

## Data Processing Agreement

This Data Processing Agreement ("DPA") forms part of the License Agreement (the "Agreement") between Reality Fence, LLC ("Company") and ("Customer"), governing certain products and/or services provided by Company (collectively, the "Services"). This DPA becomes part of the Agreement upon execution by both parties and is incorporated into the Agreement by reference.

1. **DEFINITIONS.** In this DPA:

1.1. **Terms Defined Here.** In this DPA:

- (a) "Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with, the subject entity, where control is the direct or indirect ownership or control of at least a majority of the voting rights, or otherwise the power to direct the management and policies, of the entity. An entity is an Affiliate only so long as such control continues.
- (b) "CCPA" means the California Consumer Privacy Act of 2018, and the regulations promulgated thereunder, as it/they may be amended from time to time.
- (c) "Data Protection Law(s)" means any data privacy, data security, and data protection law, directive, regulation, order, or rule, including without limitation the CCPA, the California Privacy Rights Act of 2020 ("CPRA"), and the Virginia Consumer Data Protection Act ("CDPA"). Nothing herein concedes the applicability of any Data Protection Law to Customer, the Services, or a particular consumer or data subject.
- (d) "Personal Information" means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular natural person, household, or device linked to same, wherever located. For purposes of this DPA, Personal Information includes such data submitted by or on behalf of Customer, its Affiliates, or its/their customers related to the Services; or otherwise processed, collected, created, or accessed by Company as a result of the Services.

1.2. **Terms in Data Protection Laws.** Terms defined in this DPA, or if not defined in the DPA then as defined in the Agreement, or for which definitions in Data Protection Laws are incorporated by reference, will, to the greatest extent consistent with their meanings, apply to terms of similar effect in Data Protection Laws that apply to natural persons governed by such laws (including without limitation, "data subjects," "personal data," "personal information," "nonpublic personal information," and "personally identifiable information"). As used in this DPA, the following terms have the meanings given them by the CCPA: "business," "business purpose," "commercial purpose," "consumer," "personal information," "process," "sell," and "service provider;" provided this DPA governs Personal information of all natural persons, wherever located, and not just of Californians.

## **2. PROVIDER RESPONSIBILITIES.**

### **2.1. Purpose and Use Restrictions.**

- (a) Company shall not collect, retain, use, or disclose the Personal Information (and has not collected, retained, used, or disclosed the Personal Information) for any purpose other than to perform the Services pursuant to the Agreement, except, where a Data Protection Law applies to particular Personal Information, where and only to the extent permitted or required by that Data Protection Law.
- (b) Without limiting the generality of the foregoing, and for the avoidance of any doubt, Company: (i) shall not collect, retain, use, or disclose the Personal Information for a commercial purpose (other than providing the Services); (ii) shall not sell the Personal Information (where “sell” means selling, renting, releasing, disclosing, disseminating, making available, transferring, or otherwise communicating the Personal Information, orally, in writing, or by electronic or other means, to another person or entity, for monetary or other valuable consideration); (iii) shall not collect, retain, use, or disclose the Personal Information outside the direct business relationship between Company and Customer; (iv) shall not collect more than the minimum Personal Information necessary, nor retain the Personal Information longer than necessary, to perform the Services; (v) shall not use the Personal Information to build or modify a profile about a natural person to use in providing services to an entity other than Customer; and (vi) shall not correct or augment the Personal Information nor otherwise combine it with Personal Information from another source (including from Company itself). This DPA does not authorize processing of Personal Information for “targeted advertising” or “cross-context behavioral advertising” (as defined respectively by the CDPA and CPRA).

### **2.2. Legal Obligations.** Company shall comply with: (a) any and all legal obligations applicable to it as Customer’s service provider, data processor, or entity with similar status under applicable Data Protection Laws, and Company shall make no effort to alter any such status without Customer’s consent; and (b) any and all legal obligations otherwise imposed on Company by applicable Data Protection Laws.

### **2.3. Cooperation.**

- (a) Company shall reasonably cooperate with Customer as necessary for Customer to fulfill its responsibilities pursuant to applicable Data Protection Laws with respect to the Agreement. If in Customer’s discretion, applicable Data Protection Law is (or becomes) inconsistent with this DPA, Company shall negotiate in good faith regarding amendments proposed by Customer.
- (b) Without limiting the foregoing, as Customer may direct, Company shall promptly: (i) provide Customer copies of any or all of the Personal Information in a structured, commonly used, machine-readable format easily rendered into text an average consumer/data subject can read and understand; (ii) correct any or all Personal Information; (iii) delete any or all Personal Information (pursuant to Section 2.4 (*Disposal/Deletion*)); (iv) assist Customer as it reasonably requests in addressing requests by consumers/data subjects (or their agents), including without limitation requests to “know,” to “delete,” to “opt out,” or to not “opt in”; and (v) assist Customer as it reasonably requests to facilitate its compliance with applicable Data Protection Laws, including without limitation through Company cooperation with audits and data protection assessments. For the avoidance of doubt, Company shall not respond to

requests from consumers/data subjects (or their agents) as to Personal Information, except where and to the extent applicable Data Protection Law requires a response directly from Company. Neither the Agreement nor this DPA authorizes or permits Company, on Customer's behalf, to respond to requests from consumers/data subjects (or their agents), or other third parties unless the parties agree otherwise in a writing signed by both parties.

2.4. Disposal/Deletion. Upon the expiration or other termination of the Agreement or Customer's request, Company shall: (a) return the Personal Information to Customer and then dispose of and delete all Personal Information in Company's possession or control, including without limitation the control of its employees or agents (pursuant to Section 2.5(a) (*Safeguards*) below); and (b) provide Customer written certification of such disposal and deletion. Company's obligations pursuant to the Agreement and this DPA will continue until all disposal and deletion required above in this Section 2.4.

2.5. Security.

(a) *Safeguards*. Company shall maintain reasonable technical, physical, and administrative safeguards (including without limitation policies, procedures, staffing, and contractual provisions) to protect the Personal Information from unauthorized access, destruction, use, modification, or disclosure. Without limiting the generality of the foregoing, Company shall protect the Personal Information with at least the same degree of care it uses to protect data and information of similar nature and importance but not less than reasonable care. Without limiting the generality of its obligations, Company shall protect the security, confidentiality, and integrity of the Personal Information by: (i) securely storing and transporting Personal Information; (ii) securely disposing of and deleting Personal Information when no longer needed for the Services or as required by Section 2.4 (*Disposal/Deletion*), so as to render the information unreadable and irretrievable (including without limitation from electronic media); and (iii) requiring that any employee or sub-processor with access to Personal Information is subject to a written agreement with confidentiality and security obligations consistent with those imposed on Company by this DPA, including without limitation those of Subsection 2.5(b) (*Incident Notification and Management*).

(b) *Incident Notification and Management*. Company shall notify Customer promptly of any unauthorized access to or destruction, use, modification, or disclosure of any Personal Information (any "Security Incident"). This notification shall include: (i) a description of the Security Incident; (ii) the categories and types of Personal Information affected; (iii) if applicable, the categories and number of records, and natural persons, whose Personal Information was affected; and (iv) such other information as may be required by applicable Data Protection Law or useful to address the Security Incident. Company shall also (v) promptly investigate and remedy the Security Incident, (vi) take commercially reasonable steps to mitigate the effects of the Security Incident and to prevent further such incidents, (vii) cooperate with Customer and law enforcement with respect to the Security Incident, and (viii) take any other actions required of Company by applicable law. This Subsection 2.5(b) does not limit Customer's other rights or remedies resulting from a Security Incident.

2.6. Non-Personal Information. Neither this Section 2.6 (*Non-Personal Information*) nor this DPA authorizes processing of de-identified information or aggregate consumer data, as those terms are defined in applicable Data Protection Laws ("Non-PI"). If Company processes Non-PI, Company

shall: (a) take reasonable precautions to ensure that Non-PI cannot be associated with a natural person, household, or device linked to same, including without limitation by implementing technical safeguards that prohibit reidentification of Non-PI, implementing business processes that specifically prohibit reidentification of Non-PI, and implementing business processes to prevent inadvertent release of Non-PI; (b) publicly commit to maintain and use Non-PI only in deidentified form, and make no attempt to reidentify Non-PI; (c) permit and facilitate reasonable Customer oversight of Company's compliance with this Section 2.6; and (d) process Non-PI only if, to the extent, and for the purposes permitted by then-applicable Data Protection Law and the Agreement (if any).

- 2.7. Sub-Processors. This DPA does not authorize Company to use sub-processors. If Company uses sub-processors, it shall (a) notify Customer in advance and (b) execute a written agreement with each sub-processor imposing obligations no less protective of the Personal Information than those this DPA imposes on Company.

### **3. GENERAL**

- 3.1. Additional Restrictions. For the avoidance of doubt: (a) Company shall provide privacy protections no less than required by applicable Data Protection Laws and shall comply with such laws; (b) Company is Customer's service provider and processor for the Personal Information, which is provided to Company for a business purpose; (c) Customer does not sell Personal Information to Company in connection with this DPA or the Agreement; (d) Company has not given Customer any reason to believe Company could not comply with this DPA; (e) without limiting its obligations elsewhere in this DPA, Company shall promptly notify Customer if Company determines it can no longer meet its obligations under this DPA; (f) Customer may audit Company's use and management of Personal Information and/or Non-PI at any time, upon 5 business days' notice, and Company shall comply with such audit; (g) Company's compliance with this DPA is at its own expense; and (h) nothing in this DPA limits Customer's rights or remedies under applicable law or the Agreement.
- 3.2. Construction. Except as modified by this DPA, the Agreement will remain in full force and effect. This DPA's terms prevail in the event of conflict between them and the Agreement or any documents attached to, linked to, or referenced in the Agreement. This DPA may be modified solely in writing signed by both parties.
- 3.3. Certification. Company certifies that it understands its obligations pursuant to this DPA and shall comply with them.

IN WITNESS THEREOF, the parties have executed this DPA as of the effective date of the Agreement.

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## **LICENSING AGREEMENT**

This Licensing Agreement (“**Agreement**”) is entered into between (“**Customer**”) and Reality Fence, LLC, a Michigan limited liability company (“**Company**”), with its principal place of business at 5672 Drake Hollow Drive W, West Bloomfield, Michigan 48322. Company and Customer agree that the following terms and conditions will apply to the services provided under this Agreement and Orders placed thereunder.

### **1. DEFINITIONS**

“**Administrator User**” means each Customer employee designated by Customer to serve as technical administrator of the “Services,” as defined below, on Customer’s behalf. Each Administrator User must complete training and qualification requirements reasonably required by Company.

“**Customer Content**” or “**Content**” means all data and materials provided by Customer to Company for use in connection with the Services, including, without limitation, customer applications, data files, and graphics.

“**Documentation**” means the user guides, online help, release notes, training materials and other documentation provided or made available by Company to Customer regarding the use or operation of the Services.

“**Host**” means the computer equipment on which the Software is installed, which is owned and operated by Company or its subcontractors.

“**Identity User**” means a unique collection of identity data for an individual that will be granted access to and/or managed by the Services for the purposes of providing single sign-on, managing passwords or certifying user access. Identity data may be physically or logically maintained in a single repository or in separate physical or logical repositories. Although Identity Users for user accounts that have been deactivated may remain in the identity management system, those inactive Identity Users will not be included in the number of Identity User licenses in use by Customer.

“**Other Services**” means all technical and non-technical services performed or delivered by Company under this Agreement, including, without limitation, implementation services and other professional services, training and education services but excluding the Services. Other Services will be provided on a time and material basis at such times or during such periods, as may be specified in a Schedule and mutually agreed to by the parties. All Other Services will be provided on a non-work for hire basis.

“**Schedule**” is a written document attached to this Agreement under Exhibit A or executed separately by Company and Customer for the purpose of purchasing Services under the terms and conditions of this Agreement.

**“Software”** means the object code version of any software to which Customer is provided access as part of the Service, including any updates or new versions.

**“Services”** refer to the specific Company’s internet-accessible service identified in a Schedule that provides use of Company’s identity/access management Software that is hosted by Company or its services provider and made available to Customer over a network on a term-use basis.

**“Subscription Term”** shall mean that period specified in a Schedule during which Customer will have on-line access and use of the Software through Company’s Services. The Subscription Term shall renew for successive 12-month periods unless either party delivers written notice of non-renewal to the other party at least 30 days prior to the expiration of the then-current Subscription Term.

## **2. SERVICES**

- 2.1 During the Subscription Term, Customer will receive a nonexclusive, non-assignable, royalty free, worldwide right to access and use the Services solely for your internal business operations subject to the terms of this Agreement and up to the number of Identity Users documented in the Schedule.
- 2.2 Customer acknowledges that this Agreement is a services agreement and Company will not be delivering copies of the Software to Customer as part of the Services.

## **3. RESTRICTIONS**

Customer shall not, and shall not permit anyone to: (i) copy or republish the Services or Software, (ii) make the Services available to any person other than authorized Identity User users, (iii) use or access the Services to provide service bureau, time-sharing or other computer hosting services to third parties, (iv) modify or create derivative works based upon the Services or Documentation, (v) remove, modify or obscure any copyright, trademark or other proprietary notices contained in the software used to provide the Services or in the Documentation, (vi) reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code of the Software used to provide the Services, except and only to the extent such activity is expressly permitted by applicable law, or (vii) access the Services or use the Documentation in order to build a similar product or competitive product. Subject to the limited licenses granted herein, Company shall own all right, title and interest in and to the Software, services, Documentation, and other deliverables provided under this Agreement, including all modifications, improvements, upgrades, derivative works and feedback related thereto and intellectual property rights therein. Customer agrees to assign all right, title and interest it may have in the foregoing to Company.

## **4. CUSTOMER RESPONSIBILITIES**

- 4.1 Assistance. Customer shall provide commercially reasonable information and assistance to Company to enable Company to deliver the Services. Upon request from Company, Customer shall promptly deliver Customer Content to Company in an electronic file format specified and accessible by Company. Customer acknowledges that Company's ability to deliver the Services in the manner provided in this Agreement may depend upon the accuracy and timeliness of such information and assistance.
- 4.2 Compliance with Laws. Customer shall comply with all applicable local, state, national and foreign laws in connection with its use of the Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data. Customer acknowledges that Company exercises no control over the content of the information transmitted by Customer or the Identity User users through the Services. Customer shall not upload, post, reproduce or distribute any information, software or other material protected by copyright, privacy rights, or any other intellectual property right without first obtaining the permission of the owner of such rights.
- 4.3 Unauthorized Use; False Information. Customer shall: (a) notify Company immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (b) report to Company immediately and use reasonable efforts to stop any unauthorized use of the Services that is known or suspected by Customer or any Identity User user, and (c) not provide false identity information to gain access to or use the Services.
- 4.4 Administrator Access. Customer shall be solely responsible for the acts and omissions of its Administrator Users. Company shall not be liable for any loss of data or functionality caused directly or indirectly by the Administrator Users.
- 4.5 Customer Input. Customer is solely responsible for collecting, inputting and updating all Customer Content stored on the Host, and for ensuring that the Customer Content does not (i) include anything that actually or potentially infringes or misappropriates the copyright, trade secret, trademark or other intellectual property right of any third party, or (ii) contain anything that is obscene, defamatory, harassing, offensive or malicious. Customer shall: (i) notify Company immediately of any unauthorized use of any password or user id or any other known or suspected breach of security, (ii) report to Company immediately and use reasonable efforts to stop any unauthorized use of the Service that is known or suspected by Customer or any Identity User user, and (iii) not provide false identity information to gain access to or use the Service.
- 4.6 License from Customer. Subject to the terms and conditions of this Agreement, Customer shall grant to Company a limited, non-exclusive and non-transferable license, to copy, store, configure, perform, display and transmit Customer Content solely as necessary to provide the Services to Customer.
- 4.7 Ownership and Restrictions. Customer retains ownership and intellectual property rights in and to its Customer Content. Company or its licensors retain all ownership and intellectual property rights to the services, Software programs, and anything developed



and delivered under the Agreement. Third-party technology that may be appropriate or necessary for use with some Company programs is specified in the program Documentation or ordering document as applicable. Customer's right to use such third-party technology is governed by the terms of the third-party technology license agreement specified by Company and not under the Agreement.

- 4.8 Suggestions. Company shall have a royalty-free, worldwide, irrevocable, perpetual license to use and incorporate into the Services any suggestions, enhancement requests, recommendation or other feedback provided by Customer, including Users, relating to the operation of the Services.

## **5. ORDERS AND PAYMENT**

- 5.1 Orders. Customer shall order Services pursuant to a Schedule. All services acquired by Customer shall be governed exclusively by this Agreement and the applicable Schedule. In the event of a conflict between the terms of a Schedule and this Agreement, the terms of the Schedule shall take precedence.
- 5.2 Invoicing and Payment. Unless otherwise provided in the Schedule, Company shall invoice Customer for all fees on the Schedule effective date. Customer shall pay all undisputed invoices within 30 days after Customer receives the invoice. Except as expressly provided otherwise, fees are non-refundable.

## **6. TERM AND TERMINATION**

- 6.1 Term of Agreement. The term of this Agreement shall begin on the Effective Date and shall continue until terminated by either party as outlined in this Section.
- 6.2 Termination. Either party may terminate this Agreement immediately upon a material breach by the other party that has not been cured within thirty (30) days after receipt of notice of such breach.
- 6.3 Suspension for Non-Payment. Company reserves the right to suspend delivery of the Services if Customer fails to timely pay any undisputed amounts due to Company under this Agreement, but only after Company notifies Customer of such failure and such failure continues for fifteen (15) days. Suspension of the Services shall not release Customer of its payment obligations under this Agreement. Customer agrees that Company shall not be liable to Customer or to any third party for any liabilities, claims or expenses arising from or relating to suspension of the Services resulting from Customer's nonpayment.
- 6.4 Suspension for Ongoing Harm. Company reserves the right to suspend delivery of the Services if Company reasonably concludes that Customer or an Identity User user's use of the Services is causing immediate and ongoing harm to Company or others. In the extraordinary case that Company must suspend delivery of the Services, Company shall immediately notify Customer of the suspension and the parties shall diligently attempt to

resolve the issue. Company shall not be liable to Customer or to any third party for any liabilities, claims or expenses arising from or relating to any suspension of the Services in accordance with this Section 6.4. Nothing in this Section 6.4 will limit Company's rights under Section 6.5 below.

#### 6.5 Effect of Termination.

- (a) Upon termination of this Agreement or expiration of the Subscription Term, Company shall immediately cease providing the Services and all usage rights granted under this Agreement shall terminate.
- (b) If Company terminates this Agreement due to a breach by Customer, then Customer shall immediately pay to Company all amounts then due under this Agreement and to become due during the remaining term of this Agreement, but for such termination.
- (c) Upon termination of this Agreement and upon subsequent written request by the disclosing party, the receiving party of tangible Confidential Information shall immediately return such information or destroy such information and provide written certification of such destruction, provided that the receiving party may permit its legal counsel to retain one archival copy of such information in the event of a subsequent dispute between the parties.

### **7. WARRANTIES**

- 7.1 Warranty. Company represents and warrants that it will provide the Services in a professional manner consistent with general industry standards and that the Services will perform substantially in accordance with the Documentation. For any breach of a warranty, Customer's exclusive remedy shall be as provided in Section 6, Term and Termination.
- 7.2 COMPANY WARRANTS THAT THE SERVICES WILL PERFORM IN ALL MATERIAL RESPECTS IN ACCORDANCE WITH THE DOCUMENTATION. COMPANY DOES NOT GUARANTEE THAT THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT COMPANY WILL CORRECT ALL SERVICES ERRORS. CUSTOMER ACKNOWLEDGES THAT COMPANY DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. THIS SECTION SETS FORTH THE SOLE AND EXCLUSIVE WARRANTY GIVEN BY COMPANY (EXPRESS OR IMPLIED) WITH RESPECT TO THE SUBJECT MATTER OF THIS AGREEMENT. NEITHER COMPANY NOR ANY OF ITS LICENSORS OR OTHER SUPPLIERS WARRANT OR GUARANTEE THAT THE OPERATION OF THE SUBSCRIPTION SERVICE WILL BE UNINTERRUPTED, VIRUS-FREE OR ERROR-FREE, NOR SHALL COMPANY OR ANY OF ITS

SERVICE PROVIDERS BE LIABLE FOR UNAUTHORIZED ALTERATION, THEFT OR DESTRUCTION OF CUSTOMER'S OR ANY USER'S DATA, FILES, OR PROGRAMS.

## **8. LIMITATIONS OF LIABILITY**

NEITHER PARTY (NOR ANY LICENSOR OR OTHER SUPPLIER OF COMPANY) SHALL BE LIABLE FOR INDIRECT, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, DAMAGES FOR LOST BUSINESS, PROFITS, DATA OR USE OF ANY SERVICE, INCURRED BY EITHER PARTY OR ANY THIRD PARTY IN CONNECTION WITH THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), EVEN IF FORESEEABLE OR THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. NEITHER PARTY'S AGGREGATE LIABILITY FOR DAMAGES UNDER THIS AGREEMENT, REGARDLESS OF THE NATURE OF THE CLAIM (INCLUDING NEGLIGENCE), SHALL EXCEED THE FEES PAID OR PAYABLE BY CUSTOMER UNDER THIS AGREEMENT DURING THE 12 MONTHS PRECEDING THE DATE THE CLAIM AROSE. The foregoing limitations shall not apply to the parties' obligations (or any breach thereof) under Sections entitled "Restriction", "Indemnification", or "Confidentiality".

## **9. INDEMNIFICATION**

- 9.1 Indemnification by Company. If a third party makes a claim against Customer that the Services infringes any patent, copyright or trademark, or misappropriates any trade secret, or that Company's negligence or willful misconduct has caused bodily injury or death, Company shall defend Customer and its directors, officers and employees against the claim at Company's expense and Company shall pay all losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by Company, to the extent arising from the claim. Company shall have no liability for any claim based on (a) the Customer Content, (b) modification of the Services not authorized by Company, or (c) use of the Services other than in accordance with the Documentation and this Agreement. Company may, at its sole option and expense, procure for Customer the right to continue use of the Services, modify the Services in a manner that does not materially impair the functionality, or terminate the Subscription Term and repay to Customer any amount paid by Customer with respect to the Subscription Term following the termination date.
- 9.2 Indemnification by Customer. If a third party makes a claim against Company that the Customer Content infringes any patent, copyright or trademark, or misappropriates any trade secret, Customer shall defend Company and its directors, officers and employees against the claim at Customer's expense and Customer shall pay all losses, damages and expenses (including reasonable attorneys' fees) finally awarded against such parties or agreed to in a written settlement agreement signed by Customer, to the extent arising from the claim.

- 9.3 Conditions for Indemnification. A party seeking indemnification under this section shall (a) promptly notify the other party of the claim, (b) give the other party sole control of the defense and settlement of the claim, and (c) provide, at the other party's expense for out-of-pocket expenses, the assistance, information and authority reasonably requested by the other party in the defense and settlement of the claim.

## 10. CONFIDENTIALITY

- 10.1 Definition. “**Confidential Information**” means any information disclosed by a party to the other party, directly or indirectly, which, (a) if in written, graphic, machine-readable or other tangible form, is marked as “confidential” or “proprietary,” (b) if disclosed orally or by demonstration, is identified at the time of initial disclosure as confidential and is confirmed in writing to the receiving party to be “confidential” or “proprietary” within 30 days of such disclosure, (c) is specifically deemed to be confidential by the terms of this Agreement, or (d) reasonably appears to be confidential or proprietary because of the circumstances of disclosure and the nature of the information itself. Confidential Information will also include information disclosed by third parties to a disclosing party under an obligation of confidentiality. Subject to the display of Customer Content as contemplated by this Agreement, Customer Content is deemed Confidential Information of Customer. Company software and Documentation are deemed Confidential Information of Company.
- 10.2 Confidentiality. During the term of this Agreement and for 5 years thereafter (perpetually in the case of software), each party shall treat as confidential all Confidential Information of the other party, shall not use such Confidential Information except to exercise its rights and perform its obligations under this Agreement, and shall not disclose such Confidential Information to any third party. Without limiting the foregoing, each party shall use at least the same degree of care, but not less than a reasonable degree of care, it uses to prevent the disclosure of its own confidential information to prevent the disclosure of Confidential Information of the other party. Each party shall promptly notify the other party of any actual or suspected misuse or unauthorized disclosure of the other party's Confidential Information. Neither party shall reverse engineer, disassemble or decompile any prototypes, software or other tangible objects which embody the other party's Confidential Information and which are provided to the party hereunder. Each party may disclose Confidential Information of the other party on a need-to-know basis to its contractors who are subject to confidentiality agreements requiring them to maintain such information in confidence and use it only to facilitate the performance of their services on behalf of the receiving party.
- 10.3 Exceptions. Confidential Information excludes information that: (a) is known publicly at the time of the disclosure or becomes known publicly after disclosure through no fault of the receiving party, (b) is known to the receiving party, without restriction, at the time of disclosure or becomes known to the receiving party, without restriction, from a source other than the disclosing party not bound by confidentiality obligations to the disclosing party, or (c) is independently developed by the receiving party without use of the Confidential Information as demonstrated by the written records of the receiving party.

The receiving party may disclose Confidential Information of the other party to the extent such disclosure is required by law or order of a court or other governmental authority, provided that the receiving party shall use reasonable efforts to promptly notify the other party prior to such disclosure to enable the disclosing party to seek a protective order or otherwise prevent or restrict such disclosure. Each party may disclose the existence of this Agreement and the relationship of the parties, but agrees that the specific terms of this Agreement will be treated as Confidential Information; provided, however, that each party may disclose the terms of this Agreement to those with a need to know and under a duty of confidentiality such as accountants, lawyers, bankers and investors.

## **11. GENERAL PROVISIONS**

- 11.1 Non-Exclusive Service. Customer acknowledges that Services is provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict Company's ability to provide the Services or other technology, including any features or functionality first developed for Customer, to other parties.
- 11.2 Personal Data. Customer hereby acknowledges and agrees that Company's performance of this Agreement may require Company to process, transmit and/or store Customer personal data or the personal data of Customer employees and Affiliates. By submitting personal data to Company, Customer agrees that Company and its Affiliates may process, transmit and/or store personal data only to the extent necessary for, and for the sole purpose of, enabling Company to perform its obligations to under this Agreement. In relation to all Personal Data provided by or through Customer to Company, Customer will be responsible as sole Data Controller for complying with all applicable data protection or similar laws and laws implementing that Directive that regulate the processing of Personal Data and special categories of data as such terms are defined in that Directive. Customer agrees to obtain all necessary consents and make all necessary disclosures before including Personal Data in Content and using the Enabling Software and Company Software. Customer confirms that Customer is solely responsible for any Personal Data that may be contained in Content, including any information which any Company User shares with third parties on Customer's behalf. Customer is solely responsible for determining the purposes and means of processing Customer Personal Data by Company under this Agreement, including that such processing according to Customer's instructions will not place Company in breach of applicable data protection laws. Prior to processing, Customer will inform Company about any special categories of data contained within Customer Personal Data and any restrictions or special requirements in the processing of such special categories of data, including any cross-border transfer restrictions. Customer is responsible for ensuring that the Company Software meets such restrictions or special requirements. Company to process any Personal Data that meets the requirements set forth in this Section according to these Terms of Use.
- 11.3 Assignment. Customer may not assign this Agreement or any right under this Agreement, without the consent of Company, which consent shall not be unreasonably withheld or delayed. This Agreement shall be binding upon and inure to the benefit of

the parties' successors and permitted assigns. Either party may employ subcontractors in performing its duties under this Agreement, provided, however, that such party shall not be relieved of any obligation under this Agreement.

- 11.4 Notices. Except as otherwise permitted in this Agreement, notices under this Agreement shall be in writing and shall be deemed to have been given (a) five (5) business days after mailing if sent by registered or certified U.S. mail, (b) when transmitted if sent by facsimile, provided that a copy of the notice is promptly sent by another means specified in this section, or (c) when delivered if delivered personally or sent by express courier service. All notices shall be sent to the other party at the address set forth on the cover page of this Agreement.
- 11.5 Force Majeure. Each party will be excused from performance for any period during which, and to the extent that, such party or any subcontractor is prevented from performing any obligation or Service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation, acts of God, strikes, lockouts, riots, acts of terrorism or war, epidemics, communication line failures, and power failures.
- 11.6 Waiver. No waiver shall be effective unless it is in writing and signed by the waiving party. The waiver by either party of any breach of this Agreement shall not constitute a waiver of any other or subsequent breach.
- 11.7 Severability. If any term of this Agreement is held to be invalid or unenforceable, that term shall be reformed to achieve as nearly as possible the same effect as the original term, and the remainder of this Agreement shall remain in full force.
- 11.8 Entire Agreement. This Agreement (including all Schedules and exhibits) contains the entire agreement of the parties and supersedes all previous oral and written communications by the parties, concerning the subject matter of this Agreement. This Agreement may be amended solely in a writing signed by both parties. Standard or printed terms contained in any purchase order or sales confirmation are deemed rejected and shall be void unless specifically accepted in writing by the party against whom their enforcement is sought; mere commencement of work or payment against such forms shall not be deemed acceptance of the terms.
- 11.9 Survival. Sections 3 and 7 through 11 of this Agreement shall survive the expiration or termination of this Agreement for any reason.
- 11.10 Publicity. Company may include Customer's name and logo in its customer lists and on its website. Upon signing, Company may issue a high-level press release announcing the relationship and the manner in which Customer will use the Company solution. Company shall coordinate its efforts with appropriate communications personnel in Customer's organization to secure approval of the press release if necessary.

- 11.11 No Third-Party Beneficiaries. This Agreement is an agreement between the parties, and confers no rights upon either party's employees, agents, contractors, partners of customers or upon any other person or entity.
- 11.12 Independent Contractor. The parties have the status of independent contractors, and nothing in this Agreement nor the conduct of the parties will be deemed to place the parties in any other relationship. Except as provided in this Agreement, neither party shall be responsible for the acts or omissions of the other party or the other party's personnel.
- 11.13 Statistical Information. Company may anonymously compile statistical information related to the performance of the Services for purposes of improving the Service, provided that such information does not identify Customer's data or include Customer's name.
- 11.14 Governing Law. This Agreement shall be governed by the laws of the State of Michigan, excluding its conflict of law principles.
- 11.15 Compliance with Laws. Company shall comply with all applicable local, state and national laws in connection with its delivery of the Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data.
- 11.16 Dispute Resolution. Customer's satisfaction is an important objective to Company in performing its obligations under this Agreement. Except with respect to intellectual property rights, if a dispute arises between the parties relating to the interpretation or performance of this Agreement or the grounds for the termination hereof, the parties agree to hold a meeting within fifteen (15) days of written request by either party, attended by individuals with decision-making authority, regarding the dispute, to attempt in good faith to negotiate a resolution of the dispute prior to pursuing other available remedies. If, within 15 days after such meeting, the parties have not succeeded in resolving the dispute, either party may protect its interests by any lawful means available to it.
- 11.17 Signatures. This Agreement may be executed in multiple counterparts, each of which when executed will be an original, and all of which, when taken together, will constitute one agreement. Delivery of an executed counterpart of a signature page of this Agreement by facsimile or other electronic transmission (including via pdf) will be effective as delivery of a manually executed counterpart.

## **EXHIBIT A**

### **SCHEDULE A-\_\_\_\_\_**

#### **SOFTWARE & PRICE SCHEDULE**

This Schedule No. A-(“Schedule”), effective upon the Agreement Effective Date, documents the Services (defined below) being purchased by Customer under the terms and conditions of the Agreement date between Reality Fence, LLC (“Company”) and (“Customer”).

**1. Services:**

The Service includes one or more of the following service offerings:

- Single Sign-On (SSO)
- Password Management
- Access Certification

**2. Identity Users:**

Company’s hosted, internet-accessible, on-demand identity and access management services for Company’s Services for up to (Pro, 1), (Pro+, 5), (Enterprise, 10) **Identity Users**.

**3. Subscription Term:**

The term begins upon the Schedule Effective Date and ends upon canceling service thereafter initial (“Subscription Term”).

**4. Schedule Value:**

The total value of this Schedule is \$ for following packages (Pro, \$299/mo), (Pro+, \$499/mo), (Enterprise \$899/mo). This fee includes access and usage of the Services during the Subscription Term for the defined number of Identity Users. Upon execution of this Schedule, Company shall issue an invoice in accordance with the Agreement.

If at any time during the Subscription Term or Renewal Term the Customer exceeds the number of Identity Users, Customer and Company agree to execute a follow-on schedule for the purchase of additional Identity Users. Additional Identity Users access will be purchased in blocks of users and in accordance with the following fee. The user fee will be prorated for the remaining Subscription Term or Renewal Term.

If Customer upgrades/downgrades its package during an existing billing cycle, the increased/credited rate shall be prorated based on the number of remaining days under the



current billing cycle. This effect will take place upon upgrade and continue through the remainder of the initial package. No fees shall apply to upgrade or downgrade a plan.

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