



DLT RIDER TO MANUFACTURER END USER TERMS (For Public Sector End Users)

1. **Scope.** This DLT Rider to IDaptive, LLC (“Manufacturer”) End User Terms (“DLT Rider”) establishes the terms and conditions enabling DLT Solutions, LLC (“DLT”) to provide Manufacturer’s Offerings to Public Sector Government Agencies to include the Federal, State and Local entities (the “Licensee” or “Customer”).

2. **Applicability.** The terms and conditions in the attached Manufacturer Terms are hereby incorporated by reference to the extent that they are consistent with Public Sector Laws (e.g., the Anti-Deficiency Act, the Contracts Disputes Act, the Prompt Payment Act, the Anti-Assignment statutes). To the extent the terms and conditions in the Manufacturer's Terms or any resulting Customer Order are inconsistent with the following clauses, they shall be deemed deleted and the following shall take precedence:
 - a. **Advertisements and Endorsements.** Unless specifically authorized by Customer in writing, use of the name or logo of Customer is prohibited.

 - b. **Assignment.** All clauses regarding Assignment are subject to Assignment of Claims and Novation and Change-of-Name Agreements. All clauses governing Assignment in the Manufacturer Terms are hereby deemed to be deleted.

 - c. **Audit.** During the term of a Customer order subject to this Rider: (a) If Customer's security requirements included in the Order are met, Manufacturer or its designated agent may audit Customer's facilities and records to verify Customer's compliance with this Agreement. Any such audit will take place only during Customer's normal business hours contingent upon prior written notice and adherence to any security measures the Customer deems appropriate, including any requirements for personnel to be cleared prior to accessing sensitive facilities. DLT on behalf of the Manufacturer will give Customer written notice of a desire to verify compliance ("Notice"); (b) If Customer’s security requirements are not met and upon Manufacturer's request, Customer will provide a written certification, executed by a duly authorized agent of Customer, verifying in writing Customer's compliance with the Customer order; or (c) discrepancies in price discovered pursuant to an audit may result in a charge by the commercial supplier to the Customer however, all invoices must be: i) in accordance with the proper invoicing requirements of the Customer; ii) if there is a dispute then no payment obligation may arise on the part of the Customer until the conclusion of the dispute process, and iii) the audit, if requested by the Customer, will be performed at the Manufacturer’s expense.

 - d. **Confidential Information.** Any provisions that require the Licensee to keep certain information confidential are subject to the Freedom of Information Act, and any order by a Court with appropriate jurisdiction.

 - e. **Consent to Government Law / Consent to Jurisdiction.** The validity, interpretation and enforcement of this Rider will be governed by and construed in accordance with the laws of the United States and/or the respective Customer’s state. Any Manufacturer Terms that identify the jurisdiction in which a lawsuit may be brought, the law which shall apply to such lawsuit, or the requirements to pursue Alternative Dispute Resolution prior to such lawsuit are deemed to be deleted. All clauses in the Manufacturer Terms referencing equitable remedies are deemed to be deleted.

 - f. **Contractor Indemnities.** DLT shall not be required to indemnify Customer except as explicitly stated in the contract. Any such indemnification requirement shall vest control over the matter with the United States and shall give DLT or the Manufacturer the right to intervene in the proceeding at its own expense through counsel of its own choice.





- g. **Customer.** Customer is the “Ordering Activity”, defined as any entity authorized to use government sources of supply. An individual person shall not be the Licensee or Customer.
- h. **Customer Indemnities.** Customer shall not be required to indemnify DLT except as in accordance with federal statute that expressly permits such indemnification.
- i. **Installation and Use of the Software.** Installation and use of the software shall be in accordance with the Rider and Manufacturer Terms, unless a Customer determines that it requires different terms of use and Manufacturer agrees in writing to such terms in a valid order placed by Customer.
- j. **Force Majeure.** Clauses in the Manufacturer Terms referencing Force Majeure and unilateral termination rights of the Manufacturer are hereby deemed to be deleted.
- k. **Future Fees or Penalties.** All fees and charges are as explicitly set forth in the Customer’s order. Additional fees or penalties such as liquidated damages or license, maintenance or subscription reinstatement fees be incorporated into the contract only by bilateral written agreement of the parties. Any clauses imposing additional fees or penalties automatically in Manufacturer’s Terms are hereby deemed to be deleted.
- l. **Renewals.** All Manufacturer Terms clauses that violate the Anti-Deficiency Act or which permit automatic renewal are hereby deemed to be deleted.
- m. **Taxes.** Taxes are subject to applicable jurisdiction regulations, which provides that the contract price includes all federal, state, local taxes and duties.
- n. **Termination.** Clauses in the Manufacturer Terms referencing termination or cancellation are hereby deemed to be deleted. Both DLT and Customer’s termination rights shall be governed by Contract Dispute Acts of the jurisdiction in which the transaction occurs.
- o. **Third Party Terms.** No entity shall have privity of contract with the United States with respect to any third-party product or service, referenced in the Manufacture’s Terms unless expressly stated in Customer’s order. Absent agreement by Customer to the contrary, third parties shall have no rights or obligations with respect to such agreements vis-à-vis the United States.
- p. **Waiver of Jury Trial.** All clauses referencing waiver of jury trial in the Manufacturer Terms are hereby deemed to be deleted.

Incorporation of Manufacturer Terms. Attached hereto are the Manufacturer Terms. As part of this Rider, the following Terms are incorporated by reference and made a part of this Rider except as modified as set forth above.



IDAPTIVE END USER LICENSE AND SERVICES AGREEMENT

THIS END USER LICENSE AND SERVICES AGREEMENT (this "Agreement") constitutes a legal agreement between you (either an individual or a legal entity that will use the product or services and that you represent as an employee or authorized agent) ("Customer") and Idaptive, LLC, a Delaware limited liability company ("Idaptive"), with respect to the Cloud Service identified below. By using or otherwise accessing the Cloud Service, Customer agrees to be bound by the terms of this Agreement. If Customer does not agree to the terms of this Agreement, Idaptive is unwilling to grant Customer any rights to use the Cloud Service. In such event, Customer may not use the Cloud Service, and Customer should promptly cease use of the Cloud Service and accompanying Documentation.

The terms and conditions set forth in this Agreement and in any Schedule issued under this Agreement shall control in the event that there are different, inconsistent or additional terms set forth in any other purchase order submitted by Customer or invoice issued by Idaptive. The terms and conditions of any Schedule shall incorporate the terms and conditions of this Agreement and shall have precedence over any conflicting terms and conditions contained in this Agreement.

1. DEFINITIONS

- 1.1. "**Affiliate**" means any entity that, directly or indirectly, through one or more intermediaries, controls, or is controlled by, or is under common control with a party to this Agreement, by way of majority voting stock ownership or the ability to otherwise direct or cause the direction of the management and policies of such party. Customer shall notify Idaptive in writing of the identity of its Affiliates and shall be jointly and severally liable for such Affiliate's performance of its obligations under this Agreement.
- 1.2. "**Claim**" shall have the meaning given to such term in Section 5.1.
- 1.3. "**Cloud Service**" means any on-line software service operated by Idaptive and accessible to Customer via the internet, specified on a Schedule.
- 1.4. "**Cloud Service Addendum**" means the Cloud Service Addendum attached hereto as Exhibit A, initially as in effect on the Delivery Date and as such document may be modified from time to time thereafter in accordance with its terms.
- 1.5. "**Compute Hour**" means access to the Cloud Service for a period of one hour. Any partial hour will be rounded up to the next full hour.
- 1.6. "**Confidential Information**" shall have the meaning given to such term in Section 10.1.
- 1.7. "**Consulting Fees**" means the fees charged to Customer by Idaptive for Consulting Services.
- 1.8. "**Consulting Materials**" shall have the meaning given to such term in Section 3.1.
- 1.9. "**Consulting Services**" means installation, consulting, implementation or training services, if any, provided to Customer by Idaptive or its representative under this Agreement.
- 1.10. "**Delivery Date**" means the date on which the notification of the start of the Cloud Service ordered under a Schedule is electronically sent by Idaptive to Customer.
- 1.11. "**Distributor**" means any independent value added distributor (VAD) authorized by Idaptive to distribute Idaptive software and/or services to Resellers only, unless otherwise provided for in the applicable distribution agreement.
- 1.12. "**Documentation**" means Idaptive's end user documentation made generally available by Idaptive for use with the Cloud Service, whether published on-line or provided in hard copy. Documentation shall include any revisions, enhancements and new versions of Documentation.
- 1.13. "**Idaptive**" means IDaptive, LLC, a Delaware limited liability company, or a subsidiary of IDaptive, LLC that provides the Cloud Service or Consulting Services to Customer under this Agreement, as the context requires.
- 1.14. "**Jump Start Service**" means a set of pre-packaged services offered by Idaptive that includes training, on-site fixed deliverables and travel costs for a fixed price. The details of these offerings will be provided in a Statement of Work, if applicable.
- 1.15. "**Local Software Components**" means the downloadable software components necessary to utilize certain functionality of the Cloud Service that Customer may install on devices such as phones, tablets, PCs or Macs

and any revisions, enhancements and new versions of such software components, made generally available by Idaptive for use with the Cloud Service, in each case in its machine-readable object code form.

- 1.16. **“Project Authorization”** shall have the meaning given to such term in Section 3.1.
- 1.17. **“Reseller”** means any independent value added reseller (VAR) authorized by Idaptive to distribute Idaptive software and/or services to Customer.
- 1.18. **“Schedule”** means any addendum, exhibit, quote, schedule or Statement of Work to this Agreement in a form approved by Idaptive.
- 1.19. **“Statement of Work”** shall have the meaning given to such term in Section 3.1.
- 1.20. **“Subscription Fee”** means the fee charged to Customer by Idaptive for the Cloud Service (including Technical Support) either for the Subscription Term or for the number of Compute Hours purchased. If Customer purchases the Cloud Service from a Reseller, Customer may pay the Subscription Fee to the Reseller and not to Idaptive directly.
- 1.21. **“Subscription Term”** means the period during which Customer is subscribed to the Cloud Service as set forth on an applicable Schedule.
- 1.22. **“Technical Support”** means the services provided by Idaptive or its representative with each subscription at the level set forth on an applicable Schedule under the Idaptive Technical Support Policy posted at <https://support.idaptive.com>, as such document may be modified from time to time.
- 1.23. **“Third Party Software”** means any software that is not owned by Idaptive that is identified in the Documentation or on www.idaptive.com and related Idaptive websites and user portals.
- 1.24. **“User”** means an employee, contractor, client or customer of Customer to whom Customer provides access to the Cloud Service, the number or other limitations of which are set forth on an applicable Schedule.
- 1.25. **“User Account”** means electronic credentials a User uses to access to the Cloud Service.

2. SUBSCRIPTION & LICENSE

- 2.1. **Cloud Service.** Subject to the terms and conditions of this Agreement and the Cloud Service Addendum and Customer’s payment of the applicable Subscription Fee, Idaptive grants Customer a worldwide, non-exclusive, non-transferable right, without the right to sublicense and (except as otherwise provided on a Schedule) solely for its own business operations to use the Cloud Service to manage the number of devices for which Customer has subscribed, and have the number of Users for which Customer has subscribed use the Cloud Service in accordance with the terms of the Documentation and this Agreement. The term of such license shall be the Subscription Term or the number of Compute Hours purchased by Customer.
 - 2.1.1. **SAP Online Marketplaces.** The terms of this paragraph shall apply to the Cloud Service purchased on SAP Online Marketplaces. Idaptive and Customer acknowledge that Idaptive is solely responsible for providing the Cloud Service and Technical Support services as set forth herein and SAP has no obligation to furnish any such services to Customer. To the maximum extent permitted by applicable law, SAP will have no warranty obligation to Customer with respect to the Cloud Service and any claims, losses, liabilities, damages, costs or expenses attributable to any failure to conform to the warranties set forth in this Agreement shall be Idaptive’s sole responsibility. Idaptive and Customer acknowledge that Idaptive, not SAP, is responsible for addressing any claims of Customer or any third party relating to the Cloud Service or Customer’s possession and/or use of the Cloud Service. In the event of any third party claim that the Cloud Service infringes the third party’s intellectual property rights, Idaptive and Customer acknowledge that Idaptive, not SAP, will be solely responsible for the investigation, defense, settlement and discharge of any such infringement claim subject to Section 5 of this Agreement. Idaptive and Customer acknowledge and agree that SAP and SAP’s subsidiaries are third party beneficiaries of this Agreement and that upon Customer’s acceptance of the terms and conditions of this Agreement, SAP will have the right (and will be deemed to have accepted the right) to enforce the Agreement against Customer as a third party beneficiary thereof.
- 2.2. **Local Software Components.** Subject to the terms and conditions of this Agreement and payment of the applicable Subscription Fee, Idaptive grants Customer a worldwide, non-exclusive, non-transferable license, without the right to sublicense and (except as otherwise provided on a Schedule) solely for its own business operations, to install on and use the Local Software Components to manage the number of devices for which Customer has subscribed, and have the number of Users for which Customer has subscribed use the Local Software Components in accordance with the terms of the Documentation and this Agreement. The term of such license shall be the Subscription Term or the number of Compute Hours purchased by Customer.

Customer may reproduce the Local Software Components and Documentation only as necessary to use the Cloud Service. Customer shall ensure that each copy contains all titles, trademarks, and copyright and restricted rights notices as in the original. Customer shall implement all commercially reasonable measures to ensure that its Users comply with the restrictions and limitations of this Agreement.

- 2.3. **Evaluation Use License.** In the event that the Cloud Service is licensed only for evaluation use, the terms of this paragraph shall apply. Idaptive hereby grants Customer a personal, non-exclusive, non-transferable license, without right of sublicense, to use the Cloud Service commencing upon initial use of the Cloud Service and, unless Customer and Idaptive agree to a different period, will terminate after a period of thirty (30) days (the "Evaluation Period"). Customer may use the Cloud Service for an unlimited number of Users and devices during the Evaluation Period. Cloud Service licensed for evaluation use will automatically disable itself at the end of the Evaluation Period, as it employs a restriction mechanism which restricts the program to a limited working period of time. This restriction mechanism and the manner in which it enforces the restriction is maintained in confidence by Idaptive as a trade secret, and Customer may not publish, disclose or reveal it. Customer agrees not to do anything to circumvent or defeat the restriction mechanism. Notwithstanding anything to the contrary in this Agreement, Sections 5 (Intellectual Property Indemnity), 7.1 (Cloud Service Warranty) and 7.2 (Consulting Services Warranty) shall not apply to evaluation use.
- 2.4. **Restrictions.** The rights granted in Section 2.1 through 2.3 are subject to the following restrictions: (i) Customer shall not reverse engineer, disassemble, decompile or otherwise attempt to derive or discover the source code of the Local Software Components or the Cloud Service, in whole or in part, except and only to the extent that it is expressly permitted by applicable law notwithstanding this limitation; (ii) Customer shall not sublicense or use the Cloud Service for commercial time-sharing, rental, outsourcing, application or managed service provision, or service bureau use, or to train persons other than Users, unless previously agreed to in writing by Idaptive; (iii) Customer may not remove any patent, trademark, copyright, trade secret or other proprietary notices or labels on the Cloud Service, Local Software Components or Documentation, (iv) Customer shall not disclose the results of any performance, functional or other evaluation or benchmarking of the Cloud Service to any third party without the prior written permission of Idaptive; (v) Customer may not use the Cloud Service if Customer is a competitor of Idaptive; (vi) Customer shall not modify or create any derivative works of the Cloud Service, Local Software Components or Documentation; and (vii) Customer shall not attempt to gain unauthorized access to, or disrupt the integrity or performance of, the Cloud Service or the data contained therein. In the event that any Third Party Software is required for Customer's use of the Cloud Service, e.g., GoogleMaps for location services, Customer will comply with the terms of use applicable to such Third Party Software. In particular, Customer agrees to be bound by the Google Maps/Google Earth Additional Terms of Service (including the Google Privacy Policy).
- 2.5. **Retention of Rights.** Idaptive reserves all rights not expressly granted to Customer in this Agreement. Without limiting the generality of the foregoing, Customer acknowledges and agrees (i) that Idaptive and its third party licensors retain all rights, title and interest in and to the Cloud Service, Local Software Components and Documentation and (ii) that it does not acquire any rights, express or implied, in or to the foregoing, except as specifically set forth in this Agreement. Any new features, functionality, corrections or enhancements for the Cloud Service or Local Software Components suggested by Customer shall be free from any confidentiality restrictions that might otherwise be imposed upon Idaptive pursuant to Section 10, and may be incorporated into the Cloud Service or Local Software Components by Idaptive. Customer acknowledges that the Cloud Service or Local Software Components incorporating any such new features, functionality, corrections or enhancements shall be the sole and exclusive property of Idaptive.
- 2.6. **Compute Hour Usage Certification.** The Cloud Service includes functionality that allows Customer to run a report to show the number of Compute Hours used by Customer during a specified period of time. If Customer has subscribed for Compute Hours, Customer will either permit the Cloud Service to automatically send a Compute Hour usage report or provide Idaptive with a Compute Hour usage report within fifteen (15) business days of the end of each calendar quarter. If the report reveals that Customer has used more Compute Hours than Customer has subscribed for, Idaptive shall invoice Customer for the excess Compute Hours used. Any Compute Hours not used within one (1) year of the date ordered will automatically expire and are forfeited by Customer.

3. CONSULTING SERVICES

- 3.1. **Consulting Services.** From time to time, Customer may request, through provision of an executed project authorization in the form required by Idaptive, that Idaptive, or its duly authorized representative perform Consulting Services (a "Statement of Work" or "Quotation" or, each and collectively, "Project Authorization"). Idaptive shall have no obligation to perform Consulting Services until and unless it accepts a Project Authorization. Customer shall be responsible for providing Idaptive's representatives with access to qualified Customer employees and Customer-controlled software and hardware, and safe access to Customer's premises, each as required to allow Idaptive to perform the Consulting Services. Idaptive's representatives

will comply with reasonable written rules and regulations of Customer with respect to Customer's premises, provided that such rules and regulations are provided to Idaptive sufficiently in advance of the scheduled start date of the Consulting Services. All materials and information used or generated by Idaptive in the performance of Consulting Services ("Consulting Materials"), and all intellectual property rights therein, shall be the sole property of Idaptive. Idaptive grants to Customer a perpetual, worldwide, non-exclusive, non-transferable license, without the right to sublicense and solely for its own business operations, to use and have Users use the Consulting Materials provided to Customer under this Agreement, subject to all of the provisions of this Agreement governing Local Software Components and Documentation, as applicable, and any applicable Schedules. The rights to any of Customer's preexisting proprietary business information, or results of any compilation thereof, which are used in or result from Consulting Services and Consulting Materials, shall remain the sole property of Customer.

- 3.2. **Cancellation.** If any Consulting Services engagement is cancelled by Customer less than three (3) weeks before the scheduled start date for such Consulting Services, Customer agrees to pay (i) the Consulting Fees that would have been invoiced by Idaptive had Customer not cancelled such engagement incurred up to the date Idaptive is able to redeploy the resources that had been allocated to Customer, and (ii) any reasonable travel cancellation fees, costs, expenses or penalties incurred by Idaptive that Idaptive cannot avoid due to Customer's cancellation. For an engagement of multiple weeks, such obligation to pay applies only to the Consulting Fees for each week for which the cancellation provides less than three (3) weeks advance notice. In the event that Idaptive notifies Customer of Customer's failure to perform any of its obligations under a Statement of Work, which failure shall have prevented Idaptive from meeting any deadline, such deadline shall be extended by an amount of time equal to the length of such failure to perform on the part of Customer. Idaptive shall have the right to charge Customer at Idaptive's then applicable daily rates to the extent that such delays cause Idaptive to provide additional services or to spend additional time on the project. In the case of extended delays as to which Customer provides reasonable advance written notice regarding the expected duration of the delay, Idaptive shall make a good faith effort to redeploy its resources to other projects to mitigate such additional charges. Idaptive shall have the right to rely upon all decisions and approvals of Customer's representatives.

4. TERM AND TERMINATION

- 4.1. **Term.** The term of this Agreement shall commence on the Delivery Date and shall continue until terminated in accordance with the provisions of this Section 4. Upon expiration or termination of the then-current Subscription Term, Customer's subscription will be automatically renewed for an additional year unless Customer notifies Idaptive of its desire to terminate its subscription at least thirty (30) days prior to the end of the then-current Subscription Term, subject to payment of the Subscription Fee due for such renewed subscription.
- 4.2. **Termination by Customer for Convenience.** Customer may terminate any subscription, any Schedule, any Project Authorization or this Agreement in its entirety, at any time upon written notice to Idaptive.
- 4.3. **Termination by Either Party for Material Breach.** Either party may terminate this Agreement upon written notice if the other party materially breaches this Agreement and fails to cure such breach within thirty (30) days following receipt of written notice describing the breach.
- 4.4. **Termination by Either Party for Insolvency or Bankruptcy.** Either party may terminate this Agreement by written notice to the other party if the other party becomes insolvent; applies for or consents to the appointment of a trustee, receiver or other custodian; makes a general assignment for the benefit of its creditors; initiates any bankruptcy, debt arrangements, or other case or proceeding under any bankruptcy or insolvency law; or becomes subject to any dissolution or liquidation proceedings acquiesced to by such party or not dismissed after sixty (60) days.
- 4.5. **Effect of Termination.** Except as otherwise set forth herein, termination of this Agreement, any subscription, any Schedule or any Project Authorization shall not limit either party from pursuing other remedies available to it, including injunctive relief, nor shall such termination relieve Customer of its obligation to pay all fees that have accrued or are otherwise owed by Customer under any Schedule. The parties' rights and obligations under Sections 2.5 (Restrictions), 2.6 (Retention of Rights), 2.7 (Compute Hour Usage Certification), 4.5 (Effect of Termination), 4.6 (Handling of Software and Confidential Information Upon Termination), 7.3 (Disclaimers), 8 (Limitation of Liability), 9 (Payment Provisions), 10 (Nondisclosure) and 11 (Miscellaneous), as well as any obligation to pay fees accrued prior to termination, shall survive termination of this Agreement. Unless this Agreement is terminated by Customer under Section 4.3, and except as provided in Sections 5.2, 7.1 and 7.2 or in the Cloud Service Addendum, no refund shall be due from Idaptive for any unused prepaid fees.

4.6. **Handling of Software and Confidential Information Upon Termination.** Upon termination of this Agreement, any subscription, any Schedule or any Project Authorization, Customer shall (i) cease using the applicable Cloud Service, Local Software Components and Documentation and related Confidential Information of Idaptive, and (ii) certify to Idaptive within thirty (30) days after termination that Customer has destroyed, or has returned to Idaptive, the Local Software Components, Documentation, related Confidential Information of Idaptive, and all copies thereof, whether or not modified or merged into other materials. Following termination of this Agreement, and subject to the Cloud Service Addendum, each party will return or destroy the other party's Confidential Information and within thirty (30) days following the other party's written request, the other party shall certify to the requesting party that it has destroyed or returned to the requesting party all Confidential Information of the requesting party, and all copies thereof, whether or not modified or merged into other materials.

5. INTELLECTUAL PROPERTY INDEMNITY

5.1. **Generally.** Idaptive will defend, indemnify and hold Customer harmless against any claim brought by a third party to the extent it alleges that the Cloud Service directly infringes any United States patent, copyright or trademark, or misappropriates any trade secret, of that third party ("Claim"), and will pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Customer by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Idaptive arising out of such Claim; provided that: (i) Customer gives Idaptive prompt written notice upon learning of a Claim or potential Claim; (ii) Idaptive may assume sole control of the defense of such Claim and all related settlement negotiations; and (iii) Customer reasonably cooperates with Idaptive, at Idaptive's request and expense, in the defense or settlement of the Claim, including the provision of all assistance, information and authority reasonably requested by Idaptive. In no event shall Idaptive enter into any settlement or agree to any disposition, without the prior written consent of Customer, that contains an admission of liability or wrongdoing on the part of Customer, or otherwise prejudices the rights of Customer. Notwithstanding the foregoing, Idaptive shall have no liability for any claim of infringement based on (a) the modification of the Cloud Service by anyone other than Idaptive or its agents, (b) the use of the Cloud Service other than in accordance with the Documentation and this Agreement, (c) the combination of the Cloud Service with other software or hardware not provided by Idaptive, where the combination causes the infringement and not the Cloud Service standing alone, or (d) subscriptions for no fee, including a trial, beta or evaluation license agreement.

5.2. **Additional Remedies.** If the Cloud Service, or any material portion thereof, is held by a court of competent jurisdiction to infringe, or if Idaptive believes that the Cloud Service may be subject to a Claim or held to infringe, Idaptive shall in its commercially reasonable judgment and at its expense (a) replace or modify the Cloud Service so as to be non-infringing, provided that the replacement software or service contains substantially similar functionality; or (b) obtain for Customer the rights to continue using the Cloud Service; or (c) if non-infringing software or the rights to use the Cloud Service cannot be obtained upon commercially reasonable terms, terminate the then-current subscription. Upon any such termination of the then-current subscription, Idaptive shall refund any prepaid and unused amounts paid for the then-current subscription. This Section 5.2 shall not apply to subscriptions for no fee, including a trial, beta or evaluation license agreement.

5.3. **Exclusive Remedy.** This Section 5 sets forth Customer's exclusive remedy, and Idaptive's entire liability, with respect to infringement or misappropriation of intellectual property rights of any kind arising out of this Agreement.

6. CUSTOMER INDEMNITY

Customer shall defend, indemnify and hold Idaptive harmless against any claim brought by a third party, and shall pay all costs, damages and expenses (including reasonable legal fees) finally awarded against Idaptive by a court of competent jurisdiction or agreed to in a written settlement agreement signed by Customer, to the extent such claim arises out of any of the following: (a) Customer's use of the Cloud Service other than as authorized under this Agreement; (b) the Customer Data (as defined in the Cloud Service Addendum); (c) Customer's violation of any applicable law, including but not limited to data protection and privacy laws; or (d) any alleged grossly negligent or willful acts or omissions of Customer which gave rise to such claim.

7. WARRANTIES AND REMEDIES

7.1. **Cloud Service Warranty.** Idaptive warrants to Customer that, during the Subscription Term, the Cloud Service will perform in material conformity with the functions described in the applicable Documentation. Such warranty period shall not apply to subscriptions for no fee. Idaptive will use commercially reasonable efforts to remedy any material non-conformity with respect to the Cloud Service at no additional charge to Customer. In the event Idaptive is unable to remedy the non-conformity and such non-conformity materially affects the

functionality of the Cloud Service, Customer may promptly terminate the applicable subscription. In the event Customer terminates its subscription pursuant to this Section 7.1, Customer will receive a refund of any prepaid and unused portion of the Subscription Fee. The foregoing shall constitute the exclusive remedy of Customer, and Idaptive's entire liability, with respect to any breach of this Section 7.1.

- 7.2. **Consulting Services Warranty.** Idaptive warrants to Customer that the Consulting Services provided by Idaptive will be performed in a professional manner and in accordance with generally prevailing industry standards. Customer must give notice of any breach of this warranty within thirty (30) days from the date that the Consulting Services are completed, as provided in the Project Authorization applicable to the Consulting Services engagement. In such event, at Idaptive's option, Idaptive shall (a) use commercially reasonable efforts to re-perform the Consulting Services in a manner that conforms to the warranty, or (b) refund to Customer the fees paid by Customer to Idaptive for the non-conforming Consulting Services. The foregoing shall constitute the exclusive remedy of Customer, and Idaptive's entire liability, with respect to any breach of this Section 7.2.
- 7.3. **Disclaimers.** Idaptive does not warrant that (i) the Cloud Service will meet Customer's requirements, (ii) the Cloud Service will operate in combination with other hardware, software, systems or data not provided by Idaptive (except as expressly specified in the Documentation), (iii) the operation of the Cloud Service will be secure, timely, uninterrupted or error-free, or (iv) all errors in the Cloud Service will be corrected. THE WARRANTIES STATED IN THIS SECTION 7 ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, NON-INFRINGEMENT AND QUALITY OF SERVICE. NO WARRANTIES SHALL ARISE UNDER THIS AGREEMENT FROM COURSE OF DEALING OR USAGE OF TRADE.

8. LIMITATION OF LIABILITY

IN NO EVENT WILL IDAPTIVE OR ITS THIRD PARTY LICENSORS BE LIABLE FOR COSTS OF PROCUREMENT OF SUBSTITUTE PRODUCTS OR SERVICES BY CUSTOMER. IN NO EVENT SHALL ANY PARTY BE LIABLE FOR ANY INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, INCLUDING WITHOUT LIMITATION DAMAGES FOR LOST PROFITS, DATA OR USE, INCURRED BY A PARTY OR ANY THIRD PARTY UNDER THIS AGREEMENT, WHETHER IN AN ACTION IN CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. The aggregate and cumulative liability of Idaptive and its third party licensors for damages under this Agreement shall not exceed the amount of fees paid by Customer under this Agreement during the twelve (12) month period prior to the date when a claim for damages is first made, and if such damages relate to particular software or services, such liability shall be limited to fees paid for the relevant software or services giving rise to the liability during the twelve (12) month period prior to the date when a claim for damages is first made, provided, however, that the limitation of liability in this Section 8 will not apply to (a) a breach of either party's intellectual property rights and (b) any damages awarded to a third party as a result of a claim for which either party is indemnified hereunder.

9. PAYMENT PROVISIONS

- 9.1. **Invoices.** Unless set forth on a Schedule, all payments of any fees under this Agreement, including Subscription Fees and Consulting Fees, shall be payable within thirty (30) days of the date of receipt of an invoice from Idaptive. Customer agrees and acknowledges that the terms of credit extended to Customer or Affiliates are subject to the review of Idaptive's credit department and may be revised from time to time, effective immediately upon notice.
- 9.2. **Subscription Fees.** Customer agrees to make the Subscription Fee payments set forth in an applicable Schedule, which payments shall be nonrefundable, irrevocable, and not subject to offset, except as otherwise provided in this Agreement.
- 9.3. **Consulting Fees.** Consulting Fees shall be invoiced in full upon receipt of an order for Consulting Services, unless otherwise provided in a Project Authorization or Schedule. Consulting Fees are non-refundable. Any unused Consulting Services expire six (6) months from the date the Consulting Services were ordered, unless otherwise provided in a Project Authorization or Schedule.
- 9.4. **Taxes.** The fees specified in this Agreement do not include taxes, duties or fees. If Idaptive is required to pay or collect (i) sales, use, property, value-added, withholding or other taxes, (ii) any customs or other duties, or (iii) any import, warehouse or other fees, associated with Customer's subscription or services provided under

this Agreement or with respect to Customer's use of software or services, then such taxes, duties or fees shall be billed to and paid by Customer unless Customer provides Idaptive with a valid tax exemption certificate authorized by the appropriate taxing authority. If Customer is permitted to declare any such taxes, Customer shall declare and pay such taxes and Idaptive shall not be required to invoice Customer. This Section shall not apply to taxes based on Idaptive's net income or payroll taxes.

10. NONDISCLOSURE

- 10.1. **Confidential Information.** Each party may have access to information of the other party that is confidential and/or proprietary ("Confidential Information"). Confidential Information shall include any information that is clearly identified in writing at the time of disclosure as confidential as well as any information that, based on the circumstances under which it was disclosed, a reasonable person would believe to be confidential (whether disclosed in writing, orally or by inspection of tangible objects). Idaptive's Confidential Information shall include, but not be limited to, the Cloud Service, Local Software Components, Documentation, formulas, methods, know how, processes, designs, new products, developmental work, marketing requirements, marketing plans, customer names, prospective customer names, the terms and pricing under this Agreement, and the results of any comparative or other benchmarking tests with respect to the Cloud Service, in each case regardless of whether such information is identified as confidential. Confidential Information includes all information received from third parties that either party is obligated to treat as confidential and oral information that is identified by either party as confidential.
- 10.2. **Exceptions.** A party's Confidential Information shall not include information that (i) is or becomes a part of the public domain through no act or omission of the other party; (ii) was in the other party's lawful possession prior to the disclosure and had not been obtained by the other party either directly or indirectly from the disclosing party; (iii) is lawfully disclosed to the other party by a third party without restriction on disclosure; or (iv) is independently developed by the other party without use of or reference to the other party's Confidential Information. In addition, Section 10 will not be construed to prohibit disclosure of Confidential Information to the extent that such disclosure is required to by law or valid order of a court or other governmental authority; provided, however, that the responding party shall first have given notice to the other party to enable the disclosing party to seek a protective order or take other appropriate action.
- 10.3. **Restrictions.** Unless otherwise required by applicable law, the parties shall not make each other's Confidential Information available in any form to any third party (except third parties who are Users) or use each other's Confidential Information for any purpose other than as authorized under this Agreement. Each party shall take all commercially reasonable steps to ensure that Confidential Information is not disclosed or distributed by its employees or agents in breach of this Agreement. The receiving party shall notify the disclosing party immediately upon discovery of any unauthorized use or disclosure of Confidential Information by the receiving party, and will cooperate with the disclosing party in every reasonable way to help the disclosing party regain possession of the Confidential Information and prevent its further unauthorized use. Except as expressly stated in this Agreement, no license or intellectual property right to Confidential Information is granted due to the disclosure by either party to the other party, and each party retains ownership of its Confidential Information. The parties shall hold each other's Confidential Information in confidence both during the term of this Agreement and for a period of five (5) years after any termination of this Agreement. Each party acknowledges and agrees that, due to the unique nature of Confidential Information, there can be no adequate remedy at law for breach of this Section 10 and that such breach would cause irreparable harm to the non-breaching party; therefore, the non-breaching party shall be entitled to obtain immediate injunctive relief, in addition to whatever remedies it might have at law or under this Agreement.

11. MISCELLANEOUS

- 11.1. **Governing Law.** This Agreement, and all matters arising out of or relating to this Agreement, shall be governed by the laws of the State of California, excluding its conflict of law provisions. The parties agree that the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act are specifically excluded from application to this Agreement. Any legal action or proceeding arising under this Agreement will be brought exclusively in the federal or state courts located in the Northern District of California and the parties hereby irrevocably consent to the personal jurisdiction and venue therein. Notwithstanding anything in this Agreement to the contrary, nothing in this Agreement prevents either party from seeking injunctive relief in an appropriate or applicable forum.
- 11.2. **Notices.** All notices required to be sent under this Agreement shall be in writing, signed by or on behalf of the party giving it, and shall be deemed to have been given upon (i) the date delivered by recognized overnight courier or by hand delivery or (ii) if by certified mail return receipt requested, on the date received, to the addresses set forth on a purchase order by Customer or invoice from Idaptive and to the attention of

“Legal Department” and the signatories of the relevant Schedule, or to such other address or individual as the parties may specify from time to time by written notice to the other party.

- 11.3. **Assignment.** Neither party shall sell, lease, assign or otherwise transfer this Agreement or any rights or obligations under this Agreement in whole or in part, and any such attempted assignment shall be void and of no effect without the advance written consent of the other party, such consent not to be unreasonably withheld or delayed; provided, however, that such consent shall not be required if either party assigns this Agreement to an Affiliate or in connection with and to the extent related to a merger, acquisition, any and all forms of divestment and investment, including consolidation, transfer of a line of business or corporate reorganization (whether or not assignor is the surviving entity), or sale of all or substantially all of its assets, unless the Affiliate or surviving entity (in the case of an assignment by Customer) is a competitor of Idaptive. Customer shall provide advance written notice of any permitted assignment under this Section 11.3. Subject to the foregoing consent requirement, Customer may transfer any subscription or license to any Affiliate without requirement of any relocation, transfer or assignment fee by Idaptive. Notwithstanding the foregoing, Idaptive reserves the right to impose different credit terms on any successor in interest, including but not limited to an Affiliate. Any permitted assignee will assume all obligations and rights of its assignor under this Agreement (or related to the assigned portion in case of a partial assignment).
- 11.4. **Severability.** In the event any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions of this Agreement will remain in full force.
- 11.5. **Waiver.** The waiver by either party of any default or breach of this Agreement shall not constitute a waiver of any other or subsequent default or breach. Except for actions for nonpayment or breach of Idaptive’s proprietary rights in the Cloud Service, Local Software Components or Documentation, no action, regardless of form, arising out of this Agreement may be brought by either party more than one year after the cause of action has accrued.
- 11.6. **Force Majeure.** Except for obligations of payment, each party shall be excused from performance for any period during which, and to the extent that, it or its subcontractor(s) is prevented from performing any obligation or service, in whole or in part, as a result of causes beyond its reasonable control, and without its fault or negligence, including without limitation acts of God, strikes, lockouts, riots, acts of war, epidemics, communication line failures and power failures.
- 11.7. **Successors and Assigns; Third Party Beneficiaries.** All provisions of the Agreement shall be binding upon, inure to the benefit of and be enforceable by and against the respective successors and permitted assigns of Idaptive and Customer. Except as expressly provided in this Agreement, there are no third party beneficiaries of any of the warranties, rights or benefits of this Agreement.
- 11.8. **Legal and Export Compliance.** Customer shall comply fully with all international and U.S. laws and regulations that apply to the Cloud Service, Local Software Components and Documentation and to Customer’s use thereof, including but not limited to the U.S. Export Administration Regulations and other end-user, end-use and destination restrictions issued by U.S. and other governments. Without limiting the generality of the foregoing, Customer expressly agrees that it shall not, and its representatives shall not, directly or indirectly, export, re-export, divert, or transfer the Cloud Service, Local Software Components or Documentation or any direct product or portion thereof, including via remote access, (i) to any country or region so restricted by the U.S. economic sanctions or export controls, including but not limited to applicable regulations of the U.S. Commerce Department, the U.S. Treasury Department, and the U.S. Department of State, to any person or entity controlled by any such country or region, or to any national or resident of any such country or region, other than nationals who are lawfully admitted permanent residents of countries not subject to such restrictions, (ii) to any person or entity on the U.S. Treasury Department’s Specially Designated Nationals and Blocked Persons List, (iii) to any person or entity on the U.S. Commerce Department’s Denied Persons List, or (iv) to any person or entity to which sale is prohibited under the Enhanced Proliferation Control Initiative (“EPCI”). Idaptive shall be entitled to take all actions it deems necessary to ensure compliance with this Section, including but not limited to developing internal compliance practices such as performing checks and implementing use restrictions with respect to the Cloud Service, Local Software Components and Documentation. Customer agrees to the foregoing and represents that Customer is not located in, under the control of, a national or resident of any such country or region, on any such list, or subject to prohibition under EPCI.
- 11.9. **U.S. Government License Rights.** The Local Software Components and Documentation covered by this Subscription Agreement are “Commercial Item(s),” consisting of “Commercial Computer Software” and “Commercial Computer Software Documentation,” as these terms are defined in 48 C.F.R. §2.101 and used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §§227.7202-1 through 227.7202-4, as applicable, if such Local Software Components or Documentation are being acquired by or on behalf of the U.S. Government or by a U.S. Government prime contractor or

subcontractor (at any tier), such Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end-users for use by such government, or to any such US Government prime contractors or subcontractors for use by such prime contractors or subcontractors in the performance of work under a US Government prime contract or subcontract or for any other use, (a) only as Commercial Items and (b) with only those rights customarily provided to the public and as are granted to all other, non-government-related, end-users, as such commercial license rights are delineated in the terms and conditions of this Agreement. All rights relating to unpublished materials are hereby reserved under the copyright laws of the United States.

- 11.10. **Relationship Between the Parties.** Nothing in this Agreement shall be construed to create a partnership, joint venture, employment or agency relationship between the parties.
- 11.11. **Entire Agreement.** This Agreement, together with the attached Cloud Service Addendum, and any Schedule referring to this Agreement, each of which is incorporated by reference, constitutes the complete agreement between the parties and supersedes all prior or contemporaneous agreements or representations, written or oral, concerning the subject matter of this Agreement and such Cloud Service Addendum and Schedules.

Exhibit A – Cloud Service Addendum

This Cloud Service Addendum (this “Addendum”) is an addendum to the End User License and Services Agreement (the “Agreement”) between Idaptive, LLC, (“Idaptive”) and the Customer as defined in the Agreement. Capitalized terms used in this Addendum and not otherwise defined below shall have the meanings given to such terms in the Agreement. In the event of a conflict between the terms of this Addendum and the Agreement, the terms of this Addendum shall control.

Customer and Idaptive hereby agree to the following:

1. Idaptive Obligations

- 1.1. **Availability of Service.** Idaptive uses an industry-leading cloud service provider that provides a monthly uptime availability of at least 99.9% to host the Cloud Service. Idaptive will provide 99.9% availability for the Cloud Service during the cloud service provider's service availability. Idaptive measures the availability of the Cloud Service, monthly. For purposes of the foregoing, “availability” means that the Cloud Service returned the correct, expected data when queried. Idaptive agrees to use its commercially reasonable efforts to make the Cloud Service generally available 99.9% of the time, 24 hours a day, 7 days a week, except for: (a) planned downtime (of which Idaptive shall give at least two weeks online or e-mail notice to Customer and which Idaptive shall schedule to the extent reasonably practicable during the weekend hours from 11:00 p.m. PT Friday to 12:00 p.m. PT Sunday); or (b) any unavailability caused by circumstances beyond Idaptive's reasonable control, including the force majeure provisions identified in Section 11.6 of the Agreement and computer, telecommunications, Internet service provider or hosting facility failures or delays involving hardware, software or power systems not within Idaptive's possession or control, and network intrusions or denial of service attacks. Service availability is documented monthly at www.idaptive.com/trust.
- 1.2. **Security.** Idaptive shall maintain commercially reasonable administrative, physical and technical safeguards to maintain and protect Customer's data that is submitted to the Cloud Service by Customer. Idaptive shall not be responsible for loss of data transmitted on networks not owned or operated by Idaptive, including the Internet. Idaptive shall produce an SSAE 16 (SOC 2) report (or similar alternative report as reasonably selected by Idaptive) on an annual basis, and Customer may request a copy of such report and agrees that such report shall be deemed Idaptive's Confidential Information under the Agreement.
- 1.3. **Ownership of Customer Data.** Except for software that Idaptive licenses to Customer, as between the parties, Customer retains all right, title, and interest in and to Customer Data, as defined in Section 2.4 of this Addendum. Idaptive acquires no rights in Customer Data other than the right to host Customer Data within the Cloud Service, including the right to use and reproduce Customer Data solely as necessary to provide the Cloud Service.
- 1.4. **Use of Customer Data.** Idaptive will use Customer Data (other than in aggregate and anonymized form) only to provide Customer with the Cloud Service. This use may include troubleshooting to prevent, find, and fix problems with the operation of the Cloud Service. It may also include improving features for finding and protecting against threats to Users. Idaptive may share aggregated and anonymized Customer Data with business partners for use for their business purposes, but Idaptive de-identifies and aggregates such data so that the data cannot be traced to an individual, a customer, or a device. Idaptive will not use Customer Data or derive information from it for any advertising or other marketing purposes without Customer's consent.
- 1.5. **Third-party requests.** Idaptive will not disclose Customer Data to a third party (including law enforcement, other government entity, or civil litigant, but excluding Idaptive's subcontractors) except as Customer directs or unless required by law. Should a third party contact Idaptive with a demand for Customer Data, Idaptive will attempt to redirect the third party to request that data directly from Customer. As part of this effort, Idaptive may provide Customer's basic contact information to the third party. If compelled to disclose Customer Data to a third party, Idaptive will promptly notify Customer and provide a copy of the demand, unless legally prohibited from doing so. Customer is responsible for responding to requests by third parties regarding Customer's use of the Cloud Service, such as requests to take down content under the Digital Millennium Copyright Act.

2. Customer Obligations

- 2.1. **Internet Access.** Customer must have a high speed Internet connection in order to use the Cloud Service. Customer shall procure and maintain the hardware, software and systems that connect Customer's network to the Cloud Service, and shall implement all reasonable communication and security protocols necessary to use the Cloud Service.
- 2.2. **Customer Information.** Customer shall provide and maintain with Idaptive accurate and complete information on Customer's legal business name, address, phone number, email address(es) and other

information reasonably requested by Idaptive. Customer agrees that Idaptive may provide any and all communications, reports, statements and notices (other than legal notices under the Agreement) to such email address(es), and may rely on any communications, directions or statements received from such email address(es).

- 2.3. **Security.** Customer shall maintain commercially reasonable administrative, physical and technical safeguards to prevent unauthorized access to or use of the Cloud Service. Customer is responsible for all activity occurring under its User Accounts, including, but not limited to those that access the Cloud Service, www.idaptive.com and related Idaptive websites and user portals, and for abiding by all applicable local, national and international laws. Customer shall promptly notify Idaptive of any unauthorized access to or use of the Cloud Service and any loss or theft of any User's username or password of which Customer becomes aware.
- 2.4. **Customer Data.** Customer is responsible for the legality, quality, accuracy and integrity of any data and other information that Customer submits to Idaptive in the course of using the Cloud Service ("Customer Data"). Idaptive will not be responsible for any corrections, deletions or damage to Customer Data. Customer Data may include documents, images and other digital information that Customer chooses to transmit to and store in the Cloud Service. Customer is solely responsible for ensuring that Customer Data is not offensive, obscene, inappropriate or unlawful and that it does not contain any viruses or harmful content. Any Customer Data that Idaptive determines, in its sole discretion, may be offensive, obscene, inappropriate or unlawful or that may contain viruses or harmful content may be removed from the Cloud Service.

3. Changes

- 3.1. **Changes to the Cloud Service.** Idaptive may make changes to the functionality, user interface, usability of the Cloud Service and related Documentation from time to time. In the event of any material change to the functionality, user interface, usability of the Cloud Service, as Customer's sole remedy in the event of such change, Customer shall have the right to terminate the Agreement and receive a pro-rata refund of fees paid by Customer for the Cloud Service for the terminated portion of the term.
- 3.2. **Changes to this Addendum.** Idaptive may make changes to this Addendum from time to time, but will not reduce the level of service for which Customer has paid. In the event of any material change to this Addendum, Idaptive will notify Customer by either sending an email to the email address(es) provided by Customer pursuant to this Addendum, or will post a notice in Customer's administrator's account. If Customer does not agree to such change, Customer must notify Idaptive within thirty (30) days of Customer's receipt of such change, in which case the change will not take effect until the end of the then current Subscription Term.

4. Suspension and Termination

- 4.1. **Suspension for Non-Payment.** Idaptive reserves the right to suspend Customer's access to or use of the Cloud Service in the event any payment of Subscription Fees is due but not paid within thirty (30) days of the date of Idaptive's invoice. Customer agrees that Idaptive will not be liable to Customer, any Affiliate or any third party for any suspension under this Section 4.1.
- 4.2. **Suspension for Inappropriate Use.** Idaptive reserves the right to suspend Customer's access of the Cloud Service if Idaptive determines that Customer's use is contrary to law or causing material harm to Idaptive or others. Idaptive will provide reasonable notice of such suspension. Customer agrees that Idaptive will not be liable to Customer, any Affiliate or any third party for any suspension under this Section
- 4.3. **Handling of Data on Termination.** In the event of any expiration or termination of Customer's use of the Cloud Service, upon Customer's request, Idaptive will export Customer's data that is stored on the Cloud Service to a mobile storage medium and will return such data to Customer. Alternatively, Customer may request that Idaptive delete all such data. Idaptive may delete all of Customer's data that is stored on the Cloud Service thirty (30) days following any expiration or termination of Customer's use of the Cloud Service. Customer agrees that Idaptive will not be liable to Customer, any Affiliate or any third party for any data deleted under this Section 4.3.