Higher Logic API - Terms of Use

These API Terms of Use (the "**Terms**") is entered into by and between **Higher Logic, LLC** a Delaware limited liability company with a principal place of business at 1919 North Lynn Street, Arlington, VA 22209 USA ("**Higher Logic**", "**we**" and "**us**"), and you (as an individual ("You") and as a representative of an organization You represent, ("Organization") and apply to and govern the use of Higher Logic's Application Programming Interface (the "**API**") as of the date you first use the API. **BEFORE USING THE API, YOU SHOULD CAREFULLY READ THE FOLLOWING LICENSE AGREEMENT THAT APPLIES TO THE API. USING THE API ESTABLISHES A BINDING AGREEMENT BETWEEN YOU AS THE PERSON USING THE API AND HIGHER LOGIC. ACCEPTANCE OF THIS LICENSE AGREEMENT IS REQUIRED AS A CONDITION TO PROCEEDING WITH THE USE OF THE SOFTWARE**

1. **Applicability of the Terms**

    These Terms will apply even if You or the Organization You represent have electronically signed another agreement (the "Agreement") with Higher Logic which would otherwise limit the applicability of these Terms to You, and You and Higher Logic each represent that the individual accepting and agreeing to these Terms has the authority to accept these Terms on the applicable Organization's behalf.

2. **About the API**

    The API Higher Logic makes available to You enables You to integrate Your application or service with Higher Logic's Software Services, and access your data or information through the Higher Logic platform (the "**Data**").

3. **Using the API and the Data**

    3.1. Subject to these Terms and the API's technical restrictions and limitations, You may, and Higher Logic hereby grants You the right and license to, access and use the API and Data, strictly for and on behalf of the Organization and only for the purposes we have specified for that API, as published from time to time on this webpage: https://api.higherlogic.com/ .

    3.2. You are solely responsible for all costs, expenses, losses and liabilities incurred and for all activities You undertake in connection with the use of the API and the Data. You assume sole and exclusive responsibility to carry out such actions as You deem appropriate as a result of the Data. Higher Logic has no responsibility or liability, regarding Your reliance upon, or use of, Data, the actions or omissions You take (or refrain from taking) in connection with the Data, or any consequences resulting therefrom.

    3.3. WE MAY EMPLOY MEASURES TO DETECT AND PREVENT FRAUDULENT OR ABUSIVE USE OF THE API, AS WELL AS MISUSE OF THE API. WE MAY SUSPEND OR TERMINATE YOUR ACCESS TO OR USE OF THE API WITHOUT PRIOR NOTICE, IF WE, IN OUR SOLE DISCRETION, BELIEVE THAT YOU HAVE ENGAGED IN FRAUDULENT OR ABUSIVE USE, OR MISUSE, OF THE API.

4. **Restrictions**

    4.1. You may not perform or attempt to perform any of the following in connection with the API: (i) breach the security of the API, identify, probe or scan any security vulnerabilities in the API, or accessing Data not intended for You or the Organization; (ii) interfere with, circumvent, manipulate, overload, impair or disrupt the operation, or the functionality of the API; (iii) work around or circumvent any technical limitations in the API; (iv) use any tool to enable features or functionalities that are otherwise disabled, inaccessible or undocumented in the API; (vii) impersonate any person or entity, or make any false statements pertaining to Your identity; (viii) collect or process information or data about the API's users; (ix) use the API in a scope or manner that may adversely impact the availability, stability or responsiveness of the API; (x) forge any TCP/IP packet header or any part of the header information in any email; (xi) send any virus, worm, Trojan horse or other malicious or harmful code or attachment (xii) transmit, or attempt to transmit spam messages or communications.

    4.2. You may not use robots, crawlers and similar applications to scrape, harvest, collect or compile content from or through the API. The foregoing shall not apply to acts of scraping, harvesting, collecting or compiling content through the API's official, documented API, to

the extent that the API's documented functionalities and purposes are consistent with such activities.

4.3. YOU MAY NOT USE THE API OR THE DATA: (A) FOR ANY ACTIVITY THAT CONSTITUTES, OR ENCOURAGES CONDUCT THAT WOULD CONSTITUTE, A CRIMINAL OFFENSE, GIVE RISE TO CIVIL LIABILITY OR OTHERWISE VIOLATE ANY APPLICABLE LAW, INCLUDING LAWS RELATED TO EXPORT CONTROL, SPAMMING, PRIVACY, INTELLECTUAL PROPERTY, COMPUTER ACCESS, CONSUMER AND CHILD PROTECTION, OBSCENITY OR DEFAMATION; OR (B) IN ANY MANNER THAT IS HARMFUL, THREATENING, ABUSIVE, HARASSING, TORTIOUS, DEFAMATORY, VULGAR, OBSCENE, LIBELOUS OR SIMILARLY OFFENSIVE.

5. Data.

5.1. The Data may include personal data or personally identifiable information and you accept all risks and liabilities associated with your access and use of such Data.

5.2. You represent and warrant that You will process the Data in full compliance with applicable laws and regulations (including data protection or data processing laws and regulations).

5.3. You acknowledge and agree that the Data is owned by Higher Logic or the respective Higher Logic subscriber. You may not pass on the Data or make it available to other parties other than the applicable Higher Logic subscriber.

6. Term and Termination

6.1. These Terms shall continue in full force and effect until terminated pursuant to this section.

6.2. Higher Logic may terminate these Terms at any time by providing You 5 days' prior written notice thereof.

6.3. Upon termination of these Terms, You must cease use of the API and any Data accessed using the API.

6.4. The provisions herein that, by their nature, would survive termination of these Terms, shall so survive, including sections 5, 7, 9, 10 and 11.

7. Intellectual Property

7.1. Except for the limited use of the API expressly permitted pursuant to these Terms, these Terms do not grant You or assign to You, any license, right, title, or interest in or to the API or any other Higher Logic software or the intellectual property rights therein. All rights, title and interest, including copyrights, patents, trademarks, trade names, trade secrets and other intellectual property rights, and any goodwill associated therewith, in and to the API or any part thereof, including computer code, are and will remain at all times, owned by, or licensed, to Higher Logic.

7.2. You may not use any name, trademark, logo or domain name that is similar to Higher Logic's trademarks (whether registered or not), logos and Internet domain names. You must refrain from any action or omission that may dilute, or damage Higher Logic's goodwill.

8. Quality; Modifications; Support; DISCLAIMER OF WARRANTY

8.1. We will use efforts to have the API operate properly. However, as a API that relies on software and third party networks, infrastructure, hardware and devices, we do not guarantee that the API will operate in an uninterrupted or error-free manner, or that it will always be available, free from errors, omissions or malfunctions. If we receive notice of any failure or malfunction in the API, or if we become aware of them by ourselves, we will make an effort to regain the API's availability as soon as practicable. However, such incidents will not be considered a breach of these Terms.

8.2. We may, at any time and in our sole discretion, discontinue or terminate the operation of the API, or any part thereof, temporarily or permanently, for all users, or for certain users, without any liability to You or the Organization. We may also suspend the provision of the API, in whole, or in part, for all users, or for certain users, for periodic maintenance or similar purposes on five (5) business days written notice, without any liability to You or the Organization.

8.3. We may, in our discretion but without being obligated to do so, maintain the API with updates, modifications, adaptations, improvements, or enhancements to the API, or any of its features, user interfaces, designs or any other aspect related to it. We may do so

without being obligated to provide You notice thereof. If we enhance the API to include new or additional features or capabilities, we reserve the right to amend these Terms or the applicable fees charged for the API, if any. If You do not agree to the amendments in their entirety, we reserve the right to terminate these Terms pursuant to subsection 6.2 above. Such updates, modifications, adaptations, improvements, or enhancements to the API may cause errors, glitches or malfunctions in the API's interoperability with interfacing components. You will have no plea, claim or demand against us, and we will have no liability to You, for any such interoperability issues.

8.4. WE DO NOT GUARANTEE, NOR DO WE MAKE ANY REPRESENTATION, AND WE PROVIDE NO WARRANTY REGARDING THE ACCURACY, RELIABILITY OR COMPLETENESS OF THE API OR THE DATA OR REGARDING THE EXPECTED BUSINESS RESULTS, OUTCOME OR OPERATIONAL BENEFITS FROM UTILIZING THE API.

8.5. THE API IS PROVIDED TO YOU "AS IS" AND "WITH ALL FAULTS" AND YOUR USE OF THE API IS AT YOUR OWN RISK. WE DISCLAIM ALL WARRANTIES AND REPRESENTATIONS, EITHER EXPRESS OR IMPLIED, WITH RESPECT TO THE API, INCLUDING ANY WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, NON-INFRINGEMENT, TITLE, COMPATIBILITY AND PERFORMANCE.

9. LIMITATION OF LIABILITY

9.1. If the API provided hereunder is subject to an underlying Agreement, then the relevant limitation of liability provisions thereof shall apply also to these Terms. If such API is not subject to an underlying Agreement, then the terms of Section 9.2 - 9.3 below shall apply.

9.2. THIS SECTION 9 SETS OUT HIGHER LOGIC'S TOTAL LIABILITY TO YOU AND THE ORGANIZATION ARISING OUT OF OR IN CONNECTION WITH THESE TERMS OR THE API, WHETHER UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR OTHERWISE AND ALL OTHER LIABILITY OF HIGHER LOGIC TO THE ORGANIZATION IS HEREBY EXCLUDED. IN NO EVENT SHALL HIGHER LOGIC BE LIABLE, WHETHER UNDER CONTRACT, TORT (INCLUDING NEGLIGENCE), STATUTE OR OTHERWISE, FOR ANY INCIDENTAL, SPECIAL, INDIRECT OR CONSEQUENTIAL LOSS OR FOR ANY LOSS OF USE OR DOWNTIME, LOSS OF PROFITS, SAVINGS OR REVENUES, LOSS OF GOODWILL, LOSS OF BUSINESS, LOSS OF OR CORRUPTION TO DATA, ANY DAMAGE RELATING TO THE PROCUREMENT BY THE ORGANIZATION OF ANY SUBSTITUTE SERVICES. FOR THE AVOIDANCE OF DOUBT, NONE OF THE TYPES OF LOSS REFERRED TO IN THE PRECEDING SENTENCE SHALL CONSTITUTE DIRECT LOSS FOR THE PURPOSES OF THESE TERMS.

9.3. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL AND AGGREGATE LIABILITY OF HIGHER LOGIC, ITS AFFILIATES AND ITS AND THEIR EMPLOYEES, DIRECTORS, OFFICERS, SHAREHOLDERS, ADVISORS, AND ANYONE ACTING ON HIGHER LOGIC'S OR THEIR BEHALF, FOR ANY AND ALL DAMAGES TO YOU OR THE ORGANIZATION ARISING OUT OF OR RELATED TO THESE TERMS OR THE API, SHALL BE LIMITED TO ONE HUNDRED DOLLARS ($100).

10. **Indemnity.** Organization agrees to indemnify and hold harmless Higher Logic and its affiliates and its and their directors, officers, employees, and vendors (collectively, the "Higher Logic Indemnified Parties"), upon Higher Logic's request and at Organization's expense, from, and against, any damages, loss, costs, expenses and payments, including reasonable attorney's fees and legal expenses, arising from any claim brought by a third party against such Higher Logic Indemnified Party resulting from (i) Your use of the API and (ii) any breach by Organization of any provision or representation herein.

11. **Governing Law and Venue.** The governing law and court venue provisions of the Agreement shall apply hereto. If no Agreement is applicable, then the following provisions shall apply: Regardless of Your jurisdiction of residence, or the jurisdiction where You engage in business or from which You access the API, Your use of the API and this Agreement will be exclusively governed by and construed in accordance with the laws of the Commonwealth of Virginia, USA, excluding any otherwise applicable provisions of conflict of laws. In the event that a dispute is not settled by negotiations within thirty (30) days, the state courts in the County of Arlington and of the United States District Court for the Northern District of Virginia, respectively, shall have sole and exclusive jurisdiction over any such dispute and the parties hereto waive any objections thereto including on grounds of lack of personal jurisdiction or *forum non-conveniens*.

12. **Assignment**. You may not assign these Terms without Higher Logic's prior written consent. Any purported assignment without our prior written consent is void. To the greatest extent permissible by law, Higher Logic may assign these Terms in their entirety, including all right, duties, liabilities, performances and obligations herein, upon notice to You and without obtaining Your further specific consent, to a third-party. By virtue of such assignment, the

assignee assumes our stead, including all right, duties, liabilities, performances and obligations hereunder, and we are released therefrom.

13. **Relationship of the parties.** The relationship between the parties hereto is strictly that of independent contractors, and neither party is an agent, partner, joint venturer or employee of the other.

14. **Complete Terms and Severability.** These Terms (together with any underlying Agreement) constitute the entire and complete agreement between You and us concerning the subject matter herein and supersede all prior oral or written statements, understandings, negotiations and representations with respect to the subject matter herein. If any provision of these Terms is held invalid or unenforceable, that provision shall be construed in a manner consistent with the applicable law to reflect, as nearly as possible, the original intentions of the parties and the remaining provisions will remain in full force and effect. Higher Logic and the Organization may mutually agree in writing to amend these Terms immediately You if new legislation, statutory instrument or other governmental regulation or the terms under which Higher Logic provides the API and/or accesses the devices make such amendment necessary.

15. **No waiver.** Neither party will, by mere lapse of time, without giving express notice thereof, be deemed to have waived any breach, by the other party, of any terms or provisions herein. The waiver, by either party, of any such breach, will not be construed as a waiver of subsequent breaches or as a continuing waiver of such breach.

16. **Incorporating Agreement.** In the event of a contradiction or inconsistency between these Terms and an underlying Agreement, the Agreement shall govern, but only to the extent of such contradiction or inconsistency.