

CONNEX™ MARKETPLACE TERMS AND CONDITIONS

These Terms and Conditions (the “**Terms and Conditions**”) form a binding legal contract between i5 Services, LLC, a Utah limited liability company (“**Provider**”), and the Users (defined below) (Provider and the Users, each, a “**Party**” and, collectively, the “**Parties**”).

1. DEFINITIONS. As used herein:

“**Agreement**” means the agreement between the Parties, including (i) these Terms and Conditions, (ii) the Order Form signed by a Customer and the Provider that references this document, (iii) the Statements of Work (if any) entered into by such Customer and the Provider for the provision of Professional Services hereunder; and (iv) the Privacy Policy. Each User affirmatively accepts and agrees to these Terms and Conditions and the Privacy Policy upon submission of the Order Form or registration form, as more fully described in Section 2, and thereafter reaffirms such acceptance each time it accesses the SaaS. The term “**Agreement**” with respect to any particular Authorized Customer Entity or Authorized User specifically refers to the Order Form and, if applicable, any Statements of Work executed by the Customer with which such Authorized Customer Entity or Authorized User is affiliated; accordingly, any usage restrictions or limitations specified in the Agreement between such Customer and the Provider shall apply equally to such Authorized Customer Entity or such Authorized User.

“**Applicable Laws**” means all legislation, statutes, regulations, ordinances, rules, judgments, orders, decrees, rulings, and other requirements enacted, promulgated, or imposed by any governmental authority or judicial or regulatory body (including any self-regulatory body) at any level (e.g., municipal, county, provincial, state or national) that are applicable to or enforceable against a Party or its personnel in relation to their activities under or pursuant to the Agreement.

“**Authorized Customer Entities**” means specific Customer-affiliated entities named in an Order Form who are authorized to access and use the Service during the Subscription Term under Customer’s subscription.

“**Authorized User(s)**” means authorized end users of Customer and Authorized Customer Entities who have completed Provider’s online account creation and registration process or who otherwise receive a user ID or other access credentials from Customer or Authorized Customer Entities authorizing them to access and use the SaaS.

“**Authorized Purpose(s)**” means the purposes for which the SaaS, the Services, and the associated Content are permitted to be used; in particular, enhanced collaboration and sourcing among U.S. based manufacturers and related providers through an online platform and directory, facilitating a range of business processes in service to the U.S. manufacturing industry.

“**Content**” means any data, media, information and/or other type or form of content displayed, distributed or otherwise made available to a Party through or in connection with the SaaS or other Services, including User Content and Provider Content.

“**Customer**” means the individual or entity executing an Order Form that references this document.

“**Data Privacy and Security Laws**” means all applicable federal, state, regional, territorial and local laws, statutes, ordinances, regulations, rules, executive orders, of or by any United States federal or state government entity, or any authority, department or agency thereof governing the privacy, data protection and security of Personally Identifiable Information and security breach notification relating to Personally Identifiable Information, and any other laws in force in any jurisdiction (regulatory or otherwise) in which the SaaS is being utilized, including Title V of the Gramm-Leach-Bliley Act of 1999 (Public Law 106-102, 113 Stat. 1338), as may be amended from time to time, and its implementing regulations, and the “Interagency Guidelines Establishing Standards for Safeguarding Customer Information” (Exhibit B to 12 CFR Part 364).

“**Eligibility Criteria**” means the minimum requirements that must be satisfied by a User in order to receive authorization to use the SaaS, described in Section 2.

“**Fees**” means, collectively, the Subscription Fees and the Professional Services Fees.

“**Including**” (and its derivative forms, whether or not capitalized) means including without limitation.

“Intellectual Property Rights” means the legal rights held by the owner of a copyright, patent, trademark, or trade secret, including (i) the rights to copy, publicly perform, publicly display, distribute, adapt, translate, modify and create derivative works of copyrighted subject matter; (ii) the rights to exclude others from using, making, having made, selling, offering to sell, and importing patented subject matter and to practice patented methods, (iii) the rights to use and display any marks in association with businesses, products or services as an indication of ownership, origin, affiliation, or sponsorship; and (iv) the rights to apply for any of the foregoing rights, and all rights in those applications. Intellectual Property Rights also include any and all rights associated with particular information that are granted by law and that give the owner, independent of contract, exclusive authority to control use or disclosure of the information, including privacy rights and any rights in databases recognized by applicable law.

“Losses” means, in connection with a Claim that is subject to defense and indemnification under this Agreement, all reasonable attorneys’ fees, reasonable costs of investigation, discovery, litigation and settlement, and any resulting liabilities, damages, settlements, judgments and awards, including associated taxes, interest and penalties.

“Order Form” means an order form executed by a Customer and the Provider, setting forth the necessary information relating to the SaaS and/or other Services to be provided to the Customer, and the fees payable to Provider by Customer with respect thereto.

“Privacy Policy” means the Privacy Policy available on Provider’s Web Site. The Privacy Policy may be updated from time to time by the Provider in its discretion.

“Professional Services” means any professional services performed or contracted to be performed by Provider pursuant to a Statement of Work entered into by a Customer and the Provider under the Agreement.

“Professional Services Fees” means the fees payable by a Customer to the Provider for the Professional Services, as set forth in the relevant Statement of Work, which shall be payable in accordance with the payment terms set forth in Statement of Work.

“Provider Confidential Information” means the SaaS, the Services and the Provider Content; such software, services and related tools necessary or incidental to the performance thereof are proprietary to Provider (and its licensors) and are made available to Users hereunder on a non-public, confidential basis, whether or not marked as such.

“Provider Content” means Content owned, originated or controlled by Provider that is made accessible to Users via the SaaS or other Services. For the avoidance of doubt, Provider Content may include Content licensed to Provider by third party licensors; it does not include User Content.

“SaaS” means, collectively, Provider’s proprietary, web-based, software-as-a-service platform, including its Web Site, processes, features, functionality, procedures, software code, schemas, standards, notes, memoranda, analyses, tools, utilities, data generated, collected, or stored by the system, other technology components, and related documentation, including written, electronic, pictorial, and other tangible memorialization of the foregoing.

“Services” means, collectively, the SaaS, the Support Services, and any Professional Services performed or provided by Provider to the Users pursuant to the Agreement.

“Statement of Work” (or **“SOW”**) means a supplementary document executed by authorized representatives of a Customer and the Provider, pursuant to which the Customer engages the Provider to perform Professional Services in consideration for a fee. Upon execution and delivery of an SOW, it is deemed to form part of the Agreement.

“Subscription Fees” means the non-recurring and recurring fees payable by a Customer to the Provider for the SaaS and associated Support Services, as set forth in the relevant Order Form, which shall be payable in accordance with the payment terms set forth in the Order Form.

“Subscription Term” means the period during which the Users are permitted to access and use the SaaS, as set forth in the applicable Order Form.

“Support Services” has the meaning given in Section 3.

“Territory” means and is limited to the United States unless otherwise specified in an Order Form.

“Update” means any improvement, enhancement, modification and/or changes to the SaaS offered or provided by Provider to its subscribers at no charge.

“User” means a Customer, an Authorized Customer Entity, or an Authorized User who has: (i) submitted an Order Form or registration form to Provider, (ii) been determined by Provider to meet the Eligibility Criteria for the SaaS in accordance with Section 2, and (iii) affirmatively accepted these Terms and Conditions and the Privacy Policy.

“User Confidential Information” means any User Content that is: (i) non-public information, (ii) related to the business or operations of the User, (iii) marked as confidential or that by its nature ought reasonably to be understood to be confidential, and (iv) submitted, posted, or displayed by the User on a portion of the SaaS that is accessible only to the User’s affiliates (e.g. the Customer and the Customer’s Authorized Entities and Authorized Users) and no other User of the SaaS (except Provider for purpose of Web Site or SaaS administration).

“User Content” means any Content submitted, posted or displayed by Users of the SaaS.

“User Data” means any data or information (other than User Content) received or collected by Provider concerning Users of the SaaS, including data provided by such Parties to register to use the SaaS.

“Web Site” means the web interface of the SaaS platform that Provider offers for interaction with and receipt of proprietary software and Services.

2. ACCESS TO AND USE OF THE SAAS.

2.1. User Eligibility Criteria. Each User must meet the Eligibility Criteria established by the Provider in order to receive authorization to use the SaaS. A User’s ability to meet the Eligibility Criteria applicable to its user type or category will be evaluated when an Order Form is submitted, in the case of a Customer, or at the point of registration, in the case of an Authorized Customer Entity or Authorized User. The Eligibility Criteria are established by the Provider in consultation with NIST and Manufacturing Extension Partners across the nation. The Eligibility Criteria are intended to ensure that SaaS users are generally positioned to facilitate growth in relevant manufacturing sectors and to materially participate in the manufacturing supply chain. The Eligibility Criteria may be revised from time to time at the discretion of the Provider. A User may request a copy of the Eligibility Criteria from Provider at any time.

2.2. Access Protocols. On or as soon as reasonably practicable after the submission of an Order Form or a registration form, Provider shall promptly review the information submitted by the prospective user against relevant Eligibility Criteria. If in the judgment of the Provider such prospective user meets the relevant Eligibility Criteria, Provider will provide such prospective user with an opportunity to review these Terms and Conditions and the Privacy Policy. Upon its affirmative acceptance of these Terms and Conditions and the Privacy Policy, such prospective user shall be deemed to be a “User” hereunder and will receive the necessary access credentials, passwords, and protocols to allow the User to access the SaaS (the **“Access Protocols”**).

2.3. Limited-Purpose Access Grant. Subject to Customer’s and each of its Authorized Customer Entities’ and Authorized Users’ continuing compliance with the Agreement and payment of applicable Fees, Provider hereby grants to Customer and each of its Authorized Customer Entities and Authorized Users a limited, personal, non-exclusive, non-transferable right for such User to access the features and functions of the SaaS in the Territory during the Subscription Term, solely through Provider’s Web Site and solely for the Authorized Purpose(s). This access grant may not be sublicensed, in whole or in part. The scope of a User’s use of the SaaS is subject to these Terms and Conditions and any usage restrictions, limitations, or other parameters set forth in the applicable Order Form.

2.4. Security. Each User is solely responsible for maintaining the security of its Access Protocols. A User must notify the Provider immediately upon becoming aware of any breach of security or unauthorized use of its account or Access Protocols and change its password.

2.5. Responsibility for Acts and Omissions of Users. Customer acknowledges and agrees that, as between Customer and Provider, Customer shall be responsible for all acts and omissions of its Authorized Customer Entities and Authorized Users, including any act or omission by an Authorized Customer Entity or Authorized User, which, if undertaken by Customer, would constitute a breach of the Agreement and any act by a person using Customer’s or any of its Authorized Customer Entities’ or Authorized Users’ Access Protocols.

2.6. Company Account Administration. Customer shall designate at least one Authorized User to act as Customer's principal point of contact with Provider for purposes of the Agreement.

2.7. Content. The SaaS will enable the Users to search for, find, store, manage and use Content that is provided or made accessible through the SaaS. Each of the Users acknowledges and agrees that the Provider does not endorse, support, represent, warrant, or guarantee the completeness, truthfulness, currency, accuracy, reliability or other attributes of any Content. As between the Users and Provider, the Users are solely responsible for: (i) determining the suitability of any Content for its intended use by them, and (ii) as necessary for its intended use, verifying the authenticity, integrity, and accuracy of the Content prior to using it. The Provider has no obligation to preview, verify, flag, modify, filter or remove any Content. The Provider may remove or disable access to any Content at its sole discretion, but is not responsible for any failures or delays in removing or disabling access to any Content, including Content that may be considered harmful, inaccurate, unlawful or otherwise objectionable.

2.8. Compliance. Each User's access to and use of the SaaS and the Services is subject to its continuing compliance with all of the following: (i) the Agreement; (ii) the terms and conditions governing any Content accessed through the SaaS that is published or distributed by any third-party Content-provider on its web site, and (iii) Applicable Laws, including Data Privacy and Security Laws.

2.9. Restrictions. Each User agrees not to act outside the scope of the rights that are expressly granted by the Provider in these Terms and Conditions. Further, each User shall not: (i) use the SaaS, the Services, or any Content in any manner that is inconsistent with these Terms and Conditions; (ii) modify any program code of the SaaS or attempt to create or permit the creation of any derivative works of the SaaS or the Provider Content; (iii) access or use the SaaS or the Provider Content in order to develop or support, or assist another party in developing or supporting, any products or services competitive with the SaaS or the Provider Content; (iv) decompile, reverse engineer, or use any other method in an attempt to view or recreate any of the source code of the SaaS or extract any trade secrets from it; (v) use the SaaS or the Provider Content to operate the business of a third party or to process data or content provided by a third party for the operation of a third party's business, or otherwise use the SaaS or Provider Content on a third party's behalf, or to act as a service bureau or provider of application services to any third party; (vi) knowingly or intentionally re-use, disseminate, copy, or otherwise use the SaaS or the Provider Content in a way that infringes, misappropriates, or violates any trademark, copyright, patent, trade secret, publicity, privacy or other right of Provider, its third party licensors, or any other third party; (vii) sell, re-sell, lend, lease, assign, transfer, pledge, permit a lien upon, or sublicense any of the rights granted by these Terms and Conditions with respect to the SaaS or the Provider Content; (viii) use information obtained in or through the SaaS or the Services to contact other Users for the purpose of making unsolicited sales or attempted sales of products or services; (ix) post, display, distribute, broadcast, or publish User Content or User Data on the SaaS containing (A) sexually explicit, defamatory, or obscene material, (B) material that infringes or violates the Intellectual Property Rights of any third party, (C) libelous, defamatory, or otherwise injurious or unlawful material, or (D) materially inaccurate or erroneous information. Without limiting the legal or equitable remedies available to Provider hereunder with respect to a breach of this Section, Provider reserves the right to terminate the Subscription Term, the Agreement and the related account of any User determined by Provider in its discretion to be in violation of any of the foregoing restrictions, and those of any User(s) affiliated with such User.

2.10. No Interference with Service Operations. The Users will not take any action designed or intended to: (a) interfere with the proper working of the SaaS; (b) circumvent, disable, or interfere with security-related features of the SaaS or features that prevent or restrict use, access to, or copying the SaaS or any Content or other data, or that enforce limitations on use of the SaaS or Content; or (c) impose (or which may impose, in Provider's sole discretion) an unreasonable or disproportionately large load on the SaaS infrastructure.

2.11. Access and Use of the SaaS from Outside the Territory. The SaaS and the Services are offered for use in the Territory. As between Customer and Provider, Customer is solely responsible for compliance with Applicable Laws relevant to Customer, its Authorized Customer Entities and its Authorized Users accessing or using the SaaS while outside the Territory.

2.12. Promotional Materials. By accepting these Terms and Conditions, Users agree to subscribe to newsletters, marketing or promotional materials and other information from the Provider. However, Users may opt out of receiving these communications by following the unsubscribe link or other similar instructions provided in any email from Provider.

2.13. Survey. Users may receive a survey from the National Institute of Standards and Technology (NIST), the purpose of which is to gauge the financial impact to the User resulting from the resource that has been provided through access and use of the SaaS. User Data will be shared by the Provider with NIST to facilitate the development and delivery of the survey. User feedback in the survey is important to the Provider and NIST.

3. SUPPORT SERVICES; PROFESSIONAL SERVICES.

3.1. Support Services. At no additional charge and during Provider's normal business hours, Monday through Friday, excluding Provider-designated holidays, Provider will provide reasonable technical support by telephone or email. Details are available at the Provider's Web Site. Provider may also offer upgraded support services for an additional fee.

3.2. Updates. Users will be given access to Updates of the SaaS that Provider implements for the general benefit of its subscriber base during the Subscription Term. Provider may offer optional value-added functions, features, or other upgraded capabilities or customizations for a fee.

3.3. Scheduled and Emergency Maintenance. Provider reserves the right to take down servers hosting the SaaS to conduct scheduled and emergency maintenance. Provider will use commercially reasonable efforts to perform scheduled maintenance outside regular business hours and will provide reasonable, advance notice for non-emergency maintenance. Provider will not be responsible for any damages or costs incurred by Users due to unavailability of the SaaS during scheduled or emergency maintenance.

3.4. Professional Services. Professional Services shall be performed pursuant to a Statement of Work, executed by an authorized representative of the Customer requesting such services and the Provider, describing the Professional Services to be performed and setting forth any other pertinent details, including the locations at which the Professional Services will be performed, the planned schedule of performance, the deliverables (if any) to be produced by Provider and delivered to Customer, the amount and manner of payment of Provider's fees for the Professional Services, and any associated responsibilities of Customer relating to the Professional Services. Customer's obligation to pay the Subscription Fees set forth in an Order Form is not dependent on Provider's performance of any Professional Services pursuant to a Statement of Work.

4. FEES.

Provider's Subscription Fees for the SaaS and Support Services are as set forth in the applicable Order Form and shall be payable as stated in the Order Form. Provider's Professional Services Fees are as set forth in the applicable Statement of Work (if any) and shall be payable as stated in the Statement of Work. Unless and except as otherwise expressly stated in the Order Form or Statement of Work, as applicable, the Fees are non-cancellable and non-refundable.

5. PROPRIETARY RIGHTS; CONFIDENTIAL INFORMATION.

5.1. SaaS, Services, and Provider Content.

(a) The SaaS, the Services, and the Provider Content, and all Intellectual Property Rights in and to them, are and shall remain owned by Provider (and its licensors, as applicable) and are protected by copyright, trademark, patent, trade secret and other laws and treaties.

(b) Subject to Customer's and each of its Authorized Customer Entities' and Authorized Users' continuing compliance with the Agreement and payment of applicable Fees, Provider hereby grants to Customer and each of its Authorized Customer Entities and Authorized Users a limited, personal, revocable, non-sublicensable and non-transferable license to use the functions and features of the SaaS, the Services and the Provider Content during the Subscription Term solely for the Authorized Purpose(s). Any derivative work a User may create of any part of the SaaS, the Services, or the Provider Content, and all rights therein, shall be owned solely by Provider. To that end, each User hereby irrevocably transfers and conveys to Provider, without further consideration, all right, title and interest that the User may have or acquire in any such derivative work and, upon Provider's request, such User shall perform, during and after the term of the Agreement, all acts that Provider reasonably deems necessary or desirable to permit and assist Provider, at its expense, to obtain,

perfect, and enforce the full benefits, enjoyment, rights and title throughout the world in any such derivative works as provided herein.

(c) User shall (i) hold the Provider Confidential Information in confidence and protect the Provider Confidential Information from any unauthorized disclosure or use by using the same degree of care as it uses to protect its own similar confidential information, but no less than a reasonable degree of care; (ii) not disclose the Provider Confidential Information to any third party, except to those of its personnel (employees, contractors, and professional and legal advisors) who have a need to know such information for the purposes of the Agreement; (iii) use such information only for the Authorized Purposes the Agreement; and (iv) not engage in or permit any efforts to reverse engineer, disassemble or decompile any prototypes, software or other tangible objects provided to it pursuant to the Agreement that embody the Provider's Confidential Information in an attempt to derive the source code for any software or discern any trade secrets. The foregoing confidentiality obligations shall not apply to any particular Provider Confidential Information that the User can demonstrate by written records was in the public domain through no fault of the User at the time of the User's disclosure, or was disclosed by the User as a matter of law in response to a judicial order.

5.2. User Content and User Data.

(a) The User Content and User Data, and all Intellectual Property Rights in and to them, are and shall remain owned by User (and its licensors, as applicable) and are protected by copyright, trademark, patent, trade secret and other laws and treaties. Each User hereby grants to Provider a worldwide, royalty-free, non-exclusive, perpetual, irrevocable, transferable, assignable right and license to access, use, reproduce, host, display, perform, process, adapt, modify, reformat, transmit, distribute, deliver, and/or create derivative works of the User Content and User Data in the SaaS and otherwise in connection with the Services.

(b) User acknowledges that information submitted by User to the SaaS will be accessible by various parties during the Subscription Term to different degrees depending upon how the information is categorized. Information will generally be accessible as follows: (i) User Data will be accessible to Provider for purposes of performing its obligations hereunder and to NIST for survey purposes as described in Section 2; (ii) User Content will be accessible by Users of the SaaS for purposes of enhancing and facilitating the growth of the U.S. manufacturing industry; and (iii) User Confidential Information will be accessible only to a Customer who submitted the information, and its Authorized Customer Entities and Authorized Users for the internal business purposes of the Customer and its affiliates. In all cases, Provider (and its employees, independent contractors and agents) will have access to User's information, regardless of how it is categorized, for purposes of Web Site and SaaS administration.

5.3. Trademarks.

(a) User hereby grants to Provider during the Subscription Term a non-exclusive, worldwide, royalty-free license to use and display the User's name, logos and other trademarks ("**User Trademarks**"): (i) on Provider's Web Site in connection with the Services; (ii) in Provider's marketing materials; and (iii) on any User-branded or co-branded User interfaces through which the User's affiliates will access the SaaS (in the event that Provider creates such an interface at User's request). Provider will use the relevant User Trademarks in accordance with User's then-current trademark usage guidelines provided by User to Provider (if any), provided, however, that the User Trademarks may be proportionately resized to the extent necessary for presentation. Subject to the foregoing license, User will retain all Intellectual Property Rights that it may have in and to the User Trademarks, and all use thereof by Provider shall inure to the sole benefit of User.

(b) User may not use Provider's name, trademarks, or logos without Provider's prior written consent.

5.4. Service Usage Data. As between Provider and Customer, Provider shall be and remain the sole owner of all data in de-identified form pertaining to usage of the Services.

5.5. Feedback. If Provider receives from any User any suggestions, ideas, improvements, modifications, feedback, error identifications or other information related to the Services or any other Provider products, offerings, or services ("**Feedback**"), Provider may use, disclose and exploit such Feedback without restriction and without paying any royalties

or other compensation, including to improve the Services and to develop, market, offer, sell and provide other products and services.

5.6. No Implied Licenses. Each User acknowledges that there are no licenses granted by Provider by implication under the Agreement. Provider reserves all rights that are not expressly granted herein. User acknowledges that, as between the Parties, Provider owns all Intellectual Property Rights and proprietary interests that are embodied in, or practiced by, the SaaS or other Services, with the exception of Intellectual Property Rights in or to User Content and User Data.

6. CONTROLLED UNCLASSIFIED INFORMATION.

The SaaS is not designed nor intended to be a repository for controlled unclassified information (“**CUI**”). Accordingly, CUI must not be posted on the SaaS, in exchange centers, collaborative venues or otherwise. It is the sole responsibility of the Users to ensure that User Content and User Data is of a form and specification consistent with applicable regulations and policies regarding public or quasi-public dissemination of potentially sensitive information. Provider does not and cannot make representation(s) regarding the citizenship or background of Users of the SaaS. By using the SaaS, each Customer assumes sole responsibility for managing the access and privileges of its Authorized Customer Users and Authorized Users who have access to Customer’s own corporate or organizational information, including Confidential Information. Provider reserves the right to remove any information posted by, and/or terminate the Agreement and account of any User and affiliate of such User, determined by Provider in its discretion, to be posting sensitive information (purposely or inadvertently), or misrepresenting the nature or purpose of its interface and interaction with the SaaS.

7. ALLOCATIONS OF RISK.

7.1. Representations and Warranties.

(a) Each Party represents to the other: (i) that the execution (or acceptance, as the case may be) and performance of its obligations under the Agreement will not conflict with or violate any provision of Applicable Law or any other agreement or order by which the Party is bound; and (ii) that the Agreement, when executed and delivered (or accepted, as the case may be), will constitute a valid and binding obligation of such Party and will be enforceable against such Party in accordance with its terms.

(b) Each User represents and warrants to the Provider that: (i) the User satisfies the Eligibility Criteria upon registration; (ii) all User Content and User Data shared with the Provider and/or other Users at, through, or in connection with the SaaS and the Services is at all times accurate and complete; and (iii) the User will comply with all Applicable Laws in connection with the Agreement.

(c) The Provider represents and warrants that the Services will be performed in a good and workmanlike manner in accordance with prevailing industry standards. In the event of a breach of this representation and warranty, Provider’s sole obligation and User’s sole remedy will be for Provider to correct or re-perform the affected Service to remedy the breach, at no additional charge to the User.

7.2. DISCLAIMERS. (a) EACH USER REPRESENTS THAT IT IS ENTERING INTO THE AGREEMENT WITHOUT RELYING UPON ANY PROVIDER REPRESENTATION OR WARRANTY NOT EXPRESSLY STATED IN THESE TERMS AND CONDITIONS. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, PROVIDER DISCLAIMS ANY AND ALL PROMISES, REPRESENTATIONS AND WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DATA ACCURACY, SYSTEM INTEGRATION, SYSTEM RELIABILITY, TITLE, NON-INFRINGEMENT, NON-INTERFERENCE AND/OR QUIET ENJOYMENT, AND ALL WARRANTIES THAT MAY OTHERWISE BE IMPLIED. NO WARRANTIES ARE MADE ON THE BASIS OF TRADE USAGE, COURSE OF DEALING, OR COURSE OF PERFORMANCE.

(b) EACH USER ASSUMES COMPLETE RESPONSIBILITY, WITHOUT ANY RECOURSE AGAINST PROVIDER, FOR THE SELECTION OF THE SAAS TO ACHIEVE ITS INTENDED RESULTS AND FOR ITS USE OF THE SAAS, THE PROVIDER CONTENT, AND THE RESULTS OBTAINED FROM THE SAAS IN ITS BUSINESS; IT ACKNOWLEDGES THAT IT IS SOLELY RESPONSIBLE FOR THE RESULTS OBTAINED FROM ITS USE OF THE SAAS, INCLUDING THE COMPLETENESS, ACCURACY, CURRENCY, AND CONTENT OF SUCH RESULTS. PROVIDER DOES NOT WARRANT THAT THE SAAS OR THE PROVIDER CONTENT WILL

MEET THE REQUIREMENTS OF ANY USER, THAT THE OPERATION OF THE SAAS WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ERRORS WILL BE CORRECTED.

(c) THE SAAS AND THE PROVIDER CONTENT ARE NOT DESIGNED OR PERMITTED TO BE USED IN OR FOR HIGH-RISK OR HAZARDOUS ENVIRONMENTS REQUIRING FAIL-SAFE PERFORMANCE, INCLUDING OPERATION OF NUCLEAR FACILITIES, AIRCRAFT NAVIGATION, COMMUNICATION SYSTEMS, AIR TRAFFIC CONTROL, WEAPONS SYSTEMS, DIRECT LIFE-SUPPORT MACHINES, OR ANY OTHER APPLICATION IN WHICH THE FAILURE OF THE SAAS COULD LEAD DIRECTLY TO DEATH, PERSONAL INJURY, OR SEVERE PHYSICAL OR PROPERTY DAMAGE (COLLECTIVELY, "HIGH RISK ACTIVITIES"). PROVIDER EXPRESSLY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTY OF FITNESS OF THE SAAS OR PROVIDER CONTENT FOR HIGH RISK ACTIVITIES.

(d) THE SAAS MAY CONTAIN LINKS TO THIRD PARTY WEB SITES OR SERVICES THAT ARE NOT OWNED OR CONTROLLED BY PROVIDER. PROVIDER EXPRESSLY DISCLAIMS ALL RESPONSIBILITY FOR THE CONTENT, PRIVACY POLICIES, AND BUSINESS PRACTICES OF ANY SUCH THIRD PARTY WEB SITES OR SERVICES. PROVIDER DOES NOT MAKE ANY REPRESENTATION OR WARRANTY OF ANY KIND AS TO THE OFFERINGS OF ANY THIRD PARTY WEB SITES OR SERVICES. EACH USER ASSUMES COMPLETE RESPONSIBILITY, WITHOUT ANY RECOURSE AGAINST PROVIDER, FOR ANY DAMAGE OR LOSS CAUSED, DIRECTLY OR INDIRECTLY, BY, OR ARISING IN CONNECTION WITH, ITS USE OR RELIANCE ON ANY SUCH THIRD PARTY WEB SITE OR SERVICE.

7.3. Indemnification.

(a) Each User agrees to defend, indemnify and hold harmless Provider, its affiliates, and their respective officers, directors, members, employees, contractors, and agents (collectively, "*Indemnitees*") from and against: (i) all claims and actions (collectively, "*Claims*" and, individually, a "*Claim*") that arise out of or relate to the User's use of the SaaS or any Provider Content, if and to the extent that such use is not authorized herein or otherwise constitutes a breach of the Agreement; (ii) all Claims that the posting, display, distribution, broadcast, publication, or other use of User Content or User Data on, through, or in connection with the SaaS (A) infringes or violates the Intellectual Property Rights of any third party, (B) contains libelous, defamatory, or otherwise injurious or unlawful material, or (C) is inaccurate or erroneous; (iii) all Claims between or among Users who elect to transact business on or in connection with or as a result of their engagement through the SaaS; and (iv) in each case, associated Losses.

(b) Each Customer agrees to defend, indemnify and hold harmless Provider and its Indemnitees from and against all Claims that arise out of or relate to the acts or omissions of any of its Authorized Customer Entities or Authorized Users, and, in each case, associated Losses.

7.4. Indemnification Procedures. If any third party makes a Claim covered by Section 7.3 with respect to which the Provider intends to seek indemnification under this Agreement, the Provider shall give prompt written notice of the Claim to the indemnifying party, including a brief description of the amount and basis for the Claim, if known. Upon receiving such notice, the indemnifying party shall be obligated to defend the Provider (and its Indemnitees) against the Claim. The Provider may participate in the defense and settlement of the Claim at its own expense, using its own counsel. The indemnifying party shall keep the Provider reasonably apprised as to the status of the Claim and shall cause its counsel to cooperate fully with Provider's counsel in the defense or settlement of the Claim. Neither the indemnifying party nor the Provider (or its Indemnitees) shall be liable for any settlement of a Claim made without its consent.

7.5. Limitation of Liability. Except as expressly provided in this Section 7.5, neither Party shall have any liability under or in connection with this Agreement for any indirect, incidental, consequential, special, exemplary or punitive damages, nor any liability for lost profits, loss of data, loss of business opportunity, or business interruption, regardless of the theory of liability (including theories of contractual liability, tort liability, or strict liability), even if the liable Party knew or should have known that those kinds of damages were possible. Each Party's maximum cumulative liability under or in connection with this Agreement shall never exceed the injured Party's actual direct damages, capped at an amount equal to the total amount paid under this Agreement by Customer to Provider during the 12-month period preceding the occurrence of the event giving rise to liability. Because Users may engage in transactions between or among themselves, in the event of a dispute between or among Users, each User releases Provider and each of its

Indemnitees from all Claims and Losses, of every kind and nature, including direct, indirect, consequential and inconsequential, known and unknown, suspected and unsuspected, disclosed and undisclosed, arising out of or connected with such Users access to or use of the SaaS or the Services, or the transaction of business in connection therewith. The foregoing limitations of liability shall not be applicable to a Party's indemnification obligations under this Section 7 or to any damages that the liable Party is not permitted to disclaim (or, as applicable, limit) under Applicable Law. Each Party acknowledges that this Section 7.5 is an essential part of the Agreement, absent which the economic terms and other provisions of the Agreement would be substantially different.

8. TERM AND TERMINATION.

8.1. Subscription Term; Agreement Term. The Subscription Term commences on the Subscription Term start date set forth in the first Order Form executed by both Parties and continues until all Order Forms entered into by the Parties have expired. The term of the Agreement shall be co-terminus with the Subscription Term.

8.2. Professional Services Term. Professional Services shall be performed on the schedule stated in the applicable Statement of Work (if any), provided, however, that the term of any Statement of Work shall not exceed the Subscription Term. Either Party may terminate a Statement of Work prior to its stated end date: (a) for cause upon written notice to the other Party if the other Party has committed a material breach of the terms of the Statement of Work and the breach remains uncured 30 days after the breaching party has received written notice of the breach from the non-breaching party; or (b) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

8.3. Effects of Expiration or Termination. Effective immediately upon expiration or termination of the Agreement: (i) all rights granted under the Agreement will become void; (ii) Customer and each of its Authorized Customer Entities and Authorized Users shall cease all use of the SaaS; and (iii) neither Party will have continuing rights to use any Confidential Information of the other Party or to exercise any Intellectual Property Rights of the other Party that were licensed under this Agreement.

8.4. Survival. Any provision of the Agreement that contemplates or governs performance or observance subsequent to its expiration or termination, or which is necessary for the proper interpretation, administration or enforcement of the Agreement, including Sections 1, 2.0, will survive the expiration or termination of the Agreement.

9. GENERAL.

9.1. Governing Law. The validity, construction, and interpretation of this Agreement and the rights and duties of the Parties shall be governed by the internal laws of the State of Utah without regard to principles of conflicts of laws. The Parties agree that neither the United Nations Convention on Contracts for the International Sale of Goods nor the Uniform Computer Information Transactions Act (UCITA) will apply in any respect to the Agreement.

9.2. Dispute Resolution. In the event of a controversy or claim arising out of or relating to the Agreement, or the breach thereof, the claimant shall notify the other Party in writing of the claim. The Parties shall meet to discuss the matter at the first mutually convenient time and acceptable location. If the Parties cannot resolve their differences, they shall agree on a mediator and submit the dispute to the mediator for non-binding mediation. Both Parties shall meet with the mediator as soon as possible after the mediator has been named but in no event more than thirty (30) days thereafter. If Parties are unable to agree on a mediator, or the non-binding mediation process, or the dispute cannot be resolved by the mediator through the non-binding mediation process, it shall be decided by a single arbitrator in binding arbitration administered by the American Arbitration Association ("AAA") in accordance with its then-current Commercial Arbitration Rules. Arbitration proceedings will be conducted only on an individual basis and not in a class, consolidated or representative action. The judgment of the arbitrator shall be in writing and shall enunciate the reasoning for the award. Judgment on the award rendered by the arbitrator may be entered in any court having jurisdiction thereof. Each Party shall bear its own costs, fees and expenses incurred in connection with the arbitration proceeding, including attorneys' fees and expenses and witness costs and expenses. The arbitrator shall apportion the fees, expenses and compensation of the American Arbitration Association and the arbitrator between the Parties in such amount as the arbitrator determines is appropriate. Arbitration shall take place in Salt Lake City, Utah. Notwithstanding the foregoing, a Party may,

without waiving any remedy under this Agreement, seek from any court with jurisdiction, interim or provisional equitable injunctive relief necessary to protect such Party's rights or property. Any action seeking equitable injunctive relief on an interim or provisional basis will be instituted and maintained exclusively in the federal or state courts situated in Salt Lake City, Utah.

9.3. Notices. All notices required or permitted under the Agreement will be in writing and sent by certified mail, return receipt requested, by reputable overnight courier, by hand delivery, or by email.

The notice address for Provider shall be:

515 West 500 South, Bountiful, UT 84010, Attention: Legal Department.

The notice address for User shall be the address specified in the Order Form or registration form, as applicable.

Any notice sent in the manner set forth above shall be deemed sufficiently given for all purposes hereunder (i) in the case of certified mail, on the second business day after deposited in the U.S. mail, and (ii) in the case of overnight courier or hand delivery, upon verified delivery; and (iii) in the case of email, when sent. Either Party may change its notice address by giving written notice to the other Party by the means specified in this Section.

9.4. Force Majeure. Neither Party shall be liable to the other Party, or be deemed to have breached the Agreement, for any failure or delay in performing its obligations under the Agreement (except for the payment of money), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including the following force majeure events: (i) acts of God; (ii) flood, fire, earthquake, or volcanic eruption; (iii) war, invasion, hostilities, terrorist threats or acts, riot or other civil unrest; (iv) government order; or (v) embargoes or blockades.

9.5. Insurance. Provider shall have and maintain in force throughout the Subscription Term insurance coverage in types and amounts customarily maintained by reputable companies in the same or similar line of business as Provider.

9.6. Construction; Headings. No provision of this Agreement shall be construed against or interpreted to the disadvantage of any Party by any court or arbitrator by reason of such Party having or being deemed to have structured or drafted such provision. All Parties are advised to consult with an attorney prior to acceptance and delivery of terms and conditions delivered by electronic means. The headings in this Agreement are for reference purposes only and shall not be deemed to have any substantive effect.

9.7. Severability. If any provision of this Agreement is held by a court or arbitrator of competent jurisdiction to be contrary to law, then the Parties agree to replace it with an enforceable provision reflecting the intent of the original provision as nearly as possible in accordance with applicable law, and the remaining provisions of this Agreement will remain in full force and effect.

9.8. Waiver. The failure of either Party at any time to require performance by the other Party of any provision of the Agreement shall not affect in any way the Party's right to require full performance at any subsequent time. The waiver by either Party of a breach of any provision of the Agreement shall not be taken or held to be a waiver of any subsequent breach of the same provision. Any course of performance shall not be deemed to amend or limit any provision of the Agreement.

9.9. Assignment. User will not assign, transfer or otherwise convey any of its rights or duties under the Agreement to any other party without the prior written consent of the Provider. Any attempt to do so will be null and void. Subject to the foregoing, the Agreement shall be binding upon the respective successors and permitted assigns of the Parties.

9.10. Bankruptcy. In the event that User: (i) becomes insolvent or bankrupt; (ii) makes an assignment for the benefit of creditors; (iii) consents to a trustee or receiver appointment; (iv) a trustee or receiver is appointed for User or for a substantial part of its property without its consent; (v) voluntarily initiates bankruptcy, insolvency, or reorganization proceedings, or is the subject of involuntary bankruptcy, insolvency, or reorganization proceedings; or (vi) announces that it has entered into an agreement to be acquired, then Provider is authorized to negotiate an agreement for the valuation and transfer of User's rights and obligations under the Agreement in connection therewith.

9.11. Relationship of the Parties. Provider and each of the Users are independent parties; nothing in the Agreement is intended to or will create a partnership, joint venture, agency, franchise, sales representative, or employment relationship

between or among us. No User will have the authority to make or accept any offer or representation on behalf of Provider. The Agreement is not intended to and does not create an exclusive relationship between or among the Parties.

9.12. No Third Party Beneficiaries. Nothing expressed or implied in the Agreement is intended or will be construed to give to any person other than the Parties to this Agreement any legal or equitable right, remedy, or claim under or in respect to the Agreement; there are no third party beneficiaries of the Agreement. The Agreement and all of the representations, warranties, covenants, conditions, and provisions in the Agreement are intended to be and are for the sole and exclusive benefit of the Parties to the Agreement.

9.13. Entire Agreement. The Agreement (including the Terms and Conditions, the Privacy Policy, all Order Forms and SOWs entered under it) constitutes the entire agreement between Provider and Customer and each of Customer's Authorized Customer Entities and Authorized Users with respect to the subject matter hereof. There are no restrictions, promises, warranties, covenants, or undertakings other than those expressly set forth herein and therein. The Agreement supersedes all prior negotiations, agreements, and undertakings between the Parties with respect to such matters.

9.14. Amendments and Modifications. These Terms and Conditions may be amended or modified from time to time by Provider without the consent of the Users; any Order Form or SOW entered into hereunder may be amended or modified only by a written instrument executed by the duly authorized representatives of both Parties to the Order Form or SOW.

9.15. Acceptance; Reaffirmation. Each time Customer, an Authorized Customer Entity, or an Authorized User accesses or uses the SaaS, such User agrees to be bound by the Agreement, including these Terms and Conditions, as amended, the Privacy Policy, as amended, the Order Form, and the SOWs (if any), and subsequently reaffirms its commitment with respect thereto.