

## MASTER SUBSCRIPTION AGREEMENT v170927

THIS AGREEMENT SETS FORTH THE SPECIFIC TERMS UNDER WHICH ODASEVA TECHNOLOGIES IS LICENSING ITS PRODUCTS AND PROVIDES SERVICES TO YOU.

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### 1. DEFINITIONS

**“Affiliate”** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**“Agreement”** means this Master Subscription Agreement.

**“Beta Services”** means Our services that are not generally available to customers.

**“Documentation”** means Our online user guides, documentation, and help and training materials, as updated from time to time, accessible via our website or login to the applicable Service.

**“Intellectual Property”** all concepts, inventions (whether or not protected under patent laws), works of authorship, information fixed in any tangible medium of expression (whether or not protected under copyright laws), Moral Rights, mask works, trademarks, trade names, trade dress, trade secrets, publicity rights, names, likenesses, know-how, ideas (whether or not protected under trade secret laws), and all other subject matter protected under patent (or which is not patented, but is subject matter that is protected under patent law), copyright, mask work, trademark, trade secret, or other laws, whether existing now or

in the future, whether statutory or common law, in any jurisdiction in the world, for all media now known or later developed, including without limitation all new or useful art, combinations, discoveries, formulae, algorithms, specifications, manufacturing techniques, technical developments, systems, computer architecture, artwork, software, programming, applets, scripts, designs, processes, and methods of doing business. “Moral Rights” means any right to claim authorship of a work, any right to object to any distortion or other modification of a work, and any similar right, existing under the law of any country, or under any treaty.

“**Malicious Code**” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“**Order Form**” means an ordering document specifying the Services to be provided hereunder that is entered into between You and Us or any of Our Affiliates, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

“**Portal**” means a Web-based platform accessible at the following url : <http://www.odaseva.com>, used by Us to provide Services to You.

“**Services**” means the products and services that are ordered by You under an Order Form and made available online by Us, including associated offline components, as described in the Documentation.

“**User**” means an individual who is authorized by You to use a Service, for whom You have ordered the Service, and to whom You (or We at Your request) have supplied a user identification and password. Users may include, for example, Your employees, consultants, contractors and agents.

“**We,**” “**Us**” or “**Our**” means Odaseva.com, Inc., a Delaware corporation.

“**You**” or “**Your**” means the company or other legal entity for which you are accepting this Agreement, and Affiliates of that company or entity.

“**Your Data**” means electronic data and information submitted by or for You to the Services or collected and processed by or for You using the Services.

## **2. OUR RESPONSIBILITIES**

**2.1. Provision of Services.** We will (a) make the Services available to You pursuant to this Agreement and the applicable Order Forms, (b) provide the purchased support, and (c) use commercially reasonable efforts to make the Services available except for: (i) downtime for maintenance and (ii) any unavailability caused by circumstances beyond Our reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Our employees).

In this regard, You understand that the access to and performance of the Services depends in part on the services of third parties which are necessary for its operation, including the internet service provider You selected, the Salesforce.com applications that You license and the data storage services provided by Amazon.com in relation to them. You specifically assume the risks of any failure or limitations of service by these third parties.

**2.2. Protection of Your Data.** We will maintain administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Your Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Your Data by Our personnel except (a) to provide the Services to You and prevent or address related service or technical problems, (b) as compelled by law in accordance with Section 6.3 (Compelled Disclosure) below, or (c) as You expressly permit in writing.

**2.3. Our Personnel.** We will be responsible for the performance of Our personnel (including Our employees and contractors) and their compliance with Our obligations under this Agreement, except as otherwise specified herein.

**2.4. Beta Services.** From time to time, We may invite You to try Beta Services at no charge. You may accept or decline any such trial in Your sole discretion. Beta Services will be clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation or by a description of similar import. Beta Services are for evaluation purposes and not for production use, are not considered “Services” under this Agreement, are not supported, and may be subject to additional terms. Unless otherwise stated, any Beta Services trial period will expire upon the earlier of one year from the trial start date or the date that a version of the Beta Services becomes generally available. We may discontinue Beta Services at any time in Our sole discretion and may never make them generally available. We will have no liability for any harm or damage arising out of or in connection with a Beta Service.

### **3. USE OF SERVICES**

**3.1. Subscriptions.** Unless otherwise provided in the applicable Order Form, (a) Services are purchased as subscriptions, (b) subscriptions may be added during a subscription term at the same pricing as the underlying subscription pricing, prorated for the portion of that subscription term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions.

#### **3.2. Usage Limits.**

(a) Services are subject to usage limits, including, for example, the quantities specified in Order Forms. Unless otherwise specified, a quantity in an Order Form refers (a) to volumes of records and salesforce organizations, and the Service may not be accessed beyond the number of ordered volumes and salesforce organizations, (b)

(b) If You exceed a contractual usage limit, We will work with You to seek to reduce Your usage so that it conforms to that limit. If, notwithstanding Our efforts, You are unable or unwilling to abide by a contractual usage limit, You will execute an Order Form for additional quantities of the applicable Services promptly upon Our request, and/or pay any invoice for excess usage in accordance with Section 4.2 (Invoicing and Payment).

**3.3. Your Responsibilities.** You will (a) be responsible for User’s compliance with this Agreement, (b) be responsible for the accuracy, quality and legality of Your Data and the means by which You acquired Your Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of Services except in accordance with the Documentation and applicable laws and government regulations.

**3.4. Usage Restrictions.** You will not (a) make any Service available to, or use any Service for the benefit of, anyone other than You or Users, (b) sell, resell, license, sublicense, distribute, rent or lease any Service, or include any Service in a service bureau or outsourcing offering, (c) use a Service to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use a Service to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (f) attempt to gain unauthorized access to any Service or its related systems or networks, (g) permit direct or indirect access to or use of any Service in a way that circumvents a contractual usage limit, (h) copy a Service or any part, feature, function or user interface thereof, (i) frame or mirror any part of any Service, other than framing on Your own intranets or otherwise for Your own internal business purposes or as permitted in the Documentation, (j) access any Service in order to build a competitive product or service, or (k) reverse engineer any Service (to the extent such restriction is permitted by law).

#### **4. FEES AND PAYMENT FOR SERVICES**

**4.1. Fees.** In exchange for the Services, You will pay all fees specified in Order Forms. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services purchased and not actual usage, provided that if actual usage exceeds the amount purchased, You shall pay for the excess used (ii) except as provided herein or therein, payment obligations are non-cancelable and fees paid are non-refundable, and (iii) quantities purchased cannot be decreased during the then current subscription term. Except with respect to excess usage, the fees for the Services are fixed during the initial term of the Order Form. Following the initial term as set forth in each Order Form, Odaseva may increase the fees under such Order Form by providing written notice at least sixty (60) days prior to the expiration of the then current term of such Order Form; provided that such increase shall not exceed three percent (3%) of the prior annual fees charged.

**4.2. Invoicing and Payment.** You will provide Us with valid and updated credit card information, or with a valid purchase order or alternative document reasonably acceptable to Us. If You provide credit card information to Us, You authorize Us to charge such credit card for all Services listed in the Order Form for the initial subscription term and any renewal subscription term(s) as set forth in Section 10.2 (Term of Purchased Subscriptions). Such charges shall be made in advance, either annually or in accordance with any different billing frequency stated in the applicable Order Form. If the Order Form specifies that payment will be by a method other than a credit card, We will invoice You in advance and otherwise in accordance with the relevant Order Form. Unless otherwise stated in the Order Form, invoiced charges are due net 30 days from the invoice date. You are responsible for providing complete and accurate billing and contact information to Us and notifying Us of any changes to such information.

**4.3. Overdue Charges.** If any invoiced amount is not received by Us by the due date, then without limiting Our rights or remedies, those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower.

**4.4. Suspension of Service and Acceleration.** If any amount owing by You under this Agreement for the Services is 30 or more days overdue (or 10 or more days overdue in the case of amounts You have authorized Us to charge to Your credit card), We may, without limiting Our other rights and remedies, accelerate Your unpaid fee obligations under this Agreement so that all such obligations become immediately due and payable, and suspend the Service to You until such amounts are paid in full. We will

give You at least 10 days' prior notice that Your account is overdue, in accordance with Section 11.2 (Manner of Giving Notice), before suspending services to You.

**4.5. Payment Disputes.** We will not exercise Our rights under Section 4.3 (Overdue Charges) or 4.4 (Suspension of Service and Acceleration) above if You are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute.

**4.6. Taxes.** Our 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 "Taxes"). You are responsible for paying all Taxes associated with Your purchases hereunder. If We have the legal obligation to pay or collect Taxes for which You are responsible under this Section 4.6, We will invoice You and You will pay that amount unless You provide Us with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, We are solely responsible for taxes assessable against Us based on Our income, property and employees.

**4.7. Future Functionality.** You agree that Your purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Us regarding future functionality or features.

## **5. PROPRIETARY RIGHTS AND LICENSES**

**5.1. Ownership.** Nothing in this Agreement shall constitute a transfer of any proprietary right by Us to You. The Service is protected by patent, copyright and other intellectual property laws. We, Our licensors and suppliers, own and retain all right, title and interest in and to the Intellectual Property rights in the Service and any enhancements, modifications or derivative works thereof.

**5.2 Reservation of Rights.** All rights not specifically granted to You in this Agreement are retained by Us. You acknowledge Our, and Our licensors', proprietary rights in the Service. We retain all right, title and interest in and to the Service. You acknowledge and agree that (i) no configuration or deployment of the Service shall affect or diminish Our rights, title, and interest in and to the Service; and if You suggest any new features, functionality or performance for the Service that is subsequently incorporated into the Service, You hereby grant Us a worldwide, non-exclusive, royalty-free, perpetual right and license to use and incorporate such suggestions into the Service. You acknowledge that the Service incorporating such new features, functionality, or performance shall be Our the sole and exclusive property and all such suggestions shall be free from any confidentiality restrictions that might otherwise be imposed upon Us.

**5.3. Your Data.** Subject to the limited rights granted by You hereunder, We acquire no right, title or interest from You or Your licensors under this Agreement in or to Your Data, including any Intellectual Property rights therein.

**5.4. Federal Government End Use Provisions.** We provide the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights

in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not granted under these terms, it must negotiate with Us to determine if there are acceptable terms for granting those rights, and a mutually acceptable written addendum specifically granting those rights must be included in any applicable agreement.

## **6. CONFIDENTIALITY**

**6.1. Definition of Confidential Information.** “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Your Confidential Information includes Your Data; Our Confidential Information includes the Services; and Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

**6.2. Protection of Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party’s prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate’s, legal counsel’s or accountant’s compliance with this Section 6.2.

**6.3. Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

## **7. REPRESENTATIONS, WARRANTIES, EXCLUSIVE REMEDIES AND DISCLAIMERS**

**7.1. Representations.** Each party represents that it has validly entered into this Agreement and has the legal power to do so.

**7.2. Our Warranties.**

**7.3. Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, NEITHER PARTY MAKES ANY WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR TITLE/NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. YOU ACKNOWLEDGE THAT USE OF THE SERVICE MAY NOT BE UNINTERRUPTED OR ERROR-FREE AND THE SERVICE WEB SITE MAY, FROM TIME TO TIME, BE TEMPORARILY SHUT DOWN DUE TO ROUTINE MAINTENANCE OR RESOLUTION OF ERRORS. BETA SERVICES ARE PROVIDED “AS IS,” EXCLUSIVE OF ANY WARRANTY WHATSOEVER. EACH PARTY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD PARTY HOSTING PROVIDERS.

## **8. MUTUAL INDEMNIFICATION**

**8.1. Indemnification by Us.** We will indemnify, defend and hold harmless You and Your affiliates, officers, directors, and employees (each an “Indemnified Party” and collectively, the “Indemnified Parties”) against any and all third party claims, demands, suits, actions, and proceedings at law or in equity (each a “Claim” and collectively, the “Claims”) and all related liabilities, judgments, awards, settlements damages and costs including without limitation reasonable legal fees and expenses made or brought against You by a third party alleging that the Service or portions of components thereof, or the use thereof in accordance with this Agreement, infringes, causes the infringement or misappropriates any Intellectual Property right of any third party, whether or not such Claim or allegation is successful, provided that You (a) promptly give Us written notice of the Claim Against You, (b) give Us sole control of the defense and settlement of the Claim Against You (except that We may not settle any Claim Against You without Your prior written consent, which shall not be unreasonably withheld.), and (c) give Us all reasonable assistance, at Our expense. If We receive information about an infringement or misappropriation claim related to a Service, We may in Our discretion and at no cost to You (i) modify the Service so that it no longer infringes or misappropriates, without breaching Our warranties under Section 7.2 (Our Warranties), (ii) obtain a license for Your continued use of that Service in accordance with this Agreement, or (iii) terminate Your subscriptions for that Service upon 30 days’ written notice and refund You any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply to the extent a Claim Against You arises from Your breach of this Agreement.

**8.2. Indemnification by You.** You will indemnify, defend and hold harmless Us and Our Affiliates, officers, directors, and employees (each an “Odaseva Indemnified Party”) against any and all Claims and all related liabilities, judgments, awards, settlements damages and costs including without limitation reasonable legal fees and expenses made or brought against an Odaseva Indemnified Party by a third party alleging that Your Data, or Your use of any Service in breach of this Agreement, infringes or misappropriates such third party’s Intellectual Property rights or violates applicable law (a “Claim

Against Us”) whether or not such Claim Against Us or allegation is successful. We will promptly give You written notice of the Claim Against Us, (b) give You sole control of the defense and settlement of the Claim Against Us (except that You may not settle any Claim Against Us without Our prior written consent, which shall not be unreasonably withheld.), and (c) give You all reasonable assistance, at Your expense.

**8.3. Exclusive Remedy.** This Section 8 states the indemnifying party’s sole liability to, and the indemnified party’s exclusive remedy against, the other party for any type of claim described in this Section 8.

## **9. LIMITATION OF LIABILITY**

The limitations on the liability of either party to the other set forth below are predicated in part on the modest subscription fees negotiated by and agreed upon by the parties.

**9.1. Limitation of Liability. OTHER THAN FOR LIABILITY ARISING UNDER SECTION 6, NEITHER PARTY’S LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT (WHETHER IN CONTRACT OR TORT OR UNDER ANY OTHER THEORY OF LIABILITY) SHALL EXCEED THE CUMULATIVE FEES PAID BY YOU TO US DURING THE TWELVE (12) MONTHS PRECEDING THE EVENT GIVING RISE TO THE LIABILITY.**

**9.2. Exclusion of Consequential and Related Damages. OTHER THAN FOR LIABILITY ARISING UNDER SECTION 6, IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY LOST PROFITS, REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.**

## **10. TERM AND TERMINATION**

**10.1. Term of Agreement.** This Agreement commences on the date executed by the parties and continues until all Order Forms have expired or have been terminated.

**10.2. Term of Purchased Subscriptions.** The term of each subscription shall be as specified in the applicable Order Form. Except as otherwise specified in an Order Form, subscriptions will automatically renew for additional periods equal to the expiring subscription term or one year (whichever is shorter), unless either party gives the other notice of non-renewal at least 30 days before the end of the relevant subscription term.

**10.3. Termination.** A party may terminate this Agreement for cause (i) upon 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

**10.4. Refund or Payment upon Termination.** If this Agreement is terminated by You in accordance with Section 10.3 (Termination), We will refund You any prepaid fees covering the remainder of the term of all Order Forms after the effective date of termination. If this Agreement is terminated by Us in accordance with Section 10.3, You will pay any unpaid fees covering the remainder of the term of all Order Forms. In no event will termination relieve You of Your obligation to pay any fees payable to Us for the period prior to the effective date of termination.

**10.5. Your Data Portability and Deletion.** Upon request by You made within 15 days before the scheduled date of termination or expiration of this Agreement, We will make Your Data available to You for download directly on our Portal before contract termination at no cost to You. Additionally, if you make the same request to Us within 15 days after the effective date of termination or expiration of this Agreement, We will reactivate the Portal for a period of 10 days to allow you to download Your Data all at no cost to You. Notwithstanding the above, after ten days following the termination of this Agreement, We will have no obligation to maintain or provide Your Data, and will thereafter delete or destroy all copies of Your Data in Our systems or otherwise in Our possession, unless legally prohibited.

**10.6. Surviving Provisions.** The Sections titled “Fees and Payment for Purchase Services,” “Proprietary Rights and Licenses,” “Confidentiality,” “Disclaimers,” “Mutual Indemnification,” “Limitation of Liability,” “Refund or Payment upon Termination,” “Portability and Deletion of Your Data,” “Who You Are Contracting With, Notices, Governing Law and Jurisdiction,” and “General Provisions” will survive any termination or expiration if this Agreement.

## **11. WHO YOU ARE CONTRACTING WITH, NOTICES, GOVERNING LAW AND JURISDICTION**

**11.1. General.** Who You are contracting with under this Agreement, who You should direct notices to under this Agreement, what law will apply in any lawsuit arising out of or in connection with this Agreement, and which courts have jurisdiction over any such lawsuit, depend on where You are domiciled.

**11.2. Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices, permissions and approvals hereunder shall be in writing and shall be deemed to have been given upon: (i) personal delivery, (ii) the second business day after sending by confirmed email. Billing-related notices to You shall be addressed to the relevant billing contact designated by You. All other notices to You shall be addressed to the relevant Services system administrator designated by You.

**11.3. Agreement to Governing Law and Jurisdiction.** Each party agrees that the applicable governing law, without regard to choice or conflicts of law rules, and the exclusive jurisdiction of the applicable courts will be as follows:

(a) If you are domiciled in a country that is part of the European community. French law will be applicable and the Tribunal of Commerce of Paris will have exclusive jurisdiction.

(b) If you are domiciled in any other country, any dispute, controversy or claim arising out of or in connection with this Agreement shall be resolved in accordance with the laws of, and by a court of competent jurisdiction located in, the jurisdiction of the Party against whom enforcement is sought, and each Party irrevocably waives any objection thereto, based on *forum non conveniens* or otherwise. With

respect to Us, such governing law and jurisdiction shall be deemed to be the law of the State of California, USA and the jurisdiction of the state and federal courts located in San Francisco, California, USA. EACH PARTY HERETO HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN RESPECT TO ANY PROCEEDING ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT.

## **12. GENERAL PROVISIONS**

**12.1. Export Compliance.** The Services, other technology We make available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. You shall not permit Users to access or use any Service in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or regulation.

**12.2. Anti-Corruption.** You have not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Our employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If You learn of any violation of the above restriction, You will use reasonable efforts to promptly notify Our Legal Department.

**12.3. Entire Agreement and Order of Precedence.** This Agreement is the entire agreement between You and Us regarding Your use of Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in Your purchase order or in any other of Your order documentation (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form, (2) this Agreement, and (3) the Documentation.

**12.4. Assignment.** Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in its entirety (including all Order Forms), without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, if a party is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of the other party, then such other party may terminate this Agreement upon written notice. In the event of such a termination, We will refund to You any prepaid fees covering the remainder of the term of all subscriptions. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**12.5. Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

**12.6. Waiver.** No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

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

**12.8 Counterparts.** This Agreement may be executed in counterparts, each of which shall be an original but all of which shall constitute one instrument.