

ALTOURA CLOUD SERVICES TERMS AND CONDITIONS FOR FREE TRIAL

These **Cloud Services Terms and Conditions for Free Trial** (“**Trial Terms**”) between **You** and **Studio 216, Inc. d/b/a Altoura**, a Washington corporation, with its principal place of business at 10878 Skinner Road NE, Bainbridge Island, WA 98110 (“**Company**”) details the terms and conditions for the use by You of Company’s Cloud Services (*as defined below*) on a free trial basis. You shall be permitted to access and use the Cloud Services on a free trial basis only upon the condition that You accept all of the terms contained in these Trial Terms before installing, accessing, copying or using the Cloud Services accompanying these Trial Terms.

COMPANY RESERVES THE RIGHT TO UPDATE, AMEND, AND/OR MODIFY THESE TRIAL TERMS FROM TIME TO TIME, AND MAY INCLUDE SUCH UPDATED TRIAL TERMS WITH OR EMBEDDED IN FUTURE VERSIONS OF THE CLOUD SERVICES.

These Trial Terms constitute a legal agreement and create a contractual agreement between You, the business end user, person or company or other legal entity (“**You**” or “**Your**” or “**Customer**”) and Company. Installing, accessing, copying or using the Cloud Services on a free trial basis, creates a legally enforceable contract and constitutes acceptance of all terms and conditions of these Trial Terms without modification.

You agree, individually, and on behalf of any entity You represent, to be bound by these Trial Terms upon clicking the “accept,” “agree” or other assent indicator accompanying these Trial Terms.

Please note that the Cloud Services are protected by prevalent contract laws and all intellectual property laws and treaties across the world. The Cloud Services are only being provided to You herein on a free trial basis, and are not being offered on a paid subscription model to You, or being sold to You. In the event You wish to opt for a paid subscription access to the Cloud Services, please reach out to Company officials and ensure You have executed a binding Cloud Services Agreement (“**CSA**”) with Company.

1. DEFINITIONS

As used in these Trial Terms and in addition to any other terms defined elsewhere in these Trial Terms, the following terms shall have the following meanings:

1.1 “Affiliate” means as any entity directly or indirectly controlling, controlled by or under common control with a party herein, where control means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of an entity, whether through the ownership of equity, by contract, or otherwise.

1.2 “Cloud Order” means any written (electronic or otherwise) document executed by both parties, setting out the details of the Cloud Services purchased by Customer, the quantity, subscription period, and other access and use details, pursuant to a CSA.

1.3 “Cloud Services” means the services, websites (including hosting), solutions, platforms, and products that Company provides to Customer on a free trial basis under or in relation to these Trial Terms, including the software, mobile apps, equipment, technology, and services necessary for Company to provide the foregoing cloud services.

1.4 “Confidential Information” means information disclosed to the receiving party under these Trial Terms that is designated by the disclosing party as proprietary or confidential or that should be reasonably understood to be proprietary or confidential due to its nature and the circumstances of its disclosure. Company’s Confidential Information includes the terms and conditions of these Trial Terms and any technical or performance information about the Cloud Services, as well as any and all information about

the Cloud Services, and other proprietary information, training materials and confidential information of Company, including but not limited to the Documentation, user information and any other data or information such as product and marketing information, product plans, etc. Customer's Confidential Information includes Customer Data.

1.5 "Customer Data" means any tangible or intangible materials (e.g., hardware, software, source code, methodologies, know how, ideas, documentation, processes, techniques, concepts, technologies, reports generated in connection with the Cloud Services, and data) provided to Company by or on behalf of Customer, its Affiliates, or their respective end users, or obtained or collected by Company in connection with the Cloud Services (e.g., usage data), and includes any modifications to, or derivative works of, the foregoing, all Personal Data and all data entered into any Company database as part of the Cloud Services.

1.6 "Derivative Work" means a work that is based on one or more preexisting works (such as a revision, translation, dramatization, motion picture version, abridgment, condensation, enhancement, modification, or any other form in which preexisting work may be recast, transformed or adapted) which, if created without the authorization of the copyright owner of the preexisting work, would constitute copyright infringement.

1.7 "Documentation" means the documentation prepared by Company for use by Customer in relation to the Cloud Services, including but not limited to all requirements (e.g., technical, functional, operational, or security-related) for the Cloud Services and user manuals, handbooks, training material, requirements, and other written or electronic materials Company makes available for, or that result from use of, the Cloud Services.

1.8 "EULA" means the End User License Agreement means the end user license agreement, as amended from time to time by Company, that every end user of Company's software is obligated to agree to upon installation of the application to use such software or upon logging into the website to use such software, which may be by way of a click wrap agreement or shrink wrap agreement or otherwise.

1.9 "Free Trial Period" means the period during which Customer shall have access to the Cloud Services under these Trial Terms, which shall not be beyond thirty (30) days from the date of first access by Customer, or such other further period as may be agreed by Company.

1.10 "High Risk Activities" means activities where use or failure of the Cloud Services could lead to death, personal injury or environmental damage, including life support systems, emergency services, nuclear facilities, autonomous vehicles or air traffic control.

1.11 "Intellectual Property Rights" means all trade secrets, patents and patent applications, trade marks (whether registered or unregistered and including any goodwill acquired in such trade marks), service marks, trade names, internet domain names, copyrights (including rights in computer software), moral rights, database rights, design rights, rights in know-how, rights in inventions (including rights to practice or to exclude others from practicing inventions, whether patentable or not) including, but not limited to, any and all renewals or extensions thereof, and all other proprietary rights (whether registered or unregistered, and any application for the foregoing), and all other equivalent or similar rights which may subsist anywhere in the world, including, but not limited to, any and all renewals or extensions thereof.

1.12 "Malware" means applications, executable code or malicious content that Company considers to be harmful.

1.13 "Personal Data" means any information relating directly or indirectly to an identified or identifiable individual.

1.14 “Support” means the technical support services that Company provides for the support and maintenance of the Cloud Services, as specified in the applicable Cloud Order executed pursuant to a CSA.

1.15 “Third Party” means any persons other than the parties and the term “Third Parties” shall be construed accordingly.

2. ACCEPTANCE OF THESE TRIAL TERMS

By accessing or using the Cloud Services, Customer agrees to these Trial Terms on behalf of itself and its Affiliates, and represents and warrants that Customer has full authority to bind itself and its Affiliates to these Trial Terms. If Customer does not agree to these Trial Terms, Customer may not access or use the Cloud Services, and Customer must immediately notify Company to cancel the Cloud Services without accessing or using the Cloud Services.

3. RIGHT OF USE AND RESTRICTIONS

3.1 Right to Access and Use: Subject to the terms of these Trial Terms, Company grants Customer a non-exclusive, non-transferable, worldwide right to access and use the Cloud Services described herein during the Free Trial Period solely for Customer’s internal evaluation to decide whether to opt for a paid subscription to the Cloud Services, and Customer shall not utilize the Cloud Services in any other fashion, or for any business production purposes or for the benefit of any of its clients or customers. Moreover, usage of the Cloud Services herein shall be only in accordance with the Documentation and these Trial Terms, including any usage limits as specified by Company. Company may suspend or terminate Customer’s access to the Cloud Services during the Free Trial Period, for any reason at any time without notice. Customer must have an active subscription to the Cloud Services by way of execution of a CSA to continue to receive access to the Cloud Services after the expiry or termination of the Free Trial Period. Upon the expiry of the Free Trial Period, Customer shall immediately cease using the Cloud Services, save and except where Customer has subscribed for a paid subscription access to the Cloud Services and executed a CSA, provided that nothing herein shall obligate Company to execute a CSA with Customer to enable Customer’s access to the Cloud Services on a paid subscription basis, upon the expiry of the Free Trial Period.

3.2 Affiliates: Customer may permit its Affiliates to use the Cloud Services in accordance with these Trial Terms, provided that each Affiliate also agrees to be bound by these Trial Terms, and Customer is responsible and fully liable for each Affiliate’s compliance with and breach of these Trial Terms.

3.3 Access Software: Customer’s usage of the software owned by Company and provided by Company to Customer in order to enable access to the Cloud Services, is subject to the EULA.

3.4 Restrictions: Customer will not and will not allow Third Parties to:

(a) license, sublicense, access, use, sell, resell, transfer, assign, distribute, or otherwise commercially exploit or make the Cloud Services available to any Third Party;

(b) modify, decompile, reverse engineer or copy the Cloud Services, or any of their components;

(c) access or use the Cloud Services to build or support or develop any products or services competitive with the Cloud Services, or use the Cloud Services on behalf of, or to provide any product or service to, Third Parties;

(d) scrape, data mine, reverse engineer, decompile, disassemble or seek to access the source code or non-public or unauthorized data from the Cloud Services;

(e) modify or create derivative works of the Cloud Services or copy any element of the Cloud Services (other than authorized copies of the software required for use of the Cloud Services);

(f) remove or obscure any proprietary notices in the Cloud Services or otherwise misrepresent the source of ownership of the Cloud Services;

(g) use the Cloud Services to conduct fraudulent activities;

(h) attempt to gain unauthorized access to the Cloud Services, engage in any denial of service attacks, or otherwise cause immediate, material or ongoing harm to Company, its provision of the Cloud Services, or to others;

(i) transmit any viruses or other harmful materials to the Cloud Services;

(j) access or use the Cloud Services for monitoring the availability, security, performance, functionality, or for any other benchmarking or competitive purposes without Company's express written permission;

(k) falsely identify itself or provide any false information to establish any account that will be used to gain access to and/or use of the Cloud Services;

(l) use the Cloud Services to initiate or propagate Malware;

(m) use the Cloud Services for High Risk Activities, and Customer acknowledges notwithstanding anything else in these Trial Terms, Company has no liability for use of the Cloud Services for High Risk Activities;

(n) interfere with the Cloud Service's operation, circumvent its access restrictions or conduct any security or vulnerability test of the Cloud Service; or

(o) use the Cloud Services in a manner that violates applicable law or regulation, infringes on the rights of any person or entity, or violates these Trial Terms, or engage in any fraudulent, misleading, illegal or unethical activities related to the Cloud Services.

Each of (a) to (i) is a "**Prohibited Use**". A Prohibited Use is a material breach of these Trial Terms in Company's sole discretion.

3.5 Right to use Customer Data: Customer grants Company a non-exclusive, worldwide, royalty-free license and right to access, use, copy, store, transmit and display the Customer Data as necessary during the Free Trial Period and to modify and create derivative works of Customer Data (for reformatting or other technical purposes), but only:

(a) for Company to provide the Cloud Services to Customer during the Free Trial Period;

(b) for administering these Trial Terms, including assuring that the right number of user accounts have been issued.

4. CUSTOMER OBLIGATIONS

4.1 Customer Access: Customer is responsible for all activity occurring under Customer's Cloud Services accounts. Customer will provide Company with all information and assistance required to supply the Cloud Services or enable Customer's use of the Cloud Services. Customer will immediately notify Company of

any unauthorized account use or other suspected security breach, or unauthorized use, copying or distribution of Cloud Services, Documentation or Customer Data.

4.2 System Administrator: As needed, Customer will provide Company contact information for Customer's system administrator, who is authorized to provide the information required to configure and manage the Cloud Services (System Administrator), and who will have control over Customer's account, including management of Customer Data, as described in the Documentation. Customer is fully responsible for its choice of administrators and any actions they take.

4.3 Rights to Customer Data: Customer is responsible for Customer Data, including its content and accuracy, and agrees to comply with all laws in using the Cloud Services. Customer represents and warrants that it has made all disclosures and has all rights, consents and permissions necessary to use the Customer Data with the Cloud Service and grant Company the rights in Section 3.5 above, all without violating or infringing laws, Third Party rights (including intellectual property, publicity or privacy rights) or any terms or privacy policies that apply to the Customer Data. Company has no obligation to retain any Customer Data or other Customer information submitted or collected through the Cloud Services when used during the Free Trial Period. Company may delete any Customer Data and other Customer information at its own discretion and without prior notice to Customer. If any Customer Data is stored by the Cloud Service, Customer is solely responsible for retrieving that Customer Data.

5. NO OBLIGATION TO PROVIDE TECHNICAL SUPPORT SERVICE

Company has no obligation to provide any Support during the Free Trial Period. Customer acknowledges that during the Free Trial Period, the Cloud Services may contain errors, defects or other problems that could cause system or other failures, security breaches, interruptions and data loss, and that the Cloud Services may be of a limited functionality.

6. CONFIDENTIALITY, PRIVACY AND USE OF DATA

6.1 As receiving party, each party will:

(a) hold Confidential Information in confidence and not disclose it to Third Parties except as permitted in these Trial Terms;

(b) only use Confidential Information to fulfill its obligations and exercise its rights in these Trial Terms; and

(c) not use, copy, disclose or make accessible the Confidential Information except as expressly permitted by these Trial Terms.

6.2 The receiving party may disclose Confidential Information to its employees, agents, contractors and other representatives having a legitimate need to know (including, for Company, any subcontractors) such information to enable it to carry out its rights and obligations under these Trial Terms, provided it remains responsible for their compliance with this Section and they are bound to confidentiality obligations no less protective than this Section.

6.3 These confidentiality obligations do not apply to information that the receiving party can document:

(a) is or becomes public knowledge through no fault of the receiving party;

(b) it rightfully knew or possessed prior to receipt under these Trial Terms;

(c) it rightfully received from a Third Party without breach of confidentiality obligations; or

(d) it independently developed without using the disclosing party's Confidential Information.

6.4 Unauthorized use or disclosure of Confidential Information may cause substantial harm for which damages alone are an insufficient remedy. Each party may seek appropriate equitable relief, in addition to other available remedies, for breach or threatened breach of this Section.

6.5 Nothing in these Trial Terms prohibits either party from making disclosures, including of Customer Data and other Confidential Information, if required by law, subpoena or court order, provided (if permitted by law) it notifies the other party in advance and cooperates in any effort to obtain confidential treatment.

6.6 Subject to the terms and conditions of these Trial Terms, upon the expiry of the Free Trial Period, the receiving party shall turn over to the disclosing party any disks, tapes, documentation, drawings, blueprints, notes, memoranda, specifications, devices, documents, or any other tangible embodiments of any such Confidential Information. The confidentiality obligations and restrictions shall continue to apply without limit in point of time but shall cease to apply to information or knowledge which may properly come into the public domain through no fault of the other, or was already known to the other prior to the disclosure by the first party, or was independently developed by the other without reliance on the first party's Confidential Information.

6.7 Without limiting the foregoing, each party agrees to hold the other party's Confidential Information in strict confidence and to use at least the same procedures and degree of care that it uses to prevent disclosure of its own Confidential Information of like importance but in no instance less than reasonable care. Each party will immediately notify the other party if Confidential Information of the other party is used or disclosed in breach of these Trial Terms.

6.8 For sake of clarity, Confidential Information will include the existence, terms and conditions of these Trial Terms, information relating to the other or information received from Third Parties that each party is obligated to treat as confidential.

6.9 Customer agrees that Company has the unrestricted right to use suggestions and feedback provided by Customer regarding the Cloud Services and other products and services of Company and its Affiliates, without notice to, payment to or consent from Customer, and that such suggestions and feedback will be the Confidential Information of Company, and not Customer.

6.10 Each party agrees to comply with applicable laws governing the collection, use and disclosure of Personal Data and shall obtain consents required with respect to the handling of Personal Data.

6.11 Customer represents and warrants that it:

(a) has the legal rights and applicable consents to provide Customer Data to Company;

(b) has provided any required notices and has obtained any consents and/or authorizations (including any required from users) related to its use of the Cloud Services and Company's processing of Customer Data (including any Personal Data);

(c) will comply with all applicable laws for collecting, processing, and transferring Customer Data to Company.

6.12 Customer has sole responsibility for the accuracy, quality, integrity, legality, reliability and appropriateness of all Customer Data. The Cloud Services rely on Customer Data as supplied by Customer, and Company is not liable for the content of Customer Data. Except as required under applicable law, Company does

not assume any duty or obligation to correct or modify Customer Data. Except as provided in these Trial Terms, Customer retains all right, title and interest in and to Customer Data.

6.13 Without prejudice to Sections 6.11 and 6.12 above, Customer is responsible for:

(a) any security vulnerabilities, and the consequences of such vulnerabilities, arising from Customer Data, including any Malware contained in the Customer Data; and

(b) Customer's and its Affiliates' use of the Cloud Services in a manner that is inconsistent with these Trial Terms.

6.14 To the extent Customer discloses or transmits Customer Data to a Third Party, Company is no longer responsible for the security, integrity or confidentiality of such content outside of Company's control.

6.15 At the disclosing party's request upon expiration or termination of these Trial Terms, the receiving party will delete all of the disclosing party's Confidential Information. Customer Data and other Confidential Information may be retained in the receiving party's standard backups after deletion but will remain subject to the confidentiality restrictions contained herein.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 Ownership: The Cloud Services, Documentation and the software underlying the Cloud Services are strictly confidential to Company. Company (or its licensors) own exclusively and reserve all right, title and interest in and to the Cloud Services, Documentation and the software underlying the Cloud Services, including all related Intellectual Property Rights as well as any Derivative Works. Customer agrees, on behalf of itself and its Affiliates, that Customer and its Affiliates will take no action inconsistent with Company's Intellectual Property Rights.

7.2 Reserved Rights: Customer may not exercise any right, title and interest in and to the Cloud Services, Documentation, the software underlying the Cloud Services or any related Intellectual Property Rights, except for the limited access and usage rights granted to Customer in these Trial Terms. These Trial Terms are not an agreement of sale, and these Trial Terms do not transfer any title, Intellectual Property Rights or ownership rights to the Cloud Services, Documentation, or the software underlying the Cloud Services to Customer. Customer acknowledges and agrees that the Cloud Services, Documentation, and the software underlying the Cloud Services, and all ideas, methods, algorithms, formulae, processes, and concepts used in developing or incorporated into the foregoing, and all other improvements, revisions, corrections, modifications, enhancements, releases, detection definition files (or DATs, also referred to as signature files, being the code anti-malware software uses to detect and repair viruses, Trojan horses and potentially unwanted programs), signature sets, content, and other updates in, of, or to the Cloud Services or the software underlying the Cloud Services, all Derivative Works based on any of the foregoing, and all copies of the foregoing are trade secrets and reserved to and proprietary property of Company, having great commercial value to Company.

8. WARRANTIES, EXCLUSIONS AND DISCLAIMERS

8.1 Special Disclaimer of Warranties during Free Trial Period: Customer acknowledges and agrees that during the Free Trial Period, Company shall have no indemnification or other obligations towards Customer, and that the Cloud Services are provided solely on an "as is" basis. To the extent permitted by law, Company makes no other warranties of any kind, express or implied, with respect to the Cloud Services during the Free Trial Period, and disclaims all other obligations and liabilities, or express and implied warranties, including quality, conformity to any representation or description, performance, merchantability, fitness for a particular purpose, non-infringement; or that the Cloud Services will be free from errors or defects, provided that Company does not waive any of its rights hereunder during the Free Trial Period, and provided further

that all obligations of Customer as set out herein shall be valid even during the Free Trial Period. Customer assumes all risk of use of the Cloud Services during the Free Trial Period.

8.2 General Disclaimer of Warranties: EXCEPT AS EXPRESSLY STATED IN THIS SECTION, TO THE EXTENT ALLOWED BY APPLICABLE LAW, THE CLOUD SERVICES ARE PROVIDED 'AS IS', AND COMPANY EXPRESSLY DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION ANY WARRANTY, CONDITION OR OTHER IMPLIED TERM AS TO MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. COMPANY MAKES NO WARRANTY OR REPRESENTATION THAT THE CLOUD SERVICE: (A) WILL BE UNINTERRUPTED, COMPLETELY SECURE, ERROR-FREE, FAILSAFE OR FREE OF VIRUSES; (B) WILL MEET CUSTOMER'S BUSINESS REQUIREMENTS OR OPERATE WITH CUSTOMER'S CURRENT SYSTEMS OR ANY OTHER THIRD PARTY SERVICES; (C) WILL COMPLY WITH ANY PARTICULAR LAW; OR (D) WILL PROVIDE COMPLETE PROTECTION AGAINST ANY SECURITY THREATS VULNERABILITIES. NO DATA TRANSMISSION OVER THE INTERNET CAN BE GUARANTEED TO BE SECURE. COMPANY DISCLAIMS ANY RESPONSIBILITY OR LIABILITY FOR ANY INTERCEPTION OR INTERRUPTION OF ANY COMMUNICATIONS THROUGH THE INTERNET, NETWORKS, OR SYSTEMS OUTSIDE COMPANY'S CONTROL. CUSTOMER IS RESPONSIBLE FOR MAINTAINING THE SECURITY OF ITS NETWORKS, SERVERS, APPLICATIONS AND ACCESS CODES. CLOUD SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. COMPANY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, LOSS OF CUSTOMER DATA OR DAMAGES RESULTING FROM THOSE PROBLEMS. CUSTOMER WILL NOT MAKE ANY REPRESENTATION OR OTHER STATEMENT OR UNDERTAKE ANY ACT OR OMISSION INCONSISTENT WITH THIS SECTION.

8.3 Third Parties: The Cloud Services may contain independent Third Party products and rely on them to perform certain functionality, including malware definitions or URL filters and algorithms. Company makes no warranty as to the operation of any Third Party products or the accuracy of any third-party information, nor does Company control or have any liability for Third Party platforms, including their security, functionality, operation, availability or interoperability or how such Third Party platforms or their providers use Customer Data.

9. LIMITATION OF LIABILITY

EXCEPT FOR CUSTOMER'S OBLIGATIONS IN SECTION 3.4 ABOVE, EACH PARTY'S ENTIRE AGGREGATE LIABILITY, TO THE OTHER PARTY FOR CLAIMS UNDER OR RELATED TO THE SUBJECT MATTER OF THESE TRIAL TERMS WILL NOT EXCEED UNITED STATES DOLLARS ONE HUNDRED (USD 100). EXCEPT FOR CUSTOMER'S OBLIGATIONS IN SECTION 3.4 ABOVE, NEITHER PARTY WILL BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL OR EXTRA-CONSEQUENTIAL DAMAGES OF ANY KIND, IN CONNECTION WITH THESE TRIAL TERMS, INCLUDING THIRD-PARTY CLAIMS, LOSS OF PROFITS, LOSS OF GOODWILL, COMPUTER OR SYSTEM FAILURE OR MALFUNCTION, SYSTEM OR SERVICE DISRUPTION OR INTERRUPTION, OR ANY LOST, DAMAGED, OR STOLEN DATA, INFORMATION OR SYSTEMS AS WELL AS THE COSTS OF RESTORING ANY LOST, DAMAGED, OR STOLEN DATA, EVEN IF THE DAMAGES WERE FORESEEABLE OR A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES. THIS LIMITATION OF LIABILITY APPLIES WHETHER SUCH CLAIMS ARISE UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), EQUITY, STATUTE OR OTHERWISE. NOTWITHSTANDING THE FOREGOING, NOTHING IN THESE TRIAL TERMS LIMITS OR EXCLUDES ANY LIABILITY OF CUSTOMER FOR MISAPPROPRIATION OF COMPANY'S INTELLECTUAL PROPERTY RIGHTS OR ANY LIABILITY WHICH CANNOT BE LIMITED OR EXCLUDED UNDER APPLICABLE LAW.

10. INDEMNIFICATION

10.1 Customer Indemnification Obligations: Customer will unconditionally indemnify, and Company, its Affiliates, and their officers, directors, employees, contractors and agents (each, a “**Company Indemnified Party**”) against any claims, liabilities and expenses (including court costs and reasonable attorneys' fees) that a Company Indemnified Party incurs as a result of or in connection with:

- (a) any Third Party claims arising from:
 - i. Customer Data, including without limitation Customer’s failure to follow applicable laws or obtain all necessary consents related to Customer Data;
 - ii. Customer’s use of the Cloud Services in a manner not expressly permitted by these Trial Terms;
 - iii. Company’s compliance with any technology, designs, instructions or requirements provided by Customer or a Third Party on Customer’s behalf;
 - iv. any claims, costs, damages and liabilities whatsoever asserted by any representative of Customer;
 - v. any violation by Customer of applicable laws or regulations; and
- (b) reasonable costs and attorneys’ fees required for Company to respond to a subpoena, court order or other official government inquiry regarding Customer Data or Customer’s use of the Cloud Services.

10.2 Indemnification Procedure: Company will:

- (a) provide prompt written notice to Customer of the claim (provided that the failure to provide timely notice that prejudices Customer will relieve Customer of its obligations under this section to the extent Customer has been prejudiced and the failure to provide timely notice will relieve Customer of any obligation to reimburse Company for its attorney’s fees incurred prior to notification);
- (b) reasonably cooperate in connection with the defense or settlement of the claim; and
- (c) give Customer sole control over the defense and settlement of the claim, provided however that any settlement of a claim will not include a specific performance obligation or admission of liability by the Company.

11. COMPLIANCE WITH LAWS

11.1 Each party will comply with the applicable national, state, and local laws and regulations with respect to its rights and obligations under these Trial Terms, including applicable privacy and export control laws and regulations, the U.S. Foreign Corrupt Practices Act, and other applicable anti-corruption laws.

11.2 Customer will not, directly or indirectly, export, transmit, permit access or use any Cloud Services or technical data (or any part of Cloud Services or technical data) or system or service incorporating any Cloud Services to or in any country to which export, transmission or access is restricted by regulation, statute, or other law, without the authorization, if required, of the Bureau of Industry and Security of the U.S. Department of Commerce or any other governmental entity that may have jurisdiction over export or transmission. Customer will not use, transfer or access any Cloud Services for end use relating to any nuclear, chemical or biological weapons, or missile technology unless authorized by the U.S. Government by regulation or specific license.

11.3 If Company receives notice that Customer is or becomes identified as a sanctioned or restricted party under applicable law, Company will not be obligated to perform any of its obligations under these Trial Terms if such performance would result in violation of the sanctions or restrictions.

12. GENERAL MISCELLANEOUS PROVISIONS

12.1 Non-Solicitation: Each party agrees that during the term of these Trial Terms and for twenty four (24) months thereafter, neither of them shall hire, or directly or indirectly solicit the hiring of, any personnel or employee of the other. Nothing contained herein shall restrict either of them from hiring any employee of the other party by way of newspaper advertisements or job postings that are not directly targeted at the employee of the other.

12.2 Subcontractors: Company may use subcontractors and permit them to exercise Company's rights, but Company remains responsible for their compliance with these Trial Terms and for its overall performance under these Trial Terms.

12.3 Titles and Headings: Titles and headings to sections or paragraphs in these Trial Terms are inserted for convenience of reference only and are not intended to affect the interpretation or construction of these Trial Terms.

12.4 Entire Agreement: These Trial Terms constitutes the entire agreement between the parties with respect to the subject matter of these Trial Terms and supersede all oral or written proposals, and all communications between the parties relating to its subject matter. The terms of these Trial Terms will prevail, notwithstanding any variance with any purchase order or other written instrument submitted by Customer, whether or not expressly rejected by Company.

12.5 Assignment: Neither party shall assign these Trial Terms except with the prior written consent of the other party, which consent shall not be unreasonably withheld, except that no consent shall be required if such assignment is made to an affiliate of either party or to an assignee of either party, who buys or is transferred all or substantially all of the business or equity respectively of such party and their respective Affiliates or ownership rights in the Cloud Services of Company.

12.6 Severability: If any term or provision of these Trial Terms is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.

12.7 Waiver: Save and except the terms and conditions contained in these Trial Terms, the parties hereto expressly, waive any and all the surviving terms contained in any and all of the other agreements, arrangements, understanding and assurances, either written or oral, in relation to the subject matter contained herein. A party's failure or delay in enforcing any provision of these Trial Terms will not operate as a waiver of the right to enforce that provision or any other provision of these Trial Terms at any time. A waiver of any provision of these Trial Terms must be in writing, specify the provision to be waived and signed by the party agreeing to the waiver.

12.8 Relationship: The parties to these Trial Terms are independent contractors. Except for the explicit purposes set forth in these Trial Terms, no other relationship is intended to be created between the parties (including, but not limited to, any employer-employee arrangement, partnership, joint venture, or similar relationship of any kind whatsoever) including, without limitation, between a party and any principal or employee of the other party.

12.9 Amendments: These Trial Terms may be amended, modified, altered or changed in any way and at any time by Company and Company shall not be obligated to notify Customer about the same. Customer is expected to ensure that it is up to date with these Trial Terms from time to time.

12.10 Force Majeure: Any delay, omission or failure of performance by either party hereto under these Trial Terms shall not constitute default hereunder or give rise to any claim for breach of contract if, and to the extent, such delay, omission or failure is caused by or arises by reason of Force Majeure. Force Majeure shall mean occurrences beyond the reasonable control of the party affected, including acts of God; strikes, boycotts or other concerted acts of workmen; failure of utilities; laws, regulations or other orders of public authorities; military action, state of war or other national emergency; fire or flood which, by the exercise of reasonable diligence, the delayed party is unable to prevent or provide against. The party affected by any Force Majeure event or occurrence shall give the other party written notice of said event or occurrence within ten (10) days of such event or occurrence. Furthermore, Company's failures or delays in its performance are excused to the extent they result from Customer's acts or omissions, or those of its employees, agents, users, Affiliates or contractors.

12.11 Publication: The parties agree that they shall not make any public announcement, including press statements, or statements on the internet, and/or any disclosure of any nature whatsoever to any person concerning the terms and conditions contained in these Trial Terms without the prior written permission of the other parties.

12.12 Notices: All notices, communications and other correspondence required or permitted by these Trial Terms shall be in writing and shall be sent to all the parties simultaneously by (a) facsimile, with confirmation copy sent by registered post, (b) by personal delivery with acknowledgement of receipt or (c) by registered, return receipt requested and postage prepaid, or (d) by electronic mail, to the address as notified by one party to the other party. All such notices, communications and correspondence shall be sent and deemed to have been received only if the same has been sent to all the parties as follows: (i) if by facsimile or electronic email, upon receipt of the confirmation copy or within twenty four (24) hours from delivery, whichever is earlier; and (ii) if by personal delivery, courier or registered post upon receipt or refusal of delivery. A party may change the address to which notices are to be sent by a notice complying herewith to that effect. All notices will be in English.

12.13 Governing Law and Jurisdiction: The formation, validity, performance interpretation and enforcement of these Trial Terms shall be governed only by the laws of Washington, and the parties hereby irrevocably submit only to the jurisdiction of the courts of Washington. Any controversies, conflicts, disputes, or differences between the parties arising out of these Trial Terms shall be resolved by arbitration in Washington in accordance with the Judicial Arbitration and Mediation Services, Inc (JAMS), which is deemed to be incorporated by reference in this Section. The tribunal shall consist of one (1) arbitrator mutually appointed by the parties. The language of the arbitration shall be English.