



## Software as a Service Agreement

This Software as a Service Agreement is entered into by and between PATRA CORPORATION, a Delaware Company with offices located at 4207 Town Center Blvd., Building A, Suite 100, El Dorado Hills, CA 95762 ("**Provider**"), and the legal entity that completes the sign-up process for the Services via Provider's website and agrees to be bound by this Agreement ("**Customer**"). By signing the order form ("**Order Form**"), Customer agrees to be bound by the terms of this Software as a Service Agreement. The Order Form this Software as a Service Agreement are collectively referred to herein as the "**Agreement**". Provider and Customer may be referred to herein collectively as the "**Parties**" or individually as a "**Party**." This Agreement shall become effective on the date on which the Customer completes the Order Form via Provider's website (the "**Effective Date**").

WHEREAS, Provider provides access to its proprietary cloud-based software-as-a-service offering that utilizes artificial intelligence to analyze certain insurance related documents as uploaded by Customer ; and

WHEREAS, Customer desires to access the aforementioned software-as-a-service offering as further defined herein, and Provider desires to provide Customer with access to such offerings, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants, terms, and conditions set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Definitions.

- (a) "**Activity**" means a successful upload of documents.
- (b) "**Aggregated Statistics**" means data and information related to Customer's use of the Services that is used by Provider in an aggregated and anonymized manner, including compiling statistical and performance information related to the provision and operation of the Services.
- (c) "**Applicable Data Protection Laws**" means all laws, regulations, and other legal requirements relating to privacy, data protection, and the processing of Personal Data that are applicable to the Services provided under the Agreement, including, without limitation, CCPA/CPRA, and similar state, federal, and international laws.
- (d) "**Authorized User**" means Customer's employees, consultants, contractors, and agents (i) who are authorized by Customer to access and use the Services under the

rights granted to Customer pursuant to this Agreement and (ii) for whom access to the Services has been purchased hereunder.

(e) **"Customer Data"** means, other than Aggregated Statistics, information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or an Authorized User through the Services.

(f) **"Documentation"** means Provider's user manuals, handbooks, and guides relating to the Services provided by Provider to Customer either electronically or in hard copy form, including end user documentation relating to the Services.

(g) **"Downtime"** means the number of minutes per month in which the Services are not capable of being accessed or used by Customer. Downtime shall not include the unavailability of Services caused by i) events outside the control of Provider or ii) any planned downtime during off-peak hours, or downtime resulting from maintenance repairs and upgrades.

(h) **"Fees"** means the fees, expenses, and other amounts specified in this Agreement and applicable Order Form(s).

(i) **"Order Form"** means the online registration form completed and submitted by Customer via Provider's website, through which Customer selects the Services. The Order Form may include, without limitation, the name of the Services and fees, and any additional terms specific to Customer's registration. Each Order Form is incorporated by reference into this Agreement and forms and integral part thereof.

(j) **"Party"** shall mean either Customer or Provider. From time to time within this Agreement, Customer and Provider will be collectively referred to as the **"Parties"**.

(k) **"Personal Information"** shall have the meanings ascribed to them in the California Consumer Privacy Act of 2018 ("CCPA") as amended by the California Privacy Rights Act ("CPRA"), or other applicable data protection laws, regardless of whether the CCPA, or CPRA explicitly applies to the processing hereunder.

(l) **"Provider IP"** means the software, Services, Documentation, product roadmaps, and any and all intellectual property provided to Customer or any Authorized User in connection with the foregoing. For the avoidance of doubt, Provider IP includes Aggregated Statistics, and any information, data, or other content derived from Provider's monitoring of Customer's access to or use of the Services but does not include Customer Data.

(m) **"Services"** means the cloud-based digital platform based on Provider's proprietary software powered by artificial intelligence and provisioned as a service for the comparison of certain insurance documents.

(n) **“Service Availability”** means the total number of minutes in a calendar month (**“Total Minutes”**) minus Downtime divided by Total Minutes [Service Availability = (Total Minutes – Downtime)/Total Minutes].

(o) **“Taxes”** means any taxes, levies, duties, or similar governmental assessments, including, but not limited to, VAT, GST, sales, use or withholding taxes, assessable by any jurisdiction.

## 2. Customer Access and Use.

(a) Provision of Access. Subject to the terms and conditions of this Agreement, Provider hereby grants Customer a non-exclusive, non-transferable (except in compliance with Section 12(g)) right to access and use the Services during the Term, solely for use by Authorized Users in accordance with the terms and conditions herein. Such use is limited to Customer's internal use.

(b) Documentation License. Subject to the terms and conditions contained in this Agreement, Provider hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable [except in compliance with Section 12(g)] license to use the Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services.

(c) Use Restrictions. Customer shall not use the Services for any purposes beyond the scope of the access granted in this Agreement. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Services or Documentation, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Services or Documentation; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Services, in whole or in part; (iv) remove any proprietary notices from the Services or Documentation; or (v) use the Services or Documentation in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law.

(d) Reservation of Rights. Provider reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the Provider IP.

(e) Changes. Provider reserves the right, in its sole discretion, to make any changes to the Services that it deems necessary or useful to: (i) maintain or enhance: (A) the quality or delivery of Provider's services to its customers; (B) the competitive strength of or market for Provider's services; or (C) the Services' cost efficiency or performance; or (ii) to comply with applicable Law.

(f) Suspension. Notwithstanding anything to the contrary in this Agreement, Provider may temporarily or permanently suspend Customer's and any Authorized User's access to any portion or all of the Services if: (i) Provider reasonably determines that (A) there is a threat or attack on any of the Provider IP; (B) Customer's or any Authorized User's use of the Provider IP disrupts or poses a security risk to the Provider IP or to any other customer or vendor of Provider; (C) Customer, or any Authorized User, is using the Provider IP for fraudulent or illegal activities; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) Provider's provision of the Services to Customer or any Authorized User is prohibited by applicable law; (ii) any vendor of Provider has suspended or terminated Provider's access to or use of any third-party services or products required to enable Customer to access the Services; or (iii) in accordance with Section 5(a) [any such suspension described in subclause (i), (ii), or (iii), a "**Service Suspension**"]. Providers shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Services following any Service Suspension. Provider shall use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Provider will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur as a result of a Service Suspension.

(g) Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, Provider may monitor Customer's use of the Services and collect and compile Aggregated Statistics. As between Provider and Customer, all rights, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Provider. Customer acknowledges that Provider may compile Aggregated Statistics based on Customer Data input into the Services. Customer agrees that Provider may (i) make Aggregated Statistics publicly available in compliance with applicable law, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law; provided that such Aggregated Statistics do not identify Customer or Customer's Confidential Information.

### 3. Customer Responsibilities.

(a) General. Customer is responsible and liable for all uses of the Services and Documentation resulting from access provided by Customer, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of this Agreement if taken by Customer will be deemed a breach of this Agreement by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of this Agreement's provisions as applicable to such Authorized User's use of the Services and shall cause Authorized Users to comply with such provisions.

(b) Open-Source Software. The Services may contain or be provided with components subject to the terms and conditions of ‘open source’ software licenses (“**Open-Source Software**”). To the extent applicable, Provider will, upon Customer’s written request, identify such Open-Source Software included in the software. To the extent required by the license that accompanies Open-Source Software, the terms of such license will apply in lieu of the terms of this Agreement with respect to such Open-Source Software, including, without limitation, any provisions governing access to source code, modification, or reverse engineering.

#### 4. Service Levels and Support.

(a) Service Levels. Subject to the terms and conditions of this Agreement, Provider will use commercially reasonable efforts to adhere to Service Availability of at least ninety-nine- and one-half percent (99.5%) of the time as measured over the course of each calendar month during the Term.

(b) Support. Customer may reach customer support by email at support.pcai@patracorp.com. Customer must designate at least one person for Provider to contact when Customer’s input is required to resolve an issue. For example, if an Authorized User requests access to a spot he/she doesn’t have permission to see or requests access that is controlled via Customer’s SSO system. Alternatively, instead of designating an individual support delegate, Customer may create an email alias (such as “support@[customer].com”) for Provider to send support delegate emails.

#### 5. Fees and Payment.

##### (a) Fees and Billing.

(i) In consideration of the Services, Customer shall pay the Fees listed in the applicable Order Form. Except as otherwise set forth herein, all payment obligations are non-cancelable, and fees paid are non-refundable. Customer agrees its purchases are not contingent on any future functionality or features, or dependent on any oral or written public comments made by Provider regarding future functionality or features. If Customer breaches its payment obligations, Provider may suspend delivery of the Services after providing thirty (30) days’ notice (including by email) in the event such breach remains uncured at the end of such period.

(ii) Following the Effective Date, Provider shall invoice Customer on a monthly basis at the price per activity set forth in the Order Form for the number of activities received during the prior month.

(b) Taxes. Customer is responsible for paying all Taxes associated with its purchases hereunder. If Provider has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Provider will invoice Customer and Customer will pay that amount, unless Customer provides Provider with a valid tax exemption

certificate authorized by the appropriate taxing authority. If any withholding tax is required by applicable law to be paid by Customer in relation to payments due to Provider hereunder, Customer will provide Provider with official receipts and/or certificates from the appropriate taxing authorities to establish that any applicable taxes have been paid.

(c) Annual Increases. After the conclusion of the Initial Term (as defined below), Provider may, upon notice to Customer increase its Fees as set forth in the Order Form; provided, however, Provider may only increase its Fees once in a twelve (12) month period.

6. Confidentiality. From time to time during the Term (as defined below), either Party may disclose or make available to the other Party information about its business affairs, products, confidential intellectual property, trade secrets, third-party confidential information, and other sensitive or proprietary information, whether orally or in written, electronic, or other form or media/in written or electronic form or media, and whether or not marked, designated, or otherwise identified as "confidential" (collectively, "**Confidential Information**"). Confidential Information does not include information that, at the time of disclosure is: (a) in the public domain; (b) known to the receiving Party at the time of disclosure; (c) rightfully obtained by the receiving Party on a non-confidential basis from a third party; or (d) independently developed by the receiving Party. The receiving Party shall not disclose the disclosing Party's Confidential Information to any person or entity, except to the receiving Party's employees who have a need to know the Confidential Information for the receiving Party to exercise its rights or perform its obligations hereunder. Notwithstanding the foregoing, each Party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (ii) to establish a Party's rights under this Agreement, including to make required court filings. On the expiration or termination of the Agreement, the receiving Party shall promptly return to the disclosing Party all copies, whether in written, electronic, or other form or media, of the disclosing Party's Confidential Information, or destroy all such copies and certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-disclosure with regard to Confidential Information are effective as of the Effective Date and will expire five years from the date first disclosed to the receiving Party; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

7. Customer Data Protection, Privacy and Use

(a) Compliance with DPA: The Parties acknowledge that, to the extent Customer Data includes Personal Information, the processing thereof shall be governed by the Data Processing Addendum available at <https://pcai.patracloud.com/login> (the "**DPA**"), which is incorporated by reference into this Agreement. In the event of a conflict

between the terms of this Section 7 and the Data Processing Addendum regarding the processing of Personal Data, the Data Processing Addendum shall prevail.

(b) **Privacy Policy.** Provider's collection, use and disclosure of Personal Information through the Services shall be governed by its Privacy Policy available at <https://pcai.patracloud.com/login> ("Privacy Policy"). By accessing or using the Services, Customer acknowledges and agrees to the terms of the Privacy Policy.

(c) **Authorized Use of Customer Data:** Provider is authorized to collect, access, use and otherwise process Customer Data (i) to the extent necessary to provide, maintain and support the Services and (ii) improve the Services, including as authorized in subsection (c) below. Such processing shall be conducted in accordance with this Agreement and the DPA. All such processing shall be conducted in accordance with this Agreement, the DPA, and the Privacy Policy. Provider shall not use Customer Data for any other purpose, unless expressly permitted by Customer or required by law.

(d) **Data Usage for AI Improvement:** Customer acknowledges and agrees that Provider's ability to develop and improve its AI models and Services is fundamental to the value proposition of the Services. Customer further acknowledges and agrees that Provider, acting as a Services Provider or Processor (as defined under applicable U.S. state data privacy laws), may use data provided by Customer, including Personal Information contained in insurance documents, for the purpose of training and improving the Services subject to the following conditions:

(i) Data shall be processed solely within the Provider's secure, private cloud environment and shall be not be sold, shared, or disclosed to third Parties except as permitted under applicable law;

(ii) Use of Personal Information shall be strictly limited to the purposes authorized by Customer and shall not exceed the scope of the Services;

(iii) Customer represents and warrants that it has provided all necessary disclosures to, and obtained all necessary consents or authorizations from, consumers as required under applicable privacy laws, including but not limited to the California Consumer Privacy Act (CCPA/CPRA), Colorado Privacy Act (CPA), Virginia Consumer Data Protection Act (VCDPA), Connecticut Data Privacy Act (CTDPA), and Utah Consumer Privacy Act (UCPA);

(iv) Provider shall not re-identify any de-identified data and shall assist Customer in responding to consumer rights requests under applicable privacy laws, to the extent required.

8. **Intellectual Property Ownership; Feedback.**

(a) Provider IP. Customer acknowledges that, as between Customer and Provider, Provider owns all right, title, and interest, including all intellectual property rights, in and to the Provider IP.

(b) Customer Data. Provider acknowledges that, as between Provider and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data. Customer hereby grants to Provider a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for Provider to provide the Services to Customer, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute, modify, and otherwise use and display Customer Data incorporated within the Aggregated Statistics.

(c) Feedback. If Customer or any of its employees or contractors sends or transmits any communications or materials to Provider by mail, email, telephone, or otherwise, suggesting or recommending changes to the Provider IP, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("**Feedback**"), Provider is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. Customer hereby assigns to Provider on Customer's behalf, and on behalf of its employees, contractors and/or agents, all right, title, and interest in, and Provider is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Provider is not required to use any Feedback. For sake of clarity, all Feedback and all intellectual property developed from Feedback and any derivatives of Feedback shall be owned by Provider and shall be considered Provider IP.

9. Warranty Disclaimer. THE PROVIDER IP IS PROVIDED "AS IS" AND PROVIDER HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. PROVIDER MAKES NO WARRANTY OF ANY KIND THAT THE PROVIDER IP, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

10. Indemnification.

(a) Provider Indemnification.

(i) Provider shall indemnify, defend, and hold harmless Customer from and against any and all losses, damages, liabilities, costs (including reasonable



attorneys' fees) ("**Losses**") incurred by Customer resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the Services, or any use of the Services in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights, provided that Customer promptly notifies Provider in writing of such Third-Party Claim, cooperates with Provider, and allows Provider sole authority to control the defense and settlement of such Third-Party Claim.

(ii) If a Third Party-Claim is made or appears possible, Customer agrees to permit Provider, at Provider's sole discretion, to (A) modify or replace the Services, or component or part thereof, to make it non-infringing, or (B) obtain the right for Customer to continue use. If Provider determines that neither alternative is reasonably available, Provider may terminate this Agreement, in its entirety or with respect to the affected component or part, effective immediately on written notice to Customer.

(iii) This Section 10(a) will not apply to the extent that the alleged infringement arises from: (A) use of the Services in combination with data, software, hardware, equipment, or technology not provided by Provider or authorized by Provider in writing; (B) modifications to the Services not made by Provider; or (C) Customer Data ; or (D) third-party products.

(b) Customer Indemnification. Customer shall indemnify, hold harmless, and, at Provider's option, defend Provider from and against any Losses resulting from any Third-Party Claim that the Customer Data, or any use of the Customer Data in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights and any Third-Party Claims based on Customer's or any Authorized User's (i) negligence or willful misconduct; (ii) use of the Services in a manner not authorized by this Agreement; (iii) use of the Services in combination with data, software, hardware, equipment, or technology not provided by Provider or authorized by Provider in writing; or (iv) modifications to the Services not made by Provider, provided that Customer may not settle any Third-Party Claim against Provider unless Provider consents to such settlement, and further provided that Provider will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

(c) Sole Remedy. THIS SECTION 10 SETS FORTH CUSTOMER'S SOLE REMEDIES AND PROVIDER'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.

11. Limitations of Liability. IN NO EVENT WILL PROVIDER BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE),

STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY, OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER PROVIDER WAS ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL PROVIDER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED THE TOTAL AMOUNTS PAID TO PROVIDER UNDER THIS AGREEMENT IN THE TWELVE-MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

12. Term and Termination.

(a) Term. This Agreement shall be effective as of the Effective Date. The initial term of the Agreement shall commence immediately following the conclusion of the fourteen (14) day period following the Effective Date (the “**Trial Period**”), and shall continue in full force and effect for the twelve (12) month period thereafter (the “**Initial Term**”) unless terminated in accordance with this Agreement. Thereafter, this Agreement will automatically renew for additional twelve (12) month period (each, a “**Renewal Term**”, together with the Initial Term, the “**Term**”) unless either party provides the other written notification of its intent not to renew the Agreement at least thirty (30) days prior to the expiration of the then current Term.

(b) Termination. In addition to any other express termination right set forth in this Agreement:

(i) Provider may terminate this Agreement, A) effective on written notice to Customer, if Customer breaches any of its obligations under Section 2(c), Section 2(f) or Section 6; or B) upon ten (10) days’ notice for any reason.

(ii) either Party may terminate this Agreement, effective on written notice to the other Party, if the other Party materially breaches this Agreement, and such breach: (A) is incapable of cure; or (B) being capable of cure, remains uncured 30 (thirty) days after the non-breaching Party provides the breaching Party with written notice of such breach; or

(iii) either Party may terminate this Agreement, effective immediately upon written notice to the other Party, if the other Party: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any

domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business.

(c) Effect of Expiration or Termination. Upon expiration or earlier termination of this Agreement, Customer shall immediately discontinue use of the Provider IP and, without limiting Customer's obligations under Section 6, Customer shall delete, destroy, or return all copies of the Provider IP and certify in writing to the Provider that the Provider IP has been deleted or destroyed. No expiration or termination will affect Customer's obligation to pay all Fees that may have become due before such expiration or termination or entitle Customer to any refund.

(d) Survival. This Section 12(d) and Sections 1, 5, 6, 7, 8, 10, 11, 11, 12 and 13 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

### 13. Miscellaneous.

(a) Entire Agreement. This Agreement, together with any Order Form entered into hereunder, and all related Exhibits, constitutes the sole and entire agreement of the Parties with respect to the subject matter of this Agreement and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. In the event of any inconsistency between the statements made in the body of this Agreement, and any other documents incorporated herein by reference, the following order of precedence governs: (i) first, the Order Form; (ii) second, this Agreement, (iii) third, any other documents incorporated herein by reference. For sake of clarity this Agreement is solely for the Services described herein or in an Order Form. The Parties acknowledge that Customer may separately receive other services under a separate master services agreement with Provider.

(b) Notices. All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") must be in writing and addressed to the Parties at the addresses as designated on an Order Form (or to such other address that may be designated by the Party giving Notice from time to time in accordance with this Section). All Notices must be delivered by first class mail, nationally recognized overnight courier (with all fees pre-paid), facsimile or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in this Agreement, a Notice is effective only: (i) upon receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section.

(c) Force Majeure. In no event shall either Party be liable to the other Party, or be deemed to have breached this Agreement, for any failure or delay in performing its

obligations under this Agreement (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

(d) Amendment and Modification; Waiver. No amendment to or modification of this Agreement is effective unless it is in writing and signed by an authorized representative of each Party. No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Agreement will operate or be construed as a waiver thereof, and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

(e) Severability. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.

(f) Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal laws of the State of California without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of California. Any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder may be instituted in the federal courts of the United States or the courts of the State of California in each case located in the County of San Mateo, and each Party irrevocably submits to the jurisdiction of such courts in any such suit, action, or proceeding.

(g) Assignment. Customer may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Provider. Any purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

(h) Equitable Relief. Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 6 or, in the case of Customer, Section 2(c), could cause the other Party irreparable harm for which monetary damages may 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, 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.