

SUBSCRIPTION SERVICES AGREEMENT

Last Updated: May 15, 2024

This Subscription Services Agreement is by and between Source 44 LLC dba Source Intelligence, a Delaware limited liability company ("Source"), and the entity indicated on the applicable Order Form or SOW (defined below as "Customer"). By executing an Order Form or SOW that references this Agreement, Customer acknowledges that that Customer has read and understands this Agreement and agrees to be bound by its terms. If Customer enters into this Agreement on behalf of a company or other legal entity, Customer represents that Customer has the authority to bind such entity and its Affiliates to this Agreement. If Customer does not have such authority, or if Customer does not agree with the terms and conditions set forth in this Agreement, Customer must not accept this Agreement and Customer must not use the Services.

Source and Customer may be referred to together herein as the "Parties" or individually herein as a "Party."

For good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

1. DEFINITIONS.

In addition to capitalized terms that are otherwise defined herein, the following capitalized terms shall have the meanings set forth in this Section 1.

"Affiliate" means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "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.

"Authorized Users" means individuals who are authorized by Customer to use the Subscription Services, for whom subscriptions to the Subscription Services have been purchased, and who have been supplied user identifications and passwords by Customer. Authorized Users may include but are not limited to Customer's Member, stakeholders, employees, consultants or contractors.

"Confidential Information" means any material, data or information relating to a Party's software, inventions, processes, formulas, technologies, designs, drawings, research, development, products, product plans, services, customers, customer lists, vendor lists, stakeholder contact information, Customer programs, markets, marketing plans, financial statements, or other business information, trade secrets or intellectual property that such disclosing Party treats as proprietary or confidential, and is marked as "confidential" or "proprietary" or that, given the circumstances, should be reasonably apparent that such information is of a confidential or proprietary nature. Without limiting the foregoing, (i) the Source Software and all IP Rights associated therewith shall constitute Confidential Information of Source, (ii) Customer Data shall constitute Confidential Information of Customer and (iii) all software and any databases (including any data models, structures, non-Customer specific data and Customer specific data and aggregated statistical data contained therein) disclosed by a Party shall constitute Confidential Information of the disclosing Party.

“Customer” has the meaning set forth the first paragraph of this Agreement and includes the subsidiaries, chapters and non-independent Affiliates.

“Customer Data” means any data, regardless of whether in printed or electronic form, that is (i) provided to Source by Customer in order for Source to perform its obligations under this Agreement, (ii) otherwise obtained by Source in the course of performing services, (iii) provided to Source by Authorized Users, or (iv) derived from Customer’s use of the Subscription Services.

“Documentation” means the technical documentation provided by Source to Customer in connection with the Subscription Services, expressed in any medium or format.

“Effective Date” means, for this Agreement the date specified in the first paragraph, and for any Order Form or SOW or other document executed in connection with this Agreement, the date that the individual document has been executed by both Parties (which is the latter date if executed by the Parties on different dates).

“IP Rights” means any and all intellectual property rights of any type, recognized in any country or jurisdiction throughout the world, now or hereafter existing, and whether or not perfected, filed or recorded, including without limitation, all: (i) inventions, including patents, patent applications and statutory invention registrations or certificates of invention, and any divisions, continuations, renewals or re-issuances of any of the foregoing; (ii) trademarks, service marks, domain names, trade dress, logos, and other brand source distinctions; (iii) copyrights and works of authorship, or (iv) trade secrets and know-how.

“Member” means a stakeholder of Customer’s that is authorized by Customer to access and use the Subscription Services.

“Order Form(s)” means one or more ordering documents for purchases of Subscription Services that are executed by Customer and Source from time to time under this Agreement. By entering into an Order Form hereunder, an Affiliate of Customer agrees to be bound by the terms of this Agreement as if it were an original party hereto. Order Forms are incorporated herein by reference.

“Source Software” means Source’s proprietary software application(s) that are made available to Customer as a subscription service (e.g. a software-as-a-service) under this Agreement.

“Professional Services” means, in each instance, the implementation, integration, customization, training, consulting or other professional services provided by Source pursuant to a Order Form or SOW under this Agreement.

“Statement of Work” or **“SOW”** means one or more ordering documents for purchases of Professional Services that are executed by Customer and Source from time to time under this Agreement. Each SOW shall contain, at a minimum, the following information: (i) the scope of the Professional Services to be provided; (ii) applicable rates and fees; (iii) responsibilities and dependencies of each Party; (iv) agreed upon Work Product and specific deliverables, if any; and (v) signatures of authorized representative of both Parties. By entering into a SOW hereunder, an Affiliate of Customer agrees to be bound by the terms of this Agreement as if it were an original party hereto. SOWs are incorporated herein by reference.

"Subscription Services" means the online, Web-based applications and platform provided by Source as described in the Documentation, that are ordered by Customer or Customer's Affiliates under an Order Form, but excluding Third-Party Applications and Professional Services.

"Subscription Term" means the period of time from the start date to the end date specified in each Order Form for each subscription purchased thereunder. Each renewal of a subscription, whether automatic or in writing, shall constitute a new Subscription Term.

"Technology" means all software, designs, formulas, algorithms, processes, and programs that are owned by Source or its licensors and that are used to provide the Subscription Services and any Website.

"Third-Party Applications" means software products that are provided by third parties but may be configured to interoperate with the Subscription Services, Technology and Website.

"Website" means any website that is developed by Source for Customer's benefit.

"Work Product" means any expression of Source's findings, developments, inventions, analyses, conclusions, opinions, recommendations, ideas, techniques, designs, programs, enhancements, modifications, interfaces, source code, object code and other technical information resulting from the performance of Professional Services, support services, or any other services performed for the benefit of Customer.

2. SUBSCRIPTION SERVICES

2.1. Provision of Subscription Services. Source shall make the Subscription Services available to Customer pursuant to this Agreement and the applicable Order Forms during each Subscription Term, subject to Customer's timely payment of all applicable and undisputed fees. Source may provide the Subscription Services and host the Technology and Website on its own infrastructure or using an appropriate third party cloud computing services provider. Customer's purchases of Subscription Services are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written public comments made by Source regarding future functionality or features. Source may, in its sole discretion, modify, enhance and/or expand the Subscription Services at no additional cost to Customer. Source may also modify, enhance or expand the Subscription Services by providing additional features or functionality, which may, but are not required to be, added by Customer to this Agreement at additional cost. Such additional cost features and functionality may be added by mutual written agreement of the Parties.

2.2. Subscriptions. Unless otherwise specified in the applicable Order Form, (a) Subscription Services are purchased as Authorized User subscriptions, (b) additional Authorized User subscriptions may be purchased during the Subscription Term by signing an additional Order Form and paying the additional fees for such additional Authorized User subscriptions, prorated for the portion of that Subscription Term remaining at the time the Subscriptions are added and (c) the added Authorized User subscriptions shall terminate on the same date as the underlying subscriptions.

2.3. Usage Limits. The Subscription Services are subject to usage limits that are specified in the Order Forms. Unless otherwise specified in the applicable Order Form: (a) a quantity in an Order Form refers to Authorized Users, and the

Subscription Services may not be accessed by more than that number of Authorized Users: (b) an Authorized User's password may not be shared with any other individual; and (c) an Authorized User identification may be reassigned to a new individual replacing one who no longer requires ongoing use of the Subscription Services.

2.4. License Grant. Subject to Customer's compliance with all of the terms and conditions of this Agreement, Source hereby grants Customer a limited, revocable, non-exclusive, non-transferable right to access/use the Technology and the Website(s), solely in connection with Customer's use of the Subscription Services under this Agreement.

2.5. Compliance. Customer shall maintain books and records sufficient to permit Source or an independent auditor retained by Source to verify Customer's compliance with the terms and requirements of this Agreement. During the term of this Agreement and for a period of one (1) year following its termination or expiration, Source has the right to audit Customer's use of the Subscription Services to verify compliance with this Agreement. Any such audit will be performed with reasonable advance written notice Customer, during Customer's normal business hours and in a manner not disruptive to Customer's operations. In the event that any audit reveals any non-compliance, including but not limited to underpayment of fees, Customer shall promptly cure the non-compliance, pay Source any undisputed shortfall (at Source's then current list price) and, if such shortfall exceeds 10% in any one-year period, reimburse Source the reasonable costs of such audit. This Section 2.5 does not limit any other rights and remedies that Source may have.

3. GENERAL RESTRICTIONS AND LIMITATIONS ON SUBSCRIPTION SERVICES

3.1. Source Responsibilities. As part of the Subscription Services, Source will (a) provide Customer with Source's standard support for the Subscription Services at no additional charge, and/or upgraded support if purchased for an additional fee, and (b) make the Subscription Services in accordance with the service level commitments set forth in its standard policies, except for any unavailability caused by circumstances beyond Source's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving Source's employees), Internet service provider failure or delay, failure or delay of service from any third party cloud computing services provider, or denial of service attack. Source will provide support services and service level commitments in accordance with its standard policies, as in effect from time-to-time, which are available at Source's web site and will be provided on request. Source reserves the right to modify its maintenance and support services documentation from time-to-time and, other than immaterial changes and corrections, will give Customer reasonable notice of modifications thereto.

3.2. Customer Responsibilities. Customer shall (a) be responsible for compliance with this Agreement by its personnel (e.g. employees and contractors), (b) be solely responsible for the accuracy, quality, integrity, and legality of Customer Data and of the means by which Customer acquired Customer Data, (c) use commercially reasonable efforts to prevent unauthorized access to or use of the Subscription Services, and notify Source promptly of any such unauthorized access or use, (d) use the Subscription Services only in accordance with the Documentation and applicable laws and government regulations, and (e) provide Source with assistance, information and materials that are reasonably requested as necessary to effectively provide the Subscription Services. Prior to launching any Website, Customer will adopt and implement a privacy policy that complies with all applicable laws, and Customer will maintain that policy in compliance with applicable laws throughout the term of this Agreement.

3.3. Restrictions. Customer will not, directly or indirectly, do any of the following: (a) make any Subscription Services available to, or use any Subscription Services for the benefit of, anyone other than Customer or its Authorized Users; (b) sell, resell, license, sublicense, distribute, rent or lease any Subscription Service, or include any Subscription Services in a service bureau or outsourcing offering; (c) use the Subscription Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights; (d) use the Subscription Services to store or transmit code, files, scripts, agents or programs intended to do harm (including, for example, viruses, worms, time bombs and Trojan horses); (e) interfere with or disrupt the integrity or performance of any Subscription Services or third-party data contained therein; (f) attempt to gain unauthorized access to any Subscription Services or the Technology; (g) permit direct or indirect access to or use of any Subscription Services or Technology in a way that circumvents a contractual usage limit, (h) copy any part, feature, function or user interface of the Subscription Services; (i) access any Subscription Services or Technology in order to build a competitive product or service; or (j) reverse engineer, disassemble or decompile any portion of the Technology.

3.4. Customer Data. The Subscription Services can be used to access and process Customer Data in order to generate reports, analyses, documents, and/or results. If Customer chooses to save such output, it will be saved as Customer Data in Customer's account. Upon any termination, Source will make Customer Data available to Customer for electronic retrieval for a period of sixty (60) days, but thereafter Source will, delete stored Customer-specific data. Source will not access Customer Data except in accordance with (a) the licenses granted to Source in Section 7.3 (Customer Data; License); or (b) Section 6.4 (Compelled Disclosure).

4. PROFESSIONAL SERVICES

4.1. Professional Services. The Parties may, but are under no obligation to, enter one or more Order Form(s) SOWs for Professional Services to be performed by Source. No Professional Services shall be furnished to Customer by virtue of this Agreement alone, but shall require the execution of Order Form or SOW by both Parties.

4.2. Scope Modifications. Customer may at any time request a modification to the Professional Services to be performed pursuant to any particular Order Form or SOW by making a written request to Source specifying the desired modifications. Source shall submit an estimate of the cost for such modifications and a revised estimate of the time for performance pursuant to the Order Form or SOW. Modifications in any Order Form or SOW shall become effective only when a written change request is executed by authorized representatives of both Parties.

4.3. Source Personnel. Source shall be responsible for securing, managing, scheduling, coordinating and supervising Source personnel, including its subcontractors, performing the Professional Services. Source will designate a Source project manager in each Order Form or SOW who will be responsible for coordinating Source's provision of Professional Services under such Order Form or SOW. Source shall have the right to remove or replace any personnel providing Professional Services with similarly skilled personnel. Source shall provide reasonable notice to Customer of any change in personnel providing Professional Services. Source may, in its sole discretion, subcontract or delegate any work under any Order Form or SOW to any third party without Customer's prior written consent, provided that, Source shall remain responsible for the performance, acts and omissions of any such subcontractors. Customer may request that Source remove or replace Source personnel if Customer believes, in Customer's reasonable discretion, that such personnel's involvement is inappropriate, unsafe or detrimental to the delivery of the

Professional Services. In the event such a request is made, any project timelines shall automatically extend by the amount of time required to replace said personnel and assimilate them into the project.

4.4. Cooperation. Customer shall perform its obligations as set forth in the applicable Order Form or SOW, as well as the following obligations: (a) designate and provide one Customer project manager who will be responsible for coordinating the Customer obligations under a Order Form or SOW; (b) provide sufficient, qualified, knowledgeable personnel capable of: (i) performing Customer obligations set forth in each Order Form or SOW; (ii) making timely decisions necessary to move the Professional Services forward; and (iii) participating in the project and assisting Source in rendering the Professional Services; and (c) in the case of on-site Professional Services, provide Source with reasonable access to Customer's facilities during Customer's normal business hours and otherwise as reasonably requested by Source, including such working space as Source may reasonably request. Customer acknowledges and agrees that the performance by Customer of its obligations is material to Source's ability to commence, proceed with and complete the Professional Services. In the event Customer does not perform Customer obligations in a timely manner, Source may take any action as set forth in the applicable Order Form or SOW, or terminate the applicable Order Form or SOW in accordance with this Agreement. Source shall perform any obligations for which it is responsible, as set forth in the Order Form or SOW.

5. FEES AND PAYMENTS

5.1. Fees. Customer agrees to pay Source the fees and other amounts set forth on all applicable Order Forms and SOWs. Except as otherwise specified in an Order Form, (a) fees for Subscription Services are based on Subscription Services purchased and not actual usage, (b) payment obligations are non-cancellable and fees paid are non-refundable for Subscription Services delivered in accordance with an Order Form and work that has been delivered by Source as required in a Order Form or SOW, and (c) quantities purchased cannot be decreased during the relevant Subscription Term. Except as otherwise specified in an Order Form or SOW, fees for any and all Professional Services shall be based on then-current hourly rates.

5.2. Payment Terms. Unless otherwise specified in the applicable Order Form or SOW, all undisputed fees and other amounts due under this Agreement shall be due payable net thirty (30) calendar days after date of receipt by Customer of the applicable invoice. Source may charge a late charge equal to the lesser of (a) one percent (1%) per month or (b) the maximum amount allowed by applicable law, on any outstanding past due balance that is not the subject of a good faith dispute.

5.3. Taxes. Customer will, within thirty (30) days of the Effective Date of this Agreement, provide Source with applicable sales tax exemption certificate(s). Unless the applicable tax-exempt certificate is provided, Customer shall be responsible for, all taxes, duties, and assessments imposed on Customer in connection with fees paid under the provisions of this Agreement, including without limitation, all sales, use, excise or other taxes and duties, and Source will include all such taxes, duties and assessments on each applicable invoice.

5.4. Expenses. Customer shall reimburse Source for any reasonable, actual out-of-pocket expenses incurred and pre-approved by Customer, including travel expenses and related costs, incurred by Source employees and subcontractors, provided that such expense and costs are consistent with Customer's own travel policies and approved in advance by Customer.

5.5. Customer Information. Customer will provide complete and accurate billing and contact information to Source and promptly notify Source of any changes to such information.

5.6. Disputed Charges. Customer must notify Source in writing of any dispute or disagreement with invoiced charges within thirty (30) calendar days after the date of receipt of the applicable invoice by Customer. Absent such notice, Customer shall be deemed to have agreed to the charges as invoiced.

6. CONFIDENTIAL INFORMATION

6.1. Access. The Parties acknowledge that during the performance of this Agreement, each Party will have access to certain Confidential Information of the other Party or Confidential Information of third parties that the disclosing Party is required to maintain as confidential.

6.2. Mutual Obligations. Except as may be expressly set forth in this Agreement, each Party that receives Confidential Information of the other Party agrees during the term of this Agreement and thereafter, to: (a) use the Confidential Information only for the purposes of performing this Agreement; (b) hold the Confidential Information of the other Party in confidence and restrict it from dissemination to, and use by, any third party; (c) protect the confidentiality of the other Party's Confidential Information using the same degree of care, but no less than reasonable degree of care, as the receiving Party uses to protect its own Confidential Information; (d) not create any derivative work from Confidential Information of the other Party; and (e) restrict access to the Confidential Information of the other Party to such of its personnel, subcontractors, and/or consultants who have a need to have access to such Confidential Information, who have been advised of the confidential nature of such information, and who have agreed in writing to terms no less protective than the terms set forth in this Agreement with respect to the treatment of such Confidential Information.

6.3. Confidentiality Exceptions. Section 6.2 shall not apply to Confidential Information that is: (a) publicly available or in the public domain at the time disclosed; (b) publicly available, becomes publicly available or enters the public domain through no fault of the recipient; (c) already in the recipient's possession free of any confidentiality obligations with respect thereto at the time of disclosure; (d) independently developed by the recipient without use of or reference to the disclosing Party's Confidential Information and by employees or other authorized agents of the receiving Party who have not been exposed to the disclosing Party's Confidential Information; or (e) approved for release or disclosure in writing by the disclosing Party.

6.4. Compelled Disclosure. Notwithstanding the foregoing, each Party may disclose Confidential Information of the other Party to the limited extent required to: (a) comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the Party making the disclosure pursuant to the order shall, to the extent allowed by law, first have given written notice to the other Party and made a reasonable effort to obtain a protective order; or (b) establish a Party's rights under this Agreement, including to make such court filings as it may be required to do.

6.5. Equitable Relief. The Parties acknowledge and agree that money damages would not be a sufficient remedy for breaches of this Section 6, and that each Party may seek injunctive relief, specific performance, or other equitable relief as a remedy for any such breach.

7. INTELLECTUAL PROPERTY/PROPRIETARY RIGHTS

7.1. Source. Source and its licensors own all right, title and interest, including all IP Rights, in and to all Source Confidential Information, the Technology and the Source Software, including, without limitation, all modifications, improvements, upgrades, derivative works, and feedback related thereto, and any third party software provided by Source, and all software, associated documentation, hardware, materials, information, processes or subject matter that is proprietary to Source and is provided under this Agreement. Source expressly reserves all rights not expressly granted to Customer under this Agreement and all executed Order Forms and SOWs. Customer shall not knowingly engage in any act or omission that would impair the IP Rights of Source or its licensors. In no event shall Customer obtain any ownership rights in or to the Confidential Information of Source, the Source Software or any IP Rights of Source.

7.2. Customer. Customer and its licensors own all right, title and interest, including all IP Rights, in and to the Customer Data, Customer copyrights, Customer Trademarks, and all Confidential Information disclosed by Customer. Source shall not knowingly engage in any act or omission that would impair Customer's IP Rights or Confidential Information. In no event shall Source obtain any ownership rights in or to the Confidential Information of Customer, the Customer Data or Customer's IP Rights.

7.3. Customer Data; License. As between Source and Customer, Customer exclusively owns all rights, title, and interest in and to all of the Customer Data. Customer hereby grants Source a worldwide, limited-term license to host, copy, transmit and display Customer Data, as necessary for Source to provide the Subscription Services in accordance with this Agreement. Subject to the limited licenses granted herein, Source acquires no right, title or interest from Customer under this Agreement in or to Customer Data. Customer hereby grants to Source a perpetual, non-exclusive, royalty-free license to (a) use Customer Data in order to provide, monitor and improve the Subscription Services to Customer and (b) use all of Customer Data that is anonymous and does not personally identify Customer, an Authorized User or Member for statistical, analytical and other aggregate use.

7.4. Content; License. Customer represents and warrants to Source that it owns all right, title and interest in, or otherwise have full and sufficient authority to use in the manner contemplated by this Agreement, any content furnished by Customer to Source for the Subscription Services. Customer hereby grants Source a limited, non-exclusive, royalty-free license to use such content in the manner contemplated by this Agreement. This license shall automatically terminate upon termination of this Agreement.

7.5. Suggestions. Customer hereby grants Source a royalty-free, worldwide, transferable, sublicensable, irrevocable, perpetual license to use or incorporate into the Subscription Services and/or Technology any suggestions, enhancement requests, recommendations, correction or other feedback provided by Customer, including Authorized Users, relating to the functionality and/or operation of the Subscription Services and/or Technology

7.6. Work Product. Trademarks.

7.6.1. Copyright Ownership of Works.

- a. Customer-Owned Works. “Customer-Owned Works” are those copyrightable works in which Customer is the copyright owner under applicable copyright law. Customer is the owner of works created by Customer or created as derivative works from Customer-Owned Works, including but not limited to all translations of Customer-Owned Works; provided that, under no circumstances shall Customer-Owned Works include any Source Software or any derivative works or translations thereof.
- b. Source-Owned Works. “Source-Owned Works” are those copyrightable works in which Source is the copyright owner under applicable copyright law. Source is the owner of Works created by Source or created as derivative works from Source-Owned Works, including but not limited to all translations of Source-Owned Works. Source-Owned Works include, without limitation, all Source Software and all derivative works or translations thereof.

7.6.2. Unless otherwise specified in the applicable SOW, and subject to Section 7.6.1(a) above regarding Customer-Owned Works and any derivative works of Customer-Owned Works, all Work Product created under this Agreement, including all IP Rights related thereto, shall be owned by Source.

7.6.3. All Work Product created under this Agreement that is owned by Source and is made available to Customer to enable Customer’s use of the Subscription Services pursuant to the terms of this Agreement. Source hereby grants Customer a worldwide, non-exclusive, non-transferrable, non-sublicensable right and license to use the Work Product, solely in connection with Customer’s use of the Subscription Services.

7.6.4. Unless otherwise specified in the applicable Order Form or SOW, and subject to Section 7.6.1(a) above regarding Customer-Owned Works, to the extent Customer acquires any rights in the Work Product, Customer hereby assigns such rights (including all IP Rights) to Source. Customer shall give Source all reasonable assistance and execute all documents necessary to assist or enable Source to perfect, preserve, register and/or record such assignment and Source’s rights in any Work Product.

7.6.5. Source acknowledges that Customer is the lawful owner of the names and trademarks (and trademark derivatives) set forth in Order Form(s) to this Agreement, and agrees to take no action inconsistent with Customer’s ownership, that would subject Customer to claims by third parties or potential loss of its ownership in the trademarks, or that would otherwise impair the value of said name and trademarks.

8. REPRESENTATIONS AND WARRANTIES

8.1. General. Each Party represents and warrants to the other that it has full power and authority to enter into and perform this Agreement, and that the execution and performance of this Agreement does not and shall not violate any other contract, obligation, or instrument to which it is a party, or which is binding upon it, including any confidentiality obligations.

8.2. Subscription Services Warranties. Source warrants that: (a) the Subscription Services shall perform materially in accordance with the Documentation and (b) subject to Section 8.3 (Third-Party Applications), the functionality of the Subscription Services will not be materially decreased during a Subscription Term. For any breach of either such

warranty, Customer's exclusive remedy shall be as provided in Section 11.5 (Termination for Breach). Customer acknowledges that availability of the Subscription Services depends upon the availability of the Internet and any third-party cloud computing services provider and that Source has no control over such availability. Accordingly, Source makes no representations, warranties, or covenants regarding the availability of the Subscription Services to the extent that such availability depends upon the availability of the Internet or any third-party cloud computing services provider.

8.3. Third Party Applications. The Subscription Services have been built as a software-as-a-service on a cloud-computing platform. The Subscription Services are designed to work with the cloud-computing platform and with certain other Third-Party Applications. Customer's use of Third-Party Applications is governed entirely by the terms of Customer's agreement with the relevant third party. Nothing in this Agreement creates any rights or obligations on the part of Source with respect to such Third-Party Applications nor should this Agreement be construed as creating any rights or obligations on the part of any third party providing Third-Party Applications with respect to the Subscription Services provided by Source.

8.4. Professional Services Warranty; Exclusive Remedy. Source warrants the Professional Services performed hereunder will be performed in a professional and workmanlike manner, using sound principles, accepted industry practices and competent personnel ("Professional Services Warranty"). The Professional Services Warranty shall not apply if the Work Product is implemented, customized, modified, enhanced or altered by Customer or any third party that is not specifically retained by Source as a contractor for such purposes. Customer's exclusive remedies, at Source's sole option, in the event of a breach of the Professional Services Warranty is for Source, at its expense, to re-perform the Professional Services which were not as warranted, provided Source has received notice from Customer within thirty (30) calendar days of the completion of the Professional Services that Customer alleges were not performed consistent with the Professional Services Warranty, or alternatively, for Source to issue a refund on the subject Professional Services paid for by Customer. NOTWITHSTANDING ANYTHING IN THIS AGREEMENT TO THE CONTRARY, THIS SECTION 8.4 SETS FORTH CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR ANY BREACH OF THE PROFESSIONAL SERVICES WARRANTY.

8.5. Disclaimers. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS SECTION 8, SOURCE MAKES NO OTHER REPRESENTATIONS OR WARRANTIES OF ANY KIND WHETHER EXPRESS, IMPLIED OR STATUTORY, AND SOURCE EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OF ANY KIND, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. NO WARRANTY IS MADE BY SOURCE ON THE BASIS OF TRADE USAGE OR COURSE OF DEALING. SOURCE DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICES, TECHNOLOGY, WEBSITE OR ANY OTHER INFORMATION, MATERIALS, OR SERVICES PROVIDED UNDER THIS AGREEMENT WILL MEET CUSTOMER'S REQUIREMENTS OR THAT THE OPERATION THEREOF WILL BE UNINTERRUPTED OR ERROR-FREE.

9. LIMITATIONS OF LIABILITY

9.1. EXCEPT FOR DAMAGES ARISING OUT OF (I) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER, (II) A PARTY'S MISAPPROPRIATION OF THE OTHER PARTY'S IP RIGHTS, OR (iii) WHERE A CLAIM RESULTS FROM INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE, IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY FOR ANY INCIDENTAL, INDIRECT, SPECIAL, CONSEQUENTIAL OR PUNITIVE DAMAGES, REGARDLESS OF THE NATURE OF THE CLAIM, INCLUDING, WITHOUT LIMITATION, LOST PROFITS, COSTS OF DELAY, ANY FAILURE OF

DELIVERY, BUSINESS INTERRUPTION, OR COSTS OF LOST OR DAMAGED DATA OR DOCUMENTATION, EVEN IF THE PARTY FROM WHOM SUCH DAMAGES ARE SOUGHT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THIS LIMITATION UPON DAMAGES AND CLAIMS IS INTENDED TO APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THIS AGREEMENT HAVE BEEN BREACHED.

9.2. EXCEPT FOR DAMAGES ARISING OUT OF (I) A PARTY'S BREACH OF ITS CONFIDENTIALITY OBLIGATIONS HEREUNDER, (II) A PARTY'S MISAPPROPRIATION OF THE OTHER PARTY'S IP RIGHTS, OR (iii) WHERE A CLAIM RESULTS FROM INTENTIONAL MISCONDUCT OR GROSS NEGLIGENCE, EACH PARTY'S TOTAL AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, SHALL NEVER EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER TO SOURCE UNDER THIS AGREEMENT DURING THE TWELVE MONTHS IMMEDIATELY BEFORE ANY EVENT GIVING RISE TO A CLAIM BY THE OTHER PARTY HEREUNDER. EACH PARTY HEREBY RELEASES THE OTHER PARTY FROM ALL OBLIGATIONS, LIABILITY, CLAIMS, OR DEMANDS IN EXCESS OF THIS LIMITATION.

9.3. Essential Basis. The disclaimers, exclusions and limitations of liability set forth in this Agreement form an essential basis of the bargain between the Parties.

10. INDEMNIFICATION

10.1. Infringement Claim.

10.1.1. Source shall indemnify, defend and hold harmless Customer from and against all losses, liabilities, damages, claims, costs and reasonable expenses (including reasonable attorneys' fees) arising out of or related to a third party claim that Customer's use of, or access to, the Subscription Services, Source Software or Technology infringes a United States patent, copyright or trademark or misappropriates any third party trade secrets (an "**Infringement Claim**"); provided that, Customer must give Source: (a) prompt written notice of such claim; (b) authority to control and direct the defense and/or settlement of such claim; and (c) such information and assistance as Source may reasonably request, at Source's expense, in connection with such defense and/or settlement. Notwithstanding the foregoing, Source shall not, without the prior written consent of Customer, settle any third-party claim against Customer unless (x) such settlement completely and forever releases Customer with respect thereto or (y) does not involve any financial obligation on the part of Customer. In any action for which Source provides defense on behalf of Customer, Customer may participate in such defense at its own expense by counsel of its choice.

10.1.2. Upon the occurrence of any Infringement Claim for which indemnity is or may be due under this Section 10.1, or in the event that Source believes that such a claim is likely, (Source will, at its option: (a) appropriately modify the Subscription Services, Source Software or Technology to be non-infringing, or substitute functionally equivalent software or services; (b) obtain a license to the applicable third-party intellectual property rights; or (c) if the remedies set forth in clauses (a) and (b) above are not commercially feasible, as determined by Source in its sole discretion, Source may terminate this Agreement on written notice to Customer and refund any pre-paid fees for services that have not been provided. THE PROVISIONS OF THIS SECTION 10.1 (INCLUDING SECTION 10.1.1 ABOVE) STATES THE SOLE, EXCLUSIVE, AND ENTIRE LIABILITY OF SOURCE TO CUSTOMER, AND IS CUSTOMER'S SOLE REMEDY, WITH RESPECT TO ANY INFRINGEMENT CLAIM.

10.2. Mutual Indemnity. Each Party ("**Indemnifying Party**") shall indemnify, defend and hold harmless the other Party and its officers, directors, shareholders, members, managers, employees, agents and Affiliates (each, an

"Indemnified Party") against any claim, including costs and reasonable attorney's fees, in which the Indemnified Party is named as a result of the grossly negligent or intentional acts or omissions of the Indemnifying Party, its employees or agents, while performing its obligations pursuant to this Agreement or any Order Form or SOW, which result in death, personal injury or property damage. The Indemnified Party must give the Indemnifying Party: (a) prompt written notice of such claim; (b) authority to control and direct the defense and/or settlement of such claim; and (c) such information and assistance as the Indemnifying Party may reasonably request, at the Indemnifying Party's expense, in connection with such defense and/ or settlement. Notwithstanding the foregoing, the Indemnifying Party shall not, without the prior written consent of the Indemnified Party, settle any third-party claim against the Indemnified Party unless (i) such settlement completely and forever releases the Indemnified Party with respect thereto or (ii) does not involve any financial obligation on the part of the Indemnified Party. In any action for which the Indemnifying Party provides defense on behalf of the Indemnified Party, the Indemnified Party may participate in such defense at its own expense by counsel of its choice.

11. TERM AND TERMINATION

11.1. **Agreement.** This Agreement shall become effective upon the Effective Date hereof, and shall continue in effect for the period specified in Order Form (the "Initial Term") or until it is earlier terminated in accordance with this Section 11. After this Initial Term, this Agreement shall evergreen, or renew automatically, on a successive year-to-year (annual) basis unless terminated in accordance with this Section 11.

11.2. Term of Purchased Subscriptions. Each Subscription Term shall be as specified in the applicable Order Form.

11.3. Term of Statements of Work. Unless otherwise stated in the applicable SOW, the term of each SOW shall last until performance thereunder is completed.

11.4. Termination on Expiration of Subscription Terms and SOWs. Upon expiration or termination of any and all Subscription Terms as specified in Order Form(s) and SOWs executed under Agreement, either Party may terminate this Agreement by giving not less than ninety (90) days written notice to the other Party.

11.5. Termination for Breach. Either Party may terminate this Agreement, or any Order Form or SOW executed under this Agreement, in the event of a material breach by the other Party. Such termination may be effected only through a written notice to the breaching Party; specifically identifying the breach on which such notice of termination is based. The breaching Party will have a right to cure such breach within sixty (60) calendar days of receipt of such notice (ten (10) calendar days in the case of non-payment). The non-breaching Party may terminate this Agreement, or any Order Form or SOW executed under this Agreement, in the event that such cure is not made within such sixty (60)-day period (or ten (10)-day period in the case of non-payment).

11.6. Bankruptcy. This Agreement, or any Order Form or SOW executed under this Agreement, may be terminated immediately by a Party through written notice if the other Party ceases to carry on business as a going concern, becomes the object of the institution of voluntary or involuntary proceedings in bankruptcy or liquidation, or a receiver is appointed with respect to a substantial part of its assets.

11.7. Termination of Individual Order Forms or SOWs. In the event a Party terminates any individual Order Form or SOW in accordance with Sections 11.5 or 11.6, this Agreement (including any other Order Forms or SOWs) shall remain in full force and effect in accordance with its terms.

11.8. Accrued Obligations. Termination of this Agreement and/or any particular Order Form or SOW shall not release either Party from any liability which, at the time of termination, has already accrued or which thereafter may accrue with respect to any act or omission before termination, or from any obligation which is expressly stated in this Agreement and/or any applicable Order Form or SOW to survive termination.

11.9. Cumulative Remedies. Termination of this Agreement and/or any applicable Order Form or SOW, regardless of cause or nature, shall be without prejudice to any other rights or remedies of the Parties.

11.10. Effect of Termination. Upon any termination of this Agreement, Customer shall immediately discontinue all use of the Subscription Services and promptly pay to Source all amounts due and payable under this Agreement. In addition, each Party shall:

(a) immediately discontinue all use of the other Party's Confidential Information or IP rights; (b) at the option of the disclosing Party, either return or destroy all Confidential Information of the disclosing Party in its possession; and (c) delete the disclosing Party's Confidential Information from its computer storage or any other media, except for archival copies which may be retained and shall be destroyed in accordance with the party's Record retention policy. Any such retained copies shall remain subject to Section 6 (Confidentiality). Each Party will, on request from the disclosing Party, provide the disclosing Party with a written certification of compliance with this Section 11.10 signed by an officer.

11.11. Survival of Obligations. The provisions of Sections 2.5, 5, 6, 7 (excluding Section 7.3 and 7.4), 8.6, 9, 10, 11.8 thru 11.11 and 12, as well as Customer's obligations to pay any amounts due and outstanding hereunder, shall survive termination or expiration of this Agreement.

12. MISCELLANEOUS

12.1. Applicable Law; Venue and Jurisdiction. This Agreement shall be governed by and construed in accordance with the laws of the State of California, County of San Diego, without giving effect to its rules regarding conflicts of laws. THE PARTIES AGREE THAT ANY AND ALL CAUSES OF ACTION BETWEEN THE PARTIES ARISING FROM OR IN RELATION TO THIS AGREEMENT SHALL BE BROUGHT EXCLUSIVELY IN THE STATE AND FEDERAL COURTS LOCATED WITHIN THE STATE OF CALIFORNIA.

12.2. Order of Precedence. In the event of a conflict between this Agreement and any Order Form, SOW or other document referencing this Agreement that is executed by both Parties, this Agreement shall govern, except to the extent that the applicable Order Form, SOW or other executed document expressly states the intent of the Parties to supersede or change one or more provisions in this Agreement and clearly identifies the provision(s) to be superseded or changed. In such a case, the Order Form or SOW must be signed by both Parties. This Agreement, including each Order Form or SOW, shall prevail over any different, conflicting, inconsistent or additional terms contained in any purchase order or like document issued by Customer.

12.3. Export Compliance. Each Party shall comply with the export laws and regulations of the United States and other applicable jurisdictions in providing and using the Subscription Services. Without limiting the foregoing, (a) each Party represents that it is not named on any U.S. government list of persons or entities prohibited from receiving exports and (b) Customer shall not permit Authorized Users to access or use the Subscription Services in violation of any U.S. export embargo, prohibition, or restriction.

12.4. Force Majeure. Either Party 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, acts of god, fire, strike, embargo, terrorist attack, war, insurrection or riot, communicable disease, or other causes beyond the reasonable control of such Party. Any delay resulting from any of such causes shall extend performance accordingly or excuse performance, in whole or in part, as may be reasonable under the circumstances.

12.5. Notices. Any notice required or permitted under the terms of this Agreement or required by law must be in writing and must be:

(a) delivered in person; (b) sent by registered mail, return receipt requested; or (c) sent overnight using an overnight air courier. Notices will be considered to have been given at the time of actual delivery if delivered in person, three (3) business days after posting if sent by mail, or one (1) day after delivery to an overnight air courier service. All such notices shall be sent to each Party at its address specified on the signature page of this Agreement, or addressed to such other address as that Party may have given by written notice in accordance with this provision. In addition to and notwithstanding the foregoing, Source may also provide such notice and communications to Customer under this Agreement using the electronic e-mail addresses of the Customer contact listed on the Order Form or SOW.

12.6. Assignment. Neither Party shall assign its rights or delegate its obligations under this Agreement without the other Party's prior written consent, and, absent such consent, any purported assignment or delegation shall be null, void and of no effect. Notwithstanding the foregoing, either Party may assign this Agreement, without requiring such prior consent, in connection with a merger or sale of all or substantially all of its assets, provided that the assignee agrees in writing to assume the assignor's obligations under this Agreement. This Agreement shall be binding upon and inure to the benefit of Source and Customer and their successors and permitted assigns.

12.7. Customer Attribution; Marketing. Each Party may use and display the other Party's name, logo, and success stories in its marketing materials. In addition, the Technology may include product attribution in a form similar to a hyperlink "Powered by Source". Upon Customer's prior written approval, Source may issue a press release announcing Customer's selection of Source's product and services and/or Customer's successful deployment of the Source products and services. Customer agrees to have an authorized Customer representative provide a quote for these press releases. Source may refer to Customer in its marketing and promotional materials, verbally and/or in writing, provided Customer has provided its approval prior to publication thereof. Customer to approve all press releases and all uses of Customer trademarks.

12.8. Independent Contractors. The Parties are acting as independent contractors in making and performing this Agreement. The relationship arising from this Agreement does not constitute or create any partnership, joint venture, employment relationship or franchise between the Parties.

12.9. Amendment. No amendment to this Agreement or any Order Form or SOW shall be valid unless it is made in writing and is signed by the authorized representatives of both Parties.

12.10. Waiver. No waiver under this Agreement shall be valid or binding unless set forth in writing and duly executed by the Party against whom enforcement of such waiver is sought. Any such waiver shall constitute a waiver only with respect to the specific matter described therein and shall in no way impair the rights of the Party granting such waiver in any other respect or at any other time. Any delay or forbearance by either Party in exercising any right hereunder shall not be deemed a waiver of that right.

12.11. Severability. If any provision of this Agreement is invalid or unenforceable for any reason in any jurisdiction, such provision shall be construed to have been adjusted to the minimum extent necessary to cure such invalidity or unenforceability. The invalidity or unenforceability of one or more of the provisions contained in this Agreement shall not have the effect of rendering any such provision invalid or unenforceable in any other case, circumstance or jurisdiction, or of rendering any other provisions of this Agreement invalid or unenforceable whatsoever.

12.12. No Third Party Beneficiaries. The Parties acknowledge that the covenants set forth in this Agreement are intended solely for the benefit of the Parties, their successors and permitted assigns. Nothing herein, whether express or implied, shall confer upon any person or entity, other than the Parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of this Agreement.

12.13. Counterparts. This Agreement and any Order Form, SOW or other document executed in connection herewith may be executed in any number of counterparts, each of which when so executed shall be deemed to be an original and all of which when taken together shall constitute one Agreement.

12.14. Headings. The headings in this Agreement are inserted merely for the purpose of convenience and shall not affect the meaning or interpretation of this Agreement.

12.15. Entire Agreement. This Agreement (together with all Order Forms and SOWs) sets forth the entire agreement and understanding between the Parties hereto with respect to the subject matter hereof and, except as specifically provided herein, supersedes and merges all prior oral and written agreements, discussions and understandings between the Parties with respect to the subject matter hereof.

12.16. No Solicitation. Each Party agrees that during the term of this Agreement, and for a period of one (1) year after the termination or expiration of this Agreement, it shall not offer employment or engagement (whether as an employee, independent contractor or consultant) to any employee or consultant of the other Party without the prior written consent of the other Party. In the event a Party offers employment or engagement (whether as an employee, independent contractor or consultant) to an employee or consultant of the other Party it shall pay to other Party an amount equal to one (1) year's salary of such employee or consultant as to help offset costs the other Party will incur to replace the employee and provide training to the new employee(s). Neither Party shall be in breach of this Section 12.17 if it can show by written records that there was no solicitation of employment or engagement (whether as an employee, independent contractor or consultant) and the person hired or engaged responded to a job posting or general advertisement (for example, through online job postings) that was publicly available and placed in connection with an open position.