

Terms of Service

ASCENT CLOUD LLC

Revised 9/30/2023

Ascent Cloud Subscription Terms of Service

THESE ASCENT CLOUD SUBSCRIPTION TERMS OF SERVICE (“**TERMS**”) ALONG WITH ANY ORDER FORM EXECUTED UNDER THESE TERMS ARE A LEGAL AGREEMENT BETWEEN YOU AND YOUR AFFILIATES (“**CUSTOMER**”) AND ASCENT CLOUD LLC (“**SUPPLIER**”). BY CLICKING THE “I ACCEPT” BUTTON, EXECUTING AN ORDER FORM THAT INCLUDES THESE TERMS BY REFERENCE, OR USING ASCENT CLOUD SOFTWARE (AS DEFINED BELOW), CUSTOMER ACKNOWLEDGES THAT CUSTOMER HAS REVIEWED AND ACCEPTS THESE TERMS (“**ACCEPTANCE**”). IF YOU ARE AGREEING TO THESE TERMS AS A REPRESENTATIVE OF AN ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND THAT ENTITY AND THE TERM “CUSTOMER” REFERS TO THAT ENTITY.

1. **SERVICES; ORDERS; LICENSES; AND RESTRICTIONS.**

1.1 **Definitions:**

(a) “**Affiliates**” means any other Entity that directly or indirectly, through one or more intermediaries, controls, is controlled by, or is under common control with such Entity. “Entity” means an individual, corporation, partnership, joint venture, limited liability entity, unincorporated organization, trust, association, or other entity. An Entity shall be deemed to control another Entity if it has direct or indirect power to direct or cause the direction of the management and policies of an Entity, whether through the ownership of voting securities, by contract, or otherwise.

(b) “**Ascent Cloud Software**” means the application(s), including Territory Planner, Geopointe and/or LevelEleven as applicable, provided by Supplier to Customer as specified in the Order Form, according to these Terms, and for all purposes of these Terms, such application excludes all open source software that may be included in Ascent Cloud Software and all Third Party Offerings (as defined below). Supplier may make changes to Ascent Cloud Software at any time.

(c) “**Subscription Term**” means the subscription period for Customer’s use of Ascent Cloud Software (i) as stated in an Order Form, (ii) from the date of Acceptance until any applicable trial

period is terminated or Customer enters into a paid subscription per an Order Form, or (iii) as renewed per the Terms.

(d) Ascent Cloud Software, any services related to or performed in connection with the use of Ascent Cloud Software, including without limitation Third Party Offerings, and Support Services (as defined below) together are the “**Ascent Cloud Services**”.

(e) “**Professional Services**” means the consulting services delivered by Ascent Cloud employees or representatives with regards to Ascent Cloud Software and the use of Ascent Cloud Software within the Customer’s organization.

1.2 Orders. Subject to the terms and conditions contained in these Terms, Customer may purchase subscriptions for Customer’s employees, consultants, contractors, and agents who are authorized by Customer to access and use Ascent Cloud Software during the Subscription Term, and if applicable, pursuant to Order Forms (“**Users**”). “**Order Form**” means the ordering documents for Ascent Cloud Services to be purchased by Customer from Supplier that are executed under these Terms by the parties. These Terms are incorporated into each Order Form by this reference. If there is any inconsistency between an Order Form and these Terms, the Order Form controls.

1.3 License. Subject to these Terms and Customer’s compliance with these Terms, Supplier hereby grants to Customer, during the relevant Subscription Term, a limited, non-exclusive, non-transferable license to download Ascent Cloud Software as offered by Supplier solely for Customer’s (i) internal commercial purposes, if the Subscription Term is a paid subscription per an Order Form, or (ii) internal non-commercial purposes, if Customer is accessing Ascent Cloud Software for a trial period or in a test environment, and not for the benefit of any other person or entity. Customer’s use of Ascent Cloud Software may be subject to certain limitations provided to Customer by Supplier in writing or arising from or connected to the Third Party Offerings, third party services, or otherwise.

1.4 Restrictions. Customer shall not, directly or indirectly, and Customer shall not permit any User or third party to: (a) decipher, reverse engineer, decompile, disassemble or otherwise attempt to discover the object code, source code or underlying ideas, data files, or algorithms of Ascent Cloud Software; (b) modify, translate, or create derivative works based on any element of Ascent Cloud Software or any related Documentation; (c) rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use Ascent Cloud Software; (d) use Ascent Cloud Software for time sharing purposes or otherwise for the benefit of any person or entity other than for the benefit of Customer and Users; (e) use Ascent Cloud Software for any purpose other than its intended purpose; (f) interfere with or disrupt the integrity or performance of Ascent Cloud Software; (g) introduce any open source software into Ascent Cloud Software; (h) attempt to gain unauthorized access to Ascent Cloud Software or their related systems or networks; (i) pursue a patent, copyright, trademark, trade secret or any other intellectual property rights protection with respect to Ascent Cloud Software, content or data contained in or provided through Ascent Cloud Software or the Ascent Cloud services, or derivatives thereof; (j)

have perpetual use of any portion of Ascent Cloud Software, content or data contained in or provided through Ascent Cloud Software, or derivatives thereof.

1.5 Intended Use. Customer agrees that the Ascent Cloud Software and Ascent Cloud Services are not intended for use in the storage, processing or handling of data that is (i) Payment Card Industry data ("PCI data"), (ii) Protected Health Information subject to the Health Insurance Portability and Accountability Act, as amended ("HIPAA"), (iii) Sensitive Personal Data or (iv) the following data elements (a) Social Security number; (b) driver's license number or government issued identification card number; or (c) financial account number, or credit or debit card number, with or without any required security code, access code, personal identification number or password, that would permit access to an individual's financial account. "PCI data" means Cardholder Data as defined by the Payment Card Industry Data Security Standard (PCI DSS) v3.2; "Protected Health Information" has the meaning set forth in HIPAA, and "Sensitive Personal Data" has the meaning set forth in Article 9 of the European Union General Data Protection Regulation or other applicable data protection legislation.

1.6 Reservation of Rights. Except as expressly granted in these Terms, there are no other licenses granted to Customer, express, implied or by way of estoppel. All rights not granted in these Terms are reserved by Supplier. Ascent Cloud Software and any other software provided to Customer by Supplier is licensed and not sold..

2. THIRD PARTY SERVICES AND OFFERINGS.

2.1 Use of CRM. As a condition to using Ascent Software and receiving the Ascent Cloud Services, Customer may be required to (i) enter into an agreement for the use of the applicable customer relationship management services offered by Salesforce, Microsoft, or another supplier ("CRM") and; (ii) download all necessary applications or software for such use; (iii) remain in good standing with CRM; and (iv) maintain a current agreement and subscription for any CRM services required to use Ascent Cloud Software. Any acquisition by Customer of CRM services, and any exchange of data submitted, stored, posted, displayed, or otherwise transmitted by or on behalf of Customer or any User and received and analyzed by CRM, as hosted by Customer or CRM ("**Customer Data**"), is solely between Customer and CRM, provided that certain User Data (defined below) will be provided by Customer to Supplier as provided in these Terms and certain Customer Data will be processed by Ascent Cloud Software to provide the Ascent Cloud Services as provided in these Terms.

2.2 Integration with Third Party Offerings. Ascent Cloud Software contains features designed to interoperate with certain software or services delivered or performed by third parties ("**Third Party Offerings**"). If the provider of any Third Party Offering stops making the Third Party Offering available for interoperation with Ascent Cloud Software features on reasonable terms, Supplier may stop providing such features without entitling Customer to any refund or other compensation if such features are not a material or substantial portion of the Ascent Cloud Services. Supplier will use its best efforts to provide Customer with advance notice of such

changes. Supplier does not warrant or support any Third Party Offerings, except as stated in these Terms.

2.3 Supplier Access Codes. To the extent that Supplier requires that Customer grant Supplier authorizations, passwords or other user credentials to access CRM environments (“**Supplier Access Codes**”) to enable interoperability with Ascent Cloud Software or provide the Ascent Cloud Services, Customer shall promptly provide such Supplier Access Codes. Supplier shall not disclose any Supplier Access Codes except to Supplier employees or contractors engaged in the performance of such services. Supplier Access Codes shall constitute Customer’s Confidential Information. Supplier agrees to access and use Customer’s Salesforce account solely for Customer’s benefit. Customer agrees to provide Supplier Access Codes specific to a customer support issue and to disable the Supplier Access Codes as soon as the Ascent Cloud Services in question have been performed. A Customer representative shall monitor any Supplier access to Customer’s CRM environment.

2.4 Compliance with Third Party Terms. Customer represents that Customer is in compliance with and agrees to be bound by all agreements, terms, conditions, and policies (including without limitation privacy policies) of CRM offerings or services that are applicable to Customer’s use of Ascent Cloud Software.

3. SECURITY. Supplier will use commercially reasonable efforts to maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, Users’ names and the email addresses they use to login to CRM and/or Ascent Cloud Software as well as Users’ Ascent Cloud Software settings and Ascent Cloud Software usage metrics (collectively, “**User Data**”) in a manner consistent with what Supplier provides generally to its other customers. Notwithstanding the foregoing, Customer acknowledges that, notwithstanding any security precautions deployed by Supplier, the use of, or connection to, the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and illegally gain access to Ascent Cloud Software, Customer Data, and User Data. Supplier will encrypt, but cannot and does not guarantee the privacy, security, integrity or authenticity of any information transmitted over or stored in any system connected to or accessible via the Internet or otherwise or that any such security precautions will be adequate or sufficient. Supplier shall not (a) disclose User Data except as compelled by law, as expressly permitted in writing by Customer, or in connection with a sale of assets, merger, change of control or other similar transaction, or (b) access User Data or Customer Data except to provide or improve the Ascent Cloud Services and prevent or address service or technical problems, or at Customer’s request in connection with customer support matters. Supplier’s use of User Data and Customer Data, and the Ascent Cloud Services’ processing of such User Data and Customer Data, is further described in Supplier’s Data Security Practices policy, as may be updated from time to time. Customer will immediately notify Supplier of any breach, or attempted breach, of security known to Customer. Customer is solely responsible for any and all access and use of Ascent Cloud Software that occurs using the CRM or Ascent Cloud logins and passwords of any User.

4. CUSTOMER OBLIGATIONS.

4.1 Customer System. Customer is responsible for (i) obtaining, deploying and maintaining Customer's internal website(s), servers and other equipment and software used in Customer's business ("**Customer System**") necessary for Customer and its Users to access and use Ascent Cloud Software and the Ascent Cloud Services via the Internet; and (ii) paying all third party fees and access charges incurred in connection with the foregoing.

4.2 Acceptable Use Policy. Customer shall be solely responsible for its actions and the actions of its Users while using Ascent Cloud Software. Customer acknowledges and agrees: (a) to abide by all local, state, national, and international laws and regulations applicable to Customer's use of Ascent Cloud Software, including without limitation the collection, use, processing, distribution, transmission, provision and storage of personally identifiable information of Users and any data regarding an individual's financial or economic identity, sexual orientation, religious beliefs, medical or physical identity (including any information comprised of "Protected Health Information" subject to and defined by the Health Insurance Portability and Accountability Act), including without limitation the User Data that Customer provides, transmits or otherwise discloses to Supplier; (b) not to send to or store data on Ascent Cloud Software which violates the rights of any individual or entity established in any jurisdiction; (c) not to upload in any way any information or content that contains viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts, programs or data that may damage Ascent Cloud Software or another's computer or mobile device; (d) not to use Ascent Cloud Software for illegal, fraudulent, unethical or inappropriate purposes; (e) not to interfere or disrupt networks connected to Ascent Cloud Software, circumvent or otherwise interfere with any Ascent Cloud Software security, or interfere with other's ability to access or use Ascent Cloud Software; (f) not to distribute, promote or transmit through Ascent Cloud Software any unlawful, harmful, obscene, pornographic or otherwise objectionable material of any kind or nature, or any material that encourages conduct that could constitute a criminal offense or give rise to civil liability; (g) not to interfere with another's use and enjoyment of Ascent Cloud Software; (h) not to use Ascent Cloud Software in any manner that impairs Ascent Cloud Software, including without limitation, the servers and networks on which Ascent Cloud Software is provided; (i) to comply with all regulations, policies and procedures of networks connected to Ascent Cloud Software and Supplier's service providers; and (j) to access and use Ascent Cloud Software only in accordance with the user instructions and help files made available by Supplier for use with Ascent Cloud Software ("**Documentation**").

Customer acknowledges and agrees that Supplier neither endorses the contents of any Customer communications, User Data, or Customer Data nor assumes any responsibility for the same.

Supplier may remove any User Data stored or transmitted through Ascent Cloud Software in violation of these Terms, without notice to Customer. Notwithstanding the foregoing, Supplier does not guarantee, and does not and is not obligated to verify, authenticate, monitor or edit the

User Data, Customer Data, or any other information or data input into or stored in Ascent Cloud Software for completeness, integrity, quality, accuracy or otherwise.

With respect to all personal information that Customer discloses, transmits, provides or otherwise cause to be submitted to Supplier, including all User Data and Customer Data, Customer represents and warrants that Customer has the right to disclose, transmit, or provide such information to Supplier for processing and use in accordance with these Terms, and that Customer has provided any required notices and obtained any required consents and approvals from Users and other third parties prior to the provision of such information to Supplier and the use of such information by Supplier as contemplated by these Terms.

4.3 Temporary Suspension. Supplier may temporarily suspend Customer's or their Users' access to Ascent Cloud Software in the event that either Customer any of their Users is engaged in, or Supplier in good faith suspects Customer or any of their Users is engaged in, any unauthorized conduct (including, but not limited to any violation of these Terms).

5. SUPPORT SERVICES; UPGRADES; PROFESSIONAL SERVICES.

5.1 Support. Supplier may from time to time provide limited support and maintenance services to Customer ("**Support Services**"), as may be further described in an Order Form. Customer agrees that Supplier may rely and act on all information and instructions provided to Supplier by Users unless otherwise specified in writing by Supplier.

5.2 Updates and Upgrades. Supplier has the right to push the most recent Updates of Ascent Cloud Software to Customers with or without Customer consent. "**Updates**" means and includes the modifications, error corrections, bug fixes, workarounds or revisions made to Ascent Cloud Software: (i) to improve upon or repair existing features and operations within Ascent Cloud Software, (ii) to ensure compatibility with new releases of existing systems (including hardware, operating systems and middleware) and external applications and services through standardized interfaces, or (iii) to comply with applicable laws, regulations, industry standards or market practice. Supplier also has the right to push the most recent Upgrades to Customer, but Supplier will provide advanced notice and release notes. "**Upgrades**" means a new major release of Ascent Cloud Software containing one or more modification to Ascent Cloud Software that alters the functionalities described in the specifications without materially degrading the functionalities or performance of Ascent Cloud Software.

5.3 Professional Services. The successful implementation of Ascent Cloud Software into the Customer's environment requires Customer's commitment to and cooperation in the implementation process. Supplier may offer to provide Professional Services to Customer, as described in an Order Form and Statement of Work ("SOW"). Customer shall provide the necessary system access and Customer personnel to allow for the timely and successful completion of the agreed upon Professional Services. Customer agrees to abide by all requirements, as described below pertaining to said Professional Services.

(a) As provided for in the SOW and concurrent with payments as outlined in the proposal, Supplier shall make available to the Customer qualified representative(s) who will provide installation and training support services for each application of Ascent Cloud Software delivered. See the SOW for a description of the services provided and the applicable fees and procedures.

(b) Customer agrees to provide the management interface and support necessary to successfully complete the implementation of Ascent Cloud Software. This support includes upper level management's priority setting and timely involvement during and after the Professional Services delivered by Supplier within the Customer's environment, in subsequent Customer operations relating to the software implementation and/or after changes in Customer's internal policies or procedures which directly affect the implementation of Ascent Cloud Software.

(c) Customer shall assign an upper level employee to serve as the Customer Liaison for the duration of the Ascent Cloud Software implementation. If Customer must replace the Customer Liaison for reasons beyond its control, Customer will assign a new Customer Liaison as soon as reasonably possible. Ascent Cloud is not responsible for any delay caused directly or indirectly by the reassignment of the Customer Liaison. In addition to other duties and responsibilities, the Customer Liaison shall:

(i) Provide timely answers to Ascent Cloud employees' requests for information;

(ii) Coordinate a mutually agreeable implementation and training schedule;

(iii) Provide contact information and access to leadership, management, operations, and IT administrators;

(iv) In situations where Customer participation is required and with executive support, schedule time, meeting room(s), and training sessions for managers;

(v) Grant Ascent Cloud employee temporary login access to the Customer's environment if necessary and consistent with Section 2.3;

(vi) Have authority to sign for and obligate Customer to any matters relating to service requests, requirements documents and/or delivery and service dates

(d) Customer shall provide qualified personnel with sufficient backup to be trained to use the Ascent Cloud Software and to interpret the output. Applying the output information in Customer's environment is Customer's sole responsibility.

6. FEES AND PAYMENT.

6.1 Fees. Customer agrees to pay all fees specified in all Order Forms for the entire Subscription Term using one of the payment methods Supplier supports. Except as otherwise specified in these Terms or in an Order Form, (a) fees are quoted and payable in United States dollars; (b) fees are based on Ascent Cloud Services purchased, regardless of actual usage; (c) payment obligations are non-cancelable and fees paid are non-refundable; and (d) the number of Users purchased cannot be decreased during the relevant Subscription Term shown on the applicable Order Form(s). Fees for User subscriptions added in the middle of a Subscription Term will be prorated for the time remaining in the Subscription Term. All amounts payable under these Terms will be made without setoff or counterclaim, and without any deduction or withholding.

6.2 Payment. Except as otherwise set forth in the applicable Order Form, Customer agrees to pay all invoiced amounts upon Customer's execution of each Order Form. If Supplier does not receive fees within thirty (30) days of the execution of each Order Form or by the date set forth in the applicable Order Form (e.g., the invoice due date), whichever is later, then Supplier has the right to accrue late interest at the rate of one and a half percent (1.5%) of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid.

6.3 Payment by Credit Card – By submitting payment by credit card for an invoice generated under these Terms, Customer hereby authorizes Ascent Cloud to debit that credit card for payment of future invoices generated per Section 12.1. To opt out of automatic payment via credit card, Customer must send a written notice to ar@ascentcloud.io.

6.4 Suspension of Service. If any amounts owed by Customer for the Ascent Cloud Services are forty-five (45) or more days overdue, Supplier may, without limiting Supplier's other rights and remedies, suspend Customer's and its Users' access to the Ascent Cloud Services until such amounts are paid in full.

6.5 Payment Disputes. Supplier agrees that it will not exercise its rights under Section 6.2 (Payment) or Section 6.3 (Suspension of Service) if the applicable charges are under reasonable and good-faith dispute and Customer is cooperating diligently to resolve the dispute.

6.6 Taxes. "Taxes" means all taxes, levies, duties, fines or similar governmental assessments imposed by any jurisdiction, country or any subdivision or authority thereof including, but not limited to federal, state or local sales, use, property, excise, service, or similar taxes, in any way connected with these Terms or any Order Form, except such taxes imposed on or measured by a party's net income or payroll taxes. Fees and charges imposed under these Terms or under any Order Form shall not include Taxes except as otherwise provided in these Terms. Customer shall be responsible for all of such Taxes and comply with all applicable tax laws and regulations.

7. REPRESENTATIONS AND WARRANTIES; DISCLAIMER.

7.1 Mutual Representations and Warranties. Each party represents, warrants and covenants that: (a) it has the full power and authority to enter into these Terms and to perform its obligations hereunder; and (b) its acceptance of and performance under these Terms shall not breach any agreement with any third party.

7.2 Disclaimer. EXCEPT FOR THE WARRANTIES SET FORTH IN THIS SECTION 7, ASCENT CLOUD SOFTWARE AND THE ASCENT CLOUD SERVICES (INCLUDING WITHOUT LIMITATION ANY ADVERTISING DISPLAYED THEREON, IF APPLICABLE) AND THIRD PARTY OFFERINGS ARE PROVIDED ON AN “AS-IS” BASIS. CUSTOMER’S USE OF ASCENT CLOUD SOFTWARE, THE ASCENT CLOUD SERVICES AND THIRD PARTY OFFERINGS IS AT ITS OWN RISK. SUPPLIER DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS, STATUTORY AND IMPLIED REPRESENTATIONS AND WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE, QUALITY, SUITABILITY, OPERABILITY, SYSTEM INTEGRATION, NON-INTERFERENCE, WORKMANSHIP, TRUTH, ACCURACY, ABSENCE OF DEFECTS, WHETHER LATENT OR PATENT, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE.

NO AGENT OF SUPPLIER IS AUTHORIZED TO ALTER OR EXPAND THE WARRANTIES OF SUPPLIER AS SET FORTH IN THESE TERMS. SUPPLIER DOES NOT WARRANT THAT: (A) THE USE OF ASCENT CLOUD SOFTWARE OR THE ASCENT CLOUD SERVICES WILL BE SECURE, TIMELY, UNINTERRUPTED OR ERROR-FREE OR OPERATE IN COMBINATION WITH ANY OTHER HARDWARE, SOFTWARE, SYSTEM OR DATA; (B) ASCENT CLOUD SOFTWARE OR THE ASCENT CLOUD SERVICES WILL MEET CUSTOMER’S REQUIREMENTS OR EXPECTATIONS; (C) THE QUALITY OF ANY INFORMATION OR OTHER MATERIAL OBTAINED BY CUSTOMER THROUGH ASCENT CLOUD SOFTWARE OR THE ASCENT CLOUD SERVICES WILL MEET CUSTOMER’S REQUIREMENTS OR EXPECTATIONS OR BE ACCURATE OR RELIABLE; OR (D) THE SERVER(S) THAT MAKE ASCENT CLOUD SOFTWARE AND THE ASCENT CLOUD SERVICES AVAILABLE ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ASCENT CLOUD SOFTWARE AND THE ASCENT CLOUD SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. SUPPLIER IS NOT RESPONSIBLE FOR ANY DELAYS OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS. CUSTOMER SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO CUSTOMER’S SYSTEMS OR LOSS OF DATA THAT RESULTS FROM USE OF ASCENT CLOUD SOFTWARE, THE ASCENT CLOUD SERVICES OR THIRD PARTY OFFERINGS.

8. INDEMNIFICATION.

8.1 Supplier Indemnity.

(a) General. Supplier, at its expense, shall defend Customer and their respective subsidiaries, affiliates, officers, directors, agents, and employees (the “**Customer Indemnified Parties**”) from and against all actions, proceedings, claims and demands by a third party (a “**Third-Party Claim**”) alleging that Customer’s use of Ascent Cloud Software during the Subscription Term infringes any copyright or misappropriates any trade secret and shall pay all damages, costs and expenses, including attorneys’ fees and costs (whether by settlement or award of by a final judicial judgment) paid to the third party bringing any such Third-Party Claim. Supplier’s obligations under this Section are conditioned upon (i) Supplier being promptly notified in writing of any such Third-Party Claim under this Section; (ii) Supplier having the sole and exclusive right to control the defense and settlement of any such Third-Party Claim; and (iii) Customer providing all reasonable assistance (at Supplier’s expense and reasonable request) in the defense of any such Third-Party Claim. In no event shall Customer settle any such Third-Party Claim without Supplier’s prior written approval. Customer may, at its own expense, engage separate counsel to advise Customer regarding any such Third-Party Claim and to participate in the defense of any such Third-Party Claim, subject to Supplier’s right to control the defense and settlement.

(b) Mitigation. If any such Third-Party Claim which Supplier is obligated to defend has occurred, or in Supplier’s determination is likely to occur, Supplier may, in its sole discretion and at its option and expense (i) obtain for Customer the right to use Ascent Cloud Software; (ii) substitute a functionality equivalent, non-infringing replacement for such Ascent Cloud Software; (iii) modify Ascent Cloud Software to make it non-infringing and functionally equivalent; or (iv) terminate these Terms and refund to Customer any prepaid amounts attributable to the period of time between the date Customer was unable to use Ascent Cloud Software (or Supplier’s termination of these Terms) due to such Third-Party Claim and the remaining days in the then-current Subscription Term.

(c) Exclusions. Notwithstanding anything to the contrary in these Terms, the foregoing obligations in this Section 8.1 (Supplier Indemnity) shall not apply with respect to a claim of infringement if such claim arises out of (i) Customer’s use of infringing User Data or Customer Data; (ii) use of Ascent Cloud Software in combination with any software, hardware, network or system not supplied by Supplier where the alleged infringement relates to such combination; (iii) any modification or alteration of Ascent Cloud Software other than by Supplier; (iv) Customer’s continued use of Ascent Cloud Software after Supplier notifies Customer to discontinue use because of an infringement claim; (v) Customer’s violation of applicable law or Customer’s breach of this Agreement; (vi) Third Party Offerings; or (vii) Customer System.

(d) Sole Remedy. THE FOREGOING STATES THE ENTIRE LIABILITY OF SUPPLIER WITH RESPECT TO THE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY OR PROPRIETARY RIGHTS BY ASCENT CLOUD OR OTHERWISE, AND CUSTOMER HEREBY EXPRESSLY WAIVES ANY OTHER LIABILITIES OR OBLIGATIONS OF SUPPLIER WITH RESPECT THERETO.

6.2 Customer Indemnity. Customer shall defend Supplier and its licensors, and their respective subsidiaries, affiliates, officers, directors, agents, co-branders or other partners, and employees ("**Supplier Indemnified Parties**") from and against any and all Third-Party Claims which arise out of or relate to: (a) a claim or threat that the User Data, Customer Data, or Customer System (and the exercise by Supplier of the rights granted in these Terms with respect thereto) infringes, misappropriates or violates any third party's intellectual property rights or similar proprietary rights; (b) Customer's use or alleged use of Ascent Cloud Software other than as permitted under these Terms; (c) any of the exclusions set forth in Section 8.1(c). Customer shall pay all damages, costs and expenses, including attorneys' fees and costs (whether by settlement or award of by a final judicial judgment) paid to the Third Party bringing any such Third-Party Claim. Customer's obligations under this Section are conditioned upon (x) Customer being promptly notified in writing of any claim under this Section; (y) Customer having the sole and exclusive right to control the defense and settlement of the claim; and (z) Supplier providing all reasonable assistance (at Customer's expense) in the defense of such claim. In no event shall Supplier settle any claim without Customer's prior written approval. Supplier may, at its own expense, engage separate counsel to advise Supplier and to participate in the defense of the Third-Party Claim, subject to Customer's right to control the defense and settlement.

9. CONFIDENTIALITY.

9.1 Confidential Information. "**Confidential Information**" means any and all non-public technical and non-technical information disclosed by one party (the "**Disclosing Party**") to the other party (the "**Receiving Party**") in any form or medium, whether oral, written, graphical or electronic, pursuant to these Terms, that the Disclosing Party identifies as confidential and proprietary, or that by the nature of the circumstances surrounding the disclosure or receipt ought to be treated as confidential and proprietary information, including but not limited to: (a) techniques, models, inventions (whether or not patented or patentable), know-how, processes, formulae, algorithms, software programs, software source documents, APIs, and other creative works (whether or not copyrighted or copyrightable); (b) information concerning development, design details and specifications, financial information, procurement requirements, customer lists, business forecasts, sales and marketing information; (c) proprietary or confidential information of any third party who may disclose such information to Disclosing Party or Receiving Party; and (d) the terms of these Terms. Confidential Information of Supplier shall include Ascent Cloud Software and related Documentation and pricing.

9.2 Non-Disclosure. Each party acknowledges that in the course of the performance of these Terms, it may obtain the Confidential Information of the other party. The Receiving Party shall, at all times, both during the Term and thereafter, keep in confidence and trust all of the Disclosing Party's Confidential Information received by it. The Receiving Party shall not use the Confidential Information of the Disclosing Party other than as necessary to fulfill the Receiving Party's obligations or to exercise the Receiving Party's rights under these Terms. Each party agrees to secure and protect the other party's Confidential Information with the same degree of care and in a manner consistent with the maintenance of such party's own Confidential Information (but in no event less than reasonable care). The Receiving Party shall not disclose

Confidential Information of the Disclosing Party to any person or entity other than its officers, employees and agents who need access to such Confidential Information in order to effect the intent of these Terms and who are subject to confidentiality obligations at least as stringent as the obligations set forth in these Terms.

9.3 Exceptions to Confidential Information. The obligations set forth in Section 9.2 (Non-Disclosure) shall not apply to the extent that Confidential Information includes information which: (a) was known by the Receiving Party prior to receipt from the Disclosing Party either itself or through receipt directly or indirectly from a source other than one having an obligation of confidentiality to the Disclosing Party; (b) was developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (c) becomes publicly known or otherwise ceases to be secret or confidential, except as a result of a breach of these Terms or any obligation of confidentiality by the Receiving Party. Nothing in these Terms shall prevent the Receiving Party from disclosing Confidential Information to the extent the Receiving Party is legally compelled to do so by any governmental investigative or judicial agency pursuant to proceedings over which such agency has jurisdiction; provided, however, that prior to any such disclosure, the Receiving Party shall (x) assert the confidential nature of the Confidential Information to the agency; (y) immediately notify the Disclosing Party in writing of the agency's order or request to disclose; and (z) cooperate fully with the Disclosing Party in protecting against any such disclosure and in obtaining a protective order narrowing the scope of the compelled disclosure.

9.4 Injunctive Relief. The Parties agree that any unauthorized disclosure of Confidential Information may cause immediate and irreparable injury to the Disclosing Party and that, in the event of such breach, the Disclosing Party will be entitled, in addition to any other available remedies, to seek immediate injunctive and other equitable relief, without bond and without the necessity of showing actual monetary damages.

10. PROPRIETARY RIGHTS.

10.1 Ascent Cloud. As between Supplier and Customer, all right, title and interest in Ascent Cloud Software, Documentation, and any other Supplier materials furnished or made available hereunder, and all modifications and enhancements thereof, and all suggestions, ideas and feedback proposed by Customer regarding Ascent Cloud Software and the Ascent Cloud Services, including all intellectual property rights in each of the foregoing, belong to and are retained solely by Supplier or Supplier's licensors and providers, as applicable. Customer hereby does and will irrevocably assign to Supplier all evaluations, ideas, feedback and suggestions made by Customer to Supplier regarding Ascent Cloud Software and the Ascent Cloud Services (collectively, "**Feedback**") and all intellectual property rights in the Feedback.

10.2 Customer Data. As between Supplier and Customer, all right, title and interest in and to (a) the User Data and Customer Data; and (b) all intellectual property rights in each of the foregoing, belong to and are retained solely by Customer. Customer hereby grants to Supplier a limited, non-exclusive, royalty-free, worldwide license to use the User Data and Customer

Data and perform all acts with respect to the User Data and Customer Data as may be necessary for Supplier to provide the Ascent Cloud Services to Customer.

10.3 Aggregated Statistics. Notwithstanding anything else in these Terms or otherwise, Supplier may monitor Customer's and each User's use of the Ascent Cloud Services and reproduce and use data and information related to such use, User Data, and other information input into Ascent Cloud Software or the Ascent Cloud Services by Customer or Users in an aggregate and anonymous manner, including to compile statistical and performance information related to the provision and operation of Ascent Cloud Software ("**Aggregated Statistics**"). As between Supplier and Customer, all right, title and interest in the Aggregated Statistics and all intellectual property rights in the Aggregated Statistics, belong to and are retained solely by Supplier. Customer agrees that Supplier may use the Aggregated Statistics and such Customer information and data to the extent and in the manner required or authorized by applicable law or regulation and for purposes of data gathering, analysis, service enhancement and marketing, provided that such data and information does not identify Customer, Users or Customer's Confidential Information.

10.4 Further Assurances. To the extent any of the rights, title and interest in and to Feedback or intellectual property rights in the Feedback cannot be assigned by Customer to Supplier, Customer hereby grants to Supplier an exclusive, royalty-free, transferable, irrevocable, worldwide, fully paid-up license (with rights to sublicense through multiple tiers of sublicensees) to fully use, practice and exploit those non-assignable rights, title and interest. If the foregoing assignment and license are not enforceable, Customer agrees to waive and never assert against Supplier those non-assignable and non-licensable rights, title and interest. Customer agrees to execute any documents or take any actions as may reasonably be necessary, or as Supplier may reasonably request, to perfect ownership of the Feedback.

11. LIMITATION OF LIABILITY.

11.1 No Consequential Damages. NEITHER SUPPLIER NOR ITS LICENSORS OR SUPPLIERS SHALL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, OR ANY DAMAGES FOR LOST DATA, BUSINESS INTERRUPTION, LOST PROFITS, LOST REVENUE OR LOST BUSINESS, ARISING OUT OF OR IN CONNECTION WITH THESE TERMS, EVEN IF SUPPLIER OR ITS LICENSORS OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING WITHOUT LIMITATION, ANY SUCH DAMAGES ARISING OUT OF THE LICENSING, PROVISION OR USE OF (OR INABILITY TO USE) THE SERVICES OR THE RESULTS THEREOF. SUPPLIER WILL NOT BE LIABLE FOR THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES.

11.2 Limits on Liability. NEITHER SUPPLIER NOR ITS LICENSORS OR SUPPLIERS SHALL BE LIABLE FOR CUMULATIVE, AGGREGATE DAMAGES GREATER THAN AN AMOUNT EQUAL TO THE LESSER OF THE DIRECT LIABILITY COSTS PER THIS AGREEMENT OR THE AMOUNTS PAID BY CUSTOMER TO SUPPLIER UNDER THESE TERMS DURING THE

PERIOD OF SIX (6) MONTHS PRECEDING THE DATE ON WHICH THE CLAIM FIRST ACCRUED, LESS IN ALL CIRCUMSTANCES AMOUNTS PAID BY SUPPLIER IN SATISFACTION OF LIABILITY UNDER THIS AGREEMENT.

11.3 Essential Purpose. CUSTOMER ACKNOWLEDGES THAT THE TERMS IN THIS SECTION 11 (LIMITATION OF LIABILITY) SHALL APPLY (I) TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (II) EVEN IF AN EXCLUSIVE OR LIMITED REMEDY STATED HEREIN FAILS OF ITS ESSENTIAL PURPOSE AND (III) WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, WARRANTY TORT (INCLUDING WITHOUT LIMITATION NEGLIGENCE), INDEMNITY, PRODUCT LIABILITY OR OTHER THEORY OF LIABILITY.

12. TERM AND TERMINATION.

12.1 Term. The term of these Terms commences on the date of Customer's Acceptance of these Terms and continues until the expiration or termination of all Subscription Term(s), unless earlier terminated as provided in these Terms. Unless specified otherwise in the Order Form, the Subscription Terms for all Users will renew for the greater of a) one (1) year; or b) the same length as the previous Subscription Term, unless Customer provides written notice of non-renewal sixty (60) days in advance of the expiration of the current Subscription Term. The per-unit pricing during any renewal term shall be the same as that during the immediately prior term unless a) a different price per unit is provided in the Order Form or SOW; or b) Supplier has given Customer written notice of the new pricing seventy-five (75) days before the end of such prior Subscription Term. In either case the new pricing shall be effective upon renewal and thereafter.

12.2 Termination for Cause. A party may terminate these Terms (and all Subscription Term(s)) upon written notice to the other party in the event the other party (a) files a petition for bankruptcy or has a petition for bankruptcy filed against it that is not dismissed within sixty (60) days after filing or admits its inability to pay its debts as they mature, makes an assignment for the benefit of its creditors or ceases to function as a going concern or to conduct its operations in the normal course of business and such termination shall occur immediately upon notice; or (b) commits a breach of any provision of these Terms and does not remedy such breach within thirty (30) days (or such other period as the parties may agree in writing) after receipt of notice from the other party. Such written notice shall include a description of the specific breach and a statement that these Terms will be terminated if that breach is not cured. Party providing notice of breach shall reasonably cooperate in remedying the breach. Upon any termination for cause by Customer, Supplier shall refund Customer any prepaid fees for the remainder of the terminated Subscription Terms after the effective termination date. Upon any termination for cause by Supplier, Customer shall pay any unpaid fees covering the remainder of the term of all Order Forms after the effective date of termination.

12.3 Effects of Termination. Upon expiration or termination of these Terms, (a) Customer's use of and access to Ascent Cloud Software and Supplier's performance of all Ascent Cloud

Services shall cease; and (b) all Order Forms and statements of work shall terminate. In addition, within ten (10) days of the effective date of termination each Receiving Party shall: (a) return to the Disclosing Party, or at the Disclosing Party's option, the Receiving Party shall destroy, all items of Confidential Information then in the Receiving Party's possession or control, including any copies, extracts or portions thereof; and (b) upon request shall certify in writing to Disclosing Party that it has complied with the foregoing. Notwithstanding the foregoing, Supplier may retain and shall not be obligated to return or destroy any information that has been processed, stored, or accessed by Supplier in providing the Ascent Cloud Services, including without limitation, the User Data, subject to the terms and conditions of Section 9 (Confidentiality).

12.4 Survival. Sections 1.5 (Reservation of Rights), 2.4 (Compliance with Third Party Terms), 6.5 (Taxes), 7.2 (Disclaimer), 7.3 (Disclaimer Applicable to Zip Code Information), 8 (Indemnification), 9 (Confidentiality), 10 (Proprietary Rights), 11(Limitation on Liability), 12 (Term and Termination), and 13 (Miscellaneous) shall survive any termination or expiration of these Terms.

13. MISCELLANEOUS.

13.1 Notices. Supplier may give notice to Customer by means of a general notice through Ascent Cloud interface, electronic mail to Customer's email address on record with Supplier, or by written communication sent by first class postage prepaid mail or nationally recognized overnight delivery service to Customer's address on record with Supplier. Customer may give notice to Supplier by written communication sent by first class postage prepaid mail or nationally recognized overnight delivery service addressed to Supplier, at address listed on the Contact Us page of www.AscentCloud.io for our headquarters location (as indicated on the About Us page), Attention: CEO. Notice shall be deemed to have been given upon receipt or, if earlier, two (2) business days after mailing, as applicable.

13.2 Governing Law. These Terms and the rights and obligations of the parties to and under these Terms shall be governed by and construed under the laws of the United States and the State of Michigan, without giving effect to conflicts of laws rules or principles. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods is specifically excluded from application to these Terms. Any dispute arising out of or in connection with these Terms, including but not limited to any question regarding its existence, interpretation, validity, performance, or termination, or any dispute between the parties arising from the parties' relationship created by these Terms, shall be referred to and finally resolved by arbitration administered by the American Arbitration Association ("**AAA**") under its rules. The number of arbitrators shall be one (1). The parties shall endeavor to agree upon the sole arbitrator and jointly nominate the arbitrator. If the parties cannot agree upon the sole arbitrator within a time prescribed by AAA, the parties shall request the AAA to propose five (5) arbitrators and each party shall rank the proposed arbitrators. The AAA shall appoint an arbitrator from the list of five (5), based upon the parties' rankings. The seat, or legal place of arbitration shall be Wayne County, Michigan, United States. Notwithstanding the foregoing, Supplier has the right

to pursue equitable relief in the state and federal courts located in Michigan, and Customer agrees to the exclusive jurisdiction and venue of such courts.

13.3 Publicity. Supplier has the right to reference and use Customer's name and trademarks in Supplier's business development and marketing efforts, unless Customer notifies Supplier in writing that Customer does not grant Supplier such rights within thirty (30) days of Customer's Acceptance of these Terms.

13.4 No Solicitation of Employees. Customer agrees that, so long as the Subscription Term remains in effect, and for a period of one (1) year following the last Subscription Term hereunder to terminate or expire, it will not directly solicit for employment the employees of Supplier without Supplier's prior written consent; provided, however, that the foregoing prohibition will not preclude the hiring by Customer of any individual who responds to a general solicitation or advertisement.

13.5 US. Government Customers. If Customer is a Federal Government entity, Supplier provides Ascent Cloud Software, including related software and technology, for ultimate Federal Government end use solely in accordance with the following: Government technical data rights include only those rights customarily provided to the public with a commercial item or process and Government software rights related to Ascent Cloud Software include only those rights customarily provided to the public, as defined in these Terms. The technical data rights and customary commercial software license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If greater rights are needed, a mutually acceptable written addendum specifically conveying such rights must be included in these Terms.

13.6 Export. Ascent Cloud Software utilizes software and technology that may be subject to United States and foreign export controls. Customer acknowledges and agrees that the Ascent Cloud Services shall not be used, and none of the underlying information, software, or technology may be transferred or otherwise exported or re-exported to countries as to which the United States maintains an embargo (collectively, "**Embargoed Countries**"), or to or by a national or resident thereof, or any person or entity on the U.S. Department of Treasury's List of Specially Designated Nationals or the U.S. Department of Commerce's Table of Denial Orders (collectively, "**Designated Nationals**"). The lists of Embargoed Countries and Designated Nationals are subject to change without notice. By using Ascent Cloud Software, Customer represents and warrants that it is not located in, under the control of, or a national or resident of an Embargoed Country or Designated National. Ascent Cloud Software may use encryption technology that is subject to licensing requirements under the U.S. Export Administration Regulations, 15 C.F.R. Parts 730-774 and Council Regulation (EC) No. 1334/2000. Customer agrees to comply strictly with all applicable export laws and assume sole responsibility for obtaining licenses to export or re-export as may be required. Supplier and its licensors make no representation that Ascent Cloud Software is appropriate or available for use in other locations.

13.7 Third Party Beneficiaries. Persons and entities who have licensed software or provided services to Supplier for inclusion in Ascent Cloud Software are third party beneficiaries to these Terms as it applies to their respective products and services supplied to Supplier. Except as specifically provided in this Section, a person who is not a party to these Terms has no right to enforce any term of these Terms but this does not affect any right or remedy of a third party which exists apart from these Terms.

13.8 General. Customer shall not assign its rights hereunder, or delegate the performance of any of its duties or obligations hereunder without the prior written consent of Supplier, which may not be unreasonably withheld. Customer may assign this Agreement to a subsidiary upon written notice to Supplier without obtaining Supplier's consent. Additionally, Customer may assign this Agreement to any successor in interest, through merger, acquisition, or other means of succession, without the consent of Supplier, provided the successor in interest assumes the obligations, liabilities and responsibilities under the Agreement. Supplier may assign, subcontract or otherwise transfer these Terms or its rights hereunder. Subject to the foregoing, these Terms shall be binding upon, and inure to the benefit of, the successors and assigns of the parties thereto. Except as otherwise specified in these Terms, these Terms may be amended or supplemented only by an Order Form or another writing that refers explicitly to these Terms and that is signed on behalf of both parties. Under no circumstances shall other documents, including purchase orders or similar documents, be binding on Supplier, even if such document is purportedly agreed upon after the effective date of these Terms. No waiver will be effective unless in a writing signed on behalf of the party against whom the waiver is asserted. If any of these Terms is found invalid or unenforceable that term will be enforced to the maximum extent permitted by law and the remainder of the Terms will remain in full force. The parties are independent contractors and nothing contained herein shall be construed as creating an agency, partnership, or other form of joint enterprise between the parties. These Terms, including all applicable Order Forms, and statements of work, constitute the entire agreement between the parties relating to this subject matter and supersedes all prior or simultaneous understandings, representations, discussions, negotiations, and agreements, whether written or oral. Except for Customer's payment obligations hereunder, neither party shall be liable to the other party or any third party for failure or delay in performing its obligations under these Terms when such failure or delay is due to any cause beyond the control of the party concerned, including, without limitation, acts of God, governmental orders or restrictions, fire, or flood, provided that upon cessation of such events such party shall thereupon promptly perform or complete the performance of its obligations hereunder.