Keploy TERMS OF SERVICE

PLEASE READ THESE TERMS AND CONDITIONS CAREFULLY BEFORE USING THE SERVICE OFFERED BY Keploy, INC. ("**Keploy**").   BY MUTUALLY EXECUTING ONE OR MORE ORDER FORMS WITH COMPANY WHICH REFERENCE THESE TERMS (EACH, AN "**ORDER**") OR BY ACCESSING OR USING THE SERVICE IN ANY MANNER, YOU ("**YOU**" OR "**CUSTOMER**") AGREE TO BE BOUND BY THESE TERMS (TOGETHER WITH ALL ORDER FORMS, THE "**AGREEMENT**") TO THE EXCLUSION OF ALL OTHER TERMS. YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO ENTER INTO THIS AGREEMENT; IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF AN ORGANIZATION OR ENTITY, REFERENCES TO "CUSTOMER" AND "YOU" IN THIS AGREEMENT, EXCEPT THIS SENTENCE, REFER TO THAT ORGANIZATION OR ENTITY. IF YOU DO NOT AGREE TO ALL OF THE FOLLOWING, YOU MAY NOT USE OR ACCESS THE SERVICES IN ANY MANNER. IF THE TERMS OF THIS AGREEMENT ARE CONSIDERED AN OFFER, ACCEPTANCE IS EXPRESSLY LIMITED TO SUCH TERMS.

1.   SCOPE OF SERVICE AND RESTRICTIONS

1.1 Access to and Scope of Service. Subject to Keploy's receipt of the applicable Fees with respect to the service(s) specified in the corresponding Order (the "**Service**"), Keploy will use commercially reasonable efforts to make the Service available to Customer as set forth in this Agreement and the Order. Subject to Customer's compliance with the terms and conditions of the Agreement and the Order, Customer may access and use the Service during the period specified in the Order. Any such use of the Service by Customer is authorized solely for Customer's internal business, and is subject to Customer's compliance with the additional limitations and restrictions specified in the Order.

1.2 Trials. If Customer is accessing or making use of the Service on a trial basis or evaluation basis as identified in the corresponding Order (the "**Trial**"), Customer may use the Service during the Trial provided such use does not to exceed the Service levels set forth in the corresponding Order. Customer acknowledges and agrees that the Trial is provided on an "as-is" basis and the Trial is provided without any indemnification, support, or warranties or representation of any kind. Further, Trial may be subject to certain additional restrictions, limitations and differing terms all as specified in the corresponding Order.

1.3 No-fee Access. If Customer is accessing or making use of the Service on a no-fee basis (the "**Limited Use**"), Customer may use the Service during the Limited Use provided such use does not to exceed the Service levels specified on the Keploy website with respect to Limited Use. Customer acknowledges and agrees that the Limited Use is provided on an "as-is" basis, and the Limited Use is provided without any indemnification, support, or warranties or representation of any kind. Additionally, Customer acknowledges and agrees that Keploy may terminate the Limited Use at any time and for any reason or modify the applicable terms by publishing a notice on the Keploy website.

1.4 Restrictions. Customer will use the Service only in accordance with all applicable laws, including, but not limited to, laws related to data (whether applicable within the United States, the European Union, or otherwise). Customer agrees not to (and will not allow any third party to): (i) remove or otherwise alter any proprietary notices or labels from the Service or any portion thereof; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to discover the underlying structure, ideas, or algorithms of the Service or any software used to provide or make the Service available; or (iii) rent, resell or otherwise allow any third party access to or use of the Service.

1.5 Ownership. Keploy retains all right, title, and interest in and to the Service, and any software, products, works or other intellectual property created, used, provided or made available by Keploy under or in connection with the Service. Customer may from time to time provide suggestions, comments or other feedback to Keploy with respect to the Service ("**Feedback**"). . Customer shall, and hereby does, grant to Keploy a nonexclusive, worldwide, perpetual, irrevocable, transferable, sublicensable, royalty-free, fully paid up license to use and exploit the Feedback for any purpose. Nothing in this Agreement will impair Keploy's right to develop, acquire, license, market, promote or distribute products, software or technologies that perform the same or similar functions as, or otherwise compete with any products, software or technologies that Customer may develop, produce, market, or distribute.

1.6 Software. Subject to the terms and conditions of this Agreement, including but not limited to receipt of all applicable Fees, to the extent Keploy makes Keploy proprietary software available to Customer, Keploy hereby grants to Customer, and Customer hereby accepts from Keploy, a limited, non-exclusive, non-

transferable, non-assignable and non-sublicenseable license to: run such software solely as necessary to make use of the Service. Customer agrees that, it shall not: (a) exceed the scope of the licenses granted in Section 1.4; (b) make copies of the software; (c) distribute, sublicense, assign, delegate, rent, lease, sell, time-share or otherwise transfer the benefits of, use under, or rights to, the license granted in Section 1.4; (d) reverse engineer, decompile, disassemble or otherwise attempt to learn the source code, structure or algorithms underlying the software, except to the extent required to be permitted under applicable law; (e) modify, translate or create derivative works of the software; (f) remove any copyright, trademark, patent or other proprietary notice that appears on the software or copies thereof; or (g) combine or distribute any of the software with any third party software that is licensed under terms that seek to require that any of the software (or any associated intellectual property rights) be provided in source code form (e.g., as "open source"), licensed to others to allow the creation or distribution of derivative works, or distributed without charge.

1.7 Customer Data and Personal Data. Customer is solely responsible for Customer Data including, but not limited to: (a) compliance with all applicable laws and this Agreement; (b) any claims relating to Customer Data; (c) any claims that Customer Data infringes, misappropriates, or otherwise violates the rights of any third party; and (d) backing up and maintaining Customer Data. Notwithstanding anything to the contrary, Customer acknowledges and agrees that Keploy may (i) internally use and modify (but not disclose) Customer Data for the purposes of (A) providing the Services and any support or consultation services to Customer and (B) generating Aggregated Data (as defined below), and (ii) freely use and make available Aggregated Data for Keploy's business purposes (including without limitation, for purposes of improving, testing, operating, promoting and marketing Keploy's products and services). "**Aggregated Data**" means data submitted to, collected by, or generated by Keploy in connection with Customer's use of the Service, but only in aggregate, de-identified form which is not linked specifically to Customer or any individual. For purposes of this Agreement, "**Customer Data**" shall mean any data, information or other material provided, uploaded, or submitted by Customer to the Service in the course of using the Service, excluding any information relating to an identified or identifiable nature person (such information, "**Personal Data**"). Customer shall retain all right, title and interest in and to the Customer Data, including all intellectual property rights therein. Customer, not Keploy, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use of all Customer Data. Keploy shall use commercially reasonable efforts to maintain the security and integrity of the Service and the Customer Data controlled by Keploy. Keploy is not responsible for unauthorized access to Customer Data or the unauthorized use of the Service unless such access is due to Keploy's gross negligence or willful misconduct. Customer is responsible for the use of the Service by any person to whom Customer has given access to the Service, even if Customer did not authorize such use. Keploy may retain Customer Data for up to thirty (30) days following the termination or expiration of the corresponding Order. Thereafter, Customer agrees and acknowledges that Customer Data may be irretrievably deleted.

To the extent Personal Data processed by Keploy under this Agreement is subject to the EU General Data Protection Regulation (the "**GDPR**") Customer may request that the parties enter into the Keploy Data Processing Agreement (the "Keploy **DPA**"). The processing of Personal Data pursuant to this Agreement shall be subject to the Keploy DPA. You may request to enter into the Keploy DPA by sending a request to: hello@keploy.io.

1.8 Support. Subject to Customer's payment of the corresponding fees, Keploy will use commercially reasonable efforts to provide Customer the Keploy support service specified in an Order.

1.9 Service Suspension. Keploy may suspend Customer's access to or use of the Service as follows: (a) immediately if Keploy reasonably believes Customer's use of the Service may pose a security risk to or may adversely impact the Service; (b) immediately if Customer become insolvent, has ceased to operate in the ordinary course, made an assignment for the benefit of creditors, or becomes the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding; (c) following thirty (30) days written notice if Customer is in breach of this Agreement or any Order (and has not cured such breach, if curable, within the thirty (30) days of such notice); or (d) Customer has failed to pay Keploy the Fees with respect to the Service.

2. FEES, ORDERS AND TAXES

2.1 Fees. Customer shall pay to Keploy the fees as set forth in each applicable Order(s) (collectively, the "Fees"). Customer acknowledges that it shall have no right to return the Service and that all Fees shall be non-refundable. All amounts payable to Keploy under this Agreement shall be paid in United States dollars and shall be due thirty (30) days from the date of invoice. Notwithstanding any other rights of Keploy, in the event of late payment by Customer, Keploy shall be entitled to interest on the amount owing at a rate of 1% per month or the highest rate allowed by applicable law, whichever is less. If Keploy is required to initiate legal action due to nonpayment of fees, Customer shall bear all costs resulting from the collection of such fees.

2.2 Orders. Licensee may place Orders for additional Services or to extend the term of the existing Service by specifying such order details in an Order form agreed to in writing by the parties referencing the terms and conditions of this Agreement.

2.3 Taxes. Any and all payments made by Keploy in accordance with this Agreement are exclusive of any taxes that might be assessed against Customer by any jurisdiction. Customer shall pay or reimburse Keploy for all value-added, sales, use, property and similar taxes; all customs duties, import fees, stamp duties, license fees and similar charges; and all other mandatory payments to government agencies of whatever kind, except taxes imposed on the net or gross income of Keploy. All amounts payable to Keploy under this Agreement shall be without set-off and without deduction of any taxes, levies, imposts, charges, withholdings and/or duties of any nature which may be levied or imposed, including without limitation, value added tax, customs duty and withholding tax.

3. TERM AND TERMINATION

3.1 Term. The term of this Agreement shall commence on the Effective and unless terminated earlier according to this Section 3, will end on the last day of the term specified in a last Order (the "**Term**"). Each Order will renew automatically at the end of the applicable term unless either party provides to the other advance written notice with respect to non-renewal at least ninety (90) days prior to the end of the then current term.

3.2 Termination for Breach. This Agreement and the Orders hereunder may be terminated: (a) by either party if the other has materially breached this Agreement, within thirty (30) calendar days after written notice of such breach to the other party if the breach is remediable or immediately upon notice if the breach is not remediable; or (b) by Keploy upon written notice to Customer if Customer (i) has made or attempted to make any assignment for the benefit of its creditors or any compositions with creditors, (ii) has any action or proceedings under any bankruptcy or insolvency laws taken by or against it which have not been dismissed within sixty (60) days.

3.3 Effect of Termination. Upon any expiration or termination of this Agreement, Customer shall (i) immediately cease use of the Service, and (ii) return all Keploy Confidential Information, and Keploy provided software, and other materials and information provided by Keploy. Any termination or expiration shall not relieve Customer of its obligation to pay all Fees accruing prior to termination. If the Agreement is terminated by Keploy pursuant to Section 3.2 (a), Customer shall pay to Keploy all of the Fees for the entire term set forth in the corresponding Order(s).

3.4 Survival. The following provisions will survive termination of this Agreement: Sections 1.5 (Ownership), 3.3 (Effect of Termination), Section 3.4 (Survival), Section 4 (Confidentiality), Section 5.1 (Indemnification by Customer), Section 7 (Limitation of Liability), Section 8 (Miscellaneous).

4. CONFIDENTIALITY

During the term of this Agreement, either party may provide the other party with confidential and/or proprietary materials and information (**"Confidential Information"**). All materials and information provided by the disclosing party and identified at the time of disclosure as "Confidential" or bearing a similar legend, and all other information that the receiving party reasonably should have known was the Confidential Information of the disclosing party, shall be considered Confidential Information. This Agreement is Confidential Information, and all pricing terms are Keploy Confidential Information. The receiving party shall maintain the confidentiality of the Confidential Information and will not disclose such information to any third party without the prior written

consent of the disclosing party. The receiving party will only use the Confidential Information internally for the purposes contemplated hereunder. The obligations in this Section shall not apply to any information that: (a) is made generally available to the public without breach of this Agreement, (b) is developed by the receiving party independently from and without reference to the Confidential Information, (c) is disclosed to the receiving party by a third party without restriction, or (d) was in the receiving party's lawful possession prior to the disclosure and was not obtained by the receiving party either directly or indirectly from the disclosing party. The receiving party may disclose Confidential Information as required by law or court order; provided that, the receiving party provides the disclosing with prompt written notice thereof and uses the receiving party's best efforts to limit disclosure. At any time, upon the disclosing party's written request, the receiving party shall return to the disclosing party all disclosing party's Confidential Information in its possession, including, without limitation, all copies and extracts thereof.

5. INDEMNIFICATION

5.1 Indemnification by Customer. Customer will defend, indemnify, and hold Keploy, its affiliates, suppliers and licensors harmless and each of their respective officers, directors, employees and representatives from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third party claim with respect to: (a) Customer Data; (b) breach of this Agreement or violation of applicable law by Customer; or (c) alleged infringement or misappropriation of third-party's intellectual property rights resulting from Customer Data.

5.2 Indemnification by Keploy. Keploy will defend, indemnify, and hold Customer harmless from and against any third party claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising from claims by a thirty party that Customer's use of the Service directly infringes or misappropriates a third party's United States (or Berne Convention signatory country) intellectual property rights (an "**Infringement Claim**"). Notwithstanding any other provision in this Agreement, Keploy shall have no obligation to indemnify or reimburse Customer with respect to any Infringement Claim to the extent arising from: (a) the combination of any Customer Data with the Service; (b) the combination of any products or services, other than those provided by Keploy to Customer under this Agreement, with the Service; or (c) non-discretionary designs or specifications provided to Keploy by Customer that caused such Infringement Claim. Customer agrees to reimburse Keploy for any and all damages, losses, costs and expenses incurred as a result of any of the foregoing actions.

5.3 Notice of Claim and Indemnity Procedure. In the event of a claim for which a party seeks indemnity or reimbursement under this Section 5 (each an "**Indemnified Party**") and as conditions of the indemnity, the Indemnified Party shall: (a) notify the indemnifying party in writing as soon as practicable, but in no event later than thirty (30) days after receipt of such claim, together with such further information as is necessary for the indemnifying party to evaluate such claim; and (b) the Indemnified Party allows the indemnifying party to assume full control of the defense of the claim, including retaining counsel of its own choosing. Upon the assumption by the indemnifying party of the defense of a claim with counsel of its choosing, the indemnifying party will not be liable for the fees and expenses of additional counsel retained by any Indemnified Party. The Indemnified Party shall cooperate with the indemnifying party in the defense of any such claim. Notwithstanding the foregoing provisions, the indemnifying party shall have no obligation to indemnify or reimburse for any losses, damages, costs, disbursements, expenses, settlement liability of a claim or other sums paid by any Indemnified Party voluntarily, and without the indemnifying party's prior written consent, to settle a claim. Subject to the maximum liability set forth in Section 7, the provisions of this Section 5 constitute the entire understanding of the parties regarding each party's respective liability under this Section 5, including but not limited to Infringement Claims (including related claims for breach of warranty) and each party's sole obligation to indemnify and reimburse any Indemnified Party.

6. WARRANTY

6.1 Warranty. The Service, when used by Customer in accordance with the provisions of this Agreement and in compliance with the applicable specifications will perform, in all material respects, the functions described in the Order (the "**Specification**"), during the term in the corresponding Order.

6.2 Exclusive Remedies. Customer shall report to Keploy, pursuant to the notice provision of this Agreement, any breach of the warranty set forth in this Section 6. In the event of a breach of warranty by Keploy under this Agreement, Customer's sole and exclusive remedy, and Keploy's entire liability, shall be prompt correction of any material non-conformance in order to minimize any material adverse effect on Customer's business.

6.3 Disclaimer of Warranty. Keploy does not represent or warrant that the operation of the Service (or any portion thereof) will be uninterrupted or error free, or that the Service (or any portion thereof) will operate in combination with other hardware, software, systems or data not provided by Keploy, except as expressly specified in the applicable Specification. CUSTOMER ACKNOWLEDGES THAT, EXCEPT AS EXPRESSLY SET FORTH IN SECTION 6.1, Keploy MAKES NO EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY KIND WITH RESPECT TO THE SERVICE OR SERVICES, OR THEIR CONDITION. Keploy IS FURNISHING THE WARRANTY SET FORTH IN SECTION 6.1 IN LIEU OF, AND Keploy HEREBY EXPRESSLY EXCLUDES, ANY AND ALL OTHER EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES, WHETHER UNDER COMMON LAW, STATUTE OR OTHERWISE, INCLUDING WITHOUT LIMITATION ANY AND ALL WARRANTIES AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY OR NON-INFRINGEMENT OF THIRD-PARTY RIGHTS.

7.   LIMITATIONS OF LIABILITY

IN NO EVENT SHALL Keploy BE LIABLE FOR ANY LOST DATA, LOST PROFITS, BUSINESS INTERRUPTION, REPLACEMENT SERVICE OR OTHER SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR INDIRECT DAMAGES, HOWEVER CAUSED AND REGARDLESS OF THEORY OF LIABILITY. Keploy'S LIABILITY FOR ALL CLAIMS ARISING UNDER THIS AGREEMENT, WHETHER IN CONTRACT, TORT OR OTHERWISE, SHALL NOT EXCEED THE AMOUNT OF FEES PAID OR PAYABLE BY CUSTOMER UNDER THE APPLICABLE ORDER DURING THE TWELVE (12) MONTH PERIOD PRECEEDING THE CLAIM.

8.   MISCELLANEOUS

8.1 Export Control. Customer hereby certifies that Customer will comply with all current US Export Control laws. Customer agrees to defend, indemnify and hold Keploy harmless from any liability for Customer's violation of U.S. Export Control laws.

8.2 Compliance with Laws. Customer shall comply with all applicable laws and regulations in its use of any Service, including without limitation the unlawful gathering or collecting, or assisting in the gathering or collecting of information in violation of any privacy laws or regulations. Customer shall, at its own expense, defend, indemnify and hold harmless Keploy from and against any and all claims, losses, liabilities, damages, judgments, government or federal sanctions, costs and expenses (including attorneys' fees) incurred by Keploy arising from any claim or assertion by any third party of violation of privacy laws or regulations by Customer or any of its agents, officers, directors or employees.

8.3 Assignment. Neither party may transfer and assign its rights and obligations under this Agreement without the prior written consent of the other party. Notwithstanding the foregoing, Keploy may transfer and assign its rights under this Agreement without consent from the other party in connection with a change in control, acquisition or sale of all or substantially all of its assets.

8.4 Force Majeure. Neither party shall be responsible for failure or delay in performance by events out of their reasonable control, including but not limited to, acts of God, Internet outage, terrorism, war, fires, earthquakes and other disasters (each a "**Force Majeure**"). Notwithstanding the foregoing: (i) Customer shall be liable for payment obligations for Service rendered; and (ii) if a Force Majeure continues for more than thirty (30) days, either party may to terminate this agreement by written notice to the other party.

8.5 Notice. All notices between the parties shall be in writing and shall be deemed to have been given if personally delivered or sent by registered or certified mail (return receipt), or by recognized courier service.

8.6 Independent Contractor. Keploy is an independent Contractor and both parties agree that no agency, partnership, joint venture, or employment is created as a result of this Agreement. Customer does not have any authority of any kind to bind Keploy.

8.7 Governing Law. This Agreement shall be governed exclusively by, and construed exclusively in accordance

with, the laws of the United States and the State of California, without regard to its conflict of laws provisions. The federal courts of the United States in the Northern District of California and the state courts of the State of California shall have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement. Each party hereby consents to the jurisdiction of such courts and waives any right it may otherwise have to challenge the appropriateness of such forums, whether on the basis of the doctrine of forum non conveniens or otherwise. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement or any Purchase Order issued under this Agreement.

8.8 Marketing. Customer hereby grants Keploy the right to identify Customer as a Keploy Customer, and use Customer's name, mark and/or logo on Keploy's website and/or in Keploy's marketing materials in connection with the Customer's use of the Service.

8.9 Updated Agreement. Keploy reserves the right to update this Agreement at any time, but if such update occurs, Keploy will bring it to Customer's attention by publishing such updated version on the www.Keployanalytics.com website. The terms and conditions of the updated version of this Agreement shall apply to all Orders placed following the date of publication of the updated version. If Customer does not agree with any terms of the updated Agreement, Customer may not use or access the Service in any manner.

8.10 Entire Agreement. This Agreement is the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications, and other understandings relating to the subject matter of this Agreement, and all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. Any term or provision of this Agreement held to be illegal or unenforceable shall be, to the fullest extent possible, interpreted so as to be construed as valid, but in any event the validity or enforceability of the remainder hereof shall not be affected. In the event of a conflict between this Agreement and the Order document, the terms of this Agreement shall control, other than terms expressly modified in any Order with respect to such Order.