SOFTWARE AS A SERVICE AGREEMENT

This Master SaaS Agreement (“Agreement”) is entered into and made effective as of the Effective Date indicated on the attached Order Form, by and between:

1. Service Provider a Delaware corporation having an address at 315 Montgomery Street, 10th Floor, San Francisco CA 94104, email: legal@Service Provider.com (“Service Provider”); and
2. the person or entity whose identity and contact information are designated on the attached Order Form (“Customer”).
3. **Saas Services**

Whereas Service Provider is engaged in the business of providing the SaaS services set forth herein, Service Provider desires to supply such services to Customer, and Customer desires to obtain such services from Service Provider, all in accordance herewith, Now, Therefore, for good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the parties hereby mutually agree to all the provisions hereof.

1. **Provision of Services**. Service Provider shall provide Customer with online access to and use of, and Customer shall compensate Service Provider for, the Service Provider SaaS product offering identified on, and upon the terms (including without limitation pricing and duration) set forth on, the Order Form, together with all updates, bug fixes, error corrections, or other minor enhancements and improvements thereto made available by Service Provider. Customer’s use of the Services is subject to any restrictions designated in the Order Form, which may include without limitation restrictions on the number and kind of Customer’s users authorized to use the Services (“Authorized Users”) and to any other restrictions set forth herein. Customer may increase the number of Authorized Users at any time by requesting authorization for additional Authorized Users from Service Provider at user additions@Service Provider.com. Following receipt of that request, Service Provider will invoice Customer for the number of additional Authorized requested on a co-termed, prorated basis.
2. **Security**. Service Provider shall implement and adhere to strict industry standard security precautions intended to prevent unauthorized access to any Customer data and shall otherwise provide the Services in accordance with Service Provider’s current privacy policy located at https://Service Provider.com/content/legal/privacy-policy.html (the “Privacy Policy”). Customer acknowledges that, notwithstanding such security precautions and privacy measures, use of, or connection to, the Internet provides the opportunity for unauthorized third parties to circumvent such precautions and gain access to the Services and Customer data. Accordingly, Service Provider cannot and does not guarantee the privacy, security, integrity, or authenticity of any information transmitted over or stored using the Services or that any such security precautions will be adequate or sufficient.
3. **Compensation; Fees**; Taxes. As consideration for performing the Services, Customer shall pay to Service Provider the fees and other compensation set forth on the applicable Order Form. If Service Provider elects to issue Customer invoices for any Services, Customer shall make payment to Service Provider within 30 days of the date specified on the invoice by negotiable instrument drawn on U.S. funds or by wire transfer to such account as Service Provider shall specify. Payments not received by Service Provider when due shall, at Service Provider’s sole discretion, be subject to a finance charge from the due date until the payment is made at a rate equal to the lesser of 1.5% per month or the maximum amount allowable under applicable law. Bank fees for returned checks shall be reimbursed by Customer. Service Provider shall have the right to terminate this Agreement immediately upon written notice if Customer does not make any payment when it becomes due and payable hereunder or if any check presented is returned due to insufficient funds. Customer shall reimburse Service Provider for its reasonable, documented, out-of-pocket expenses in performing the Services. All fees for Services specified herein are exclusive of any U.S. federal, state, or local sales, excise, use, value-added, or other taxes and tariffs. Customer shall pay all taxes that, as per applicable law, accrue to the buyer or beneficiary of services of the type provided by Service Provider to Customer hereunder.
4. **Ownership**. Subject to any licenses granted by Service Provider to Customer hereunder, as between Service Provider and Customer, all right, title, and interest in and to the Services and any other Service Provider materials furnished or made available as part of the Services hereunder, and all contributions thereto or derivatives, modifications, or enhancements thereof, including without limitation all rights under copyright and patent and other intellectual property rights, belong to and are retained solely by Service Provider or Service Provider’s licensors and providers, as applicable. Service Provider reserves all rights not expressly granted herein.
5. **Term**. The Term of this Agreement shall begin on the Effective Date and shall automatically renew for an additional one (1) year period on each subsequent anniversary of the Effective Date thereafter unless, at least sixty (60) days prior to an Effective Date anniversary, either party gives the other party written notice of its intent not to so renew.
6. **Non-Solicitation. During** the term hereof and for a period of 2 years after the termination hereof, Customer shall not directly solicit for employment, hire away, or otherwise engage any employee or independent contractor of Service Provider.
7. **Warranties, Disclaimers**.
8. Service Provider Warranties. Service Provider represents and warrants that Service Provider has in place policies and procedures designed to adhere to the laws, rules, and regulations applicable to the securities industry, including without limitation policies and procedures applicable the provision of material, non-public information, and that the Services do not contain any material, non-public information.
9. Disclaimers. Neither Service Provider nor its suppliers, licensors, or Data Providers warrant that Customer’s use of the Services will be uninterrupted or that the Services will be error-free. Both parties acknowledge that software has inherent limitations, and Service Provider does not warrant that the Services will meet Customer’s requirements. EXCEPT AS SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY LAW, SERVICE PROVIDER MAKES NO WARRANTIES (WHETHER IMPLIED OR ARISING BY STATUTE OR OTHERWISE IN LAW OR FROM A COURSE OF DEALING OR USAGE OF TRADE) FOR THE SERVICES OR ANY DATA TRANSMITTED THROUGH THE SERVICES. SERVICE PROVIDER AND ITS SUPPLIERS, LICENSORS, AND PROVIDERS EXPRESSLY DISCLAIM ALL EXPRESS, STATUTORY, AND IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION THE WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, AND NON-INFRINGEMENT.
10. **Indemnification**.
11. Service Provider shall indemnify, defend, or at its option settle, any third party claim or suit based on a claim that the Services (excluding any third party software) violate, infringe, or misappropriate any United States copyright, trademark, or trade secret, and Service Provider shall pay any final judgment entered against Customer in any such proceeding or agreed to in settlement, provided that:
    1. Service Provider is promptly notified in writing of such claim or suit;
    2. Service Provider or its designee has control of such defense or settlement, provided, however, Service Provider will not settle any claim or suit without the prior written consent of Customer; and
    3. Customer gives information and assistance reasonably requested by Service Provider or its designee. To the extent that use of the Services is enjoined, but without derogating from Service Provider’s indemnification obligations set forth above,
12. **Limitation Of Liability.**
13. Limitation on Direct Damages. IN NO EVENT WILL EITHER PARTY’S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THIS AGREEMENT EXCEED THE FEES PAID BY CUSTOMER FOR THE SERVICES FOR THE PERIOD OF TWELVE (12) MONTHS PRIOR TO THE EVENT THAT DIRECTLY GAVE RISE TO THE DAMAGES CLAIMED, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE.
14. Waiver of Special Damages. IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INDIRECT, EXEMPLARY, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, INCLUDING WITHOUT LIMITATION LOSS OF DATA OR LOSS OF PROFITS, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING, WITHOUT LIMITATION, NEGLIGENCE), PRODUCT LIABILITY, OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
15. Exceptions to Limitation of Liability. The limitations of liability set forth in this Section 18 shall not apply to: (i) losses or damages due to either party’s gross negligence, willful misconduct, or fraud; or (ii) either party’s indemnification obligations set forth in Section 17.
16. **Marketing/Use Of Name.**

Except as otherwise set forth herein, Service Provider may refer to the Customer or Customer’s related funds, entities, or affiliates (together, the “Customer Group”) in any publicity materials, advertising, sales promotions, trade shows, or marketing materials or similar communications.

1. **Governing Law; Venue;**

Dispute Resolution. This Agreement shall be governed by the laws of the State of California, excluding its conflict of laws rules. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement. Any dispute or action arising out of or relating to this Agreement shall be submitted to and determined exclusively by binding arbitration under the then current Commercial Arbitration Rules of the American Arbitration Association and shall be adjudicated in San Francisco, California. With respect to the enforcement of such arbitration’s findings, each of the parties hereby irrevocably submits to the exclusive jurisdiction of the courts of the state of California and the United States of America, in each case located in San Francisco, California and waives any objection to venue being laid in such Courts whether based on the grounds of venue, forum non convenience, or otherwise. EACH PARTY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR LITIGATION DIRECTLY OR INDIRECTLY ARISING OUT OF, UNDER, OR IN CONNECTION WITH THIS AGREEMENT.

1. **License**
   1. License Grant to Services. Subject to the terms and conditions of this Agreement, Service Provider hereby grants to Customer a limited term, non-exclusive, non-transferable, non-sublicensable right and license for the Authorized Users to access and use the Services solely for internal business purposes and in accordance with any applicable provisions designated on an Order Form. The foregoing license shall terminate upon the termination of this Agreement or the applicable Order Form.

License Restrictions. Customer shall not, directly or indirectly, permit any Authorized User or third party to:

1. reverse engineer, decompile, disassemble, or otherwise attempt to discover the source code or underlying algorithms of the Services;
2. modify, translate, or create derivative works based on the Services;
3. rent, lease, distribute, sell, resell, assign, or otherwise transfer its rights to use the Services;
4. use or offer the Services for timesharing or service bureau purposes, or otherwise for the benefit of a third party;
5. remove any proprietary notices from the Services or any other Sentieo materials furnished or made available hereunder;
6. publish or disclose to third parties any evaluation of the Services or any data obtained from the Services; or
7. use the Services in automatic, semi-automatic, or manual tools designed to create virus signatures, virus detection routines, or any other data or code for detecting malicious code or data. Customer shall take all reasonable measures to prevent any Authorized User or third party from engaging in or continuing to engage in any of the foregoing activities.
8. **Confidentiality**
   1. “Confidential Information” means any business or technical information disclosed by or on behalf ofeither party or their Affiliates to the other that is designated as confidential at the time of disclosure or that, under the circumstances, a person exercising reasonable business judgment would understand to be confidential or proprietary. Without limiting the foregoing, all non-public elements of the Provider Services are Provider’ Confidential Information, Customer Content is Customer’s Confidential Information, and the terms of the Agreement and any information that either party conveys to the other party concerning data security measures, incidents, or findings constitute Confidential Information of both parties. Confidential Information will not include information that the receiving party can demonstrate
      * 1. is or becomes publicly known through no fault of the receiving party,
        2. is, when it is supplied, already known to whoever it is disclosed to in circumstances in which they are not prevented from disclosing it to others,
        3. is independently obtained by whoever it is disclosed to in circumstances in which they are not prevented from disclosing it to others or
        4. was independently developed by the receiving party without use of or reference to the Confidential Information.
   2. Confidentiality. A receiving party will not use the disclosing party’s Confidential Information except as permitted under the Agreement or to enforce its rights under the Agreement and will not disclose such Confidential Information to any third party except to those of its employees. Each receiving party will protect the disclosing party’s Confidential Information from unauthorized use and disclosure using efforts equivalent to those that the receiving party ordinarily uses with respect to its own Confidential Information of similar nature and in no event using less than a reasonable standard of care; provided, however, that a party may disclose such Confidential Information as required by applicable laws, subject to the party required to make such disclosure giving reasonable notice (if legally permitted to do so) to the other party to enable it to contest such order or requirement or limit the scope of such request. The provisions of this Section will supersede any non-disclosure agreement by and between the parties (whether entered before, on or after the Effective Date) and such agreement will have no further force or effect with respect to Customer Content.
   3. **Equitable Relief. Each party ack**nowledges and agrees that the other party may be irreparably harmed if such party breaches Confidentiality, and that monetary damages alone cannot fully compensate the non-breaching party for such harm. Accordingly, each party hereto hereby agrees that the non-breaching party will be entitled to seek injunctive relief to prevent or stop such breach, and to obtain specific enforcement thereof. Any such equitable remedies obtained will be in addition to, and not foreclose, any other remedies that may be available.
9. **Intellectual Property.**
   1. Ownership by Provider. Except for the limited licenses expressly set forth in the Agreement, Provider retains all rights, title and interest in and to
10. the Provider Services, Documentation, Deliverables, Provider Materials, Course Materials and any and all related and underlying technology and documentation (including but not limited to products, software tools, algorithms, know-how, processes, methodologies, databases, and architecture) created by or for, or licensed to Provider; and
11. any updates, upgrades, improvements, modifications, or derivative works of any of the foregoing
12. collectively the “Provider Technology”), including all Intellectual Property Rights in any of the foregoing. You will not delete or alter the copyright, trademark, or other proprietary rights notices or markings appearing within the Provider Technology as delivered to you. You agree that the Provider Technology is provided on a non-exclusive basis and not sold, and that no transfer of ownership of Intellectual Property Rights will occur. You further acknowledge and agree that portions of the Provider Technology, including but not limited to the source code and the specific design and structure of individual modules or programs, constitute, or contain trade secrets and other Intellectual Property Rights of Provider and its licensors.
    1. Ownership by Customer. As between you and Provider, you retain all ownership or license rights in Customer Content.
    2. **Usage Data.** Notwithstanding anything to the contrary in the Agreement, Provider may collect and use Usage Data to develop, improve, operate, and support its products and services. Provider will not disclose any Usage Data to any third-parties unless (a) it is anonymized and aggregated such that it does not identify Customer or Customer Confidential Information; or (b) in accordance with Section 2 (Confidentiality) of this Agreement to perform the Provider Services.
13. **Use of the Platform Services.**
    1. **Access to Platform Services**. Provider will make the Platform Services available to Customer and its Authorized Users in accordance with the terms and conditions of this Agreement, the Documentation, and an applicable Order solely for Customer’s or their Affiliate’s internal business purposes.
       1. Platform Services Use Limits. You will not, and will not permit your Authorized Users to:
14. violate the Acceptable Use Policy or use the Platform Services other than in accordance with the Documentation;
15. copy, modify, disassemble, decompile, reverse engineer, or attempt to view or discover the source code of the Platform Services, in whole or in part, or permit or authorize a third party to do so, except to the extent such activities are expressly permitted by the Agreement or by law;
16. sell, resell, license, sublicense, distribute, rent, lease, or otherwise provide access to the Platform Services to any third party except to the extent explicitly authorized in writing by Provider;
17. use the Platform Services to develop or offer a service made available to any third party that could reasonably be seen to serve as a substitute for such third party’s possible purchase of any Provider Services;
    * 1. Architectures and Services Updates. Provider provides the Platform Services according to different architectural models (e.g. models where computing resources are deployed into Customer Cloud Environment and models where computing resources are deployed into Provider Cloud Environments) depending on the specific feature being used by Customer, as further described in the Documentation. Accordingly, Customer acknowledges and agrees that different portions of the Platform Services are and may in the future be subject to changes reflected in the Documentation or terms and conditions that provide for different rights and responsibilities of the parties for their use.
    1. Data Protection. The terms of the DPA are hereby incorporated by reference and shall apply to the processing of Personal Data as described in the DPA. Provider does not act as a data processor with respect to any data processed by or within a Provider Powered Service.
    2. **Passwords**. Service Provider shall issue a password to Customer for each Authorized User. Each password will be unique to a specific Authorized User. Customer and its Authorized Users shall maintain the confidentiality of all passwords and ensure that each password is used only by the Authorized User. Customer is responsible for all use that occurs under any Authorized User’s account and all charges incurred from use of the Services accessed with Authorized User’s passwords. Customer shall immediately notify Service Provider of any unauthorized use of Customer’s and Authorized Users’ accounts or any other breach of security known to Customer. Service Provider shall have no liability for any loss or damage arising from Customer’s failure to comply with the foregoing requirements. Customer shall take all actions reasonably requested by Service Provider to terminate access to all accounts accessed by an unauthorized user, including without limitation by deactivating any password associated with such account(s).
    3. **Password Replacement**. Customer shall have the right to replace Authorized Users, provided that Customer notifies Service Provider immediately of any such replacement, whereupon Service Provider will deactivate any password associated with a replaced Authorized User and issue a new password to the new Authorized User.
    4. Deletion of Customer Content upon Cancellation of Workspace Access. Provider will automatically delete all Customer Content contained within a Workspace within thirty (30) days following the cancellation of Customer’s right to access such Workspace.
    5. Monthly Pay-As-You-Go (PAYG) Services. Notwithstanding anything in the Agreement to the contrary, Provider may suspend or terminate any Platform Services provided on a month-to-month basis (with payment based only on Customer’s usage of the Platform Services during the billing month) upon thirty (30) days’ prior written notice (email sufficient), if Provider reasonably determines the account is inactive. In such case, Provider may also delete any Customer Content relating to such Workspace that may be stored within the Platform Services or other Provider’ Systems upon expiration of such notice period.
    6. Notice. Notwithstanding Section 13.6 (Notice), notice under this Section 4.8 (Suspension and Termination of Platform Services) may be provided by email sent to a person the party providing notice reasonably believes to have responsibility for the other party’s activities under the Agreement.
18. **Responsibilities**
    1. **Customer Responsibilities.** 
       1. General Responsibilities. You acknowledge and agree that you are responsible for:
          1. ensuring that each Authorized User has their own credentials, protecting those credentials, and not permitting any sharing of credentials;
          2. your Authorized User’s compliance with this Agreement;
          3. securing any Customer Cloud Environment, and any Customer System;
          4. backing up Customer Content;
          5. configuring the Platform Services in an appropriate way taking into account the sensitivity of the Customer Content that you choose to process using the Platform Services, including data that you share with or receive from third parties;
          6. using commercially reasonable efforts to ensure that your Authorized Users review the portions of Documentation relevant to your use of the Platform Services and any security information published by Provider and referenced therein that is designed to assist you in securing Customer Content;
          7. risks associated with all use of the Platform Services by an Authorized User under an Authorized User’s account (including for the payment of Fees related to such use), whether such action was taken by an Authorized User or by another party, and whether or not such action was authorized by an Authorized User, provided that such action was not
             1. taken by Provider or by a party acting under the direction of Provider, or
             2. an action by a third party that Provider should reasonably have prevented.
    2. **Shared Responsibilities**. Customer acknowledges that the Platform Services may be implemented in a manner that divides the Platform Services between the Customer Cloud Environment and the Provider Cloud Environment, and that, in such instances, each party must undertake certain technical and organizational measures in order to protect the Platform Services and the Customer Content.
    3. **Provider Responsibilities.**
       1. Services.
          1. Provider is responsible for the operation of the Provider Cloud Environment; and the Providers software used to operate the Platform Services.
          2. Security Measures. Provider shall implement reasonable administrative, physical, and technical safeguards to protect the security of the Platform Services and the Customer Content as set forth in the Security Addendum (“Security Measures”); and shall, without limiting the foregoing, maintain certification to ISO/IEC 27001:2013 or equivalent/greater standards during the term of this Agreement. While Provider may update the Security Measures, it shall not materially diminish the effectiveness of the Security Measures.
19. **Termination.**
    1. Breach. Either party may terminate this Agreement upon thirty (30) days prior written notice to the other party in the event of a material breach of any of the terms hereof by such other party, provided that such breach has not been cured within such 30-day period.
    2. Insolvency. Either party shall have the right to terminate this Agreement immediately upon written notice if:
       1. the other party has a receiver judicially appointed for itself or its property;
       2. the other party makes an assignment for the benefit of creditors;
       3. any proceedings are commenced by, for, or against the other party under any bankruptcy, insolvency, or debtor’s relief law and not dismissed within 45 days; or (iv) the other party is liquidated or dissolved.
    3. Payments. All payments due hereunder are payable in advance of the period to which they apply. Service Provider shall have the right to suspend or terminate access to any Services, at its sole option, with or without notice to Customer if: (i) any payment is delinquent by more than sixty (60) days; (ii) if Customer breaches Sections 4 of this Agreement; or (iii) any contact or other information provided to Service Provider by Customer is false or fraudulent.
    4. Effect of Termination. Neither Service Provider nor its suppliers shall be liable to Customer or any third party for suspension or termination of Customer’s access to, or right to use, the Services under this Agreement, provided such suspension or termination was affected in good faith. Customer shall owe and pay the balance due for the Services up to the date of termination. Upon the effective date of termination of this Agreement for any reason, Customer and its Authorized Users’ access to the Services shall terminate and Customer shall cease accessing and using the Services immediately. Within thirty (30) days of termination, Customer will purge the Services and any Service Provider materials from its infrastructure, return all materials provided in connection with the Services, and provide written notification that the Services have been purged. Sections 4, 11, 14, 16, 17, 18, 20, and 21, of this Agreement shall survive termination for any reason. Section 15 shall survive termination for a period of two years following termination.
    5. Suspension and Termination of Platform Services.
       1. Suspension. Provider may temporarily suspend any or all Workspaces at any time:
          1. immediately without notice if Provider reasonably suspects that you have violated your obligations under Section 4.3 (Customer Responsibilities), Section 4.5 (Customer Content), or Section 12 (Compliance with Laws) in a manner that may cause material harm or material risk of harm to Provider or to any other party; or
          2. if you (or any third party responsible for making payment on your behalf) fail to pay undisputed Fees after receiving notice that you are delinquent in payment.
    6. Termination. If the Agreement is terminated for any reason, as to all Orders or as to any specific Order, Provider may cancel your access to the Platform Services under the terminated Order(s) including all related Workspaces. Upon termination of the Agreement for any reason you will delete all stored elements of the Platform Services from your Systems.
20. **General Provisions**
    1. Non-Exclusive Service: Customer acknowledges that SaaS Services is provided on a non-exclusive basis. Nothing shall be deemed to prevent or restrict Service Provider’s ability to provide the SaaS Services or other technology, including any features or functionality first developed for Customer, to other parties.
    2. Notices: Except as otherwise permitted in this SaaS Agreement, notices under this SaaS 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 SaaS Agreement.
    3. 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.
    4. Severability: If any term of this SaaS 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 SaaS Agreement shall remain in full force.
    5. Entire SaaS Agreement: This SaaS Agreement (including all 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 SaaS Agreement. This SaaS 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.
    6. Publicity: Both Parties agree to jointly work towards the publicity and marketing of this arrangement. The customer agrees to commission the following activities:
    7. Service Provider shall issue a press release within a timeframe mutually agreed by both the parties not exceeding 2(two) months from the Effective Date, announcing that Customer has selected Service Provider as its SaaS Service Provider. The Customer shall have the right to edit and approve the press release prior to its publication.
    8. Within 2(two) months of successful implementation, the Customer shall assist Service Provider in providing video or written testimonial, to be used as a marketing collateral. The video testimonial shall be recorded at the Customer's premises, at Service Provider’s cost. The Customer shall have the right to edit and approve the testimonial prior to its publication.
    9. Export Compliance. The Services, Content, other technology Whatfix makes available, and derivatives thereof may be subject to export laws and regulations issued by Bureau of Industry and Security. Each party represents that it is compliant with the same. The Customer shall not permit Users to access or use any Service or Content in violation of the aforesaid regulations.
    10. No Third-Party Beneficiaries: This SaaS 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. Metrics: Whatfix may anonymously compile statistical information related to the performance of the Services for purposes of improving the SaaS service, provided that such information does not identify Customer’s data or include Customer’s name.
    12. Compliance with Laws: Whatfix shall comply with all applicable local, state, national and foreign laws in connection with its delivery of the SaaS Services, including those laws related to data privacy, international communications, and the transmission of technical or personal data.
    13. Dispute Resolution: Customer’s satisfaction is an important objective to Whatfix in performing its obligations under this SaaS Agreement. Except with respect to intellectual property rights, if a dispute arises between the parties relating to the interpretation or performance of this SaaS 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.
    14. Signatures: This SaaS 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 SaaS Agreement by facsimile or other electronic transmission (including via pdf) will be effective as delivery of a manually executed counterpart

Exhibit A  
To  
Master SaaS Agreement

1. **Definitions**
   1. **“Platform User”** means each Customer employee designated by Customer to serve as user of the Service Provider SaaS platform on Customer’s behalf. Each Platform User must complete training and qualification requirements reasonably requested by Service Provider.
   2. “**Documentation”** means the user guides, online help, release notes, training materials and other documentation provided or made available by Service Provider to Customer regarding the use or operation of the SaaS Services.
   3. “**End User(s)”** means an individual that uses the Customer Application & interacts with Service Provider widgets overlays & content on top of the Application and includes Platform users.
   4. **“End User Data**” means any data or information of any End User that is provided to or obtained y any Party in the performance of its obligations under this Agreement, including but not limited to, all lists of End Users, former End Users, and all information relating to and identified with such End Users.
   5. **“**Intellectual Property Rights” means all means all worldwide intellectual property rights available under applicable laws including without limitation rights with respect to patents, copyrights, moral rights, trademarks, trade secrets, know-how, and databases.
   6. “**Order Form”** shall mean the Order Form executed by Service Provider and Customer, defining the scope of Customer’s subscription plan for use and access of the Software.
   7. “**Professional Services”** means consulting, implementation or other services that may be provided by Service Provider to Customer hereunder and that may involve analysis, development, technical support, integration, and training, as set forth in more detail in the SOW or Order Form.
   8. **“Software”** means the object code version of the Digital Adoption Platform (DAP) software to which Customer is provided access as part of the Service, including any updates or new versions under the brand name “Service Provider”
   9. **“SaaS Services”** means the cloud-based Software as made available by Service Provider to Customer hereunder in a hosted, software-as-a-service format, and including all upgrades, updates and patches to the SaaS Services that Service Provider makes available for general release at no additional charge to its customers.
   10. “**Support Services”** means the technical support services for the SaaS Services available at https://info.Service Provider.com/legal/Support+Terms.pdf (“Support Terms”).
   11. **“Subscription Term**” shall mean that period specified in the applicable Order Form during which Customer will have on-line access and use of the Software through Service Provider’s SaaS Services. The Subscription Term shall renew for a successive Subscription Term, unless terminated in accordance with Section 7.2 of this Agreement.
   12. **“Subscription Fees”** or “Fees” shall mean the amounts as mentioned in the applicable Order Form. “Flows” Service Provider Flow or “Walkthroughs” are a series of steps that help users learn an objective or complete a task through a series of step-by-step actions. These steps display as a layer over your web application.
   13. “Best Industry Practice” means, in relation to any undertaking or any circumstances, the exercise of the skill, care, diligence, prudence, foresight and judgement which would be expected from a suitably skilled, trained and experienced person operating to the standard that would be expected of a leading provider of services similar to the services described herein, under the same or similar circumstances;
   14. “Customer Data” means any data (including Personal Data), information, text, drawings or other material (in whatever form and on any medium including all electronic, optical, magnetic and tangible media) relating to the Customer Group or its customers, suppliers or personnel which is:
   15. supplied or made available to Service Provider, its Staff and/or its Sub-Contractors by or on behalf of the Customer Group in furtherance of provision of Service Provider’s provisions the services to Customer;
   16. “Data Protection Legislation” means all applicable laws and regulations relating to the processing of Personal Data and privacy including the EU Data Protection Directive (95/46/EC), the Electronic Communications Data Protection Directive (2002/58/EC) and the EU’s General Data Protection Regulation (2016/679/EC), including all law and regulations implementing or made under them, any amendment or re-enactment of them and, where applicable, the guidance and codes of practice issued by applicable Regulatory Bodies;
   17. “Personal Data” shall have the meaning set out in the Data Protection Legislation and for the purposes of this Agreement, “processing” has the meaning given to that term in the Data Protection Legislation and “process” and “processed” shall have a corresponding meaning;
   18. “Personal Data Breach” means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed;
   19. “Regulatory Bodies” shall mean those government departments and regulatory, statutory and other bodies, entities and committees which, whether under statute, rule, regulation, code of practice or otherwise, are entitled to regulate, investigate or influence the matters relating to the security of data, personal data and privacy;
   20. “Security Policies” means those respective security policies of Service Provider as set out in Section 7 of the Master SaaS Agreement and as amended and notified from time to time, and those security policies of Customer;
   21. “Staff” means the employees, officers, independent contractors (and Affiliates of any independent contractors and their staff), agency workers and agents in each case of Service Provider and/or its Affiliates and/or of any Sub-Contractor of any such company engaged in the performance of the services or any part thereof; and
   22. “Sub-Contractor” means any sub-contractor of Service Provider to whom any part of the services have been sub-contracted pursuant to this Agreement.
   23. “Cloud Environment” means a cloud or other compute or storage infrastructure controlled by a party or by an external user (as may be defined where appropriate by schedule or amendment hereto) according to context and used under the Agreement.
   24. “Cloud Service Provider” means a cloud service provider on whose platform Provider directly provides the Platform Services. For clarity, the Provider Powered Services are not directly provided by Provider and are not considered Platform Services under this Agreement
   25. “Support Policy” means the available Support Services plans, offerings, and related processes and terms
   26. “Effective Date” means the earliest of: the effective date of the initial Order that references this MCSA or the date of last signature of the MCSA, or if you are a monthly Pay-as-you-go user the date you first access or use any Provider Services.
2. Data Protection and Data Security
3. In relation to the parties’ rights and obligations under this Agreement, the parties agree, subject to Clause 2a, that the Customer is the “controller” and Service Provider is the “processor” as defined in the Data Protection Legislation.
4. Service Provider agrees that in respect of any Personal Data supplied to the Customer by Service Provider relating to Service Provider’s Staff, Service Provider is the “controller” as defined in the Data Protection Legislation in respect of such Personal Data. Service Provider shall be exclusively responsible for ensuring compliance with all Data Protection Legislation relating to such Personal Data.
5. Neither party shall do, nor cause or permit to be done, anything which may result in a breach of the Data Protection Legislation by the other party.
6. Without limiting Clause 2c, Service Provider warrants, represents and undertakes to each member of the Customer Group that in respect of any Personal Data supplied by the Customer to Service Provider, Service Provider shall:
7. on behalf of the Customer, carry out Personal Data processing activities necessary for the purposes described in Clause 2g below and in processing Personal Data act only on the written instructions of the Customer. In the event that a legal requirement prevents Service Provider from complying with such written instructions (a “Conflicting Requirement”), Service Provider shall, unless such Conflicting Requirement prohibits it from doing so, promptly inform the Customer of the relevant Conflicting Requirement, before carrying out the processing activities, providing reasonable details of the nature and scope of the Conflicting Requirement and its anticipated impact on this Agreement and the processing of Personal Data by Service Provider;
8. take reasonable measures to keep the Customer Data physically and logically separate and distinct from any other data compiled, maintained, or used by Service Provider as required;
9. take all appropriate technical and organizational measures against unauthorized or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data, including, without limitation by:
10. taking reasonable steps to ensure the reliability of any Service Provider Staff who have access to the Personal Data;
11. ensuring a level of security appropriate to the nature of the Personal Data and the risks that are presented by its processing (including , without limitation the risks from accidental or unlawful destruction, loss, alteration, unauthorized disclosure of or access to, or processing of such Customer Data);
12. the encryption, and (where reasonably practicable) the pseudonymisation, of Personal Data;
13. maintaining the ability to ensure the ongoing confidentiality, integrity, availability and resilience of the systems and services processing Personal Data and the premises at which such Personal Data are processed (including, without limitation, by complying with the Security Policies);
14. maintaining the ability to restore the availability and access to Personal Data in a timely manner in the event of a physical or technical incident and performing regular and secure backups of all of the Personal Data in its possession or control;
15. implementing a process for regularly testing, assessing and evaluating the effectiveness of technical and organizational measures for ensuring the security of the processing of Personal Data; and
16. taking any other steps required by Data Protection Legislation,
17. ensure that only those Service Provider Staff that need to have access to the Personal Data are given access to the extent necessary to provide the services and only after the relevant Staff have been informed by Service Provider of the confidential nature of the Personal Data and such Staff agree in writing to be bound by a duty of confidentiality and comply with the obligations set out in this Clause 2;
18. not publish, disclose or divulge (and ensure that its Staff do not publish, disclose or divulge) any of the Personal Data to any third party, nor allow any third party to process the Personal Data on Service Provider’s behalf, unless the Customer has given its prior written consent. Where the Customer gives such written consent and Service Provider allows a third party to process the Personal Data:
19. Service Provider shall ensure that the third party is bound by the same data protection obligations that Service Provider is subject to under this Clause 2;
20. the Customer shall be entitled to revoke a consent given in respect of a third party in the event that the third party’s processing of Personal Data in connection with this Agreement is in breach of or is reasonably likely to breach this Agreement;
21. not transfer, or otherwise permit access to, the Personal Data outside the European Economic Area without the prior written consent of the Customer;
22. implement and guarantee all such further technical and organizational security measures in relation to the processing of the Personal Data as the Customer may reasonably consider necessary in order to comply with Data Protection Legislation;
23. comply with the relevant requirements of Data Protection Legislation at its own reasonable and required expense;
24. provide the Customer with reasonable cooperation and assistance in connection with its compliance with Data Protection Legislation;
25. notify the Customer of any queries, complaints and other correspondence received from any Regulatory Body in relation to the processing of the Customer Data without undue delay and only respond to the Regulatory Body after consultation with, and in accordance with the instructions of, the Customer;
26. notify the Customer of any complaint or request made in relation to Data Subject rights (including a request made in respect of the Data Subject’s right of access, right to object, right to be provided with fair processing information and his/her rights to rectification and erasure of the data within the statutory response periods) without undue delay (a “Data Subject Request”) and provide the Customer with full co-operation and assistance in relation to:
27. any such Data Subject Request, including by allowing the Customer unrestricted access to the Customer Data and such other records as the Customer shall reasonably require, providing the Customer with full details of any such Data Subject Request and taking such steps as are required by the Customer for the Customer to comply with the Data Subject Request; and
28. any request from the Customer requiring Service Provider to take reasonable steps to ensure that third parties to whom the Personal Data has been provided by the Supplier erase any links to, or copies of, Personal Data in accordance with the requirements of Data Protection Legislation;
29. permit, by not less than 24 hours’ notice, at any time (and immediately by notice if the Customer reasonably believes there to have been a breach of this Clause 2 or if required by law or a Regulatory Body requires it), the Customer and/or a reputable third party auditor appointed by the Customer, at Customer’s expense, after the auditor signs Service Provider’s non-disclosure agreement, to access the Service Provider Systems and locations or any data centers from which Services data is being stored and all other information reasonably required by the Customer in order to establish whether Service Provider has complied with its obligations under this Clause 2;
30. amend, update, delete or supplement, any Personal Data forthwith if the Customer so requests in order to comply with Data Protection Legislation;
31. if there is a Personal Data Breach, or if Service Provider identifies any imminent risk of a Personal Data Breach, notify the Customer within 24 hours (providing all such details as the Customer may reasonably request) and take all steps to mitigate or avoid such Personal Data Breach;
32. provide all reasonable cooperation and assistance to the Customer in connection with addressing any actual or threatened Personal Data Breach;
33. assist the Customer with the making of any mandatory notifications to Regulatory Bodies and/or affected individuals in the event of a Personal Data Breach;
34. if any of the Personal Data is lost, corrupted, degraded or otherwise altered, due to an act or omission of Service Provider or its Staff, permit the Customer to, at Service Provider’s expense, require Service Provider to restore or procure the restoration to the Customer Data within ten (10) days (or other reasonable timeframe that may be updated upon notice to Customer from time to time);
35. upon expiry or termination of this Agreement for any reason or when requested in writing to do so:
    1. redeliver all records of the Customer Data (or the relevant part thereof) to the Customer without charge within fourteen (14) days in such a format as the Customer may require or; and/or
    2. if so requested by the Customer, irretrievably delete the Personal Data (or the relevant part thereof), including any copies thereof, instead of delivering that Personal Data to the Customer (except to the extent that Service Provider is required by law to retain copies of the Personal Data);
36. take steps to ensure that it, its Staff and/or its Sub-Contractors do not deliberately or negligently corrupt, erase or otherwise alter such Personal Data;
37. not disclose passwords (if any) supplied by the Customer to access the Customer’s systems or the Personal Data to any person other than its Staff or Sub-Contractors with a need to know;
38. notify the Customer without undue delay if it considers that this Clause 2 has, or may have, been breached (other than in relation to Personal Data Breaches where Clause 2.d.xiv shall apply;
39. and without prejudice to the generality of any applicable clause above, use encryption technology on all mobile devices used to share and/or transport Personal Data, such technology to be appropriate to the nature of the Personal Data and the harm that could result from unauthorised processing of such Personal Data.
40. Service Provider hereby completely and irrevocably assigns to Customer by way of present assignment of all present and future rights, all copyright, database rights, other Intellectual Property Rights and other rights of whatever nature in and to the Customer Data to the extent that they have been or are acquired by Service Provider in the provision of the Services.
41. The Personal Data processing to be carried out under this Agreement is described below1 :

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| --- | --- |
| Subject matter of the processing | User account data for providing the services, including SaaS services |
| Types of personal data being processed | User-provided information, account information, service data, usage information, device information, cookies, site tags |
| Categories of individuals whose data is being processed | Consenting customers of service |
| Types of data processing to be carried out | Storage and user authentication |
| Purpose of the data processing | User authentication, usage monitoring, marketing (when appropriate levels of consent received), and fulfillment of services |
| Duration of processing | The term of the Agreement |

1 Article 28(3) states that the data processing contract must explain the subject-matter and duration of the processing, the nature and purpose of the processing, the type of personal data and categories of data subjects.