

CLOUD SERVICES AGREEMENT

FOR CUSTOMERS LOCATED IN THE AMERICAS, HAIGHT BEY & ASSOCIATES, WITH A PLACE OF BUSINESS AT 1972W 2550S, WEST HAVEN, UT 84401, (“HAIGHT BEY”, “HB&A”) IS WILLING TO PROVISION THE CLOUD SERVICES TO YOU AS THE INDIVIDUAL, THE COMPANY, OR THE LEGAL ENTITY THAT WILL BE UTILIZING THE CLOUD SERVICES (REFERENCED BELOW AS “CUSTOMER”) ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS CLOUD SERVICES AGREEMENT (THE “AGREEMENT”). READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE USING THE CLOUD SERVICES. THIS IS A LEGAL AND ENFORCEABLE CONTRACT BETWEEN YOU AND HB&A. BY CLICKING THE “I AGREE” OR “YES” BUTTON, OR OTHERWISE INDICATING ASSENT ELECTRONICALLY, OR BY DOWNLOADING THE SOFTWARE AGENT FOR THE CLOUD SERVICES OR OTHERWISE USING THE CLOUD SERVICES, YOU AGREE TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF YOU DO NOT AGREE TO THESE TERMS AND CONDITIONS, CLICK THE “I DO NOT AGREE” OR “NO” BUTTON OR DO NOT ACCESS THE CLOUD SERVICES OR INSTALL ANY SOFTWARE PERTAINING TO THE CLOUD SERVICES.

1. Service.

1.1 Description. Subject to the terms and conditions of this Agreement, during the applicable Service Term (as defined in Section 12.1. below) and provided that the applicable fees have been paid, HB&A will provide the service ordered by Customer in accordance with the license terms as described in the license agreement. HB&A’s provisioning of the Service may include a software client for download by Customer (“Software”) for Users to access the Service. All available cloud services under this Agreement are collectively defined as the (“Service”). Unless as otherwise set forth in the Product License Guide for a specific cloud service, as used herein, “User” means Customer’s employees, contractors, agents and other human users of Customer’s network on an individual basis that can establish a connection or login to the Service through a local device such as a computer, laptop, phone, tablet or other mobile device. For hosted reporting services, a “User” also means any person that may access the internet through any number of devices such as a mobile device and desktop, and for whom data associated with such access is logged and available for reporting with the Service. The Software component of the Service includes any and all updates, upgrades, bug fixes, dot releases, version upgrades, or any similar changes that may be made available by HB&A to Customer from time to time.

1.2 Ownership. The Service is proprietary to HB&A or its licensors or suppliers. Customer acknowledges and agrees that:

- (a) the Service is protected under U.S. and international intellectual property laws;
- (b) HB&A and its licensors retain all intellectual property rights in the Service;
- (c) any rights not expressly granted to Customer hereunder are reserved by HB&A; and
- (d) Customer acquires no ownership or other interest (other than Customer’s limited license set forth in Section 2.1) in or to the Service.

1.3 Customer Configurations. HB&A’s provision of the Service is based on Customer configurations as determined by Customer in its sole discretion. The Service does not include implementation or use of Customer configurations, policies and procedures implemented and set by Customer available through the Service, including, without limitation, default configurations, the selection of filtered categories and

web application controls, and cloud application remediation actions and controls (collectively, “Customer Configurations”). Customer acknowledges and agrees that Customer is solely responsible for Customer Configurations and assuring that the selection conforms to Customer’s policies and procedures and complies with all applicable laws and regulations in jurisdictions in which Customer accesses the Service.

1.4 Passwords. As used herein, “Passwords” shall mean Customer established passwords, temporary passwords provided by HB&A, security credentials, or authentication keys provided or used in relation to the Service. Customer is solely responsible for monitoring and controlling access to the Service, maintaining the confidentiality of the Passwords and for any use of the Service that occurs using such Passwords.

1.5 User Count. In the event that Customer exceeds its licensed Users (as measured in HB&A’s reporting system), the parties agree to meet in good faith to determine the number of new User seats required by Customer for the remainder of the Service Term.

1.6 Fees. The provision of the Service to Customer by HB&A under this Agreement is subject to Customer’s timely payment of all fees owed to HB&A or its authorized distributors or resellers transacting with Customer (“Authorized Resellers”) for use of the Service, as provided in Customer’s order. Notwithstanding any other term herein, Customer authorizes HB&A to provide relevant information to the Authorized Resellers related to Customer’s ordering, usage and compliance with this Agreement. All fees paid to HB&A are nonrefundable.

2. Access and License.

2.1 Right to Access Service; Software License. Subject to the terms and conditions of this Agreement and the express restrictions contained in this Section, HB&A grants to Customer, solely in accordance with the applicable terms as set forth in the Documentation:

(i) the right to access and use the Service during the Service Term and up to the number of Users for Customer’s own internal business operations and not for the benefit of any other person or entity; and

(ii) a personal, non-transferable, non-exclusive, non-sublicensable license during the Service Term to use and distribute the Software to Customer's Users in object code form only, solely for the purpose of accessing the Service.

2.2 Use Restrictions. Customer shall use the Service in accordance with the Documentation. Customer shall not, and shall prevent Users from using the Service to:

(i) resell, rent, lend, lease, distribute, “whitelabel”, or timeshare the Service (including on a “service bureau” basis), or otherwise provide third parties with access or grant third parties rights to the Service,

(ii) alter or remove any marks or proprietary legends contained in the Service;

(iii) circumvent or otherwise interfere with any authentication or security measures of the Service (e.g., pen-testing or vulnerability scanning);

(iv) interfere with or disrupt the integrity or performance of the Service;

(v) send SPAM or any other form of duplicative and unsolicited messages, other than marketing and promotional messages to Customer's clients and prospective clients as contemplated by the Service;

(vi) use the Service for proxy avoidance or anonymization;

(vii) violate the terms of use or other agreements governing the use and access of third party websites;

(viii) access all or any portion of the Service by means of any crawler, scraper, bot, spider, or any other similar script or automated process;

(ix) transmit through or post on the Service unlawful, libelous, tortious, infringing, or defamatory material;

(x) transmit material containing software viruses or other harmful or deleterious computer code, files, scripts, agents, or programs; or

(xi) use the Service or Software for more than the number of Users for which applicable fees have been paid.

Customer shall not reverse engineer, decompile, disassemble or otherwise attempt to discover the object code, source code or underlying ideas or algorithms of the Software, and shall not modify, translate, or create derivative works based on any element of the Software.

2.3 Acceptable Use. Users shall not use the Service for any purpose other than as expressly authorized in this Agreement.

2.4 Excessive Consumption. If HB&A determines that Customer's aggregate activity on the Service imposes an unreasonable load on bandwidth or infrastructure, HB&A may impose controls to keep the usage below excessive levels. For Inline Service, defined as the processing or effecting data in transit to and from the end-user to the internet, the expected average weekly usage is 6 kilobits per second per user. Upon receiving Service notification (e.g., email) of excessive (vs. expected) usage, Customer agrees to immediately work on a usage reduction plan, or to work with its Authorized Reseller to enter into a separate fee agreement for the remainder of the Service Term. If the parties are not able to establish a resolution within ten days after the initial Service notification, then HB&A may institute controls on the Service or terminate the Service and this Agreement, without liability

2.5 Reservation of Rights. Except for the rights expressly granted herein, no other rights, express or implied, are granted to Customer under this Agreement.

3. Data Protection.

3.1 Data Processing. Customer may provide HB&A with cloud application data and network traffic data such as IP address, URL, URL category, file type, filter result, virus id, files, records, metadata, Customer selected account names and activity types, and any other network traffic sent to or received from Customer through use of the Service, in detail and/or in an aggregate form (collectively "Use Data"). Customer may also provide HB&A with other information such as administrator identifying information, user and group names, and other information through or in connection with Customer's use of the Service ("Admin Data"). HB&A shall act as a data processor and process the Use Data and Admin Data of Customer only on behalf of and under the direction of Customer (and its designees), as set forth in this

Agreement. HB&A shall use Use Data and Admin Data only for legitimate business purposes in connection with providing and promoting its Services, as set forth in this Agreement.

3.2 Limited Use. HB&A shall store, process, retrieve, and disclose Use Data and Admin Data for the following purposes:

- (i) providing the Service to Customer;
- (ii) analyzing, maintaining and improving the Service;
- (iii) complying with legal, governmental or contractual terms;
- (iv) making malicious or unwanted content anonymously available to its licensors for the purpose of further developing and enhancing the Service; and
- (v) anonymously aggregating and statistically analyzing malicious or unwanted content.

Use Data and Admin Data may be transferred to and processed by HB&A in the United States. Customer agrees that it has reviewed and agrees with the terms of HB&A's privacy statement.

3.3 Obligations; Indemnification. Customer represents and warrants that:

- (i) it will comply with all applicable privacy and data protection laws and regulations applicable to its business and its performance of its obligations under this Agreement with respect to any Use Data and Admin Data uploaded to, submitted to, stored on, or processed by the Service; and
- (ii) it will provide any notices and obtain required consents related to its use of the Service and HB&A's provision of the Service, including those related to the collection, use, processing, transfer, monitoring and disclosure of Use Data and Admin Data.

Customer will defend, indemnify and hold harmless HB&A, its directors, officers, employees, agents, successors and assigns from and against any actual or threatened third party claims, actions, suits, liabilities, losses, damages, costs and expenses (including reasonable attorneys' fees) arising out of or related to

- (a) a breach of the foregoing obligations;
- (b) Customer's provision of Use Data and Admin Data to HB&A; or
- (c) the receipt, storage, processing or display of Use Data and Admin Data by the Service or the Software.

4. Security and Disclaimer.

HB&A utilizes commercially reasonable security measures and precautions intended to protect against unauthorized access, loss or disclosure to Use Data and Admin Data stored on HB&A servers. HB&A will exercise commercially reasonable efforts to deploy corrections of the Service upon learning of any material security breach. In order to facilitate HB&A's obligations herein, Customer will immediately notify HB&A upon learning of any breach, or attempted breach, of the security of the Service.

Notwithstanding the foregoing, Customer acknowledges and agrees that, except as expressly set forth herein, HB&A is not responsible in any manner for Use Data nor Admin Data, and that Customer is solely

responsible for maintaining adequate back-ups of Customer's data and assumes all risk of loss related to the transmission and storage of both Use Data and Admin Data to the Service.

5. Confidentiality.

5.1 Confidential Information. Either party may provide to the other information under this Agreement which is confidential in nature in connection with business discussions related to the Service ("Confidential Information"). All such information shall be marked as confidential in order to be protected hereunder. Notwithstanding the foregoing marking requirements, Customer acknowledges that the following constitutes Confidential Information of HB&A: know-how, inventions (whether or not patentable), techniques, ideas, or processes related to the Service; the design and architecture of the Service; the computer code, internal documentation, and design and functional specifications of the Service; the pricing of the Service if provided directly from HB&A; the terms of this Agreement; and any problem reports, analysis and performance information related to the Service.

5.2 Confidentiality Obligations. During the term of this Agreement, and for a period of three (3) years after its termination, the receiving party

(i) shall not disclose, use, transmit, inform or make available to any third person or entity any of the Confidential Information of the other party, except as necessary to perform its obligations and exercise its rights under this Agreement, and

(ii) shall take such actions as are reasonably necessary and appropriate to preserve and protect the other party's Confidential Information and its rights therein, including exercising at least a reasonable level of care.

Each party agrees to restrict access to the Confidential Information of the other party to those of its employees or agents who require access in order to perform or receive the Service under this Agreement. Notwithstanding the foregoing, either party may disclose Confidential Information of the other party to comply with legal, governmental or contractual terms.

5.3 Exceptions. Confidential Information does not include information that:

(i) is already known to the receiving party prior to receipt from the other

(ii) is or becomes publicly known other than through a wrongful act by the receiving party;

(iii) is rightfully received by the receiving party from a third party without breach of an obligation of confidentiality owed to the other party; or

(iv) is independently developed by the receiving party without the use of the Confidential Information.

Customer agrees that any suggestions, comments or other feedback provided by Customer to HB&A or its licensors with respect to the Service ("Feedback") shall not be deemed to constitute confidential information of Customer or impose any confidentiality obligations on HB&A. Customer further agrees that anonymized Use Data and Admin Data shall not constitute confidential information. HB&A shall be free to use, disclose, reproduce, license or otherwise distribute and exploit anonymized Feedback and any data without any obligation, restriction or duty to account.

6. Support.

Support Services provided with the Service are governed by the terms and conditions as described in the license agreement which may be updated from time to time and are incorporated into this Agreement by reference. The Service shall include any and all updates, upgrades, and bug fixes that may be provided from time to time to Customer. In the event Customer experiences any incidents or failures relating to the Service, Customer shall report such matter to HB&A in the manner and in accordance with the support terms and conditions referenced above.

7. Warranty.

7.1 Service Warranty. HB&A warrants that the material functions of the Service shall operate substantially in accordance with the terms of this Agreement and the applicable Documentation when used by Customer in accordance with such terms and Documentation. HB&A shall provide the Service in accordance with the applicable service levels for the specific type of Service as set forth in the applicable service level agreement (the "Service Level Agreement"). Such Service Level Agreement may be updated from time to time and is incorporated into this Agreement by reference. HB&A shall provide Customer with the applicable Service Level Agreement upon Customer's written request. The remedies set forth in the Service Level Agreement shall be Customer's sole and exclusive remedy, and HB&A's sole and exclusive liability, for any breach of the warranties set forth in this Agreement and in respect of any Service affecting events.

7.2 Disclaimer of Other Warranties. EXCEPT AS OTHERWISE PROVIDED ABOVE IN SECTION 7.1, CUSTOMER ACKNOWLEDGES IN ALL OTHER REGARDS THAT THE SERVICE IS PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS, WITHOUT WARRANTY OF ANY KIND, EXPRESS, STATUTORY, OR IMPLIED, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, NON-INFRINGEMENT, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY OR ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE.

7.3 CUSTOMER FURTHER ACKNOWLEDGES THAT HB&A DOES NOT WARRANT THAT:

(I) THE OPERATION OF THE SERVICE WILL BE UNINTERRUPTED OR ERROR FREE, OR FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS;

(II) THE SERVICE IS NOT VULNERABLE TO FRAUD OR UNAUTHORIZED USE;

CUSTOMER FURTHER ACKNOWLEDGES AND AGREES THAT HB&A HAS NO LIABILITY FOR EACH OF THE FOREGOING.

7.4 NOTWITHSTANDING ANY OTHER TERM HEREIN, HB&A MAKES NO REPRESENTATIONS AND UNDERTAKES NO INDEMNIFICATION OBLIGATIONS REGARDING, ARISING FROM OR RELATED TO THE LEGALITY OF MONITORING, INSPECTION, DECRYPTION AND/OR REENCRYPTION OF INFORMATION IN ANY PARTICULAR JURISDICTION, AND CUSTOMER SHALL BE SOLELY RESPONSIBLE AND HB&A SHALL HAVE NO RESPONSIBILITY FOR DETERMINING THAT CUSTOMER'S PROPOSED OR ACTUAL USE OF THE SERVICE OR PRODUCTS COMPLIES WITH APPLICABLE LAWS.

7.5 CUSTOMER ACKNOWLEDGES AND AGREES THAT HB&A WILL HAVE NO LIABILITY WHATSOEVER FOR ANY CLAIMS, LOSSES, ACTIONS, DAMAGES, SUITS, OR PROCEEDINGS RESULTING FROM:

(A) THE USE OF THE SERVICE BY CUSTOMER OR BY THIRD PARTIES;

(B) SECURITY BREACHES; OR

(C) EAVESDROPPING, INTERCEPTION, FAILURE OF DELIVERY OR LOSS OF DATA SENT, STORED, OR RECEIVED USING THE SERVICES.

THESE LIMITATIONS SHALL APPLY EVEN IF HB&A HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

7.6 CUSTOMER ACKNOWLEDGES AND AGREES THAT IT IS SOLELY RESPONSIBLE FOR MANAGING THE POLICIES, DATA, ATTACHMENTS, CONTROLS, CONTROL STATUS, IMPLEMENTATION DETAILS, USERS, ASSIGNED USER ROLES, CORRECTIVE ACTIONS, AND FOR ASSURING THAT THE FOREGOING

(A) CONFORMS TO CUSTOMER'S POLICIES AND PROCEDURES AND

(B) COMPLIES WITH ALL APPLICABLE LAWS IN THE JURISDICTION IN WHICH CUSTOMER OPERATES OR IS REGISTERED.

7.7 CUSTOMER MAY LINK TO THIRD PARTY SITES THROUGH THE USE OF THE SERVICE. THIRD PARTY SITES ARE NOT UNDER THE CONTROL OF HB&A, AND HB&A IS NOT RESPONSIBLE FOR THE CONTENTS OF ANY THIRD PARTY SITES, ANY LINKS CONTAINED IN THIRD PARTY SITES, OR ANY CHANGES OR UPDATES TO THIRD PARTY SITES.

8. EACH PARTY EXCLUDES LIABILITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, OR CONSEQUENTIAL DAMAGES OR LOSS (INCLUDING LOSS OF PROFITS, LOSS OF DATA, AND BUSINESS INTERRUPTION) OR COSTS OF PROCURING SUBSTITUTE GOODS, SOFTWARE OR SERVICES, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT. EXCEPT FOR CUSTOMER'S PAYMENT OBLIGATIONS, EACH PARTY'S MAXIMUM LIABILITY WHETHER FOR BREACH OF THIS AGREEMENT OR IN TORT (INCLUDING NEGLIGENCE) OR FOR ANY OTHER COMMON LAW OR STATUTORY CAUSE OF ACTION ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT IS LIMITED IN THE AGGREGATE TO TWO TIMES THE FEES PAID FOR THE SERVICE. NO TERMS OF THIS CLAUSE OR ELSEWHERE IN THE AGREEMENT SHALL OPERATE TO LIMIT OR EXCLUDE:

(i) CUSTOMER'S INDEMNITY OBLIGATIONS UNDER THIS AGREEMENT, OR

(ii) LIABILITIES RELATING TO CUSTOMER'S USE OF THE SERVICE IN A MANNER THAT IS INCONSISTENT WITH THE TERMS OF THIS AGREEMENT.

FOR ANY LIABILITY WHICH CANNOT BE EXCLUDED, BUT CAN BE LIMITED, HB&A'S LIABILITY IS LIMITED TO RE-SUPPLYING OR PAYING THE COST OF RE-SUPPLYING SERVICES. THESE LIMITATIONS SHALL APPLY EVEN IF HB&A HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY.

9. Intellectual Property Indemnity.

9.1 Indemnity. Subject to the limitations set forth in this Agreement, HB&A will defend Customer, at its expense, and shall pay any amounts finally awarded by a court of competent jurisdiction or agreed to in settlement by HB&A in writing signed by its General Counsel for any action brought by a third party against Customer alleging that the Service provided under this Agreement directly infringes any

intellectual property right (patents, utility models, design rights, copyrights and trademarks or any other intellectual property right) of such third party, provided, however, that Customer promptly notifies HB&A in writing upon learning of the claim, and gives information, assistance and sole authority to HB&A to defend and settle the claim.

9.2 Options. If the Service becomes or in HB&A's opinion may become subject to an infringement claim, HB&A may at its sole option and at its own expense

(i) procure for Customer the right to continue using the Service;

(ii) replace the Service with a functionally equivalent noninfringing Service;

(iii) modify the Service so it becomes non-infringing; or if (i)-(iii) are not commercially reasonable in HB&A's sole discretion, HB&A may terminate the right to use the allegedly infringing Service and refund a pro-rated portion of the Service fees paid by Customer for the Service not yet provided for the allegedly infringing Service.

Upon HB&A's performance of (i), (ii), or (iii) above, the liability and indemnification obligation of HB&A for such alleged infringement will terminate with respect to all damages arising from such alleged infringement after the date of HB&A's performance.

9.3 Exclusions. HB&A will have no obligation to defend or indemnify Customer in the event that Customer agrees to settle any claim without the prior written consent of the General Counsel of HB&A or for any liability arising out of or relating to any allegations or claims of infringement, or in the case of or to the extent that the alleged infringement is based on:

(i) a modification of the Service not performed by HB&A;

(ii) use of the Service other than in accordance with the Documentation or the terms of this Agreement;

(iii) use of a release of the Software no longer supported by HB&A;

(iv) use of a release of the Software without having implemented all updates, the use of which would have cured the alleged infringement;

(v) any third party software or third party products not provided by or on behalf of HB&A; or

(vi) use of the Service in combination with any other hardware, software, system or material where, absent such combination, the Service would not be infringing.

This Section states HB&A's entire liability for actual or alleged infringement and Customer's sole and exclusive remedy in relation thereto.

10. Open Source Software. The Software may be distributed with open source software which is subject to the terms of the applicable open source software license agreement and not the terms and conditions of this Agreement. All open source software is provided WITHOUT ANY WARRANTY INCLUDING WITHOUT LIMITATION ANY IMPLIED WARRANTY OF NON-INFRINGEMENT, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. Copyrights to the open source software are held by the copyright holders indicated in the copyright notices in the corresponding source files.

11. Beta or Test Service. From time to time, HB&A may invite Customer to access products or services that are not generally available to its customers (“Non-GA Services”). Customer may accept or decline any such trial in its sole discretion. Non-GA Services are provided for evaluation purposes and not intended for production use, are not supported, may contain bugs or errors, and may be subject to additional terms. HB&A may discontinue Non-GA Services at any time at its sole discretion and may never make them generally available. Notwithstanding any other term in the Agreement, the following section applies to any Non-GA Service accessed by Customer. CUSTOMER ACKNOWLEDGES THAT THE NON-GA SERVICES ARE UNTESTED, PRELIMINARY IN FORM AND/OR IN A TEST ENVIRONMENT. THE NON-GA SERVICES ARE PROVIDED “AS IS” WITH NO WARRANTIES OR REPRESENTATIONS WHATSOEVER. THE TERMS OF THE SERVICE LEVEL AGREEMENT SHALL NOT APPLY TO ANY NON-GA SERVICES. NOTWITHSTANDING ANY OTHER TERM IN THE AGREEMENT, HB&A’S CUMULATIVE LIABILITY UNDER THIS AGREEMENT FOR ALL CAUSES OF ACTION RELATING TO OR ARISING FROM THE NON-GA SERVICES, REGARDLESS OF WHETHER ARISING IN TORT, CONTRACT OR ANY OTHER LEGAL THEORY, SHALL BE LIMITED TO AND NOT EXCEED U.S. \$5,000.

12. Term and Termination.

12.1 Term; Service Term. This Agreement shall commence on the Effective Date and continue until terminated. The service term of the Agreement (“Service Term”) shall commence on the date that HB&A makes the Service available to Customer and shall continue for the period specified by the HB&A SKU ordered by Customer unless earlier terminated under this Agreement.

12.2 Termination for Breach. Each party may terminate this Agreement immediately by giving notice to the other party if the other party is in breach of a material provision in this Agreement and, if such breach is capable of remedy, does not rectify such breach within thirty (30) days of receiving a notice to do so, unless in the case of Customer’s failure to pay for Service in which case the notice period shall be ten (10) days.

12.3 Other Termination Rights. HB&A may terminate this Agreement upon thirty (30) days’ notice to Customer, when practicable,

(i) if HB&A determines that providing the Service could create a substantial economic or technical burden or security risk for HB&A,

(ii) in order to comply with applicable government regulations or laws or requests of governmental entities, or

(iii) if HB&A determines use of the Service by Customer or its provision of the Service to Customer has become impractical for any legal or regulatory reason.

12.4 Effect of Termination. Upon termination, Customer agrees to cease all use of the Service and associated Documentation, installed or otherwise, and destroy all copies of any Software, deliverables and accompanying Documentation that are in Customer’s possession or under Customer’s control.

12.5 Survival. Notwithstanding the expiration or termination of this Agreement or any renewal period hereof, it is acknowledged that those rights and obligations that by their nature are intended to survive such expiration or earlier termination shall survive, including, without limitation, the following provisions: Section 1.2 (Ownership); Section 2.5 (Reservation of Rights); Section 3 (Data Protection);

Section 5 (Confidentiality); Section 7.2-7.7 (Disclaimer of Other Warranties); Section 8 (Limitation of Liability); Section 9 (Intellectual Property Indemnity); Section 12 (Term and Termination); and Section 14 (Miscellaneous).

13. Export and Sanctions Compliance. Customer acknowledges that the Software and any other materials delivered under this Agreement are subject to U.S. export control laws and may be subject to export or import regulations in other countries. Customer agrees and warrants that it will comply strictly with these laws and regulations and will not export, re-export, resell, or transfer any Software or materials without prior governmental authorization. Customer acknowledges that the Software and materials are prohibited for export or re-export to Cuba, Iran, North Korea, Sudan, Syria, the Crimea Region of the Ukraine, and to any other country subject to relevant trade sanctions (each, a “Sanctioned Country”). Customer represents that it is not under the control of, located in, or a resident or national of any prohibited country, and not an Embargoed Person. Customer will not, directly or indirectly, engage in or facilitate any activities of, or business or transaction with, any Embargoed Person or any activities or business in any Sanctioned Country, that would result in a violation of any sanctions administered or enforced by the Office of Foreign Assets Control of the U.S. Department of Treasury, the U.N. Security Council, the European Union (EU), an EU member state, or any other relevant sanctions authority. An Embargoed Person means any person or entity named on relevant lists from the U.S. government (including, but not limited to, lists published by the U.S. Department of Commerce, the U.S. Department of State, and the U.S. Department of Treasury), the EU, or other governing authorities. Customer represents and warrants to HB&A that it complies with Chapter 15 of the US Code of Federal Regulations Subchapter C Part 762 (the “EAR Record Keeping Requirements”) related to or arising from the subject matter of this Agreement. Upon ten business days’ notice, or as soon as practicable if required sooner by a government or regulatory official request, Customer shall provide HB&A with electronic copies (unless in a format as otherwise agreed by the parties) of all relevant records required to be retained by Customer pursuant to the EAR Record Keeping Requirements.

14. Miscellaneous. Neither the license to use nor this Agreement are assignable or transferable by Customer without prior written notice to, and written consent from, HB&A; any attempt to do so shall be void. Any notice, report, approval or consent required or permitted hereunder shall be in writing. If any provision of this Agreement shall be adjudged by any court of competent jurisdiction to be unenforceable or invalid, that provision shall be limited or eliminated to the minimum extent necessary so that this Agreement shall otherwise remain in full force and effect and enforceable. This Agreement and all non-contractual obligations arising from or connected with the same shall be governed by and construed in accordance with the laws of the State of Utah without regard to the conflicts of laws provisions thereof for a Customer in the Americas, and such Customer consents to the sole jurisdiction and venue of the state or federal courts of Weber County, Utah for actions related to the subject matter hereof and irrevocably waives any objection on the grounds of venue, forum non-conveniens or any similar grounds. Except for actions related to the secrecy of confidential information or the protection of the proprietary rights of HB&A and its suppliers, no action arising or resulting from this Agreement, may be brought by either party more than two (2) years after the cause of action accrued. Customer agrees that a material breach of this Agreement would cause irreparable injury to HB&A, its suppliers and/or its licensors for which monetary damages would not be an adequate remedy and that HB&A, its suppliers and its licensors shall be entitled to equitable relief in addition to any remedies it may have hereunder or at law. Any waivers or amendments shall be effective only if made in writing by non-

preprinted agreements clearly understood by both parties to be an amendment or waiver and signed by an authorized representative of the respective parties. HB&A RESERVES THE RIGHT TO UNILATERALLY MODIFY THE TERMS AND CONDITIONS OF THIS AGREEMENT (INCLUDING WITHOUT LIMITATION THE COMMERCIAL TERMS) AT THE COMMENCEMENT OF ANY RENEWAL PERIOD BY NOTICE. Notice includes, but is normally not limited to, posting details at www.haightbey.com and/or email announcements sent to the Customer representative. Submission of a renewal order shall mean that the Customer expressly and unreservedly accepts all the amendments contained in the notice, which shall take effect immediately upon commencement of the new term. Customer consents to its logo and name to be included in any listing of HB&A's current Customers on HB&A's website and marketing materials. Both parties agree that this Agreement is the complete and exclusive statement of mutual understanding of the parties in regards to the Services and takes precedence over all previous agreements relating to the Services.