



DIAMOND OPERATIONS PRO INC

TERMS OF SERVICE

These Terms of Service (the “*Terms of Service*”) apply to any access to, or use of the Diamond Operations Pro platform, as made available by Diamond Operations Pro Inc, a Florida (US) for profit business corporation (the “*Company*”). By clicking the “Accept” button or checking the appropriate box to accept these Terms of Service, or by accessing or using the Platform (as defined below), the subscribing entity (the “*Customer*”) acknowledges that it shall, and agrees to be bound by and be subject to, these Terms of Service, the date of which shall be considered the “*Effective Date*” of these [Terms of Service](#). For the avoidance of doubt, these Terms of Service are applicable to the Customer, as well as all of Customer’s Authorized Users, regardless of the type of Subscription selected, as indicated on the Order Form (each as defined below). The Company and the Customer may be referred to herein, each individually, as a “*Party*”, and collectively, as the “*Parties*”.

IF YOU DO NOT AGREE TO THESE TERMS OF SERVICE, DO NOT CLICK THE “ACCEPT” BUTTON OR CHECK ANY BOX TO ACCEPT THESE TERMS OF SERVICE. DO NOT ACCESS OR USE THE PLATFORM. YOU ACKNOWLEDGE AND AGREE THAT LOGGING IN TO, ACCESSING, OR USING ANY PORTION OF THE PLATFORM IN ANY MANNER CONSTITUTES YOUR ACCEPTANCE OF THESE TERMS OF SERVICE.

ARBITRATION NOTICE FOR SUBSCRIBERS IN THE UNITED STATES: THESE TERMS OF SERVICE CONTAIN AN ARBITRATION CLAUSE PURSUANT TO WHICH THE CUSTOMER AND THE COMPANY AGREE THAT, AT ANY RESPECTIVE PARTY’S ELECTION, ANY SUCH DISPUTE ARISING IN CONNECTION WITH THESE TERMS OF SERVICE AND THE CUSTOMER AND ITS AUTHORIZED USERS’ USE OF THE PLATFORM MAY BE SUBMITTED TO BINDING ARBITRATION.

WHEREAS, the Company provides a Platform designed to optimize workflows, reduce administrative burdens, and host project management systems and analytics reporting for home services businesses, while also offering integrated tools for scheduling, dispatching, invoicing, team management, and customer relationship management (CRM) to streamline day-to-day operations across cleaning, maintenance, and related service industries; and

WHEREAS, the Customer desires to obtain a license to use the Platform, on a subscription basis, subject to the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt, adequacy, and sufficiency of which are hereby acknowledged, the Company and the Customer agree as follows:

1. Definitions. In addition to the terms otherwise defined in this Agreement or an Order Form, the following terms have the definitions ascribed below:

“*Administrators*” means persons appointed by the Customer who have the authority to configure and manage permissions within the Platform for the Authorized Users.

“Affiliates” means an entity that directly or indirectly controls, is controlled by, or is under common control with a Party, where “control” means an ownership, voting, or similar interest representing fifty percent (50%) or more of the total interests then outstanding.

“Authorized User” means any user of the Platform, other than the Company, accessing the Platform through the Accounts established in connection with this Agreement.

“Customer Content” refers to all information, text, files, images, graphics, software, data, and other materials that the Customer and its Authorized Users upload, submit, store, transmit, or otherwise make available through the Platform and includes any content that is generated, created, or provided by the Customer while using the Services.

“Documentation” means documentation that is provided to the Customer that describes the then-current specifications, functions, and features of the Platform, in any form.

“Intellectual Property” means the property of a Party that is protected in any manner by Intellectual Property Rights.

“Intellectual Property Rights” means all industrial and other intellectual property rights comprising or relating to: (a) patents; (b) trademarks; (c) internet domain names, whether or not trademarks, registered by any authorized private registrar or governmental authority, web addresses, web pages, website and URLs; (d) works of authorship, expressions, designs and design registrations, whether or not copyrightable, including copyrights and copyrightable works, software and firmware, application programming interfaces, architecture, files, records, schematics, data, data files, and databases and other specifications and documentation; (e) trade secrets; and (f) all industrial and other intellectual property rights, and all rights, interests and protections that are associated with, equivalent or similar to, or required for the exercise of, any of the foregoing, however arising, in each case whether registered or unregistered and including all registrations and applications for, and renewals or extensions of, these rights or forms of protection under the Laws of any jurisdiction throughout in any part of the world.

“Law” means, with respect to any Person, all provisions of laws, statutes, ordinances, rules, regulations, permits, certificates, judgments, decisions, decrees, or orders of any governmental authority applicable to such Person.

“Marks” means service marks, trademarks, trade names, logos, and any modifications to the foregoing.

“Order Form” means an applicable order form, including any such applicable online personalized payment or pricing page provided by the Company through the Website or otherwise, setting forth the Subscription Fees, the Subscription, the Subscription Term, the number of Authorized Users allowed per such Subscription, which references this Agreement or may reasonably be considered to be issued under or pursuant to the terms of this Agreement.

“Person” means any individual, corporation, partnership, trust, unincorporated association, business, or other legal entity, and any government or any governmental agency, or political subdivision thereof.

“Platform” means the Diamond Operations Pro user interface, located at <https://diamondoperationspro.com>, which provides a comprehensive suite of integrated tools and services designed to optimize workflows, reduce administrative burdens, and host project management systems and analytics reporting for home services businesses, while also offering integrated tools for scheduling, dispatching, invoicing, team management, and customer relationship management (CRM) to streamline day-to-day operations across cleaning, maintenance, and related service industries;

“**Services**” means the accompanying services, features, and tools provided and/or offered to the Customer through the Platform, including, but not limited to, the Customer’s ability to build and manage business services, create and manage scheduling and job assignments, assign Authorized User roles and responsibilities, track job completion timing, facilitate payroll and invoice customers, and review reports and analytics concerning completed and pending jobs, as further set forth in this Agreement and the applicable Order Form;

“**Subscription**” means an access license to the Platform granted under this Agreement pursuant to an Order Form.

“**Third Party**” means any Person who is not the Company, the Customer, or an Authorized User.

2. Platform License. Subject to the terms and conditions of this Agreement, including any applicable Order Form, and solely during the Subscription Term set forth in the applicable Order Form, the Company grants to the Customer and its Authorized Users a worldwide, non-exclusive, non-sublicensable, non-transferable, non-assignable, limited license to access and use the Platform solely for the Customer’s and its Authorized Users’ use of the Services for the Customer’s internal business purposes. Additional limitations may be set forth in an Order Form, which such limitations will apply only in respect of such Order Form.

3. Customer Accounts.

3.1 *Account Activation.* To access and use the Platform, the Customer’s Authorized Users must create an account by completing the Company’s account registration process (each, an “**Account**”). The Customer is fully responsible for all activities performed on or through any Authorized User’s Account, other than by the Company (or resulting from a breach of the Company’s obligations under this Agreement or applicable Law), whether or not such activities are performed by an Authorized User or otherwise authorized by the Customer or an Authorized User. The Customer agrees that the each Authorized User will: (a) provide true, accurate, current, and complete information as prompted in the registration process or otherwise in respect of the Platform, (b) maintain and promptly update the any provided information to ensure the information is always true, accurate, current, and complete, (c) immediately inform the Company of any unauthorized use of its Account or any other breach of security, (d) exit from its Account at the end of each work session, and (e) otherwise comply with the terms of this Agreement. The Company undertakes no obligation to verify the information provided by any Authorized User. However, if the Company finds or suspects that the provided information is untrue, inaccurate, not current, or incomplete, the Company may notify the Customer in writing and if the Customer or an Authorized User fails to provide or correct the information, the Company may suspend or terminate such respective Account and refuse any and all current or future use of the Platform under such Account.

3.2 *Password Confidentiality.* Each Authorized User must choose a password when registering to use the Platform. The Customer will cause the Authorized Users and Administrators to maintain the confidentiality of such passwords.

4. Platform Access; Maintenance; Use of AI.

4.1 *Access.* During the Subscriptions Term, and as set forth in the Order Form, the Company will provide the Customer and its Authorized Users with remote access to the Platform.

4.2 *Permissions Configuration.* The Customer is responsible for designating certain Administrators who will have the ability to configure and manage access and permissions within the Platform, including, but not limited to, (i) creating and managing jobs and assigning Authorized Users to specific jobs, (ii) tracking job performance analytics and metrics, and (iii) assigning roles, as applicable, to Authorized Users. The Customer’s designated Administrators will have the authority, at any time, to assign, modify, and revoke permissions for Authorized Users.

4.3 Technical Requirements. The Customer is solely responsible for the operation, management, and maintenance of its hardware and related electronic equipment, systems, databases, networks, software, and internet access necessary to access and use the Platform (“**Customer Systems**”). The Company neither represents nor warrants that the Platform will be accessible through all browser releases or all versions of tablets, smartphones, or other computing devices. The Company is not responsible or liable for any delay or failure of performance caused in whole or in part by any Customer Systems (or any other technical failure of the Customer or its Authorized Users). The Customer will be responsible for supplying the Company with any technical data and other information the Company may reasonably request to enable the Company to provide the Platform to the Customer and its Authorized Users.

4.4 Suspension of Access. Any use of the Platform in violation of this Agreement or that, in the Company’s reasonable judgment, threatens the security, integrity, or availability of the Platform may result in the Company immediately suspending all (or selective, at the sole discretion of the Company) access to the Platform. The Company may further immediately suspend access to the Platform if the Company receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires such suspension.

4.5 Maintenance.

(a) The Customer acknowledges that certain maintenance activities regarding the Platform may be necessary or appropriate from time to time, including bug fixes, software updates, feature updates, and the addition of new Services. If the maintenance activities will result an unavailability or outage period in excess of one hour, the Company will use reasonable efforts to give the Customer advance notice thereof. The Company will use commercially reasonable efforts to perform routine scheduled maintenance during non-business hours.

(b) The Company has sole discretion to issue periodic updates, upgrades, new releases, adaptations, bug fixes, patches, workarounds, and other error corrections with respect to the Platform (“**Updates**”). The Customer agrees that the Company has no obligation to provide any Updates or to continue to provide or to enable any particular features or functionalities, *provided, however*, that the Company agrees not to discontinue or diminish any material features or functionality of the Platform during any applicable Subscription Term unless the Update is material to the continued proper functioning of the Platform. To the extent that the Customer has control over upgrades and updates within its own instance of the Platform or on the Customer’s own devices or applications, the Customer agrees to promptly install and make use of all Updates and acknowledge and agree that the Platform may not properly operate should the Customer fail to do so.

4.6 Beta Features. The Company may make certain Platform features available to the Customer on a test basis which will be clearly designated as beta, pilot, limited release, non-production, or by similar description (“**Beta Release**”). Notwithstanding anything to the contrary in the Agreement, the Customer acknowledges and agrees that any Beta Release is provided on an “as is” and “as available” basis without any liability and indemnity obligations, warranty, support, maintenance, or service level obligations of any kind. The Company does not guarantee that future versions of any Beta Release will be released or that if such Beta Release is made generally available, it will be substantially similar to the then-current Beta Release. The Company may terminate the Customer’s right to use any Beta Release at any time for any reason.

4.7 Third-Party Providers. The Customer acknowledges and agrees that the Company may engage Third Parties (“**Third-Party Providers**”) to assist it in providing the Platform and its Services to the Customer. If the Company engages any Third-Party Providers, the Company will be responsible for ensuring that such Third-Party Providers comply with the terms of this Agreement in their provision of goods and/or services (including any portion of the Platform and its Services) to the Customer.

4.8 Artificial Intelligence Disclaimer. The Company does not guarantee accuracy, completeness, reliability, legality, or usefulness of any outputs generated by the AI and machine learning functionalities and services integrated within the Platform.

5. Customer Obligations.

5.1 Use Restrictions. Except as permitted under this Agreement or as required by Law, the Customer will not, and will not permit or encourage anyone else, to:

- (i) License, sublicense, sell, resell, transfer, assign, distribute, or otherwise commercially exploit or make the Platform available to any Third Party in any way;
- (ii) Disassemble, decompile, reverse engineer, or otherwise attempt to derive source code or other trade secrets from the Platform, or modify, make derivative works based upon, copy, or otherwise use any ideas, features, functions, or graphics of the Platform in order to (a) build a competitive product or service or (b) build a product using similar features, functions, or graphics of the Platform;
- (iii) Modify, remove, or obstruct any proprietary rights statement or notice contained within the Platform;
- (iv) “Crawl,” “scrape,” or “spider” any data or portion of the Platform (through use of manual or automated means);
- (v) Send or store on the Platform (a) infringing, unlawful, or tortious material, including material which violates Third Party privacy rights; or (b) materials containing software viruses, worms, Trojan horses, or other harmful computer code, files, scripts, agents, or programs;
- (vi) Attempt to gain unauthorized access to the Platform or its related systems or networks;
- (vii) Access the Platform if the Customer is a direct competitor of the Company, unless the Company agrees in writing before the Customer accesses the Platform;
- (viii) Impersonate an Authorized User, share passwords, or provide false identity information to access or use the Platform;
- (ix) Remove, delete, add to, alter, or obscure any part or aspect of the Platform or any warranties, disclaimers, or other notices, or any marks, symbols, or serial numbers (including any of the Company’s Marks) that appear on or in connection with the Platform;
- (x) Challenge, or cause, induce, authorize, or assist any Person to challenge, the validity, ownership, use, or registration of any Intellectual Property Rights in and to the Platform, Documentation, and any of the Company’s Marks, or take any action in derogation of the Company’s Marks, including by using, licensing, or applying to register any mark that is identical or substantially similar to any of the Company’s Marks;
- (xi) Under or in connection with any part of this Agreement or its subject matter, perform any act that, or fail to perform any act the omission of which, infringes, misappropriates, or otherwise violates any Intellectual Property Right of the Company or other right of any

Person, or violates any applicable Law, including, but not limited to data protection and privacy Laws;

- (xii) Use the Platform in a way prohibited by applicable Law;
- (xiii) Use the Platform in a way that could materially harm the functionality or performance of the Platform;
- (xiv) Use or access the Platform in a manner that fails to comply with this Agreement, or any Documentation provided by the Company;
- (xv) Hack or break any security mechanism on the Platform, or pose a security threat to any User;
- (xvi) Use the Platform or any data obtained through the Platform in a false or misleading manner, or in any manner inconsistent with this Agreement;
- (xvii) Use the Platform in any way that may be offensive, profane, obscene, or libelous to the Company; or
- (xviii) Attempt to access the Platform by any means other than through the interface that is provided by the Company.

5.2 Customer's Compliance with Applicable Law. The Customer agrees to comply with all applicable Laws in connection with the Customer's and its Administrators' use of the Platform, including those related to data privacy. The Customer is responsible for any breach of this Agreement by its Authorized Users. The Customer agrees that it will promptly notify the Company of any violation of this Section 5.

5.3 Technical Requirements. The Customer shall be solely responsible for its, and its Authorized Users', hardware and related electronic equipment, software, and internet to be able to access and use the Platform. The Company neither represents nor warrants that the Platform will be accessible through all browser releases or all versions of tablets, smartphones, or other computing devices, except as may be expressly set forth in an applicable Order Form.

6. Customer Content

6.1 Company's Acknowledgments. The Company acknowledges and agrees that the Customer and its Authorized Users exclusively own all right, title, and interest in and to all Customer Content, in any form or medium, that is integrated within the Platform or otherwise uploaded, submitted, collected, monitored, managed, stored, or received, directly or indirectly, by/from the Customer or its Authorized Users to or through the Platform and shall be solely and exclusively responsible for all Customer Content used in conjunction with their use of the Platform. The Company has no responsibility for verifying or maintaining any Customer Content, and in no way will be liable for the accuracy, availability, correctness, timeliness or any other quality of or concerning the Customer Content. Accordingly, the Customer is solely and exclusively responsible for ensuring that (i) it has all of the rights, licenses, and privileges that are required for all Customer Content, and (ii) no portion of such Customer Content is unlawful or infringes upon the rights of any Third Party. Further, the Company shall have the right, in its sole discretion, to restrict, limit, or reject the integration, transmission, or storage of any Customer Content with, to, or via the Platform and to remove any Customer Content that has previously been integrated, transmitted, or stored with, to, or via the Platform, if the Company reasonably believes that such Customer Content or the Customer's use thereof is in violation of the terms of this Agreement or the Law.

6.2 Customer Content License. During any applicable Subscription Term, the Customer grants to the Company a worldwide, non-exclusive, non-sublicensable, non-transferable, non-assignable, royalty-free license to access and use Customer Content, solely to provide and monitor the Platform and the Platform's various Services and functionalities for the Customer.

6.3 No Sensitive Data. No Sensitive Data. The Customer shall not integrate, upload, transmit, store, disclose, or make available through the Platform any Sensitive Data, and the Company will have no liability whatsoever for such Sensitive Data erroneously transmitted through the Platform. For the purposes of this Agreement, "**Sensitive Data**" means any Personal Data or end-user data that requires a heightened degree of protection by applicable Law. Sensitive Data includes, but is not limited to, social security numbers or other government-issued identification numbers, financial account numbers, credit card or debit card numbers, CVVs, credit report information or other personal financial information, health or medical information, or other information that is subject to heightened standards for data protection or privacy. For the purposes of this Agreement, "**Personal Data**" means all information relating to a person that identifies such person or could reasonably be used to identify such person. This includes any information that is deemed "personal information" or "personal data" as defined by applicable data protection Laws.

6.4 Customer Usage Data. The Customer acknowledges and agrees that the Company may, directly or indirectly, collect and store information and data in connection with the Customer's and its Authorized Users' use of the Platform and about equipment on which the Platform is accessed and used ("**Customer Usage Data**"). The Company may collect such information and data through means including, but not limited to, the Customer's access and use of the Platform. The Company may compile, use, reproduce, and disclose Customer Usage Data derived from or related to the use of the Services for product or service improvement, industry analysis, benchmarking, analytics, and other purposes consistent with its privacy policy, located at <https://diamondoperationspro.com/terms-of-service-diamond-operations-pro/>, as updated from time to time by the Company (the "**Privacy Policy**"), provided that such Customer Usage Data is aggregated, anonymized, de-identified, or is otherwise not reasonably associated or linked to the Customer (or any Authorized User or other identifiable individual person or entity). The Company retains all rights, title, and interest in and to such Customer Usage Data and the right to use Company Usage Data will survive termination of this Agreement.

6.5 Third Party Use. The Company may access, use, and provide Third Parties with access and use to the Customer Usage Data for the following enumerated purposes: (i) making the Platform functional and usable for the Customer and its Authorized Users; (ii) improving the performance of the Platform; (iii) developing Updates, new versions, and new Platform offerings; and/or (iv) verifying the Customer's and its Authorized Users' compliance with the terms of this Agreement and enforcing the Company's rights, including all Intellectual Property Rights in and to the Platform.

6.6 Privacy. To the extent that the Customer or its Authorized Users provide Personal Data, the Company's collection, use, retention, and disclosure of such Personal Data will be governed by the Company's Privacy Policy.

7. Intellectual Property.

7.1 Ownership. Except for the limited right to access and use the Platform under this Agreement, the Customer acknowledges and agrees that the Company, or its licensors, as the case may be, have and will retain any and all rights, title, and interest in and to the Platform and the Services, including, but not limited to, the features provided/available within the Platform, the Platform's underlying software and code, as well as all derivative works made by any Person based upon any of the foregoing, including all associated Intellectual Property Rights. Any Updates and customizations and other modifications of the Platform (and all Intellectual Property Rights associated with the foregoing), regardless of the Person so Updating, customizing, or modifying the Platform, will be owned exclusively by the Company.

7.2 Feedback. If the Customer provides the Company with any feedback or suggestions about the Platform or otherwise (the “**Feedback**”), the Company may use the Feedback without obligation to the Customer, and the Customer irrevocably assigns to the Company all right, title, and interest in and to the Feedback.

7.3 No Transfer. Except as expressly set forth herein, this Agreement does not transfer to either Party (or any other Person) any rights of ownership in, or related to, any Intellectual Property Rights.

8. Payment of Subscription Fees.

8.1 Subscription Fees.

(a) All amounts due by the Customer under this Agreement for the use of the Platform shall be payable on the terms set forth on such corresponding Order Form (the “**Subscription Fees**”).

(b) The Company will invoice the Customer for the Subscription Fees that correspond to the Customer’s Subscription to the Platform as set forth in such corresponding Order Form. All Subscription Fees are payable in U.S. dollars unless otherwise set forth in the applicable Order Form.

(c) The timing for the Customer’s payment of the Subscription Fees will be set forth in the corresponding Order Form.

8.2 Payment. The Customer agrees to pay all Subscription Fees no later than the due date described in the corresponding Order Form, or if no due date is described, within thirty (30) days of invoice therefore by the Company. All Subscription Fees paid by the Customer under this Agreement, including any prepayments, if applicable, are final and are non-refundable for any reason, even in the event of early termination or cancellation of a Subscription, except as expressly set forth elsewhere in this Agreement or an applicable Order Form.

8.3 Price Changes. The Company may, in its sole discretion, amend its Subscription Fees and pricing structure for payment of Subscription Fees in connection with the Platform and the Subscriptions. All changes in Subscription Fees shall be communicated by the Company to the Customer no less than thirty (30) days prior to the effective date of such change. Notwithstanding anything to the contrary herein, and except as provided for in an applicable Order form, for each Subscription, changes to Subscription Fees due will take effect only upon the renewal of a Subscription Term of that Subscription.

8.4 Late Payment. The Customer’s late payments of Subscription Fees will accrue interest in the amount of one and one-half percent (1.5%) per month, or the maximum interest allowed under applicable Law, on all balances not paid when due on account of all invoices which are not reasonably in dispute. The Customer shall reimburse the Company for all costs incurred by the Company in collecting any late payments or interest, including attorneys’ fees in an amount not to exceed fifteen percent (15.0%) of the outstanding amount owed, court costs, and collection agency fees. The Company may, at its option, upon notice and a reasonable opportunity to cure, suspend the Customer’s access to the Platform or the Subscriptions, in whole or in part, if the Company does not receive all amounts which are due and owing, and not reasonably in dispute, under the Agreement when due; *provided that* it shall restore normal access promptly upon the clearance of any such disputed amounts.

8.5 Taxes. The Subscription Fees do not include any taxes, levies, duties, or similar governmental assessments of any nature, including, for example, value-added, sales, use, or withholding taxes, assessable by any jurisdiction whatsoever (collectively, the “**Taxes**”). The Customer is responsible for paying all Taxes associated with its purchases under this Agreement and any Order Form. If the Company has the legal obligation to pay or collect Taxes for which the Customer is responsible under this Section 8, including for Subscription Fees previously

invoiced, the Company will invoice the Customer, and the Customer shall pay that amount (unless the Customer provides the Company with a valid tax exemption certificate authorized by the appropriate taxing authority).

9. Term and Termination.

9.1 Agreement Term. This Agreement will commence on its Effective Date and will remain in full force and effect for so long as any individual Order Form or Subscription remains in effect and for a period of ninety (90) days thereafter.

9.2 Subscription Term. Each Subscription shall commence on the Subscription Start Date set forth in the corresponding Order Form and shall continue in effect for the period of time prescribed in the Order Form (the “**Subscription Term**”). Upon the expiration of the Subscription Term, the Subscription shall automatically renew for a subsequent equal Subscription Term, unless either Party provides the other notice of non-renewal at least sixty (60) days prior to the end of the then current Subscription Term.

9.3 Termination. Without prejudice to any other remedies and in addition to any other termination rights herein or therein, the Parties shall have the right to terminate this Agreement or any Subscription, by providing written notice, as provided below:

(a) By either Party, if the other Party commits a material breach of this Agreement and such breach (i) is incapable of cure, or (ii) is capable of cure but remains uncured thirty (30) days after written notice of such breach is delivered to such other Party;

(b) By either Party, if the other Party makes an assignment for the benefit of creditors, or commences or has commenced against it any proceeding in bankruptcy, insolvency, or reorganization pursuant to bankruptcy laws, laws of debtor’s moratorium, or similar Laws;

(c) By the Company, if the Company reasonably determines that further provision of the Platform would be (or would present a substantial risk) in contravention of any applicable Law; or

(d) With respect to this Agreement, upon termination or non-renewal of all Subscriptions and active Order Forms.

9.4 Post Termination Obligations. Upon expiration or termination of this Agreement or any Subscription for any reason, the Company may immediately terminate the Customer’s access to the Platform under this Agreement or such Subscription(s), as applicable, and the Customer shall immediately cease all use of and access to the Platform and Services, and to the extent the Company possesses Customer Content, the Company will make any Customer Content available for the Customer to access for a period of thirty (30) days after expiration or termination. After such 30-day period, the Company will have no obligation to maintain or provide any Customer Content and may thereafter delete all Customer Content in its systems or otherwise in its possession or under its control. Notwithstanding the foregoing, the Company may retain Customer Content (a) contained in electronic archives and backups made in the ordinary course of business, (b) that the Company is required by Law to maintain; or (c) that the Company reasonably determines necessary to demonstrate to the other Party or any regulatory authority of the Company’s compliance with this Agreement, the Privacy Policy, or any applicable Law or regulation; provided that all such Customer Content retained will remain subject to the protections set forth herein for so long as it remains in the Company’s possession or control. The Customer shall pay all applicable Subscription Fees then due or payable or otherwise related to Services rendered prior to expiration or termination; *provided, however*, that where the Customer terminates this Agreement pursuant to Section 9.3(a), the Company shall provide the Customer a pro-rata refund of any prepaid Subscription Fees.

9.5 Survival. Expiration or termination of this Agreement or any Subscription will not affect the provisions that, by their nature, are intended to survive the termination hereof, including without limitation, provisions: (a) regarding the protection of Confidential Information; (b) regarding each Party's Intellectual Property Rights; (c) relating to the payments of Subscription Fees; (d) regarding indemnification; and (e) limiting or disclaiming a Party's liability, all of which shall expressly survive such expiration or termination.

10. Confidentiality.

10.1 Confidential Information. Each Party (the "**Recipient**") acknowledges that the other Party (the "**Discloser**") has business, technical, or financial information relating to the Discloser's business which it has disclosed or may disclose in connection with this Agreement that is either marked as confidential or proprietary or that, given the nature of the information or the circumstances of the disclosure, reasonably ought to be considered to be confidential ("**Confidential Information**"), which includes the terms and conditions of this Agreement. The Company's Confidential Information includes non-public information regarding features, functionality, pricing, and performance of the Platform and the Services, as well as all non-public User-visible aspects of the Platform.

10.2 Non-Use. The Recipient will take at least those measures that it takes to protect its own Confidential Information, but never less than a standard of reasonable care. The Recipient agrees: (i) not to use any Confidential Information of the Discloser for any purpose except to perform its obligations or to exercise its rights under this Agreement and (ii) not to disclose any Confidential Information of Recipient to Third Parties, except to the Recipient's own employees, officers, agents, contractors, or other representatives ("**Personnel**") who have a legitimate need to know such Confidential Information in order to perform work in connection with this Agreement and who are subject to written confidentiality obligations as least as protective as those of this Agreement.

10.3 Exceptions. The Discloser agrees that these confidentiality obligations and restrictions on use will not apply to any information that the Recipient can document: (a) is or becomes generally available to the public through no action or inaction of the Recipient; (b) was in its possession or known by it prior to receipt from the Discloser; (c) was rightfully disclosed to it without restriction by a Third Party; or (d) was independently developed without use of or reference to any Confidential Information of the Discloser. Nothing in this Section 10 precludes either Party from disclosing the other Party's Confidential Information as required by Law or a legal process, provided that the Recipient: (i) gives the Discloser prior written notice sufficient to permit the Discloser to contest the disclosure or seek a protective order (or other confidential treatment); and (ii) reasonably cooperates with the Discloser (at the Discloser's expense) in limiting the disclosure. In addition, a Party may disclose information concerning this Agreement and the transactions contemplated under this Agreement, including providing a copy of this Agreement, to potential acquirers, merger partners, investors, and their personnel, attorneys, auditors, and investment bankers (solely in connection with the due diligence review of such Party and provided that the recipients of the disclosures are subject to confidentiality obligations as least as protective as those in this Agreement).

10.4 Return of Confidential Information. Promptly following the earlier of (i) the expiration or termination of this Agreement or (ii) the request of the Discloser, the Recipient will return to the Discloser, or, at the Discloser's option, destroy all Confidential Information of the Discloser that is in written, electronic, or in other tangible form, including, without limitation, all copies, extractions, and derivatives of such Confidential Information. In addition, upon the request of the Discloser, the Recipient will certify to the Discloser in writing the Recipient's and its Personnel's compliance with its obligations pursuant to this Section 10.4.

10.5 Redundancy. Notwithstanding the foregoing, the Recipient may retain Confidential Information (a) contained in electronic archives and backups made in the ordinary course of business, (b) that such Party is required by Law to maintain; or (c) that such Party reasonably determines necessary to demonstrate to the other Party or any regulatory authority the Recipient's compliance with this Agreement or any applicable Law; provided that all such Confidential Information retained will remain subject to the protections set forth herein for so long as

it remains in the Recipient's possession or control. At such time as a Party's basis for retaining such information ceases to exist, such party shall return or destroy such information as set forth above.

10.6 Equitable Remedies. The Parties acknowledge that disclosure or use of the other Party's Confidential Information in violation of the Agreement may cause irreparable harm to the Disclosing Party for which monetary damages may be an inadequate remedy and difficult to ascertain. Each Party agrees that the Disclosing Party will have the right to seek injunctive or other equitable relief for any violation of this Section 10 by the Receiving Party (without the need to pay any bond), in addition to any other rights and remedies that the Disclosing Party may have at Law.

11. Representations & Warranties; Disclaimers.

11.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party that:

- (a) it is duly organized, validly existing, and in good standing under the Law of the jurisdiction of its incorporation or other organization or formation;
- (b) it has the full right, power, and authority to enter into and perform its obligations and grant the rights, licenses, consents, and authorizations it grants or is required to grant under this Agreement;
- (c) the execution of this Agreement by its representative whose signature is set forth on the Signature Page attached hereto has been duly authorized by all necessary corporate or organizational action of such Party; and
- (d) when executed and delivered by both Parties, this Agreement will constitute the legal, valid, and binding obligation of such Party, enforceable against such Party in accordance with its terms.

11.2 Company Representations and Warranties. The Company represents and warrants that: (a) it has all rights, licenses, consents, and authorizations necessary to grant the rights and licenses granted in this Agreement; and (b) the Platform will perform substantially in conformity with its Documentation under normal use and circumstances in compliance with the terms of this Agreement. The sole remedy for non-compliance with the warranty at subsection (b) of the prior sentence shall be the right to terminate this Agreement in accordance with Section 9.3(a).

11.3 Customer Representations and Warranties. The Customer represents and warrants that: (a) the Customer owns or has a license to use and has obtained all consents and approvals necessary for the provision and use of all Customer Content that is uploaded, submitted, collected, monitored, managed, or received on, to, or via the Platform; and (b) the provision and use of Customer Content as contemplated by this Agreement does not and will not violate any privacy policy, terms of use, or other agreement to which the Customer is a party or any Law to which the Customer is subject.

11.4 No Other Warranties. EXCEPT AS EXPRESSED IN THIS AGREEMENT, NEITHER THE COMPANY, ITS AFFILIATES, LICENSORS, OR SUPPLIERS, NOR ITS OR THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, OFFICERS, DIRECTORS, MANAGERS, AGENTS, OR REPRESENTATIVES MAKE ANY EXPRESS OR IMPLIED WARRANTIES, CONDITIONS, OR REPRESENTATIONS TO THE CUSTOMER, OR ANY OTHER PERSON OR ENTITY, WITH RESPECT TO THE PLATFORM, SERVICES, OR OTHERWISE REGARDING THE AGREEMENT, WHETHER ORAL OR WRITTEN, EXPRESS, IMPLIED, OR STATUTORY, AND, EXCEPT AS EXPRESSLY SET FORTH IN THIS

AGREEMENT, THE PLATFORM AND SERVICES ARE PROVIDED TO THE CUSTOMER ON AN “AS IS” AND “AS AVAILABLE” BASIS.

11.5 Disclaimer of Warranties. Disclaimer of Warranties. WITHOUT LIMITING THE FOREGOING, ANY IMPLIED WARRANTY OR CONDITION OF MERCHANTABILITY, THE IMPLIED WARRANTY OR CONDITION OF FITNESS FOR A PARTICULAR PURPOSE, AND THOSE ARISING FROM A COURSE OF DEALING OR USAGE OF TRADE ARE EXPRESSLY EXCLUDED AND DISCLAIMED. NO WARRANTY IS MADE THAT USE OF THE PLATFORM OR THE SERVICES WILL BE TIMELY, ERROR FREE, OR UNINTERRUPTED, THAT ANY NON-MATERIAL ERRORS OR DEFECTS IN THE PLATFORM OR THE SERVICES WILL BE CORRECTED, THAT THE SYSTEM AND SOFTWARE THAT MAKES THE PLATFORM AND THE SERVICES AVAILABLE WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS, OR THAT THE PLATFORM WILL OPERATE IN COMBINATION WITH HARDWARE, SOFTWARE, SYSTEMS, APPLICATIONS, OR DATA NOT PROVIDED OR RECOMMENDED BY THE COMPANY, THAT THE OPERATION OF THE PLATFORM WILL BE SECURE, OR THAT THE PLATFORM’S FUNCTIONALITY, OR PAYMENT PROCESSING, ANALYTICS, OR TOOLS, OR OTHERWISE ANY PRODUCTS, FEATURES, OR SERVICES AVAILABLE WITHIN THE PLATFORM GENERALLY UTILIZED BY THE CUSTOMER WILL MEET THE CUSTOMER’S OR ITS AUTHORIZED USERS’ REQUIREMENTS OR EXPECTATIONS OR PRODUCE THE DESIRED RESULTS. THE CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE PLATFORM IS SUFFICIENT FOR THE CUSTOMER’S AND ITS AUTHORIZED USERS’ PURPOSES.

12. Indemnification.

12.1 *Company Indemnification of Customer.*

(a) The Company will defend, indemnify, and hold harmless the Customer and its respective directors, officers, managers, shareholders, members, employees, representatives, and agents (collectively, the “**Customer Indemnified Parties**”) from and against all losses, damages, suits, fees, judgments, compromises, settlements, costs, and expenses (“**Losses**”) arising from any Third Party claim (collectively, “**Third Party Claims**”) to the extent such Losses directly arise from an allegation (i) that the Platform or the Customer’s use thereof in compliance with the terms of this Agreement infringes or violates any Third Party Intellectual Property Rights, or (ii) of the willful misconduct or fraud of the Company.

(b) The indemnity pursuant to Section 12.1(a)(i), however, is specifically exclusive of any Losses to the extent they arise or result, directly or indirectly, from the Customer’s unauthorized use or alteration of the Platform or use of the Services or Platform in combination with any other services or products not provided by the Company where such Losses would not have occurred but for such combination.

(c) In order to resolve any Third Party Claim described under Section 12.1(a)(i), the Company may, but is not obligated to, (i) modify or replace the Platform to make it non-infringing; (ii) procure any rights necessary to provide the applicable Subscription; or (iii) replace the Platform with work product that is materially equal in capabilities, capacity, performance, and ease of use but is non-infringing. If none of the foregoing remedies is available to the Company on commercially reasonable terms, the Company may terminate this Agreement, and the Company will provide the Customer a pro-rata refund of any prepaid Subscription Fees.

(d) THIS SECTION 12.1 STATES THE CUSTOMER’S SOLE AND EXCLUSIVE REMEDY, AND THE COMPANY’S SOLE AND EXCLUSIVE LIABILITY, REGARDING INFRINGEMENT OR MISAPPROPRIATION OF ANY INTELLECTUAL PROPERTY RIGHTS OF A THIRD PARTY.

12.2 *Customer Indemnification of Company.* The Customer will defend, indemnify, and hold harmless the Company and its respective directors, officers, managers, shareholders, members, employees, licensors,

representatives, and agents (the “**Company Indemnified Parties**”) from and against all Losses arising from any Third Party Claim to the extent such Losses directly arise from an allegation (i) of willful misconduct or fraud of the Customer or its Authorized Users; or (ii) a breach or violation by the Customer of Sections 5, 6, 10, and 11.3 this Agreement.

12.3 Procedure for Handling Indemnification Claims. As a condition to a Party’s obligations under Sections 12.1 or 12.2, the Party being indemnified (the “**Indemnified Party**”) will provide the Party providing the indemnification (the “**Indemnifying Party**”) with: (a) prompt written notice of the Third Party Claim (provided that the failure to provide such notice will not relieve a Party of its obligations unless such failure prejudices its ability to defend the Third Party Claim); (b) sole control of the defense and settlement of the Third Party Claim (except that the Indemnified Party’s prior written approval will be required for any settlement that requires any action, inaction, or admission by the Indemnified Party, requires the payment of any amount that will not be fully satisfied by the Indemnifying Party or does not include a complete release of claims against the Indemnified Party, such approval not to be unreasonably withheld, conditioned, or delayed); and (c) cooperation as reasonably requested by the Indemnifying Party at the Indemnifying Party’s expense in connection with the defense of the Third Party Claim. The Indemnified Party may participate in any indemnified matter with counsel of its choosing at its own expense. The Indemnified Party’s failure to comply with the provisions of this Section 12.3 will not limit the Indemnifying Party’s obligations under this Section 12 except to the extent the Indemnifying Party is actually prejudiced thereby.

13. Limitation of Liability.

13.1 Exclusions of Liability. IN NO EVENT SHALL COMPANY, ITS AFFILIATES, LICENSORS OR SUPPLIERS, OR ANY OF THEIR DIRECTORS, OFFICERS, MANAGERS, SHAREHOLDERS, MEMBERS, EMPLOYEES, AGENTS, OR REPRESENTATIVES BE LIABLE TO THE OTHER PARTY, OR ANY OTHER PERSON OR ENTITY, FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES OR LOSS OF GOODWILL UNDER OR IN ANY WAY RELATING TO THIS AGREEMENT OR RESULTING FROM THE USE OF OR INABILITY TO USE THE PLATFORM AND ITS SERVICES OR THE PERFORMANCE OR NON-PERFORMANCE OF THE PLATFORM AND ITS SERVICES, INCLUDING THE FAILURE OF ESSENTIAL PURPOSE, EVEN IF SUCH PARTY HAS BEEN NOTIFIED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES OCCURRING, AND WHETHER SUCH LIABILITY IS BASED ON ANY LEGAL OR EQUITABLE THEORY, INCLUDING, BUT NOT LIMITED TO, CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY, PRODUCTS LIABILITY, OR OTHERWISE.

13.2 Maximum Liability. THE MAXIMUM AGGREGATE LIABILITY OF THE COMPANY FOR ALL CLAIMS UNDER, IN CONNECTION WITH, OR ARISING OUT OF THIS AGREEMENT (WHETHER IN CONTRACT, TORT, OR OTHERWISE, INCLUDING NEGLIGENCE) WILL NOT EXCEED THE GREATER OF ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) OR THE SUBSCRIPTION FEES DUE OR PAYABLE IN THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE EVENT GIVING RISE TO THE CLAIM.

13.3 Exclusions. THE FOREGOING LIMITATIONS WILL NOT APPLY TO THE COMPANY’S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT OR WILLFUL MISCONDUCT OR FRAUD.

14. Miscellaneous.

14.1 Entire Agreement. This Agreement, along with any Order Forms which reference this Agreement or may reasonably be considered to be issued under or pursuant to the terms of this Agreement, constitute the entire Agreement of the Parties with respect to the subject matter hereof and supersedes any and all existing agreements relating to the subject matter hereof. To the extent there is any conflict among the terms of this Agreement and an

applicable Order Form, such conflict will be governed in the following order: (a) the terms of the Order Form; and then, (b) this Agreement.

14.2 Publicity. The Customer expressly grants the Company the right to identify the Customer as its customer on the Company's website and in its advertising and promotional materials. In connection with the foregoing, the Customer grants the Company, during the Subscription Term, a non-exclusive, non-transferrable, limited right and license to use Customer's name and logo.

14.3 Assignment. Neither Party may assign its rights and obligations under the Agreement without the prior written consent of the non-assigning Party, which, in the case of any proposed assignment to affiliates or successors in interest, shall not be unreasonably withheld, conditioned, or delayed. *Notwithstanding the foregoing*, the Company may assign this Agreement to any Third Party acquiring all or substantially all of the Company's equity or assets pursuant to a merger, sale, reorganization, or consolidation with that Third Party without the Customer's consent. The Company may further delegate its obligations, in whole or in part, to any of its Affiliates without the Customer's consent. The Agreement shall be binding upon and inure to the benefit of the Parties and their successors and permitted assigns. Any assignment in violation of this Section 14.3 shall be void and of no effect.

14.4 Notices. Except as specifically set forth in this Agreement or an applicable Order Form, all notices, demands, or consents required or permitted under this Agreement will be in writing. Notice will be considered delivered and effective when (a) personally delivered; (b) one (1) day after posting when sent by a reputable private overnight carrier; (c) five (5) days after posting when sent by certified United States mail; or (d) one (1) day after sending via email; provided that any notice sent via email must be followed by a written notice in accordance with one of the other methods of notification. All notices must be sent to the respective addresses set forth on the signature page to this Agreement, as each may be amended by the Parties by written notice to the other Party in accordance with this Section 14.4.

14.5 Relationship. The relationship between the Parties created by this Agreement is that of independent contractors and not partners, joint venturers, or agents. Except as expressly agreed by the Parties, neither Party will be deemed to be an employee, agent, partner, or legal representative of the other for any purpose and neither will have any right, power, or authority to create any obligation or responsibility on behalf of the other.

14.6 No Exclusivity. Nothing in this Agreement shall restrict the Company's right to contract with any Third Party who provides products and/or services similar to or identical to the Customer.

14.7 Modification. No amendment to or modification of this Agreement is effective unless it is in writing, identified as an amendment to or modification of this Agreement, and signed by an authorized representative of each Party. Notwithstanding the foregoing, the Company reserves the right, in its sole discretion, to make any changes to the Platform that it deems necessary or useful to: (i) maintain or enhance the quality or delivery of the Platform and its Services, (ii) the competitive strength of or market for the Platform, (iii) the Platform's cost efficiency or performance; or (iv) comply with applicable Law; *provided* that no such changes have the effect of materially degrading the functionality of the Platform.

14.8 Waiver. No waiver by any Party of any provision hereof is effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in this Agreement, 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; nor will any single or partial exercise of any right, remedy, power, or privilege hereunder preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.

14.9 Force Majeure. Neither Party will be liable for any failure or delay in the performance of any of their respective obligations (other than confidentiality obligations and payment obligations) if prevented from doing so by a cause or causes beyond its reasonable control (a “**Force Majeure Event**”). Without limiting the generality of the foregoing, Force Majeure Events include fires, floods, terrorism, strikes, blackouts, war, pandemics, restraints of government, utility or communications failures or interruptions, failures of Third-Party Providers, Internet slow-downs or failures, computer hackers or other causes that are beyond a Party’s reasonable control.

14.10 Severability. The illegality, invalidity, or unenforceability of any provision of this Agreement will not in any manner affect or render illegal, invalid, or unenforceable any other provision of this Agreement, and that provision, and this Agreement generally, will be reformed, construed, and enforced so as to most nearly give lawful effect to the intent of the Parties as expressed in this Agreement.

14.11 Interpretation. For purposes of this Agreement: (a) the words “include”, “includes”, and “including” are deemed to be followed by the words “without limitation”; (b) the word “or” is not exclusive; (c) the words “herein”, “hereof”, “hereby”, “hereto”, and “hereunder” refer to this Agreement as a whole; (d) words denoting the singular have a comparable meaning when used in the plural, and *vice-versa*; and (e) words denoting any gender include all genders. Unless the context otherwise requires, references in this Agreement: (i) to sections, exhibits, attachments, and appendices mean the sections of, and exhibits, attachments, and appendices attached to, this Agreement; (ii) to an agreement, instrument or other document means such agreement, instrument, or other document as amended, supplemented, and modified from time to time to the extent permitted by the provisions thereof; and (iii) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. The Parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the Party drafting an instrument or causing any instrument to be drafted. The exhibits, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein. The headings in this Agreement are for reference only and do not affect the interpretation of this Agreement.

14.12 Governing Law; Submission to Jurisdiction. This Agreement is governed by and construed in accordance with the internal Law of the State of Florida (US) without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the Law of any jurisdiction other than those of the State of Florida (US).

14.13 Disputes; Arbitration. Any dispute, controversy, or claim arising out of or in connection with, or relating to, this Agreement or any breach or alleged breach hereof, upon the request of any Party involved, shall be submitted to and settled by arbitration pursuant to the Commercial Arbitration Rules (the “**Rules**”) of the American Arbitration Association (“**AAA**”) by an Arbitrator appointed in accordance with the Rules. The place of arbitration shall be Atlanta, Georgia, or as agreed upon by the Parties, and judgment on the award rendered by the Arbitrator may be entered in any court with jurisdiction. The arbitration shall be conducted in the English language. The arbitration shall be conducted by one (1) neutral and impartial arbitrator (the “**Arbitrator**”). The Parties shall mutually agree on and appoint a neutral and impartial Arbitrator. The Arbitrator shall have the sole power to rule on matters of jurisdiction, arbitrability, timeliness of claims, issue preclusion, and to grant permanent equitable relief. Notwithstanding the foregoing, to the extent that it is necessary to prevent irreparable harm that may be caused to a Party by the breach of this Agreement, that Party will be entitled to equitable relief (including an injunction or preservation of evidence) in any court of law having proper jurisdiction, in addition to all other available remedies. The Parties agree that the prevailing Party in any arbitration action hereunder shall be entitled to receive, in addition to all other damages and awards, the costs incurred by such Party in conducting the arbitration, including reasonable attorneys’ fees and expenses, and arbitration costs. In addition to and not in limitation of the foregoing mandatory arbitration requirements, to the extent that it is necessary to prevent irreparable harm that may be caused to a Party by the breach of this Agreement, that Party will be entitled to equitable relief – including an injunction or preservation of evidence – in any court of law having proper jurisdiction, in addition to all other available remedies.

[End of Terms of Service]