⏻ **Constructor**

Menu

Terms of Service Agreement

Welcome to the website, mobile, and online service of Constructor.io Corporation ("Constructor.io" or "us"). This Terms of Service Agreement (this "Agreement") is made by and between Constructor.io and you ("Customer" or "You") and governs Your use of Constructor.io's Service (as defined below). This Agreement includes the terms and conditions below as well as any policies or exhibits linked to or referenced herein.

BY CLICKING A BOX INDICATING YOUR ACCEPTANCE OR BY ACCESSING OR USING THE SERVICE, INCLUDING BY EMBEDDING OUR CODE ON YOUR SITE, YOU SIGNIFY THAT YOU HAVE READ, UNDERSTOOD, AND AGREE TO BE BOUND BY THE TERMS OF THIS AGREEMENT AND TO THE COLLECTION AND USE OF YOUR INFORMATION AS SET FORTH IN THE CONSTRUCTOR.IO PRIVACY POLICY, WHETHER OR NOT YOU ARE A REGISTERED USER OF THE SERVICE.

IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERMS "YOU" OR "YOUR" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF YOU DO NOT HAVE SUCH AUTHORITY, OR IF YOU DO NOT AGREE WITH THESE TERMS AND CONDITIONS, YOU MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICE.

This Agreement is effective between You and Constructor.io as of the date You accept this Agreement, or as of the date that this Agreement was amended pursuant to the terms hereof (the "Effective Date"). *In the event Customer executes a separate Master Subscription Agreement or similar written agreement with Constructor.io which governs Your use of our Services, such written agreement shall supersede these Terms of Service in their entirety.*

The parties agree to the following terms and conditions set forth herein:

1. **Definitions. Any terms not otherwise defined herein, shall have the meanings set forth below:**

A. "Add-On" means integrations, applications and other add-ons that are used with the Service.

B. "Affiliate" means any entity which directly or indirectly controls, is controlled by, or is under common control with the subject entity; and "control" for the purposes of this definition means direct or indirect ownership or control of more than 50% of the voting interest of the subject entity.

C. "Aggregate/Anonymous Data" means (i) data generated by aggregating Customer Content with other data so that results are non-personally identifiable with respect to Customer or its Visitors, and (ii) anonymous and anonymized logs and data regarding use of the Service.

D. "Agreement" means this Terms of Service Agreement.

E. "Authorized Users" means Customer's employees and contractors whom Customer has authorized to use the Service and to act for Customer's benefit and on its behalf.

F. "Competitor" means any person, business, firm or corporation engaged in any business, in the geographical areas that the Company does business or has done business, that is competitive with the business conducted by the Company, including, but not limited to, any business or enterprise that develops, markets, licenses, sells, or provides any service that competes with any service developed, marketed, licensed, sold, or provided, or planned to be developed, marketed, licensed, sold, or provided, by the Company.

G. "Confidential Information" means code, inventions, know-how, product plans, inventions, technical and financial information exchanged under this Agreement, that is identified as confidential at the time of disclosure or should reasonably be considered confidential based on the circumstances surrounding the disclosure and the nature of the information disclosed.

H. "Constructor.io Technology" means (i) the Service, (ii) the code developed and provided by Constructor.io to Customer for use in connection with the Service, which may include Constructor.io's JavaScript code, mobile SDK(s), and Add-Ons or other similar code developed and provided by Constructor.io; and (iii) any and all related or underlying documentation, technology, code, know-how, logos and templates (including in any reports or output obtained from the Constructor.io Service), anything delivered as part of support or other services, and any updates, modifications or derivative works of any of the foregoing.

I. "Customer" means You, or a customer of Constructor.io.

J. "Customer Content" means text, images, videos, and data uploaded, inputted, or otherwise submitted by Customer to the Service.

K. "Customer Property or Properties" means the Customer web domains, mobile applications, or other platforms or properties (as may be supported by Constructor.io) that, upon the mutual consent of Customer and Constructor.io, incorporate any Constructor.io Technology.

L. "Order Form" means the Constructor.io ordering documentation, online sign-up, or subscription flow that references Your subscription to the Service that may specify, among other things, the number of monthly or yearly queries, the applicable fees, any additional support services, and the billing period.

M. "Regulated Data" means (i) any patient, medical, or other protected or regulated health information (including HIPAA-regulated data); or (ii) any government IDs, financial information, or any other information subject to regulation or protection under applicable laws or regulations (including data covered under the Gramm-Leach-Bliley Act or related rules or regulations).

N. "Service" means Constructor.io's services for adding advanced functionality to websites, including but not limited to autocompletion, typo-tolerant autocompletion,

customized autocompletion, and other services provided to You by Constructor.io, to which You are granted access under a Order Form.

O. "Term" or "Subscription Term" means the initial term for the subscription to the applicable Service as specified on Your Order Form(s) and any subsequent renewal term (if any).

P. "Visitor" means any end user of a Customer Property.

Q. "Visitor Data" means the data concerning the characteristics and activities of Visitors on the Customer Properties collected for Customer by the Service, including, but not limited to, unique identifiers, device and operating system information, date and time of visit, search-bar typing, search, click, and conversion information.

2. Our Service.

A. Provision of Service. Subject to this Agreement, Constructor.io will make the Service available to You pursuant to this Agreement and applicable Order Forms during a Subscription Term. You agree that Your purchase of subscriptions is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Constructor.io with respect to future functionality or features. Constructor.io shall: (i) use commercially reasonable efforts to provide to You support for the Service as described on each Order Form; and (ii) provide the Service only in accordance with applicable laws and government regulations.

B. Changes to Your Subscription. You may upgrade Your subscription pursuant to an applicable Order Form at any time, and such upgrade shall commence no later than 2 business days following the upgrade (with the additional fees being pro-rated for the remainder of the month). You may downgrade Your subscription pursuant to an applicable Order Form at any time and such downgrade shall commence no sooner than the commencement of the next initial term as specified on the Order Form.

C. Ownership. This is a subscription agreement for access to and use of the Service. Constructor.io alone (and its licensors, where applicable) shall own all right, title and interest in and to the Service. This Agreement is not a sale and does not convey to You any rights of ownership in or related to the Service. Customer acknowledges that it is obtaining only a limited right to use the Service and that irrespective of any use of the words "purchase", "sale" or similar terms, no ownership rights are transferred to Customer under this Agreement. The Constructor.io name, logo, and product names associated with the Service are trademarks of Constructor.io or third parties, and no right or license is granted to use them. All rights not expressly granted to You are reserved by Constructor.io and its licensors. Customer agrees that Constructor.io retains all right, title and interest (including all intellectual property rights) in and to all Constructor.io Technology (which is deemed Constructor.io's Confidential Information) and reserves any licenses not specifically granted herein. Customer acknowledges and agrees that it has no right to obtain a copy of the software behind any Constructor.io Technology and that Constructor.io at its option may make updates, bug fixes, modifications or improvements to the Service from time to time.

D. Feedback. If Customer elects to provide any suggestions, comments, improvements, information, ideas, or other feedback or related materials to Constructor.io (collectively, "Feedback"), Customer hereby grants Constructor.io a worldwide, perpetual, non-revocable, sublicensable, royalty-free right and license to use, copy, disclose, license, distribute and exploit any such Feedback in any manner without any

obligation, payment or restriction based on intellectual property rights or otherwise. Nothing in this Agreement limits Constructor.io's right to independently use, develop, evaluate, or market products, whether incorporating Feedback or otherwise.

3. Your Responsibilities.

A. Accounts. You must register with Constructor.io and create an account in order to submit an Order Form or receive the Service. Account information must be accurate, current and complete and will be governed by our Privacy Policy (currently available at https://constructor.com/privacy-policy). You agree to keep this information up-to-date so that Constructor.io may send notices, statements, or other information by email or through Customer's account. If the email address listed on your Your account is inaccurate or not up-to-date, Constructor.io is not responsible for determining any other means of contacting You. You may never use another Customer's account without permission. You are responsible for all activity occurring under Your account(s) and shall abide by all applicable local, state, national and foreign laws, treaties and regulations in connection with Your use of the Service, including those related to data privacy, international communications and the transmission of technical or personal data. You shall: (i) notify Constructor.io promptly of any unauthorized use of any password or account or any other known or suspected breach of security; (ii) notify Constructor.io promptly and use reasonable efforts to stop promptly any use, copying, or distribution of the Service that is known or suspected by You, Your Authorized Users, or Visitors; and (iii) not impersonate a Customer or provide false identity information to gain access to or use the Service. By providing Your email address, You consent to our using the email address to send You Service-related notices, including any notices required by law, in lieu of communication by postal mail.

B. Authorized Users. Customer may permit its Authorized Users to use the Service provided their use is for Customer's benefit only and remains in compliance with this Agreement. Customer will be responsible and liable for all Authorized Users' use and access and their compliance with the terms and conditions herein. If any Authorized User stops working for Customer, Customer must immediately terminate that person's access to its account and any Constructor.io Service.

C. Restrictions. Customer and its Authorized Users shall not (i) license, sublicense, sell, resell, transfer, assign, distribute, disclose, or otherwise commercially exploit or make available to any third party in any manner the Service in any way unless Customer receives Constructor.io's prior written consent; (ii) incorporate the Service (or any portion thereof) into, or use the Service with or to provide, any site, product or service, other than on Customer Properties owned and operated by Customer and as specifically permitted by this Agreement or with Constructor.io's prior written consent; (iii) publicly disseminate information regarding the performance of the Service (which is deemed Constructor.io's Confidential Information) unless Customer receives Constructor.io's prior written consent; (iv) modify or make derivative works based upon the Service; (v) create Internet links to the Service or "frame" or "mirror" the Service on any other server or wireless or Internet-based device unless Customer receives Constructor.io's prior written consent; (vi) access the Service solely for purposes of monitoring its availability, performance or functionality, or for any other benchmarking or competitive purposes; (vii) decompile, disassemble, reverse engineer or attempt to discover any source code or underlying ideas or algorithms of the Service (except to the extent that applicable law prohibits reverse engineering

restrictions), or (except as expressly permitted herein) access the Service, or copy any ideas, features, functions or graphics of the Service; (viii) break or circumvent any security measures or rate limits for the Service; (ix) use the Service to send or store material containing software viruses, worms, Trojan horses or other harmful computer code, files, scripts, agents or programs; (x) modify, interfere with or disrupt the integrity or performance of the Service (including the data contained therein); (xi) attempt to gain or permit unauthorized access to the Service or its related systems or networks; (xii) make the Service available to, or use the Service for the benefit of, anyone other than You or Your Authorized Users unless Customer receives Constructor.io's prior written consent; (xiii) use or access the Service if You are a Competitor, except with our prior written consent; (xiv) use the Service to send spam or otherwise duplicative or unsolicited messages in violation of applicable law; (xv) submit, collect, or use any Regulated Data to, from, or with the Service; or (xvi) use the Service to send or store infringing, obscene, threatening, libelous, or otherwise unlawful material.

D. Obligations. Customer agrees to: (i) maintain a legally adequate privacy policy on its Customer Properties and provide all required disclosures to its Visitors; (ii) obtain all necessary rights, releases, and consents to allow Customer Content and Visitor Data to be collected, used, and disclosed in the manner contemplated in this Agreement and to grant Constructor.io the rights herein; (iii) refrain from taking any action that would cause Constructor.io, the Service, or the Constructor.io Technology to become subject to any third party terms (including open source license terms). Customer represents and warrants that its Customer Properties and the collection, use and disclosure of Customer Content and Visitor Data will not violate third party rights, including intellectual property, privacy and publicity rights.

4. Account Information, Customer Content, and Data.

A. Your Customer Content. You shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership of and right to use Your Customer Content. As between the parties, Customer retains all right, title and interest (including any intellectual property rights) in and to the Customer Content, all Customer Properties and all content contained therein (excluding any Constructor.io Technology). Customer hereby grants Constructor.io a non–exclusive, worldwide, royalty–free right and license to collect, use, copy, store, transmit, modify, and create derivative works of the Customer Content and Visitor Data (a) to the extent necessary to provide the Service and related services to Customer or Constructor.io's other customers, (b) for AI/ML model training and product development purposes, and (c) as otherwise provided in this Agreement, which right and license shall continue notwithstanding any termination of this Agreement.

B. Aggregate/Anonymous Data. Customer agrees that Constructor.io will have the right to generate Aggregate/Anonymous Data. Notwithstanding anything to the contrary herein, the parties agree that Aggregate/Anonymous Data is Constructor.io Technology, which Constructor.io may use for any business purpose during or after the term of this Agreement (including, without limitation to develop and improve Constructor.io's products and services and to create and distribute reports and other materials).

C. Storage. Constructor.io does not provide an archiving service. During the Subscription Term, Customer acknowledges that Constructor.io may delete Customer Content, Visitor Data, or Constructor.io Technology no longer in active use; provided, however, that Constructor.io has no obligation to delete such Customer Content, Visitor Data, or Constructor.io Technology. Constructor.io expressly disclaims all other obligations with respect to storage.

D. Customer Logo and Trademark. CONSTRUCTOR.IO RESERVES THE RIGHT TO DISPLAY A CUSTOMER'S LOGO AND/OR TRADEMARK ON THE SERVICE AND IN OTHER CONSTRUCTOR.IO MARKETING MATERIALS, UNLESS YOU NOTIFY CONSTRUCTOR.IO IN WRITING, PURSUANT TO SECTION 16 BELOW, STATING OTHERWISE.

5. Privacy Disclosure.

Constructor.io's privacy policy may be viewed at https://constructor.com/privacy-policy. Constructor.io reserves the right to modify its privacy policy in its reasonable discretion from time to time.

6. Third Party Interactions.

A. Disclaimer Regarding Third Party Interactions. During use of the Service, You may enter into correspondence with, purchase or sell goods and/or services from or to, agree to and provide content to third parties, including Visitors. Any terms, conditions, warranties or representations associated with such activity are solely between You and the applicable third party. Constructor.io cannot control the actions of any Visitors, and therefore cannot be held responsible for whether Visitors will satisfactorily complete the transactions they initiate, search for, or request in the Service. You agree that Constructor.io and its licensors shall have no liability, obligation or responsibility for any correspondence, purchase, or promotion between You and any Visitor or any other third party.

B. Release. YOU RELEASE CONSTRUCTOR.IO (AND CONSTRUCTOR.IO'S OFFICERS, DIRECTORS, AGENTS, SUBSIDIARIES, JOINT VENTURES, ATTORNEYS, AND EMPLOYEES) FROM ANY AND ALL CLAIMS, DEMANDS AND DAMAGES (ACTUAL AND CONSEQUENTIAL) OF EVERY KIND AND NATURE, KNOWN AND UNKNOWN, SUSPECTED AND UNSUSPECTED, DISCLOSED AND UNDISCLOSED, ARISING OUT OF OR IN ANY WAY CONNECTED WITH DISPUTES WITH ONE OR MORE CUSTOMERS, VISITORS, OR AN OUTSIDE PARTY.

C. Links. The Service may provide links to other websites or resources over which Constructor.io does not have control ("External Websites"). Such links do not constitute an endorsement by Constructor.io of those External Websites. You acknowledge that Constructor.io is providing these links to You only as a convenience, and further agree that Constructor.io is not responsible for the content of such External Websites or any business dealings You may have with such External Websites. Your use of External Websites is at Your own risk.

7. Billing and Payment of Fees to the Company.

A. Fees. You will pay all fees specified in Your Order Form. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services purchased and shall not be reduced based on actual usage or queries, and (ii) payment obligations are non-cancellable and all amounts paid are nonrefundable except as otherwise specified in this Agreement. Notwithstanding anything to the contrary in this Agreement, Constructor.io reserves the right to charge overage fees if the number of queries exceeds the number of queries for which You have paid, if a set number of queries is specified on Your Order Form. Current prices and overage fees of the Service are listed at https://constructor.io/pricing.

B. Payment. You will provide Constructor.io with complete, accurate, and updated billing and credit card information. You agree to update this information promptly upon any change to it. If You provide credit card information to Constructor.io, You authorize Constructor.io to charge such credit card without invoice. Constructor.io charges and collects in advance, either monthly or in accordance with any billing frequency stated in the applicable Order Form, for use of the Service. Payments are non-refundable and non-creditable, and payment obligations are non-cancellable. Late payments may be subject to a service charge equal to the lesser of 1.5% per month of the amount due or the maximum amount allowed by law. You agree to pay Constructor.io in the currency specified on the Order Form and if no currency is specified, payment shall be in U.S. dollars.

C. Taxes. Constructor.io's fees are exclusive of all taxes, levies, or duties imposed by taxing authorities, and You shall be responsible for payment of all such taxes, levies, or duties, whether domestic or foreign, excluding only taxes based solely on Constructor.io's income.

D. Changes to Fees. Prices of the Service, including, but not limited to, subscription fees and transaction fees, are subject to change upon 30 days' notice from Constructor.io. Such notice may be provided at any time by posting the changes to the Service. Constructor.io shall not be liable to You or to any third-party for any modification or price change of the Service.

E. Free Services. If you receive a free or unsubscribed access subscription, such as a Proof Schedule ("Free Access Subscription") to the Service or a beta release product ("Beta Release"), then you may use the Service or Beta Release in accordance with the terms and conditions of this Agreement for the period designated in the Order Form or otherwise by Constructor.io. Constructor.io may terminate or immediately suspend your Free Access Subscription at any time for any reason without liability to you. Constructor.io may revoke your right to use any Beta Release and any related services at any time without liability and does not guarantee that future versions of a Beta Release will be made available under the same commercial or other terms. You acknowledge your Free Access Subscription or Beta Release may not be complete or fully functional and may contain bugs, errors, omissions and other problems. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, CONSTRUCTOR.IO WILL HAVE NO WARRANTY, INDEMNITY OR SUPPORT OBLIGATIONS WITH RESPECT TO FREE ACCESS SUBSCRIPTIONS OR BETA RELEASES.

8. Confidentiality.

A. Protection of Confidential Information. Each party (as the receiving party) must (i) hold in confidence and not disclose the other party's Confidential Information to third parties except as permitted by this Agreement; and (ii) use the other party's Confidential Information only to fulfill its obligations and exercise its rights under this Agreement. Each party may share the other party's Confidential Information with its employees, agents or contractors having a legitimate need to know, provided that such party remains responsible for any recipient's compliance with the terms of this Section 8 and these recipients are bound to confidentiality obligations no less protective than this Section 8.

B. Exclusions. These confidentiality obligations do not apply to (and Confidential Information does not include) information that: (i) is or becomes public knowledge through no fault of the receiving party; (ii) was known by the receiving party prior to receipt of the Confidential Information; (iii) is rightfully obtained by the receiving party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by the receiving party without using the disclosing party's Confidential Information. A party may also disclose the other party's Confidential Information to the extent required by law or court order, provided it gives advance notice (if permitted by law) and cooperates in any effort by the other party to obtain confidential treatment for the information.

C. Injunctive Relief. Except as expressly provided in this Agreement, if the receiving party discloses or uses (or threatens to disclose or use) any Confidential Information of the disclosing party in breach of confidentiality protections hereunder, the disclosing party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies may be inadequate.

D. Authorized Use by the Company. Regardless of any provisions to the contrary, Constructor.io may use and report on Your Customer Content and other data and metrics related to Your use and any Visitors' use of the Service in an aggregate and anonymous manner to support benchmarking, AI/ML model training, product development and improvement, and similar features of the Service ("Authorized Use"). For further information, please see Constructor.io's Privacy Policy.

9. Copyright.

A. Copyright Infringement. Constructor.io respects the intellectual property rights of others and expects its Customers to do the same. It is Constructor.io's policy, in appropriate circumstances and at its discretion, to remove Customer Content and/or terminate the accounts of Customers who repeatedly infringe or are repeatedly charged with infringing the copyrights or intellectual property rights of others. In accordance with the Digital Millennium Copyright Act of 1998 ("DMCA"), the text of which may be found on the U.S. Copyright Office website at http://www.copyright.gov/legislation/dmca.pdf, Constructor.io will respond expeditiously to claims of copyright infringement committed using the Service that are reported to Constructor.io's Designated Copyright Agent, identified below.

B. Notice of Copyright Infringement. If You are a copyright owner, or are authorized to act on behalf of one, or authorized to act under any exclusive right under copyright, please report alleged copyright infringements taking place on or through the Service by completing the following DMCA Notice of Alleged Infringement (the "Notice") and delivering it to Constructor.io's Designated Copyright Agent. Upon receipt of the

Notice as described below, Constructor.io will take whatever action, in its sole discretion, it deems appropriate, including removal of the challenged material from the Service. Please provide the following information in writing (see 17 U.S.C 512(c)(3) for further detail) to our Designated Copyright Agent:

- A physical or electronic signature of a person authorized to act on behalf of the owner of an exclusive right that is allegedly infringed;
- Identification of the copyrighted work claimed to have been infringed, or, if multiple copyrighted works at a single online site are covered by a single notification, a representative list of such works at that site;
- Identification of the material that is claimed to be infringing or to be the subject of infringing activity and that is to be removed or access to which is to be disabled and information reasonably sufficient to permit the service provider to locate the material;
- Information reasonably sufficient to permit the service provider to contact You, such as an address, telephone number, and, if available, an electronic mail;
- A statement that You have a good faith belief that use of the material in the manner complained of is not authorized by the copyright owner, its agent, or the law; and
- A statement that the information in the notification is accurate, and under penalty of perjury, that You are authorized to act on behalf of the owner of an exclusive right that is allegedly infringed.

Deliver this Notice, with all items completed, to Constructor.io's Designated Copyright Agent:

Designated Copyright Agent

Constructor.io, Inc.

600 California St, Suite 14023

San Francisco, CA 94109

Email: copyright@constructor.io

- Counter-Notice. If You believe that Your submission or content that was removed (or to which access was disabled) is not infringing, or that You have the authorization from the copyright owner, the copyright owner's agent, or pursuant to the law, to post and use the material, You may send a counter-notice containing the following information to the Designated Copyright Agent:
  - Your physical or electronic signature;
  - Identification of the content that has been removed or to which access has been disabled and the location at which the content appeared before it was removed or disabled;
  - A statement that You have a good faith belief that the content was removed or disabled as a result of mistake or a misidentification of the content; and

- Your name, address, telephone number, and e-mail address, a statement that You consent to the jurisdiction of the federal court in San Francisco, California, and a statement that You will accept service of process from the person who provided notification of the alleged infringement.
- A physical or electronic signature (for example, typing Your full name).

If a counter-notice is received by the Copyright Agent, Constructor.io may send a copy of the counter-notice to the original complaining party informing that person that it may replace the removed content or cease disabling it in 10 business days. Unless the copyright owner files an action seeking a court order against the content provider, member or user, the removed content may be replaced, or access to it restored, in 10 to 14 business days or more after receipt of the counter-notice, at Constructor.io's sole discretion.

- Fraudulent or Bad Faith Submissions. There are legal and financial consequences for fraudulent and/or bad faith submissions. Before submitting a counter-notice, be sure that You are the actual rights holder of the removed content or that You have a good faith belief that the material was removed in error, and understand the repercussions of submitting a false claim.

10. Term; Termination, Survival.

- Term of Agreement. Unless terminated earlier pursuant to the terms of this Agreement, the Agreement commences on the Effective Date and continues until the Subscription Term has expired or is terminated as expressly permitted herein.
- Term of Purchased Subscriptions. Your subscription commences on the date specified in the relevant Order Form and continues for the Subscription Term specified therein. Subscriptions shall automatically renew for additional periods of one month on the same terms unless either party gives the other notice of non-renewal or a new price quote at least 30 days prior to the end of the relevant Subscription Term.
- Suspension of Service. Constructor.io may, without limiting its other rights and remedies, suspend the Service if (i) Customer's payment is more than 30 days overdue; (ii) Customer exceeded the maximum number of queries specified in its Order Form; or (iii) suspension is necessary to prevent harm or liability to other customers or third parties or to preserve the security, stability, availability, or integrity of the Service. Constructor.io will have no liability for taking any actions as permitted above. For avoidance of doubt, Customer will remain responsible for payment of fees during any suspension period. However, unless this Agreement has been terminated, Constructor.io will cooperate with Customer to restore access to the Service once it verifies that Customer has resolved the condition requiring suspension.
- Termination for Cause. A party may terminate this Agreement for cause: (i) except as otherwise set forth in this Agreement, upon 10 days' written notice of a material breach to the other party if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. If the contact or billing information You have provided is

fraudulent, Constructor.io reserves the right to terminate Your access to the Service in addition to any other legal remedies.

- Effect of Termination. Upon any expiration or termination of this Agreement or an Order Form; (i) Customer's license rights shall terminate and Customer must immediately cease use of the service, including any related Constructor.io Technology, cease distributing any Constructor.io Technology installed on its Customer Properties, and delete (or, at Constructor.io's request, return) any and all copies of the Constructor.io Technology, any Constructor.io documentation, passwords, or access codes, and any Constructor.io Confidential Information in Customer's possession custody, or control, and (ii) Customer's right to access any Customer Content or Visitor Data in the Service will cease and Constructor.io may, but is under no obligation to, delete any such Customer Content or Visitor Data in its possession at any time.

- Other Termination. CONSTRUCTOR.IO ALSO RESERVES THE RIGHT TO IMMEDIATELY REMOVE YOU FROM THE SERVICE AND TERMINATE YOUR USE OF THE SERVICE IN ITS SOLE AND ABSOLUTE DISCRETION UPON NOTICE TO YOU (FOR WHICH NOTICE, EMAIL IS ACCEPTABLE), FOR ANY REASON OR FOR NO REASON.

- Refund upon Termination. Upon any termination for cause by You or termination pursuant to this Section 10, Constructor.io shall refund any prepaid fees covering the remainder of the Subscription Term after the date of termination, less any amounts owed by You to Constructor.io. Termination shall not relieve You of the obligation to pay any fees accrued or payable to Constructor.io prior to the effective date of termination.

- Surviving Provisions. Upon expiration or termination of the Agreement, Section 3(c) and Sections 4 through 18 of this Agreement shall survive.

11. Representations and Warranties.

Constructor.io's Representation and Warranties. During the Term of the Agreement, Constructor.io represents and warrants that (i) it will provide the Service in a manner consistent with commercially reasonable standards; (ii) Constructor.io will not materially decrease the overall security of the Service during a Subscription Term; and (iii) the functionality of the Service will not be materially decreased during a Subscription Term.

Your Representations and Warranties. You represent and warrant that (i) You are not a minor under 18 years of age and that You may legally agree to this Agreement; (ii) You have not falsely identified Yourself nor provided any false information to gain access to the Service; (iii) Your billing and contact information is correct; and (iv) You have all necessary rights to provide all information provided hereunder.

12. DISCLAIMER OF WARRANTIES.

EXCEPT AS EXPRESSLY SET FORTH HEREIN, CONSTRUCTOR.IO AND ITS LICENSORS MAKE NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, TIMELINESS, QUALITY, SUITABILITY, TRUTH, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SERVICE. EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE SERVICE AND ALL ASSOCIATED CONTENT ARE PROVIDED TO YOU STRICTLY ON AN "AS IS" BASIS AND ALL CONDITIONS, REPRESENTATIONS AND WARRANTIES, WHETHER

EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON–INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW BY CONSTRUCTOR.IO AND ITS LICENSORS.

13. Indemnification. You shall defend, indemnify and hold Constructor.io harmless against any expense, liability, loss, damage or costs (including reasonable attorneys' fees), each to the extent payable to a third party, incurred in connection with Claims made or brought against Constructor.io by a third party arising from or relating to Your use of Your Customer Content or a dispute between You and any Customers or third parties arising from Your use of the Service to exchange information with or conduct business with such third party. You shall promptly notify Constructor.io in writing of any Claims. You may not settle any Claims that require Constructor.io to admit any civil or criminal liability or incur any financial obligation without Constructor.io's consent.

14. LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT ALLOWED BY LAW, REGARDLESS OF THE THEORY OF LIABILITY, IN NO EVENT SHALL CONSTRUCTOR.IO'S AGGREGATE LIABILITY EXCEED (A) FOR FREE ACCESS SUBSCRIPTIONS (E.G. PROOF SCHEDULES) OR BETA RELEASES, ONE THOUSAND DOLLARS ($1,000), OR (B) FOR PAID SUBSCRIPTIONS, THE AMOUNTS ACTUALLY PAID BY YOU IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY UNDER THIS AGREEMENT. IN NO EVENT SHALL EITHER PARTY AND/OR ITS LICENSORS BE LIABLE UNDER THE AGREEMENT FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, CONSEQUENTIAL OR OTHER DAMAGES OF ANY TYPE OR KIND (INCLUDING LOSS OF DATA, REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE), REGARDLESS OF THE CAUSE, ARISING OUT OF OR IN CONNECTION WITH THE AGREEMENT OR THE SERVICE, INCLUDING THE USE OF OR INABILITY TO USE THE SERVICE, OR ANY INTERRUPTION, INACCURACY, ERROR, OR OMISSION, IN THE SERVICE, EVEN IF THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT OR SUCH PARTY'S LICENSORS HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. CERTAIN STATES AND/OR JURISDICTIONS DO NOT ALLOW THE EXCLUSION OF IMPLIED WARRANTIES OR LIMITATION OF LIABILITY FOR INCIDENTAL, CONSEQUENTIAL OR CERTAIN OTHER TYPES OF DAMAGES, SO THE EXCLUSIONS SET FORTH ABOVE MAY NOT APPLY TO YOU. THE LIMITATIONS IN THIS SECTION SHALL NOT APPLY TO LIABILITY ARISING UNDER THE SECTIONS HEREIN REGARDING YOUR INDEMNIFICATION OR PAYMENT OBLIGATIONS.

15. Local Laws and Export Control.

Each party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Service. If Customer permits Visitors to access the Services from outside the United States, Customer is solely responsible for compliance with applicable national and local laws. Without limiting the foregoing, (i) each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports, and (ii) You shall not permit users to access or use the Service in violation of any U.S. export embargo, prohibition or restriction.

16. Notice.

Except as provided elsewhere in this Agreement, either party may give notice by written communication sent by next-day mail delivered by a nationally recognized delivery service or by email to: (i) if to You, to Your address or email address on record in Constructor.io's account information or (ii) if to Constructor.io, via email to info@constructor.io, with "Notice" in the subject line. Such notice shall be deemed to have been given upon the second business day after mailing.

17. Assignment.

Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms), without consent of the other party, to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets; provided however, that You may not assign this Agreement to a Competitor. A party's sole remedy for any purported assignment by the other party in breach of this paragraph shall be, at the non-assigning party's election, termination of this Agreement upon written notice to the assigning party. If such a termination is by You, Constructor.io shall refund to You any prepaid fees covering the remainder of the Subscription Term of all Order Forms after the effective date of such termination. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

18. Miscellaneous.

Governing Law and Jurisdiction.

This Agreement shall be governed by the laws of the State of California and controlling United States federal law, without regard to the choice or conflicts of law provisions of any jurisdiction and without regard to the United Nations Convention on the International Sale of Goods or the Uniform Computer Information Transactions Act. Any disputes, actions, claims or causes of action arising out of or in connection with this Agreement or the Service ("Dispute") commenced or initiated by You shall be subject to the exclusive jurisdiction of the state and federal courts located in San Francisco, California (and the parties hereby consent to jurisdiction and venue in the U.S. federal courts located in the Northern District of California). Any Dispute commenced or initiated by Constructor.io shall be subject to the exclusive jurisdiction of the courts located closest to Your address set forth in the opening paragraph of this Agreement. However, notwithstanding the above any Dispute shall be submitted to and finally settled by arbitration in San Francisco, California for any arbitration commenced or initiated by You, and in a city closest to Your address set forth in the opening paragraph of this Agreement for any arbitration commenced or initiated by Constructor.io, using the English language in accordance with the Arbitration Rules and Procedures of the Judicial Arbitration and Mediation Services, Inc. (JAMS) then in effect, by one or more commercial arbitrator(s) with substantial experience in the industry and in resolving complex commercial contract disputes. Judgment upon the award so rendered may be entered in a court having jurisdiction or application may be made to such court for judicial acceptance of any award and an order of enforcement, as the case may be.

Notwithstanding the foregoing, each party shall have the right to institute an action in any court of proper jurisdiction for injunctive relief.

Entire Agreement.

The Agreement comprises the entire agreement between You and Constructor.io and supersedes all prior or contemporaneous negotiations, discussions or agreements, whether written or oral, between the parties regarding the subject matter contained herein. No text or information set forth on any other document (other than a Order Form, if applicable) shall add to or vary the terms and conditions of this Agreement. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then such provision(s) shall be construed, as nearly as possible, to reflect the intentions of the invalid or unenforceable provision(s), with all other provisions remaining in full force and effect.

Relationship of the Parties.

The parties are independent contractors. No joint venture, partnership, employment, or agency relationship exists between You and Constructor.io as a result of the Agreement or use of the Service. Constructor.io may use subcontractors and permit them to exercise the rights granted to Constructor.io in order to provide the Service and related services under this Agreement. However, subject to the terms and conditions of this Agreement, Constructor.io will remain responsible for (i) compliance of its subcontractors with the terms of this Agreement; and (ii) the overall performance of the Service under this Agreement.

No Third Party Rights.

Nothing in this Agreement confers on any third party the right to enforce any provision of this Agreement. Customer acknowledges that each Order Form only permits use by and for the legal entity or entities identified in the Order Form and not affiliated entities.

Waiver.

The failure of a party to enforce any right or provision in this Agreement shall not constitute a waiver of such right or provision.

Severability.

If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

Attorney Fees.

The prevailing party in any dispute arising under this Agreement shall be awarded its reasonable attorney fees and costs.

19. Amendment.

Constructor.io may revise this Agreement at any time by modifying or updating this posting, except where other notice or consent is required by law. Your use of Constructor.io's Service on or after the effective date of any such modification or update will constitute Your acceptance of this Agreement as modified and/or updated.