



Contruent Subscription Services Agreement

This Subscription Services Agreement (the “**Agreement**”) is entered into and effective as of _____ (the “**Effective Date**”) by and between Contruent LLC, an Illinois limited liability company, having its principal place of business at 55 Shuman Blvd, Suite 200, Naperville, IL 60563 (“**Contruent**”), and _____, a _____ corporation, having its principal place of business at _____ (“**Customer**”).

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Definitions.

1.1 “Affiliate” means any entity that directly or indirectly controls, is controlled by, or is under common control with the Customer entity signing this Agreement. “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.

1.2 “Consulting Services” means certain consulting, implementation and technical services provided by Contruent under this Agreement, as described more fully in a Statement of Work.

1.3 “Contruent Materials” means any materials that Contruent provides to Customer as part of, or in the course of providing, the Service or the Professional Services. Contruent Materials are Contruent’s Confidential Information, as defined in Section 6. Customer will use the Contruent Materials only as expressly permitted in this Agreement, or the applicable Order Form or Statement of Work.

1.4 “Customer Data” means all data and information submitted by or on behalf of Customer to the Service.

1.5 “Documentation” means Contruent’s then-current training materials, as updated from time to time, and as may be made accessible from within the Service.

1.6 “Order Form” means an ordering document executed by the parties that specifies the Service and certain Professional Services purchased by Customer under this Agreement, and incorporates this Agreement by reference.

1.7 “Personal Data” means information relating to an identified or identifiable natural person.

1.8 “Professional Services” means Consulting Services as described in the applicable SOW, training services, and Support Services. Professional Services excludes the Service.

1.9 “Service” means the online, web-based application provided to Customer by Contruent as set forth in an Order Form. The Service as defined in this Agreement excludes the Professional Services and all Third-Party Applications.

1.10 “Statement of Work” or “SOW” means a document executed by the parties that describes certain Professional Services purchased by Customer under this Agreement. Each Statement of Work will incorporate this Agreement by reference.

1.11 “Subscription Term” means the period identified in the Order Form during which Customer or its Users are authorized to use or access the Service pursuant to the terms set forth in this Agreement, unless earlier terminated as set forth in Section 10. Access to the Service is granted on a per-User basis or as otherwise specified in the applicable Order Form (each, a “**Subscription**”).

1.12 “Support Services” means the support services provided by Contruent, available at <https://www.contruent.com/support/>.

1.13 “Third-Party Applications” means Web-based, mobile, offline or other software functionality that interoperates with the Service, that is provided by Customer or a third party.

1.14 “User” means an individual who is authorized by Customer to use or access the Service and who has been supplied an identification and password by Customer or at Customer’s direction. A User may include Customer’s or Customer’s Affiliates’ employees, consultants, contractors, representatives and agents, excluding any direct competitors of Contruent.

2. Service.

2.1 Provision of Service. Contruent will make the Service available to Customer pursuant to this Agreement and all Order Forms during the Subscription Term, solely for Customer’s own internal business purposes. Customer agrees that its purchase

of the Service or the Professional Services is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by Contruent with respect to future functionality or features.

2.2 Additional Users; Add-Ons. Customer may reassign Subscriptions to new Users who replace former Users who no longer use or have access to the Service. Customer, however, may not allow more than one individual User to share a single Subscription. Additional Subscriptions for the same Service may be added during a Subscription Term at the then-current pricing that applies to the existing Subscriptions, prorated for the portion of the Subscription Term remaining at the time the Subscriptions are added, and any added Subscriptions will terminate on the same date as the underlying Subscriptions. If Customer permits additional Users in excess of the quantity listed on the Order Form to use the Service without paying the applicable User fees in compliance with this Agreement or Order Form, Contruent may invoice Customer, and Customer will pay for the additional Users at the then-current price per User that applies to the existing Subscriptions, as set forth on Customer's then-current Order Form.

2.3 Customer Affiliates. Customer Affiliates may purchase and use User subscriptions and Professional Services subject to the terms of this Agreement by executing Order Forms or Statements of Work hereunder that incorporate by reference the terms of this Agreement, and in each such case, all references in this Agreement to Customer will be deemed to refer to such Customer Affiliate for purposes of such Order Form or SOW.

3. Mutual Rights and Responsibilities.

3.1 Contruent's Responsibilities. Contruent will: (i) provide the Service in accordance with laws and government regulations applicable to Contruent's provision of the Service to its customers generally (i.e., without regard for Customer's particular use of the Service), and subject to Customer's and its Users' use of the Service in accordance with this Agreement and the applicable Order Form; (ii) not use or modify the Customer Data except as otherwise set forth in this Agreement; (iii) maintain appropriate administrative, physical, and technical safeguards designed to protect the security, confidentiality, and integrity of Customer Data, in accordance with [Exhibit B](#); (iv) provide Support Services to Customer in accordance with its then-current support policies; and (v) use commercially reasonable efforts to make the Service available in accordance with the service level addendum attached as [Exhibit A](#). Contruent is responsible for the performance of its personnel (including its employees and service providers) and their compliance with Contruent's obligations under this Agreement. Contruent reserves the right to update its security safeguards, support policies and its SLA at any time in its sole discretion provided that any updates will not materially diminish the level of security, support or SLA provided to Customer during the Term in which Contruent updates such policies. Contruent will provide notices directed to its customer base generally by means of a general notice on the Service, or by electronic mail to Customer's administrator e-mail address on record in Contruent's account information.

3.2 Customer's Responsibilities. Customer is responsible for all activity that occurs in its User accounts and for its Users' compliance with this Agreement. Customer will have sole responsibility for the accuracy, quality, integrity, legality, reliability and appropriateness of all Customer Data, the means by which Customer acquired Customer Data, Customer's use of Customer Data with the Service, and the interoperation of any Third-Party Applications with which Customer uses the Service. Customer and its Users must protect the confidentiality of their passwords and login credentials and Customer will use commercially reasonable efforts to prevent unauthorized access to, or use of, the Service, and will notify Contruent promptly of any such unauthorized access or use. Customer will comply with all applicable laws in using the Service.

3.3 Data Privacy. To the extent the Customer Data includes Personal Data that is subject to the data protection laws of the United Kingdom, the European Economic Area, or Switzerland, or the California Consumer Privacy Act, the parties will comply with the terms of a separately executed data processing addendum to be incorporated into this Agreement. Customer will not, and will not permit its Users to, use the Service to send or store Personal Data that is subject to specialized security regimes or contractual handling requirements, including but not limited to credit card information, credit card numbers and magnetic stripe information, social security numbers, driver's license numbers, passport numbers, government issued identification numbers, medical or other health-related information, biometric data, genetic data, financial account information, personally identifiable information collected from children under the age of 13 or from online services directed toward children, real time geo-location data which can identify an individual, or information deemed "sensitive" under applicable law (such as racial or ethnic origin, political opinions, or religious or philosophical beliefs).

3.4 Third-Party Applications. Any acquisition by Customer of Third-Party Applications, and any exchange of data between Customer and any Third-Party Applications, is solely between Customer and the applicable Third-Party Applications provider. Contruent does not warrant or support Third-Party Applications unless expressly provided otherwise in an Order Form. Contruent is not responsible for any disclosure, modification or deletion of Customer Data resulting from access by any Third-Party Application or its provider. The Service may contain features designed to interoperate with Third-Party Applications. Contruent cannot guarantee the continued availability of such Service features, and may cease providing them without entitling Customer to any refund, credit, or other compensation, if for example and without limitation, the provider of a Third-Party Application ceases to make the Third-Party Application available for interoperation with the corresponding Service features in a manner acceptable to Contruent.

4. Fees and Payment.

4.1 Fees. Customer will pay all fees specified in all Order Forms and Statements of Work executed by the parties hereunder. Except as otherwise specified in any Order Form or Statement of Work, all fees are quoted and payable in United States dollars, and payment obligations are non-cancelable. Except as expressly provided in this Agreement, fees paid are non-refundable. Fees for the Service are based on Subscriptions purchased and not actual usage. The number of Subscriptions purchased cannot be decreased during a Subscription Term.

4.2 Invoicing and Payment. Except as otherwise specified in an Order Form or Statement of Work, all fees and charges under this Agreement will be invoiced annually in advance and are due net thirty (30) days from the invoice date. Customer agrees to accept invoices via email at the billing contact email address specified in the applicable Order Form, as may be updated by Customer upon prior written notice. Customers located outside of the U.S. will submit payment to Contruent via wire transfer. Customer is responsible for providing complete and accurate billing and contact information to Contruent and notifying Contruent of any changes to such information.

4.3 Payment Disputes. Customer will pay all undisputed fees when due. If Customer disputes any part of an invoice in good faith, Customer will provide Contruent with notice and detail of the dispute prior to the invoice due date, and will pay the undisputed portion by the invoice due date. Any payment not received by Contruent by the due date and not subject to a reasonable and good faith dispute may accrue, at Contruent's option, late charges at the lesser of 1.5% of the outstanding balance per month or the maximum rate permitted by law, from the date such payment was due until the date paid. If the Customer's account, after default, is referred to an attorney or collection agency for collection, Customer will pay all of Contruent's expenses incurred in such collection efforts including, but not limited to, collection agency fees, court costs and reasonable attorneys' fees.

4.4 Suspension of Service. If Customer's account is thirty (30) days or more overdue (except for charges then under reasonable and good faith dispute pursuant to Section 4.3), then, following five (5) business days' written notice and opportunity to cure (which notice may be provided via email), in addition to any of its other rights or remedies Contruent may suspend Customer's access to the Service until such amounts are paid in full. In addition, any use of the Service in breach of Section 5.3 (Restrictions) by Customer or its Users that in Contruent's judgment threatens the security, integrity or availability of Contruent's services, may result in immediate suspension of the Service, provided however Contruent will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to any such suspension.

4.5 Taxes. Contruent's fees do not include any direct or indirect local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "**Taxes**"). Customer is responsible for paying all Taxes associated with its purchases hereunder, excluding taxes based on Contruent's net income or property. If Contruent has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, the appropriate amount will be invoiced to and paid by Customer, unless Customer provides Contruent with a valid tax exemption certificate authorized by the appropriate taxing authority. All payments under this Agreement will be made free and clear and without deduction of Taxes by Customer. If Customer withholds any Taxes, Customer will gross up the payment to Contruent for the amount specified in the Order Form.

5. Proprietary Rights.

5.1 Access to the Service. Subject to the terms of this Agreement and the applicable Order Form and/or SOW, Contruent grants Customer a nonexclusive, royalty-free, nontransferable right, solely during the Subscription Term: (i) to access and use the Service solely for Customer's internal business purposes and (ii) to use the Contruent Materials solely in conjunction with Customer's authorized use of the Service. Customer will not alter or remove, or permit any third party to alter or remove, any proprietary trademark or copyright markings incorporated in, marked on or affixed to any Contruent Materials.

5.2 Reservation of Rights. Except for the limited rights expressly granted to Customer in Section 5.1, Contruent reserves all right, title and interest in and to the Service, the underlying software, the Contruent Materials, and the Professional Services, including all related intellectual property rights therein. No rights are granted to Customer hereunder other than as expressly set forth in this Agreement.

5.3 Restrictions. Customer will not, and will not permit any third party to: (i) modify, copy, display, republish or create derivative works based on the Service or the underlying software; (ii) modify, copy or create derivative works of the Contruent Materials; (iii) frame, scrape, link to or mirror any content forming part of the Service, other than on Customer's own intranets or otherwise for its own internal business purposes; (iv) disassemble, decompile or reverse engineer the Service or the underlying software; (v) access the Service for purposes of monitoring availability, performance or functionality, or for any other benchmarking or competitive purposes, or to build a competitive product or service or copy any ideas, features, functions or graphics of the Service; (vi) license, sublicense, sell, resell, rent, lease, transfer, assign (except as permitted in Section 11.6), distribute, or time share the Service or Contruent Materials, use the Service or Contruent Materials in a service bureau or outsourcing offering, otherwise commercially exploit or make the Service available to anyone other than Customer's Users, or use the Service for the benefit of anyone other than Customer or its Affiliates; (vii) use the Service for any unlawful purposes,

including to send spam or duplicative or unsolicited messages in violation of applicable laws; (viii) use the Service to send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or violative of third-party privacy rights; (ix) upload to the Service or use the Service to send or store code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs, Trojan horses or other malicious code (“**Malicious Code**”); (x) interfere with or disrupt the integrity or performance of the Service or the data contained therein; (xi) conduct any platform monitoring, penetration testing or vulnerability scanning of the Service; (xii) attempt to gain unauthorized access to the Service or its related systems or networks; or (xiii) use the Service in a way that circumvents a contractual usage limit. The Service is not fault-tolerant and is not designed, manufactured or intended for use as on-line control equipment in hazardous environments requiring fail-safe performance, such as, but not limited to, the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, direct life support machines, or weapons systems, in which the failure of the Service could lead directly to death, personal injury, or severe physical or environmental damage (“**High Risk Activities**”). Customer will not use the Service for any High-Risk Activities. Contruent may monitor Customer’s use of the Service to confirm Customer’s compliance with the terms and conditions in this Agreement.

5.4 Customer Data. As between Contruent and Customer, and subject to the limited licenses granted herein, Customer retains ownership of all rights, title and interest in and to all Customer Data. Customer Data is deemed the Confidential Information of Customer under this Agreement. Customer grants Contruent and its applicable service providers a nonexclusive, worldwide, royalty-free license to copy, modify, retain, distribute and disclose, display, and otherwise use Customer Data to provide, maintain and improve the Contruent products and services and associated systems in accordance with this Agreement. If Customer chooses to use a Third-Party Application with a Service, Customer grants Contruent permission to allow the Third-Party Application and its provider to access Customer Data and information about Customer’s usage of the Third-Party Application as appropriate for the interoperation of that Third-Party Application with the Service.

5.5 Feedback and Usage Data. Customer and its Users may, but are not required to, give Contruent suggestions, enhancement requests, recommendations, comments or other feedback relating to the features, functionality or operation of the Service or the Professional Services (“**Feedback**”). Contruent may use all Feedback freely without restriction or obligation. In addition, Contruent may collect and analyze data and information about the provision, use, and performance of the Service based on Customer’s use of the Service (“**Usage Data**”), and Contruent may freely use Usage Data to maintain, improve, and enhance Contruent’s products and services without restriction or obligation. Feedback and Usage Data will not include Customer Data or Personal Data, and Contruent will not identify Customer or its Users as the source of Feedback or Usage Data.

5.6 Federal Government End Use Provisions. Contruent provides the Service, including related software and technology, for ultimate federal government end use in accordance with the following: The Service consists of “commercial items,” as defined at FAR 2.101. In accordance with FAR 12.211-12.212 and DFARS 227.7102-4 and 227.7202-4, as applicable, the rights of the U.S. Government to use, modify, reproduce, release, perform, display, or disclose commercial computer software, commercial computer software documentation, and technical data furnished in connection with the Service will be as provided in this Agreement, except that, for U.S. Department of Defense end users, technical data customarily provided to the public is furnished in accordance with DFARS 252.227-7015. If a government agency needs additional rights, it must negotiate a mutually acceptable written addendum to this Agreement specifically granting those rights.

6. Confidentiality.

6.1 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 or the circumstances of disclosure, including the terms and conditions of this Agreement (including pricing and other terms reflected in all Order Forms and Statements of Work hereunder), the Customer Data, the Service, the Contruent Materials, Contruent’s security information, audits and reports, and each party’s respective business and marketing plans, technology and technical information, product designs, and business processes. The obligations in this Section 6 will not apply to 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 and without an obligation of confidentiality; (iii) was independently developed by the Receiving Party without the use of or reference to the Confidential Information of the Disclosing Party; or (iv) is lawfully received from a third party without breach of any obligation owed to the Disclosing Party and without an obligation of confidentiality. For the avoidance of doubt, the non-disclosure obligations set forth in this “Confidentiality” section apply to Confidential Information exchanged between the parties in connection with the evaluation of additional Contruent services.

6.2 Confidentiality. Receiving Party will use at least the same level of care to prevent unauthorized use of the Confidential Information as it uses for its own confidential and proprietary information of like kind, but in no event less than a reasonable standard of care. Receiving Party will not disclose or use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, except with the Disclosing Party’s prior written permission. Receiving Party may disclose Confidential Information to its and its Affiliates’ personnel auditors, accountants, attorneys, or advisors who have a need to know in order to exercise Receiving Party’s rights or perform Receiving Party’s obligations under this Agreement and who are

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subject to confidentiality obligations at least as protective as those herein. The confidentiality obligations contained in this Section 6 supersede and replace any prior non-disclosure agreement between the parties regarding the subject matter covered by this Agreement.

6.3 Compelled Disclosure. If the Receiving Party is compelled by law to disclose Confidential Information of the Disclosing Party, it will provide the Disclosing Party with prompt 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.

6.4 Remedies. If the Receiving Party discloses or uses (or threatens to disclose or use) any Confidential Information of the Disclosing Party in breach of the confidentiality protections hereunder, the Disclosing Party will 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 are inadequate.

7. Warranties and Disclaimers.

7.1 Warranties. Each party represents that it has validly entered into this Agreement and has the legal power to do so. Contruent warrants that during the applicable Subscription Term: (a) the Service will perform materially in accordance with the applicable Documentation under normal use and circumstances, (b) except as provided in Section 3.4 (Third-Party Applications), Contruent will not materially decrease the overall functionality of the Service, (c) it will employ then-current, industry-standard measures to test the Service to detect and remediate Malicious Code, and (d) it will perform the Professional Services in a professional and workmanlike manner.

7.2 Remedies. Customer's exclusive remedy and Contruent's entire liability for a breach of the warranties set forth in Section 7.1(a), (b) and (c) will be as follows: provided that the non-conformity is not caused by the combination of the Service with any services, hardware, connection, interface, data, or business processes not provided by Contruent, Contruent will correct any material reproducible impairments to the features and functionality in the Service so that it materially conforms to the warranty, and if Contruent is unable to provide such Service as warranted within a commercially reasonable time following receipt of written notice of breach, Customer will be entitled to terminate the applicable Subscription and receive a refund of any prepaid fees applicable to the remaining portion of the Subscription Term following the effective date of termination. Customer's exclusive remedy and Contruent's entire liability for a breach of the warranty set forth in Section 7.1(d) will be as follows: Contruent will re-perform the applicable Professional Services, and if Contruent is unable to perform such Professional Services as warranted within a commercially reasonable time following receipt of written notice of breach, Customer will be entitled to terminate the applicable SOW and recover the portion of the fees paid for the nonconforming Professional Services, provided that Customer discontinues all use of any Contruent Materials delivered under the applicable SOW and upon request certifies that it has done such and has destroyed all copies in Customer's control.

7.3 Disclaimer. EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, CUSTOMER UNDERSTANDS AND AGREES THAT THE SERVICE, THE CONTRUENT MATERIALS, AND THE PROFESSIONAL SERVICES ARE PROVIDED "AS IS" AND CONTRUENT, ITS AFFILIATES, THIRD PARTY PROVIDERS, AND LICENSORS MAKE NO WARRANTIES OF ANY KIND WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND SPECIFICALLY DISCLAIM ALL IMPLIED WARRANTIES, INCLUDING ANY WARRANTIES OF TITLE, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUIET ENJOYMENT AND NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTRUENT DOES NOT WARRANT THAT THE SERVICE WILL BE UNINTERRUPTED, TIMELY, SECURE, ERROR-FREE, OR THAT THE SERVICE WILL MEET CUSTOMER'S REQUIREMENTS. CONTRUENT IS NOT RESPONSIBLE FOR AND DISCLAIMS ALL LIABILITY RELATED TO DELAYS, DELIVERY FAILURES, INTERCEPTION, ALTERATION, OR OTHER DAMAGE RESULTING FROM MATTERS OUTSIDE OF ITS CONTROL, INCLUDING PROBLEMS INHERENT IN THE USE OF THE INTERNET, MOBILE AND PERSONAL COMPUTING DEVICES, TRANSMISSION OF ELECTRONIC COMMUNICATIONS OVER THE INTERNET OR OTHER NETWORKS, AND THIRD PARTY HOSTING SERVICE PROVIDERS.

8. Indemnification.

8.1 Indemnification by Contruent. Contruent will defend Customer, at Contruent's expense, against any claim, demand, suit or proceeding (each, a "Claim") made or brought against Customer by a third party alleging that the use of the Service as authorized hereunder infringes a U.S. patent, copyright, or trademark of a third party, and Contruent will indemnify and hold Customer harmless against all damages, attorneys' fees and costs finally awarded against Customer by a court of competent jurisdiction or an arbitrator, or agreed to in a written settlement agreement signed by Contruent, as a result of such Claims. Upon receiving notice of a Claim, Customer will (a) give Contruent prompt written notice of the Claim; (b) give Contruent sole control of the defense and settlement of the Claim (provided that Contruent may not settle any claim unless it unconditionally releases Customer of all liability); and (c) provide to Contruent, at Contruent's expense, all reasonable assistance in the defense or settlement of such Claim. Contruent's indemnification obligation will be offset to the extent its ability to defend or settle a claim is jeopardized by Customer's failure to comply with the preceding sentence. Contruent will have no indemnification obligation for Claims arising from (x) the combination of the Service with any services, hardware, software, interface, data or processes not provided by Contruent if the Service or use thereof would not infringe without such

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combination; (y) use of the Service by Customer other than in accordance with this Agreement and the applicable Order Form or SOW; or (z) Customer Data or Third-Party Applications. If the Service is held or likely to be held infringing, Contruent may, in its sole discretion, at no cost to Customer: (i) replace or modify the Service so that it is no longer claimed to infringe, (ii) obtain a license for Customer to continue using the Service in accordance with the Agreement, (iii) replace the Service with a functionally equivalent service; or (iv) terminate Customer's Subscription to the applicable Service and refund any prepaid, unused fees applicable to the remaining portion of the Subscription Term of the applicable Service following the effective date of termination. This Section 8.1 states Contruent's entire liability and Customer's exclusive remedy for any claim of intellectual property infringement.

8.2 Indemnification by Customer. Customer will defend Contruent, at Customer's expense, against any Claims made or brought against Contruent by a third party alleging that the Customer Data, or Customer's use of the Service in violation of this Agreement, infringes or otherwise violates a third party's property or privacy rights, or infringes a U.S. patent, copyright, or trademark of a third party, and Customer will indemnify and hold Contruent harmless against all damages, attorneys' fees and costs finally awarded against Contruent by a court of competent jurisdiction or an arbitrator, or agreed to in a written settlement agreement signed by Customer, as a result of such Claims. Upon receiving notice of a Claim, Contruent will (a) give Customer prompt written notice of the Claim; (b) give Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim unless it unconditionally releases Contruent of all liability); and (c) provide to Customer, at Customer's expense, all reasonable assistance in the defense or settlement of such Claim. Customer's indemnification obligation will be offset to the extent its ability to defend or settle a claim is jeopardized by Contruent's failure to comply with the preceding sentence.

9. Limitation of Liability.

9.1 Limitation of Liability. EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS PURSUANT TO SECTION 4, A BREACH OF SECTION 5.3, OR EITHER PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 8, IN NO EVENT WILL EITHER PARTY'S OR ITS LICENSORS' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, EXCEED THE TOTAL AMOUNT ACTUALLY PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE ORDER FORM OR SOW IN THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE FIRST EVENT GIVING RISE TO THE LIABILITY.

9.2 Exclusion of Consequential and Related Damages. IN NO EVENT WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY OR ITS LICENSORS FOR ANY LOST PROFITS OR FOR ANY INDIRECT, PUNITIVE, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING BUT NOT LIMITED TO DAMAGES FOR LOSS OR INACCURACY OF DATA, LOSS OF PROFITS OR REVENUE, BUSINESS INTERRUPTION, OR COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES, HOWEVER ARISING AND WHETHER IN CONTRACT, TORT OR UNDER ANY OTHER THEORY OF LIABILITY, WHETHER OR NOT THE PARTY FROM WHICH DAMAGES ARE BEING SOUGHT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

10. Term and Termination.

10.1 Term of Agreement. This Agreement commences on the Effective Date and continues until all Order Forms or SOWs under this Agreement have expired or been terminated.

10.2 Term of Subscriptions. Subscriptions commence on the start date specified in the relevant Order Form and continue for the Subscription Term specified therein. Unless a party gives written notice of non-renewal at least thirty (30) days prior to the expiration of the relevant Subscription Term, Subscriptions will automatically renew for a period equal to the initial Subscription Term upon the expiration of the initial Subscription Term or any renewal Subscription Term. Contruent may increase the Subscription fees at the beginning of each Subscription Term or upon any renewal Subscription Term. Notwithstanding any other provision to the contrary, any renewal in which the number of Subscriptions or Subscription Term has decreased from the prior Order Form will result in re-pricing at the then-current per-unit Subscription rate without regard to the prior Subscription Term's per-unit pricing.

10.3 Termination for Cause. A party may terminate this Agreement, an Order Form or a Statement of Work for cause: (a) if the other party is in material breach under this Agreement and fails to cure such breach within thirty (30) days of receipt of written notice of such material breach from the non-breaching party; or (b) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors and such proceeding is not favorably resolved within sixty (60) days.

10.4 Refund or Payment Upon Termination. Upon any termination for cause by Customer, Contruent will refund to Customer any prepaid, unused fees applicable to the remaining portion of the Subscription Term following the effective date of termination. Upon any termination for cause by Contruent, Customer will pay any unpaid fees covering the remainder of the term of all Order Forms to the extent permitted by applicable law. Termination will not relieve Customer of its obligation to pay any fees accrued or payable to Contruent relating to the Service or the Professional Services prior to the effective date of termination, and Customer will immediately pay to Contruent all such fees upon the effective date of termination.

10.5 Return and Deletion of Customer Data. Upon any termination, Customer's right to access or use Customer Data in the Service immediately ceases. Customer may retrieve Customer Data stored in the Service during the Subscription Term using the self-service features of the Service. At termination or expiration of the Subscription Term, if Customer is unable to retrieve Customer Data from the Service, Customer may request in writing that Contruent provide a file of Customer Data then in Contruent's possession or control, in a format to be agreed by both parties, within thirty (30) days after the effective date of termination or expiration. Contruent and Customer will agree on the data format within 3 days of the written request otherwise data will be provided in a .csv file. Contruent will make available to Customer such data file at no charge during the 30-day period following termination or expiration. After such 30-day period, Contruent has no obligation to maintain or provide any Customer Data and will thereafter delete all Customer Data in its production systems, unless legally prohibited; provided, however, Contruent may retain copies of Customer Data solely as part of a routine disaster recovery backup until such time as the disaster recovery backup is destroyed in accordance with Contruent's standard disaster recovery/business continuity processes.

10.6 Surviving Provisions. The following provisions will survive any termination or expiration of this Agreement: Sections 1, 4.1, 4.2, 4.3, 4.5, 5.2, 5.3, 5.4, 5.5, 6, 7.2, 7.3, 8, 9, 10.4, 10.5, 10.6, and 11.

11. General Provisions.

11.1 Export Compliance. The Service and Contruent Materials may be subject to export laws and regulations of the United States and other jurisdictions. Each of Contruent and Customer represents that it is not on any U.S. government denied-party list. Customer will not permit any User to access or use any Service or Content in a U.S.-embargoed country or region (currently the Crimea, Luhansk or Donetsk regions, Cuba, Iran, North Korea, or Syria) or in violation of any U.S. export law or regulation. Customer and its Users will not export, re-export, transfer, or make available, whether directly or indirectly, any regulated item or information to anyone outside the U.S. in connection with this Agreement without first complying with all export control laws and regulations that may be imposed by the U.S. Government and any country or organization of nations within whose jurisdiction Customer operates or does business, such as the Export Administration Regulations ("EAR") maintained by the United States Department of Commerce, trade and economic sanctions maintained by the United States Treasury Department's Office of Foreign Assets Control, and the International Traffic in Arms Regulations ("ITAR") maintained by the United States Department of State.

11.2 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. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.

11.3 Notices. Except as specified in Sections 3.1 and 4.4, all notices required to be sent hereunder will be in writing and will be deemed to have been given upon (i) the date it was delivered by courier, or (ii) if sent by certified mail return receipt requested, on the date received, in each case addressed to the addresses set forth above and, if to Contruent, to the attention of General Counsel, and, if to Customer, to the attention of the signatory of this Agreement, or to such other address or individual as the parties may specify from time to time by written notice to the other party.

11.4 Waiver and Cumulative Remedies. No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right. 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.

11.5 Severability. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement will remain in full force and effect.

11.6 Assignment. Neither party may assign any of its rights or obligations hereunder, whether by operation of law or otherwise, without the prior written consent of the other party (not to be unreasonably withheld). Notwithstanding the foregoing, either party may assign this Agreement in its entirety (including all Order Forms and Statements of Work), without the consent of the other party, in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets not involving a direct competitor of the other party. Any attempt by a party to assign its rights or obligations under this Agreement in breach of this section will be void and of no effect. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

11.7 Governing Law. This Agreement and any disputes arising out of or related hereto will be governed by and construed in accordance with the laws of the State of Illinois, without giving effect to its conflicts of laws rules, the United Nations Convention on the International Sale of Goods, or the Uniform Computer Information Transactions Act.

11.8 Informal Dispute Resolution; Venue; Waiver of Jury Trial. The parties agree that most disputes can be resolved without resort to litigation. The parties agree to use their best efforts to settle any dispute directly through consultation with each other before initiating a lawsuit. If, after good faith negotiations the parties are unable to resolve the dispute, the parties

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agree that any and all disputes arising out of or in any way relating to this Agreement, including without limitation its existence, validity or termination, will be subject to the exclusive jurisdiction of the state and Federal courts located in DuPage County Illinois. Each party hereby consents to the exclusive jurisdiction of such courts and waives any objection it might otherwise have to venue, personal jurisdiction, inconvenience of forum, and any similar or related doctrine. Each party also hereby waives any right to jury trial in connection with any action or litigation in any way arising out of or related to this Agreement.

11.9 Force Majeure. Neither party will be liable for delay or non-performance of its obligations hereunder (or part thereof) if the cause of delay or non-performance is an event which is unforeseeable, beyond the control of the party affected, and cannot be remedied by the exercise of reasonable diligence, including without limitation acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes, computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within Contruent's possession or reasonable control, and denial of service attacks (each a "**Force Majeure Event**"). The party affected will be relieved from its obligations (or part thereof) as long as the Force Majeure Event lasts and hinders the performance of said obligations (or part thereof), it being understood that a Force Majeure Event will not excuse any obligation of Customer to pay invoices due in accordance with the provisions hereof. The party affected will promptly notify the other party and make reasonable efforts to mitigate the effects of the Force Majeure Event with reasonable dispatch. Either party may terminate this Agreement in the event the Force Majeure Event continues for more than forty five (45) days.

11.10 Publicity. Either party may reference the name and logo of the other party in lists of customers or vendors. Either party may issue press releases relating to this Agreement with the other party's prior written consent.

11.11 Compliance with Anti-corruption Laws. Each party will comply with the U.S. Foreign Corrupt Practices Act, the U.K. Bribery Act, and the anti-corruption laws of other countries, to the extent applicable. Each party will not, at any time, directly or indirectly (through a subcontractor or other third party), pay, offer, give, or promise to pay or give, or authorize the payment of, any monies or any other thing of value to influence the improper performance of any individual government officials and employees of state-owned enterprises.

11.12 Entire Agreement. This Agreement, including all exhibits and addenda hereto and all Order Forms and Statements of Work, constitutes the entire agreement between the parties, and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The parties are not relying and have not relied on any representations or warranties whatsoever regarding the subject matter of this agreement, express or implied, except for the representations and warranties expressly set forth in this Agreement. 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. To the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any exhibit or addendum hereto or any Order Form or Statement of Work, the terms of such exhibit, addendum, Order Form or Statement of Work will prevail. No terms or conditions set forth on any Customer purchase order, order documentation or vendor on-boarding process will add to or vary the terms and conditions of this Agreement, and all such terms or conditions will be null and void. Titles and headings of sections of this Agreement are for convenience only and will not affect the construction of any provision of this Agreement.

11.13 Counterparts. This Agreement and any Order Form or Statement of Work executed hereunder may be executed by electronically and in counterparts, which taken together will form one legal instrument.

IN WITNESS WHEREOF, the parties' authorized signatories have duly executed this Agreement as of the Effective Date:

CONTRUENT LLC.

By: _____

By: _____

Print Name: _____

Print Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Exhibit A SERVICE LEVEL ADDENDUM

A. Availability: Contruent will make the Service available 99% of the time, except as provided below. Availability will be calculated per calendar quarter, as follows:

$$\left[\left(\frac{\text{total} - \text{nonexcluded} - \text{excluded}}{\text{total} - \text{excluded}} \right) * 100 \right] \geq 99\%$$

Where:

- “total” means the total number of minutes for the quarter
- “non-excluded” means downtime that is not excluded
- “excluded” means the following:
 - Planned downtime, which shall be any period for which Contruent or the hosting provider gives at least 8 hours’ notice that the Service will be unavailable.
 - Any period of unavailability lasting 15 minutes or less.
 - Any unavailability caused by circumstances beyond Contruent’s reasonable control, including without limitation, acts or omissions of Customer or its Users, including any failure to comply with the Agreement or the Documentation, acts of God, acts of government, flood, fire, earthquakes, civil unrest, acts of terror, strikes or other labor problems (other than those involving Contruent employees), computer or telecommunications or Internet service provider failures or delays, hosting provider failures, delays involving hardware or software not within Contruent’s possession or reasonable control (including Third-Party Applications), and network intrusions or denial of service attacks.

For any partial calendar quarter during which Customer subscribes to the Service, availability will be calculated based on the entire calendar quarter, not just the portion for which Customer subscribed. In addition, unavailability of some specific features or functions within the Service, while others remain available, shall not constitute unavailability of the Service so long as the unavailable features or functions are not, in the aggregate, material to the Service as a whole.

Unavailability of the Service will be measured from the time that Customer reports Service unavailability to the Contruent support team at success@contruent.com (or such other address as notified by Contruent).

B. Service Level Credits: Should Contruent fail to achieve at least 99% availability during any calendar quarter, Contruent shall provide Customer a credit on the next invoice following the term in which such failure occurred. Such credit shall be equal to five percent (5%) of the applicable fees due and payable by Customer for the applicable Services for the affected calendar quarter.

The credits specified in this Section B shall be Contruent’s sole liability and Customer’s exclusive remedy for failure to meet the availability target specified in Section A above.

C. Reporting and Claims.

To be entitled to the remedies set forth in Section B above, Customer must send an email to contractandproposals@contruent.com with the following details:

- Billing information, including company name, billing address, billing contact and billing contact phone number.
- Information with dates and time periods for each instance of downtime during the relevant quarter.
- An explanation of the claim made under Section B, including any relevant calculations.

Claims may be made on a calendar quarter basis only, and must be submitted within 10 days after the end of the calendar quarter in which the incident(s) giving rise to the claim occurred.

All claims will be verified against Contruent’s system records. Should Contruent disagree with any period of downtime claimed by Customer, Contruent will provide to Customer a record of Service Availability for the period in question. Contruent will provide such records only in response to claims made by Customer in good faith.