make such disclosure without a duty of confidence; or (d) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information. As between Chronosphere and Customer, the Chronosphere Technology is the Confidential Information of Chronosphere. The terms (but not the existence) of this Agreement is each party's Confidential Information.
- 4.2. **Use; Maintenance.** Neither party will use the Confidential Information of the other party for any purpose except to exercise its rights and perform its obligations under this Agreement. Neither party will disclose any Confidential Information of the other party, except to employees or subcontractors of the Receiving Party with a need to know, or to its advisors, or prospective investors or purchasers, each subject to a written obligation of confidentiality. Chronosphere may also disclose

any Confidential Information of Customer to Third Party Service Providers in connection with any Integration in accordance with Section 1.10. Each party will take reasonable measures designed to protect the secrecy, and avoid unauthorized access and use, or disclosure, of the Confidential Information of the other party, and will take at least those measures that it takes to protect its own confidential information of a similar nature. A Receiving Party will use reasonable efforts to provide timely notice of compelled disclosure to facilitate confidential treatment of Disclosing Party's Confidential Information, and will furnish only that portion of Confidential Information that it is legally required to disclose, after exercising reasonable efforts to obtain assurance that such information will receive confidential treatment. Chronosphere may, with Customer's prior consent, list Customer as a customer in its promotional and marketing materials, including its website.

- 4.3. Customer Data.** "Customer Data" means any data collected from systems, services, platforms, software, devices and/or networks that Customer uses in its own internal business operations ("Customer Components") or provided by Customer to Chronosphere in connection with the provision of the Chronosphere Service. As between the parties, Customer controls the Customer Components, whether owned, leased or licensed by Customer, located on Customer's premises or cloud-based, used by Customer on a software-as-a-service basis or otherwise. Customer may establish integrations or other connections between the Chronosphere Service and one or more Customer Components (each, a "Connection"). By implementing a Connection to a Customer Component, Customer hereby grants Chronosphere the right to, and directs Chronosphere to, access and interoperate with that Customer Component during the Subscription Term in order to provide and support the Chronosphere Service. Customer is responsible for complying with all applicable third-party terms, policies and licenses governing its access and use of Customer Components and associated data (collectively, "Third-Party Terms"). Customer Data does not include Usage Data or any materials provided by or on behalf of Chronosphere, including data templates. Customer Data processed using the Chronosphere Service is and will remain, as between Chronosphere and Customer, owned by Customer. Customer hereby grants Chronosphere the right to process, transmit, store or disclose Customer Data to provide the Chronosphere Service and in accordance with the terms of this Agreement. Customer is solely responsible for (i) Customer Data as provided or supplied by Customer and its Authorized Users, (ii) for complying with any privacy and data protection laws and regulations applicable to Customer Data and Customer's use of the Chronosphere Service, and (iii) for maintaining its equipment, the timely transmission of Customer Data, and the accuracy, quality, integrity, and reliability of Customer Data.
- 4.4. Usage Data.** Customer agrees that Chronosphere may collect, create, use, and disclose aggregated or deidentified data derived from Customer's use or configuration of the Chronosphere Service (collectively, "Usage Data") for the purpose of providing or improving the Chronosphere Service, including providing insights, service and feature announcements, creating and providing reports, benchmarking and capacity planning, or otherwise developing and improving its products and services, provided that Usage Data will be in an aggregated or otherwise deidentified form only and will not identify Customer or its Authorized Users.
- 4.5. Data Retention.** Customer agrees that Customer and/or its Authorized Users are solely responsible for setting the data retention period applicable to Customer Data and that Chronosphere will be entitled to rely solely on Customer's and/or its Authorized Users' instructions relating to the retention of Customer Data by Chronosphere. Notwithstanding anything to the contrary in this Agreement, Chronosphere will have no indemnification obligations nor liability of any type in connection with the deletion of Customer Data in accordance with the data retention period set by Customer and/or its Authorized Users.
- 4.6. Data Security.** Chronosphere will use commercially reasonable industry standard security technologies designed to protect the security, integrity, and confidentiality of Customer Data.
- 4.7. Customer Responsibilities.** Customer represents and warrants that it has provided any required notices to, and obtained any required rights, authorizations, and consents from, Authorized Users, owners and users of Customer Components, and other applicable third parties that are required for Chronosphere to process Customer Data in accordance with the terms of this Agreement.

## **5. INDEMNIFICATION**

- 5.1. By Chronosphere.** Chronosphere will (i) defend, or at its option settle, any claim brought against Customer by a third party alleging that Customer's use of the Chronosphere Service as authorized in this Agreement infringes such party's intellectual property rights, and (ii) pay damages awarded in a final judgment, (or amounts agreed in a monetary settlement), in any such claim defended by Chronosphere; provided that Customer provides Chronosphere (i) prompt written notice of; (ii) sole control over the defense and settlement of; and (iii) all information and assistance reasonably requested by Chronosphere in connection with the defense or settlement of, any such claim. If any such claim is brought or threatened, Chronosphere may, at its sole option and expense: (a) procure for Customer the right to continue to use the applicable Chronosphere Service; (b) modify the Chronosphere Service to make it non-infringing; (c) replace the Chronosphere Service with non-infringing technology having substantially similar capabilities; or (d) if none of the foregoing is commercially practicable, terminate the

applicable Chronosphere Service or this Agreement. Notwithstanding the foregoing, Chronosphere will have no liability to Customer for any claim arising out of or based upon the use of the Chronosphere Service in combination with software, products or services not provided by Chronosphere, Customer's failure to use the Chronosphere Service in accordance with this Agreement, or Chronosphere's data or Customer Data.

**5.2. Disclaimer.** SECTION 5.1 STATES THE ENTIRE LIABILITY OF CHRONOSPHERE, AND THE EXCLUSIVE REMEDY OF CUSTOMER, WITH RESPECT TO ANY ACTUAL OR ALLEGED INFRINGEMENT OF ANY INTELLECTUAL PROPERTY RIGHTS BY CHRONOSPHERE OR ITS SERVICE OR TECHNOLOGY OR ANY PART THEREOF.

**5.3. By Customer.** Notwithstanding anything to the contrary in Section 5.1, Customer will defend or, at its option, settle, any claim brought against Chronosphere arising from Customer's breach of the Third-Party Terms or alleging that the use by or on behalf of Chronosphere in accordance with this Agreement of the Customer Data and/or any of Chronosphere's data obtained pursuant to a request from Customer infringes or misappropriates any third party's rights or violates applicable laws or regulations, and Customer will pay damages finally awarded against Chronosphere (or the amount of any settlement Customer enters into) with respect to such claim defended by Customer. Chronosphere will provide Customer with (i) prompt written notice of; (ii) sole control over the defense and settlement of; and (iii) all information and assistance reasonably requested by Customer in connection with the defense or settlement of, any such claim. Chronosphere may appear, at its own expense, through counsel reasonably acceptable to Customer.

## **6. DISCLAIMER; LIMITATION OF LIABILITY**

**6.1. Mutual Warranties.** Each party represents and warrants to the other that: (a) this Agreement has been duly executed and delivered and constitutes a valid and binding agreement enforceable against such party in accordance with its terms and (b) no authorization or approval from any third party is required in connection with such party's execution, delivery, or performance of this Agreement.

**6.2. Disclaimer.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, CHRONOSPHERE HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, TITLE, LOSS OF DATA, ACCURACY OF RESULTS, OR ARISING FROM COURSE OF DEALING OR RELIANCE. CHRONOSPHERE DOES NOT WARRANT THAT THE CHRONOSPHERE TECHNOLOGY WILL BE ERROR-FREE OR UNINTERRUPTED, OR THAT ITS SECURITY MEASURES WILL PREVENT THIRD PARTY ACCESS TO CUSTOMER DATA. Chronosphere has no obligation to obtain, collect, store or use any data or information from any source.

**6.3. Limitation of Liability.** EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS RELATING TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS UNDER SECTION 5, IN NO EVENT WILL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE, TREBLE OR CONSEQUENTIAL DAMAGES (INCLUDING LOSS OF BUSINESS, REVENUE, PROFITS, GOODWILL, DATA OR OTHER ECONOMIC ADVANTAGE) ARISING OUT OF OR RELATING TO THIS AGREEMENT, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, WHETHER BREACH OF CONTRACT, BREACH OF WARRANTY, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE, EVEN IF THE OTHER PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EXCEPT FOR EACH PARTY'S INDEMNIFICATION OBLIGATIONS RELATING TO INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS UNDER SECTION 5, NEITHER PARTY'S TOTAL LIABILITY (INCLUDING ATTORNEYS' FEES) ARISING OUT OF OR RELATED TO THIS AGREEMENT WILL EXCEED THE AMOUNT PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT DURING THE 12-MONTH PERIOD PRIOR TO THE DATE THE CLAIM AROSE. THESE LIMITATIONS WILL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED OR EXCLUSIVE REMEDY.

## **7. GENERAL**

**7.1. Affiliates.** Where an Affiliate of Customer has not entered into an Order or other separate agreement directly with Chronosphere, Customer may authorize that Affiliate (each, a "**Participating Affiliate**") to access and use the Chronosphere Technology under an existing Order between Chronosphere and Customer. In such cases, references to "Customer" in the applicable Order and this Agreement will be deemed references to both Customer and the Participating Affiliate. Customer and its Participating Affiliates will be jointly and severally liable for compliance with this Agreement and all applicable Orders. As between Chronosphere and Customer, Customer accepts full liability for the acts and omissions of its Participating Affiliates. "**Affiliate**" means, with respect to a party, a business entity that directly or indirectly controls, is controlled by or is under common control with, such party, where "control" means the direct or indirect ownership of more than 50% of the voting securities of a business entity.

- 7.2. **Assignment.** Customer must not assign this Agreement or any of its rights or obligations under this Agreement without the prior written consent of Chronosphere, except that Customer may assign this Agreement upon notice to Chronosphere as part of a corporate reorganization, upon a change of control, consolidation, merger, reincorporation, sale of all or substantially all of its assets related to this Agreement or a similar transaction or series of transactions ("**Change of Control**"), provided that such Change of Control does not result in Customer becoming a competitor, or an Affiliate of a competitor, of Chronosphere. If Customer undergoes a Change of Control in favor of a competitor of Chronosphere, as determined by Chronosphere in its sole discretion, then Chronosphere will have the right to terminate this Agreement and all Orders immediately. Subject to the foregoing, this Agreement will be binding upon and inure to the benefit of the parties and their respective permitted successors and assigns.
- 7.3. **Force Majeure.** Except for the obligation to pay money, neither party will be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including an act of war, terrorism, act of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act or failure of the Internet. The delayed party will give the other party notice of such cause and will use its reasonable commercial efforts to correct such failure or delay in performance.
- 7.4. **Governing Law.** This Agreement will be governed by and construed under the laws of the State of Washington without reference to conflict of laws principles. The application of the United Nations Convention of Contracts for the International Sale of Goods is expressly excluded. All disputes arising out of or related to this Agreement will be subject to the exclusive jurisdiction of the state and federal courts located in King County, Washington, and the parties hereby agree and consent to the exclusive jurisdiction and venue of these courts.
- 7.5. **Notices.** Any notice required or permitted to be given in accordance with this Agreement will be effective if it is in writing and sent by email, certified or registered mail, or insured courier, return receipt requested, to the appropriate party at the address set forth on the applicable Order and with the appropriate postage affixed. Either party may change its address for receipt of notice by notice to the other party in accordance with this Section. Notices are deemed given 2 business days following the date of mailing or 1 business day following delivery to a courier.
- 7.6. **Miscellaneous.** This Agreement (together with all Orders and Exhibits) is the sole agreement of the parties concerning the subject matter hereof, and it supersedes all prior agreements and understandings with respect to the subject matter. No terms of any purchase order, acknowledgement or other form provided by Customer will modify this Agreement, regardless of any failure of Chronosphere to object to such terms. Any ambiguity in this Agreement will be interpreted equitably without regard to which party drafted the language. This Agreement may only be amended by a writing signed by both parties. This Agreement may be executed in counterparts. The headings in this Agreement are inserted for convenience and are not intended to affect the interpretation of this Agreement. The relationship between the parties will be that of independent contractors. Chronosphere may use subcontractors. Waiver of any term of this Agreement or forbearance to enforce any term by either party will not constitute a waiver as to any subsequent breach or failure of the same term or a waiver of any other term of this Agreement. Any provision found to be unlawful, unenforceable or void will be severed from the remainder of this Agreement, and the Agreement will continue in full force and effect without the severed provision. Customer agrees to comply with all applicable export control laws and regulations related to its use of Chronosphere Technology, including those administered by the U.S. Commerce Bureau of Industry and Security, U.S. Treasury Office of Foreign Assets Control or other governmental entity imposing export controls and trade sanctions ("**Export Laws**"), including designating countries, entities and persons ("**Sanctions Targets**"). Customer will not directly or indirectly export, re-export or otherwise deliver Chronosphere Technology to a Sanctions Target, or broker, finance or otherwise facilitate any transaction in violation of any Export Laws. Customer represents that it is not a Sanctions Target or prohibited from receiving Chronosphere Technology pursuant to this Agreement under applicable laws, including Export Laws.