

Terms of Service

Last Updated: September 27, 2021

Welcome to Embrace, an infrastructure and application monitoring service operated by Embrace Mobile, Inc. ("Embrace," "we," or "us"). Your use of this Website, the Application Services (as defined below) and the services made available on the Website is subject to these Terms of Service (these "Terms"). By using any of our services, you agree to be bound by, and use our services in compliance with these Terms. These Terms apply to an annual contract, billed monthly. In addition, if you are using the services on behalf of a company or other such legal entity, you represent that you have the authority to bind such entity to these Terms. If you do not have the authority to bind the entity or if you do not agree to all of these Terms, then you may not use the services.

The terms of this master services agreement ("agreement") govern your use of the application services. If you do not agree to these terms, do not use embrace's application services. By accepting these terms below or by using embrace's application services in any manner, you, the entity you represent, and any affiliate of such entity (collectively, "customer") agree that you have read and agree to be bound by this agreement to the exclusion of all other terms. If the terms of this agreement are considered an offer, acceptance is expressly limited to such terms. This agreement is entered into as of the date you accept these terms or use the application services (the "effective date".)

License to use the Services

Subject to the terms herein, Embrace grants to Customer a limited, non-exclusive, non-transferable, royalty-free license to use the Application Services for Customer's internal use and not for resale or further distribution. Customer's right to use the Application Services is limited by all terms and conditions herein. Except for this license granted to Customer, Embrace and its licensors retain all right, title and interest in and to the Application Services, including all related intellectual property rights. The Application Services are protected by applicable intellectual property laws, including U.S. copyright law and international treaties. "Application Services" shall mean the online, web-based and mobile-based applications ordered by Customer through either: the online purchasing process at [Embrace](#) or an Order Form, in each case provided by Embrace via [Embrace](#) or other designated websites or IP addresses or mobile applications, as communicated to Customer by Embrace. An "Order Form" shall mean a document signed by both parties identifying the Application Services purchased by Customer and made available by Embrace pursuant to this Agreement, which such Order Form may only be modified by the written consent of both parties. An "Affiliate" means an entity which, directly or indirectly, owns



or controls, is owned or is controlled by or is under common ownership or control with a party. As used herein, "control" means the power to direct the management or affairs of an entity, and "ownership" means the beneficial ownership of fifty percent (50%) or more of the voting equity securities or other equivalent voting interests of the entity.

Customer will not, and will not permit or authorize any third party to: (i) reproduce, modify, translate, enhance, decompile, disassemble, reverse engineer or create derivative works of any of the Application Services; (ii) rent, lease or sublicense access to any of the Application Services; or (iii) circumvent or disable any security or technological features of the Application Services.

Embrace offers a free plan and annual paid plans. The annual plans are for one (1) year and billed in advance on an annual basis with payments due no later than thirty (30) days from Customer's receipt of each, respective invoice. This Agreement auto-renews for one (1) year from the Effective Date, unless Customer provides written notice to Embrace at support@Embrace.io sixty (60) days prior to the one (1) year anniversary of Agreement. Upon renewal, the total price of the plan shall automatically increase by up to five percent unless otherwise agreed upon by Customer and Embrace.

Fees paid hereunder are non-refundable and shall be billed in U.S. Dollars. Except as otherwise set forth in an Order Form, fees due hereunder will be billed to Customer's credit card and Customer authorizes the card issuer to pay all such amounts and authorizes Embrace (or its billing agent) to charge the credit card account until Customer or Embrace cancels or terminates the Application Services as set forth herein; provided that if payment is not received from the credit card issuer, Customer agrees to pay all amounts due upon demand. Customer must provide current, complete and accurate billing and credit card information. Customer agrees to pay all costs of collection, including attorney's fees and costs, on any outstanding balance. In certain instances, the issuer of the credit card may charge a foreign transaction fee or related charges, which Customer shall be responsible to pay. In certain instances, the issuer of the credit card may charge a foreign transaction fee or related charges, which Customer shall be responsible to pay.

Customer will be responsible for payment of any applicable sales, use and other taxes and all applicable export and import fees, customs duties and similar charges (other than taxes based on Embrace's income), and any related penalties and interest for the grant of access rights hereunder, or the delivery of related services. Customer will make all required payments to Embrace free and clear of, and without reduction for, any withholding taxes. Any such taxes imposed on payments to Embrace will be Customer's sole responsibility, and Customer will, upon Embrace's request, provide Embrace with official receipts issued by appropriate taxing authorities, or such other evidence as Embrace may reasonably request, to establish that such taxes have been paid. Customer's billing address will be used to determine the appropriate taxing jurisdiction of the Application Services purchased.

Access to the Services

Embrace does not provide the equipment required to access the Application Services. Customer is responsible for all fees charged by third parties related to Customer's access and use of the Application Services (e.g., charges by Internet service providers). In the event Customer utilizes SMS notifications as part of its utilization of the Application Services, Embrace reserves the right to pass through its costs of such service to Customer, and Customer agrees to be pay such fees.

Embrace also reserves the right to restrict, suspend, or terminate access to the Application Services at any time, if in Embrace's sole determination, Customer is using the Application Services in a manner that violates applicable laws or the terms of this Agreement, fails to make payment to Embrace or creates an Excess Burden on Embrace's systems. "Excess Burden" means when the Application Services are being used to engage in denial of service attacks, spamming, or any illegal activity, and/or use of Application Services is causing immediate, material and ongoing harm to Embrace or Embrace's other customers.

Embrace does not provide maintenance for or guarantee the continued function of, and Embrace reserves the right to change, discontinue, delete and/or deprecate, at any time and at Embrace's sole discretion, any product feature, support service and any custom report template that may be made available to or accessible by Customer, including through the Application Services. Custom reports could include, but are not limited to, any reports customized for Customer's use.

From time to time, Embrace may make Beta Services (as defined below) available to Customer at no charge. Customer may choose to utilize such Beta Services in Customer's sole discretion. Beta Services are intended for evaluation purposes and not for production use, are not fully supported and may be subject to additional terms that may be presented to Customer. Beta Services are provided on an "as-is" and "as available" basis without any warranty, support, maintenance, storage, service-level agreement or indemnity obligation of any kind and so, are not considered "Application Services" hereunder, even if displayed in the user interface; however, all restrictions herein, Embrace's reservation of rights and Customer's obligations concerning the Application Services shall apply equally to Embrace's use of Beta Services. Embrace may discontinue Beta Services at any time in its sole discretion and may never make them generally available. Embrace will have no liability for any harm or damage arising out of or in connection with a Beta Service. "Beta Services" means a product, service or functionality provided by Embrace that may be made available to Customer to try at Customer's option at no additional charge which is clearly designated as beta, pilot, limited release, non-production, early



access, evaluation or by a similar description. Beta Services may be considered Confidential Information of Embrace, if so denoted or communicated by Embrace to Customer. Customer will not disclose (including, but not limited to, in a press release or public statement) any information about, involving or regarding Beta Services (including the existence of), except as agreed by Embrace in writing.

Restrictions

Customer shall use the Application Services only in compliance with all applicable laws, including any applicable privacy laws, and the terms of this Agreement. Customer shall not and shall not permit or authorize any third party to: (i) store, copy, modify, distribute, or resell any of the information; audio, visual, and audiovisual works, or other content made available on the Application Services, or compile or collect any such content as part of a database or other work; (ii) use any automated tool (e.g., robots, spiders) to access or use the Application Services; (iii) rent, lease, or sublicense Customer's access to the Application Services to another person; (iv) use any Application Services for any purpose except for Customer's own internal use; (v) circumvent or disable any digital rights management, usage rules, or other security features of the Application Services; (vi) use the Application Services in a manner that overburdens, or that threatens the integrity, performance, or availability of, the Application Services; or (vii) remove, alter, or obscure any proprietary notices (including copyright and trademark notices) on any portion of the Application Services.

Privacy Policy

The Application Services are designed to allow Customer to learn how Customer's customers, users and other individuals ("Authorized Users") use Customer's mobile applications or mobile websites by giving Customer the ability to collect information and data (collectively, "Customer Content") based on their interaction with Customer's mobile applications or mobile websites where Customer has integrated the Application Services and sent communications to them. Some information is automatically collected from or about Authorized Users when Customer uses the Application Services. If Customer integrates an official Embrace iOS, Android, or other library in Customer's mobile applications or mobile websites, it may by default collect Customer Content including but not limited to: the time of an event, the elements an Authorized User has interacted with, metadata and other details about these elements including duration of interaction, information about the device an Authorized User is on such as their operating system and browser, as well as the city/country location of Authorized Users. In addition, Customer can choose what other Customer Content Customer wants to collect such as IP addresses, user names, email addresses and other custom properties.

USE OF THE APPLICATION SERVICE DOES NOT REQUIRE COLLECTION OF PERSONALLY IDENTIFIABLE INFORMATION.

"Personal Data" means any Customer Content voluntarily provided by Customer to Embrace and processed by Embrace relating to an identified or identifiable natural person, directly or indirectly, in particular by reference to an identifier such as a name, identification number, location data, online identifier or to one or more factors specific to physical, physiological, mental, economic, cultural, or social identify of that natural person. To the extent Customer Content that includes Personal Data is sent by Customer through the Application Services and Customer's use of the Application Services involves transferring Personal Data outside the European Economic Area or Switzerland to any country not deemed by the European Commission as providing an adequate level of protection for personal data, the terms of the Data Processing Addendum available at [Data Processing Addendum](#) shall apply to such Personal Data and be incorporated into the Agreement. Customer Content shall be hosted and persistently stored by Embrace or its third-party service providers in the United States. In providing the Application Services, Embrace may engage sub-processors to process Customer Content, including, without limitation, any associated Personal Data pursuant to this Agreement within the European Economic Area, the United States and in other countries and territories. Under no circumstances will Embrace be deemed a data controller with respect to Customer Content under the Data Protection Act (European Directive 95/46/EC) or any relevant or replacement law or regulation of any Member State as defined therein.

Customer agrees to comply with all applicable privacy and data protection regulations. Further, Customer agrees to not use the Application Services to send Embrace sensitive information where unauthorized disclosure could cause material, severe, or catastrophic harm or impact to Embrace, any data subjects or third parties. Sensitive Information includes, but is not limited to:

- Passwords, authentication/authorization credentials
- Information under regulatory or contractual handling requirements (e.g., PCI, HIPAA, and state, federal and international data security and privacy laws) including, but not limited to:
- Credit card information including credit card numbers, CIV numbers (three digit codes for Visa and MasterCard, four digit code for American Express) and magnetic stripe information
- Social Security Numbers
- Driver's License Numbers
- Passport Numbers
- Government Issued Identification Numbers
- Financial Account Information
- Health data
- Biometric data
- Personally identifiable information knowingly collected from children under the age of 13 or from online services directed toward children, and
- Real time geolocation data which can identify an individual.
- Business secrets deemed highly confidential (e.g., highly-confidential business strategies and communications, sensitive attorney-client privileged and confidential communications).



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For elimination of any doubts, use of the Application Services does not require collection of Personal Data. The Customer may request such information from their end users in order to use their mobile applications and such Personal Data may not be included in the data sent to Embrace. If Personal Data is transmitted to Embrace, Embrace will restrict all transmission of Personal Data on the mobile device so that no Personal Data is collected or stored by Embrace. Personal Data may be transmitted to Embrace for collection and storage upon Customer providing prior notice to Embrace.

Embrace collects, stores, uses and accesses Customer Content to maintain, improve and support the Application Services. Embrace may also use Customer Content in an anonymized and aggregated form ("Aggregated Data") for Embrace's own business purposes, including use, duplication, modification and creation of derivative works regarding usage and performance of Aggregated Data which does not directly or indirectly identify Customer or their end users. Embrace shall own all right, title and interest to the Aggregated Data and any derivative works thereof. Embrace only shares Customer Content with others under special circumstances as follows: • With third parties who work on Embrace's behalf to provide the Application Services; • To the extent needed to comply with laws or to respond to lawful requests and legal process (provided that Embrace will endeavor to notify Customer if Embrace has received a lawful request for Customer's information); • To protect the rights and property of Embrace, its agents, customers, and others including to enforce Embrace's agreements, policies, and terms of use; • In an emergency, including to protect the personal safety of any person; or • In connection with a sale or transfer of all or a part of Embrace's business or assets (business deals may include, for example, any merger, financing, acquisition, divestiture, or bankruptcy transaction or proceeding); or • As directed by Customer, including through its use of the Application Services.

Embrace provides Customer with access to Customer Content and ability to delete Customer Content upon request. Upon cessation of Embrace's relationship with Customer, Embrace may delete Customer Content no longer in active use. Embrace agrees to maintain commercially reasonable technical and organizational measures designed to safeguard Customer Content from unauthorized access, use or disclosure. Embrace takes no responsibility and assumes no liability for any Customer Content other than its express security obligations in this Section.

Embrace may also collect registration and other information about Customer as Embrace's customer through Embrace's website. Embrace's collection and use of information collected about Customer on Embrace's website is governed by the Embrace Privacy Policy. The Embrace Privacy Policy does not cover information Embrace collects on Customer's behalf from Customer's mobile properties. It is Customer's obligation to provide Customer's own privacy policy or notice to Customer's users. An Authorized User may contact Embrace regarding Personal Data collected or processed, or may make requests within the Authorized User's rights

connected to consent, the right to erasure, the right to be forgotten, the right to object, or any other rights afforded by the GDPR. If such request is made directly to Embrace, Embrace will promptly and within a reasonable time frame, notify Customer and subsequently perform Authorized User's request.

Customer agrees to provide appropriate notice(s) to and obtain affirmative consent from Authorized Users about Customer's Personal Data collection and processing in accordance with this Agreement. Customer shall have the right to modify, from time to time, its Privacy Policy and Personal Data collection policy with Authorized Users, and Embrace agrees to work in good faith with Customer to modify these Terms and the Data Processing Addendum as Customer may reasonably request.

Restricted Areas of the Services

Certain parts of the Application Services, including account management features, may be password-restricted to registered users or other authorized persons ("Password-Protected Areas"). If Customer is authorized to gain access to any Password-Protected Areas, Customer agrees that Customer is entirely responsible for maintaining the confidentiality of Customer's password, and agrees to notify Embrace if the password is lost, stolen, disclosed to an unauthorized third party, or otherwise may have been compromised. Customer agrees that Customer is entirely responsible for any and all activities that occur under Customer's account, whether or not Customer undertakes such activities. Customer agrees to immediately notify Embrace of any unauthorized use of Customer's account or any other breach of security in relation to Customer's password or the Application Services that is known to Customer.

Links and Third Party Content

The Application Services may display, or contain links to, third party products, services, and websites. Any opinions, advice, statements, services, offers, or other information that constitutes part of the content expressed, authored, or made available by other users or other third parties on the Application Services, or which is accessible through or may be located using the Application Services (collectively, "Third Party Content") are those of the respective authors or producers and not of Embrace or its stockholders, directors, officers, employees, agents, or representatives. Embrace does not control Third Party Content and does not guarantee the accuracy, integrity or quality of such Third Party Content. Embrace is not responsible for the performance of, does not endorse, and is not responsible or liable for, any Third Party Content or any information or materials advertised in any Third Party Content. By using the Application Services, Customer



may be exposed to content that is offensive, indecent, or objectionable. Embrace is not be responsible or liable, directly or indirectly, for any damage or loss caused to Customer by Customer's use of or reliance on any goods, services, or information available on or through any third party service or Third Party Content. It is Customer's responsibility to evaluate the information, opinion, advice, or other content available on and through the Application Services. Customer will not use the Application Services to: (i) upload, post, email, or otherwise transmit any content that contains unlawful, harmful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically or otherwise objectionable; (ii) harm Embrace or third parties in any way; (iii) impersonate any person or entity, or otherwise misrepresent Customer's affiliation with a person or entity; (iv) upload, post, email, or otherwise transmit any content that Customer does not have a right to transmit under any law or under contractual or fiduciary relationships (such as inside information, proprietary and confidential information learned or disclosed as part of employment relationships or under nondisclosure agreements); (v) upload, post, email or otherwise transmit any content that infringes any patent, trademark, trade secret, copyright, or other right of any party; (vi) upload, post, email, or otherwise transmit any unsolicited or unauthorized advertising, promotional materials, "junk mail," "spam," "chain letters," "pyramid schemes," or any other forms of solicitation; (vii) upload, post, email, or otherwise transmit any material that contains software viruses or any other computer code, files, or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; (viii) interfere with or disrupt the Application Services or servers or networks connected to the Application Services, or disobey any requirements, procedures, policies or regulations of networks connected to the Application Services; (ix) intentionally or unintentionally violate any applicable local, state, national or international law or regulation; (x) "stalk" or otherwise harass another; or (xi) collect or store personal data about other users.

Use Policies

Customer is solely responsible for any content and other material that Customer submits, publishes, transmits, or displays on, through, or with the Application Services.

The Application Services we may provide or make available to Customer may be subject to U.S. export control and economic sanctions laws. Customer agrees to comply with all such laws and regulations as they relate to access to and use of the Application Services. Customer shall not access or use the Application Services if Customer is located in any jurisdiction in which the provision of the Application Services is prohibited under U.S. or other applicable laws or regulations (a "Prohibited Jurisdiction") and Customer shall not provide access to the Application Services to any government, entity or individual located in any Prohibited Jurisdiction. Customer represents, warrants and covenants that (a) Customer is not named on any U.S. government list of persons or entities prohibited from receiving U.S. exports, or transacting with any U.S.



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person; (b) Customer is not a national of, or a company registered in, any Prohibited Jurisdiction; (c) Customer shall not permit its Authorized Users or any agents to access or use the Application Services in violation of any U.S. or other applicable export embargoes, prohibitions or restrictions; and (d) Customer shall comply with all applicable laws regarding the transmission of technical data exported from the United States and the country in which Customer, its Authorized Users and its agents are located.

Trademarks and Publicity

"Embrace," the Embrace logo, and any other product or service name or slogan displayed on the Application Services are trademarks of Embrace, Inc. or its affiliates, and its suppliers or licensors, and may not be copied, imitated or used, in whole or in part, without the prior written permission of Embrace or the applicable trademark holder. Customer shall not use any metatags or any other "hidden text" utilizing "Embrace" or any other name, trademark or product or service name of Embrace without prior written permission. In addition, the look and feel of the Application Services, including all page headers, custom graphics, button icons and scripts, is the service mark, trademark and/or trade dress of Embrace and may not be copied, imitated or used, in whole or in part, without prior written permission. All other trademarks, registered trademarks, product names and company names or logos mentioned in the Application Services are the property of their respective owners. Reference to any products, services, processes or other information, by trade name, trademark, manufacturer, supplier, or otherwise does not constitute or imply endorsement, sponsorship, or recommendation thereof by Embrace. Customer agrees to allow Embrace, and hereby does provide Embrace with the necessary rights and licenses, to use Customer's name and logo on the Embrace website, blog and/or in marketing materials, including case studies and as press references, to identify Customer as a customer of Embrace. Customer agrees to act as a customer reference for the Application Services and Customer agrees to respond reasonably to all such reference contacts.

Confidential Information; Feedback.

"Confidential Information" shall mean all written or oral information, disclosed by either party to the other, related to the operations of either party or a third party that has been identified as confidential or that by the nature of the circumstances surrounding disclosure ought reasonably to be treated as confidential. The parties acknowledge that during the performance of this Agreement, each party will have access to certain of the other party's Confidential Information or Confidential Information of third parties that the disclosing party is required to maintain as confidential. Both parties agree that all items of Confidential Information are proprietary to the



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disclosing party or such third party, as applicable, and will remain the sole property of the disclosing party or such third party.

Each party agrees as follows: (a) to use Confidential Information disclosed by the other party only for the purposes described herein; (b) that such party will not reproduce Confidential Information disclosed by the other party, and will hold in confidence and protect such Confidential Information from dissemination to, and use by, any third party; (c) that neither party will create any derivative work from Confidential Information disclosed to such party by the other party; (d) to restrict access to the Confidential Information disclosed by the other party to such of its personnel, agents, and/or consultants, if any, who have a need to have access and who have been advised of and have agreed in writing to treat such information in accordance with the terms of this Agreement; and (e) to the extent practicable, return or destroy all Confidential Information disclosed by the other party that is in its possession upon termination or expiration of this Agreement, upon request of the other party.

Notwithstanding the foregoing, the provisions of this Section will not apply to Confidential Information that (a) is publicly available or in the public domain at the time disclosed; (b) is or becomes publicly available or enters the public domain through no fault of the recipient; (c) is rightfully communicated to the recipient by persons not bound by confidentiality obligations with respect thereto; (d) is already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (e) is independently developed by the recipient; or (f) is approved for release or disclosure by the disclosing party without restriction. Notwithstanding the foregoing, each party may disclose Confidential Information to the limited extent required (x) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that, to the extent permitted by law, the party making the disclosure pursuant to the order shall first have given written notice to the other party and made a reasonable effort to obtain a protective order; or (y) to establish a party's rights under this Agreement, including to make such court filings as it may be required to do.

Customer may provide Embrace with feedback, suggestions, and ideas, if Customer chooses, about the Application Services ("Feedback"). Customer agrees that Embrace may, in its sole discretion, use the Feedback Customer provides in any way, including in future enhancements and modifications to the Application Services. Customer hereby grants to Embrace and its assigns a perpetual, worldwide, fully transferable, sublicensable, fully paid-up, irrevocable, royalty free license to use, reproduce, modify, create derivative works from, distribute, and display the Feedback in any manner any for any purpose, without in any media, software, or technology of any kind now existing or developed in the future, without any obligation to provide attribution or compensation to Customer or any third party.

Warranties; Disclaimer of Warranties

Embrace warrants to Customer that the Application Services will perform materially in accordance with the documentation that accompany or is available for the Application Services. Embrace's sole liability and Customer's exclusive right and remedy for a breach of the foregoing warranty is for Embrace to correct or re-perform the nonconforming Application Services.

Customer warrants that Customer owns or has obtained all necessary rights, title and interest, and obtained all necessary consents, to transfer the Customer Data to Embrace and its data center provider(s) for the purpose of processing such Customer Data in accordance with this Agreement.

Except as specifically provided herein, use of services provided by embrace including but not limited to the application services, any professional services and customer support services is at customer's sole risk. The application services are provided on an "as is" and "as available" basis. Embrace and its suppliers and licensors expressly disclaim all warranties of any kind, whether express or implied, including, but not limited to the implied indemnities and warranties of merchantability, fitness for a particular purpose, title, and non-infringement. Embrace does not guarantee the accuracy, completeness, or usefulness of its services, and customer relies on such services at customer's own risk. Neither does embrace guarantee the accuracy, usability, completeness, or usefulness of any custom report, and customer uses custom reporting features at customer's own risk. Any material that customer accesses or obtains through embrace's services, including customer content, is done at customer's own discretion and risk and customer will be solely responsible for any damage to customer's computer or loss of data that results from the download of any material through the application services. No advice or information, whether oral or written, obtained by customer from embrace or through or from the application services will create any warranty not expressly stated in this agreement.

Limitation of Liability

Embrace and its suppliers and licensors will not be liable for any direct, indirect, incidental, special, consequential, or exemplary damages, including but not limited to, damages for loss of profits, goodwill, use, data, or other intangible losses (even if embrace has been advised of the possibility of these damages), resulting from customer's use of the application services or embrace's provision of the application service or any other services. Under no circumstances will the total liability all kinds of embrace and its suppliers and licensors of all kinds arising out of or related to customer's use of the application services (including but not limited to warranty



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claims) or embrace's provision of the application services or any other services, regardless of the forum and regardless of whether any action or claim is based on contract, tort, negligence or otherwise, exceed the amounts, if any, that customer has paid to embrace for customer's use of the application services for the twelve (12) month period prior to the claim.

Indemnity

Customer will defend, indemnify and hold harmless Embrace, its suppliers and licensors, and its respective subsidiaries, affiliates, officers, agents, employees, representatives, and assigns, from any costs, damages, expenses, and liability caused by Customer's use of the Application Services, Customer's violation of this Agreement, Customer Content, or Customer's violation of any rights of a third party through use of the Application Services.

Miscellaneous

Enforcement of any dispute relating to this Agreement will be governed by the laws of the State of California, excluding its conflict and choice of law principles. For parties residing in the United States, the exclusive jurisdiction and venue for any claims arising out of or related to this Agreement or Customer's use of the Application Services is in the state and federal courts located in City and County of San Francisco, California, and Customer irrevocably agrees to submit to the jurisdiction of such courts.

Embrace's failure to enforce any right or provision in this Agreement will not constitute a waiver of such right or provision unless acknowledged and agreed to by Embrace in writing. In the event that a court of competent jurisdiction finds any provision of this Agreement to be illegal, invalid, or unenforceable, the remaining provisions will remain in full force and effect.

The terms and conditions which by their nature are intended to survive termination of this Agreement shall survive, including Restrictions, Disclaimer of Warranties, Feedback, Indemnity, and Limitation of Liability. This Agreement contains the entire understanding of the parties on the subject matter hereof.

If Customer is a U.S. federal government department or agency or contracting on behalf of such department or agency, the Application Services are a "Commercial Item" as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation," as those terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as



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applicable, the Application Services are licensed to Customer with only those rights as provided under the terms and conditions of this Agreement.

Contacting Us

All notices to be provided by Embrace to Customer under this Agreement may be delivered in writing (a) by nationally recognized overnight delivery service ("Courier") or U.S. mail to the contact mailing address provided by Customer on any Order Form; or (b) by electronic mail to the electronic mail address provided for Customer's account owner. If you need to give notice to Embrace, you must do so in writing by Courier or U.S. mail to 8569 Higuera Street, Culver City, CA 90232. All notices shall be deemed to have been given immediately upon delivery if by electronic mail; or, if otherwise delivered, then upon the earlier of receipt or two (2) business days after being deposited in the mail or with a Courier as permitted above. If you have any questions or concerns about the Application Services or this Agreement, you may contact us by email at support@embrace.io.