

Higher Logic, Inc.
Master Subscription Agreement
Last Updated: August 1, 2019

This Master Subscription Agreement ("**Agreement**"), entered into by and between Higher Logic, LLC ("**Higher Logic**"), a Delaware limited liability company, and the customer identified on the signature line ("**Subscriber**"), governs the order, provision and use of the Higher Logic services described on each order form executed by the parties ("**Order Form**") which includes a hyperlink or other reference to this Agreement and/or to which this Agreement is attached, which services (a) may include (i) Higher Logic's cloud-based community platform, (ii) Higher Logic's cloud-based marketing automation and analytics platform, and/or (iii) other Higher Logic cloud-based service offerings described on the Order Form (collectively, the "**Software Services**") and (b) may include Professional Services (as defined below). From time to time, Higher Logic and Subscriber may mutually agree to add modules to, and may adjust quantities and other terms set forth in, an Order Form by executing a written amendment to the Order Form or entering into a new Order Form. Each Order Form, and any and all amendments thereto, are and shall be incorporated herein by reference. In the event of any conflict between the terms of this Agreement and the terms of an Order Form, the terms of the Agreement shall control unless the Order Form indicates the specific provision(s) of this Agreement that it overrides. Subscriber's execution of an Order Form constitutes a binding noncancelable commitment to subscribe for the Software Services and Professional Services described on the Order Form under the terms and conditions of this Agreement.

1. Access Right and Restrictions; Support Services; Professional Services.

1.1 Software Services. Subject to Subscriber's compliance with the terms of this Agreement and the Order Form, including, without limitation, the timely payment of Fees as described in Section 5 ("**Fees and Payment**"), Higher Logic will make the Software Services available to Subscriber and its Users during the Term. Subscriber and its Users may access and use the Software Services solely for Subscriber's own business purposes and only in accordance with the published documentation for the Software Services and the terms of this Agreement and the Order Form. For purposes of this Agreement, "**Users**" means and includes Subscriber's and its Affiliates' employees, consultants and contractors and third party users authorized by Subscriber and its Affiliates and for which an account has been created in the Software Services. User accounts are on a "named user" basis and may not be shared or transferred except that Subscriber may transfer a User account to a new User if the old User is no longer permitted to use the Software Services. For purposes of this Agreement, "**Affiliate**" means any entity owned or controlled by, owning or controlling, or under common ownership or control with a party. "Control," for purposes of this definition, means ownership or control, directly or indirectly, of more than 50% of the voting interests of the subject entity.

1.2 Restrictions. Subscriber shall not, directly or indirectly, and shall not permit any third party to: (i) license, sublicense, sell, resell, transfer, lease, rent, assign, distribute or otherwise make available to any third party, other than its Users, the Software Services; (ii) copy, modify or make derivative works of the Software Services; (iii) reverse engineer, disassemble or reverse compile the Software Services; (iv) access or use the Software Services to provide messaging services for any third parties whether as a service bureau, application service provider or otherwise; (v) access or use the Software Service in order to design, develop, build, market or support a competitive product or service or a product or service using similar ideas, features, functions or graphics of the Software Services; (vi) attempt to circumvent the license control and protection mechanisms within the Software Services or access or use Software Services or functionality of the Software Services to which Subscriber has not subscribed; (vii) access or use the Software Services in violation of Applicable Laws (as defined in Section 1.3); or (viii) permit competitors of Higher Logic to access and use the Software Services.

1.3 Acceptable Use; Terms of Use. Subscriber shall comply and shall require its Users to comply with Higher Logic's [Acceptable Use Policy](#) as the same may be updated from time to time. Further, Subscriber shall not, directly or indirectly, and shall require that its Users do not, access or use the Software Services, in whole or in part: (i) except as expressly provided in this Agreement or in an Order Form; (ii) to send spam or otherwise duplicative or unsolicited messages or other unsolicited communications; (iii) to harvest or collect e-mail addresses or other contact information of third parties by any means for the purposes of sending spam or otherwise duplicative or unsolicited e-mails or other unsolicited communications; (iv) to send or store infringing, obscene, threatening, libelous, or otherwise unlawful or tortious material, including material harmful to children or that violates of third party privacy rights; (v) to send or store material containing viruses, security vulnerabilities, worms, Trojan horses or other harmful or malicious computer code, files, scripts, agents or programs; (vi) to attempt to probe, scan, or test (including without limitation stress testing or penetration testing) the vulnerability of any system or network associated with the Software Service or breach any security or authentication measures; (viii) to monitor availability, performance or functionality, for any benchmarking purposes, or for any competitive

purposes; or (ix) in any unlawful manner or in any other manner that could damage, disable, overburden or impair the Software Services. Further, Subscriber shall not, directly or indirectly, and shall not permit any third party to (i) use automated scripts to collect information (such as java script files) from or otherwise interact with the Software Services; (ii) interfere with or disrupt the integrity or performance of the Software Services or the data contained therein; or (iii) attempt to gain unauthorized access to the Software Services or its related systems or networks. Subscriber acknowledges and agrees that, in the event of a User violation of any of the foregoing restrictions threatens to harm the Software Services, Higher Logic or its customers that is not cured within 48 hours of receipt of written notice from Higher Logic (which notice may be provided via email), Higher Logic shall have the right to suspend, restrict or terminate any User account associated with the restricted activity, in addition to any other remedies under applicable law or at equity. Higher Logic will restore the User account once the User cures the violation and agrees to cease such activity. Subscriber shall, and shall require that each User shall, abide by all applicable local, state, national and foreign laws, rules, regulations, guidelines, directives, treaties and regulations of all government authorities (collectively, “**Applicable Laws**”), including, but not limited to, those related to data privacy, international communications and the transmission of technical or personal data. Subscriber is responsible for establishing and enforcing terms of use and privacy policies applicable to use of the Software Services by Users consistent with the terms of this Agreement, which terms of use and privacy policies may be provided by Subscriber to its Users via click-through through the Software Services.

1.4 Third-Party Products. Higher Logic may offer Subscriber the ability to use third party applications, data sources and software services which Subscriber separately subscribes to from the third-party provider (“**Third Party Products**”) with the Software Services. Subscriber acknowledges and agrees (i) the use of Third Party Products may require Subscriber to agree to separate terms and conditions with the third- party provider of the Third Party Products which will govern Subscriber’s use of the Third Party Products and the third party provider’s access to and use of Subscriber Data; (ii) that the interoperation Third Party Products with the Software Services will enable the third-party provider of the Third Party Products to access Subscriber Data to the extent required for the interoperation with Software Services; and (iii) the Third Party Products is made available by the third-party provider, not Higher Logic, and, accordingly, Higher Logic is not responsible for providing any warranties or technical support for Third Party Product and is not responsible for Subscriber’s or its Users’ enablement, access to or use of Third Party Products, nor for any damage or loss caused or alleged to be caused by or in connection with Subscriber’s or its Users’ enablement, access or use of, any Third Party Products. Subscriber acknowledges that operation of the Software Service may rely upon the integration and interface of the Software Services with those Third Party Products supplied and maintained by Subscriber. In the event of any change to such Third Party Products or any interfaces to such Third Party Products that have been supplied or maintained by Subscriber, the Software Services may cease to integrate with such Third Party Products. Higher Logic agrees to undertake commercially reasonable efforts to update, modify and/or adapt the Software Services to re-enable such integration after a change; provided, that (i) Subscriber agrees to provide Higher Logic with as much advance notice as possible of a change, but in any event at least 60 days prior notice, and (ii) if Higher Logic will incur engineering time or cost, Higher Logic and Subscriber will enter into a Statement of Work pursuant to Section 1.6 whereby Higher Logic will undertake such effort as Professional Services at Higher Logic’s then-current hourly rate for such Professional Services.

1.5 Support Requests. After the date on which the Software Services are first made available to Subscriber, Subscriber may submit support requests by submitting a support ticket through the Higher Logic Users' Group (HUG) website at support@higherlogic.com without charge. Higher Logic’s standard support hours are Monday through Friday from 8 a.m. to 6 p.m. Eastern Time. Requests for Professional Services, such as requests for custom reports, or requests for assistance with data integrations, data migrations or Third Party Product integrations, that are submitted through the HUG website will be billed at Higher Logic’s then-current hourly rate for such services, subject to any applicable minimum charge, and Higher Logic and Customer shall enter into an Order Form or Statement of Work with respect to such Professional Services and the fees payable therefor.

1.6 Professional Services. Higher Logic shall perform professional services relating to the Software Services (the “**Professional Services**”) in the form, type and manner provided in the Order Form and any statement of work entered into by the parties for such services (a “**Statement of Work**”). Professional Services may include, without limitation, data integrations, data migrations, custom reporting, and/or Third Party Product integrations. All Order Forms and Statements of Work entered into by the parties are and shall be subject to all terms and conditions of this Agreement and are incorporated herein by reference. In the event of any conflict between the terms of this Agreement and the terms of the Order Form or Statement of Work, the terms of the Agreement shall control unless the Order Form or Statement of Work indicates the specific provision(s) of this Agreement that it overrides. Each Order Form and Statement of Work will include the particulars of each Professional Services engagement. Subscriber will timely provide all assistance reasonably requested by Higher Logic in connection with the Professional Services.

2. User Accounts; Availability; Updates.

2.1 User Accounts. Higher Logic shall provide Subscriber with an administrator password and login code, and Subscriber shall authorize each User's access to a User account (a "**User Account**") for the Software Services through an Internet browser interface with a unique user ID and password for each User. Subscriber will require each User to: (i) keep its user ID and passwords used to access its User Account and the Software Services confidential and (ii) not authorize any third party to access or use the Software Services on the User's behalf. Subscriber may, at Subscriber's sole discretion, elect to configure the Software Services to provide Higher Logic personnel access to Subscriber's Software Services environment. Subscriber shall be solely responsible for: (i) all activity occurring under each User Account, including without limitation all costs, fees, liabilities or damages incurred through use of each User Account, and (ii) the security and confidentiality of each user ID and password. Subscriber acknowledges that Subscriber and its Users will need to be able to access and use the Internet in able to access and use the Software Services and that Higher Logic is not responsible for providing any hardware, software and other equipment necessary for Subscriber or its Users to connect to, access or use the Internet.

2.2 Service Availability. Higher Logic will use its commercially reasonable efforts to ensure that the Software Services have monthly availability of at least 99.5% excluding downtime for scheduled maintenance and downtime beyond the reasonable control of Higher Logic. Higher Logic will monitor availability of the Software Services on a 24x7x365 basis. If the Software Services have monthly availability below 99% in any two out of six months during a twelve-month period, Subscriber's sole and exclusive remedy shall be for Subscriber to terminate the Agreement by providing written notice to Higher Logic within thirty (30) days from the end of the second month.

2.3 Updates. The Software Services will include all updates to the Software Services made generally commercially available by Higher Logic to its customers of the Software Services without charge. Higher Logic retains the right in its sole discretion, at any time, to change the features, functionality, design, components, and/or specifications of the Software Services or any components thereof and/or discontinue the sale or availability of the Software Services or any component thereof without liability to Subscriber or its Users; provided, that if any such changes materially adversely decreases the functionality of the Software Services, Subscriber shall have the right to terminate this Agreement by providing Higher Logic with written notice within thirty (30) days from the date of the change or discontinuation, as applicable.

3. E-Mail Marketing Content. Subscriber is solely and exclusively responsible for the content of all messages, Subscriber e-mailing lists and Subscriber mailings and compliance with Applicable Laws and Higher Logic's anti-spam policy at <https://www.higherlogic.com/resources/anti-spam-policy> as the same may be updated from time to time to conform to Applicable Laws. Subscriber is responsible for ensuring that it has obtained all third party licenses, consents and/or permissions that may be necessary or appropriate with respect to such content, lists and mailings, including without limitation any required consents with respect to personal information and personal data of recipients. Subscriber agrees to "unsubscribe" or otherwise remove any recipient from its e-mailing lists immediately upon receipt of a request from a recipient or Higher Logic to do so. Subscriber agrees to import into the Software Services any existing unsubscribe and/or suppression lists prior to publishing a mailing. All mailings sent by Subscriber shall include an "unsubscribe" message on the bottom of the mailing and, unless otherwise requested by Subscriber, will include a Higher Logic logo.

4. Data Rights.

4.1 Subscriber Data. While using the Software Services, Subscriber and Users may have the opportunity to input data, information and materials ("**Subscriber Data**"). All Subscriber Data shall remain the property of Subscriber and Subscriber reserves all rights therein and thereto, subject to the rights and licenses granted herein. Subscriber hereby grants to Higher Logic a non-exclusive, royalty-free, worldwide right and license to use, copy, and display Subscriber Data for the sole purposes of providing the Software Services to Subscriber and its Users and otherwise in accordance with this Agreement. Subscriber agrees that Higher Logic may use its third-party contractors and services providers to exercise the rights and licenses granted to Higher Logic in this Section solely in connection with providing the Software Services to Subscriber and its Users.

4.2 Sensitive Personal Information. Notwithstanding any provision to the contrary in the Agreement, Subscriber acknowledges and agrees that use of the Software Service to transmit, process or store Sensitive Personal Information (as defined below) is unnecessary for use of the Software Services and therefore Subscriber shall be solely responsible for any such use of the Software Services by Subscriber or its Users, and Higher Logic shall bear no responsibility,

risk or liability for same. “**Sensitive Personal Information**” shall be defined as (a) social security numbers; (b) passport numbers or other government issued id numbers, date of birth and/or gender, except solely to the extent required by applicable regulations of the Department of Homeland Security or other government regulatory body; (c) health or medical information (other than food allergies or medical contact information); (d) financial account information; must be protected in accordance with specific or heightened security requirements imposed by Applicable Laws or industry standards; (e) would require notification to government agencies, individuals or law enforcement if subject to unauthorized access, use or disclosure; (f) reveals racial or ethnic origin, political opinions, religious or philosophical beliefs, trade-union membership, sex orientation or activities, or genetic or biometric data; or (g) other information which a reasonable person would recognize as being highly sensitive (but excluding, for avoidance of doubt, contact information such as name, mailing address, IP address, email address, and phone number). Further, by using the Software Services, Subscriber confirms that it will not input, and will not solicit Users to input, Sensitive Personal Information or otherwise use the Software Services in a manner that could give rise to obligations under Applicable Laws relating to Sensitive Personal Information.

4.3 Subscriber Responsibilities. The parties understand and agree that Subscriber shall have sole responsibility for: (a) the accuracy, quality, integrity, legality, reliability, appropriateness, and intellectual property ownership or right to use all Subscriber Data; (b) the configuration of the Software Services with respect to Subscriber Data; (c) Subscriber's and each User's deletion of, destruction of or failure to store any Subscriber Data; (d) requiring that Users do not provide Subscriber Data that contains any Sensitive Data; and (e) enforcing the terms and conditions that govern each User's use of the Software Services, as applicable. In addition, Subscriber hereby represents, warrants and covenants that all Subscriber Data was and will be created, collected, used, disclosed, maintained, stored and transmitted by Subscriber in compliance with all Applicable Laws. Subscriber shall not, and shall cause each User to not, provide export-controlled material, provide export-controlled services, or engage with prohibited third parties pursuant to this Agreement. In relation to all personal information and personal data comprised within any Subscriber Data, Subscriber represents and warrants that such personal information and personal data shall have been obtained and supplied to Higher Logic in compliance with applicable data protection legislation, including but not limited to, Subscriber having obtained all required consents from Users that are necessary to permit Higher Logic to provide the Software Services, to include, without limitation, (i) parental or guardian consent for Users under the age of 16, and (ii) consent to Higher Logic's tracking, recordation, processing, collection, use, and disclosure of Subscriber Data and other information relating to Users' use of the Software Services.

4.4 Data Retrieval and Deletion. Upon termination or expiration of this Agreement, and provided Subscriber makes a written request within thirty (30) days following such termination or expiration of this Agreement, Higher Logic will make available to Subscriber a file of the Subscriber Data then stored within the Software Services in Higher Logic's standard .csv format free of charge; provided, that, if Subscriber requests that Higher Logic transform the Subscriber Data into a Subscriber-specific format, Subscriber will pay Higher Logic's fee for such Professional Services at Higher Logic's then-current hourly rate based on the hours expended to create such custom report. Further, upon termination or expiration of this Agreement, Higher Logic shall have no obligation to retain any Subscriber Data and will delete the Subscriber Data not later than thirty (30) days following such expiration or termination unless Higher Logic is required to retain such Subscriber Data by Applicable Laws or pursuant to a court order or request of a regulatory authority.

4.5 Derived Data. “**Derived Data**” means any aggregated, anonymized information, data and/or metadata that (i) is not specific to a person, does not include personally identifiable information, personal information or personal data, and cannot be used, alone or in conjunction with other information, to identify any specific person and (ii) is derived or generated from the operation, use, and/or provision of the Software Services along with any associated databases, algorithms, external data, calculations and other processes, methods or tools used by Higher Logic and/or the Software Services and/or the analysis of any publicly available or licensed information or data (including without limitation community data). For example, Derived Data may include performance metrics for the Software Services and/or statistical information such as the number of records, the number and types of transactions, types of configurations, and/or types of reports processed by the Software Services.

5. Fees and Payment.

5.1 Fees; Invoicing; Payments. Unless otherwise provided in an applicable Order Form, Higher Logic shall invoice Subscriber annually in advance for any recurring amounts (“Recurring Fees”) and any one time fees (“One Time Fees”) payable by Subscriber pursuant to an Order Form. Subscriber shall pay all amounts owed to Higher Logic (collectively, Recurring Fees and One Time Fees, the “**Fees**”) within thirty (30) days of Subscriber's receipt of Higher Logic's invoice, without setoff, counterclaim or deduction, except for amounts disputed in good faith by Subscriber pursuant to Section 5.2

below. All Fees are payable in United States Dollars and, except as expressly otherwise provided herein, are nonrefundable. If the Initial Term is for more than one year, for each year of the Initial Term, Higher Logic may increase the Recurring Fees by up to the percentage specified in the Order Form or, if not specified in the Order Form, five percent (5%) over the prior year's Recurring Fees. Sales, promotions, credits and other special discounted pricing offers are temporary and any such discounted pricing offers will not apply to any Renewal Term. In addition, Higher Logic reserves the right to increase the Fees payable for a Renewal Term upon written notice (which may be provided by email) to Subscriber.

5.2 Disputes; Suspension Right. Subscriber must notify Higher Logic in writing of any dispute within fifteen (15) days of Subscriber's receipt of an invoice, setting forth in reasonable details grounds for disputing the invoice. Higher Logic will investigate and resolve any dispute raised by Subscriber within sixty (60) days. If the parties determine that Subscriber owes any portion of the disputed amount, Subscriber shall have fifteen (15) days from the date of the resolution of the dispute to pay such amount, which will not bear interest or late charges until the expiration of the fifteen (15) day period. Subscriber understands and agrees that its failure to pay undisputed Fees when due shall give Higher Logic the right to suspend access to the Software Services until such nonpayment is cured and may be treated as a material breach of this Agreement pursuant to the terms of Section 6 ("**Term and Termination**").

5.3 Taxes. If Higher Logic has the legal obligation to pay or collect taxes for which Subscriber is responsible, including but not limited to, sales, use, transfer, privilege, excise, and all other taxes and duties ("**Taxes**") that are levied or imposed by the reason of performance of Higher Logic under this Agreement, the appropriate amount shall be invoiced to and paid by Subscriber, unless Subscriber provides Higher Logic with a valid tax exemption certificate authorized by the appropriate taxing authority and Subscriber agrees to pay, and to indemnify and hold Higher Logic harmless from, any such Taxes excluding taxes based on Higher Logic's net income, employees or property.

6. Term and Termination.

6.1 Term. The initial term of this Agreement shall commence upon the signature date of the Order Form which includes a hyperlink or other reference to this Agreement and/or to which this Agreement is attached and, unless earlier terminated as provided herein, shall be co-terminus with the term set forth in the Order Form (the "**Initial Term**"). Following expiration of the Initial Term, this Agreement and the applicable Order Form shall thereafter automatically renew and continue in one (1) year increments (each a "**Renewal Term**" and together with the Initial Term, the "**Term**"), unless either party gives the other party at least sixty (60) days' written notice of non-renewal prior to the expiration of the Initial Term or Renewal Term, as the case may be. Order Forms and Statements of Work for Professional Services shall have the term specified therein and shall continue until the earlier of the date this Agreement terminates or expire or the date the Professional Services Order Form or Statement of Work, as applicable, terminates or expires.

6.2 Termination or Suspension for Breach. Either party may terminate an Order Form, a Statement of Work or this Agreement upon written notice to the other party if the other party materially breaches the Order Form, Statement of Work or this Agreement and fails to cure such breach within thirty (30) days of receipt of written notice describing the breach in reasonable detail. Non-payment by Subscriber of any amount due under an Order Form or Statement of Work that has not been cured by the date that is ten (10) business days past the due date therefor shall be deemed to constitute a material breach. "business day" refers to any day other than a weekend, holiday or other day on which banking institutions in New York City are authorized or obligated by law or executive order to close. Higher Logic may elect to immediately suspend the Software Services during the pendency of any material breach; provided that any such suspension shall not constitute a waiver of Higher Logic's right to terminate an Order Form, Statement of Work or this Agreement for material breach in accordance with the terms hereof.

6.3 Effect of Termination. Upon expiration or termination of this Agreement, all Order Forms shall immediately terminate and Subscriber and its Users shall cease all use of the Software Services. The termination of this Agreement, whether for breach or otherwise, shall not affect any obligations or liabilities of the parties arising prior to the date of termination, including, without limitation, Subscriber's obligation to pay undisputed Fees. Sections 4 ("**Data Rights**"), 5 ("**Fees and Payment**"), 6.3 ("**Effect of Termination**"), Section 7.2 ("**Disclaimers**"), Section 8 ("**Intellectual Property; Indemnification**"), 9 ("**Confidential Information**"), Section 11 ("**Limitation of Liability**"), and Section 12 ("**General**") shall survive any termination or expiration of this Agreement and shall continue to bind the parties.

7. Warranty.

7.1 Software Services Warranty. Higher Logic represents and warrants that, during the Term, the Software Services will include the functionality set forth in the published specifications for the Software Services. As Subscriber's sole and exclusive remedy for any breach of the foregoing limited warranty, Higher Logic will, in its sole discretion, either (i) use commercially reasonable efforts to remedy the nonconformity within a commercially reasonable period of time or (ii) terminate this Agreement and refund the prepaid Recurring Fees for the unexpired remaining unused Term. The Higher Logic warranties set forth above shall not apply to any nonconformities resulting from Subscriber's or its Users' acts or omissions or noncompliance with this Agreement or resulting from any hardware, software, data, materials or other products or services not developed or provided by Higher Logic.

7.2 Disclaimers. EXCEPT AS OTHERWISE EXPRESSLY SET FORTH HEREIN, THE SOFTWARE SERVICES AND PROFESSIONAL SERVICES ARE PROVIDED STRICTLY ON AN "AS IS" BASIS AND ALL REPRESENTATIONS AND WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING WITHOUT LIMITATION, ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS, ARE HEREBY DISCLAIMED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. HIGHER LOGIC MAKES NO REPRESENTATION, WARRANTY, OR GUARANTY AS TO THE RELIABILITY, SECURITY, QUALITY, SUITABILITY, AVAILABILITY, ACCURACY OR COMPLETENESS OF THE SOFTWARE SERVICES OR PROFESSIONAL SERVICES OR ANY MATTER WHATSOEVER. HIGHER LOGIC AND ITS LICENSORS DO NOT REPRESENT OR WARRANT THAT: (A) THE USE OF THE SOFTWARE SERVICES WILL BE UNINTERRUPTED OR ERROR-FREE; (B) THE SOFTWARE SERVICES WILL MEET SUBSCRIBER'S REQUIREMENTS OR EXPECTATIONS; (C) ERRORS OR DEFECTS IN THE SOFTWARE SERVICES WILL BE CORRECTED; OR (D) THE SOFTWARE SERVICES OR THE SERVER(S) THAT HOST THE SOFTWARE SERVICES ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. IN ADDITION, SUBSCRIBER ACKNOWLEDGES THAT SOFTWARE SERVICES FEATURES THAT INTEROPERATE WITH THIRD PARTY PRODUCTS DEPEND ON THE CONTINUING AVAILABILITY OF THOSE THIRD PARTY PRODUCTS AND ANY RELATED INTEGRATION APIS ON COMMERCIALY REASONABLE TERMS. IF THIRD PARTY PRODUCTS OR THEIR APIS BECOME UNAVAILABLE FOR ANY REASON, THE SOFTWARE SERVICES MAY CEASE TO INTEROPERATE WITH SUCH THIRD PARTY PRODUCTS AND THE FEATURES AND FUNCTIONALITY OF THE SOFTWARE SERVICES THAT DEPEND ON THE AVAILABILITY OF SUCH THIRD PARTY PRODUCTS MAY CEASE TO BE AVAILABLE. HIGHER LOGIC DISCLAIMS ALL WARRANTIES AND LIABILITY WITH RESPECT TO THIRD PARTY PRODUCTS.

8. Intellectual Property; Indemnification.

8.1 Software Services IP. Subscriber acknowledges and agrees that Higher Logic, and where applicable its licensors, own all right, title and interest, including all related intellectual property rights, in and to the Software Services and Derived Data, including without limitation all technology, know-how, techniques, algorithms, methodologies, processes and tools used to provide or contained within the Software Services, all new modules, new versions, improvements, modifications, enhancements and upgrades to the Software Services, and all derivative works of the Software Services, all of which constitute valuable trade secrets and Confidential Information of Higher Logic and/or its licensor. Higher Logic and its licensors reserve all rights therein and thereto which are not expressly granted to Subscriber in this Agreement. Subscriber hereby grants Higher Logic a perpetual, irrevocable, fully paid up, royalty free, worldwide, nonexclusive right and license (with right of sublicense) to use, without restriction, any and all feedback, suggestions and other recommendations provided by Subscriber with respect to the Software Services ("Feedback"). The parties will not jointly develop any intellectual property hereunder and the parties will enter into a separate written agreement governing any joint development activities prior to the start of any such activities.

8.2 Indemnification By Higher Logic. Higher Logic will defend (at Higher Logic's expense) Subscriber from any third party claims, demands, suits or proceedings brought against Subscriber alleging that Subscriber's use of the Software Services in accordance with this Agreement infringes any copyright or trade secret right arising under United States law and Higher Logic shall pay all damages (including reasonable attorneys' fees) that are finally awarded by a court of competent jurisdiction or agreed to by Higher Logic in settlement of such claims. If Subscriber is enjoined from using the Software Services, or Higher Logic reasonably believes Subscriber will be enjoined, Higher Logic shall have the right, at its sole option, to obtain for Subscriber the right to continue use of the Software Services or to replace or modify the Software Services so that they are no longer infringing. If neither of the foregoing options is reasonably available to Higher Logic, then Higher Logic may terminate this Agreement and refund to Subscriber any prepaid Recurring Fees for the unexpired remaining unused Term. Notwithstanding the foregoing, Higher Logic shall not be required to indemnify Subscriber with respect to any claim based upon or arising out of: (a) any use of the Software Services not in accordance with this Agreement; (b) the combination,

operation or use of the Software Services with other product, equipment, business method, software or data not developed by Higher Logic; (c) any modifications to the Software Services made by any person other than Higher Logic or its authorized agents or subcontractors; (d) Higher Logic's compliance with any designs, specifications, or instructions provided by Subscriber or a third party on Subscriber's behalf or use of any Feedback; or (e) any Subscriber Data or any Subscriber content, mailing lists, or marketing materials. This Section 8.2 constitutes Subscriber's sole and exclusive remedy and Higher Logic's only liability in respect of claims of intellectual property infringement.

8.3 Indemnification By Subscriber. Subscriber will defend (at Subscriber's expense) Higher Logic from any third party claims, demands, suits or proceedings brought against Higher Logic arising out of or related to (i) Subscriber Data and/or any Subscriber content, mailing lists, or marketing materials, (ii) Subscriber's or its Users' use of the Software Services not in accordance with this Agreement, (iii) Higher Logic's compliance with any designs, specifications, configuration options or instructions provided by Subscriber or a third party on Subscriber's behalf, or (iv) Sensitive Data. Subscriber shall pay all damages (including reasonable attorneys' fees) that are finally awarded by a court of competent jurisdiction or agreed to by Subscriber in settlement of such claims.

8.4 Indemnification Process. The foregoing obligations are conditioned on the indemnified party: (a) notifying the indemnifying party promptly in writing of such action, provided, that any failure to promptly notify the indemnifying party shall not relieve the indemnifying party of its obligations except to the extent it was unduly prejudiced; (b) giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, provided that any settlement shall fully release the indemnified party from liability and shall not impose any obligations on the indemnified party without the indemnified party's consent; and (c) cooperating and, at the indemnifying party's written request and expense, assisting in such defense. The indemnifying party will not reimburse the indemnified party for any expenses incurred by the indemnified party without the prior written approval of the indemnifying party. The indemnified party will have the right to participate in the defense and settlement of a claim at the indemnified party's expense.

9. Confidential Information.

9.1 Definition. Higher Logic and Subscriber understand and agree that (a) any software utilized by Higher Logic in the provision of the Software Services and its respective source code; (b) Subscriber Data; (c) each party's business or technical information, including, but not limited to, mailing lists, documentation, training materials, any information relating to software plans, designs, costs, prices and names, finances, marketing plans, business opportunities, personnel, research, development or know-how that is designated by the disclosing party as "confidential" or "proprietary" or the receiving party knows or should reasonably know is confidential or proprietary, shall be deemed "Confidential Information." Nothing in this Agreement will prohibit or limit the receiving party's use of the disclosing party's Confidential Information that the receiving party can evidence by its written records (a) was previously known to it without an obligation not to disclose such information, (b) was independently developed by or for it without use of the disclosing party's Confidential Information, (c) was acquired by it from a third party which was not, to the receiving party's knowledge, under an obligation not to disclose such information, or (d) was or becomes publicly available through no breach of this Agreement.

9.2 Protection. The receiving party will protect the confidentiality of the disclosing party's Confidential Information in the same manner that it protects the confidentiality of its own similar information, but in no event using less than a reasonable standard of care. The receiving party will restrict access to the disclosing party's Confidential Information to those of the receiving party's and its Affiliates' employees and contractors who have a need to know such Confidential Information in connection with performing its obligations or exercising its rights under this Agreement, provided that such parties are bound by obligations of confidentiality at least as restrictive as the terms of this Section. The foregoing obligations shall survive any expiration or termination of this Agreement. Notwithstanding the foregoing, the parties shall be entitled to (i) access, use and process the Subscriber Data and Derived Data as set forth in Section 4 and (ii) disclose the Confidential Information of the other party in the event such disclosure is required to be disclosed pursuant to court or government agency order or rule, provided, that, before disclosing any Confidential Information, such party provides reasonable notice of such order or rule, giving the other party opportunity to object to or limit such disclosure unless the party is prohibited from providing such notice under the applicable order or rule. The terms of this Agreement will be treated as Confidential Information, and neither party will disclose any terms of this Agreement to any third party other than to (a) its attorneys, accountants and other professional advisers under a duty of confidentiality, or (b) interested parties under a duty of confidentiality in connection with a proposed merger, acquisition, or asset purchase or any debt or equity financing or any public offering of shares.

9.3 Publicity. Higher Logic may use Subscriber's name, logo, and trademarks on the Higher Logic websites for advertising and marketing the Software Services. Subscriber and Higher Logic may publicly refer to the other party as a service provider and customer, respectively. A party may revoke its consent to use its name, logo or trademarks by written notice to the other party and the other party will promptly cease use of, and remove any references to, the revoking party's name, logo and trademarks.

10. Data Security and Privacy.

10.1 Data Security. Higher Logic shall maintain appropriate technical and organizational measures to protect Subscriber Data from accidental or unlawful destruction, loss, alteration, unauthorized disclosure ("**Higher Logic Data Security Controls**"). To the extent that Higher Logic processes any Personal Data (as defined in the Higher Logic Data Processing Agreement) as part of Subscriber Data that is subject to the General Data Protection Regulation (the "GDPR"), on Subscriber's behalf, in the provision of the Software Services hereunder, the terms of the Higher Logic Data Processing Agreement set forth at <https://www.higherlogic.com/dpa>, which are hereby incorporated herein by reference, shall apply. If Subscriber is located in the European Union or the European Economic Area, the Standard Contractual Clauses adopted by the European Commission, attached to the Higher Logic Data Processing Agreement, which provide adequate safeguards with respect to the Personal Data processed by Higher Logic under this Agreement and pursuant to the provisions of the Higher Logic Data Processing Agreement, shall apply.

10.2 Notification of Security Breach. If either party believes that a Security Breach (as defined below) has occurred, such party must promptly notify the other party as promptly as possible without undue delay, but in any event within forty-eight (48) hours following confirmation of the breach or any shorter period as may be required by Law. Additionally, each party will reasonably assist the other party in mitigating any potential damage. As soon as reasonably practicable after any such Security Breach, Higher Logic shall conduct an investigation and, upon request, will share the results of its investigation and its remediation plan with Customer. "**Security Breach**" means unauthorized access to or use of Subscriber Data in Higher Logic's custody or control.

11. Limitation of Liability.

11.1 INDIRECT DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR ANY THIRD PARTY FOR ANY INDIRECT, PUNITIVE, SPECIAL, EXEMPLARY, INCIDENTAL, OR CONSEQUENTIAL DAMAGES (INCLUDING, WITHOUT LIMITATION, LOSS OF REVENUE, PROFITS, USE OR OTHER ECONOMIC ADVANTAGE, LOSS OF GOODWILL, LOSS OF OR INTERRUPTION OF USE, LOSS OR CORRUPTION OF DATA, OR COSTS TO PROCURE SUBSTITUTE GOODS OR SERVICES) ARISING OUT OF, OR IN ANY WAY CONNECTED WITH, THIS AGREEMENT OR THE SOFTWARE SERVICES OR PROFESSIONAL SERVICES, WHETHER ARISING AS UNDER STATUTE, CONTRACT, TORT (INCLUDING NEGLIGENCE) OR UNDER ANY OTHER THEORY OF LIABILITY, EVEN IF ADVISED BEFOREHAND OF THE POSSIBILITY OF SUCH DAMAGES OR IF SUCH DAMAGES WERE REASONABLY FORSEEABLE.

11.2 LIMIT ON CUMULATIVE LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL THE TOTAL CUMULATIVE LIABILITY OF A PARTY FOR ALL CLAIMS ARISING UNDER AND DURING THE ENTIRE TERM OF THIS AGREEMENT AND FOR ANY ACTION ARISING FROM OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY SUBSCRIBER TO HIGHER LOGIC UNDER THIS AGREEMENT FOR THE SOFTWARE SERVICES OR THE PROFESSIONAL SERVICES, AS APPLICABLE, THAT GAVE RISE TO THE CLAIM DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE DATE ON WHICH THE CLAIM AROSE. THE EXISTENCE OF MULTIPLE CLAIMS WILL NOT INCREASE THIS LIMIT.

11.3 Exclusions. The limitations set forth in Sections 11.1 and 11.2 shall not apply to (i) Subscriber's failure to pay undisputed Fees, (ii) liability arising from a party's gross negligence or willful misconduct, (iii) a party's violation or misappropriation of the other party's intellectual property rights, or (iv) Subscriber's breach of Sections 1.1, 1.2, 1.3 or 4.3.

11.4 Data Security Breach Remediation Obligations. The limitation set forth in Section 11.2 shall not apply to Higher Logic's liability for a Security Breach caused by Higher Logic's breach of its data security and/or privacy obligations under this Agreement (a "**Higher Logic Security Breach**"), and instead Higher Logic's sole liability shall be to

reimburse Subscriber for the reasonable and documented out of pocket costs incurred by Subscriber in connection with the following items: (a) conducting any required forensic investigation to determine the cause of the Higher Logic Security Breach, (b) providing notification of the Higher Logic Security Breach to applicable government and relevant industry self-regulatory agencies, and to individuals whose personal information may have been accessed or acquired, and (c) if and to the extent Higher Logic has approved, in writing, of the use by Subscriber and its Users of controls for the input of financial and credit information, providing credit monitoring service for one year to individuals whose personal information relating to such financial and credit information may have been accessed or acquired through the Higher Logic Security Breach; provided that the foregoing shall not, in any event, exceed the greater of (x) two times the annual Recurring Fees paid by Subscriber for the Software Services affected by the Higher Logic Security Breach in the twelve months immediately preceding the date of Higher Logic Security Breach and (y) \$100,000 in the aggregate. For the avoidance of doubt, Higher Logic shall have no liability for any acts or omissions of Subscriber or its Users that result in a Security Breach.

11.5 THE PARTIES ACKNOWLEDGE THAT THIS SECTION 11 REFLECTS THE AGREED UPON ALLOCATION OF RISK BETWEEN THE PARTIES. THIS LIMITATION OF LIABILITY WILL APPLY NOTWITHSTANDING THE FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY. To the maximum extent permitted by applicable law and except for actions for non-payment or breach of either party's intellectual property rights, no action (regardless of form) arising out of this Agreement may be commenced by either party more than one (1) year after the cause of action has accrued.

12. General.

12.1 Governing Law and Venue. This Agreement shall be governed in all respects by the laws of the State of Virginia, excluding its conflicts of law principles. The United Nations Convention on Contracts for the International Sale of Goods shall not apply to this Agreement. The state and federal courts located in the State of Virginia, shall have sole and exclusive jurisdiction over any disputes arising hereunder, and the parties hereby irrevocably consent to the sole and exclusive personal jurisdiction of such courts. Each party waives any objection (on the grounds of lack of jurisdiction, forum non conveniens or otherwise) to the exercise of such jurisdiction over it by any such courts.

12.2 Relationship of the Parties. Nothing contained herein shall be construed as creating any agency, partnership, or other form of joint enterprise between the parties.

12.3 Force Majeure. Neither party shall be liable hereunder by reason of any failure or delay in the performance of its obligations hereunder (except for the payment of money) on account of strikes, shortages, riots, insurrection, fires, flood, storm, explosions, acts of God, war, governmental action, labor conditions, earthquakes, material shortages, failures of ISPs, utilities or telecommunications providers, or any other cause which is beyond the reasonable control of such party.

12.4 Waiver; Severability. The failure of either party to require performance by the other party of any provision hereof shall not affect the full right to require such performance at any time thereafter; nor shall the waiver by either party of a breach of any provision hereof be taken or held to be a waiver of the provision itself. In the event that any provision of this Agreement shall be unenforceable or invalid under any applicable law or be so held by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such unenforceable or invalid provision.

12.5 Entire Agreement. This Agreement, the Order Form, and any Statements of Work, exhibit, schedule, attachment or policy hereto, completely and exclusively state the agreement of the parties regarding the subject matter hereof, and supersedes and replaces, all prior and contemporaneous proposals, agreements, and other communications between the parties, oral or written, regarding such subject matter. The section headings appearing in this Agreement are inserted only as a matter of convenience. This Agreement may not be modified except by a writing signed by both parties. Any purported oral amendment to this Agreement shall have no effect whatsoever. The terms on any purchase order or similar document submitted by Subscriber to Higher Logic will have no effect and are hereby rejected. Subscriber agrees that Subscriber is not entering into this Agreement or any Order Form contingent on the provision of any future functionality relating in any way to the Software Services and no statement or other information made or provided orally or otherwise shall be binding unless specifically set forth in this Agreement.

12.6 Notices. Any notice given to a party under or in connection with this Agreement shall be in writing in English language and shall be delivered by hand, by pre-paid first-class U.S. mail, electronic mail, or a next working day delivery service at the other party's principal place of business as designated on the applicable Order Form. Notices shall be

deemed given (i) upon personal delivery to the party to be notified; (ii) when received by electronic or confirmed facsimile transmission if received during normal business hours of the recipient on a Business Day, or if not, then on the next Business Day with a copy sent via any other method of notice; (iii) five (5) days following deposit into the United States mail (certified mail, return receipt requested); or (iv) one (1) business day after deposit with an internationally recognized overnight courier, with written verification of receipt.

12.7 Export. Each party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports or otherwise restricted from doing business with any U.S. company, and Subscriber will not, and will require that its Users do not, access or use the Software Services in violation of any U.S. or international export embargo, prohibition or restriction.

12.8 Assignment. Except as otherwise permitted in this Section 12.8, neither party may assign this Agreement without the other party's prior written consent. Subscriber may assign this Agreement in connection with a Change of Control or the sale of all or substantially all of its assets or business to which this Agreement relates without such consent; provided, that (i) such assignment is not to a competitor of Higher Logic and (ii) such assignment may require the prior payment of additional fees to Higher Logic by Subscriber or its successor based on the anticipated usage of the Software Services following the assignment. If additional fees are required, Subscriber and its successor will enter into a new Order Form for the Software Service setting forth the additional fees and requiring the successor to be bound by the terms and conditions of the Order Form and this Agreement. For the purposes of this Section 12.8, a change in the persons or entities who control fifty percent (50%) or more of the equity securities or voting interest of Subscriber (a "**Change in Control**") shall be considered an assignment of Subscriber's rights. Higher Logic's rights and obligations, in whole or in part, under this Agreement may be assigned by Higher Logic without consent to a third party upon delivery of written notice to Subscriber of such assignment, or otherwise without consent to a successor-in-interest, whether by merger, reorganization or otherwise, or to a purchaser of all or substantially all of the assets of Higher Logic or business to which this Agreement relates; provided that Higher Logic provides notice of such assignment as soon as practicable. Higher Logic may at its discretion subcontract a portion of the Software Services provided that Higher Logic remains primarily responsible for such subcontractor's performance under this Agreement. Subject to the foregoing, this Agreement shall be binding on and inure to the benefit of each party and its successors and permitted assigns.

12.9 No Third Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to or shall confer upon any third party person or entity any right, benefit or remedy of any nature whatsoever under or by reason of this Agreement.

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