

THIS CUSTOMER LICENSE AGREEMENT (this “**Agreement**”) is between Groundswell, a Delaware corporation (“**Groundswell**”) and the Customer who purchases Groundswell Products, signing or electronically accepting this Agreement, or any Ordering Document that references this Agreement (“**Customer**”). This Agreement is entered into on the earlier of, (a) Groundswell or an Authorized Reseller, and Customer agreeing to an Ordering Document referencing this Agreement, or (c) Customer is given access to any Product (the “**Effective Date**”). Groundswell and Customer may be referred to herein collectively as the “**Parties**.”

1. Scope of Agreement.

- 1.1** This Agreement governs Customer’s use of and access to all Products and the receipt of Services to be provided by Groundswell pursuant to this Agreement and an Ordering Document. This Agreement applies to all Software that Customer licenses directly from Groundswell, a Groundswell Affiliate, or from an Authorized Reseller. For the avoidance of doubt, in the event Customer licenses any Products or purchases any Services from an Authorized Reseller, Groundswell shall have no obligations to Customer with respect to any terms and conditions outside of this Agreement unless otherwise agreed to in writing between Customer and Groundswell. Capitalized terms not otherwise defined herein have the meanings assigned to such terms in Section 15 (Definitions).
- 1.2** Unless otherwise agreed to between Customer and Groundswell in writing, the terms of this Agreement shall govern any and all use of the Products. Licensing of Products may take place by either:
- (a) executing an Ordering Document with Groundswell or a Groundswell Affiliate; or
 - (b) entering into an Ordering Document with an Authorized Reseller for the license of any Product or purchase of any Services.

2. Product Licenses.

- 2.1 Grant of License for Products.** Subject to Section 3.1 and Customer’s and its Authorized Users’ continuous and uninterrupted compliance with all the terms and conditions of this Agreement and the applicable Ordering Documents, including the payment of all applicable Fees (if any), Groundswell hereby grants Customer a revocable, non-exclusive, non-transferable, non-sublicensable, limited right to download, install, access and use the Products (as applicable) specified in the applicable Ordering Document solely for Customer’s internal business operations and solely in accordance with (i) the Documentation, (ii) this Agreement, and (iii) the number of End Users and Authorized Devices on which an instance of such Product is installed, as permitted and set forth in the applicable Ordering Document (the “**License**”). Unless otherwise specified in the applicable Ordering Document, the License allows Customer to install a single instance of the Product and use the Product on a single specific Authorized Device at any time per License. Customer may install, use, access, display and run one copy of the Product at a time. Each Product is licensed as a single product. Other than the rights expressly set forth in this Section 2, no other right or interest whatsoever in or relating to the Product is transferred or granted to Customer.
- 2.2 No Sublicense and Assignment of License or Other Rights.** Customer shall not have any right to transfer, assign or sublicense any of the rights granted in this Agreement to any other party or to use any Product other than as provided for in this Agreement, in each case, without the prior written consent of Groundswell, which consent may be granted, conditioned, delayed or withheld by Groundswell, in its sole discretion.

3. Services.

3.1 Groundswell Services. Except as otherwise provided in this Section 3, the License grant under Section 2.1 and Customer's and its End Users' right to download, install, access or use any Product under this Agreement is subject to Customer's purchase of Groundswell Services for such Product. Groundswell Services Terms for each Product are the standard maintenance and support terms and conditions of Groundswell, as set forth in **Exhibit A**, or as may otherwise be provided in writing by Groundswell or Authorized Reseller to Customer from time to time. Notwithstanding the foregoing, and unless otherwise agreed to in writing by Groundswell, all Groundswell Services provided to Customers subject to this Agreement and Groundswell Services Terms shall be performed exclusively by Groundswell.

3.2 Nonrenewal of Groundswell Products. In the event Groundswell Product is not renewed or repurchased by Customer, Groundswell shall have no further obligations to Customer including without limitation the obligation to provide any further Groundswell Product or Services to Customer after the expiration of the then-current Term for such Product. Upon termination or expiration of the Groundswell Product or any license term or associated rights for the Groundswell Product will immediately terminate and Customer must, at its expense remove and delete all copies of Groundswell Product. Some or all of the Groundswell Product components may cease to operate without prior notice upon expiration or termination of this Agreement or corresponding license term.

3.3 Specialized Services. Groundswell offers Specialized Services for purchase by Customers. Any Specialized Services to be provided or performed by Groundswell for Customer shall be described in a statement of work or other Ordering Document executed by Groundswell or Authorized Reseller, as applicable, and Customer, which describes such Specialized Services and the terms applicable to such Services. Unless otherwise agreed to in writing by Groundswell, all Specialized Services provided to Customers subject to this Agreement and the applicable Ordering Document shall be performed exclusively by Groundswell. Groundswell Product can be operated and maintained by other providers but any and all changes that directly or indirectly lead to issues will not be the responsibility of Groundswell to remediate.

4. **Authorized Resellers.** Customer may purchase Licenses for Products and the right to receive Groundswell Services and any other Services through an Authorized Reseller and Customer's License rights in such Products and rights to receive such Services will be governed by this Agreement covering such Products and/or Services. For any License purchased for a Product or right to receive Services purchased by Customer from an Authorized Reseller, Customer hereby agrees and acknowledges that: (a) Customer and such Authorized Reseller will enter into an Ordering Document; (b) Groundswell will not be bound by any commitment, agreement or understanding entered into between Customer and the Authorized Reseller and Groundswell will not be liable for any of the acts or omissions of the Authorized Reseller; (c) Customer's right to download, install, access or use such Product(s) and receive such Services will be subject to the terms and conditions of this Agreement and any other applicable Customer Agreement (provided by Groundswell); and (d) the failure by Authorized Reseller to pay any Authorized Reseller Fees to Groundswell in accordance with this Agreement or any Reseller Agreement entered into between Authorized Reseller and Groundswell shall be considered a breach of this Agreement and will entitle Groundswell to, inter alia, the remedies set forth in Section 6.4.

5. Intellectual Property; Ownership; Restrictions on Use; Third Party Products.

5.1 No Other Rights. Customer acknowledges that the Products are provided under License, and not sold, to Customer. Customer does not acquire any ownership interest in any Product, Documentation (and any derivatives thereof) under this Agreement and, except as expressly provided in this Agreement, no License or other rights are granted to Customer or any Third Party to use or access the Products or Services, any of the Groundswell Property or any Intellectual Property embodied therein, or any data, information, or other content provided thereby unless otherwise agreed upon by the Parties pursuant to a separate written agreement signed by both Parties.

- 5.2 Ownership and Proprietary Rights.** Except to the extent that portions of a Product may be executable and include Third Party Products, including without limitation open-source software, Groundswell (together with its Affiliates, subsidiaries, and/or their respective suppliers and licensors) owns all right, title and interest in and to the Products, the Groundswell Property, and all other Groundswell Confidential Information, including all Intellectual Property Rights therein. Groundswell may modify or improve any Groundswell Property at any time and such Groundswell Property, and Groundswell's rights (including all Intellectual Property Rights) therein will include all enhancements, modifications, or adaptations thereto and/or derivative works thereof (whether made by Groundswell, a Third Party or jointly) and Customer acknowledges that it neither owns nor acquires any rights in or to any of the Groundswell Property or the Products. Customer further acknowledges that Groundswell retains the right to use the Groundswell Property and the Products for any purpose in Groundswell's sole discretion. Groundswell reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any Third Party, any Intellectual Property Rights or other right, title, or interest in or to the Groundswell Property. Customer hereby acknowledges and agrees that Customer's sole rights with respect to the Products and the Documentation are the rights granted pursuant to the License, as described in Section 2 of this Agreement.
- 5.3 Third-Party Products.** Customer acknowledges that the Products may contain or be accompanied by certain Third-Party Products and certain items of such Third-Party Products may be subject to open-source licensing requirements. Third Party Products may be accompanied by certain notices or license documentation relating to such Third-Party Products (collectively, the "**Third Party Notices**"). Customer shall comply with the terms of all Third Party Notices governing Customer's use of such Third-Party Products and all such use is at Customer's own risk. To the extent Groundswell enables any integration of Third-Party Products with the Products, Groundswell will have no responsibility or liability with respect to such Third Party Products.
- 5.4 Open-Source Software.** All open-source software contained in the Products is distributed WITHOUT ANY WARRANTY. All such software is subject to the copyrights of the authors and to the terms of the applicable licenses included in such Product. Customer agrees to be legally bound by such open-source licenses. No terms contained in the foregoing open-source licenses shall be construed to grant Customer any rights to modify, update, change, or reverse engineer any Product or otherwise do anything prohibited by this Agreement.
- 5.5 Groundswell Marks.** Groundswell's marks and logos and all other proprietary identifiers used by Groundswell in connection with the Products and the Services ("**Groundswell Marks**") are all Groundswell Property and are trademarks and/or trade names of Groundswell and/or its Affiliates. No right, license, or interest to the Groundswell Marks is granted hereunder.
- 5.6 Feedback.** If Customer or any of its End Users contact Groundswell with feedback data (e.g., questions, comments, suggestions, or the like) regarding any Product or Service (collectively, "**Feedback**"), Groundswell shall be free to use such Feedback irrespective of any other obligation or limitation between Customer or any of its End Users and Groundswell governing such Feedback. All Feedback is and will be treated as non-confidential. Customer or any of its End Users hereby assign to Groundswell on Customer's or such End User's behalf, and Customer shall cause Customer's employees, contractors, and agents to assign, all right, title, and interest in, and Groundswell is free to use, without any attribution or compensation to Customer, any of Customer's End Users, or any Third Party, any ideas, know-how, concepts, techniques, or other Intellectual Property Rights contained in the Feedback, for any purpose whatsoever, although Groundswell is not required to use any Feedback.
- 5.7 Restrictions on Use.** Except as expressly provided in this Agreement or an applicable Customer Agreement, Customer agrees that Customer will not, and Customer will not permit any person or entity other than a Person properly granted the necessary rights under this Agreement or another Customer Agreement, at any time, directly or indirectly, to:

- (a) access or use the Products or Services except as set forth in, and only to the extent permitted under, this Agreement or such applicable Customer Agreement;
- (b) take or fail to take any action, engage in any activity or access or use any Product in any manner that violates the terms of this Agreement or any other Customer Agreement applicable to such Product;
- (c) attempt to decipher, reverse translate, decompile, decode, disassemble, adapt or otherwise reverse engineer or otherwise attempt to derive, reconstruct, discover or gain access to, in whole or in part, the source code of any Product or other Groundswell Property, or underlying ideas, algorithms, file formats, programming or interoperability interfaces of any Product or other Groundswell Property;
- (d) use or attempt to use any robot, spider, scraper, deep link or other similar automated data gathering or extraction tools, program, algorithm or methodology to access, acquire, copy or monitor any Product or portion thereof;
- (e) copy, modify, correct, adapt, translate, enhance, or otherwise create derivative works from or based upon the Products or Services or the Groundswell Property, in whole or in part;
- (f) remove, delete or alter any Groundswell Marks, any domain names, other distinctive brand features or any proprietary or other notices from any Product (including any Documentation);
- (g) use any Product or Groundswell Property to store or transmit any material that (i) infringing, libelous, or otherwise unlawful or tortious, or in violation of Third-Party privacy rights; (ii) infringes, misappropriates, or otherwise violates any Intellectual Property Rights or other right of any Third Party; or (iii) violates Applicable Law;
- (h) use any Product, Service, or Groundswell Property to send or store any code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses;
- (i) access or use of any Product (including any Documentation) for purposes of (i) performing a competitive analysis of a Product or benchmarking with a non-Groundswell product or service, (ii) creating or developing a competing software product or service, or (iii) or any other purpose that is to Groundswell's commercial disadvantage;
- (j) permit direct or indirect access to or use of any of the Products, Services, or the Groundswell Property in a way that circumvents a contractual usage or License limit, or use any of the Products or Services to access or use any of the Groundswell Property, including Groundswell's Intellectual Property, except as permitted under this Agreement or other applicable Customer Agreement;
- (k) share data or content from any Product (including any Documentation), the Services, or the Groundswell Property with any direct competitor of Groundswell Product;
- (l) assign, sublicense, resell, transfer, distribute, pledge, loan, lease, market, rent, use or make any Product or Service available to any third party, including, without limitation, in any service bureau arrangement, facility management, or Third-Party support or training, or otherwise share any rights granted under this Agreement or any applicable Ordering Document or other Agreement with any Third Party; or
- (m) circumvent, disable, or otherwise interfere with security-related features of any Product or features that enforce limitations on its use.

Customer and its End Users are responsible and liable for all uses of the Products resulting from access provided by Customer to such other End Users, directly or indirectly, whether such access or use is permitted by or in violation of this Agreement or any Ordering Document or other Agreement. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Customer's End Users, and any act or omission by an End User that would constitute a breach of this or any other applicable Agreement, if taken by Customer or any other End User, will be deemed a breach of this Agreement or such applicable Agreement by Customer. Customer shall use

reasonable efforts to make all of Customer's End Users aware of the provisions of this Agreement applicable to such End User's use of the Products and shall cause such End Users to comply with such provisions.

6. Fees; Payment; Suspension; Taxes.

6.1 Fees. The fees for the Products and Services provided to Customer are determined in accordance with the terms of the applicable Ordering Document covering such Products and Services and, together with any other amounts due under this Agreement (collectively, the "**Fees**"), are quoted and payable in United States dollars. Unless otherwise provided in the applicable Ordering Document, all Fees (except for any disputed Fees then subject to a Dispute under Section 6.5) shall be due and payable within thirty (30) days of the invoice date. Customer shall provide Groundswell with complete and accurate billing and contact information including a valid email address for receipt of invoices. All Fees and payment obligations for Products and Services under any Ordering Document are non-cancelable and Fees paid are non-refundable and quantities purchased cannot be decreased.

6.2 Overdue Payments. Without limiting the rights and remedies available to Groundswell under this Agreement or by Applicable Law, any Fees not paid by Customer (except for any disputed Fees then subject to a Dispute under Section 6.5) within thirty (30) days of the invoice date shall accrue late charges at the rate of three percent (3%) of the outstanding balance per month, or the maximum rate permitted by Applicable Law, whichever is lower, from the date such payment was due until the date paid, plus all reasonable expenses and fees of collection (including attorneys' fees and court and administrative costs).

6.3 Taxes. The Fees are exclusive of all shipping costs, and federal, state and local sales, value-added taxes, goods and services taxes, use, excise, service, transaction, gross receipts or similar taxes imposed on the Products and Services (collectively, "**Taxes**"), any and all of which Customer agrees to pay, excluding taxes assessable against Groundswell on its income, property, and employees. Customer shall make all payments required without deduction of any Taxes, except as required by Applicable Law, in which case the amount payable shall be increased as necessary so that after making any required deductions and withholdings, Groundswell receives and retains (free from any liability for payment of Taxes) an amount equal to the amount it would have received had no such deductions or withholdings been made. If Customer is exempt from paying any applicable Taxes, Customer shall promptly provide written evidence reasonably satisfactory to Groundswell of its tax-exempt status, and Groundswell will not include such Taxes in Customer's invoices.

6.4 Suspension of Services for Non-Payment. If Customer's account is more than thirty (30) days past due (except with respect to any disputed Fees then subject to a Dispute under Section 6.5), in addition to any other rights or remedies it may have under this Agreement or by Applicable Law, Groundswell reserves the right to cease or suspend access to and use of any or all Products (including all License and other rights granted to Customer for such Products) and/or performance of any or all Services currently being performed or to be performed for Customer, without liability to Groundswell for such suspension, and such Licenses for such Products and/or performance of Services shall only be reinstated and resumed if Customer pays all amounts of such invoiced Fees (except for any disputed Fees then subject to a Dispute under Section 6.5) are paid in full.

6.5 Billing Disputes. Any dispute involving invoiced Fees (a "**Dispute**") must be in writing and submitted to Groundswell within thirty (30) days of the invoice date and include a reasonably detailed statement describing the nature and amount of the disputed Fees as well as the reasonable and good faith bases for why a credit or refund is being requested (a "**Dispute Notice**"). Customer shall cooperate with Groundswell to promptly address and attempt to resolve any Dispute submitted in accordance herewith. Customer acknowledges and agrees that in the event Customer does not submit a Dispute Notice in accordance with the foregoing, Customer waives all rights to dispute such invoice, and all Fees set forth in such invoice will be considered correct and binding on Customer. Notwithstanding any dispute of invoiced Fees commenced in accordance with this Section 6.5, Customer shall remain obligated to pay all undisputed Fees within thirty (30) days of the invoice date.

6.6 Audit. During the Term and for one (1) year thereafter, upon thirty (30) days written prior notice Groundswell will have the right to have an independent audit firm inspect Customer's records relating to Customer's use of

the Offerings solely in order to verify Customer's compliance with the terms and conditions of this Agreement. The audit will be performed during Customer's normal business hours. The costs of the audit will be paid by Groundswell, unless the audit reveals that Customer has (a) failed to comply with the terms and conditions of this Agreement, or (b) underpaid the amounts owed to Groundswell by five percent (5%) or more, in which case Customer will reimburse Groundswell for all reasonable out-of-pocket costs and expenses reasonably incurred by Groundswell in connection with such audit. Customer will promptly pay to Groundswell any amounts shown by any such audit to be owing and due. In addition, the Products may report certain details regarding certain usage to Groundswell, and Customer will not interfere with such reporting.

7. Term and Termination.

7.1 Agreement Term. The terms of this Agreement will continue to apply so long as Customer and any of its End Users are able to access or use any Product or receive any Services.

7.2 License and Agreement Term. The initial term of this Agreement and the License for any Product granted hereunder and/or Services to be provided to Customer hereunder shall commence on and as of the Effective Date and, unless terminated earlier pursuant to this Agreement, shall continue for the period specified in the applicable Ordering Document (the "**Initial Term**"), and, unless otherwise specified in the Ordering Document, shall automatically renew for successive twelve (12) month periods or such other period specified in the Ordering Document (each a "**Renewal Term**") unless either Party provides written notice to the other Party of its intent not to renew not less than ninety (90) days prior to the expiration of the then-current Term (as defined below), or unless sooner terminated pursuant to the terms of this Agreement. For purposes of this Agreement, "**Term**" means the Initial Term together with any and all Renewal Terms. If no period of time is specified for the Initial Term in the Ordering Document, the period of time for the Initial Term and each Renewal Term thereafter applicable to such Licenses and/or Services shall be twelve (12) months.

7.3 Groundswell Right to Terminate. Subject to the terms of any applicable Ordering Document or other Customer Agreement, Groundswell may at any time, in its sole discretion, terminate this Agreement and any License for a Product or right to receive Services hereunder, and Customer's and Customer's End Users' right, ability and permission to access the Products and/or receive any Services, shall immediately terminate upon notice to the e-mail address that Groundswell has for Customer.

7.4 Termination for Cause. Either Party may terminate an Ordering Document or, at the election of the terminating Party, this Agreement (i) upon thirty (30) days prior written notice to the other Party of a material breach by the other Party if such breach remains uncured at the expiration of such notice period; or (ii) immediately in the event the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation, or assignment for the benefit of creditors. In the event this Agreement is terminated, all Ordering Documents are simultaneously terminated. Notwithstanding any terms to the contrary in this Agreement, if any amounts owed by Customer (except for any Fees then in dispute under Section 6.5) are not fully-paid when due in accordance with Section 6 herein, Customer shall be in material breach of this Agreement and, in addition to its other rights and remedies at law or in equity, Groundswell may terminate this Agreement and any and all rights of Customer under any License for any Product and/or to receive any Services currently being performed or to be performed for Customer shall terminate, effective immediately upon delivery of written notice to Customer.

7.5 Customer Termination. If Customer terminates this Agreement or any Ordering Document prior to the end of the Term for Groundswell's uncured breach, Customer shall be entitled to a refund of all pre-paid Fees paid for the Licenses of Products or performance of Services not provided by Groundswell beyond the effective date of termination. If, prior to the expiration of the Term, (i) Customer terminates this Agreement or any Ordering Document and such termination is not due to Groundswell's uncured breach; or (ii) Groundswell terminates this Agreement or any Ordering Document due to Customer's uncured breach (collectively, a "**Customer Early Termination**") and Customer has not already paid in advance the full amount of all Fees due under each Ordering Document for the Offerings licensed or purchased in accordance with the terms herein, Customer shall

pay Groundswell an early termination charge equal to all Fees, including all applicable Taxes, set forth in each Ordering Document which would otherwise be due through the end of the entire Term of such Ordering Document (the “**Early Termination Fee**”). The Parties agree that the precise damages resulting from a Customer Early Termination are difficult to ascertain and the Early Termination Fee is a reasonable estimate of anticipated actual damages and not a penalty. Customer agrees and acknowledges that the Early Termination Fee shall apply even if Customer terminates this Agreement or any Ordering Document following Acceptance under this Agreement. The Early Termination Fee shall be due and payable within ten (10) days of the effective date of termination and any prepaid Fees will be applied towards the amount of the Early Termination Fee.

7.6 No Further Use and Return of Property. Upon termination, Customer shall, and shall cause all of its End Users, to (i) cease accessing or using any Products and any other Groundswell Property; (ii) uninstall and/or render inoperative all instances of any Product on each Authorized Device; (iii) destroy all copies of Product, including all Documentation for such Product, in its possession or control; and (iv) upon Groundswell’s request, shall so certify to Groundswell in writing that the foregoing actions have been taken and completed. Upon termination of this Agreement, the License and all rights granted hereunder shall also terminate, and such termination will not limit any of Groundswell’s rights or remedies at law or in equity. No termination shall affect Customer’s obligation to pay all Fees owed to Groundswell.

7.7 Survival. Sections 2, 3, 4, 5, 6, 7, 8, 11, 12, 13, and 14 shall survive any termination of this Agreement.

8. Confidentiality.

8.1 “Confidential Information” means all information disclosed or made available by a Party (“**Disclosing Party**”) to the other Party (“**Receiving Party**”), whether orally or in writing, that is designated as “Confidential” at the time of disclosure or that reasonably should be understood to be Confidential given the nature of the information and the circumstances of disclosure. Groundswell’s Confidential Information includes the Groundswell Property and Products; Customer’s Confidential Information includes the Customer Data; and Confidential Information of each Party includes the terms and conditions of this Agreement and any other applicable Agreement (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such Party. Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a Third Party without breach of any obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party.

8.2 Exclusions. Except for Customer Data, Confidential Information shall not include any information that the Receiving Party can demonstrate (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party; (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party; (c) is received from a Third Party without breach of any obligation owed to the Disclosing Party; or (d) was independently developed by the Receiving Party without breach of an obligations owed to the Disclosing Party.

8.3 Protection of Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (a) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (b) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its Affiliates and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. Neither Party will disclose the terms of this Agreement or any other applicable Agreement to any Third Party other than its Affiliates, legal counsel, and accountants without the other Party’s prior written consent, provided that a Party that makes any such disclosure to its Affiliate, legal counsel, or accountants will remain responsible for such Affiliate’s, legal counsel’s, or accountant’s compliance with this Section 8. Neither

Party will appropriate any Confidential Information of the other Party for its own or any Third Party's use. All Confidential Information will remain the property of the Disclosing Party and will be promptly returned to that Party, or destroyed if so directed, upon the earlier of the Disclosing Party's written request or, pursuant to Section 7.6, the termination or expiration of this Agreement.

8.4 Compelled Disclosure. The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to seek a protective order or contest the disclosure. If the Disclosing Party is unsuccessful in obtaining any protective order or other relief from such compelled disclosure, the Receiving Party shall disclose only that portion of Confidential Information which is legally required to be disclosed. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information. The provisions of this Section will survive the expiration or termination of this Alliance Agreement for any reason.

8.5 Injunctive Relief. Each Party acknowledges that unauthorized disclosure of the Disclosing Party's Confidential Information may cause irreparable injury to the Disclosing Party for which monetary damages may be inadequate. In addition to any other remedy available to the Disclosing Party at law or in equity, the Disclosing Party shall have the right to seek damages and/or injunctive relief without posting a bond or other form of security.

9. Customer Responsibilities.

9.1 Customer Control of Customer Data. Customer hereby agrees that Customer will control the access to the Customer Data, including Customer's End Users access to and use of the Products and Services and any Authorized Devices used by End Users in connection with the foregoing. Customer and its End Users with Access Credentials have full administrative control over such data, including the right to view or modify it and are solely responsible for the development, content, operation, maintenance, and use of Customer Data. Customer will ensure that the Customer Data and any of its End Users' use of Customer Data will not violate any policy or terms referenced in or incorporated into this Agreement, any other Customer Agreement, or any Applicable Law.

9.2 Monitoring. Provision of the Products, the Services, and other ancillary services hereunder may require Groundswell to monitor the traffic and content (including encrypted content) of Customer Data transmitted by Customer's Authorized Devices and networks which may also require Customer and its End Users to provide, upload, transmit, or make accessible to Groundswell such Customer Data.

9.3 Sensitive Data. The Parties acknowledge and agree that, (a) the Products are not designed for the purpose(s) of storing, processing, compiling, or transmitting Sensitive Data, and (b) except as otherwise provided herein, neither Customer nor any of Customer's End Users shall use the Products or Services for, or provide to Groundswell, without prior written consent, storing, processing, compiling or transmitting Sensitive Data under this Agreement or any other Customer Agreement. Customer further acknowledges that the Products and related features are not intended to meet any legal obligations for these uses, including HIPAA and GLBA requirements, and that Groundswell is not a Business Associate as defined under HIPAA. Therefore, notwithstanding anything else in this Agreement, Groundswell has no liability for Sensitive Data accessed, used, transmitted, displayed, or stored in connection with Customer's or any of its End Users' use of the Products or the Services.

10. Representations and Warranties.

10.1 Mutual Representations and Warranties. Each Party represents and warrants to the other Party that: (i) it has the power and authority to execute and deliver this Agreement and to consummate the transactions

contemplated hereby; (ii) this Agreement is valid and binding upon and fully enforceable against such Party in accordance with its terms; and (iii) neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby will violate any Applicable Laws, or otherwise conflict with, result in a breach of, constitute a default under, result in the acceleration of, create in any party the right to accelerate, terminate, modify, or cancel, or require any notice under any agreement, contract, lease, license, instrument, or other arrangement to which such Party is a party or by which it is bound or to which any of its assets are subject.

10.2 Groundswell Products Warranty. Groundswell represents and warrants to Customer that (a) the Products do not violate the Intellectual Property Rights of Third Parties.

10.3 Groundswell Services Warranty. Groundswell represents and warrants to Customer that the Services shall be performed by qualified personnel in a professional manner, consistent with industry standards. Customer's sole and exclusive remedy for breach of this warranty will be for Groundswell to promptly correct the defective Services at no cost or expense to Customer, which remedy shall apply and be available so long as Customer notifies Groundswell in writing of any such breach within thirty (30) days of when such Services were provided by Groundswell. Groundswell does not otherwise warrant, expressly or implicitly, the results, performance, or quality of the Services provided under this Agreement or any other Customer Agreement, including any Ordering Document.

10.4 Customer Warranty. Customer warrants that Customer owns all right, title, and interest, including all Intellectual Property Rights, in and to Customer Data and that both the Customer Data and Customer or such Customer's End User's use of the Products is in compliance with the Terms of this Agreement.

11. Disclaimer of Representations and Warranties.

11.1 The Products and Services, and any Groundswell Property associated with or provided through the Products or Services are provided to Customer on an "as-is" and "as available" basis.

11.2 Except as expressly set forth in this Agreement, each Party expressly disclaims all warranties, express or implied, including, without limitation, any implied warranty of merchantability, fitness for a particular purpose, or noninfringement with respect to such Party's marks, Confidential Information, Products, and Services and any data, information, or other material provided to the other Party hereunder.

11.3 Except for the representations and warranties provided for in this Agreement, Groundswell and its Affiliates, and their officers, directors, employees, agents, partners, licensors, and service providers (collectively, the "Released Parties") make no representations or warranties of any kind, express or implied, and the Released Parties expressly disclaim any and all implied warranties, including without limitation, warranties of merchantability, fitness for a particular purpose, title, and non-infringement, and warranties that may arise out of course of dealing, course of performance, usage or trade practice. Without limitation to the foregoing and unless otherwise set forth in this Agreement, the Released Parties make no representation, warranty or guarantee of any kind that the Products or results of the use thereof, will meet Customer's or any other person's or entity's requirements, operate without interruption, achieve any intended result, be compatible or work with any of Customer's or any other person's or entity's, or any Third Party's software, system, or other services, or be secure, accurate, complete, error-free, free of harmful code, or infection from any viruses or other code or computer programming routines that contain contaminating or destructive properties or that are intended to damage, surreptitiously intercept or expropriate any system, data, or personal information, or that any errors or defects can or will be corrected. These limitations of liability and implied warranties shall apply to the fullest extent permitted by Applicable Law.

11.4 The Released Parties strictly disclaim all warranties, with respect to any Third-Party products. Customer expressly agrees that Customer's use of the Products is at customer's sole risk.

11.5 Third Party Products and Services. Groundswell makes no representations or warranties of any kind, whether express or implied with respect to open-source software and Third-Party products, including, but not limited to, merchantability, fitness for a particular purpose, title, or non-infringement, or any Third Party services used by Customer in support of any Groundswell Products, all of which are expressly disclaimed, and Groundswell will have no responsibility or liability with respect to such Third Party Products or Third Party Services.

11.6 System Tampering. If Customer notifies Groundswell of an error or malfunction in a Product which, after investigation by Groundswell, is determined to have been caused by Customer's unauthorized modifications, any warranties, expressed or implied, related to such Product are void; Customer shall reimburse Groundswell, at its then current rates, for all costs incurred by Groundswell in investigating and correcting such error or malfunction; and Groundswell, upon written notice, may terminate this Agreement.

12. Indemnification.

12.1 Indemnification by Groundswell.

- (a) Groundswell shall defend and hold Customer, its officers, directors, employees and contractors harmless against any Third Party claims, demands, suits, or proceedings ("**Claims**") against Customer arising out of or relating to (i) personal injury (including death) to any persons or damage to any tangible personal property (excluding any Customer Data) arising out of any negligent act, error, or omission of Groundswell and Groundswell's employees, agents, or contractors; or (ii) any Product infringing a copyright, a U.S. patent issued as of the Effective Date, or a trademark of a Third Party, and shall pay all costs and damages finally awarded against Customer by a court of competent jurisdiction as a result of any such Claim; provided, however, that Customer: (A) promptly gives written notice of the Claim to Groundswell; (B) gives Groundswell sole control of the defense and settlement of the Claim (provided that Groundswell may not settle any Claim or enter into any order or stipulated judgment that purports to bind Customer unless it unconditionally releases Customer of all liability); and (C) provides to Groundswell, at Groundswell's cost, all reasonable assistance.
- (b) If (i) Customer is enjoined from using a Product; or (ii) a Product becomes, or Groundswell believes a Product will likely become, the subject of an infringement Claim, Groundswell shall have the right, in its sole discretion, to (A) obtain for Customer the right to continue use of the affected Product; or (B) replace or modify the affected Product so that it is no longer infringing. If, in Groundswell's sole reasonable discretion, neither of the foregoing options are reasonably available to or commercially feasible for Groundswell, Groundswell will require that Customer return and no longer use the affected Product and, upon Customer's compliance with such requirement, Groundswell's sole liability will be to refund the Fees paid by Customer for the affected Product. Groundswell's foregoing indemnification obligation shall not apply to any Claim based on or caused by: (1) modification of the Product by Customer, its employees or End Users in conflict with Customer's obligations or as a result of any prohibited activity as set forth herein; (2) use of the Product in an unauthorized manner or any manner inconsistent with the Documentation; or (3) use of the Product in combination with any other product or service not provided, approved, or specified by Groundswell in writing prior to such combined use. This section sets forth Groundswell's sole liability and Customer's sole and exclusive remedy with respect to any claim of intellectual property infringement.

12.2 Indemnification by Customer. Customer shall defend and hold Groundswell, its officers, directors, employees, and contractors harmless from any Claims against Groundswell alleging that any Customer Data infringes the rights of, or has caused harm to, a Third Party or violates any Applicable Law, and shall pay all costs and damages finally awarded against Groundswell by a court of competent jurisdiction as a result of any such Claim; provided, however, that Groundswell: (a) promptly gives written notice of the Claim to Customer; (b) gives Customer sole control of the defense and settlement of the Claim (provided that Customer may not settle any Claim or enter into any order or stipulated judgment that purports to bind Groundswell unless it unconditionally releases Groundswell of all liability); and (c) provides to Customer, at Customer's cost, all reasonable assistance.

13. Exclusion of Damages; Limitation of Liability.

13.1 Exclusion of Consequential and Related Damages; Limitation of Liability. To the maximum extent permitted by law and except with respect to: (i) a Party's indemnification obligations; (ii) a Party's gross negligence or willful misconduct; (iii) Customer's breach of section 5.7 herein; and (iv) Customer's payment obligations under this Agreement and the Ordering Documents, in no event shall:

- (a) Either Party or its suppliers, Affiliates, directors, officers, employees, agents, or contractors have any liability to the other Party or any Third Party for any indirect, special, incidental, cover, reliance, punitive, exemplary, or consequential damages of any kind, however caused, or for any loss of business, revenue, anticipated savings, profits, use, and/or loss or corruption of any data and/or cost of data reconstruction or procurement of substitute or replacement goods, services, inventory, or equipment, whether in contract, tort, negligence, strict liability, or under any other theory of liability, arising out of, or in any way connected with this Agreement or any Ordering Document, even if such Party has been previously advised of the possibility of such loss or damages; and
- (b) either Party's entire and maximum liability arising out of or related to this Agreement and/or the applicable Ordering Document, whether in contract, tort, negligence, strict liability, or under any other theory of liability, exceed in the aggregate, the total Fees actually paid or payable to Groundswell by Customer during the twelve (12) month period immediately preceding the date the Claim first arose under the applicable Ordering Document which gave rise to the Claim for damages. The foregoing limitation of liability is cumulative for all Claims in any matter related to this Agreement and is not per incident.

14. General.

14.1 Non-Solicitation. Neither Party will recruit or solicit the other Party's personnel or employees that have become known to such Party as a direct result of this Agreement, Ordering Document or other applicable Agreement until the earlier of one (1) year after (a) termination of such Agreement, or (b) that person is no longer employed by such Party; provided, however, that nothing herein shall restrict or limit the ability of a Party or its Affiliates to (1) engage in general solicitations (in whatever form or medium) not specifically directed at such personnel or employees, or (2) participate in job fairs, career fairs, or similar recruiting events.

14.2 Modifications to this Agreement. Groundswell reserves the right, at its sole discretion, to modify the terms of this Agreement from time to time. The modified terms will become effective upon notice to Customer. Groundswell may send Customer an email notifying Customer of any modifications to this Agreement. Customer is responsible for reviewing and becoming familiar with any such modifications. Customer's continued use of the Offerings following Groundswell's notice to Customer of such modifications constitutes Customer's acceptance of the modifications or amendments to, or replacement of, this Agreement.

14.3 Export Restrictions. Customer acknowledges that the Products are subject to export restrictions by the United States government and import restrictions by certain foreign governments. Customer shall not allow any Third Party to remove or export from the United States or allow the export or re-export of the Products or any part of the Product or any direct product thereof: (a) into (or to a national or resident of) any embargoed or terrorist-supporting country; (b) to anyone on the U.S. Commerce Department's Table of Denial Orders or U.S. Treasury Department's list of Specially Designated Nationals; (c) to any country to which such export or re-export is restricted or prohibited, or as to which the United States government or any agency thereof requires an export license or other governmental approval at the time of export or re-export without first obtaining such license or approval; or (d) in a manner otherwise in violation of any export or import restrictions, laws or regulations of any United States or foreign agency or authority. Customer agrees to the foregoing and warrants that Customer is not located in, under the control of, or a national or resident of any such prohibited country or on any such prohibited party list. The Products are further restricted from being used for the design or development of nuclear, chemical, or biological weapons or missile technology, or for terrorist activity, without the prior permission of the United States government.

- 14.4 Government Use.** Each of the software components that constitute the Products is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Accordingly, if Customer is an agency of the US Government or any contractor therefor, Customer receives only those rights with respect to the Products as are granted to all other end users, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other US Government customers and their contractors.
- 14.5 Anti-Corruption.** Customer hereby agrees that neither it nor any of its Affiliates (including all of their respective employees, contractors, agents, and representatives) have received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Groundswell's employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Customer learns of any violation of the above restriction, Customer will use reasonable efforts to promptly notify Groundswell.
- 14.6 Relationship of the Parties.** The Parties will perform hereunder as independent contractors. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent between the Parties.
- 14.7 Notices.** Except for invoices and related payment documents (which shall be mailed or emailed to Customer as specified by Customer), notices required or permitted by this Agreement shall be in writing and delivered as follows, with notice deemed given as indicated: (a) by personal delivery, when delivered personally; (b) by overnight courier, upon written verification of receipt; or (c) by certified or registered mail, return receipt requested, upon verification of receipt. Email notices shall be deemed given when the sender receives back written confirmation from the recipient's email server that the email was received and read by the recipient. Notices shall be sent as follows: (i) by Groundswell to Customer's last known address on file with Groundswell; and (ii) by Customer to: Groundswell, 8405 Greensboro Drive, Suite 600, McLean, VA 22102, Attention: Groundswell Products Department. Either Party may designate a different address by providing written notice to the other Party.
- 14.8 No Third-Party Beneficiaries.** There are no Third-Party beneficiaries to this Agreement, and the Parties acknowledge that this Agreement is intended solely for the benefit of the Parties, their successors and permitted assigns, and nothing herein, whether express or implied, shall confer upon any person or entity, other than the Parties, their permitted successors and assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.
- 14.9 Force Majeure.** Groundswell shall be excused from performance of its obligations under this Agreement if such a failure to perform results from compliance with any requirement of Applicable Law or government order, acts of God, pandemic, epidemic, disease, fire, strike, embargo, terrorist attack, war, insurrection or riot, national or regional emergency, internet service provider failure or delay, denial of service, or other causes beyond the reasonable control of Groundswell. Any delay resulting from any such cause shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.
- 14.10 Governing Law; Jurisdiction; Jury Trial.** This Agreement, each Ordering Document and any other Customer Agreement, are governed by the laws of the State of Delaware without regard to its conflict or choice of law provisions. The Parties irrevocably submit to the sole and exclusive jurisdiction of the courts of the State of Delaware and any action or proceeding arising out of or relating to this Agreement must be heard and determined in a state or federal court in State of Delaware, except with respect to imminent harm requiring temporary or preliminary injunctive relief in which case Groundswell may seek such relief in any court with jurisdiction over the parties. The Parties hereby waive any right to a jury trial with respect to any action brought by either Party under any federal, state, or local law or common law, including any action brought under or in connection with this Agreement. Customer understands that, in return for Agreement to this provision, Groundswell is able to offer the Products and Services at the terms designated, and that Customer's assent to

this provision is an integral part of Groundswell's willingness to enter into this Agreement. In the event suit is brought to enforce any provision of this Agreement or Ordering Document, the prevailing Party shall be entitled to recover as an element of cost of suit, and not as damages, reasonable attorney's fees to be fixed by the court.

14.11 Waiver and Cumulative Remedies; Severability. No failure or delay by either Party in exercising any right under this Agreement shall constitute a waiver of that right or any subsequent right. Other than as expressly stated herein, the remedies provided herein are in addition to, and not exclusive of, any other remedies of a Party at law or in equity. If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision shall be modified by the court and interpreted so as best to accomplish the objectives of the original provision to the fullest extent permitted by law, and the remaining provisions of this Agreement shall remain in effect.

14.12 Assignment. Neither Party will have the right to assign this Agreement without the written consent of the other Party; provided, however, that Groundswell will have the right to assign this Agreement to an Affiliate of Groundswell or pursuant to a merger, consolidation, reorganization, or sale of all or substantially all of the assets of the business to which this Agreement relates. Any assignment in violation of the foregoing provision shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the Parties, their respective successors and permitted assigns.

14.13 Customer Communications. Customer hereby consents to receiving electronic communications from Groundswell. These electronic communications may include notices about applicable Fees and charges, transactional information, and other information concerning or related to the Products and/or Services. Customer agrees that any notices, Agreements, disclosures, or other communications that Groundswell sends to Customer electronically will satisfy any legal communication requirements, including that such communications be in writing. Electronic scanned copies of this Agreement will have the same legal effect as the original. Each Party agrees that a facsimile, electronic, or digital signature will have the same effect as a handwritten signature.

14.14 Headings. Headings contained in this Agreement are inserted for convenience of reference only and shall not in any way define or affect the meaning or interpretation of any provision of this Agreement. Terms for which meanings are defined in this Agreement shall apply equally to the singular and plural forms of the terms defined. Unless otherwise indicated, in this Agreement, the word (i)(A) "including" shall mean "including, without limitation" or words of similar effect; and (B) when used in one instance to specify the inclusion of a particular term or meaning within another term or meaning shall not operate to exclude such specified term or meaning from the other term or meaning in instances where similar inclusive language does not appear; and (ii) "or" connotes any combination of all or any of the items listed. The terms "this Agreement," "herein," "hereof," "hereunder" and similar expressions refer to this Agreement and not to any particular section or other portion hereof. Except as expressly provided otherwise, references herein to "days" are to calendar days.

14.15 Entire Agreement; Counterparts. This Agreement, including all Ordering Documents, constitutes the entire Agreement between the Parties and supersedes all prior and contemporaneous Agreements, proposals and representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless communicated electronically or in writing by an authorized representative of either Party; provided that Groundswell reserves the right to modify the terms and conditions of this Agreement or its policies relating to the Products and Services at any time, effective upon electronic or written communication of this Agreement to the Customer. Customer is responsible for regularly reviewing this Agreement and continued use of the Products and Services after any such changes shall constitute Customer's consent to such changes. Notwithstanding any language to the contrary therein, no terms or conditions stated in other Order Documentation (excluding Ordering Documents) shall be incorporated into or form any part of this Agreement, and all such terms or conditions.

15. **Definitions.** Capitalized terms will have the meanings set forth in this Section 15, or in the section where they are first used.

"Access Credentials" means any username, identification number, password, license, security key, security token, PIN, or other security code, method, technology, or device, used alone or in combination, created by Customer or Groundswell in order to verify an End-User's identity and allow authorization to access and use a Product.

"Acceptance" of an Ordering Document shall occur at the earliest of the following: (a) execution of an Ordering Document, or (b) the use of any Product.

"Affiliate" means an entity which is controlled, under common control or controlling a party or entity during the period of such control. For the purposes of this Agreement, **"control"** means ownership, directly or indirectly, of more than 50% of the voting securities of a party or entity.

"Agreement" means, collectively, each of, and separately, any of, an Order Document, Groundswell Services Terms, and any other terms and conditions by which Customer and/or its End Users are bound covering rights and obligations to download, install, access, use, or administer the applicable Products and/or receive the applicable Services, whether incorporated by reference herein or in any other document to which Customer is a Party, included in or accompanying any Product or Service, or otherwise made available or provided by Groundswell (or Authorized Reseller) to Customer and/or its End-Users, as each may be amended, restated, modified, or replaced from time to time.

"Alliance Agreement" means that certain Master Alliance Agreement between Groundswell and Authorized Reseller, as amended, restated, modified, or replaced from time to time, governing the terms of Authorized Reseller's rights to promote, distribute, and resell the Products and Services, respectively to Customer.

"Applicable Laws" means all applicable foreign and domestic laws, governmental regulations, ordinances, and judicial administrative orders, including, but not limited to, trademark and copyright laws, ICANN policies and procedures governing domain names, the United States Foreign Corrupt Practices Act, 15 U.S.C. § 78dd-1, et seq. (the **"FCPA"**) and applicable export control laws or regulations.

"Authorized Reseller" is a reseller or distributor that is enabled and authorized, subject to the terms of the Alliance Agreement, to sell to Customer the Products and Services identified in an executed Ordering Document.

"Contractors" are defined as third parties that Customer has engaged to manage, or otherwise use the Product(s), solely on behalf of Customer.

"Documentation" means any explanatory user materials provided or made available by Groundswell in connection with the Products and/or Services, in paper or electronic form, including but not limited to any training materials, user manuals, handbooks, installation guides, and any other documentation that may be provided or made available from time to time by Groundswell in connection with the Products and/or Services.

"End-User" means a Customer or Person for whom (i) a license has been purchased or rights have otherwise been properly granted to download, install, access, use, or administer one or more Products or (ii) has created or been provided with Access Credentials, as applicable.

"Intellectual Property Rights" means any and all rights existing from time to time under patent law, copyright law, moral rights law, trade secret law, trademark law, unfair competition law, publicity rights law, privacy rights law, and any and all other proprietary rights, and any and all applications, modifications, or corrections thereto, including all derivative works thereof, renewals, extensions, and restorations thereof, now or hereafter in force and effect worldwide.

"New Version" means any new version of any Groundswell Product that Groundswell may from time to time introduce and market generally as a distinct licensed product (as may be indicated by Groundswell's designation

of a new version number), and which Groundswell may make available to Customers at an additional cost under a separate Ordering Document.

"Offerings" means individually, either the Products or the Services and collectively, the Products and Services, together with any rights granted under a License for the right to download, install, access, and use the applicable Products pursuant to Section 2 and/or receive such Services pursuant to Section 3, subject to the terms of this Agreement.

"Ordering Document" means a transactional document, including any order form, purchase order, statement of work, work order, or other written or electronic agreement (and all exhibits or other documents attached thereto and/or incorporated by reference therein), between Customer and Groundswell or Customer and Authorized Reseller, as applicable, that properly describes the Offerings ordered by Customer (including Groundswell Services applicable to any licensed Products), the applicable Fees, and other transaction details.

"Product(s)" means Groundswell Product software and any update, upgrade, release, or other adaptation or modification of such software, including any updated Groundswell Product documentation which may contain, among other things, error corrections, enhancements, improvements, or other changes to the user interface, functionality, compatibility, capabilities, performance, efficiency, or quality of such software, made generally available by Groundswell to Customer and/or its End Users during the Term but, unless specifically provided in the applicable Ordering Document, does not include any New Version updates and upgrades to Groundswell. Groundswell Product(s) includes any binary code, object code, source code, compilation of data, or visual display resulting from the operation of Groundswell and any associated materials, specifications, and Groundswell Product Documentation.

"Property" means the Products and all materials, information, ideas, products, concepts, know-how, techniques, tools, templates, models, software, procedures, documentation, technology, interfaces, data and/or databases, reports, processes, best practices, and methodologies and other content embodied therein or provided thereby, and all associated Intellectual Property Rights therein, whether owned or licensed by, or developed on behalf of, Groundswell or any of its partners or suppliers. For the avoidance of doubt, Property includes any information, data, or other content derived from Groundswell's monitoring of Customer and/or its End Users' access to or use of the Products but does not include Customer Data.

"Services" means individually, either Groundswell Product Services or the Specialized Services and collectively, Groundswell Services and the Specialized Services.

"Specialized Services" means professional, technical, consulting, training, implementation or other services, excluding Groundswell Product Services, performed by Groundswell for a Customer and described in a statement of work or other Ordering Document.

"Third-Party" means any software, files, components, services, products, content, information, websites, or other materials that are owned by third parties and are incorporated into or accessible through the Products as well as certain software code that is subject to open source and/or Third-Party license terms. A list of open-source Third Party plug-ins is available on Appian's AppMarket and may be updated by Groundswell from time to time.

EXHIBIT A

Product Services Terms

Groundswell will provide to Customer Groundswell Product and Services in an effort to maintain the operability and usability of Groundswell Product, pursuant to the terms and conditions set forth herein, and in the Agreement as updated, modified, amended, or replaced from time to time, and the applicable Ordering Document.

1. **Definitions.** All capitalized terms not otherwise defined herein shall have the meaning set forth in the Agreement between Groundswell and the Customer. Notwithstanding the foregoing, the following terms shall have the meanings ascribed to them as set forth below:

“Base Support” shall have the meaning set forth in Section 3.3(a) below.

“Bug Fixes” means changes to Groundswell Product requested in a Bug Report by the Customer to remedy any breaches of warranties or representations herein and to fix any latent Errors. Bug Fixes do not include Extra Services (as defined below).

“Bug Report” means an electronic or written report submitted by Customer detailing all Errors in Groundswell Product experienced by Customer and requesting applicable Bug Fixes by Groundswell.

“Error” means any reproducible error, defect or malfunction in Groundswell Product that: (i) causes the integrity of Groundswell Product’s data to be compromised or corrupted in any material respect, (ii) causes an unexpected error message or fatal error to occur while using Groundswell Product, (iii) causes Groundswell to fail to materially conform to any of the applicable warranties set forth in the Agreement, or (iv) causes Product Groundswell to fail to substantially operate in accordance with Product Groundswell Documentation, in each case, through no external factors such as hardware issues.

“Extra Services” shall have the meaning set forth in Section 2.4 below.

“Feature Requests” means any improvements, changes, modifications, updates, revisions or other forms of alteration to Product Groundswell requested by the Customer, *provided, that* Feature Requests specifically exclude Bug Fixes.

“Premium Support” shall have the meaning set forth in Section 3.3(c) below.

“Regular Support Services” means (i) publishing Bug Fixes, (ii) providing Regular Updates and Patches, (iii) the ability to submit Feature Requests, and (iv) providing any additional support features set forth in Section 3.3 below that are included in the support tier purchased by the Customer in the underlying Ordering Document.

“Regular Updates and Patches” means improvements, changes, modifications, updates, revisions or other forms of alteration by Groundswell to Groundswell Product in the ordinary course of its business. Regular Updates and Patches specifically excludes Feature Requests, Extra Services and other similar customizations performed pursuant to a specific request by the Customer.

“Standard Support” shall have the meaning set forth in Section 3.3(b) below.

2. Groundswell Product.

2.1 Regular Support Services. Subject to payment of all Fees, and provided, that the Customer is not in breach of the Agreement, Groundswell will provide Regular Support Services to the Customer during the Term. The purpose of the Regular Support Services is to maintain Groundswell Product in good working order so that it operates and performs in accordance with Groundswell Product Documentation in all material respects.

2.2 Feature Requests. As part of the Regular Support Services, Customer may submit Feature Requests to Groundswell electronically or in writing. Feature Requests shall be prioritized by Groundswell according to the

order in which they are received by Groundswell from its respective Customers. Notwithstanding the immediately preceding sentence, in the event the Customer purchases Premium Support, the Feature Requests of the Customer will receive a higher priority than the Feature Requests of customers who did not purchase Premium Support. Groundswell has the right to develop Feature Requests in its sole and absolute discretion. For absolute clarity, Groundswell has no obligation hereunder to develop or provide Feature Requests to the Customer.

- 2.3 Extra Services.** “**Extra Services**” means Regular Support Services provided beyond the Term and any other support, maintenance or other services (other than Regular Support Services) including without limitation: (i) any training, on-site support, Groundswell’s support for hardware-related problems and similar services; (ii) the reconstitution by Groundswell of files not associated with Groundswell Product in case of accidental destruction unless such destruction is related to Groundswell Product, (iii) the execution by Groundswell of Customer operations tasks, (iv) the execution by Groundswell of Customer data back-ups and operations input; and (v) errors resulting from changes in whole or in part of the Customer’s operating environment, where such changes are not compatible with Groundswell Product. The Customer acknowledges and agrees that Groundswell is not under any preexisting obligation to provide any such services to Customer in connection with the Agreement. Extra Services shall be set forth in one or more separate Ordering Documents executed by Groundswell and the Customer. For the avoidance of doubt, Extra Services are not Specialized Services under the Agreement.

3. Groundswell - Process and Features.

- 3.1 Groundswell Process.** Groundswell shall provide Customer with Regular Support Services for Groundswell Product by way of email support. Email support shall be accessible by the Customer at support@gswell.com or such other email address as provided electronically or in writing by Groundswell to Customer.
- 3.2 Classification of Errors.** For purposes of determining response times in the support tier features chart below, the following classifications of Errors shall be used: (a) “**Critical**” is the classification that shall be used by the Customer to describe an Error that causes the Customer’s use of Groundswell Product to be completely nonoperational; (b) “**Major**” is the classification that shall be used by Customer to describe an Error that causes a material function of Customer’s use of Groundswell Product to be completely nonoperational; and (c) “**Minor**” is the classification that shall be used by Customer to describe an Error (i) in which Groundswell Product is operational but not fully functional with respect to Customer’s use of it, and which does not materially impact Customer’s use of Groundswell Product, and (ii) which is minor or cosmetic in nature and does not cause a material malfunction to Customer’s use of Groundswell Product. Response time is calculated from the time of the email or web support ticket, as applicable, Monday – Friday from 8:00 am to 5:00 pm EST until a response is provided to Customer by Groundswell.

3.3 Support Tier Features. A unique license is required by for each deployed instance of Groundswell Product for each option set forth in the table below:

Base Support	Standard Support	Premium Support
N/A	Support Response Times: Critical: 1 Day Major: 3 Days Minor: 5 Days	Support Response Times: Critical: 4 Hours Major: 1 Day Minor: 3 Days
Ability to Submit Feature Requests	Ability to Submit Feature Requests	Priority Feature Requests
Ability to Submit Bug Reports	Ability to Submit Bug Reports	Prioritized Bug Fixes
N/A	Email Support	Email Support
Regular Updates & Patches	Regular Updates & Patches	Regular Updates & Patches
N/A	N/A	

- (a) Base Support. “**Base Support**” includes: (i) Bug Fixes and the ability to submit Bug Reports, (ii) the ability to submit Feature Requests, and (iii) Regular Updates and Patches.
 - (b) Standard Support. “**Standard Support**” includes: (i) Bug Fixes and the ability to submit Bug Reports, (ii) the ability to submit Feature Requests, (iii) Regular Updates and Patches, and (iv) email and web support pursuant to the support response times in the table above.
 - (c) Premium Support. “**Premium Support**” includes: (i) Bug Fixes and the ability to submit Bug Reports, (ii) prioritized Feature Requests, (iii) Regular Updates and Patches, (iv) email and web support pursuant to the support response times in the table above, and (v) Virtual Training.
4. **Pricing Tiers.** Regular Support Services pricing scale shall be provided by Groundswell upon request.

Customer Signature:

X

Customer

Name: _____

Email: _____

Title: _____

Date: _____