

SOFTWARE LICENSE AND SUPPORT ORDER FORM

TERMS AND CONDITIONS

Interneer Inc. (doing business as Intellect), a Delaware corporation (“**Intellect**”), and Company hereby agree to be bound by these Software License and Support Order Form Terms and Conditions (these “**Terms and Conditions**,” and, collectively with the Order Form and Intellect Policies and Procedures Guide, this “**Agreement**”), effective as of the Effective Date set forth on the Order Form. To the extent the provisions contained in these Terms and Conditions are inconsistent with those contained in the Order Form, the terms and provisions contained in the Order Form shall control.

1 DEFINITIONS

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

“**Agreement**” has the meaning set forth in the preamble.

“**Authorized Users**” means Company’s employees, consultant, contractors and agents (a) who are authorized by Company to access and use the Software under the rights granted to Company pursuant to this Agreement, and (b) for whom access to the Software has been purchased under the Order Form.

“**Claims**” has the meaning set forth in [Section 7\(a\)](#).

“**Company**” means the entity listed on the front page of the Order Form.

“**Company Systems**” means Company’s information technology infrastructure, including computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Company or through the use of third-party software.

“**Confidential Information**” means (a) with regard to Intellect, the Software, Documentation, and all other source code, source documentation, object code, inventions, know-how, ideas, programs, utility programs, and Information and Intellectual Property Rights related to, connected with or arising out of the Software, (b) with regard to Company, any non-public information regarding the business of Company, in whole and in part, or (c) with regard to either Party, any other information, technical data, or know-how, including, but not limited to, that which relates to research, product plans, products, services, customers, markets, software, software code, software documentation, developments, inventions, lists, trade secrets, processes, designs, drawings, engineering, hardware configuration information, marketing or finances, which is designated in writing to be confidential or proprietary, or if given orally, is designated at the time of disclosure as confidential or proprietary. Notwithstanding the foregoing, Confidential Information does not include information, technical data or know-how which (i) is shown by written record to be in the public domain at the time of the disclosure or becomes available to the public thereafter without restriction, and not as a result of the act or omission of the receiving Party, (ii) is rightfully obtained by the receiving Party from a third party without restriction as to disclosure, (iii) is shown by written record to be lawfully in the possession of the receiving Party at the time of the disclosure, (iv) is approved for release by written authorization of the disclosing Party, (v) is shown by written record to be developed independently and separately by the receiving Party without use of the disclosing Party’s Confidential Information, or (vi) is required to be disclosed by the receiving Party pursuant to law or legally enforceable order of court or judicial body.

“**Documentation**” means any manuals, instructions, or other documents or correspondence, including emails, regarding the use of the Software delivered or made available by Intellect to Company in any form or medium and which describe the functionality, components, features, or requirements of the Software or Intellect Materials, including any aspect of the configuration, integration, installation, operation, use, support, or maintenance thereof.

“**Effective Date**” has the meaning set forth in the Order Form.

“**Fees**” means any and all fees owed under this Agreement.

“**Initial Term**” has the meaning set forth in [Section 9\(a\)](#).

“**Intellect**” has the meaning set forth in the preamble.

“**Intellect Materials**” means the Software, Documentation, and Intellect Systems and any and all other information, data, documents, materials, works, and other content, devices, methods, processes, hardware, software, and other technologies and inventions, including any deliverables, technical or functional descriptions, requirements, plans, or reports, that are provided or used by Intellect or any subcontractor in connection with the Software or otherwise comprise or relate to the Software or Intellect Systems. For the avoidance of doubt, Intellect Materials include Resultant Data and any information, data, or other content derived from Provider’s monitoring of Company’s access to or use of the Software, but do not include

Company Data. Intellect Materials shall also include any pre-configured applications created for customer use through the Software.

“Intellect Systems” means the information technology infrastructure used by or on behalf of Intellect in performing the Services, including all computers, software, hardware, databases, electronic systems (including database management systems), and networks, whether operated directly by Intellect or through the use of third-party services.

“Intellect Policies and Procedures Guide” means Intellect’s Policies and Procedures Guide, as amended from time to time and made available to Company on www.intellectuniversity.com, which describes various services to be provided by Intellect related to the Software.

“Intellectual Property Rights” means any and all registered and unregistered rights granted, applied for, or otherwise now or hereafter in existence under or related to any patent, copyrights, trade secret, trade name, service mark, moral right, database protection, know-how, or other intellectual property rights or laws, and all other similar rights or intangible assets recognized under any laws or international conventions, and in any country or jurisdiction in the world, as intellectual creations to which rights of ownership accrue, and all registrations, applications, disclosures, renewals, extensions, continuations or reissues of the foregoing now or hereafter in force.

“Order Form” means the order form attached hereto and executed by the Parties.

“Party” or **“Parties”** means individually or collectively, as the case may be, Intellect and Company and any and all permitted successors and assigns of Intellect and Company, respectively.

“Permitted Derivative Works” has the meaning set forth in [Section 2\(d\)](#).

“Process” means to take any action or perform any operation or set of operations that the Software is capable of taking or performing on any data, information, or other content. **“Processing”** and **“Processed”** have correlative meanings.

“Reimbursable Expenses” has the meaning set forth in [Section 3\(b\)](#).

“Renewal Term” has the meaning set forth in [Section 9\(a\)](#).

“Resultant Data” means data and information related to Company’s use of the Software that is used by Provider in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Software.

“Software” means the proprietary Intellect Compliance Platform computer program and all updates, upgrades and other versions of such program supplied by Intellect to Company under this Agreement.

“Software Support” means the Software support identified on the Order Form and as more specifically described in the Intellect Policies and Procedures Guide. **“Term”** has the meaning set forth in [Section 9\(a\)](#).

“Terms and Conditions” has the meaning set forth in the preamble.

“Third-Party Materials” means materials and information, in any form or medium, including any software, documents, data, content, specifications, products, equipment, or components of or relating to the Software that are not proprietary to Intellect.

2 SOFTWARE LICENSE

a. Access and Use. Subject to and conditioned on Company’s and its Authorized Users’ compliance with the terms and conditions of this Agreement, Intellect hereby grants Company a non-exclusive, non-sublicensable, non-transferable (except in compliance with [Section 11\(d\)](#)) license to (i) install the Software on computer hardware servers owned or operated by Company; (ii) provide Authorized Users with access to the Software through such servers; and (iii) use the Documentation in connection with its and their use of the Software. The number of Authorized Users shall not exceed the number set forth in the Order Form, except as expressly agreed to in writing by the Parties and subject to any appropriate adjustment of the Fees payable hereunder.

b. Software and System Control. Except as otherwise expressly provided in this Agreement, as between the Parties, (i) Intellect has and shall retain sole control over the operation, provision, maintenance, and management of the Intellect Materials; and (ii) Company has and shall retain sole control over the operation, maintenance, and management of, and all access to and use of, Company Systems, and sole responsibility for all access to and use of the Intellect Materials by any person by or through Company Systems or any other means controlled by Company or any Authorized User, including any: (A) information, instructions, or materials provided by any of them to the Software or Intellect; (B) results obtained from any use of the Software or Intellect Materials; and (C) conclusions, decisions, or actions based on such use.

c. Use Restrictions. Company agrees that it shall not itself, or through any parent, subsidiary, affiliate, agent or other third party, entity or other business structure (i) copy, modify, reproduce, sell, lease, license or sublicense any or all of the Software or the Documentation; (ii) decompile, disassemble, re-program, reverse engineer or otherwise attempt to derive the source code of the Software (including the Documentation) in whole or in part; or (iii) use the software in any manner or

for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right of any person, or that violates any applicable law. Company shall only install and use the latest version of Software provided by Intellect.

d. Permitted Derivative Works. Company may create applications, configurations, and other derivative works based on or using the Software strictly in accordance with the terms set forth in this Agreement (any such works, “**Permitted Derivative Works**”). Company is, and shall be, the sole and exclusive owner of all right, title, and interest in and to the Permitted Derivative Works, including all Intellectual Property Rights therein. Intellect hereby irrevocably assigns all right, title, and interest throughout the world in and to the Permitted Derivative Works, including all Intellectual Property Rights therein; provided, however, that Intellect and its licensors are, and shall remain, the sole and exclusive owners of all right, title, and interest in and to the Intellect Materials and Third-Party Materials, as applicable, including all Intellectual Property Rights therein, and the foregoing assignment shall not be construed to transfer any right, title, or interest Intellect or its licensors holds in or to the Intellect Materials or Third-Party Materials, as applicable. Intellect hereby grants Company a limited, irrevocable, fully paid-up, non-transferable license during the Term to use any Intellect Materials to the extent incorporated in, combined with, or otherwise necessary for the use of the Permitted Derivative Works. Company acknowledges and agrees that, notwithstanding its ownership of Permitted Derivative Works, its access to and use of Permitted Derivative Works may require an active license to the Software and, as such, Company may be unable to access or use its Permitted Derivative Works upon termination of this Agreement. Intellect shall have no liability or obligation to Company with respect to Company’s use of the Permitted Derivative Works following termination hereof.

e. Reservation of Rights. Subject to the license granted in this Section 2, nothing in this Agreement grants any right, title, or interest in or to (including any license under) any Intellectual Property Rights in or relating to, the Software, Intellect Materials, or Third-Party Materials, whether expressly, by implication, estoppel, or otherwise. All right, title, and interest in and to the Software, the Intellect Materials, and the Third-Party Materials are and shall remain with Intellect and the respective rights holders in the Third-Party Materials.

f. Changes. Intellect reserves the right, in its sole discretion, to make any changes to the Software and Intellect Materials that it deems necessary or useful to: (i) maintain or enhance (A) the quality or delivery of Intellect’s Software to its customers, (B) the competitive strength of or market for the Software, or (C) the Software’s cost efficiency or performance; or (ii) to comply with applicable law.

g. Software Support. Intellect shall provide Software Support in accordance with and subject to the terms of the Intellect Policies and Procedures Guide, provided that no Fees are past due.

h. Suspension or Termination of Software. Intellect may, directly or indirectly, suspend, terminate, or otherwise deny Company’s, any Authorized User’s, or any other person’s access to or use of all or any part of the Software or Intellect Materials, without incurring any resulting obligation or liability, if: (i) Intellect receives a judicial or other governmental demand or order, subpoena, or law enforcement request that expressly or by reasonable implication requires Intellect to do so; or (ii) Intellect believes, in its good faith and reasonable discretion, that: (A) Company or any Authorized User has failed to comply with any material term of this Agreement, including payment of any Fees required hereunder, or accessed or used the Software beyond the scope of the rights granted or for a purpose not authorized under this Agreement or in any manner that does not comply with any material instruction or requirement communicated by Intellect with respect thereto; (B) Company or any Authorized User is, has been, or is likely to be involved in any fraudulent, misleading, or unlawful activities relating to or in connection with any of the Software; or (C) this Agreement expires or is terminated. This Section 2(h) shall not limit any of Intellect’s other rights or remedies, whether at law, in equity, or under this Agreement.

i. Resultant Data. Notwithstanding anything to the contrary in this Agreement, Intellect may monitor Company’s use of the Software and collect and compile Resultant Data. As between Intellect and Company, all right, title, and interest in and to Resultant Data, and all Intellectual Property Rights therein, belong to and are retained solely by Intellect. Company acknowledges that Intellect may compile Resultant Data based on Authorized User data shared with Company or transmitted via the Software. Company agrees that Intellect may (i) make Resultant Data publicly available in compliance with applicable law, and (ii) use Resultant Data to the extent and in the manner permitted under applicable law; provided that such Resultant Data does not identify Company or Company’s Confidential Information.

3 FEES, EXPENSES, AND PAYMENT TERMS

a. Fees. Company shall pay all Fees set forth in the Order Form in accordance with the terms of this Agreement. Company acknowledges that the Fees set forth on the Order Form are offered by Intellect in reliance upon the completion in full of the Initial Term (or a Renewal Term, as the case may be) and, as such, all Fees payable as set forth on the Order Form shall be non-cancellable and non-refundable except as set forth in Section 7(c). Fees shall increase by 5% annually, effective upon the commencement of each Term.

b. Payment Terms. Company shall pay all Fees and pre-approved out-of-pocket expenses incurred by Intellect in connection with performing its obligations hereunder (collectively, "**Reimbursable Expenses**") within fifteen (15) days after the date of invoice therefor. All payments shall be made in US dollars by ACH, wire transfer, or credit card. Intellect may charge interest on past-due amounts at the rate of 1.5% per month calculated daily and compounded monthly or, if lower, the highest rate permitted under applicable law. Company shall reimburse Intellect for all reasonable costs incurred by Intellect in collecting any late payments or interest, including attorneys' fees, court costs, and collection agency fees.

c. Taxes. All Fees and Reimbursable Expenses payable by Company are exclusive of taxes and similar assessments. Without limiting the foregoing, Company is responsible for sales, use, and excise taxes, and any other similar taxes, duties, and charges of any kind imposed by any governmental or regulatory authority on amounts payable by Company hereunder. Intellect's invoice may include sales tax charges as a result of federal or state tax laws if Intellect has a nexus (or economic presence from a sales tax perspective) in the state in which Company operates. Intellect shall remit all sales tax collected from Company directly to such state's tax authority.

4 CONFIDENTIALITY

The Parties acknowledge that it shall be necessary for each of them to disclose or make available to each other Confidential Information in connection with this Agreement. Each Party shall, during and after the Term, (i) use commercially reasonable efforts to protect the Confidential Information of the other Party from unauthorized use or disclosure and to use at least the same degree of care with regard to it as it uses to protect its own Confidential Information of a like nature; (ii) not access or use the other Party's Confidential Information other than as necessary to exercise its rights or perform its obligations under and in accordance with this Agreement; and (iii) not disclose or otherwise permit access to the Confidential Information of the other Party to any third party without the other Party's prior written consent. If a Party is compelled by applicable law to disclose the other Party's Confidential Information, then, to the extent permitted by applicable law, such Party shall (A) promptly, and prior to such disclosure, notify the disclosing Party in writing of such requirement so that such Party can seek a protective order or other remedy; and (B) provide reasonable assistance to the disclosing Party at the disclosing Party's expense in opposing such disclosure or seeking a protective order or other limitations on disclosure

5 COMPANY OBLIGATIONS

a. Project Management. Company shall (i) provide all cooperation and assistance as Intellect may reasonably request to enable Intellect to exercise its rights and perform its obligations under and in connection with this Agreement; and (iii) designate an employee who shall be assigned the primary responsibility for communicating with and providing necessary assistance to Intellect during the Term of this Agreement. Intellect shall not be responsible or liable for any delay or failure of performance caused in whole or in part by Company's delay in performing, or failure to perform, any of its obligations hereunder.

b. Technical Requirements. Company shall comply with any applicable hardware, software and other technical requirements for Company's use of the Software as established by Intellect from time to time. Intellect is not obligated to provide any equipment or hardware to Company for any purpose in connection with the Software. Company shall at all times during the Term maintain and operate in good repair and in accordance with the Documentation all Company Systems on through which the Software is accessed or used.

6 REPRESENTATIONS, WARRANTIES, AND COVENANTS

a. Mutual Representations and Warranties. Each Party represents and warrants to the other that it is free of any contractual obligation that would prevent it from entering into this Agreement; that the individual executing this Agreement on its behalf is duly authorized to do so; and that it shall comply in all material respects with all applicable federal, state and local laws, statutes, ordinances, rules and regulations within the United States and any foreign country having jurisdiction.

b. Additional Intellect Representations, Warranties, and Covenants. Intellect represents, warrants, and covenants to Company that Intellect shall perform its obligations hereunder using personnel of required skill, experience, and qualifications and in a professional and workmanlike manner, and shall devote adequate resources to meet its obligations hereunder. Intellect warrants to Company that, during the Term, the Software shall perform substantially in accordance with the specifications contained in the Intellect User Guides, which can be accessed at www.intellectuniversity.com, provided the Software is used in accordance with those documents.

c. Additional Company Representations, Warranties, and Covenants.

(i) Authorized User Data. Company represents and warrants to Intellect that (i) Authorized User data shared with Company shall not violate any state, federal or international law; and (ii) any content or data including Authorized User data that it posts or transmits to Intellect shall not violate or infringe upon the Intellectual Property Rights of any third party.

(ii) Non-Solicitation. During the Term and for one (1) year thereafter, Company shall not, and shall not assist any other person to, directly or indirectly, recruit, solicit or induce, or attempt to recruit, solicit, or induce (other than by general advertisement not directed specifically to any person) for employment or engagement as an independent contractor any person then or within the prior one (1) year employed or engaged by Intellect. In the event of a violation of this Section 6(c)(ii), Intellect shall be entitled to liquidated damages equal to the compensation paid by Intellect to the applicable employee or contractor during the prior one (1) year. Intellect and Company agree that this amount represents a fair estimate of the damages suffered by Intellect if Company breaches this Section 6(c)(ii).

d. Warranty Disclaimers. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 6(d), THE SOFTWARE AND DOCUMENTATION ARE PROVIDED "AS IS," AND COMPANY'S USE THEREOF IS AT ITS OWN RISK. INTELLECT DOES NOT MAKE, AND SPECIFICALLY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES WITH RESPECT TO THE SOFTWARE OR THE FUNCTIONALITY, PERFORMANCE OR RESULTS OF USE THEREOF INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, INTELLECT MAKES NO WARRANTY OF ANY KIND THAT THE SOFTWARE OR INTELLECT MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, SHALL BE UNINTERRUPTED, ERROR-FREE, SECURE, OR THAT IT OR THEY SHALL MEET COMPANY'S OR ANY OTHER PERSON'S REQUIREMENTS, ACHIEVE ANY INTENDED RESULT, OR BE COMPATIBLE OR WORK WITH ANY SOFTWARE OR SYSTEM. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND INTELLECT EXPRESSLY DISCLAIMS ANY WARRANTY WITH RESPECT TO THE QUALITY OF CONTINUITY OF THIRD-PARTY TELECOMMUNICATIONS OR INFORMATION SYSTEMS, SERVER CONNECTION SPEEDS, OR THE FUNCTIONALITY, OPERABILITY, OR RELIABILITY OF INTELLECT'S OR ANY THIRD PARTY DATA SECURITY FEATURES OR SYSTEMS. COMPANY UNDERSTANDS AND AGREES THAT ANY TRANSMISSION OF DATA OR INFORMATION STORED ON OR VIA THE SOFTWARE IS DONE AT COMPANY'S OWN DISCRETION AND RISK AND THAT COMPANY SHALL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO COMPANY'S COMPUTER SYSTEM OR LOSS OF DATA RESULTING FROM USE OF THE SOFTWARE.

e. Exclusions; Exclusive Remedy. Notwithstanding anything to the contrary stated in this Agreement, Intellect shall not have any liability for any Claim related to a breach of representation, warranty or covenant of this Agreement that is caused by, arises out of or relates to (i) the performance of Company network functions; (ii) any modifications, alterations of or additions to the Software performed by a party other than Intellect, (iii) use of the Software in a configuration not set forth in or other than as set forth in the Documentation, in a manner for which it was not designed or in combination with systems, products or components not supplied or approved in writing by Intellect, or (iv) Company's other business systems. Company's exclusive remedy for Intellect's breach of the warranty in Section 6(b) is replacement of the Software.

7 INDEMNIFICATION

a. Intellect Indemnification. Intellect shall defend, indemnify, and hold harmless Company from and against any and all third-party claims, suits, liabilities, losses, costs, judgments, damages, expenses (including reasonable attorneys' fees and court and arbitration expenses), demands, and actions ("**Claims**") (i) arising out of Intellect's negligence or more culpable act or omission (including recklessness or willful misconduct; or (ii) alleging that the permitted use of the Software infringes or misappropriates such third party's U.S. patent, copyright or trade secret; provided, however, the foregoing obligation shall not apply to the extent the alleged infringement arises from (i) Third-Party Materials; (ii) access to or use of the Intellect Materials in combination with any hardware, system, software, network, or other materials or service not provided by Intellect or specified for Company's use in the Documentation; (iii) modification of the Intellect Materials other than (A) by or on behalf of Intellect, or (B) with Intellect's written approval in accordance with Intellect's written specification; (iv) failure to timely implement any modifications, upgrades, replacements, or enhancements made available to Company by or on behalf of Intellect; or (v) any act or omission by Company or its representative; provided, further, that Company shall promptly notify Intellect in writing of any Claim, and Intellect shall have no obligation under this Section 7(a) to the extent Intellect has been prejudiced by Company's failure to do so. Company shall fully cooperate with Intellect in the defense and settlement of Claims, and Intellect shall have sole control of the defense of and all negotiations for settlement of Claims subject to

Company having the right, at its sole discretion and at its sole expense, to participate in the defense to whatever extent Company deems necessary to protect its own interest.

b. Company Indemnification. Company shall defend, indemnify, and hold harmless Intellect from and against any and all third-party Claims that arise out of or result from, or are alleged to arise out of or result from, (i) Company Data, including any Processing of Company Data by or on behalf of Intellect in accordance with this Agreement; (ii) any other materials or information (including any documents, data, specifications, software, content, or technology) provided by or on behalf of Company or any Authorized User, including Intellect's compliance with any specifications or directions provided by or on behalf of Company or any Authorized User to the extent prepared without any contribution by Intellect; (iii) allegation of facts that, if true, would constitute Company's breach of any of its representations, warranties, covenants, or obligations under this Agreement; or (iv) negligence or more culpable act or omission (including recklessness or willful misconduct) by Company, any Authorized User, or any third party on behalf of Company or any Authorized User, in connection with this Agreement.

c. Mitigation; Sole Remedy. If any of the Software or Intellect Materials are, or in Intellect's opinion are likely to be, claimed to infringe, misappropriate, or otherwise violate any third-party Intellectual Property Right, or if Company's or any Authorized User's use of the Software or Intellect Materials is enjoined or threatened to be enjoined, Intellect may, at its option and sole cost and expense, (i) obtain the right for Company to continue to use the Software and Intellect Materials materially as contemplated by this Agreement; (ii) modify or replace the Software and Intellect Materials, in whole or in part, to seek to make the Software and Intellect Materials (as so modified or replaced) non-infringing, while providing materially equivalent features and functionality, in which case such modifications or replacements shall constitute Software and Intellect Materials, as applicable, under this Agreement; or (iii) by written notice to Company, terminate this Agreement with respect to all or part of the Software and Intellect Materials, and require Company to immediately cease any use of the Software and Intellect Materials or any specified part or feature thereof, provided that Company shall be entitled to a pro-rata refund of Fees paid in advance for use of the Software. **THIS SECTION 8 SETS FORTH COMPANY'S SOLE REMEDIES AND INTELLECT'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SOFTWARE AND INTELLECT MATERIALS OR ANY SUBJECT MATTER OF THIS AGREEMENT INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.**

8 LIMITATIONS OF LIABILITY

a. Exclusion of Damages. IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER UNDER THIS AGREEMENT FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, DAMAGES FOR LOSS OF PROFITS, LOSS OF SAVINGS, LOSS OF DATA, BUSINESS INTERRUPTION OR OPPORTUNITY, LOSS OF GOODWILL, LOSS OF INCOME, WORK STOPPAGE, BREACH OF COMPUTER OR TRANSMISSION SECURITY, COMPUTER HARDWARE OR MALFUNCTION, BASED UPON PRINCIPLES OF CONTRACT, WARRANTY, NEGLIGENCE, STRICT LIABILITY OR TORT, BREACH OF ANY STATUTORY DUTY, OR PRINCIPLES OF INDEMNITY OR CONTRIBUTION, IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

b. Cap on Monetary Liability. EXCEPT IN CONNECTION WITH INTELLECT'S OBLIGATIONS UNDER SECTION 7(a), IN NO EVENT SHALL INTELLECT'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, WHETHER ARISING OUT OF OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, EXCEED THE FEES PAID TO INTELLECT IN THE ONE (1) YEAR PERIOD PRECEDING THE EVENT GIVING RISE TO THE CLAIM. THE FOREGOING LIMITATIONS APPLY EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE.

9 TERM AND TERMINATION

a. Term. This Agreement commences on the Effective Date and, unless terminated earlier pursuant to any of this Agreement's express provisions (including any Term length set forth on the Order Form), shall continue in effect for three (3) year (the "**Initial Term**"). Upon termination of the Initial Term, this Agreement shall automatically renew for additional successive three (3) year terms (each, a "**Renewal Term**") unless either side notifies the other in writing at least ninety (90) days prior to the end of the Initial Term or Renewal Term, as applicable, that it has elected to terminate this Agreement, in which case this Agreement shall terminate at the end of such term (the Initial Term, collectively with all Renewal Terms, the "**Term**").

b. Termination For Cause. Either Party may terminate this Agreement, effective upon written notice to the other Party, if the other Party materially breaches this Agreement and such breach is incapable of cure or, being capable of cure, remains

uncured for thirty (30) days after the non-breaching Party provides the breaching Party with written notice of such breach. Either Party may terminate this Agreement if the other makes an assignment for the benefit of its creditors, or a receiver or a trustee in bankruptcy (or the equivalent) shall be appointed.

c. Effect of Termination; Surviving Terms. Upon expiration or termination of this Agreement, except as expressly otherwise provided in this Agreement, (i) all rights, licenses, consents, and authorizations granted by either Party to the other hereunder shall immediately terminate and Company shall immediately discontinue use of the Software and Documentation; (ii) Intellect shall immediately cease all use of any Company Data or Company's Confidential Information and return to Company, or at Company's written request destroy, all documents and tangible materials containing, reflecting, incorporating, or based on Company Data or Company's Confidential Information, and permanently erase all Company Data and Company's Confidential Information from all systems Intellect directly or indirectly controls, provided that, for clarity, Intellect's obligations under this Section 9(c) do not apply to any Resultant Data; (iii) Company shall immediately cease all use of any Software and Intellect Materials and within fifteen (15) days return to Intellect, or at Intellect's written request destroy, all documents and tangible materials containing, reflecting, incorporating, or based on any Intellect Materials or Intellect's Confidential Information, permanently erase all Intellect Materials and Intellect's Confidential Information from all systems Company directly or indirectly controls, and certify in writing to Intellect that it has complied with the requirements of this Section 9(c). In the event of termination or expiration of this Agreement, Sections 4, 7, 8, 10, 11 and any payment obligations of Company shall survive the termination of this Agreement.

10 BINDING ARBITRATION AND INJUNCTIVE RELIEF

All disputes between the Parties arising out of or in connection with this Agreement, including any question regarding its existence, validity, or termination, shall be referred to and finally resolved by binding arbitration pursuant to the commercial arbitration rules then in effect of the American Arbitration Association. The venue for any matter arbitrated under this Agreement shall be Los Angeles County, California. The Parties shall cooperate in good faith to select a single arbitrator, provided, that if the Parties cannot agree on a single arbitrator within ten (10) days of a Party's delivery of a request for arbitration, three (3) disinterested arbitrators shall be used, one to be chosen by each of the Parties, and the third chosen by the first two arbitrators before they enter upon arbitration, to act as umpire. If either Party fails to appoint an arbitrator, or if two (2) arbitrators fail to appoint a third (3rd) arbitrator within ten (10) days, either Party may request the American Arbitration Association to appoint the necessary arbitrator(s). Judgment upon the award rendered by the arbitrators may be entered in any court having jurisdiction thereof. Notwithstanding the above, Intellect is permitted to seek injunctive or similar relief in any court of competent jurisdiction for any action related to protecting Intellect's Intellectual Property Rights.

11 GENERAL PROVISIONS

a. Governing Law; Waiver of Jury Trial. This Agreement is governed by and construed in accordance with the laws of the State of California without giving effect to any choice or conflict-of-law provision that would require or permit the application of the laws of any jurisdiction other than those of the State of California. Each Party irrevocably and unconditionally waives any right it may have to a trial by jury in respect of any legal action arising out of or relating to this Agreement.

b. Insurance. Intellect shall, during the Term, maintain commercial general liability insurance with a limit of liability of \$2,000,000 per occurrence and \$4,000,000 in the aggregate; professional liability insurance in the amount of \$2,000,000 in the aggregate; and cyber liability insurance in the amount of \$2,000,000 in the aggregate.

c. Severability. If any provision of this Agreement is held to be invalid or unenforceable for any reason, the remaining provisions shall continue in full force without being impaired or invalidated in any way. The Parties shall replace any invalid provision with a valid provision which most closely approximates the intent and economic effect of the invalid provision.

d. Assignment. Neither Party shall assign this Agreement or otherwise transfer any of its rights without the other Party's prior written consent; provided, that, upon prior written notice to such other Party, either Party may assign this Agreement to a successor of all or substantially all of its assets through merger, reorganization, consolidation, or acquisition. No assignment, delegation, or transfer shall relieve the assigning Party of any of its obligations or performance under this Agreement. Any purported assignment, delegation, or transfer in violation of this Section 11(d) shall be null and void. This Agreement is binding upon and inures to the benefit of the Parties hereto and their respective successors and permitted assigns.

e. Independent Contractors. The Parties are independent contractors, and no agency, partnership, joint venture, or employee-employer relationship is intended or created by this Agreement. Neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

f. Force Majeure. Neither Party shall be liable for any failure or delay in its performance under this Agreement due to any cause beyond its reasonable control, including acts of war, acts of God, earthquake, flood, embargo, riot, sabotage, labor shortage or dispute, governmental act, failure of the Internet, extended power failures, large increases in online activity in a short period of time (commonly known as usage spikes), attacks on its computer network or server, viruses which are not preventable through generally commercially available products and catastrophic hardware and telecommunication failures, provided that the delayed Party: (i) gives the other Party prompt notice of such cause, and (ii) uses its reasonable commercial efforts to promptly correct such failure or delay in performance.

g. Attorneys' Fees. In the event any Party shall be required to initiate legal proceedings to enforce performance of any term or condition of this Agreement, the prevailing Party shall be entitled to recover from the other Party reasonable attorneys' fees and court costs incurred on account thereof (including, without limitation, the costs of any appeal) notwithstanding the nature of the claim or cause of action asserted by the prevailing Party.

h. Publicity. Company acknowledges that Intellect may desire to use its name in press releases, product brochures and financial reports indicating that Company is a customer of Intellect, and Company agrees that Intellect may use its name in such a manner.

i. Notices. All notices required or permitted under this Agreement shall be in writing and shall be deemed to have been given (a) when delivered by hand (with written confirmation of receipt); (b) when received by the addressee if sent by a nationally recognized overnight courier (receipt requested); (c) on the date sent by email if sent during normal business hours of the recipient, and on the next business day if sent after normal business hours of the recipient; or (d) on the third (3rd) day after the mailed date, by certified or registered mail, return receipt requested, postage prepaid. Communications sent to Company shall be delivered to the address indicated on the Order Form, or to such other address communicated by Company to Intellect in writing from time to time. Communications sent to Intellect shall be delivered to: Intellect, 6100 Center Drive, Suite 1150, Los Angeles, CA 90045, Attn.: President & CEO, and if by email, to accounting@intellect.com

j. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties hereto and their respective successors and permitted assigns. Nothing herein, express or implied, is intended to or shall confer upon any other person any legal or equitable right, benefit, or remedy of any nature whatsoever under or by reason of this Agreement.

k. Headings. The headings inserted in this Agreement are for convenience only and shall not affect the meaning or interpretation of this Agreement.

l. Modification; Waiver. Except as otherwise set forth herein, this Agreement may be amended, modified, or supplemented only by an agreement in writing signed by each Party hereto. No waiver by any Party of the provisions hereof shall be effective unless explicitly set forth in writing and signed by the Party so waiving. The waiver by either Party of a breach of any provision of this Agreement shall not operate or be interpreted as a waiver of any other or subsequent breach.

m. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be taken together and deemed to be one instrument.

n. Entire Agreement. This Agreement and all documents incorporated herein by reference constitutes the entire understanding and agreement of the Parties and supersedes any and all oral or written agreements or understandings between the Parties as to the subject matter of this Agreement. Neither Party is relying upon any warranties, representations, assurances or inducements not expressly set forth in this Agreement.