

MASTER SERVICES AGREEMENT

This Master SaaS Agreement (“Agreement”) is entered into as of the date on which an account is created to access a Boss Insights service (“Effective Date”), by and between Boss Insights Inc, an Ontario corporation with principal offices at 20 Dundas St W, Suite 921, Toronto, ON M5G 2H1, Canada (“Company”), and the organization creating an account on a Boss Insights owned service (“Customer”). Company and Customer are each referred to herein as a “Party” and collectively as the “Parties”.

1. NOW THEREFORE, the Parties agree as follows: Definitions

1.1 In this Agreement:

- (a) **“Agreement”** means the Service Order and this Master Services Agreement.
- (b) **“Customer”** means the customer named in the applicable Service Order.
- (c) **“Customer Data”** means the data submitted by or for Customer to the Service or collected and processed by or for Customer using the Service, including the data of Customer’s employees, contractors or customers.
- (d) **“Data Controller”** shall mean the natural or legal person who alone or jointly with others determines the purposes and means of the processing of Personal Information.
- (e) **“Data Processor”** shall mean the natural or legal person who processes Personal Information on behalf of the Data Controller.
- (f) **“Data Protection Laws”** means all laws and regulations, including laws and regulations of Canada (including the Personal Information Protection and Electronic Documents Act (Canada) and the Canadian Anti-Spam Legislation), the European Union, the European Economic Area and their member states, Switzerland and the United Kingdom, including the GDPR, applicable to the Processing of Personal Information under the Agreement.
- (g) **“Data Subject”** means the identified or identifiable person to whom Personal Information relates.
- (h) **“Documentation”** means the written or electronic documentation, including user manuals, reference materials, installation manuals and/or release notes, if any, that Company generally makes available to subscribers to the Service, as the case may be.
- (i) **“End User”** means a customer of Customer to which Customer provides services using the Service.
- (j) **“End User Data”** has the meaning given to such term in Section 6.3(a) hereof.
- (k) **“Fees”** mean Subscription Fees, and Professional Services Fees, as applicable.
- (l) **“GDPR”** means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of Personal Information and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).
- (m) **“Malicious Code”** means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.
- (n) **“Service Order”** means (i) an electronic form provided by Company on its website for ordering Service Subscriptions, Support Services, and/or Professional Services, or (ii) a written document executed by Company and Customer in respect to Customer’s purchases of Service Subscriptions, Support Services, and/or Professional Services from Company.

- (o) **“Personal Information”** means any information relating to an identified or identifiable natural person as defined under applicable Data Protection Laws.
- (p) **“Professional Services”** means the services provided by Company or an Company authorized services partner, pursuant to an Service Order and the terms of Section 4 of this Agreement, which services, the fees therefor and any other terms and conditions applicable thereto shall be described in the Service Order.
- (q) **“Professional Services Fees”** means the fees for Professional Services set forth in the applicable Service Order.
- (r) **“Processing”** means any operation or set of operations which is performed upon Personal Information, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.
- (s) **“Service”** means the cloud-based hosted version of the Software for which Customer is granted rights of access and use in accordance with this Agreement, where specified in an Service Order, which resides on a server operated by or on behalf of Company and which will be remotely accessible over the Internet by Customer and its Users, including any ancillary services available in connection therewith, as such Service may be updated from time to time by Company in its sole discretion.
- (t) **“Software”** means the Company’s proprietary Boss Insights® software program(s) in machine-readable object code format and other related software specified in an Service Order, including the Documentation for such program(s) and which is made available by Company as a Service for use by Customer in accordance with the terms hereof.
- (u) **“Subscription”** means the right granted by Company to Customer to access and use the Service in accordance with this Agreement and the applicable Service Order, for the Subscription Term specified in the applicable Service Order.
- (v) **“Subscription Fee”** means the fee payable by Customer for a Subscription as set out in the Service Order.
- (w) **“Subscription Term”** means the period of time that Customer is authorized by Company to access and use the Service (including the Documentation).
- (x) **“Support Services”** means the technical support services for the Service provided by Company as described in, and in accordance with, the Support Terms.
- (y) **“Support Terms”** means the terms on which Company, or an authorized support partner, provides Support Services to Customer and which are available at <https://bossinsights.com/support-terms> (or a successor website address), attached to an Service Order or otherwise agreed to in writing by Company and Customer.
- (z) **“User”** means an employee or contractor of Customer to whom Customer (or Company at Customer’s request) has supplied a user identification and password.

2. **The Service**

- 2.1 **Right to Use the Service.** Subject to the terms and conditions of this Agreement (including the applicable Service Order) and payment of the applicable Subscription Fees, Company hereby grants to Customer a non-exclusive, worldwide, non-transferable, non-sublicensable, internal right to (a) access and use (and to permit Users to access and use) the Service, solely during the Subscription Term; and (b) access and use, and to permit Users to access and use, the Documentation as reasonably necessary to support the Customer’s permitted use of the Service during the Subscription Term.

- 2.2 Reservation of Rights. Company and its licensors own and shall retain all right, title and interest (including without limitation all patent rights, copyrights, trade-mark rights, trade secret rights and all other intellectual property rights), in and to the Software, Service and Documentation and any copies, corrections, bug fixes, enhancements, modifications or new versions thereof, all of which shall be deemed part of the Software and subject to all of the provisions of this Agreement. Customer shall keep the Software and Documentation free and clear of all liens, encumbrances and/or security interests. Subject to the limited rights expressly granted in this Agreement, Company reserves all rights, title and interest in and to the Software and Documentation. No rights are granted to Customer pursuant to this Agreement other than as expressly set forth in this Agreement.
- 2.3 Restrictions. Customer shall not (and shall not allow Users or any third party to): (a) possess, download or copy the Service or any part of the Service, including but not limited any component which comprises the Service, but not including any output from the Service; (b) knowingly interfere with service to any of Company's users, host or network, including by means of intentionally submitting a virus, overloading, flooding, spamming, mail bombing or crashing the Service; (c) modify, translate, reverse engineer, decompile, disassemble, or create derivative works based on the Software, Service and/or Documentation, except to the extent that enforcement is prohibited by applicable law; (d) circumvent any timing restrictions that are built into the Service; (e) sell, rent, lend, transfer, distribute, license, or grant any rights in the Service or Documentation in any form to any person without the written consent of Company; (f) remove any proprietary notices, labels, or marks from the Service or Documentation; (g) create any "**links**" to or "**frame**" or "**mirror**" of the Service or any portion thereof; (h) use the Service to create, collect, transmit, store, use or process any Customer Data that: (i) Customer does not have the lawful right to create, collect, transmit, store, use or process, or (ii) violates any applicable laws, or infringes, violates or otherwise misappropriates the intellectual property or other rights of any third party (including any moral right, privacy right or right of publicity); (i) access or use the Service or Documentation for purposes of competitive analysis of the Service or Documentation, the development, provision or use of a competing software service or product or any other purpose that is to the Company's detriment or commercial disadvantage; (j) access or use the Service or Documentation in, or in association with, the design, construction, maintenance or operation of any hazardous environments, systems, applications or products, any safety response systems or other safety-critical applications, or any other use or application in which the use or failure of the Service could lead to personal injury or severe physical or property damage; or (k) otherwise access or use the Service or Documentation beyond the scope of the authorization granted under Section 2.1.
- 2.4 Rights in Derivative Data. Customer acknowledges and agrees that the Service compiles, stores and uses anonymized or aggregated data and system usage, analytics and diagnostic information to monitor and improve the Service and for the creation of new products. Customer hereby grants to Company a non-exclusive, transferable, assignable, irrevocable, worldwide, perpetual license to collect, process and aggregate Customer Data and other such information and data and create anonymized or aggregated data records and use such anonymized or aggregated data, and all modifications thereto and derivatives thereof ("**Derivative Data**") to improve the Service, develop new products and services, to understand usage, and for any other business purpose. This Derivative Data is no longer associated with Customer or a User and as such is not Customer Data.
- 2.5 Service Management. Each Party shall:
- (a) appoint a service manager to service as the party's primary point of contact for day-to-day communications, consultation and decision-making regarding the Services (each, a "**Service Manager**");
 - (b) maintain the same Service Manager throughout the Term and such additional period, if any, as Provider is required to perform the Services, except for changes in such personnel due to:
 - (i) either party's request pursuant to Section 2.5(c); or
 - (ii) the death, disability, resignation, or termination of such personnel or other circumstances outside the party's reasonable control; and
 - (c) upon the reasonable written request of the other party, promptly replace the Service Manager.

- 2.6 Changes to Service and Documentation. Company reserves the right, in its sole discretion, to make any changes to the Service and Documentation that it deems necessary or useful to: (a) maintain or enhance: (i) the quality or delivery of Company's services to its customers; (ii) the competitive strength of or market for Company's services; or (iii) the cost efficiency or performance of the Service; or (b) to comply with applicable law. Without limiting the foregoing, either party may, at any time during the Subscription Term, request in writing changes to the Service.
3. **Account Activation**
- 3.1 Account. Customer is required to open an account with Company (an "**Account**") in order to use the Service. During registration, a User will be asked to provide Personal Information in order to create an Account on behalf of Customer. Customer shall ensure that such account activation information is accurate and complete and that such information remains current throughout the Subscription Term. Customer is fully responsible for all activity that occurs in Customer's Account, including for any actions taken by its Users. Company may approve or reject an application to register for the Service in its sole discretion. If Company rejects an application, it is not obliged to provide the Customer with its reasons for doing so. If Company approves an application to open an Account, it will notify the Customer by email, and the Customer will then be able to access and use the Service.
- 3.2 Passwords. Customer is responsible for keeping all Account passwords secure, together with any user name, identification number, license or security key, security token, personal identification number (PIN) or other security code, method, technology or device used, alone or in combination, to verify an individual's identity and authorization to access and use the Service ("**Access Credentials**"). Company will not be liable for any loss or damage caused by or arising from a failure by Customer or its Users to maintain the security of the Customer's Account and Access Credentials.
- 3.3 Customer Responsibilities. Customer is also responsible for all activity in the Account and for Customer Data uploaded, collected, generated, stored, displayed, distributed, transmitted or exhibited on or in connection with Customer's Account. Customer shall employ all physical, administrative and technical controls, screening and security procedures and other safeguards necessary to: (a) securely administer the distribution and use of all Access Credentials and protect against any unauthorized access to or use of the Service; and (b) control the content and use of Customer Data, including the uploading or other provision of Customer Data for Processing.
4. **Professional Services**
- 4.1 Services. If agreed to in an Service Order and/or a service order (a "**Service Order**"), Company, or its authorized services partner, will provide Professional Services on a time and materials basis according to the terms and conditions in the Service Order, the applicable Statement of Work and in this Section 4.
- 4.2 Fees and Payment. Customer shall pay fees on a time and materials basis at Company's then-current Professional Services rates or as specified in the applicable Service Order or Statement of Work. Customer shall reimburse Company for all reasonable out of pocket expenses (including travel, lodging and related expenses) incurred by Company or its authorized services partner in the performance of any Professional Services, provided that such expenses are approved in advance in writing by Customer. The fees for Professional Services shall exclude all applicable federal, state, provincial, value-added, goods and services, harmonized and local taxes. Company shall invoice Customer for fees for Professional Services and development of deliverables provided pursuant to this Agreement on a semi-monthly basis. All such fees shall be paid within thirty (30) days of the date of the invoice.
- 4.3 Term and Termination. The term of the Professional Services engagement shall be specified in the applicable Service Order or Statement of Work. If Customer terminates a Professional Services engagement for any reason, Customer shall pay Company the full fee for any Professional Services performed (including all other costs for which Company has the right to reimbursement) up to the effective date of termination of such Professional Services engagement. Either party shall be entitled to immediately terminate a Professional Services engagement for cause in the event of the material breach by the other party of its obligations under this Agreement, provided that such material breach is notified to such party and is not cured within thirty (30) days of the date of such notice.

- 4.4 Intellectual Property Rights. Company shall own all right, title and interest and all intellectual property rights in and to any inventions (whether patentable or not), discoveries, concepts, know-how, technology, software (in executable and source code), templates and modifications to the Software, which have been created or developed by Company or its authorized services partner on behalf of Company, pursuant to a Professional Services engagement. Company shall retain all right, title and interest and all intellectual property rights in and to any and all Company proprietary information and Company Software.
5. **Support Services and Service Level Agreement**
- 5.1 Support Services. During the Subscription Term, Company, or its authorized support partner, will provide Support Services at no additional charge, in accordance with the Support Terms. Company may amend the Support Terms by giving Customer at least thirty (30) days' written notice of any amendments thereto. Company shall not be required to provide Support Services if Customer is in default of any of Customer's obligations under this Agreement.
- 5.2 Service Levels; Availability. Company will use commercially reasonable efforts to: (a) achieve the service levels set forth in the Support Terms, and (b) to ensure that the Service will achieve Service Availability (as defined below) of at least 99.5% during each calendar month. "**Service Availability**" means the number of minutes in a month that the key components of the Service are operational as a percentage of the total number of minutes in such month, excluding downtime resulting from (a) scheduled maintenance, (b) events of Force Majeure as defined in the Agreement, (c) malicious attacks on the Service, (d) issues associated with the Customer's network or equipment, (e) inability to deliver the Service because of acts or omissions of Customer, (f) any delay or failure of performance caused in whole or in part by Customer's delay in performing, or failure to perform, any of its obligations under this Agreement; or (g) any other circumstance beyond Company's reasonable control, including use by Customer or any User of third party materials, misuse of the Service or use of the Service other than in compliance with the express terms of this Agreement. Company reserves the right to take the Service offline for scheduled maintenance for which Customer has been provided reasonable notice and Company reserves the right to change its maintenance window upon prior notice to Customer. Company will use commercially reasonable efforts to: (a) schedule downtime for routine maintenance of the Service between the hours of (4) a.m. and (6) a.m., EST; and (b) give Customer at least 72 hours prior notice of all scheduled outages of the Service. In the event Company fails to achieve Service Availability (a "**Service Level Failure**"), Company shall issue a credit to Customer in the amount of 10% of the monthly fees due for the Subscription Term in which such failure occurred (each, a "**Service Credit**"), subject to the following: (a) Company has no obligation to issue any Service Credit unless: (i) Customer reports the Service Level Failure to Company immediately on becoming aware of it; and (ii) requests such Service Credit in writing within 60 days of the Service Level Failure; and (b) in no event will a Service Credit for any period exceed 50% of the total fees that would be payable for that Subscription Term if no Service Level Failure had occurred.
- 5.3 Disaster Recovery. Company will be responsible for establishing, implementing, testing, and maintaining an effective business continuity plan (including without limitation disaster recovery and crisis management procedures) to provide continuous access to, and support for, the Service. At a minimum, Company shall, at all times, (i) back up, archive and maintain duplicate or redundant systems that can fully recover the Service and all Customer Data for business continuity purposes on at least a daily basis; and (ii) establish and follow procedures and frequency intervals for transmitting backup data and systems to Company's backup location. Such back up storage and systems will be located at a secure physical location other than the location of Company's primary system(s) and be updated and tested at least annually.
6. **Customer Data**
- 6.1 Ownership. As between Company and Customer, Customer exclusively owns all rights, title and interest in and to all Customer Data. Company does not acquire any rights, title or ownership interest of any kind whatsoever, express or implied, in any of the Customer Data, except to the extent necessary to perform the Services or to enforce this Agreement and exercise its rights and perform its obligations hereunder.
- 6.2 Technical and Organizational Safeguards. In connection with the provision of the Service, Company will maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality

and integrity of the Service and Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by Company personnel except (a) to provide the Service and prevent or address service or technical problems, (b) as compelled by law and upon identification of lawful authority, or (c) as expressly permitted in writing by Customer. Company shall, in connection with the provision of the Service, comply with Data Protection Laws, as well as the Company's Privacy Policy. Company will employ security measures in accordance with Company's security policy as amended from time to time available upon request.

6.3 Customer Obligations.

- (a) Customer is responsible for properly configuring and using the Service in a manner that provides security and redundancy of its Customer Data and its End Users' data ("**End User Data**") to prevent unauthorized access to its Service account and to prevent unauthorized access to Customer Data and End User Data, and ensuring the appropriate level of backup to prevent any loss of its Customer Data or End User Data. Company has no obligation or liability for any loss, alteration, destruction, damage, corruption or recovery of Customer Data or End User Data.
- (b) If Customer uses the Service to provide services to, or otherwise interact with, its own End Users, then Customer, and not Company, will have the relationships (through executed contracts between Customer and End Users or via online terms of service) with End Users. Therefore Customer, and not Company, is responsible for End Users' use of Customer Data and the Service. To the extent that Customer enables End Users to access the Service or Customer Data, Customer will ensure that all End Users comply with any applicable obligations of Customer under this Agreement and that any terms of any agreement with each End User are not inconsistent with this Agreement. Company does not provide any support or services to End Users and Customer is responsible for providing customer service (if any) to End Users.

6.4 Customer Data Portability and Deletion. Upon request by Customer made during the term hereof or within 5 days after the effective date of termination of this Agreement, Company will make the Customer Data available to Customer for export or download as provided in the Documentation. After such 5-day period, Company will have no obligation to maintain or provide any Customer Data, and will thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control as provided in the Documentation, unless legally prohibited.

7. Protection of Personal Information

7.1 Data Processing Addendum. The terms of the data processing addendum at <https://bossinsights.com/legal/dpa> ("DPA") are hereby incorporated by reference and shall apply to the extent Customer Data includes Personal Information, as defined in the DPA. To the extent Personal Information from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Company, the Standard Contractual Clauses shall apply, as further set forth in the DPA. For the purposes of the Standard Contractual Clauses, Customer and its applicable Affiliates are each the data exporter, and Customer's acceptance of this Agreement, and an applicable Affiliate's execution of an Order Form, shall be treated as its execution of the Standard Contractual Clauses.

7.2 Customer is Data Controller. In relation to all Personal Information provided by or through Customer to Company under this Agreement, Customer will at all times remain the Data Controller and will be responsible for compliance with all applicable Data Protection Laws. To the extent that Company processes Personal Information in the course of providing the Service and related services under this Agreement, it will do so only as a Data Processor acting on behalf of the Customer (as Data Controller) and in accordance with the requirements of this Agreement.

7.3 Prohibited Data. Customer acknowledges that the Service is not designed with security and access management for Processing the following categories of information: Personally sensitive information including but not limited to: credit card data, personal health information, sensitive military information, passport information (each of the foregoing, "**Prohibited Data**"). Customer shall not, and shall not permit any User or other person to, provide any Prohibited Data to, or Process any Prohibited Data through, the Service. Customer is solely responsible for reviewing all Customer Data and shall ensure that no Customer Data constitutes or contains any Prohibited Data.

- 7.4 Company's Processing of Personal Information. Company shall secure Personal Information with all necessary safeguards appropriate to the level of sensitivity of the Personal Information. Company shall only Process Personal Information on behalf of and in accordance with Customer's documented instructions and Data Protection Laws for the following purposes: (i) Processing in accordance with the Agreement; (ii) Processing initiated by Customer's Users or customers in their use of the Service; and (iii) Processing to comply with other documented reasonable instructions provided by Customer where such instructions are consistent with the terms of the Agreement. Company shall ensure that its personnel engaged in the Processing of Personal Information are informed of the confidential nature of the Personal Information and have received appropriate training on their responsibilities and Company shall take commercially reasonable steps to ensure the reliability of any Company personnel engaged in the Processing of Personal Information.
- 7.5 Data Breach. Upon becoming aware of any unlawful access to any Personal Information, any unauthorized access to such facilities or equipment resulting in loss, disclosure or alteration of any Personal Information, or any actual loss of or suspected threats to the security of Personal Information (including any physical trespass on a secure facility, computing systems intrusion/hacking, loss/theft of a computing device, storage media or printed materials, or other unauthorized access) (each a "**Security Incident**"), Company will promptly notify Customer of the Security Incident (and in all circumstances at least as soon as it reports to similarly situated customers of Company as Customer, but in no event no more than 24 hours after discovery), and will investigate or perform required assistance in the investigation of the Security Incident and provide Customer with detailed information about the Security Incident. Company will take all commercially reasonable steps to mitigate the effects of the Security Incident, or assist Customer in doing so; and will provide prior notice to Customer of, and will not undertake any, proposed communications to third parties related to a Security Incident involving Personal Information without Customer's prior written approval, not to be unreasonably withheld, conditioned or delayed. Company will work with and coordinate with Customer on any such notices in any event. Company will comply with this Section 7.5 at Company's cost unless the Security Incident arose from Customer's negligent or willful acts or Company's compliance with Customer's express written instructions. If Customer becomes aware of a Security Incident, Customer shall, and shall cause its Users to, immediately: (a) take all reasonable and lawful measures within their respective control that are necessary to stop the Security Incident and to mitigate its effects (including, where applicable, by discontinuing and preventing any unauthorized access to the Service and Documentation and permanently erasing from their systems and destroying any data to which any of them have gained unauthorized access); and (b) promptly notify Company of any such Security Incident.
- 7.6 California Consumer Privacy Act (CCPA). Company is a "Service Provider" as such term is defined under §1798.140(v) of the CCPA. As such Company shall not retain, use or disclose any personal information (as defined in the CCPA) received from Customer during the Term of this Agreement for any purpose other than the specific purpose of providing the products and services specified in this Agreement or for such other business purpose as is specified in this Agreement.
8. **Customer Responsibilities**
- 8.1 Users. Customer is responsible for all activities that occur in User accounts and for its and its Users' compliance with this Agreement. Customer shall: (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data and the means by which Customer acquired Customer Data; (b) use commercially reasonable efforts to prevent unauthorized access to, or use of, the Software or the Service, and notify Company promptly of any such unauthorized access or use; and (c) use the Service only in accordance with the Documentation and applicable laws and government regulations.
- 8.2 Use Guidelines. Customer shall use the Service solely for its internal business purposes as contemplated by this Agreement and shall not interfere with or disrupt the integrity or performance of the Service or the data contained therein.
- 8.3 Processing of Personal Information. Customer's instructions to Company for the Processing of Personal Information shall comply with Data Protection Laws. Customer shall have sole responsibility for the accuracy, quality, and legality of Customer Data and the means by which Customer acquired the Customer Data. Customer hereby represents and warrants to, and covenants with Company that Customer Data will only contain Personal Information in respect of which Customer has provided all notices and disclosures, obtained all applicable third party consents and permissions and otherwise has all authority, in each case as required by applicable laws, to enable Company to provide the Service, including with respect to the collection, storage, access, use, disclosure and transmission of Personal Information, including by or to Company and to or from all applicable third parties.

- 8.4 **Equipment.** Customer is solely responsible for acquiring, servicing, maintaining and updating all equipment, computers, software and communications services (such as Internet access) that are required to allow Customer to access and use the Service and for all expenses relating thereto. Customer agrees to access and use, and shall ensure that all Users access and use, the Service in accordance with any and all operating instructions or procedures that may be issued by Company from time to time.
- 8.5 **Feedback.** Customer may provide reasonable feedback to Company including, but not limited to, suitability, problem reports, suggestions and other information with respect to the Service ("**Feedback**"). Customer hereby grants to Company a fully paid-up, royalty-free, worldwide, assignable, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Software, Service, Documentation and any other Company products or services, or for any other purposes, any Feedback provided by Customer or its Users.
9. **Fees and Payment**
- 9.1 **Fees.** Customer shall pay all Fees specified in Schedule A (the "**Fees**"). All Fees are quoted and payable in Canadian/United States dollars. Except as otherwise specified herein or in a Service Order, Fees are based on Subscriptions purchased and not actual usage, payment obligations are non-cancellable, Fees paid are non-refundable, and the number of Subscriptions purchased cannot be decreased during the relevant Subscription Term stated in a Service Order. Company may increase Fees for any contract month after the first contract month of the Subscription Term, by providing written notice to Customer at least thirty (30) calendar days before the commencement of that contract month, and Schedule A will be deemed amended accordingly.
- 9.2 **Invoicing and Payment.** Fees for Subscriptions will be invoiced in advance and otherwise in accordance with the relevant Service Order. Unless otherwise stated in the Service Order, charges are due net fifteen (15) days from the invoice date. Customer is responsible for maintaining complete and accurate billing and contact information with Company. All amounts payable to Company under this Agreement shall be paid by Customer to Company in full without any set-off, recoupment, counterclaim, deduction, debit or withholding for any reason (other than any deduction or withholding of tax as may be required by Applicable Law)
- 9.3 **Overdue Charges.** Any payment not received from Customer by the due date may accrue (except with respect to charges then subject to a reasonable and good faith dispute), at Company's discretion, late charges at the rate of 1.5% of the outstanding balance per month (19.57% per annum), or the maximum rate permitted by law, whichever is lower, from the date such payment was due until the date paid. Customer shall reimburse Company for all costs incurred by Company in collecting any late payments or interest, including legal fees, court costs and collection agency fees.
- 9.4 **Suspension for Non-Payment.** Company may immediately suspend Customer's Subscription to use the Service if Customer fails to make any payment due in respect of the Service and does not cure such non-payment within ten (10) business days after receiving notice of such failure. Any suspension of the rights hereunder by Company under the preceding sentence shall not excuse Customer from its obligation to make all payment(s) under the Agreement.
- 9.5 **Payment Disputes.** Company will not exercise its rights under Sections 9.3 or 9.4 hereof if Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.
- 9.6 **Taxes.** Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, HST, GST, sales, value-added, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Company has the legal obligation to pay or collect Taxes for which Customer is responsible under this Section 9.6, Company will invoice Customer and Customer will pay that amount unless Customer provides Company with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Company is solely responsible for taxes assessable against it based on its income, property and employees.

10. **Audits**

Company shall have the right, during the Term of this Agreement and for one-year following the termination of this Agreement for any reason, with reasonable notice and during normal business hours, at Company's sole expense and in as

non-disrupting a manner as reasonably possible, to verify Customer's compliance with Customer's obligations hereunder through a remote or an on-site audit of Customer's records, facilities and licensing processes by Company or a third party representative of Company. Company may use such audit reports solely to enforce its rights hereunder and shall otherwise treat audit reports and any information received in connection with such audits as Confidential Information. In the event that an audit establishes that Customer is in material breach of its obligations hereunder, Customer shall reimburse Company for the cost of the audit and shall promptly pay to Company all outstanding Fees.

11. **Confidentiality Obligations**

- 11.1 **Definition of Confidential Information.** As used herein, "**Confidential Information**" means all confidential and proprietary information of a party ("**Disclosing Party**") disclosed 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, including the terms and conditions of this Agreement (including pricing and other terms reflected in all Orders hereunder), the Service and Documentation, Customer Data (which is the Confidential Information of the Customer), business and marketing plans, technology and technical information, product designs, and business processes. Confidential Information shall 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) was independently developed by the Receiving Party without breach of any obligation owed to the Disclosing Party; or (iv) is received from a third party without breach of any obligation owed to the Disclosing Party.
- 11.2 **Confidentiality.** Subject to Section 11.4, and unless the Disclosing Party expressly agrees in writing otherwise, the Receiving Party will: (a) use the Disclosing Party's Confidential Information only during the Subscription Term and only as necessary to perform the Receiving Party's obligations under this Agreement; (b) disclose the Disclosing Party's Confidential Information only to the Receiving Party's directors, officers, agents, employees and authorized subcontractors and their employees and only to the extent that such disclosure is necessary to perform the Receiving Party's obligations or exercise the Receiving Party's rights under this Agreement. Customer shall not disclose any performance, benchmarking, or feature-related information about the Service.
- 11.3 **Protection.** Each party agrees to protect the confidentiality of the Confidential Information of the other party in the same manner that it protects the confidentiality of its own proprietary and confidential information of like kind (but in no event using less than reasonable care).
- 11.4 **Compelled Disclosure.** If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it shall provide the Disclosing Party with prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- 11.5 **Remedies.** If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of confidentiality protections hereunder, the Disclosing Party shall have the right, in addition to any other remedies available to it, to seek injunctive relief to enjoin such acts, it being specifically acknowledged by the parties that any other available remedies may be inadequate.
- 11.6 **Return of Confidential Information.** Upon Disclosing Party's written request upon expiration or termination of this Agreement (or at any earlier time upon written request by the Disclosing Party), the Receiving Party will: (a) promptly deliver to the Disclosing Party all originals and copies, in whatever form or medium, of all the Disclosing Party's Confidential Information and all documents, records, data and materials, in whatever form or medium, containing such Confidential Information in the Receiving Party's possession, power or control and Receiving Party will delete all of the Disclosing Party's Confidential Information from any and all of the Receiving Party's computer systems, retrieval systems and databases as soon as practicable ; and (b) request that all persons to whom it has provided any of the Disclosing Party's Confidential Information comply with this Section 11.6.

12. **Limited Warranties and Disclaimers**

- 12.1 Representations and Warranties. Each party represents and warrants to the other party that: (a) it is a corporation and validly existing in the jurisdiction of its incorporation; (b) it has all required power and capacity to enter into this Agreement, to grant the rights and licenses granted under this Agreement and to perform its obligations under this Agreement; (c) the execution of this Agreement by its representative whose acceptance is recorded in Company's system has been duly authorized by all necessary corporate action; and (d) when executed and delivered by each of the parties, this Agreement will constitute the legal, valid and binding obligation of such party, enforceable against such party in accordance with its terms. Company represents, warrants and covenants to Customer that it will perform the Service using personnel of required skill, experience and qualifications and in a professional and workmanlike manner in accordance with commercially reasonable industry standards for similar services and will devote adequate resources to meet its obligations under this Agreement. Customer represents, warrants and covenants to Company that Customer owns or otherwise has, and will have, the necessary rights and consents in and relating to the Customer Data so that, as received by Company and Processed in accordance with this Agreement, they do not and will not infringe, misappropriate or otherwise violate any intellectual property rights of any third party or violate any applicable law.
- 12.2 Limited Warranties. Company hereby represents and warrants to Customer that:
- (a) During the Subscription Term the Service will perform materially in accordance with the Documentation therefor;
 - (b) the Service will not contain any Malicious Code;
 - (c) it owns or otherwise has sufficient rights in the Service and Documentation to grant to Customer the rights to access and use the Service and Documentation granted herein.
- 12.3 Remedy. In the event of a breach of one or more of the warranties set forth in Section 12.1 hereof, Company shall use reasonable commercial efforts to correct such breach of the warranty. If Company is unable to remedy the breach of warranty within a reasonable time, Company shall refund the Subscription Fee paid for the Service.
- 12.4 Exclusive Remedies. THE WARRANTIES SET OUT IN SECTION 12.1 HEREOF ARE THE ONLY WARRANTIES PROVIDED BY COMPANY AND THE REMEDIES SET OUT IN SECTION 12.3 HEREOF ARE THE SOLE AND EXCLUSIVE REMEDIES OF CUSTOMER FOR A BREACH OF WARRANTY.
- 12.5 General Warranty Disclaimers. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED HEREIN, THE SERVICE AND THE PROFESSIONAL SERVICES ARE PROVIDED "**AS IS**" AND "**AS AVAILABLE**" AND COMPANY MAKES NO REPRESENTATIONS OR WARRANTIES, AND THERE ARE NO CONDITIONS, ENDORSEMENTS, UNDERTAKINGS, GUARANTEES, REPRESENTATIONS OR WARRANTIES OF ANY KIND, EITHER EXPRESS OR IMPLIED, (INCLUDING WITHOUT LIMITATION ANY EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF QUALITY, PERFORMANCE, RESULTS, FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY OR ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF THE TRADE) AS TO, ARISING OUT OF OR RELATED TO THE FOLLOWING: (I) THIS AGREEMENT; (II) THE SERVICE; AND/OR (III) SECURITY ASSOCIATED WITH THE TRANSMISSION OF INFORMATION OR CUSTOMER DATA TRANSMITTED TO OR FROM COMPANY VIA THE SERVICE. LICENSOR DOES NOT REPRESENT OR WARRANT THAT THE SERVICE WILL MEET ANY OR ALL OF CUSTOMER'S PARTICULAR REQUIREMENTS, THAT THE SERVICE WILL OPERATE ERROR-FREE OR UNINTERRUPTED OR THAT ALL PROGRAMMING ERRORS IN THE SOFTWARE CAN BE FOUND IN ORDER TO BE CORRECTED. COMPANY DISCLAIMS ALL LIABILITY AND INDEMNIFICATION OBLIGATIONS FOR ANY HARM OR DAMAGES CAUSED BY ANY THIRD-PARTY HOSTING PROVIDERS.
- 12.6 Internet Connectivity Disclaimer. Company makes the Service available for access via the Internet. Customer shall provide, at Customer's own expense, all necessary hardware, applications and Internet connectivity necessary to access the Service over the Internet. Customer is responsible for and shall ensure that Customer's computer equipment and an internet connection meets the minimum specifications published by Company in the Documentation and updated from time to time on the Company's website, and Customer shall periodically update Customer's computer equipment and/or Internet connection to meet such minimum specifications. Customer hereby acknowledges that the Service may be interrupted due to (a) website downtime for scheduled maintenance at Company's sole discretion, or (b) interruptions in Internet connectivity or other website downtime caused by circumstances beyond Company's control, including, without limitation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems,

computer or telecommunications failures, or delays involving hardware or software not within Company's control or network intrusions. Customer hereby acknowledges and agrees that Company shall not, in any way, be liable for, or have responsibility with respect to, any such service interruptions and releases Company from any claims relating thereto.

13. **Intellectual Property Infringement Indemnification**

13.1 **Indemnification by Company.** Subject to this Agreement, Company shall defend, indemnify and hold Customer harmless against any loss, damage or costs (including reasonable legal fees) incurred in connection with claims, demands, suits, or proceedings made or brought against Customer by a third party alleging that the use of the Service and Documentation as contemplated hereunder infringes the intellectual property rights of a third party (each an "**Infringement Claim**"); provided, that Customer (a) promptly gives written notice of the Infringement Claim to Company; (b) gives Company sole control of the defense and settlement of the Infringement Claim (provided that Company may not settle or defend any Infringement Claim unless it unconditionally releases Customer of all liability); and (c) provides to Company, at Company's cost, all reasonable assistance and information.

13.2 **Other Remedies.** If (a) Company becomes aware of an actual or potential Infringement Claim, or (b) Customer provides Company with notice of an actual or potential Infringement Claim, Company may (or in the case of an injunction against Customer, shall), at Company's sole option and determination: (i) procure for Customer the right to continue to use the Service; or (ii) replace or modify the Service with an equivalent or better Service so that Customer's use is no longer infringing; or (iii) if (i) and (ii) are not commercially reasonable, as determined by Company in its sole discretion, terminate the rights granted hereunder to the Customer to access and use the Service and refund to Customer that portion of any prepaid Subscription Fees that is applicable to the period following the termination of the Subscription pursuant to this Section 12.3, less any outstanding fees owed on such affected portion of the Service.

13.3 **Exclusions.** The indemnity in Section 12.1 does not extend to (1) any Infringement Claim based upon infringement or alleged infringement of any patent, trademark, copyright or other intellectual property right by the combination of the Service with other products, software or services not provided or approved by Company, if such infringement would have been avoided but for such combination; (2) any Infringement Claim in respect to any version of the Service other than the most current version made available to the Customer by or on behalf of the Customer; or (3) any use, distribution, sublicensing or exercise of any other right outside the scope of this Agreement.

13.4 **Limitation.** Notwithstanding any other provision of this Agreement, the liability of Company to Customer under this Section 13 shall not exceed the lesser of \$500,000 and the fees paid and due by the Customer in the twelve months preceding the incident giving rise to liability. Company agrees to obtain Customer's consent for any settlement in excess of \$500,000. In no event shall Company be responsible for any cost, expense or compromise incurred or made by Customer without Company's prior written consent.

13.5 **Sole Remedies.** THIS SECTION 13 CONTAINS COMPANY'S ENTIRE LIABILITY, AND CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES, FOR INFRINGEMENT CLAIMS.

14. **Indemnification by Customer**

Customer shall defend, indemnify and hold Company harmless against any loss, damage or costs (including reasonable legal fees) incurred in connection with any claims, demands, suits, or proceedings made or brought against Company by a third party (a) alleging that the Customer Data or Customer's use of the Service in violation of this Agreement, infringes the intellectual property rights of, or has otherwise harmed, a third party; (b) based on a breach of any Data Protection Laws or a breach of this Agreement; or (c) caused by any negligent act or omission of Customer or its employees, contractors or agents (each a "**Customer Indemnified Claim**"); provided, that Company (a) promptly gives written notice of the Customer Indemnified Claim to Customer; (b) gives Customer sole control of the defense and settlement of the Customer Indemnified Claim (provided that Customer may not settle or defend any Customer Indemnified Claim unless it unconditionally releases Company of all liability); and (c) provides to Customer, at Customer's cost, all reasonable assistance and information.

15. **Limitation of Liability**

- 15.1 Exclusion of Indirect and Consequential Damages. SUBJECT TO SECTION 15.3 HEREOF, IN NO EVENT SHALL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOSS OF BUSINESS, LOSS OF PROFITS, BUSINESS INTERRUPTION, LOSS OF DATA, LOST SAVINGS OR OTHER SIMILAR PECUNIARY LOSS).
- 15.2 Limitation of Liability. SUBJECT TO SECTION 15.3 HEREOF, IN NO EVENT SHALL EITHER PARTY'S MAXIMUM, CUMULATIVE AND AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR RELATING TO THE SUBJECT MATTER HEREOF FOR ALL CLAIMS, COSTS, LOSSES AND DAMAGES EXCEED THE AMOUNTS ACTUALLY DUE FROM CUSTOMER HEREUUNDER IN THE TWELVE MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY. THE EXISTENCE OF MORE THAN ONE CLAIM SHALL NOT ENLARGE THIS CUMULATIVE LIMIT.
- 15.3 Certain Damages Not Excluded or Limited. NOTWITHSTANDING THE FOREGOING, NO LIMITATION OF EITHER PARTY'S LIABILITY SET FORTH IN THIS AGREEMENT SHALL APPLY TO (I) DAMAGES ARISING FROM A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUUNDER, (II) INDEMNIFICATION CLAIMS SUBJECT TO THE LIMITATION CONTAINED IN SECTION 13.4 HEREOF), (III) DAMAGES ARISING FROM INFRINGEMENT OF A PARTY'S INTELLECTUAL PROPERTY RIGHTS; (IV) ANY CLAIMS FOR NON-PAYMENT, (V) FRAUD OR WILLFUL MISCONDUCT, OR (VI) BODILY INJURY OR DEATH.
- 15.4 Application of Exclusions and Limitations. The foregoing limitations and exclusions of liability shall apply even if a party had been advised of the possibility of any such costs, losses or damages or knew or ought to have known of such costs, losses or damages and shall apply regardless of whether the action arose in contract, including, without limitation, from a fundamental breach, or breach of a condition, fundamental term or warranty, or in tort (including, without limitation negligence) or otherwise. The foregoing provisions limiting the liability of Company shall also apply to its officers, directors, employees, and agents as trust provisions for the benefit of such officers, directors, employees, and agents and shall be enforceable by such persons as trust beneficiaries.
16. **Insurance**
- During the term of this Agreement, Company shall continuously maintain insurance against such risks and in such amounts that could reasonably be expected to be carried by persons acting prudently and in a business similar to that of Company. Such insurance shall be issued and maintained with an insurance company having a rating of "A" or better by A.M. Best Company.
17. **Term**
- 17.1 Term, Renewal. This Agreement commences on the date of the initial Service Order and shall continue until terminated earlier in accordance with the provisions of this Agreement or applicable law. This Agreement shall remain in effect and govern all Service Orders until (i) the end of the Subscription Term under such Service Order, (ii) such Service Order is terminated by the parties, or (iii) there has been full performance of the parties' respective obligations under such Service Order.
- 17.2 Subscriptions. Service Subscriptions commence on the earlier of the start date specified in the relevant Service Order and continue for the Subscription Term specified therein unless terminated earlier as provide for in this Agreement. Unless otherwise agreed upon in the applicable Service Order, Subscriptions shall automatically renew for additional periods of one (1) year at the list price then in effect at the time of renewal unless Customer gives Company written notice of non-renewal at least sixty (60) days prior to the end of the applicable Subscription Term.
- 17.3 Termination.
- (a) A party may terminate this Agreement or a Service Subscription 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.

- (b) Customer may terminate this Agreement for convenience during the first 30 days of the initial Term upon notice to Company.

17.4 **Refund or Payment upon Termination.** If this Agreement or a Service Subscription is terminated by Customer in accordance with Section 17.3, Company will refund Customer any prepaid Subscription Fees covering the remainder of the term of the Subscription Term after the effective date of termination. If this Agreement is terminated by Company in accordance with Section 17.3, Customer will pay any unpaid Subscription Fees covering the remainder of the Subscription Term for any current Subscriptions. In no event will termination relieve Customer of its obligation to pay any Fees payable to Company for the period prior to the effective date of termination.

17.5 **Suspension of Access to Service.** In addition to any termination rights of Company pursuant to this Agreement, extraordinary circumstances may require Company to suspend or terminate (where appropriate), as determined in Company's reasonable discretion, Customer's access to and/or use of, or otherwise modify, the Service in order to: (a) prevent material damages to, or material degradation of the integrity of, Company's or its provider's Internet network; or (b) comply with any law, regulation, court order, or other governmental order. Company will notify Customer of such suspension or termination action as far in advance of such suspension or termination as reasonably possible, and if such advance notice is not possible, then as soon as possible after such suspension or termination. In the event of a suspension, Company will limit such suspension to that which is minimally required and will promptly restore Customer's access to the Service as soon as the event giving rise to the suspension has been addressed (including by Customer agreeing to accept the risks associated with such suspension) or resolved. Unless caused by a breach of this Agreement by Customer: (i) all Subscription Fees related to the Subscription, or other suspended services shall be waived for the duration of the suspension and any such waived Subscription Fees which have been pre-paid shall be refunded to Customer; and (ii) in the event of a termination in connection with this Section 17.5, Customer shall receive a refund of any and all prepaid Subscription Fees applicable to the remainder of the then-current Subscription Term.

18. **Export Restrictions; US Government Licenses**

Customer hereby represents and warrants that Customer is not located in, under the control of, and is not a national or resident of, any country to which the export of the Software or related information would be prohibited by the laws and/or regulations of Canada and/or the United States. Customer also represents and warrants that Customer is not an individual to whom the export of the Software or related information would be prohibited by the laws and/or regulations of Canada and/or the United States. Customer shall comply with the export laws and regulations of Canada and the United States that are applicable to the Software and related information and Customer shall comply with any local laws and/or regulations in Customer's jurisdiction that may impact Customer's right to export, import, or use the Software or related information, and Customer represents and warrants that Customer has complied with any such applicable laws and/or regulations. Notwithstanding any agreement with a third-party or any provision of law, regulation or policy, if Customer is an agency of the government of the United States of America, then Customer's rights in respect of the Software and Documentation shall not exceed the rights provided under this Agreement, unless expressly agreed upon by Company in a written agreement between Customer and Company and signed by a Chief Operating Officer or Chief Executive Officer of Company.

19. **Non-Disparagement.**

Without limiting the rights of Customer under this Agreement, Customer shall not, during the Term of this Agreement and for a period of seven (7) years from the Termination of this Agreement, directly or indirectly, in any manner whatsoever, including either individually, in partnership, jointly or in conjunction with any other person, or as principal, agent, director, officer, employee, consultant or shareholder, defame or actively disparage the commercial, business or financial reputation of Company, their Affiliates, any of their products or services, or any of their respective shareholders, employees, officers or directors.

20. **Future Disputes**

20.1 Any dispute arising out of or in connection with this contract, including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the International Chamber of Commerce's Rules, which Rules are deemed to be incorporated by reference into this clause.

- 20.2 The number of arbitrators shall be three.
- 20.3 The seat, or legal place, of arbitration shall be New York, New York.
- 20.4 The language to be used in the arbitral proceedings shall be English.
- 20.5 The governing law of the arbitration agreement shall be the substantive law of the province of Ontario.

21. **Assignment**

Customer may not assign any of its rights or obligations hereunder, whether by operation of law, change of control or otherwise, without the prior written consent of Company. Notwithstanding the foregoing, Company may assign this Agreement in its entirety (including all Service Orders and Statements of Work), without consent of the Customer, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets to which this Agreement relates. Any attempt by Customer to assign its rights or obligations under this Agreement in breach of this Section 21 shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

22. **Notices**

Any notice required or permitted to be given in accordance with this Agreement will be effective only if it is in writing and sent using: (a) the Service; (b) certified or registered mail; or (c) a nationally recognized overnight courier, to the appropriate party at the address set forth on the Service Order, with a copy, in the case of Company, to the Legal Officer at info@bossinsights.com. Each party hereto expressly consents to service of process by registered mail. Either party may change its address for receipt of notice by notice to the other party through a notice provided in accordance with this Section 22 (Notices). Notices are deemed given upon receipt if delivered using the Service, two (2) business days following the date of mailing, or one (1) business day following delivery to a courier.

23. **General**

23.1 **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: (x) to sections, exhibits, schedules, attachments and appendices mean the sections of, and exhibits, schedules, attachments and appendices attached to, this Agreement; (y) 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 (z) to a statute means such statute as amended from time to time and includes any successor legislation thereto and any regulations promulgated thereunder. This Agreement shall 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. Unless otherwise stated, all dollar amounts referred to in this Agreement are stated in Canadian currency.

23.2 **Headings.** The headings in this Agreement are for reference only and shall not affect the interpretation of this Agreement.

23.3 **Force Majeure.** In the event that either party is prevented from performing, or is unable to perform, any of its obligations under this Agreement due to any cause beyond the reasonable control of the party invoking this provision (including, without limitation, for causes due to war, fire, earthquake, flood, hurricane, riots, epidemic or pandemic, acts of God, telecommunications outage not caused by the obligated party, or other similar causes) (“Force Majeure Event”), the affected party’s performance will be excused and the time for performance will be extended for the period of delay or inability to perform due to such occurrence; provided that the affected party: (a) provides the other party with prompt notice of the nature and expected duration of the Force Majeure Event; (b) uses commercially reasonable efforts to address and mitigate the cause and effect of such Force Majeure Event; (c) provides periodic notice of relevant developments; and (d) provides prompt notice of the end of such Force Majeure Event. Obligations to pay are excused only to the extent that payments are entirely prevented by the Force Majeure Event.

- 23.4 Waiver. The failure of a party to claim a breach of any term of this Agreement shall not constitute a waiver of such breach or the right of such party to enforce any subsequent breach of such term. No failure or delay by either party in exercising any right under this Agreement shall constitute a waiver of that right.
- 23.5 Unenforceable Provisions. If any provision of this Agreement is held to be unenforceable or illegal, such decision shall not affect the validity or enforceability of such provisions under other circumstances or the remaining provisions of this Agreement and this Agreement shall be reformed only to the extent necessary to make it enforceable under such circumstances.
- 23.6 Independent Contractors. The relationship of Company and Customer established by this Agreement is that of independent contractors, and nothing contained in this Agreement will be construed to (i) give either party the power to direct and control the day to-day activities of the other, (ii) constitute the parties as legal partners, joint venturers, co-owners or otherwise as participants in a joint undertaking, or (iii) allow either party to create or assume any obligation on behalf of the other party for any purpose whatsoever. All financial and other obligations associated with the businesses of the parties are their sole respective responsibilities.
- 23.7 Public Announcements. Neither party shall issue or release any announcement, statement, press release or other publicity or marketing materials relating to this Agreement, or otherwise use the other party's trade-marks, trade dress, brand names, logos, corporate names and domain names or other similar designations of source, sponsorship, association or origin, in each case, without the prior written consent of the other party.
- 23.8 Governing Law. This Agreement shall be governed by the laws of the Province of Ontario, and the federal laws of Canada applicable therein without giving effect to any choice or conflict of law provision or rule. The application of the United Nations Convention on Contracts for the International Sale of Goods to this Agreement is expressly excluded and does not apply to this Agreement.
- 23.9 Further Assurances. Each party shall, upon the reasonable request of the other party, promptly execute such documents and perform such acts as may be necessary to give full effect to the terms of this Agreement.
- 23.10 Entire Agreement. This Agreement is the entire agreement between Customer and Company in respect to the subject matter hereof, superseding any other agreements or discussions, oral or written, and may not be changed except by a written license agreement with Company or a distributor of Company.
- 23.11 Severability. If any term or provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
- 23.12 Purchase Orders etc. The terms and conditions of this Agreement, any Service Orders and Statements of Work shall prevail over any pre-printed terms on any quotes, orders, purchase orders, or purchase order acknowledgements, and shall prevail over any other communications between the parties in relation to the Service and Documentation and the right to access and use the Service and Documentation shall be deemed to be pursuant to the terms and conditions of this Agreement, unless Customer has executed a written license agreement with Company or a distributor of Company, in which case the Service and Documentation shall be deemed to have been licensed pursuant to the terms and conditions of such written license agreement.
- 23.13 Remedies. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a party at law or in equity.
- 23.14 Amendments. EXCEPT WHERE PROHIBITED BY APPLICABLE LAW OR AS OTHERWISE AGREED IN THE SERVICE ORDER, COMPANY MAY UNILATERALLY AMEND THIS AGREEMENT, IN WHOLE OR IN PART (EACH, AN "AMENDMENT"), BY: (I) GIVING CUSTOMER PRIOR NOTICE OF SUCH AMENDMENT; OR (II) POSTING NOTICE OF SUCH AMENDMENT ON THE WEBSITE. UNLESS OTHERWISE INDICATED BY COMPANY ANY SUCH AMENDMENT WILL BECOME EFFECTIVE AS OF THE DATE THE NOTICE OF SUCH AMENDMENT IS PROVIDED TO CUSTOMER OR IS POSTED ON THE WEBSITE (WHICHEVER IS THE EARLIER).

- 23.15 Signature, Counterparts, and Delivery. This Agreement may be signed electronically, including through DocuSign and similar applications. This Agreement may be signed in any number of counterparts (including counterparts by scanned or electronic signature) and each counterpart will be deemed an original; taken together, all counterparts will be deemed to constitute one and the same instrument. Delivery of a printed counterpart (whether or not the counterpart was signed electronically) or electronic delivery (including by email transmission or transmission over an electronic signature platform) of an executed counterpart of this Agreement are each as valid, enforceable and binding as if the signatures were upon the same instrument and delivered in person.
- 23.16 Language of Agreement. The parties hereto confirm that they have requested that this agreement and all related documents be drafted in English. Any French translation hereof has been provided for information purposes only and does not have any legal value nor create any contractual relationship between the parties. Les parties aux présentes ont exigé que la présente entente et tous les documents connexes soient rédigés en anglais. Toute traduction de celle-ci est non-officielle, est fournie à des fins d'information seulement et ne crée aucun lien contractuel entre les parties.

The Parties have executed this Agreement, as of the Effective Date.