



CAPACITY NETWORK PARTNER AGREEMENT

PLEASE READ THIS CAPACITY NETWORK PARTNER AGREEMENT AND ALL OTHER AGREEMENTS AND POLICIES REFERENCED HEREIN COLLECTIVELY DEFINED BELOW AS THE "TERMS OF SERVICE" CAREFULLY AS THEY CONTAIN IMPORTANT INFORMATION REGARDING YOUR LEGAL RIGHTS, REMEDIES, AND OBLIGATIONS.

This Capacity Network Partner Agreement is a contract between you ("you" or "Partner") Engineer.ai Corp. (dba/ "Builder.ai," "Builder®," "we," or "us") and, or our subsidiaries ("Engineer.ai Global Limited" and "Engineer.ai India Private Limited"). You must read, agree to, and accept all of the terms and conditions contained in this Agreement to be a Partner of our expert partner network website, Builder Hive, located at www.builderhive.com ("Capacity Network®" or "Builder Hive™" or "Site", or collectively "Site Services").

This Capacity Network Partner Agreement includes and hereby incorporates by reference the following important agreements, as they may be in effect and modified from time to time: Master Partner Agreement, Capacity Network Partner Policies, Privacy Policy, Cookie Policy, CCPA Policy, Capacity Network Open Source Policy and Terms of Use for our website located at www.builder.ai, available at <https://www.builder.ai/terms/legal-and-compliance>. These agreements are collectively, along this Capacity Network Partner Agreement, called the "Agreement" or "Terms of Service".

Subject to the conditions set forth herein, Builder may, in its sole discretion, amend this Agreement and any of the other agreements that comprise this Agreement at any time by posting a revised version on the Site. Builder will provide reasonable advance notice of any amendment that includes a Substantial Change (defined below), by posting the updated Agreement or Terms of Service on the Site, providing notice on the Site, and/or sending you notice by email. Any revisions to this Agreement will take effect on the noted effective date (each, as applicable, the "Effective Date").

YOU UNDERSTAND THAT BY USING THE SITE OR SITE SERVICES AFTER THE EFFECTIVE DATE, YOU AGREE TO BE BOUND BY THIS AGREEMENT. IF YOU DO NOT ACCEPT THIS AGREEMENT IN ITS ENTIRETY, YOU MUST NOT ACCESS OR USE THE SITE OR THE SITE SERVICES AFTER THE EFFECTIVE DATE.

IF YOU AGREE TO THIS AGREEMENT ON BEHALF OF AN ENTITY OR AGENCY, OR IN CONNECTION WITH PROVIDING SERVICES ON BEHALF OF AN ENTITY OR AGENCY, YOU REPRESENT AND WARRANT THAT YOU HAVE THE AUTHORITY TO BIND THAT ENTITY OR AGENCY TO THIS AGREEMENT AND AGREE THAT YOU ARE BINDING BOTH YOU AND THAT ENTITY OR AGENCY TO THIS AGREEMENT. IN THAT EVENT, "YOU" AND "YOUR" WILL REFER AND APPLY TO YOU AND THAT ENTITY OR AGENCY.

1. BUILDER ACCOUNTS

1.1 REGISTRATION AND ACCEPTANCE

By registering for an account to use the Site or Site Services (an "**Account**"), by using the Site or Site Services after the Effective Date if you had an Account on the Effective Date, by clicking to accept this Agreement when prompted on the Site, or by logging in to the Site, you agree to abide by this Agreement and the other Terms of

Service.

To access and use certain portions of the Site and the Site Services, you must register for an Account. Builder reserves the right to decline a registration to join Builder Hive for any reason, including supply and demand, cost to maintain data, or other business considerations.

If you create an Account as an employee or agent on behalf of a company, you represent and warrant that you are authorized to enter into binding contracts, including this Agreement, on behalf of yourself and the company. Your privacy is important to Builder and your information will be handled in accordance with our Privacy Policy, which is part of this Agreement, and applicable law.

1.2 ACCOUNT ELIGIBILITY

Builder offers the Site and Site Services for your business purposes only and not for personal, household, or consumer use. To register for an Account or use the Site and Site Services, you must, and hereby represent that you: (a) are an employee or agent of and authorized to act for and bind an independent business (whether it be as a self-employed individual/sole proprietor or as a corporation, limited liability company, or other entity); (b) will use the Site and Site Services for business purposes only; (c) will comply with any licensing, registration, or other requirements with respect to your business, or the business for which you are acting; and (d) are either a legal entity or an individual who is 18 years or older (or have otherwise reached the age of majority in the jurisdiction in which you conduct business) in each case who can form legally binding contracts.

1.3 ACCOUNT PROFILE

To register for an Account to join the Site, you must complete a Partner profile ("Profile"). You agree to provide true, accurate, and complete information on your Profile and all registration and other forms you access on the Site or provide to us and to update your information to maintain its truthfulness, accuracy, and completeness. You agree not to provide any false or misleading information about your identity or location, your business, your skills, or the services your business provides and to correct any such information that is or becomes false or misleading.

1.4 ACCOUNT PERMISSIONS

You agree not to request or allow another person to create an Account on your behalf, for your use, or for your benefit, except that an authorized employee or agent may create an Account on behalf of your business. By granting other permissions under your Account, you represent and warrant that: (a) the Partner is authorized to act on your behalf; and (b) you are fully responsible and liable for the Partner's acts and omissions, including for obligations and liabilities relating to making payments and entering into Service Contracts and this Agreement. If any such Partner violates this Agreement, it may affect your ability to use the Site and Site Services. Upon closure of an Account, Builder may close any or all related Accounts.

1.5 IDENTITY AND LOCATION VERIFICATION

When you register for an Account and from time to time thereafter, your Account will be subject to verification, including, but not limited to, validation against third-party databases or the verification of one or more official government or legal documents that confirm your identity, your location, and your ability to act on behalf of your business on Builder. You authorize Builder, directly or through third parties, to make any inquiries necessary to validate your identity, your location, and confirm your ownership of your email address or financial accounts, subject to applicable law. When requested, you must timely provide us with complete information about yourself and your business, which includes, but is not limited to, providing official government or legal documents. During verification some Account features may be temporarily limited. When a verification is successfully completed, Account features will be restored.

1.6 BIOMETRIC / FACIAL RECOGNITION

Builder may use facial recognition technology (FRT) for verification and authentication purposes, including for the prevention of impersonation and fraud. You hereby consent to the use of FRT to authenticate you and your Developer Personnel.

1.7 PARTNER NAMES AND PASSWORDS

Each Partner who uses the Site must register for their own Account. When you register for an Account, you will

be asked to choose a Partner name and password for the Account. You are entirely responsible for safeguarding and maintaining the confidentiality of your Partner name and password. You agree not to share your Partner name or password with any person, and, if you are a legal entity who is not a natural person, to only share your Partner name and password with a person who is authorized to use your Account. You authorize Builder to assume that any person using the Site with your Partner name and password, either is you or is authorized to act for you. You agree to notify us immediately if you suspect or become aware of any unauthorized use of your Account or any unauthorized access to the password for any Account. You further agree not to use the Account or log in with the Partner name and password of another Partner of the Site if (a) you are not authorized to use both or (b) the use would violate this Agreement.

1.8 PARTNER DEVELOPER ONBOARDING

Each individual assigned by or through Partner to perform Services hereunder is required to undergo a rigorous vetting and onboarding process. Only those individuals who successfully complete the vetting and onboarding process and who also agree to adhere to the then applicable terms of service for the Site or Site Services are permitted to access and use the Site or Site Services and perform development services hereunder (“Developers” or “Developer Personnel”). You remain fully responsible for all actions of your Developers and shall fully indemnify Builder for all actions and claims by your Developers or against Developers by Builder.

Prior to referring a candidate to the Site or Site Services as a Developer Personnel, you shall carefully screen each candidate by:

- (i) confirming the candidate’s identify and identifying information;
- (ii) verifying employment history;
- (iii) verifying education, skills, and training to generally match the requirements of the Site or to perform Site Services; and
- (iv) confirming that the candidate is not subject to terms of another agreement that would disqualify the candidate or conflict with this Agreement, including the Intellectual Property Rights section below.

1.9 PARTNER DEVELOPER PERSONNEL

You are solely responsible for all Developer Personnel and for the payment of their compensation, including, if applicable, withholding of income taxes and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers’ compensation insurance, and disability benefits. Prior to any Developer Personnel performing any Services hereunder, you shall:

- (i) ensure that Developer Personnel have the legal right to work under local laws and regulations;
- (ii) require such Developer Personnel to execute written agreements, in form and substance reasonably acceptable to Builder that bind such Developer Personnel to confidentiality provisions that are at least as protective of Builder’s information and Customer’s information (including all Confidential Information) as those contained in this Agreement and Intellectual Property Rights provisions that grant Builder rights in the Work Product and, upon Builder’s request, provide Builder with a copy of each such executed agreement;
- (iii) at your sole cost and expense, conduct background checks on such Developer Personnel, which background checks shall comprise, at a minimum, a review of credit history (if available), references, and criminal record, in accordance with applicable law. Partner shall ensure that no Developer Personnel who has been convicted of a felony or any misdemeanor involving, in any way, theft, fraud, bribery, or the violation of any securities law provides any Services or has access to any Confidential Information of Builder or customers of Builder; and
- (iv) upon the written request of Builder, promptly replace or remove any Developer Personnel.

Partner shall, and shall ensure that all Developer Personnel, comply with all rules, regulations, and policies of Builder that are communicated to Partner in writing, including security procedures concerning systems and data

and remote access thereto, platform security procedures, including the restriction of access by Builder to certain areas of its Site or Site Services, and general health and safety practices and procedures.

2. PURPOSE OF BUILDER

The Builder Hive site is one of our partner management platforms that is used by our Capacity Network Partners for on-boarding, and expert assessment and management. Subject to this Agreement, Builder provides the Site Services to Partners, including hosting and maintaining the Site, and facilitating software and app development.

2.1 RELATIONSHIP WITH BUILDER

You also acknowledge, agree, and understand that Partners are solely responsible for determining, and have the sole right to determine, which Projects to accept; the time, place, manner, and means of providing any Partner Services; the type of services to provide; and agree or disagree to the price to charge for your services. You further acknowledge, agree, and understand that: (i) you are not an employee of Builder, and you are not eligible for any of the rights or benefits of employment (including unemployment and/or workers compensation insurance); (ii) Builder does not, in any way, supervise, direct, or control any Partner or Developer Personnel. You expressly acknowledge, agree, and understand that:

- (i) the Partner is solely responsible for paying its Developer Personnel for work performed on behalf of the Partner;
- (ii) Builder is not a party to any agreement between the Partner and its Developer Personnel and does not have any liability or obligations under or related to any such agreement, even if the Partner or Developer Personnel defaults;
- (iii) neither Partner nor Developer Personnel are employees or agents of Builder;
- (iv) Builder does not, in any way, supervise, direct, or control the Partner or Developer Personnel;
- (v) Builder does not set Partner's or Developer Personnel's contract terms amongst themselves (including determining whether the contract will be salary, hourly or fixed price), fees, pricing, work hours, work schedules, or location of work;
- (vi) Builder does not provide Partner or Developer Personnel with training or any equipment, labor, tools, or materials needed for the Site and Site Service;
- (vii) Builder does not provide the premises at which the Partner or Developer Personnel will perform the work; and
- (viii) Builder makes no representations as to the reliability, capability, or qualifications of any Partner or Developer Personnel or the ability or willingness of any Partner to make payments to or fulfill any other obligations to Developer Personnel, and Builder disclaims any and all liability relating thereto.

Nothing in this Agreement is intended to prohibit or discourage (nor should be construed as prohibiting or discouraging) any Partner from engaging in any other business activities or providing any services through any other channels they choose, provided, if applicable, Partners comply with terms of this Agreement, including the Master Partner Agreement. Partners are free at all times to engage in such other business activities and services and are encouraged to do so.

2.2 PAYMENT & INVOICING

Partner will enter information concerning the skillset and rates of its Developer Personnel on Builder Hive. Partner's compensation for the Services performed by Partner (or its Developer Personnel) will be at the posted rates on the Site. Builder will regularly generate a statement detailing the Developer Personnel who have

worked during the applicable period, the rates for the work done and the fees earned by the Partner. The statement is derived by work performed (e.g., hours recorded) in Builder Tracker™ which measures the hours spent by the Developer Personnel working with Builder. The statement will be available to view within the Site and will have a defined order number ("Capacity Partner Order Number"). The Site will allow you to convert the statement to an invoice which you must digitally sign and submit to Builder within the normal payment period. Any invoices submitted that are not consistent with the Capacity Partner Order Number will be subject to audit before processing and may not be paid within the normal payment period. If there is any discrepancy between the invoice submitted by Capacity Partner and the data generated by the Site, then the data generated by the Site will take precedence.

Builder shall pay Partner within sixty (60) days of receipt of a correct and valid invoice submitted through the Site that references the relevant Capacity Partner Order Number. If Partner disputes any payments made by Builder, Partner must notify Builder within thirty (30) days after the date of payment; otherwise the dispute is deemed waived.

2.3 PAYMENT DISPUTE

Builder may withhold or reduce from payment any amount disputed by Builder in good faith, pending resolution of the dispute, provided that Builder:

- (i) timely pays all amounts not subject to dispute;
- (ii) notifies Partner of the dispute, specifying in such notice (A) the amount in dispute, and (B) the reason for the dispute (the "Dispute Reason");
- (iii) works with Partner in good faith to resolve the dispute promptly; and
- (iv) pays any amount determined to be due by resolution of the dispute.

Partner shall continue performing its obligations in accordance with this Agreement notwithstanding any such dispute or actual or alleged nonpayment that is the subject of the dispute, pending its resolution.

2.4 TAXES AND BENEFITS

You acknowledges and agrees that Partner is solely responsible (a) for all tax liability associated with payments received from Builder, and that Builder will not withhold any taxes from payments to Partner; (b) to obtain any liability, health, workers' compensation, disability, unemployment, or other insurance needed, desired, or required by law, and that Partner is not covered by or eligible for any insurance from Builder; (c) for determining whether Partner is required by applicable law to issue any particular invoices for the Partner Fees and for issuing any invoices so required; (d) for determining whether Partner is required by applicable law to remit to the appropriate authorities any value added tax or any other taxes or similar charges and remitting any such taxes or charges to the appropriate authorities, as appropriate; and (e) if outside of the United States, for determining if Builder is required by applicable law to withhold any amount due to Partner and for notifying Builder of any such requirement and indemnifying Builder for any requirement to pay any withholding amount to the appropriate authorities (including penalties and interest). In the event of an audit of Builder, Partner agrees to promptly cooperate with Builder and provide copies of Partner's tax returns and other documents as may be reasonably requested for purposes of such audit, including but not limited to records showing Partner is engaging in an independent business as represented to Builder.

2.5 VAT AND OTHER TAXES

Builder may be required by applicable law to collect taxes or levies including, without limitation, withholding income tax or VAT (while some countries may refer to VAT using other terms, e.g. GST, we'll just refer to VAT, GST and any local sales taxes collectively as "VAT") in the jurisdiction of the Partner (the "Taxes"). In such instances, any amount Builder is required to collect or withhold for the payment of any such Taxes shall be collected under this Agreement.

3. COMPLIANCE

3.1 RECORDS

You will (a) create and maintain records to document satisfaction of your respective obligations under this Agreement, including, without limitation, your respective payment receipt, obligations and compliance with tax and employment laws, and (b) provide copies of such records to Builder upon request. Nothing in this subsection requires or will be construed as requiring Builder to supervise or monitor a Partner's compliance with this Agreement. You are solely responsible for creation, storage, and backup of your business records. This Agreement and any registration for or subsequent use of the Site will not be construed as creating any responsibility on Builder's part to store, backup, retain, or grant access to any information or data for any period.

3.2 OPEN SOURCE COMPONENTS

You shall not include in any Software or Deliverables any Open Source Components, other than Approved Open Source Components specifically described in the Builder Open Source Policy, available at <https://www.builder.ai/terms/capacity-network-open-source-software-policy>. You shall provide Builder with a complete, machine-readable copy of the Source Code for Approved Open Source Components in accordance with the terms of the Open Source License(s) therefore at no cost to Builder.

3.3 SUBCONTRACTORS

You shall not, without the prior written approval of Builder, engage any Third Party to perform Services (including to create any Work Product) hereunder. Builder's approval of any such Third Party (each approved Third Party, a "**Permitted Subcontractor**") shall not relieve Partner of its representations, warranties, or obligations under the Agreement. Without limiting the foregoing, Partner shall:

- (ii) be responsible and liable for the acts and omissions of each such Permitted Subcontractor (including such Permitted Subcontractor's employees who, to the extent providing Services or creating Work Product, shall be deemed Developer Personnel) to the same extent as if such acts or omissions were by Developer or its employees;
- (iii) name Builder a third-party beneficiary under Partner's agreement with each Permitted Subcontractor with respect to the Services and Work Product;
- (iv) be responsible for all fees and expenses payable to, by, or on behalf of each Permitted Subcontractor in connection with this Agreement, including, if applicable, withholding of income taxes and the payment and withholding of social security and other payroll taxes, unemployment insurance, workers' compensation insurance, and disability benefits; and
- (v) prior to the provision of Services or creation of Work Product by any Permitted Subcontractor:
 - (A) obtain from such Permitted Subcontractor confidentiality, work-for-hire, and intellectual property rights assignment agreements, in form and substance acceptable to Builder, giving Builder rights consistent with those set forth in this Agreement, and, upon request, provide Builder with a fully-executed copy of each such agreement; and
 - (B) with respect to all Permitted Subcontractor employees providing Services or Work Product, comply with its obligations under this Agreement.

3.4 REPRESENTATIONS

You, including your Developer Personnel, represent and warrant to Builder that:

- (i) you will perform all Services in a professional and workmanlike manner in accordance with industry standards and practices for similar services, using personnel with the requisite skill, experience, and qualifications, and shall devote adequate resources to meet its obligations under this Agreement;

- (ii) you are in compliance with, and will perform all Services in compliance with, all applicable law;
- (iii) Builder will receive good and valid title to all Work Product, free and clear of all encumbrances and liens of any kind;
- (iv) When delivered, no Deliverable will contain any Harmful Code;
- (v) All Work Product, including all updates, upgrades, new versions, new releases, enhancements, improvements, and other modifications thereof, but excluding Builder Materials, and Approved Third-Party Materials, and Approved Open Source Components, is or will be the original creation of Partner and its assigned Developer Personnel;
- (vi) As delivered, the Work Product (excluding Builder Materials): (A) will not infringe, misappropriate, or otherwise violate any Intellectual Property Right or other right of any third party; and (B) will comply with all applicable laws.

3.5 FRAUD AND IMPERSONATION

You, including your Developer Personnel, shall not provide information to Builder that is false, intentionally misleading, or otherwise likely to deceive Builder or perform any action to gain an unfair advantage on the Site and Site Services, including without limitation, impersonating any person, performing Services for another, circumventing or working around security and control features of the Site or Site Services, misrepresenting your identify, skills, services, hours, or affiliation with any person or organization (collectively, "Fraud"). In the event of Fraud, Builder may seek to withhold, reduce, or cancel payment and payment obligations to you and move to immediately close your Account, at its sole discretion and with or without notice.

4. DELIVERY

4.1 PRE-DELIVERY

Before delivering any Deliverable, you shall:

- (i) test the Software component of such Deliverable to confirm that it is fully operable, meets all applicable Requirements, and will function in accordance with the Requirements of the Project;
- (ii) ensure such Deliverable is free of Harmful Code; and
- (iii) prepare, test, and, as necessary, revise the Deliverable to confirm it is complete and accurate and conforms to all Requirements of the Project.

4.2 DELIVERY

You shall deliver each Deliverable on or prior to the Milestone Date and in accordance with the delivery criteria set forth in Requirements or such other criteria as may be set forth for such Deliverable in the Project.

4.3 ACCEPTANCE

Builder will have the right to review and test Deliverables for an acceptance test period ("Testing Period") of no fewer than five (5) business days after receipt by Builder (each, an "Acceptance Period" or "Acceptance Test").

If a Deliverable has any material errors or deficiencies or does not comply with the applicable documentation and/or specifications, or the Requirements ("Non-Conformity"), Builder may reject the Deliverable and provide Partner with information describing its reasons for rejecting the Deliverable.

Builder may suspend Acceptance Tests and the corresponding Testing Period by communication to Partner if Builder discovers a Non-Conformity in the tested Deliverable or part or feature thereof. In such event, Partner

shall immediately, and in any case within 3 days, correct such Non-Conformity, whereupon the Acceptance Tests and Testing Period shall resume for the balance of Testing Period.

In such case Partner will cure the deficiencies and resubmit the Deliverable for a subsequent acceptance test within the longer of 50% of the original time period specified for preparation of the Deliverable or three (3) business days, but in no event more than ten (10) business days for each Deliverable unless otherwise agreed in writing by Builder. If Partner fails to resubmit a Deliverable as set forth above, Builder will have the right to either: (i) extend the cure period for a specified duration at Partner's sole cost and expense, or (ii) cancel the Deliverable with no cost or liability to Builder.

4.4 FAILURE OF ACCEPTANCE TEST

If Acceptance Tests identify any Non-Conformities, Partner, at Partner's sole cost and expense, shall remedy all such Non-Conformities and re-deliver the Deliverable(s), in accordance with the applicable Requirements as promptly as commercially possible and, in any case, within 7 days following, as applicable, its:

- (i) completion of such Acceptance Tests, in the case of Acceptance Tests conducted by Partner; or
- (ii) Builder's communication identifying any Non-Conformities, in the case of Acceptance Tests conducted by Builder.

4.5 REPEATED FAILURE

If Acceptance Tests identify any Non-Conformity in any Deliverable after a second or subsequent delivery thereof, or Partner fails to re-deliver the Deliverable on a timely basis, Builder may, in its sole discretion,:

- (i) continue the process set forth above;
- (ii) accept the Deliverable as a nonconforming deliverable, in which case the Fees therefor shall be reduced equitably to reflect the value of the Deliverable as received relative to the value of the Deliverable had it conformed; or
- (iii) deem the failure to be a non-curable material breach of this Agreement and the relevant Requirements, and terminate this Agreement or the Project, at Builder's sole discretion.

Where there are repeated or substantial errors, deficiencies, or Non-Conformity in any Deliverables or Services provided by Partner, Builder is entitled to withhold or reduce payment to the Partner, in full or in part, pending a resolution by Partner that is satisfactory to Builder, at its sole discretion.

5. INTELLECTUAL PROPERTY RIGHTS

5.1 OWNERSHIP OF WORK PRODUCT

Builder is and will be the sole and exclusive owner of all right, title, and interest in and to all Work Product, including all Intellectual Property Rights therein. In furtherance of the foregoing:

- (i) Partner shall create all Work Product as work made for hire as defined in Section 101 of the Copyright Act of 1976 or the worldwide equivalent; and
- (ii) To the extent any Work Product or Intellectual Property Right therein does not qualify as, or otherwise fails to be, work made for hire, Partner shall, and hereby does:
 - (A) assign, transfer, and otherwise convey to Builder, irrevocably and in perpetuity, throughout the universe, all right, title, and interest in and to such Work Product, including all Intellectual Property Rights therein; and

(B) irrevocably waive any and all claims Partner may now or hereafter have in any jurisdiction to so-called "moral rights" or rights of *droit moral* with respect to the Work Product.

You shall, and shall cause your Developer Personnel to, take all appropriate action and execute and deliver all documents necessary or reasonably requested by Builder to effectuate any of the provisions or purposes of this section or otherwise, as may be necessary or useful for Builder to prosecute, register, perfect, record, or enforce its rights in or to any Builder-owned Work Product or any Intellectual Property Right therein. Partner hereby appoints Builder as Partner's attorney-in-fact with full irrevocable power and authority to take any such actions and execute any such documents if Partner refuses, or within a period deemed reasonable by Builder otherwise fails, to do so.

5.2 BUILDER MATERIALS, AND APPROVED THIRD-PARTY MATERIALS, AND APPROVED OPEN SOURCE COMPONENTS

Builder and its licensors are and will remain the sole and exclusive owners of all right, title, and interest in and to the Builder Materials, including all Intellectual Property Rights therein. Partner shall have no right or license to, and shall not, use any Builder Materials except solely during this Agreement for which they are provided to the extent necessary to perform the Services and provide the Work Product to Builder. All other rights in and to the Builder Materials are expressly reserved by Builder.

Ownership of all Approved Third-Party Materials, and all Intellectual Property Rights therein, is and will remain with the respective owners thereof, subject to any express licenses or sublicenses granted to Builder pursuant to or in accordance with this Agreement.

Ownership of all Approved Open Source Components, and all Intellectual Property Rights therein, is and will remain with the respective owners thereof, subject to Builder's rights under the applicable Open Source Licenses.

5.3 BACKGROUND TECHNOLOGY LICENSES

Partner hereby grants to Builder such rights and licenses with respect to the Background Technology that will allow Builder to use and otherwise exploit perpetually throughout the universe for all or any purposes whatsoever the Work Product, to the same extent as if Builder owned the Background Technology, without incurring any fees or costs to Partner or any other Person in respect of the Background Technology. In furtherance of the foregoing, such rights and licenses shall:

- (i) be irrevocable, perpetual, fully paid-up, and royalty-free;
- (ii) include the rights to use, reproduce, perform (publicly or otherwise), display (publicly or otherwise), modify, improve, create derivative works of, distribute, import, make, have made, sell, and offer to sell the Background Technology, including all such modifications, improvements, and derivative works thereof; and
- (iii) be freely assignable and sublicensable.

5.4 BUILDER MATERIALS LICENSE

Builder hereby grants to Partner the limited, royalty-free, non-exclusive right and license to Builder Materials solely as necessary to incorporate such Builder Materials into, or otherwise use such Builder Materials in connection with creating, the Work Product. The term of such license shall commence upon Builder's delivery of the Builder Materials to Partner or upon accessing the Site or Site Services, and shall terminate upon Builder's acceptance or rejection of the Work Product to which the Builder Materials relate. Subject to the foregoing license, Builder reserves all rights in the Builder Materials. Builder Materials shall be deemed Builder's Confidential Information.

6. CONFIDENTIALITY

In connection with this Agreement, Builder (the "**Disclosing Party**") may disclose or make available Confidential Information to Partner (the "**Receiving Party**"). As a condition to being provided with any disclosure of or access to Confidential Information, the Receiving Party shall:

- (i) not access or use Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement;
- (ii) disclose or permit access to Confidential Information other than to your Developer Personnel who: (i) need to know such Confidential Information for purposes of the Receiving Party's exercise of its rights or performance of its obligations under and in accordance with this Agreement; (ii) have been informed of the confidential nature of the Confidential Information and the Receiving Party's obligations; and (iii) are bound by confidentiality and restricted use obligations at least as protective of the Confidential Information as the terms set forth herein.
- (iii) safeguard the Confidential Information from unauthorized use, access or disclosure using at least the degree of care it uses to protect its sensitive information and in no event less than a reasonable degree of care; and
- (iv) ensure your employees and Developer Personnel are in compliance with, and be responsible and liable for any of its noncompliance with, the terms of this Section.

You shall be responsible for any breach of or non-compliance with this Section by any of your employees and Developer Personnel.

If the Receiving Party or any of your representatives is compelled by applicable law to disclose any Confidential Information, then to the extent permitted by applicable law, the Receiving Party shall: (a) promptly, and prior to such disclosure, notify the Disclosing Party in writing of such requirement so that the Disclosing Party can seek a protective order or other remedy, or waive its rights under this Section and (b) provide reasonable assistance to the Disclosing Party in opposing such disclosure or seeking a protective order or other limitations on disclosure. If the Disclosing Party waives compliance or, after providing the notice and assistance required under this Section, the Receiving Party remains required by law to disclose any Confidential Information, the Receiving Party shall disclose only that portion of the Confidential Information that, on the advice of the Receiving Party's legal counsel, the Receiving Party is legally required to disclose and, upon the Disclosing Party's request, shall use commercially reasonable efforts to obtain assurances from the applicable court or other presiding authority that such Confidential Information will be afforded confidential treatment or attorney's eyes only.

7. WARRANTY DISCLAIMER

YOU AGREE NOT TO RELY ON THE SITE, THE SITE SERVICES, ANY INFORMATION ON THE SITE OR THE CONTINUATION OF THE SITE. THE SITE AND THE SITE SERVICES ARE PROVIDED "AS IS" AND ON AN "AS AVAILABLE" BASIS. BUILDER MAKES NO REPRESENTATIONS OR WARRANTIES WITH REGARD TO THE SITE, THE SITE SERVICES, WORK PRODUCT, PARTNER CONTENT, OR ANY ACTIVITIES OR ITEMS RELATED TO THIS AGREEMENT OR THIS AGREEMENT. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, BUILDER DISCLAIMS ALL EXPRESS AND IMPLIED CONDITIONS, REPRESENTATIONS, AND WARRANTIES INCLUDING, BUT NOT LIMITED TO, THE WARRANTIES OF MERCHANTABILITY, ACCURACY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT. SOME JURISDICTIONS MAY NOT ALLOW FOR ALL OF THE FOREGOING LIMITATIONS ON WARRANTIES, SO TO THAT EXTENT, SOME OR ALL OF THE ABOVE LIMITATIONS MAY NOT APPLY TO YOU. AGREEMENT TERM AND TERMINATION STATES PARTNER'S SOLE AND EXCLUSIVE REMEDY AGAINST BUILDER WITH RESPECT TO ANY DEFECTS, NON-CONFORMANCES, OR DISSATISFACTION.

8. LIMITATION OF LIABILITY

Builder is not liable, and you agree not to hold us responsible, for any damages or losses arising out of or in connection with this Agreement, including, but not limited to:

- your use of or your inability to use our Site or Site Services;
- delays or disruptions in our Site or Site Services;
- viruses or other malicious software obtained by accessing, or linking to, our Site or Site Services;
- glitches, bugs, errors, or inaccuracies of any kind in our Site or Site Services;
- damage to your hardware device from the use of the Site or Site Services;
- the content, actions, or inactions of third parties' use of the Site or Site Services;
- a suspension or other action taken with respect to your Account;
- your reliance on the quality, accuracy, or reliability of projects, requirements, ratings, recommendations, and feedback, or metrics found on, used on, or made available through the Site; and
- your need to modify practices, content, or behavior or your loss of or inability to do business, as a result of changes to this Agreement.

ADDITIONALLY, IN NO EVENT WILL BUILDER, OUR AFFILIATES, OUR LICENSORS, OR OUR THIRD-PARTY SERVICE PROVIDERS BE LIABLE FOR ANY SPECIAL, CONSEQUENTIAL, INCIDENTAL, PUNITIVE, EXEMPLARY, OR INDIRECT COSTS OR DAMAGES, INCLUDING, BUT NOT LIMITED TO, LITIGATION COSTS, INSTALLATION AND REMOVAL COSTS, OR LOSS OF DATA, PRODUCTION, PROFIT, OR BUSINESS OPPORTUNITIES. THE LIABILITY OF BUILDER, OUR AFFILIATES, OUR LICENSORS, AND OUR THIRD-PARTY SERVICE PROVIDERS TO ANY PARTNER FOR ANY CLAIM ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE OTHER TERMS OF SERVICE WILL NOT EXCEED THE LESSER OF: (A) \$2,500; OR (B) ANY FEES RETAINED BY BUILDER WITH RESPECT TO SERVICE CONTRACTS ON WHICH PARTNER WAS INVOLVED AS BUILDER OR PARTNER DURING THE SIX-MONTH PERIOD PRECEDING THE DATE OF THE CLAIM. THESE LIMITATIONS WILL APPLY TO ANY LIABILITY, ARISING FROM ANY CAUSE OF ACTION WHATSOEVER ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT OR THE OTHER TERMS OF SERVICE, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH COSTS OR DAMAGES AND EVEN IF THE LIMITED REMEDIES PROVIDED HEREIN FAIL OF THEIR ESSENTIAL PURPOSE. SOME STATES AND JURISDICTIONS DO NOT ALLOW FOR ALL OF THE FOREGOING EXCLUSIONS AND LIMITATIONS, SO TO THAT EXTENT, SOME OR ALL OF THESE LIMITATIONS AND EXCLUSIONS MAY NOT APPLY TO YOU.

In addition to the recognition that Builder is not a party to any contract between Partners or a Partner's employees and contractors, you hereby release Builder, our affiliates, and our respective officers, directors, agents, subsidiaries, joint ventures, employees and service providers from claims, demands, and damages (actual and consequential) of every kind and nature, known and unknown, arising out of or in any way connected with any dispute you have with another Partner, Partner's employees and Partner's contractors, whether it be at law or in equity that exist as of the time you enter into this agreement.

TO THE EXTENT APPLICABLE, YOU HEREBY WAIVE THE PROTECTIONS OF CALIFORNIA CIVIL CODE § 1542 (AND ANY ANALOGOUS LAW IN ANY OTHER APPLICABLE JURISDICTION) WHICH SAYS: "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY."

This release will not apply to a claim that Builder failed to meet our obligations under this Agreement.

9. INDEMNIFICATION

You will indemnify, defend, and hold harmless Builder, our affiliates, and our respective directors, officers, employees, representatives, and agents (each an "Indemnified Party") for all Indemnified Claims (defined below) and Indemnified Liabilities (defined below) relating to or arising out of: (a) the use of the Site and the Site Services by you or your agents, employees or contractors; (b) any Work Product or Partner Content developed,

provided, or otherwise related to your use of the Site Services; (c) any Service Contract entered into by you or your agents and Developer Personnel, including, but not limited to, the classification of a Partner as an independent contractor or non-compliance with IR35 including for the failure to provide Builder with a designation including accurate information on the applicability of IR35; the classification of Builder as an employer or joint employer of Partner; any employment-related claims, such as those relating to employment termination, employment discrimination, harassment, or retaliation; and any claims for unpaid wages or other compensation, overtime pay, sick leave, holiday or vacation pay, retirement benefits, worker's compensation benefits, unemployment benefits, or any other employee benefits; (d) failure to comply with the Terms of Service by you or your agents and Developer Personnel; (e) failure to comply with applicable law by you or your agents and Developer Personnel; (f) negligence, willful misconduct, or fraud by you or your agents and Developer Personnel; and (g) defamation, libel, violation of privacy rights, unfair competition, or infringement of Intellectual Property Rights or allegations thereof to the extent caused by you or your agents and Developer Personnel. For purposes of this Section, your agents and Developer Personnel includes any person who has apparent authority to access or use your account demonstrated by using your Partner name and password.

10. INSURANCE

During the term of this Agreement, Partner shall maintain in full force and effect general liability insurance and professional liability insurance with reasonable coverage and protection to cover the liabilities rising from this Agreement. In the absence of insurance coverage by Partner, Builder reserves the right to withhold payment to Partner, pending resolution of the dispute. .

11. NON-SOLICITATION

Registration and use of the Site and Site Services is non-exclusive, and there is no minimum time commitment. As a condition of participation or use of the Site and Site Services, you agree not to knowingly solicit Projects from or propose or agree to any kind of consulting or employment arrangement with Builder's customers without written permission of Builder for a period of one year from the most recent Project with Builder. For a period of one year after the termination of your relationship with Builder, you also agree not to knowingly solicit for employment any employee of Builder or any customers of Builder to whom you have been first introduced due to your participation in the Site or Site Service. If a customer or employee informs Builder of any such prohibited solicitation by you, you shall forfeit any payment, fees or honorarium owed.

12. FEEDBACK

Partner grants to Builder and its affiliates a worldwide, perpetual, irrevocable, royalty-free license to use, distribute, disclose, and make and incorporate into its services any suggestion, enhancement request, recommendation, correction, or other feedback provided by you or your Developer Personnel relating to the operation of Builder's or its affiliates' services, including the Site or Site Services.

13. AGREEMENT TERM AND TERMINATION

13.1 TERMINATION

Unless both you and Builder expressly agree otherwise in writing, either of us may terminate this Agreement in our sole discretion, at any time, without explanation, upon written notice to the other, which will result in the termination of the other Terms of Service as well, except as otherwise provided herein. You may provide written notice to legal@builder.ai. In the event you properly terminate this Agreement, your right to use the Site and Site Services is automatically revoked, and your Account will be closed. If you attempt to terminate this Agreement while having one or more open Projects, you agree (a) you will continue to be bound by this Agreement and the other Terms of Service until all such Projects have closed, reassigned, or completed on the Site; and (b) Builder may continue to perform those Site Services necessary to reassign or complete any open Project.

Without limiting Builder's other rights or remedies, we may, but are not obligated to, temporarily or indefinitely revoke or limit access to the Site or Site Services, deny your registration, or permanently revoke your access to the Site and refuse to provide any or all Site Services to you if: (i) you breach the letter or spirit of any terms and conditions of this Agreement or any other provisions of this Agreement; (ii) we suspect or become aware that you have provided false or misleading information to us or engaged in Fraud; (iii) we believe, in our sole discretion, that your actions may cause legal liability for you, our Partners, or Builder or our affiliates; may be contrary to the interests of the Site or the Site Services; or may involve illicit or illegal activity; or (iv) we are required to by law, legal process, or law enforcement. If your Account is temporarily or permanently closed, you may not use the Site under the same Account or a different Account or re-register under a new Account without Builder's prior written consent. If you attempt to use the Site under a different Account, we reserve the right to reclaim and claim available or cancel payments owed to you from that Account.

13.2 ACCOUNT DATA ON CLOSURE

Except as otherwise required by law, if your Account is closed for any reason, you will no longer have access to data, messages, files, or other material you keep on the Site and any closure of your Account may involve deletion of any content stored in your Account for which Builder will have no liability whatsoever. Builder, in its sole discretion and as permitted or required by law, may retain some or all of your Account information.

13.3 SURVIVAL

After this Agreement terminates, the terms of this Agreement and the other Terms of Service that expressly or by their nature contemplate performance after this Agreement terminates or expires will survive and continue in full force and effect. For example, the provisions requiring arbitration, protecting intellectual property, confidentiality, indemnification, and setting forth limitations of liability each, by their nature, contemplate performance or observance after this Agreement terminates. Without limiting any other provisions of this Agreement, the termination of this Agreement for any reason will not release you or Builder from any obligations incurred prior to termination of this Agreement or that thereafter may accrue in respect of any act or omission prior to such termination.

14. DISPUTES BETWEEN YOU AND BUILDER

14.1 ARBITRATION

If a dispute arises between you and Builder, our goal is to resolve the dispute quickly and cost-effectively. Accordingly, any dispute, controversy or claim, whether in tort, contract or otherwise, that arises from or relates to the Terms of Service, including whether the claims asserted are arbitrable, shall be exclusively and finally determined by arbitration before a single arbitrator pursuant to the rules of the American Arbitration Association (the "AAA") as in effect from time to time. The enforceability of this arbitration agreement shall be governed by the U.S. Federal Arbitration Act. The venue for all arbitrations shall be New York City, NY or San Francisco, CA, unless the Partner resides in Europe, in which case Builder may elect to have the arbitration held in London, England, or unless the Partner resides in Asia, in which case Builder may elect to have the arbitration held in Hong Kong or Singapore. The language to be used in the arbitral proceeding will be English. Judgment upon the award rendered by the arbitrator may be entered by any court having jurisdiction thereof. Arbitration shall not be deemed a waiver of Builder's right to seek injunctive relief in any court of competent jurisdiction as provided for in these Terms of Service. Each party will be responsible for its own legal fees, and the arbitrator may include the payment of attorneys' fees or expenses as a part of any award. Arbitrations arising from the same or related claims may be consolidated in one arbitral proceeding.

14.2 ARBITRATION EXCLUSION

Any claims relating to Builder Intellectual Property Rights and Builder Materials, including claims of misappropriation, theft, infringement and misuse, and claims relating to Fraud against Builder are not subject to arbitration as outlined above.

14.3 BUILDER CONTRACTING ENTITY, NOTICES, GOVERNING LAW AND VENUE

The Builder entity entering into this Agreement, the address to which Partner should direct notices under this Agreement, the law that will apply in any dispute or lawsuit arising out of or in connection with this Agreement,

and the courts that have jurisdiction over any such dispute or lawsuit, depend on where Partner is domiciled.

If Partner is domiciled in:	The Builder entity entering into this Agreement is:	Notices should be addressed to	Governing law is:	Courts with exclusive jurisdiction:
The United States of America, including North America (NA) and Latin America (LATAM)	Engineer.ai Corp., a Delaware corporation	26 S. Rio Grande Street, Suite 2072 Salt Lake City, Utah 84101, USA	Delaware and controlling United States federal law	Delaware, U.S.A.
India, including Asia-Pacific (APAC)	Engineer.ai India Private Limited	77B, Sector 18, IFFCO Road, Gurugram, Haryana India	India	Delhi, India
All Other, including Europe (EU), and Middle East and North Africa (MENA)	Engineer.ai Global Limited	North West House, 119 Marylebone Rd, London NW1 5PU, United Kingdom	England	England and Wales

14.3 INFORMAL DISPUTE RESOLUTION

Before serving a demand for arbitration of a Claim, you and Builder agree to first notify each other of the Claim. You agree to notify Builder of the Claim by email to legal@builder.ai, and Builder agrees to provide to you a notice at your email address on file (in each case, a "Notice"). You and Builder then will seek informal voluntary resolution of the Claim. Any Notice must include pertinent account information, a brief description of the Claim, and contact information, so that you or Builder, as applicable, may evaluate the Claim and attempt to informally resolve the Claim. Both you and Builder will have 90 days from the date of the receipt of the Notice to informally resolve the other party's Claim, which, if successful, will avoid the need for further action. Builder further encourages collaborative dispute resolution. Accordingly, you have the option to contact us directly before service of a demand for arbitration and engage us in informal dispute resolution dialog for a period of 60 days (the "Cooling Off Period").

15. GENERAL

15.1 ENTIRE AGREEMENT

This Agreement, together with the other Terms of Service, sets forth the entire agreement and understanding between you and Builder relating to the subject matter hereof and thereof and cancels and supersedes any prior or contemporaneous discussions, agreements, representations, warranties, and other communications between you and us, written or oral, to the extent they relate in any way to the subject matter hereof and thereof. The section headings in this Agreement are included for ease of reference only and have no binding effect. Even though Builder drafted this Agreement, you represent that you had ample time to review and decide whether to agree to this Agreement. If an ambiguity or question of intent or interpretation of this Agreement arises, no presumption or burden of proof will arise favoring or disfavoring you or Builder because of the authorship of any provision of this Agreement.

15.2 MODIFICATIONS; WAIVER

No modification or amendment to this Agreement will be binding upon Builder unless they are agreed in a written instrument signed by a duly authorized representative of Builder or posted on the Site by Builder. Email will not constitute a written instrument as contemplated by this Section. Our failure to act with respect to a breach by you or others does not waive our right to act with respect to subsequent or similar breaches. We do not guarantee we will take action against all breaches of this Agreement.

15.3 ASSIGNABILITY

Partner may not assign this Agreement, or any of its rights or obligations hereunder, without Builder's prior written consent in the form of a written instrument signed by a duly authorized representative of Builder. Builder may freely assign this Agreement and the other Terms of Service without Partner's consent. Any attempted assignment or transfer in violation of this subsection will be null and void. Subject to the foregoing restrictions, this Agreement is binding upon and will insure to the benefit of the successors, heirs, and permitted assigns of the parties.

15.4 SEVERABILITY; INTERPRETATION

If and to the extent any provision of this Agreement or the other Terms of Service is held illegal, invalid, or unenforceable in whole or in part under applicable law, such provision or such portion thereof will be ineffective as to the jurisdiction in which it is illegal, invalid, or unenforceable to the extent of its illegality, invalidity, or unenforceability and will be deemed modified to the extent necessary to conform to applicable law so as to give the maximum effect to the intent of the parties. The illegality, invalidity, or unenforceability of such provision in that jurisdiction will not in any way affect the legality, validity, or enforceability of such provision in any other jurisdiction or of any other provision in any jurisdiction.

15.5 FORCE MAJEURE

The parties to this Agreement will not be responsible for the failure to perform, or any delay in performance of, any obligation hereunder for a reasonable period due to labor disturbances, accidents, fires, floods, telecommunications or Internet failures, strikes, wars, riots, rebellions, blockades, acts of government, governmental requirements and regulations or restrictions imposed by law or any other conditions beyond the reasonable control of such party.

16. DEFINITIONS

Capitalized terms not defined below or above have the meanings described in the Site Terms of Use or elsewhere in this Agreement.

"Acceptance Tests" means such quality and control tests as may be conducted to determine whether any Deliverable meets the Requirements of the Project.

"Action" means any claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of violation, proceeding, litigation, citation, summons, subpoena, or investigation of any nature, civil, criminal, administrative, regulatory, or other, whether at law, in equity, or otherwise.

"Approved Open Source Components" means Open Source Components that Builder has approved to be included in or used in connection with any software developed or provided hereunder and which are specifically identified in the Builder Open Source Policy.

"Background Technology" means all Software, data, know-how, ideas, methodologies, specifications, and other technology in which Partner owns such Intellectual Property Rights as are necessary for Partner to grant the rights and licenses set forth in this Agreement, and for Builder (including its licensees, successors, and assigns) to exercise such rights and licenses, without violating any right of any Third Party or any law, or incurring any payment obligation to any Third Party, and that: (a) are identified as background technology in any Deliverables; and (b) were or are developed or otherwise acquired by Partner outside of this Agreement.

"Builder Materials" means all materials and information, including the Site, Site Services, products, platforms, documents, data, know-how, ideas, methodologies, specifications, software, content, and technology, in any form or media, directly or indirectly provided or made available to Partner by or on behalf of Builder in connection with this Agreement, whether or not the same: (a) are owned by Builder, a Third Party, or in the public domain; or (b) qualify for or are protected by any Intellectual Property Rights.

"Confidential Information" means information in any form or medium (whether oral, written, electronic, or other) that the Disclosing Party considers confidential or proprietary, including information consisting of or relating to the Disclosing Party's technology, trade secrets, know-how, business operations, plans, strategies, customers, project, process, and pricing, and information with respect to which the Disclosing Party has contractual or other confidentiality obligations, in each case whether or not marked, designated, or otherwise identified as "confidential." Without limiting the foregoing, the information relating to the Site, including its operation, technologies, projects, and processes, are the Confidential Information of Builder. Confidential Information does not include information that the Receiving Party can demonstrate by written or other documentary records: (a) was rightfully known to the Receiving Party without restriction on use or disclosure prior to such information's being disclosed or made available to the Receiving Party in connection with this Agreement; (b) was or becomes generally known by the public other than by the Receiving Party's or any of its Representatives' non-compliance with this Agreement; (c) was or is received by the Receiving Party on a non-confidential basis from a third party that was not or is not, at the time of such receipt, under any obligation to maintain its confidentiality; or (d) the Receiving Party can demonstrate by written or other documentary records was or is independently developed by the Receiving Party without reference to or use of any Confidential Information.

"Deliverables" means all software and source codes and all other documents, work product, and other materials that Partner is required to or otherwise does provide to Builder under this Agreement, Site, or Site Services and otherwise in connection with any Services, including any and all items specifically identified as Deliverables in any Project.

"Developer Personnel" means all employees of Partner or any Permitted Subcontractors involved in the performance of Services or providing Work Product hereunder.

"Dispute Reason" means and includes misrepresentation, Fraud, failure of acceptance testing, repeated failure, missed milestones, non-Delivery, Delivery with errors or deficiencies, non-Conformity, Harmful Code, and non-compliance with this Agreement and the Terms of Services.

"Fixed-Price Contract" means a Service Contract for which Builder is charged a fixed fee agreed between a Builder and a Partner, prior to the commencement of a Service Contract, for the completion of all Partner Services contracted by Builder for such Service Contract.

"Fraud" means dishonestly obtaining a benefit, or causing a loss, by deception or other means, and includes alleged, attempted, suspected or detected fraud.

"Harmful Code" means any: (a) virus, trojan horse, worm, backdoor, or other software or hardware devices the effect of which is to permit unauthorized access to, or to disable, erase, or otherwise harm, any computer, systems, or software; or (b) time bomb, drop-dead device, or other software or hardware device designed to disable a computer program automatically with the passage of time or under the positive control of any Person, or otherwise deprive Builder and its customers of its lawful right to use the Software.

"Hourly Contract" means a Service Contract for which Builder is charged based on the hourly rate charged by Partner.

"Hourly Invoice" means the report of hours invoiced for a stated period by a Partner for Partner Services performed for Builder.

The term **"including"** as used herein means including without limitation.

"Indemnified Claim" means any and all claims, damages, liabilities, costs, losses, and expenses (including reasonable attorneys' fees and all related costs and expenses) arising from or relating to any claim, suit, proceeding, demand, or action brought by you or a third party or other Partner against an Indemnified Party.

"Indemnified Liability" means any and all claims, damages, liabilities, costs, losses, and expenses (including reasonable attorneys' fees and all related costs and expenses) arising from or relating to any claim, suit, proceeding, demand, or action brought by an Indemnified Party against you or a third party or other Partner.

"Intellectual Property Rights" means all patent rights, copyright rights, mask work rights, moral rights, rights of publicity, trademark, trade dress and service mark rights, goodwill, trade secret rights and other intellectual property rights as may now exist or hereafter come into existence, and all applications therefore and registrations, renewals and extensions thereof, in each case, under the laws of any state, country, territory or other jurisdiction.

"Milestone" means an event or task described in the Requirements or Project that must be completed by the corresponding Milestone Date set forth therein.

"Milestone Date" means the date by which a particular Milestone must be completed as set forth in the Requirements or Project.

"Non-Conformity" means any failure of any (a) Software to conform to the requirements of this Agreement (including any applicable Capacity Partner Policies); or (b) Software to conform to the Requirements of the Project.

"Open Source Components" means any software component that is subject to any open source copyright license agreement, including software available under the GNU Affero General Public License (AGPL), GNU General Public License (GPL), GNU Lesser General Public License (LGPL), Mozilla Public License (MPL), Apache License, BSD licenses, or any other license that is approved by the Open Source Initiative.

"Partner" means any authorized Partner utilizing the Site or Site Services, including Partner employees and contractor, to advertise or provide Partner Services to Builder.

"Partner Content" means any comments, remarks, data, feedback, content, text, photographs, images, video, music, or other content or information that you or any Site Visitor or Partner post to any part of the Site or provide to Builder, including such content or information that is posted as a result of questions.

"Partner Fees" means: (a) for an Hourly Contract, the amount reflected in the Hourly Invoice (the number of hours invoiced by Partner, multiplied by the hourly rate charged by Partner); (b) for a Fixed-Price Contract, the fixed fee agreed between a Builder and a Partner; and (c) any bonuses or other payments made by a Builder to a Partner.

"Partner Services" means all services performed for or delivered to Builders by Partners.

"Project" means an engagement for Partner Services that a Partner provides to a Builder under a Service Contract on the Site.

"Requirements" means the specification set forth regarding the features and functionality of the Software under the Project, including business, functional, and technical specifications or requirements.

"Services" means any of the services Partner provides under this Agreement or any Project.

"Service Contract" means, as applicable, (a) the contractual provisions between a Builder and a Partner governing the Partner Services to be performed by a Partner for Builder for a Project.

"Software" means the computer program(s), including programming tools, scripts, and routines, the Partner develops or otherwise provides under this Agreement, as described more fully in each Project. As context dictates, Software may refer to one or more Deliverables.

"Source Code" means the human readable source code of the Software to which it relates, in the programming language in which such Software was written, together with all related flow charts, code, and technical documentation, including a description of the procedure for generating object code, all of a level sufficient to enable a programmer reasonably fluent in such programming language to understand, build, operate, support, maintain, and develop modifications, upgrades, updates, adaptations, enhancements, new versions, and other derivative works and improvements of, and to develop computer programs compatible with, the Software.

"Substantial Change" means a change to the terms of this Agreement that reduces your rights or increases your responsibilities.

"Third-Party Materials" means any materials and information, including documents, data, know-how, ideas, methodologies, specifications, software, content, and technology, in any form or media, in which any Person other than Builder or Partner owns any Intellectual Property Right, but specifically excluding Open Source Components.

"Work Product" means any tangible or intangible results or deliverables that Partner agrees to create for, or actually delivers to, Builder as a result of performing the Partner Services, including, but not limited to, configurations, computer programs, or other information, or customized hardware, and any intellectual property developed in connection therewith.

"You" means Partner and includes Developer Personnel, where applicable.