

EXHIBIT A

Master Subscription Agreement

This Master Subscription Agreement is entered into by and between the Customer identified on the Order Form (“**Customer**” or “**you**”) and **DittoLive Incorporated**, a Delaware corporation with an address at 548 Market Street PMB 20272, San Francisco, CA 94104 USA (“**Ditto**” or “**we**”) and deemed effective as of the Effective Date on the initial Order Form (the “**Effective Date**”) entered into between Customer and Ditto.

Customer and Ditto may also be referred to in the singular as “**Party**” and in the plural as “**Parties.**”

- A. The Ditto Edge Sync Platform comprises Ditto’s Small Peer software development kit (the “**SDK**”) and the Ditto Big Peer cloud service (the “**Cloud Service**”).
- B. The SDK provides the ability to deliver collaborative and real-time experiences in online, offline, and peer to peer modes in enterprise mobile, web, and IoT applications.
- C. The Cloud Service provides real-time data synchronization in conjunction with the SDK and other backend services.
- D. Customer wants to use the SDK to enhance the functionality of end user devices as described on an Order Form under this Agreement (such devices, “**Devices**”) for Customer’s end users.
- E. Customer may wish to access and use the Cloud Service pursuant to a mutually agreed Order Form during the Term.

The Parties therefore agree as follows:

1 Definitions.

In addition to terms defined elsewhere in this Agreement, the following terms have the following meanings:

“**Affiliate**” means an entity controlled, controlling or under common control with a Party, where control means at least 50% ownership or power to direct an entity’s management.

“**Agreement**” means this Master Subscription Agreement including all its Exhibits and any Order Forms executed by the Parties.

“**Authorized Application**” any Customer application listed on an Order Form including any improvements, modifications, upgrades, and updates of those applications made by or on behalf of Customer.

“**Confidential Information**” means information disclosed by or on behalf of one Party (“**Discloser**”) to the other Party (“**Recipient**”) under this Agreement, in any form, which (a) the Discloser identifies to Recipient as “confidential” or “proprietary” or (b) should be reasonably understood as confidential or proprietary due to its nature and the circumstances of its disclosure. Ditto’s Confidential Information includes technical or performance information about the Cloud Service and the Software, and Customer’s Confidential Information includes Customer Data.

“**Customer Data**” means any data, content, or materials that Customer (including its Users) stores or sends for processing within its Cloud Service accounts.

“**Documentation**” means any manuals, documentation, or other supporting materials related to the Software or the Cloud Service that we make generally available to our customers.

“**Fees**” means the fees detailed in an Order Form.

“High Risk Activities” means activities where use or failure of the Software or Cloud Service could lead to death, personal injury or environmental damage, including life support systems, emergency services, nuclear facilities, autonomous vehicles, or air traffic control.

“License Token” means a data file utilized by the Software’s access control mechanism that allows you to use the Software.

“Materials” means the Software, License Token, the Documentation, the Cloud Service and related Ditto technology, and any other materials used by Ditto in connection with providing other Services to Customer under this Agreement.

“Order Form” means a mutually agreed ordering document setting forth the Software, Documentation, and Services to be provided by Ditto to Customer under this Agreement, including the initial order form and any subsequent order form referencing this Agreement.

“Personal Data” means Customer Data relating to an identified or identifiable natural person.

“Sensitive Data” means (a) patient, medical or other protected health information regulated by the Health Insurance Portability and Accountability Act (as amended and supplemented), (b) credit, debit, bank account or other financial account numbers, (c) social security numbers, driver’s license numbers, or other government ID numbers, and (d) any other personally identifiable information that is defined as “sensitive” or as a “special category of data” under any applicable data and privacy laws, rules, or regulations, or is otherwise subject to specific regulations or laws that impose increased protections or obligations with respect to handling that type of information.

“Services” means all services provided by Ditto to Customer as specified under the terms of this Agreement and an Order Form and may include Support, the Cloud Service, and other services.

“Software” means any object code and sample source code for the SDK and any other software that we make available to you under an Order Form along with any Updates that we provide you or make available to you under this Agreement.

“Subscription Fees” means subscription fees for use of the Software or Cloud Service, or both, detailed in an Order Form.

“Subscription Term” means the term for Customer’s use of the Software and Cloud Service as provided in the Order Form.

“Support” means the services provided by Ditto related to maintenance and support on the use of the Software or Cloud Service by Customer, including bug fixes, repairs, updates, upgrades and support as specified under the terms of an Order Form.

“Update” means any Software release that we make generally available to our customers.

“Usage Data” means Ditto’s technical logs, data, and learnings about Customer’s use of the Cloud Service but does not include Customer Data.

“User” means anyone that Customer allows to use its accounts for the Cloud Service, who may include (a) Affiliates, (b) employees, advisors and contractors of Customer or its Affiliates, and (c) others if permitted in this Agreement or the Documentation.

2 License Grant.

2.1 License.

Subject to the terms and conditions of this Agreement and any limitations set forth on the applicable Order Form, we hereby grant you a non-exclusive, non-sublicensable, non-transferable, worldwide license under all of Ditto’s intellectual property rights in the Software, License Token, and Documentation during the Subscription

Term to (a) use, reproduce, integrate, and install the Software and License Token in any Authorized Application; (b) distribute the Software and License Token within any Authorized Application to Customer's authorized end users who are bound to an agreement with Customer no less protective of Ditto's intellectual property rights as this Agreement; (c) display and operate the Software as integrated in any Authorized Application on any Device; and (d) use and reproduce the Documentation in connection with its internal use, reproduction, integration, and installation of the Software and License Token in connection with such Authorized Applications. Such license includes the right for the Customer to internally use, reproduce, integrate, and install the Software and License Tokens in preliminary versions of such Authorized Application for the purpose of creating and testing the Authorized Application.

2.2 Retention of Notices.

If you reproduce any of the Materials as permitted in this Agreement, you must reproduce all copyright and other proprietary notices that are on the copies we make available to you.

2.3 License Token Expiration.

License Tokens we make available to you under this Agreement expire after a period of time. We will make replacement License Tokens available to you within a commercially reasonable time for you to make continued authorized use of the Software during the Subscription Term set forth on the applicable Order Form. If we provide you with a replacement License Token under this Agreement, you must install the replacement License Token to continue using the Software.

3 Access and Use Rights.

Subject to your compliance with the terms of this Agreement, we hereby grant you and your Users the right to access and use the Cloud Service during the Subscription Term via your Authorized Applications solely for the benefit of you and your Users. This includes rights to copy and use Documentation as part of your authorized use of the Cloud Service.

You are responsible for provisioning and managing your User accounts, for your Users' actions through the Cloud Service, and for their compliance with the terms of this Agreement. You will ensure that Users keep their login credentials confidential, and you will promptly notify us upon learning of any compromise of User accounts or credentials.

4 Affiliates.

Customer's Affiliates may exercise the rights granted to you under this Agreement subject to each such Customer Affiliate accepting all terms and conditions hereunder; provided, however, that Customer is responsible and liable for any breach of such terms and conditions as if committed by Customer itself. Alternatively, Customer's Affiliates may enter into their own Order Forms as mutually agreed with Ditto, which creates a separate agreement between each such Affiliate and Ditto incorporating this Agreement with the Affiliate treated as "Customer". In the case of separate agreements, neither Customer nor any Customer Affiliate has any rights under each other's separate agreement with Ditto, and breach or termination of any such separate agreement affects only that agreement.

5 Intellectual Property in Materials and Customer Data.

As between Customer and Ditto, Ditto owns all right, title and interest in and to the Materials, and any intellectual property rights associated with them. We reserve all rights in and to the Materials that we do not expressly grant you in this Agreement. As between Customer and Ditto, Customer owns all right, title and interest in and to the Customer Data, and any intellectual property rights associated with them. Customer reserves all rights in and to the Customer Data that Customer does not expressly grant to Ditto in this Agreement.

6 Restrictions.

Except as expressly permitted under this Agreement, you agree not to, nor permit nor authorize any third party, to: (i) sublicense, sell, rent, lease, transfer, assign, or distribute the Materials to third parties; (ii) host the Materials for the benefit of third parties; (iii) disclose or permit any third party to use the Materials; (iv) hack or modify any License Token, or try to avoid or change any license registration process we may implement; (v) modify or create derivative works of the Software or Cloud Service; (vi) disassemble, decompile, or otherwise reverse engineer the Software or the Cloud Service attempt to derive any source code from any executable code, in whole or in part, except to the extent such activities are expressly permitted by law notwithstanding this prohibition; (vii) modify, obscure, or delete any proprietary rights notices included in or on the Materials; or (viii) use or copy the Materials in a manner not expressly permitted by this Agreement, including any use or copying in connection with a product or service that competes with the Software or the Cloud Service. In addition, with respect to the Cloud Service, you will not and will not permit anyone else to: (a) grant non-Users access to the Cloud Service or otherwise use the Cloud Service to provide a hosted or managed service to third parties or (b) conduct security or vulnerability tests of the Cloud Service, interfere with its operation or circumvent its access restrictions.

7 Usage Rules.

7.1 Compliance.

Customer represents and warrants that it has all rights necessary to use Customer Data with the Cloud Service and grant the rights in Section 8.1 (Limited Use), without violating third-party intellectual property, privacy, or other rights. You agree to defend and indemnify us for any third party claim arising from breach of the foregoing representation and warranty.

7.2 High Risk Activities & Sensitive Data.

Unless expressly permitted in the applicable Order Form, you:

- (a) will not use the Cloud Service for High Risk Activities, and
- (b) will not store Sensitive Data in the Cloud Service.

You acknowledge that we have no liability for, and you agree to defend and indemnify us for any use of the Cloud Service for High Risk Activities or for any storage of Sensitive Data in the Cloud Service.

8 Data.

8.1 Limited Use.

Subject to this Agreement, we will access and use Customer Data solely to provide and maintain the Cloud Service and to support your use of the Cloud Service under this Agreement. This includes sharing Customer Data as you direct through the Cloud Service, but we will not otherwise disclose Customer Data to third parties except as permitted in this Agreement and the DPA (as defined below).

8.2 Security.

We will implement and maintain appropriate technical and organizational security measures designed to prevent unauthorized access, use, alteration, or disclosure of Customer Data.

8.3 Personal Data.

Each Party will comply with all applicable laws relating to its processing of Personal Data. In addition, the Parties will adhere to the Data Protection Addendum (the “DPA”) available at <https://www.ditto.live/legal/data-processing-agreement> in connection with any such Personal Data. In any conflict between the DPA and this Agreement, the DPA shall prevail.

8.4 Usage Data.

We may collect Usage Data and use it to operate, improve, and support the Cloud Service and for other lawful business practices. However, we will not disclose Usage Data externally unless it is (a) de-identified so that it does not identify Customer, its Users or any other person and (b) aggregated with data across other customers.

8.5 Data Export.

During the Subscription Term (and any Transition Services, described in Section 12.5 below), Customer may export Customer Data from the Cloud Service as described in the Documentation.

9 Feedback.

If you provide us with feedback, comments, or suggestions concerning the Software, Cloud Service or other Ditto products and services (collectively, “**Feedback**”), we may use such Feedback without restriction or obligation. Any such Feedback is provided “AS IS” and Ditto will not publicly identify Customer or any User as the source of feedback without Customer’s permission.

10 Software Delivery.

We will make the Software, License Token, and Documentation available for you to download or copy. If and when Updates to the Software become generally available, we will make those available for you to download, as well. You are responsible for installing the Software and all available Updates.

11 Payment; Audit.

11.1 Fees.

Ditto will invoice Customer for the Fees as set forth in any Order Form.

11.2 Taxes.

Customer is responsible for all taxes, and any other similar taxes, duties and charges assessed by any federal, state or local governmental entity on Fees paid by Customer for the Materials, if any, other than taxes based on Ditto’s net income, revenues, gross receipts, personnel, real or personal property, or assets. Ditto shall invoice Customer the amount of the applicable taxes and Customer shall make payment under the invoice to Ditto within 30 days of the invoice date. Customer will provide Ditto with official receipts issued by the appropriate taxing authority, or such other evidence as is reasonably requested by Ditto to establish that such taxes have been paid. In addition, Customer will be responsible for any bank transfer service fees.

11.3 Payment; Payment Terms.

Unless otherwise set forth on an Order Form, Customer shall pay Fees within 30 days of Customer’s receipt of Ditto’s invoice in US Dollars. Ditto may charge interest on any undisputed Fees that are not timely paid at the rate of 1% per month or the highest interest rate allowed by law, whichever is less. If there are any disputes regarding the Fees payable, the Parties shall work in good faith to resolve such disputes in a timely manner.

11.4 Audit Rights.

Customer shall maintain adequate records of the number of Devices that incorporate any portion of the Software at all times during the Subscription Term and thereafter to the extent permitted under Section 12.1. Such records must include all such Devices used by or on behalf of Customer’s end user customer, including Devices of any employee or agent of such end user customer. Periodically, Ditto may request, and Customer will provide (within 5 working days) a report of such Devices. If Ditto has any reason to believe that the number of such Devices is inaccurate or the Software has otherwise been used outside the scope of the Order Form, Customer agrees to investigate and report back to Ditto, make available access to Customer’s management platform under Customer supervision, or otherwise coordinate with Ditto to investigate and verify usage. If

such audit discloses any inaccuracies or unauthorized usage, Ditto will have the right to invoice for such use of the Software at Ditto's then current rates plus interest as permitted herein. If the audit shows an underpayment of 5% or more, Ditto may invoice Customer for reimbursement of the cost of such audit. Nothing in the foregoing limits Ditto's rights and remedies for any excess or unauthorized use of the Software.

12 Term and Termination.

12.1 Subscription Terms.

Each Subscription Term will last for an initial 36-month period unless the Order Form states otherwise. Each Subscription Term will renew for successive 12-month periods unless (a) the Parties agree on a different renewal Order Form prior to such renewal or (b) either Party notifies the other of non-renewal at least 60 days prior to the end of the then-current Subscription Term.

12.2 Term of Agreement.

This Agreement starts on the Effective Date and continues until the end of all Subscription Terms, unless sooner terminated in accordance with its terms (the "**Term**").

12.3 Termination.

Either Party may terminate this Agreement (along with all Subscription Terms) if the other Party (a) fails to cure a material breach of this Agreement within 30 days after notice, (b) ceases operation without a successor or (c) seeks protection under a bankruptcy, receivership, trust deed, creditors' arrangement, composition or comparable proceeding, or if such a proceeding is instituted against that Party and not dismissed within 60 days. Exercise by either Party of its right to terminate under any provision of this Agreement will not affect or impair its right to enforce its other rights or remedies under this Agreement.

12.4 Effect of Termination.

When this Agreement terminates or expires: (i) you will no longer have the right to use the Software, License Token, or Cloud Service, and any rights or licenses we grant you in this Agreement will immediately cease to exist as of the date of termination or expiration; (ii) you will destroy all copies of the Software and License Token in your possession or control, and certify in writing to us that you have done so; and (iii) the Recipient of Confidential Information will promptly return or destroy Confidential Information in its possession or control, except, with respect to Customer Data. If no Transition Services are desired, we will return such Customer Data to you upon your request within 30 days following such termination or expiration and thereafter will delete such Customer Data. If Transition Services are desired, Customer Data shall be retained during the Transition Services and will be deleted thereafter. Notwithstanding the foregoing, the Recipient may retain Confidential Information in accordance with its standard backup or record retention policies or as required by law, subject to Section 8.2 (Security), Section 16 (Confidentiality) and, with respect to Customer Data, the DPA.

12.5 Transition Services.

Upon the request of Customer, commencing upon notice of termination or non-renewal, if applicable, and continuing for up to 12 months after termination or expiration of this Agreement at the election of Customer, Ditto shall cooperate with Customer and provide reasonable assistance to assist Customer in the orderly, uninterrupted transfer and migration of the Services to Customer or another services provider in connection with the expiration or earlier termination of this Agreement for any reason, however described ("**Transition Services**"). Customer may request Transition Services at any time before the effective date of termination or expiration of this Agreement. Customer may terminate the Transition Services at any time during the 12-month period if such services are no longer required. Customer shall pay Ditto for the Transition Services at Ditto's then-current time and materials rates. Such Transition Services shall include the orderly exportation or migration of all Customer Data and Customer property held or maintained by Ditto in such media or format(s) that is usable to Customer or another service provider on Customer's behalf. As part of Transition Services, Ditto shall provide such information as Customer may reasonably request relating to its usage of the Services.

12.6 Survival.

Any obligation that arose during the Term survives expiration or termination of this Agreement. In addition, Sections 1, 8.4, 9, 12.4, 12.5, 12.6, 13.4, 14, 16, 17, 20, 21, and 22 survive the expiration or termination of this Agreement. In addition, Sections 8.2 and 8.3 will survive the termination or expiration of this Agreement for any reason with respect to any Customer Data retained pursuant to Section 12.4.

13 Warranties.

13.1 Mutual Warranties.

Each Party represents and warrants to the other Party that:

- (a) it has the legal power and authority to enter into this Agreement, and
- (b) entering into this Agreement will not cause it to breach any agreement with a third party.

13.2 Additional Warranties.

Ditto warrants to Customer that:

- (a) the Software and, if applicable, the Cloud Service will perform materially as described in the Documentation, and Ditto will not materially decrease the overall functionality of the Software or Cloud Service during the Subscription Term (the **"Performance Warranty"**), and
- (b) Support provided under this Agreement will be provided in a professional and workmanlike manner (the **"Support Warranty"**).

13.3 Warranty Remedy.

Ditto will use reasonable efforts to correct a verified breach of the Performance Warranty or Support Warranty reported by Customer. If Ditto fails to do so within 30 days after Customer's warranty report, then either Party may terminate the applicable Order Form, in which case Ditto will refund to Customer any pre-paid, unused fees for the terminated portion of the Subscription Term. To receive this remedy, Customer must report a breach of warranty in reasonable detail within 30 days after discovering the issue in the Software or the Cloud Service or with the Support. These procedures are Customer's exclusive remedies and Provider's sole liability for breach of the Performance Warranty or Support Warranty.

13.4 Disclaimers.

EXCEPT AS EXPRESSLY SET OUT IN THIS AGREEMENT, EACH PARTY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NONINFRINGEMENT. DITTO'S WARRANTIES IN THIS SECTION 13 DO NOT APPLY TO ISSUES ARISING FROM MISUSE OR UNAUTHORIZED MODIFICATIONS OF THE SOFTWARE OR CLOUD SERVICE. THESE DISCLAIMERS APPLY TO THE FULL EXTENT PERMITTED BY LAW.

14 Limitation of Liability.

14.1 Disclaimer of Consequential Damages.

EXCEPT FOR ANY BREACH OF CONFIDENTIALITY OBLIGATIONS OF THIS AGREEMENT OR USE OF THE MATERIALS OUTSIDE THE SCOPE OF THE LICENSES AND RIGHTS GRANTED HEREUNDER, AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE FOR ANY SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES, INCLUDING LOST REVENUES, LOST PROFIT, OR LOSS OF PROSPECTIVE ECONOMIC ADVANTAGE, RESULTING FROM PERFORMANCE OR FAILURE TO PERFORM UNDER THIS AGREEMENT, EVEN IF SUCH PARTY HAS BEEN ADVISED IN ADVANCE ABOUT THE POSSIBILITY OF SUCH DAMAGES.

14.2 General Liability Cap.

EXCEPT FOR (A) ANY BREACH OF CONFIDENTIALITY OBLIGATIONS OF THIS AGREEMENT (EXCLUDING BREACHES RELATING TO CUSTOMER DATA), (B) USE OF THE MATERIALS OUTSIDE THE SCOPE OF THE LICENSES AND RIGHTS GRANTED HEREUNDER, (C) A PARTY'S DEFENSE AND INDEMNIFICATION OBLIGATIONS PROVIDED IN THIS AGREEMENT, OR (D) ANY FEES PAYABLE UNDER THIS AGREEMENT, AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE FOR DAMAGES UNDER THIS AGREEMENT IN EXCESS OF THE FEES PAID OR PAYABLE BY CUSTOMER TO DITTO UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

14.3 Enhanced Cap.

WITH RESPECT TO ANY BREACH OF SECTION 8.2 (SECURITY) OR SECTION 8.3 (PERSONAL DATA), AND TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, NEITHER PARTY SHALL BE LIABLE FOR DAMAGES UNDER THIS AGREEMENT IN EXCESS OF THE FEES PAID BY CUSTOMER TO DITTO UNDER THIS AGREEMENT IN THE 24 MONTHS PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

14.4 Nature of Claims.

THE WAIVERS AND LIMITATIONS IN THIS SECTION 14 APPLY REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE AND WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY IN THIS AGREEMENT FAILS OF ITS ESSENTIAL PURPOSE.

15 Indemnification.

15.1 Indemnity from Ditto.

Ditto will defend Customer from and against any and all claims, actions, suits, administrative or judicial proceedings (the "**Claim**") brought by a third party arising out of any alleged or actual infringement of a third party's copyright, trademark, service mark, trade secret, patent or other intellectual property right arising from Customer's use of the Software, Documentation, or Services as permitted under this Agreement and will pay all damages and costs awarded against any Customer under a final court decision in relation with such Claim or agreed to in settlement.

15.2 Ditto's Mitigation Alternatives.

If Customer's use of the Software, Documentation, or Services is determined or alleged to be infringing, or should such use be likely to be found to be infringing, Ditto may, in its sole and exclusive discretion, and at its own expense: (a) procure or secure, through litigation or negotiation, Customer's right to continue using such Software, Documentation, or Services; (b) rework or modify the Software, Documentation, or Services, without cost to Customer, so as to make it non-infringing while substantially preserving its original functionality; or (c) replace such Software, Documentation, or Services, without cost to Customer, with a non-infringing, substantially functionally equivalent product and pay any Customer costs associated with such replacement. If none of the above options are or would be available on commercially reasonable basis as determined by Ditto in its sole discretion, then Ditto may terminate this Agreement by written notice to Customer, in which event Customer will destroy all copies of the Software and Documentation and stop accessing the Services, and Ditto will provide Customer a pro rata refund of the Fees paid under any Order Form.

15.3 Indemnification Procedures.

As a condition to the foregoing indemnification and defense obligations in this Section 15, Customer must (a) promptly notify Ditto in writing upon learning of any Claim which may give rise to a Claim for indemnification hereunder (provided that Ditto will be relieved only to the extent Customer's failure prejudices defense or settlement); (b) provide Ditto with sole control of the defense and settlement of such Claim except that no compromise or settlement may be effected or committed to without Customer's written consent (unless such compromise or settlement (i) includes an unconditional release of Customer from all liability arising out of such

Claim; and (ii) is solely monetary in nature and does not include a statement as to, or an admission of fault, culpability or failure to act by or on behalf of Customer); and (c) cooperate with all reasonable requests of Ditto in defending or settling a Claim, at Ditto's expense. Customer will have the right to participate in the defense of the Claim at its own expense and with counsel of its own choosing.

15.4 Infringement Limitations.

Notwithstanding anything to the contrary in this Section 15, Ditto has no obligation to defend or indemnify Customer to the extent the infringement Claim arises from (a) Ditto's incorporation into its Software, Documentation, or Services, at Customer's express written direction, of any information, technology or materials provided by Customer; (b) any combination of the Software with any product or program not furnished, specified or reasonably anticipated by Ditto or contemplated by this Agreement, where the combination is the basis of the infringement, (c) Customer's use of a prior version of allegedly infringing Software after Ditto has made available a new version at no cost to Customer, if the alleged infringement could have been avoided by the use of such new version, or (d) use of the Software that has been modified by any person other than Ditto, unless such modification is expressly authorized or approved by Ditto.

15.5 Sole Remedy.

This Section 15 is Ditto's sole and exclusive obligation, and Customer's sole and exclusive remedy, for any alleged infringement or misappropriation of intellectual property rights.

16 Confidentiality.

16.1 Use and Protection.

As Recipient, each Party will (a) use Confidential Information only to fulfill its obligations and exercise its rights in this Agreement, (b) not disclose Confidential Information to third parties without Discloser's prior approval, except as permitted in this Agreement, and (c) protect Confidential Information using at least the same precautions Recipient uses for its own similar information and no less than a reasonable standard of care.

16.2 Permitted Disclosures.

The Recipient may disclose Confidential Information of the Discloser to its employees, agents, contractors and other representatives (collectively, "**Representatives**") having a legitimate need to know, provided Recipient remains responsible for its Representatives' compliance with this Section 16, and such Representatives are bound to confidentiality obligations no less protective than this Section 16.

16.3 Exclusions.

These confidentiality obligations do not apply to information that the Recipient can document (a) is or becomes public knowledge through no fault of the Recipient, (b) it rightfully knew or possessed, without confidentiality restrictions, prior to receipt from the Discloser, (c) it rightfully received from a third party without confidentiality restrictions or (d) it independently developed without using or referencing Discloser's Confidential Information.

16.4 Required Disclosures.

The Recipient may disclose Confidential Information (including Customer Data) of the Discloser to the extent required by applicable law, court order, administrative tribunal, or regulatory authority. If permitted by law, the Recipient will give the Discloser reasonable advance notice of the required disclosure and reasonably cooperate, at the Discloser's expense, to obtain confidential treatment for the Confidential Information.

17 Government Users.

The Software, Cloud Service, and Documentation have been developed at private expense and are deemed to be a "commercial item," as that term is defined in 48 C.F.R. 2.101, consisting of "commercial computer

software” and “commercial computer software documentation,” as such terms are used in 48 C.F.R. 12.212. Use, duplication, and disclosure by civilian agencies of the U.S. Government, or by a higher- or lower-tier contractor supporting such agency, shall be in accordance with this Agreement as supplemented by 48 C.F.R. 52.227-19. Use, duplication, and disclosure by U.S. Department of Defense agencies, or by a higher- or lower-tier contractor supporting such agency, are subject solely to the terms of this Agreement as stated in 48 C.F.R. 227.7202. In the event Ditto delivers technical data that is not covered by the above provisions, whether to a U.S. Department of Defense agency or to a higher- or lower-tier contractor supporting such agency, such technical data shall be deemed “technical data-commercial items” under 48 C.F.R. 227.7015(a) and any use, modification, reproduction, release, performance, display or disclosure of such technical data shall be governed by the terms of 48 C.F.R. 227.7015(b).

18 Export Control.

The Parties acknowledge that the Materials may be subject to U.S. and other countries’ export jurisdictions. Each Party will comply with all laws and regulations applicable to the import or export of the Materials, including, but not limited to, the U.S. Export Administration Regulations, International Traffic in Arms Regulations, and sanctions regulations administered by the U.S. Office of Foreign Assets Control (collectively, “**Trade Laws**”). Neither Party will take any action that causes the other Party to violate U.S. or other applicable Trade Laws. If either Party learns of a potential violation of Trade Laws relating to the performance of this Agreement, or a potential violation of the terms in this subsection, such Party will alert the other Party promptly after acquiring this knowledge. We may suspend or terminate this Agreement to the extent that we reasonably conclude that performance would cause us to violate applicable Trade Laws or put us at risk of becoming the subject of economic sanctions under such Trade Laws. You represent that you and your Users are not on any restricted party list under any applicable Trade Laws, including, but not limited to the U.S. Department of Commerce’s Table of Denial Orders or Entities list, or U.S. Treasury Department’s list of Specially Designated Nationals.

19 Governing Law and Jurisdiction.

This Agreement will be governed by and interpreted in accordance with the laws of the State of California, without giving effect to any principles of conflict of laws. The Parties expressly agree that the United Nations Convention on Contracts for the International Sale of Goods will not apply to this Agreement. Any legal action or proceeding arising under, related to or connected with this Agreement will be brought exclusively in the federal (if they have jurisdiction) or state courts located in San Francisco, California, and the Parties irrevocably consent to the personal jurisdiction and venue of such courts.

20 Dispute Resolution.

The Parties acknowledge that most disputes can be resolved without resort to litigation. The Parties will use their best efforts to settle any dispute directly through consultation with each other before initiating a lawsuit or arbitration. If, after good faith negotiations the Parties are unable to resolve the dispute, any disputes arising out of or in any way relating to this Agreement, including without limitation its existence, validity or termination, shall be resolved according to California law and exclusively by binding arbitration before a single arbitrator with the Judicial Arbitration and Mediation Service (“**JAMS**”) and pursuant to the then-existing arbitration rules at JAMS.

If the Parties cannot agree upon selection of an arbitrator, then JAMS will appoint an arbitrator experienced in the enterprise software industry. The place of the arbitration will be San Francisco, California, unless otherwise agreed upon by the Parties. The arbitration will be conducted in English. The arbitrator must provide detailed written findings of fact and conclusions of law in support of any award. Judgment upon any such award may be enforced in any court of competent jurisdiction. The existence of a dispute, submission to arbitration, and any arbitration award under to this Agreement is deemed the Confidential Information of both Parties.

Notwithstanding anything to the contrary in this Section 20, (a) either Party shall be entitled to seek injunctive relief as set forth in Section 21 (Equitable Relief) and to stop unauthorized use of the Cloud Service or infringement of a Party's intellectual property rights and (b) any disputes, claims, or controversies concerning either Party's intellectual property rights or claims of piracy or unauthorized use of the Cloud Service are not subject to arbitration but instead must be heard in Federal or state court in San Francisco, California.

21 Equitable Relief.

Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 16 (Confidentiality) or, in the case of Customer, Section 6 (Restrictions), would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise.

22 Miscellaneous.

22.1 Assignment.

You are not allowed to assign or transfer any of your rights or obligations in this Agreement, in whole or in part, by operation of law or otherwise, without our prior written consent, and any attempt by you to do so without our consent will be null and void. Notwithstanding the foregoing, you may assign this Agreement in connection with a merger, acquisition, or sale of all or substantially all of the assets to which this Agreement relates unless the assignee is a Ditto competitor. We can assign this Agreement at our sole discretion.

22.2 Severability.

If any provision of this Agreement is deemed by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the court will modify or reform this Agreement to give as much effect as possible to that provision. Any provision that cannot be modified or reformed in this way will be deemed deleted, and the remaining provisions of this Agreement will continue in full force and effect.

22.3 Notices.

Any legal notice, request, demand or other communication required or permitted under this Agreement must be in writing, should reference this Agreement, and will be deemed to be properly given: (i) upon receipt, if delivered personally; (ii) upon confirmation of receipt by the intended recipient, if by e-mail; (iii) five business days after it is sent by registered or certified mail, with written confirmation of receipt; or (iv) three business days after deposit with an internationally recognized express courier, with written confirmation of receipt.

All such notices shall be addressed to the Parties at their respective addresses set forth on the Order Form. Either Party may change its address for notices by a notice given in the manner set forth in this Section.

22.4 Waiver.

A Party's obligations under this Agreement can only be waived in a writing signed by an authorized representative of the other Party, which waiver will be effective only with respect to the specific obligation described. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

22.5 Force Majeure.

We will be excused from performing under this Agreement to the extent that we are unable to perform due to extraordinary causes beyond our reasonable control, including things like natural disasters or emergencies, strikes, lockouts, riots, acts of war, epidemics, or communication line or power failures.

22.6 Independent Contractors.

Our relationship with you with respect to the subject matter of this Agreement is that of an independent contractor. Nothing contained in this Agreement will be deemed or construed in any manner to create a partnership, joint venture, employment, agency, fiduciary, or other similar relationship between the Parties, and neither Party can bind the other Party contractually.

22.7 Counterparts.

This Agreement may be executed in multiple counterparts, by original or facsimile signature, each of which shall be considered to be one and the same agreement and shall become a binding agreement when one or more counterparts have been signed by each Party hereto and delivered to the other Party. If this Agreement or the signature page, as executed, is transmitted by one Party to the other by facsimile or by other reliable electronic means, such facsimile or other electronic transmission shall be deemed an executed original of this Agreement and of such signature.

22.8 Amendments; Entire Agreement.

No modification, change, or amendment of this Agreement will be binding upon the Parties, unless both Parties agree to the change in a writing signed by an authorized representative of each Party. This Agreement constitutes the entire agreement and understanding of the Parties with respect to its subject matter and supersedes any and all prior or contemporaneous understandings and agreements, whether oral or written, between the Parties with respect to its subject matter. Unless we execute a separate written agreement with you stating otherwise, the terms of any purchase order, written terms or conditions, or other document that you submit to us that contain terms that are different from, in conflict with, or in addition to the terms of this Agreement are hereby rejected by Ditto and will be void and of no effect.