Solo.io Terms of Service

These Solo.io Subscription Terms (this "Agreement") are entered into as of the Effective Date (as defined below) by and between solo.io, Inc., a Delaware corporation with a place of business at 222 Third St., Suite 3300, Cambridge, MA 02142, USA ("Solo") and the 'Customer' specified in a written Solo Approved Order Form which references and incorporates these terms and conditions therein and is accepted by 'Customer' (the "Order Form") ("Customer"). Each of Solo and Customer may also be referred to herein as a "Party" or together as the "Parties." In consideration of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

If you download, install, execute or otherwise use the Software (as defined below) or you otherwise signify your agreement to or acceptance of these terms and conditions (including by clicking an associated "I Agree" or similar button), in any of the above cases other than pursuant to a valid Order Form (as defined above), this paragraph applies to you and you will be "Customer" (and a "Trial Customer") under this Agreement. by doing any of the foregoing, you agree to become bound by the terms and conditions of this Agreement, and this will be a legally binding agreement between you and Solo. Please read this Agreement carefully before accepting or agreeing to it, or downloading, installing, executing or otherwise using the Software. If you do not agree with the terms and conditions of this Agreement, you may not download, install, execute or otherwise use the Software. If you are downloading, installing, executing or otherwise using the Software, or otherwise acting, on behalf of an organization, you represent that you have the right to bind such organization to this Agreement and the terms "Customer" and "Trial Customer" herein, as applicable, will include both you, the individual user, and such organization.

1.   DEFINITIONS.

1.1.   "Effective Date"

"Effective Date" means the 'Effective Date' or 'Start Date' specified in the Order Form. Notwithstanding the above, for Trial Customers, "Effective Date" instead means the earliest of Customer's initial download, installation, execution or other use of the Software, or its agreement to or acceptance of this Agreement.

1.2.   "Software"

"Software" means (a) the Solo.io Enterprise Edition software specified as the 'Software' or 'Product' in the Order Form, as provided or made available by Solo to Customer within five (5) business days after the Effective Date, (b) user documentation relating to such software provided or made available by Solo to Customer under this Agreement, and (c) any updates, upgrades, revisions and other changes to any of the above that are provided or made available by Solo to Customer via the Support (as defined below) under this Agreement. Notwithstanding the above, for Trial Customers, "Software" instead means (i) the

applicable Solo.io Enterprise Edition software, as provided or made available by Solo to Customer subject to these terms and conditions, (ii) user documentation relating to such software provided or made available by Solo to Customer, and (iii) any updates, upgrades, revisions and other changes to any of the above that are provided or made available by Solo to Customer; provided that, to the extent any of the subsequent items under clauses ii or iii above is subject to different Solo subscription terms or license agreement as provided or made available by Solo, then those different terms or agreement shall govern such item rather than this Agreement.

2.LICENSE TO SOFTWARE.

2.1.License Grant

Subject to the terms and conditions herein, Solo hereby grants to Customer a limited, non-exclusive, non-transferable license to use the Software as provided by Solo solely for Customer's internal business purposes during the term of this Agreement. This license is only to the executable object code of the Software and does not extend to any source code. Only employees or independent contractors of Customer may access or use the Software.

2.2.   License Exclusions

Customer shall not: (a) assign, sublicense, distribute, or otherwise transfer any Software to any third party; (b) reproduce (except as reasonably necessary to use the Software as permitted herein), create derivative works of, modify, alter, debug, adapt, translate, reverse engineer, decompile or disassemble any Software; (c) lease, rent, loan, or otherwise permit access to or use of any Software by or for any third party (including any so-called "service bureau" uses); (d) use any Software to develop or market any software, service or product that is functionally similar to or derivative of any Software, in whole or part; (e) remove any proprietary notices on or in any Software; or (f) use any Software in an illegal or fraudulent manner, or otherwise use any Software except as expressly permitted herein. All acts and omissions of Customer's employees, independent contractors and other personnel will be deemed to be acts and omissions of Customer, and Customer will be responsible therefor.

2.3.   Retention of Rights

Except for the license expressly granted herein, Solo retains all right, title, and interest in and to the Software, and Customer will have no other right, title or interest therein, whether express or implied. The Software is, and will continue to be, in its entirety, the sole property of Solo or its licensors, as applicable.

2.4.   Feedback

If Customer provides any evaluation, comment, suggestion or other feedback relating to the Software to Solo ("Feedback"), Customer agrees that Feedback shall be and remain the sole property of Solo and shall not be considered Confidential Information of Customer. Solo shall be entitled to use, disclose and otherwise exploit in any manner the Feedback in its sole discretion, and shall be under no obligation to pay any fee or royalty to the Customer related to the Feedback.

2.5.   Additional Trial Terms

For Trial Customers, in addition to the other applicable terms and conditions set forth herein: (a) Customer's access and use shall be limited to internal, non-production trial use solely to consider whether it is interested in a non-trial version; (b) Solo may terminate this Agreement, including for clarity such access and use, at any time; and (c) Customer acknowledges that the trial version may differ from the non-trial version in several respects.

3.SUPPORT SERVICES.

3.1.   Generally

This Section 3.1 shall only apply to Customers other than Trial Customers (Trial Customers are covered by Section 3.2 below). During the term of this Agreement and subject to the terms and conditions herein, Solo will (a) provide Customer "help desk" support (via telephone and/or email) to answer general questions related to the Software, (b) use commercially reasonable efforts to address issues regarding the Software, and (c) provide Customer any updates, upgrades, revisions and other changes to the Software hereunder, in all of cases a-c only to the extent provided or done by Solo generally at no additional charge as part of its then-standard support offering to or for all licensees with the same level of support as Customer (collectively, the "Support Services"). Customer acknowledges that ongoing use of the Software, and subsequent Support Services, may require that Customer promptly install updates, upgrades, revisions and other changes to the Software provided or made available by Solo to Customer, and that Software functionality may be modified by the foregoing.

3.2.   Trial Customers

For Trial Customers, Customer acknowledges and agrees that (a) Solo shall be under no obligation to provide any Support Services, or any other support or maintenance of any kind for the Software, and (b) to the extent that Solo, in its sole discretion, does provide any Support Services to Customer, then (i) such Support Services may be different from those provided to other Customers, including those other than Trial Customers, (ii) the last sentence of Section 3.1 above shall also apply to Customer, and (iii) Solo may modify, suspend or terminate such Support Services at any time in its sole discretion.

4.PAYMENTS.

4.1.   Subscription Fee

In consideration for the license granted to Customer and the provision of Support Services hereunder, Customer will pay Solo the Subscription Fee (a) within forty five (45) business days after the Effective Date, except as may be otherwise specified in the Order Form. As used herein, "Subscription Fee" means the 'Subscription Fee' specified in the Order Form; provided that, Solo may increase the amount of such fee for each Renewal Term (i) by providing Customer written notice thereof, to the extent based on any incremental or "true up" Subscription Fee being due for the prior Initial Term or prior Renewal Term (for clarity, the Subscription Fee may be increased for the successive Renewal Term in order to also prospectively cover the volume of any prior excess use by Customer, for which a separate incremental or "true up" retrospective Subscription Fee is also due as described in Section 4.3 below), or (ii) otherwise by

providing Customer written notice thereof at least forty-five (45) days before the start of such Renewal Term. Notwithstanding the above and for clarity, Trial Customers shall not owe a Subscription Fee for their use of the applicable Software hereunder during their respective trial hereunder.

4.2. General Payment Terms

The Subscription Fee hereunder shall be paid in US dollars, by check or wire transfer as specified by Solo from time-to-time, and without deduction of any charges, taxes or other amounts. All amounts due hereunder are exclusive of all sales, use, excise, service, value added, or other taxes, duties and charges of any kind (whether federal, state, local or other) associated with the Software, Support Services or this Agreement. Customer shall be solely responsible for all such taxes, duties and charges (except for taxes imposed on Solo's income), which may be invoiced by Solo from time-to-time. Customer shall pay interest on all late payments at the lesser of (a) 1.5% per month or (b) the highest rate permissible under applicable law, calculated daily and compounded monthly. Customer shall reimburse Solo for all costs and expenses, including attorneys' fees, incurred in collecting any unpaid amounts owed by Customer hereunder.

4.3. Use Limits; Recordkeeping and Audit; True-Up

Customer acknowledges that its use of the Software may be limited in volume, including as to number Nodes, API calls or routes, as may be set forth in the Order Form. Upon Solo's request from time to time, Customer shall confirm to Solo in writing its usage volume. Customer acknowledges that to the extent Solo does not receive a confirmation of usage volume at least thirty (30) days before, but no more than forty-five (45) days before, the start of a Renewal Term hereunder, that shall be deemed a material breach of this Agreement by Customer, for which the remedy period specified in Section 5.1 below will be shortened to five (5) days. For Customers other than Trial Customers, to the extent Customer's usage volume exceeds the volume covered by its then-current subscription for the Software, Solo may invoice Customer an incremental or "true up" Subscription Fee for such prior excess use at the rates specified in the Order Form (and for clarity, (i) such rates will apply in their entirety and will not be pro-rated for partial year or otherwise, and (ii) such rates are subject to increase by Solo prospectively in the same manner as the base Subscription Fee can be increased as described in Section 4.1 above), and Customer shall pay such invoice within thirty (30) days. For clarity, such invoice may issue after the expiration or termination of this Agreement. During the term of this Agreement and for two (2) years thereafter, (A) Customer shall maintain appropriate records of its activities hereunder (including the volume and other scope of its use of the Software) in order to reasonably demonstrate and evidence its compliance with this Agreement, including use limits, and (B) Solo may in its discretion from time-to-time, review such records using its internal personnel or external advisors, in order to confirm Customer's compliance with this Agreement (and in the event of non-compliance, without limiting Solo's other rights or remedies therefor, Customer shall promptly reimburse Solo for its costs and expenses associated with such review).

5.TERM AND TERMINATION.

5.1. Term and Termination

For Customers other than Trial Customers, the term of this Agreement will commence on the Effective Date and, unless earlier terminated as set forth below, will continue for a period of one (1) year thereafter (the "Initial Term"); provided that, after the Initial Term, the term will automatically extend for subsequent periods of one (1) year each (each, a "Renewal Term") unless either Party provides written notice to the other of its desire not to extend the term, with such notice provided at least thirty (30) days before the end of the then-current term. Either Party may terminate this Agreement by written notice to the other Party if the other Party materially breaches this Agreement and does not remedy such breach within thirty (30) days after written notice thereof. In addition, for Trial Customers, (a) notwithstanding the first sentence above, the term of this Agreement will instead commence on the Effective Date and, unless earlier terminated as set forth herein, will continue for a period of thirty (30) days; (b) Solo may terminate this Agreement at any time, for any reason or no reason, by written notice to Customer; and (c) this Agreement will terminate automatically upon Customer's failure to comply with any of Section 2 (License to Software), 8 (Confidentiality and Injunctive Relief) or 9.1 (Compliance with Laws). Customer may also terminate this Agreement at any time by written notice thereof to Solo.

5.2.   Effect of Termination

Upon termination or expiration of this Agreement for any reason: (a) the license granted to Customer herein will terminate, Customer will immediately cease all use of the Software, and Customer will promptly destroy or return to Solo all Software, including any copies thereof, and (b) any obligations which have previously accrued, as well as any provisions herein which by their nature should reasonably survive (including Section 1 (Definitions), 2.2 (License Exclusions), 2.3 (Retention of Rights), 2.4 (Feedback), 4.2 (General Payment Terms), 4.3 (Use Limits; Recordkeeping and Audit; True-Up), 5.2 (Effect of Termination), 6.1 (Warranty and Disclaimer; clause B only), 6.2 (Limitations of Liability), 7 (Indemnification), 8 (Confidentiality and Injunctive Relief) and 9 (Miscellaneous)), shall survive. Any termination of this Agreement is in addition to and not in lieu of any additional criminal, civil, or other remedies available to Solo.

6.WARRANTY, DISCLAIMER AND LIMITATIONS OF LIABILITY.

6.1   Warranty and Disclaimer. (A) This clause A shall only apply to Customers other than Trial Customers. Solo warrants that, for the Term the Software will operate substantially in conformance with the Solo user documentation provided therefor. In the event of any breach of the foregoing warranty, Customer shall promptly notify Solo in writing and Solo shall, at its option in its sole discretion, remedy the error or refund the Subscription Fee paid for the Software by Customer (and in the event of such refund, Solo may also terminate this Agreement by written notice to Customer). Such remedy or refund shall be Solo's sole obligation or liability, and Customer's sole remedy, for any breach of the foregoing warranty. Any claim for breach of the foregoing warranty that is not made to Solo in writing within the above warranty period shall be waived and have no further effect. (B) Except for the foregoing warranty, Solo hereby disclaims all representations and warranties of any kind relating to the Software, Support Services or this Agreement (whether express, implied, statutory or arising by custom, trade usage or course of dealings), including any implied warranties of noninfringement, merchantability, or fitness for purpose. Without limiting the prior sentence above, for Trial Customers, the Software and Support Services are provided "AS-IS", with all faults.

Limitations of Liability. Neither Solo nor its licensors shall be liable for any indirect, incidental, punitive, exemplary, consequential or special damages, including lost profits or revenue, arising from or relating to the Software, the Support Services or this Agreement under any theory of liability (including negligence or other tort, contract, or any other theory), even if advised of the possibility of such damages in advance. In no event shall Solo's maximum aggregate liability for any damages arising from or relating to the Software, the Support Services or this Agreement exceed the total Subscription Fees paid hereunder by Customer to Solo in the prior year (or for Trial Customers.

7.INDEMNIFICATION.

7.1.   Solo Indemnification

This Section 7.1 and Section 7.4 below shall only apply to Customers other than Trial Customers (for clarity, Sections 7.2 and 7.3 below apply to all Customers). Solo shall defend, indemnify and hold harmless Customer and its directors, officers, employees and agents ("Customer Indemnified Parties") from and against any third party claims, actions, proceedings, demands, lawsuits, damages, liabilities and expenses (including reasonable attorneys' fees and court costs) (collectively, "Claims") to the extent based on any claim that the Software infringes, misappropriates or otherwise violates (collectively, "Infringes") any third party intellectual property or proprietary right (excluding patents).

7.2.   Customer Indemnification

Customer shall defend, indemnify and hold harmless Solo, its affiliates, and their respective directors, officers, employees, agents, partners and providers ("Solo Indemnified Parties") from and against any Claims to the extent arising from or relating to Customer's use of the Software or Customer's other activities under this Agreement, except to the extent such Claim is covered by Solo's indemnification under Section 7.1 above.

7.3.   Indemnification Process

As conditions of the indemnification obligations in Sections 7.1-7.2 above: (a) the applicable Customer Indemnified Party or Solo Indemnified Party (the "Indemnitee") will provide the indemnifying Party (the "Indemnitor") with prompt written notice of any Claim for which indemnification is sought (provided that failure to so notify will not remove the Indemnitor's indemnification obligations except to the extent it is prejudiced thereby); (b) the Indemnitee will permit the Indemnitor to control the defense and settlement of such Claim (provided that, (i) the Indemnitee may participate therein using counsel of its own choice, at its own expense, and (ii) the Indemnitor shall not settle or compromise any such Claim or consent to the entry of any judgment without the prior written consent of the other Party, not unreasonably withheld); and (c) the Indemnitee will reasonably cooperate with the Indemnitor in connection with the Indemnitor's evaluation, defense and settlement of such Claim. In defending any Claim, the Indemnitor shall use counsel reasonably satisfactory to the other Party.

7.4.   Exclusions

Solo's obligations in Section 7.1 above shall not apply to any Claim to the extent arising from or relating to (a) misuse of the Software (including any use not strictly in accordance with the documentation therefor,

Solo's instructions, and this Agreement), (b) any modification, alteration or conversion of the Software not created or specifically approved in writing by Solo, (c) any combination of the Software with any computer, hardware, software, service, data or anything else not provided by Solo, (d) Solo's compliance with specifications or other requirements of Customer, or (e) Customer's or any third party's acts or omissions. If the Software is or may be subject to a Claim of Infringement of any intellectual property or proprietary rights, Solo may, at its cost and sole discretion: (i) obtain the right for Customer to continue using the Software as contemplated herein; or (ii) replace or modify the Software so that it becomes non-Infringing without substantially compromising its principal functions; or (iii) to the extent the foregoing are not commercially reasonable, terminate this Agreement and return to Customer a pro rata portion of any pre-paid Subscription Fee for the Software associated with the then-remaining term of this Agreement. Solo's obligations in this Section 7 shall be Solo's sole obligation or liability, and Customer's sole remedy, in the event of any Infringement of intellectual property or proprietary rights by or related to the Software.

8.CONFIDENTIALITY AND INJUNCTIVE RELIEF.

8.1.   Confidentiality Definition

"Confidential Information" means information that is disclosed by either Party (the "Disclosing Party") to the other Party (the "Receiving Party") hereunder during the term of this Agreement (a) that is clearly labeled or identified as confidential or proprietary when disclosed, or (b) that, under the circumstances, should reasonably be treated as confidential (provided that, only clause a above, and not clause b above, shall apply to disclosures by Trial Customers), except that "Confidential Information" shall not include any information that (i) is or becomes generally known to the public through no fault of, or breach of this Agreement by, the Receiving Party; (ii) is rightfully in the Receiving Party's possession at the time of disclosure without an obligation of confidentiality; (iii) is independently developed by the Receiving Party without use of the Disclosing Party's Confidential Information; or (iv) is rightfully obtained by the Receiving Party from a third party without restriction on use or disclosure. In addition, the terms and conditions of any Order Form, and all Software and Feedback, shall be deemed Confidential Information of Solo, regardless of whether or not they are labeled or identified, or would reasonably be considered confidential.

8.2.   General Confidentiality Obligations

Customer acknowledges that the Software contains trade secrets, and is the confidential and proprietary property, of Solo or its licensors. Each Party agrees that it will during the term of this Agreement and thereafter (a) not disclose the other Party's Confidential Information to any third party (other than as permitted in the last sentence of this paragraph); (b) use the other Party's Confidential Information only to the extent reasonably necessary to perform its obligations or exercise its rights under this Agreement; (c) disclose the other Party's Confidential Information only to those of its employees and other personnel who reasonably need to know such information for purposes of this Agreement and who are bound by confidentiality obligations offering substantially similar protection to those in this Section 8; and (d) protect all Confidential Information of the other Party from unauthorized use, access, or disclosure in the same manner as it protects its own confidential information of a similar nature, and in no event with less than reasonable care. Notwithstanding the above, this paragraph shall not prohibit: (i) a Party from

disclosing Confidential Information of the other Party to the extent required by applicable law, rule or regulation (including a court order or other government order) or the rules and regulations of the SEC or any national securities exchange; provided that such Party provides the other Party prior written notice of such disclosure, to the extent practicable, and reasonably cooperates with efforts of the other Party to seek confidential treatment thereof, to the extent such cooperation is requested by the other Party; or (ii) Solo from disclosing Confidential Information of Customer to the extent reasonably necessary to perform its obligations or exercise its rights under this Agreement.

8.3. Return or Destruction

Except as otherwise expressly provided in this Agreement, the Receiving Party will return to the Disclosing Party, or destroy or erase, the Disclosing Party's Confidential Information in tangible form, upon the termination or expiration of this Agreement; provided that (a) Receiving Party may retain a copy of Disclosing Party's Confidential Information solely for the purposes of tracking Receiving Party's rights and obligations hereunder with respect thereto, (b) Receiving Party may retain copies of Disclosing Party's Confidential Information solely to the extent required by law or by applicable professional standards which require such retention, (c) Receiving Party may retain copies of Disclosing Party's Confidential Information in accordance with its backup and records retention policies (provided that, for clarity, such information remains subject to the other obligations herein), and (d) Receiving Party may retain Disclosing Party's Confidential Information solely to the extent reasonably necessary for Receiving Party to exercise its rights or perform its obligations under this Agreement that survive such termination or expiration.

8.4. Injunctive Relief

Customer acknowledges that a breach of Section 2 (License to Software) or this Section 8 (Confidentiality and Injunctive Relief) would cause substantial harm to Solo that could not be remedied by payment of damages alone. Accordingly, Solo will be entitled to seek preliminary and permanent injunctive relief, and other equitable relief, for any such breach, without any requirement to prove damages or post bond.

9. MISCELLANEOUS.

9.1. Compliance with Laws

Customer agrees to comply with all laws, rules and regulations applicable to its use of the Software, including those concerning export control. Customer agrees that it will not directly or indirectly resell, export, re-export, ship or divert any Software.

9.2. Force Majeure

Solo shall not be liable or responsible to Customer, nor be considered to have defaulted or breached this Agreement, for any failure or delay in fulfilling or performing any provision of this Agreement to the extent such failure or delay is caused by or results from any act, circumstance or other cause beyond the reasonable control of Solo, including acts of God, flood, fire, earthquake, explosion, governmental actions, war, invasion or hostilities (whether war is declared or not), terrorist threats or acts, riot, or other civil unrest, national emergency, revolution, insurrection, epidemic, lockouts, strikes or other labor

disputes (whether or not relating to either Party's workforce), or restraints or delays affecting carriers or inability or delay in obtaining supplies of adequate or suitable technology or components, telecommunication breakdown, or power outage.

9.3. Publicity

Solo shall have the right to use Customer's name and logo on client lists published on Solo's website and in marketing materials. Solo may announce the relationship hereunder in a press release provided that Solo obtains Customer's prior approval of the wording of the release (not unreasonably withheld).

9.4. Governing Law and Disputes

(A)Choice of Law. This Agreement, the interpretation hereof, and all disputes arising hereunder or related hereto, shall be governed by the laws of the Commonwealth of Massachusetts, USA, without regard to any conflicts of laws principles that would apply another law. The application of the United Nations Convention of Contracts for the International Sale of Goods is hereby excluded.

(B)Default Approach for Disputes. Except to the extent a Customer dispute is covered by clause C below, Customer hereby consents to non-exclusive jurisdiction and venue in any federal or state court located within the Commonwealth of Massachusetts, USA, and shall not bring any suit, claim or other cause of action except in a court located within the Commonwealth of Massachusetts, USA.

(C)Approach for Disputes with Certain Customers. (I) This clause C applies to Customer disputes to the extent either (a) the Customer is not a Trial Customer and is located outside the United States in a country that is a signatory or 'Contracting State' to the The New York Arbitration Convention on the Recognition and Enforcement of Foreign Arbitral Awards (see http://www.newyorkconvention.org/countries), or (b) Solo opts, in its sole discretion, for the dispute to be covered by this clause C. (II) The parties hereby consent to resolve any applicable dispute arising hereunder or related hereto by submission of such dispute to binding and final arbitration in accordance with the Rules of Arbitration (the "Rules") of the International Chamber of Commerce, by an arbitral tribunal composed of one or more arbitrators appointed in accordance with the Rules. Arbitration proceedings may be commenced by either party by providing written notice to the other party. All arbitration proceedings will be held in Boston, Massachusetts, USA (provided that proceedings may be conducted at another location or by telephone conference call with the consent of the parties and the arbitrator(s)). All arbitration proceedings will be conducted in the English language. The arbitrator(s) may render early or summary disposition of some or all issues, after the parties have had a reasonable opportunity to make submissions on these issues. The parties agree that the arbitrator(s) will be empowered to grant injunctive or other equitable relief but will have no authority to award punitive damages. The above obligation to arbitrate shall extend to any claim by or against any affiliate, agent, officer, employee, director, manager, member or shareholder of a party. (III) Notwithstanding clause (C)II above, (a) either party may initiate litigation in any court of competent jurisdiction seeking any preliminary or temporary remedy in equity, including the issuance of a preliminary or temporary injunction; and (b) judgment on the arbitration award granted in any arbitration hereunder may be entered in, and the parties shall have the right to seek enforcement thereof by, any court of competent jurisdiction (and any additional expenses incurred in enforcing the arbitration award will be charged against the party that resists its enforcement); and (c) the parties hereby consent to the non-exclusive

jurisdiction of any federal or state court located in Massachusetts, USA, and waive any objections of improper venue or inconvenient forum, in connection with clauses (C)(III)a or b above.

9.5.   Relationship of the Parties

The relationship between the Parties is that of independent contractors. Nothing contained in this Agreement shall be construed as creating any agency, partnership, joint venture or other form of joint enterprise or employment relationship between the Parties, and neither Party shall have authority to contract for or bind the other Party in any manner whatsoever.

9.6.   Interpretation

Headings are provided for convenience only and will not be used to interpret the substance of this Agreement. Unless the intent is expressly otherwise in specific cases, the use of "include," "includes" or "including" herein will not be limiting and "or" will not be exclusive.

9.7.   Entire Agreement

This Agreement sets forth the entire understanding and agreement between the Parties with respect to the subject matter hereof, and supersedes all prior written agreements, discussions and understandings, expressed or implied, between the Parties concerning such subject matter.

9.8.   Amendment

For Customers other than Trial Customers, this Agreement may only be amended by an express written instrument signed by both Parties. For Trial Customers, (a) Solo may amend this Agreement by written notice thereof to Customer, and Customer's continued use of the Software after receipt of such notice shall be deemed its agreement thereto, and (b) this Agreement may not otherwise be amended unless by an express written instrument signed by Solo. No pre-printed terms on any purchase order, invoice or similar document issued by Customer in relation to this Agreement shall have any effect on the Parties or this Agreement.

9.9.   Assignment

Customer may not assign or otherwise transfer this Agreement or any of its rights hereunder, or delegate any of its obligations hereunder, without the prior written consent of Solo in its sole discretion; provided that, for Customers other than Trial Customers, such Customer may assign this Agreement as a whole to the acquiror or successor in the event of a merger or acquisition of substantially all of Customer's assets or business, upon prior written notice of such assignment to Solo and assuming that the assignee meets Solo's reasonable financial and other customer requirements. Any purported assignment or delegation without such consent will be null and void. Solo may freely assign, transfer or delegate this Agreement, in whole or in part, from time-to-time. This Agreement will be binding upon and inure to the benefit of the Parties' successors and permitted assigns.

9.10.   Waiver

No waiver of any breach of any provision herein will constitute a waiver of any prior, concurrent or subsequent breach of the same or any other provision, and no waiver will be binding unless made in an express writing signed by the waiving Party.

9.11.   Severability

In the event that any provision of this Agreement is held to be void or unenforceable, the remainder of this Agreement shall continue in force, and the severed provision shall be replaced by an enforceable provision reflecting the intention of the Parties.

9.12.   U.S. Government Users

The Software and related documentation are "commercial items," as that term is defined at FAR 2.101, consisting of "commercial computer software" and "commercial computer software documentation," as such terms are used in FAR 12.212 and DFARS 227.7202. Consistent with FAR 12.212 or DFARS 227.7202, as applicable, the Software and documentation are made available to U.S. Government end users only as a commercial item, with only those rights as are granted to all other end users pursuant to the terms and conditions of this Agreement.

9.13.   Notices

Unless otherwise provided herein, any notices required or permitted herein will be in writing. For Customers other than Trial Customers, notices may be delivered, without limitation, personally, or may be sent by overnight delivery or certified mail, return receipt requested, to the address set forth in the Order Form, unless the Parties are subsequently notified of any change of address in accordance with this Section. For Trial Customers, notices may be delivered to Customer, without limitation, by email to its email address as provided by Customer to Solo. For Solo, notices may be delivered to solo.io, Inc., 222 Third St., Suite 3300, Cambridge, MA 02142, USA, Attn: Legal (subject to change by Solo by written notice thereof).

9.14.   Counterparts

The Order Form may be executed in counterparts (which may be delivered in .pdf or other facsimile format acceptable to both Parties), each of which shall be an original and both of which together shall constitute one agreement.

End of terms and conditions.