



Master Subscription Agreement

This Master Subscription Agreement governs Customer's license, use, and/or receipt of the Software and Services of 360 Cloud Platforms.

By accepting this Agreement together with all associated schedules or order forms (collectively, "the Agreement"), either by (1) clicking a box that indicates acceptance, (2) executing an Order that references this Agreement and executing this Agreement, or (3) accessing or utilizing the Software or Services, Customer agrees to the terms of this Agreement. If an individual enters into this Agreement on behalf of a company or other legal entity (individually, the "Entity"), that individual represents and warrants that they have the authority to bind such Entity to this Agreement, that their acceptance of this Agreement is the acceptance of that Entity, and the Entity agrees to be bound to the terms of this Agreement. In such case "Customer" shall refer to the Entity. If Customer's Affiliate enters into an Order on behalf of Customer, Customer agrees to be bound by the terms of this Agreement as if it were an original party to this Agreement. This Agreement is effective on the date that Customer accepts it (the "Effective Date").

360 CLOUD PLATFORMS MAY MAKE CHANGES TO THIS AGREEMENT AND THE TERMS GOVERNING THE SOFTWARE OR SERVICES BY POSTING THE CHANGED TERMS ON THE 360 CLOUD PLATFORMS WEBSITE.

360 Cloud Platforms will provide Customer with advance notice of any such changes by posting the changed terms at 360cloudplatforms.com/contracts/msuba or another URL provided by 360 Cloud Platforms. Additionally, 360 Cloud Platforms may notify Customer of such changes via the e-mail address that Customer has provided or through Customer's acknowledgement of any changes using a click-through or other mechanism. Customer shall notify 360 Cloud Platforms of any changes to Customer's notification email or address.

CUSTOMER AGREES THAT ITS CONTINUED USE OF THE SOFTWARE AND SERVICES AFTER THE EFFECTIVE DATE OF 360 CLOUD PLATFORMS' CHANGES TO THIS AGREEMENT CONSTITUTES CUSTOMER'S ACCEPTANCE OF SUCH CHANGES. IF ANY CHANGES MADE BY 360 CLOUD PLATFORMS MATERIALLY OR ADVERSELY AFFECT CUSTOMER AND IF CUSTOMER DOES NOT AGREE TO SUCH CHANGES, CUSTOMER MUST NOTIFY 360 CLOUD PLATFORMS. UPON SUCH NOTIFICATION THE REMAINDER OF CUSTOMER'S TERM WILL BE GOVERNED BY THE TERMS CUSTOMER MOST RECENTLY AGREED TO AND THE UPDATED TERMS SHALL



BECOME EFFECTIVE UPON ANY RENEWAL.

1. DEFINITIONS

1.1 “**360 Cloud Platforms**” means 360 Cloud Platforms, Inc.

1.2 “**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with 360 Cloud Platforms or Customer. “Control”, for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

1.3 “**Agreement**” means, collectively, this Master Subscription Agreement, any attached Schedules, and each Order entered into by 360 Cloud Platforms and Customer or any of Customer’s Affiliates.

1.4 “**Authorized Users**” or “**Licensed Users**” means individuals (including non-human devices, such as applications or services) who are authorized by Customer to use the Software, for whom a license to the Software has been procured. Authorized Users may include, for example, Customer’s and Customer’s Affiliates’ employees, consultants, clients, external users, contractors, and agents.

1.5 “**Confidential Information**” means any information disclosed by one party (“**Disclosing Party**”) to the other party (“**Receiving Party**”), whether before or after the date of this Agreement, that (1) is in written, graphic, machine readable or other tangible form and is marked “Confidential”, “Proprietary” or in some other manner to indicate its confidential nature, (2) if not marked, Receiving Party should reasonably understand to be the confidential or trade secret information of Disclosing Party, or (3) is oral information disclosed by Disclosing Party to Receiving Party, provided that such information is designated as confidential at the time of disclosure and Disclosing Party reduces such information to writing within a reasonable time after its oral disclosure, and such writing is marked in a manner to indicate its confidential nature and delivered to Receiving Party. The Software and the terms and conditions (but not the existence) of this Agreement is 360 Cloud Platforms’ Confidential Information.

1.6 “**Customer**” means in the case of an individual, such individual, or in the case of an individual accepting this Agreement on behalf of a company or other legal entity, the company or other legal entity for which such individual is accepting this Agreement, and Affiliates of that company or entity (for so long as they remain

360 Cloud Platforms

Affiliates).

1.7 “**Documentation**” means 360 Cloud Platforms’ user guides, online documentation, and other end user documentation for the applicable Software or Services, as may be updated by 360 Cloud Platforms from time to time.

1.8 “**Feedback**” means suggestions, comments, proposed enhancements, or other feedback to 360 Cloud Platforms with respect to the Software or Services.

1.9 “**Fees**” means fees paid by the Customer as set forth in an applicable Order for the Software and/or Services.

1.10 “**Hosting Provider**” means a third party entity that hosts the Software for Customer’s use on the Hosting Provider’s computer equipment.

1.11 “**Open Source Components**” means any software governed by licenses approved as open source licenses by the Open Source Initiative or any substantially similar licenses, including without limitation any license that, as a condition of distribution of the software licensed under such license, requires that the distributor make the software available in source code format.

1.12 “**Order**” means an ordering document or form that specifies the Software or Services ordered by Customer, and that the Customer has accepted that references this Agreement. Orders shall be subject to and incorporate by reference the terms of this Agreement.

1.13 “**Professional Services**” means implementation, configuration, or other development services ordered by Customer under an Order and described in an applicable Statement of Work or similar document.

1.14 “**Schedule**” means any addendum to this Agreement establishing additional terms or conditions that is incorporated into this Agreement.

1.15 “**Service(s)**” means collectively, Software, Professional Services, Support, Training, or other subscription or productized delivery.

1.16 “**Software**” means the 360 Cloud Platforms software in any form

360 Cloud Platforms

described on an Order and for which a subscription is purchased by Customer, including, as defined in 360 Cloud Platforms' Support Terms and Service Level Agreement Schedule, all Maintenance Releases, New Versions, or Packs provided by 360 Cloud Platforms.

1.17 "**Software Services**" means 360 Cloud Platforms Software-as-a-Service, 360 Cloud Platforms Dedicated Software-as-a-Service, or 360 Cloud Platforms Self-Hosted Service or any other form of 360 Cloud Platforms' Software provided as a platform or Service.

1.18 "**Subscription Term**" means the period identified in the applicable Order that is the length of time that Customer is permitted to use the Services.

1.19 "**Support Services**" means the support services ordered by Customer under an Order and provided by 360 Cloud Platforms, and as further defined in 360 Cloud Platforms' Support Terms and Service Level Agreement.

1.20 "**Training Services**" means the education and training services ordered by Customer under an Order and provided by 360 Cloud Platforms.

1.21 "**Usage Restrictions**" means the restrictions on the use of the Services set forth in the applicable Order, including those based on authorized users, or any other form of usage or license restriction.

2. LICENSE OF SOFTWARE; SERVICES

2.1 **License of Software and Services.** Subject to Customer's payment of the Fees due under each Order and Customer's compliance with Section 2.2, 360 Cloud Platforms hereby grants Customer a worldwide, limited, non-exclusive, non-transferable, and non-sublicensable license during the applicable Subscription Term to use, access, or make use of the Software and/or Software Services in accordance with the Documentation, solely for Customer's internal business purposes. Customer may make a reasonable number of copies of the Software, if applicable, solely in connection with its exercise of the foregoing license. Customer may authorize its Authorized Users to use the Software on behalf of Customer. Customer is responsible for the acts or omissions of its Authorized Users and Hosting Providers and any act or omission of an Authorized User or Hosting Provider

360 Cloud Platforms

that would be a breach of this Agreement if done by Customer shall be deemed a breach of this Agreement by Customer.

2.2 Restrictions. Customer shall comply with all Usage Restrictions in the applicable Order and in accordance with Section 2.1. Any use of the Services in excess or breach of the Usage Restrictions shall be deemed a material breach of this Agreement. Customer shall use the Services in compliance with its Documentation. Customer shall not, and shall not authorize or assist any third party to: (1) modify, adapt, translate, reverse engineer, decompile, disassemble, or attempt to derive the source code of any part of the Software; (2) use or integrate the Software or Software Services with any software, hardware, or system other than Customer's or its Hosting Provider's equipment on which the Software or Software Services are designed to operate; (3) disclose to any third party any results of any benchmark or other performance tests of the Software or Software Services; or (4) use the Software or Software Services to store or transmit any code or software intended for a malicious purpose. Customer shall cause its Authorized Users and Hosting Providers to comply with the terms of this Agreement and Customer is responsible for the acts or omissions of its Authorized Users and Hosting Providers.

2.3 Open Source Components. Notwithstanding the license granted in Section 2.1, Customer acknowledges that the Software may contain Open Source Components. 360 Cloud Platforms may publish a list of Open Source Components for the Software. To the extent required by the licenses covering Open Source Components or to the extent they conflict or are otherwise incompatible with the terms of this Agreement, the terms of such licenses will apply to such Open Source Components. To the extent the terms of the licenses applicable to Open Source Components require 360 Cloud Platforms to make an offer to provide source code or related information in connection with the Open Source Components, such offer is hereby made.

2.4 Usage Reporting. Customer agrees that, for Software or Software Services hosted or maintained by 360 Cloud Platforms, 360 Cloud Platforms may monitor the Software or Software Services and gather usage data for the Software Services to ensure compliance with the terms of this Agreement and any Order. In the event usage data is unavailable for the Software Services or the Software, Customer shall, at 360 Cloud Platforms' request, but in no event more than once every month, provide a report detailing Customer's usage sufficient for calculating Customer's usage and ensuring compliance with any Order. In no event will the



usage data include Customer's Confidential Information.

2.5 **Ownership; Feedback.** Except for the rights expressly granted under this Agreement, 360 Cloud Platforms and its licensors retain all right, title, and interest in and to the Software, Documentation, Services, and the results of the Services. Customer may provide 360 Cloud Platforms with Feedback. All Feedback is voluntary and shall not, absent a separate written agreement between the parties, create any confidentiality obligation for 360 Cloud Platforms. 360 Cloud Platforms may freely use, disclose, reproduce, license, distribute, or exploit the Feedback, or enhance the Software or Software Services based on the Feedback without restriction and Customer shall retain no intellectual property or other rights against 360 Cloud Platforms for any feedback provided.

3. FEES

3.1 **Fees.** Customer shall pay 360 Cloud Platforms the Fees set forth in the applicable Order in accordance with this Agreement and the Order. If not otherwise specified in an Order, Fees will be due within thirty (30) days of the date of invoice. Except as otherwise provided in this Agreement, all Fees paid and payable to 360 Cloud Platforms hereunder are non-cancelable and non-refundable. If Customer fails to pay any amounts due under this Agreement by the due date, in addition to any other rights or remedies it may have under this Agreement or by matter of law, (1) 360 Cloud Platforms reserves the right to suspend Customer's license upon thirty (30) days' written notice, until such amounts are paid in full and (2) 360 Cloud Platforms will have the right to charge interest at a rate equal to the lesser of one and one-half percent (1.5%) per month or the maximum rate permitted by applicable law until Customer pays all amounts due; provided that 360 Cloud Platforms will not exercise its right to charge interest if the applicable charges are under reasonable and good faith dispute and Customer pays the undisputed amount, advises 360 Cloud Platforms in reasonable written detail of the basis for the dispute and participates in good faith to resolve the dispute promptly.

3.2 **Taxes.** Fees do not include any local, state, federal or foreign taxes, levies, duties or similar governmental assessments of any nature, including value-added, use or withholding taxes (collectively, "Taxes"). Customer is responsible for paying all Taxes associated with its purchases hereunder (excluding taxes based on 360 Cloud Platforms' net income or property) unless Customer provides 360 Cloud Platforms with a valid tax exemption certificate

authorized by the appropriate taxing authority.

4. CONFIDENTIALITY

4.1 **Obligations.** Receiving Party shall not use Confidential Information except to exercise its rights and perform its obligations under this Agreement. Except as expressly permitted in this Agreement, Receiving Party shall not disclose Confidential Information to any third party without the prior written approval of Disclosing Party. Receiving Party shall disclose Confidential Information internally only to those employees and independent contractors of Receiving Party who need to know Confidential Information for Receiving Party to exercise its rights and perform its obligations under this Agreement and who are bound by written confidentiality obligations at least as protective as this Agreement. Receiving Party shall take precautions to prevent disclosure or use of Confidential Information other than as authorized in this Agreement. Those precautions must be at least as effective as those taken by Receiving Party to protect its own Confidential Information or those that would be taken by a reasonable person in the position of Receiving Party, whichever are more effective. Receiving Party shall promptly notify Disclosing Party of any actual or suspected misuse or unauthorized disclosure of Disclosing Party's Confidential Information.

4.2 **Exceptions.** Receiving Party has no obligations under Section 4.1 with respect to information that (1) was already public when Disclosing Party discloses it to Receiving Party or becomes public (other than as a result of breach of this Agreement by Receiving Party) after Disclosing Party discloses it to Receiving Party, (2) when Disclosing Party discloses it to Receiving Party, is already in the possession of Receiving Party as the result of disclosure by a third party not then under an obligation to Disclosing Party to keep that information confidential, (3) after Disclosing Party discloses it to Receiving Party, is disclosed to Receiving Party by a third party not then under an obligation to Disclosing Party to keep that information confidential, or (4) was independently developed by Receiving Party without any use of or reference to Disclosing Party's Confidential Information.

4.3 **Compelled Disclosure.** If Receiving Party is required to disclose Confidential Information pursuant to the order or requirement of a court, administrative agency, or other governmental body of competent jurisdiction, Receiving Party shall, prior to any such disclosure (1) provide prompt notice to Disclosing Party of such disclosure requirement and (2) cooperate with Disclosing



Party to obtain a protective order or otherwise prevent public disclosure of such information. Receiving Party shall limit any required disclosure to the particular Confidential Information required to be disclosed.

4.4 **Return of Confidential Information.** Upon termination of this Agreement, Receiving Party shall deliver to Disclosing Party all Disclosing Party's Confidential Information that Receiving Party has in its possession or control or at the request of Disclosing Party, destroy it.

4.5 **Injunctive Relief.** Any breach of Receiving Party's obligations with respect to Confidential Information and intellectual property rights may cause substantial harm to Disclosing Party, which could not be remedied by payment of damages alone. Disclosing Party has the right to seek preliminary and permanent injunctive relief for such breach in any jurisdiction where damage may occur without a requirement to post a bond, in addition to all other remedies available to it for any such breach.

4.6 **Survival of Confidentiality Obligations.** Receiving Party shall comply with its obligations under this Section 4 during the term of this Agreement and for three years thereafter, provided that with respect to any Confidential Information of Disclosing Party that is a trade secret, Receiving Party shall continue to comply with its obligations for so long as such Confidential Information remains a trade secret of Disclosing Party.

5. TERM AND TERMINATION

5.1 **Term.** This Agreement commences on the Effective Date and will remain in effect until terminated in accordance with this Agreement. Each subscription to the Software or Services commences on the date set forth in the applicable Order and continues for the Subscription Term designated on the applicable Order. Unless otherwise set forth in an Order, each Subscription Term will automatically renew for an additional period equal to the original Subscription Term, unless a party provides written notice of non-renewal at least sixty (60) days prior to the expiration of the then-current Subscription Term. For any automatic renewals of an Order, the Fees associated with that automatically renewed Order will be the then-current list price for the applicable Software or Services.

5.2 **Termination.** Either party may terminate this Agreement by

360 Cloud Platforms

written notice to the other party in the event the other party materially breaches this Agreement and does not cure such breach within thirty (30) days of such notice. Upon any termination for cause by Customer pursuant to this Section 5.2, 360 Cloud Platforms will refund Customer a pro-rata portion of any prepaid Fees that cover the remainder of the applicable Order Subscription Term after the effective date of termination and a pro-rata portion of any prepaid fees for Services that have not been delivered as of the effective date of termination.

5.3 **Effect of Termination.** Upon termination of this Agreement for any reason, all rights, subscriptions, and licenses granted to Customer including all Orders will immediately terminate and Customer will cease using or accessing the Software or Software Services and uninstall and delete any Software. The following provisions will survive any termination of the Agreement: Sections 1 (Definitions), 2.2 (Restrictions), 2.7 (Ownership; Feedback), 3 (Fees), 4 (Confidentiality), 5.3 (Effect of Termination), 6 (Warranties and Disclaimers), 7 (Limitation of Liability), 8 (Indemnification), and 9 (General).

6. WARRANTIES AND DISCLAIMERS

6.1 **Warranties.** 360 Cloud Platforms warrants that during the Subscription Term(1) the Software and Services shall perform materially in accordance with the applicable Documentation,(2) any Services ordered by Customer will be performed in a professional manner using personnel possessing the requisite skill and experience for such Services, and (3) 360 Cloud Platforms will employ then-current, industry-standard measures to test the Software and Services to detect and remediate viruses, Trojan horses, worms, logic bombs, or other harmful code or programs designed to negatively impact the operation or performance of the Software and Services. Customer agrees that its purchase of a subscription is neither contingent upon the delivery of any future functionality or features nor dependent upon any oral or written public comments made by 360 Cloud Platforms with respect to future functionality or features. 360 Cloud Platforms' performing the Support Services with respect to non-compliant Software and 360 Cloud Platforms' reperformance of any non-compliant Services is Customer's exclusive remedy and 360 Cloud Platforms' entire liability for a breach of the warranties set forth in this Section 6.1. 360 Cloud Platforms shall have no liability under this Section if the failure of the Software to conform to the warranty in subsection (1) above arises from: (a) modification of the Software by anyone other than 360 Cloud Platforms, (b) use of the Software or Software Services in



breach of this Agreement, (c) use of the Software or Software Services in a manner other than as set forth in the Documentation, (d) combination of the Software or Software Services with other technology, software, equipment, or materials not authorized by 360 Cloud Platforms or recommended in the Documentation, or (e) a failure or defect in or resulting from Open Source components.

6.2 **Disclaimer of Warranties.** EXCEPT FOR ANY EXPRESS WARRANTIES SET FORTH UNDER SECTION 6.1, 360 CLOUD PLATFORMS AND ITS SUPPLIERS HEREBY DISCLAIM ALL WARRANTIES, REPRESENTATIONS, OR CONDITIONS RELATING TO THE SOFTWARE, SERVICES, OR OTHER SUBJECT MATTER OF THIS AGREEMENT, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OF NON-INFRINGEMENT OF THIRD PARTY RIGHTS, TITLE, MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. THE PARTIES ARE NOT RELYING AND HAVE NOT RELIED ON ANY REPRESENTATIONS, WARRANTIES OR CONDITIONS WHATSOEVER REGARDING THE SUBJECT MATTER OF THIS AGREEMENT, EXPRESS OR IMPLIED, EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH UNDER SECTION 6.1. 360 CLOUD PLATFORMS MAKES NO WARRANTY REGARDING ANY NON-360 CLOUD PLATFORMS APPLICATION WITH WHICH THE SOFTWARE OR SOFTWARE SERVICES MAY INTEROPERATE. THE SOFTWARE AND SERVICES ARE NOT INTENDED FOR USE IN CONNECTION WITH ANY NUCLEAR, AVIATION, MASS TRANSIT, OR MEDICAL APPLICATION OR ANY OTHER INHERENTLY DANGEROUS APPLICATION THAT COULD RESULT IN DEATH, PERSONAL INJURY, CATASTROPHIC DAMAGE, OR MASS DESTRUCTION, AND CUSTOMER AGREES THAT 360 CLOUD PLATFORMS WILL HAVE NO LIABILITY OF ANY NATURE AS A RESULT OF ANY SUCH USE.

7. LIMITATION OF LIABILITY

7.1 **Disclaimer of Damages.** IN NO EVENT WILL 360 CLOUD PLATFORMS OR ITS THIRD PARTY LICENSORS BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER THEORY (A) FOR ERROR OR INTERRUPTION OF USE, LOSS OR INACCURACY OR CORRUPTION OF DATA, (B) FOR ANY LOST PROFITS OR REVENUES, OR (C) FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES, WHETHER OR NOT 360 CLOUD PLATFORMS OR ITS THIRD PARTY LICENSORS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

7.2 **Limitation of Liability.** EXCEPT FOR A BREACH OF SECTION 2.2, INFRINGEMENT OR MISAPPROPRIATION OF 360 CLOUD PLATFORMS' INTELLECTUAL PROPERTY RIGHTS, BREACH OF CONFIDENTIALITY OBLIGATIONS, INDEMNITY OBLIGATIONS, OR INSTANCES OF FRAUD, GROSS NEGLIGENCE, OR WILLFUL MISCONDUCT, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SOFTWARE OR SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE-MONTH PERIOD PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION SHALL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CUSTOMER'S AND CUSTOMER'S AFFILIATES' PAYMENT OBLIGATIONS UNDER THE 'FEES' SECTION ABOVE.

8. INDEMNIFICATION

8.1 **Indemnification.** 360 Cloud Platforms will indemnify Customer against claims made or brought against Customer by a third party alleging that the use of the Software or Software Services as contemplated hereunder infringes the patent, copyright, trade secret or intellectual property or proprietary rights of such third party (the "Claim"). In the event of a Claim, 360 Cloud Platforms may, at its option: (1) obtain the right to permit Customer to continue using the Software or Software Services, (2) modify or replace the relevant portion(s) of the Software or Software Services with a non-infringing alternative having substantially equivalent performance within a reasonable period of time, or (3) terminate this Agreement as to the infringing Software or Software Services and refund to Customer any prepaid, unused Fees for such infringing Software or Software Services hereunder. Notwithstanding the foregoing, 360 Cloud Platforms will have no liability for any Claim of any kind to the extent that it results or arises from: (a) modifications to the Software made by a party other than 360 Cloud Platforms, (b) the combination of the Software or Software Services with other products, processes or technologies (where the infringement would have been avoided but for such combination), (c) Open Source Components that may be used or made available in conjunction with the Software or Software Services, or (d) Customer's use of the Software or Software Services other than in accordance with the Documentation and this Agreement. The indemnification obligations set forth in this Section are 360 Cloud Platforms' sole and exclusive obligations, and Customer's sole and exclusive remedies, with respect to claims of infringement or misappropriation of



third-party intellectual property rights of any kind.

8.2 Indemnity Requirements. Customer must give 360 Cloud Platforms (1) prompt written notice of any Claim, (2) all cooperation and assistance reasonably requested by the 360 Cloud Platforms in the defense of the Claim, at 360 Cloud Platforms' sole expense for out-of-pocket expenses, and (3) sole control over the defense and settlement of the Claim, provided any settlement unconditionally releases the Customer of all liability. Customer may participate in the defense of a Claim with counsel of its own choice at Customer's sole expense.

9. GENERAL

9.1 Precedence. In the event of a conflict between the terms of this Agreement, the attached Schedules, and any associated Order, any such conflict shall be resolved in favor of: (1) the Order, (2) the Schedule, (3) this Master Subscription Agreement.

9.2 Assignment. Neither the rights nor the obligations arising under this Agreement are assignable or transferable by Customer without 360 Cloud Platforms' prior written consent which shall not be unreasonably withheld or delayed, and any such attempted assignment or transfer without such consent shall be void and without effect. Notwithstanding the foregoing, either party may freely assign this Agreement in its entirety (including all Orders), without the consent of the other party, to the assigning party's successor in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets, provided that all Fees owed and due have been paid and with respect to an assignment by Customer, the assignee is not a competitor of 360 Cloud Platforms. The assigning party agrees to give the other party a written notice of the assignment within a reasonable time after the closing of the definitive transaction.

9.3 Controlling Law; Attorneys' Fees. This Agreement and any disputes arising out of or related hereto shall be governed by and construed in accordance with the laws of the State of Texas, without giving effect to its conflicts of laws rules or the United Nations Convention on the International Sale of Goods. With respect to all disputes arising out of or related to this Agreement, the parties consent to exclusive jurisdiction and venue in the state and Federal courts located in Texas. In any action to enforce this Agreement the prevailing party will be entitled to costs and attorneys' fees. It is the intent of the parties that the Uniform



Commercial Code ("UCC") and the Uniform Computer Information Transactions Act ("UCITA") shall not apply to or govern this Agreement or any transaction among the parties.

9.4 **Severability.** The parties acknowledge that if a dispute between the parties arises out of this Agreement or the subject matter of this Agreement, they would want the court to interpret this Agreement as follows: (1) with respect to any provision that it holds to be unenforceable, by modifying that provision to the minimum extent necessary to make it enforceable or, if that modification is not permitted by law, by disregarding that provision; (2) if an unenforceable provision is modified or disregarded in accordance with this Section, by holding that the rest of the Agreement will remain in effect as written; (3) by holding that any unenforceable provision will remain as written in any circumstances other than those in which the provision is held to be unenforceable; and (4) if modifying or disregarding the unenforceable provision would result in failure of an essential purpose of this Agreement, by holding the entire Agreement unenforceable. If any change to this Agreement or other portion of this Agreement is found invalid, void, or for any reason unenforceable, that change or portion is severable and does not affect the validity and enforceability of any remaining changes.

9.5 **Notices.** For a notice of other communication under this Agreement to be valid, it must be in writing and delivered (1) by hand, (2) by a national transportation company (with all fees prepaid), (3) by registered or certified mail, return receipt requested and postage prepaid, or (4) by email, when directed to the email address set forth on the Order. A valid notice or other communication under this Agreement via the methods (1) through (3) above will be effective when received by the party to which it is addressed and if via email, when receipt is confirmed by a non-automated response. If the party to which it is addressed rejects or otherwise refuses to accept it, or if it cannot be delivered because of a change in address for which no notice was given, the notice or communication will be deemed received upon that rejection, refusal, or inability to deliver.

9.6 **Force Majeure.** If the performance of this Agreement or any obligation hereunder (other than obligations of payment) is prevented or restricted by reasons beyond the reasonable control of a party, including, but not limited to computer related attacks, epidemic, pandemic, hacking, war, riots, or acts of terrorism (any such event, a "**Force Majeure Event**"), the party so affected shall be excused from such performance and liability to the extent of such prevention or

restriction.

9.7 **Compliance with Laws.** Customer shall comply with all applicable legal and regulatory requirements of any governmental or supranational body with jurisdiction over this Agreement, Customer, or 360 Cloud Platforms, which include (1) anti-bribery, anti-corruption, and anti-money laundering laws and regulations and (2) international trade control compliance laws and regulations. Customer represents and warrants that (a) neither Customer nor any of its shareholders, directors, officers, or employees is a target of economic sanctions laws and regulations, including those of the European Union, United Kingdom, United Nations, or United States (“**Sanctions**”) and (b) Customer is not owned 50% or more by any person or entity that is a target of Sanctions, and is not located or organized in, or owned 50% or more by, persons resident in, or entities organized in, a jurisdiction that is subject to comprehensive Sanctions (currently, Cuba, Iran, North Korea, Syria, and the Crimea, Donetsk, and Luhansk Regions of Ukraine) (“**Sanctioned Jurisdiction**”). Customer shall not transfer, provide access or use the Software or Services to or for the benefit of any Specially Designated National and Blocked Person (as designated by the U.S. Department of the Treasury’s Office of Foreign Assets Control), to or in any Sanctioned Jurisdiction, or to any other party if such transfer, access, or use would constitute a violation of Sanctions. If Customer, as of the Effective Date, is a target of Sanctions, or located in a Sanctioned Jurisdiction, this Agreement is void at inception if 360 Cloud Platforms’ performance of the Agreement would violate applicable Sanctions.

9.8 **Customer Mention.** 360 Cloud Platforms may, upon Customer’s prior written consent, use Customer’s name, trademarks, or logos to identify Customer as a 360 Cloud Platforms customer of the Software, including on 360 Cloud Platforms’ public website. 360 Cloud Platforms agrees that any such use shall be subject to 360 Cloud Platforms complying with any written guidelines that Customer may deliver to 360 Cloud Platforms regarding the use of its name, trademarks, or logos.

9.9 **Waiver.** No waiver of satisfaction of a condition or nonperformance of an obligation under this Agreement will be effective unless it is in writing and signed by the party granting the waiver.

9.10 **Entire Agreement.** This Agreement together with the Order(s) and any attached Schedules or signed amendments constitute the entire agreement between the parties hereto pertaining to the subject matter hereof,



and any and all prior or contemporaneous written or oral agreements existing between the parties hereto, including any non-disclosure agreement(s), and related to the subject matter hereof are expressly canceled. The parties agree that any term or condition stated in Customer's purchase order or in any other of Customer's order documentation (excluding Orders) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order, (2) this Agreement, and (3) the Documentation. No modification, amendment or waiver of any provision of this Agreement will be effective unless in writing and completed via the amendment process described on the first page of this Agreement.