

APEXIO TERMS OF SERVICE

These Terms of Service ("**Terms**") are between TIEVA T/A Pure Data Solutions Ltd, a UK corporation with a principal office at The Mill 2, Holly Park Mills, Woodhall Road, Calverley, West Yorkshire, LS28 5QS ("**Provider**") and the entity receiving the products and/or services ("**Customer**"). Provider and Customer may be referred to collectively as the "**Parties**" or individually as a "**Party**". The specific products and/or services offered to the Customer are as described in the Customer ordering documents ("**Services**").

By creating an account to access the Services and/or by using the Services, Customer agrees to be bound by these Terms. Customer further agrees that by continuing to use the Services after being notified of a change to these Terms, Customer is agreeing to be bound by the updated Terms. Any individual agreeing to be bound by these Terms on behalf of an organization or other legal entity represents they have the authority to bind such entity to these Terms.

1. Access and Use.

- a. **Provision of Access.** Subject to and conditioned on Customer's payment of the applicable fees and compliance with these Terms, Provider hereby grants Customer a non-exclusive, non-transferable (except in compliance with Section 11(g)) and terminable licence to access and use the Services during the Service Term, solely for use by Customer's employees, consultants, contractors, and agents (i) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to these Terms ("**Authorized User**"). Such use is limited to Customer's internal use. Customer is expressly prohibited from sublicensing use of the Services to third parties.
- b. **Documentation License.** Customer may use and make a reasonable number of copies of Provider's user manuals, handbooks, and guidelines relating to the Services either electronically or in hard copy form ("**Documentation**") solely for Customer's internal business purposes in connection with Customer's use of the Services. For the avoidance of doubt, the Documentation is not sold but licensed hereunder.
- c. **Use Restrictions.** Customer shall not use the Services, the Documentation, and any intellectual property provided to Customer or any Authorized User ("**Provider IP**") for any purposes beyond the scope granted in these Terms. Customer shall not at any time, directly or indirectly, and shall not permit any Authorized Users to: (i) copy, modify, or create derivative works of the Provider IP, in whole or in part; (ii) rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the Provider IP; (iii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the Provider IP, in whole or in part; (iv) remove any proprietary notices from the Provider IP; or (v) use the Provider IP in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law. For the avoidance of doubt, Provider IP includes Aggregated Statistics, and any information, data, or other content derived from Provider's monitoring of Customer's access to or use of the Services but does not include Customer Data.

- d. **Reservation of Rights.** Provider reserves all rights not expressly granted to Customer in these Terms. Except for the limited rights and licenses expressly granted under these Terms, nothing in herein 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 Provider IP.
- e. **Suspension.** Provider may temporarily suspend Customer's and/or any Authorized User's access to any portion or all of the Services if: (i) Provider reasonably determines that (A) there is a threat or attack on any of the Provider IP; (B) Customer's or any Authorized User's use of the Provider IP disrupts or poses a security risk to the Provider IP or to any other customer or vendor of Provider; (C) Customer, or any Authorized User, is using the Provider IP for fraudulent or illegal activities; (D) subject to applicable law, Customer has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; or (E) Provider's provision of the Services to Customer or any Authorized User is prohibited by applicable law; (ii) any vendor of Provider has suspended or terminated Provider's access to or use of any third-party services or products required to enable Customer to access the Services; or (iii) in accordance with Section 4 (any such suspension described in subclause (i), (ii), or (iii), a "**Service Suspension**"). Provider shall use commercially reasonable efforts to provide written notice of any Service Suspension to Customer and to provide updates regarding resumption of access to the Services following any Service Suspension. Provider shall use commercially reasonable efforts to resume providing access to the Services as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Provider will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer or any Authorized User may incur because of a Service Suspension.
- f. **Aggregated Statistics.** Provider may monitor Customer's use of the Services and collect, compile and use data and information related to Customer's use of the Services in an aggregate and anonymized manner, including to compile statistical and performance information related to the provision and operation of the Services ("**Aggregated Statistics**"). All right, title, and interest in Aggregated Statistics, and all intellectual property rights therein, belong to and are retained solely by Provider. Customer acknowledges that Provider may compile Aggregated Statistics based on information, data, and other content, in any form or medium, that is submitted, posted, or otherwise transmitted by or on behalf of Customer or an Authorized User through the Services ("**Customer Data**"). Customer agrees that Provider may (i) make Aggregated Statistics available to third parties, and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law; provided that such Aggregated Statistics do not identify Customer and does not include Customer's Confidential Information or Personal Data. "**Personal Data**" generally means non-public, personally identifiable information of or concerning any living individual among the consumers, employees, clients and customers of Customer or Provider, their parents, subsidiaries, affiliates and agents.
- g. **Updates.** Provider is continually enhancing the Services, fixing issues, and adding new features. These updates, which may include improvements, bug fixes, and performance enhancements (collectively, "**Updates**"), will be packaged and periodically deployed to Customer's environment.

Provider may notify Customer in advance of upcoming Updates and provide release notes. Customer must accept the Updates to ensure continued access to the Services.

2. Customer Responsibilities.

- a. **General.** Customer is responsible for all uses of the Provider IP resulting from access provided by Customer, directly or indirectly, whether or not such access or use is permitted by Terms. Without limiting the generality of the foregoing, Customer is responsible for all acts and omissions of Authorized Users, and any act or omission by an Authorized User that would constitute a breach of these Terms if taken by Customer will be deemed a breach of these Terms by Customer. Customer shall use reasonable efforts to make all Authorized Users aware of these Terms. Customer will be responsible for obtaining and maintaining, at Customer's expense, all the necessary telecommunications, computer hardware, software, and Internet connectivity required by Customer or any Authorized User to access Provider IP from the Internet.
- b. **Third-Party Products.** The Services may provide access to third-party software programs that are neither supplied nor licensed under these Terms ("**Third- Party Products**"). These Third-Party Products are governed by their own license terms, which may include open-source licenses, and those terms will prevail over these Terms as it relates to Customer's use of Third-Party Products. These Terms do not limit Customer's rights under any such Third-Party Products or grant Customer any right that supersedes the terms of any such licence agreement for a Third-party Product. If the Customer does not agree to the terms of any Third-Party Product license, the Customer should not install, access or use such Third-Party Products. Provider does not provide any warranties or assume any liability for the use of Third-Party Products.

3. Continuous Development; Security.

- a. **Continuous Development.** Customer acknowledges that Provider may continually develop, deliver and provide to Customer on-going innovation to the Services in the form of new features, functionality, and efficiencies. Accordingly, Provider reserves the right to modify Services from time to time. Some modifications may be provided to Customer at no additional charge. In the event Provider adds additional functionality to a particular Service, Provider may condition the implementation of such modifications on Customer's payment of additional fees provided Customer may continue to use the version of the Services that Provider makes generally available (without such features) without paying additional fees.
- b. **Technology Previews.** Provider may make certain features available to Customer for a limited time ("**Technology Preview Features**"). Provider shall be under no obligation to continue the operation or development of any Technology Preview Features. Further, Provider is not obligated to release a Technology Preview Feature as generally available. Provider will label a Technology Preview Feature as such in user interface components or the Documentation.
- c. **Security.** Provider has implemented and will maintain a comprehensive information security program which shall be consistent with industry standards that contains appropriate

administrative, technical and physical safeguards reasonably designed to protect Customer Data from unauthorized disclosure. Provider may update such security policies and safeguards from time to time, provided that any such update does not materially reduce the overall level of security or commitments.

- d. **Compliance & Privacy.** The Parties shall comply with applicable laws and regulations with respect to its delivery of the Service hereunder. Please refer to the Provider's Privacy Policies located at: <https://www.tieva.co.uk>.

- 4. **Fees and Payment.** Customer shall pay Provider the fees and value added tax in accordance with Provider's Terms and Conditions of Sale. Section 4 (Price and payment) of the Terms and Conditions of Sale are incorporated into these Terms by reference.

5. Confidential Information.

- a. **General Provisions.** Section 11 (Confidentiality) of the Terms and Conditions of Sale are incorporated into these Terms by reference.
- b. **Obligations on Termination.** On the expiration or termination of these Terms, the receiving Party shall promptly destroy all copies of Confidential Information stored in any medium. Receiving Party will certify in writing to the disclosing Party that such Confidential Information has been destroyed. Each Party's obligations of non-disclosure with regard to Confidential Information expire seven years from the date first disclosed to the receiving Party; provided, however, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of these Terms for as long as such Confidential Information remains subject to trade secret protection under applicable law.

6. Intellectual Property Ownership; Feedback.

- a. **Provider IP.** Customer acknowledges that, as between Customer and Provider, Provider and its licensors owns all right, title, and interest, including all intellectual property rights, in and to the Provider IP and, with respect to Third-Party Products, the applicable third-party providers own all right, title, and interest, including all intellectual property rights, in and to the Third-Party Products.
- b. **Customer Data.** Provider acknowledges that, as between Provider and Customer, Customer owns all right, title, and interest, including all intellectual property rights, in and to the Customer Data. Customer hereby grants to Provider a non-exclusive, royalty-free, worldwide license to reproduce, distribute, and otherwise use and display the Customer Data and perform all acts with respect to the Customer Data as may be necessary for Provider to provide the Services to Customer, and a non-exclusive, perpetual, irrevocable, royalty-free, worldwide license to reproduce, distribute,

modify, and otherwise use and display Customer Data incorporated within the Aggregated Statistics.

- c. **Feedback.** If Customer or any of its employees, contractors, or agents communicates, by any means, suggestions or recommendations for changes to the Provider IP, including without limitation, for any Technology Preview Features (“**Feedback**”), Provider is free to use such Feedback irrespective of any other obligation or limitation between the Parties governing such Feedback. Customer hereby assigns to Provider on Customer’s behalf, and on behalf of its employees, contractors and/or agents, all right, title, and interest in, and Provider is free to use, without any attribution or compensation to any party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever. Provider is not required to use any Feedback.
- d. **Copyright or Proprietary Legends.** Customer agrees not to remove any copyright or proprietary legends in the Services, and to implement reasonable security measures to protect Provider’s proprietary rights therein from unauthorized use or disclosure. Except as necessary for Customer to make use of the Services in accordance with the license rights herein, Customer is not authorized to use any Provider marks. Ownership of all such marks and the goodwill associated therewith remains with the Provider or the Provider’s respective licensors.
- e. **Open-Source Software.** Services may contain open-source software. Notwithstanding anything to the contrary in the Terms, the license terms of the open-source software control solely with respect to the open-source software.

7. Warranty and Warranty Disclaimer.

- a. Each Party represents and warrants that agreeing to these Terms does not violate any agreement existing between such Party and any third party.
- b. Provider warrants that, during the Service Term, the Services will conform in all material respects with these Terms and the Documentation when accessed and used in accordance with these Terms and the Documentation. Provider does not make any representations or guarantees regarding uptime or availability of the Services unless specifically identified in these Terms. The remedies set forth in these Terms are Customer’s sole remedies and Provider’s sole liability under the limited warranty set forth in this Section 7(b). THE FOREGOING WARRANTY DOES NOT APPLY, AND PROVIDER STRICTLY DISCLAIMS ALL WARRANTIES, WITH RESPECT TO ANY THIRD-PARTY PRODUCTS.
- c. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 7(b), THE PROVIDER IP IS PROVIDED “AS IS” AND PROVIDER HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. PROVIDER SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. EXCEPT FOR THE LIMITED WARRANTY SET FORTH IN SECTION 7(b), PROVIDER MAKES NO WARRANTY OF ANY

KIND THAT THE PROVIDER IP, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM, OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

8. Indemnification.

a. Provider Indemnification.

- i. Provider shall indemnify, defend, and hold harmless Customer from and against any and all losses, damages, liabilities, costs ("**Losses**") incurred by Customer resulting from any third-party claim, suit, action, or proceeding ("**Third-Party Claim**") that the Services, or any use of the Services in accordance with these Terms, infringes or misappropriates such third party's UK intellectual property rights, provided that Customer promptly notifies Provider in writing of the claim, cooperates with Provider, and allows Provider sole authority to control the defense and settlement of such claim.
- ii. If a Third-Party Claim is made or appears possible, Customer agrees to permit Provider, at Provider's sole discretion, to (A) modify or replace the Services, or component or part thereof, to make it non-infringing, or (B) obtain the right for Customer to continue use. If Provider determines that neither alternative is reasonably available, Provider may terminate these Terms.
- iii. This Section 8(a) will not apply to the extent that the alleged infringement arises from: (A) use of the Services in combination with data, software, hardware, equipment, or technology not provided by Provider or authorized by Provider in writing; (B) modifications to the Services not made by Provider; (C) Customer Data; or (D) Third-Party Products.

- b. **Customer Indemnification.** Customer shall indemnify, hold harmless, and, at Provider's option, defend Provider from and against any Losses resulting from any Third-Party Claim that the Customer Data, or any use of the Customer Data in accordance with these Terms, infringes or misappropriates such third party's UK intellectual property rights and any Third-Party Claims based on Customer's or any Authorized User's (i) negligence or willful misconduct; (ii) use of the Provider IP in a manner not authorized by these Terms; (iii) use of the Provider IP in combination with data, software, hardware, equipment, or technology not provided by Provider or authorized by Provider in writing; or (iv) modifications to the Provider IP not made by Provider, provided that Customer may not settle any Third-Party Claim against Provider unless Provider consents to such settlement in writing, and further provided that Provider will have the right, at its option, to defend itself against any such Third-Party Claim or to participate in the defense thereof by counsel of its own choice.

- c. **Sole Remedy.** THIS SECTION 8 SETS FORTH CUSTOMER'S SOLE REMEDIES AND PROVIDER'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE

PROVIDER IP INFRINGES, MISAPPROPRIATES, OR OTHERWISE VIOLATES ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY. IN NO EVENT WILL PROVIDER'S LIABILITY UNDER THIS SECTION 8 EXCEED ONE HUNDRED (100) POUNDS.

- 9. Limitations of Liability.** Section 9 (Limitation of Liability) of the Terms and Conditions of Sale are incorporated into these Terms by reference. NOTWITHSTANDING THE FOREGOING, IN NO EVENT WILL PROVIDER'S AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THESE TERMS UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED ONE HUNDRED (100) POUNDS. THESE LIMITATIONS ARE CUMULATIVE FOR ALL CLAIMS HOWSOEVER ARISING UNDER ALL AGREEMENTS AND ORDER DOCUMENTS BETWEEN THE PARTIES FOR THE SERVICES AND SHALL APPLY EVEN IF THE REMEDIES PROVIDED IN THESE TERMS SHALL FAIL OF THEIR ESSENTIAL PURPOSE.

BECAUSE SOME JURISDICTIONS DO NOT ALLOW THE EXCLUSION OR LIMITATION OF CERTAIN LIABILITY, IN SUCH JURISDICTIONS THE LIABILITY OF PROVIDER WILL BE LIMITED TO THE MAXIMUM EXTENT PERMITTED BY LAW. THE PROVISIONS OF THIS SECTION 9 WILL APPLY WITHOUT REGARD TO WHETHER OTHER PROVISIONS OF THESE TERMS HAVE BEEN BREACHED, ANY LIMITED REMEDY HEREIN IS HELD TO FAIL OF ITS ESSENTIAL PURPOSE OR THE FORM OF THE CLAIM OR CAUSE OF ACTION, WHETHER IN CONTRACT, WARRANTY, STATUTE, TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE). FOR ABSOLUTE CLARITY, NOTHING IN THESE TERMS LIMITS OR EXCLUDES LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY NEGLIGENCE, FRAUD, OR FRAUDULENT MISREPRESENTATION.

CUSTOMER ACKNOWLEDGES AND AGREES THAT THE FOREGOING SECTIONS ON WARRANTIES AND DISCLAIMERS, INDEMNIFICATION AND LIMITATION OF LIABILITY FAIRLY ALLOCATE THE RISKS BETWEEN THE PARTIES AND ARE ESSENTIAL ELEMENTS OF THE BASIS OF THE BARGAIN BETWEEN THE PARTIES. CUSTOMER EXPRESSLY ACKNOWLEDGES THAT THE FEES THAT PROVIDER CHARGES FOR THE SERVICES ARE BASED UPON PROVIDER'S EXPECTATION THAT THE RISK OF ANY LOSS OR INJURY THAT MAY BE INCURRED BY USE OF THE SERVICES WILL BE BORNE BY CUSTOMER, NOT PROVIDER. IF PROVIDER WERE TO ASSUME ANY FURTHER LIABILITY OTHER THAN AS SET FORTH HEREIN, SUCH FEES FOR THE SERVICES WOULD OF NECESSITY BE SET SUBSTANTIALLY HIGHER.

10. Term and Termination.

- a. **Term.** Subject to earlier termination as provided in Section 10(b), these Terms will commence on the effective date (as defined in the order document) and shall remain in effect for as long as Customer has an active trading account with Provider ("**Service Term**").
- b. **Termination.** Either Party may terminate these Terms or any order document, at its discretion, effective immediately upon written notice to the other if the other Party materially breaches any provision of these Terms and does not substantially cure the breach within thirty (30) days after receiving written notice. In addition, Provider may terminate these Terms or any order document due to Customer's failure to make any payment when due, provided that such failure remains uncured for ten (10) days after Customer receives written notice of non-payment. However, such

termination does not relieve Customer of its payment obligations under these Terms, and any unpaid fees shall become immediately due and payable. Provider may terminate these Terms, effective immediately upon written notice to the Customer, if the Customer: (A) becomes insolvent or is generally unable to pay, or fails to pay, its debts as they become due; (B) files or has filed against it, a petition for voluntary or involuntary bankruptcy or otherwise becomes subject, voluntarily or involuntarily, to any proceeding under any domestic or foreign bankruptcy or insolvency law; (C) makes or seeks to make a general assignment for the benefit of its creditors; or (D) applies for or has appointed a receiver, trustee, custodian, or similar agent appointed by order of any court of competent jurisdiction to take charge of or sell any material portion of its property or business. Provider may also terminate these Terms and Customer's access to the Service without any cause upon thirty (30) days notice to Customer.

- c. **Effect of Expiration or Termination.** Upon expiration or earlier termination of these Terms, Customer shall immediately discontinue use of the Provider IP and, without limiting Customer's obligations under Section 5, Customer shall cease using and delete, destroy, or return all copies of the Provider IP and certify in writing to the Provider that the Provider IP has been deleted or destroyed. Except where Customer early termination is pursuant to Provider's uncured material breach (pursuant to Section 10(b)), no expiration or termination will affect Customer's obligation to pay all fees that may have become due before such expiration or termination or entitle Customer to any refund. If Customer terminates these Terms early pursuant to Provider's uncured breach, Provider will promptly refund the prepaid fees (if any) for the portion of the terminated period for which the Service was not provided. Otherwise, early termination or ceasing to use the Services will not result in a refund of any prepaid fees or modify Customer's obligation to pay any fees.
- d. **Survival.** This Section 10(d) and Sections 4, 5, 6, 7(c), 8, 9, and 11 are the only provisions to survive any termination or expiration of these Terms.

11. Miscellaneous.

- a. **Entire Agreement.** These Terms together with any other documents incorporated herein by reference and all related exhibits constitutes the sole and entire agreement of the Parties with respect to the subject matter of these Terms and supersedes all prior and contemporaneous understandings, agreements, and representations and warranties, both written and oral, with respect to such subject matter. Except as otherwise set forth in Section 2(b), in the event of any inconsistency between the statements made in the body of these Terms, the related exhibits, and any other documents incorporated herein by reference, the following order of precedence governs: (i) first, these Terms, excluding its exhibits; (ii) second, the exhibits to these Terms; and (iii) third, any other documents incorporated herein by reference.
- b. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "**Notice**") must be in writing and addressed to the Parties at the addresses set forth on the first page of these Terms or the order documents (or to such other address that may be designated by each respective Party from time to time in accordance with this Section). All

Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), facsimile or email (with confirmation of transmission), or certified or registered mail (in each case, return receipt requested, postage pre-paid). Except as otherwise provided in these Terms, a Notice is effective only: (i) upon receipt by the receiving Party; and (ii) if the Party giving the Notice has complied with the requirements of this Section.

- c. **Force Majeure.** In no event shall either Party be liable to the other Party, or be deemed to have breached these Terms, for any failure or delay in performing its obligations under these Terms (except for any obligations to make payments), if and to the extent such failure or delay is caused by any circumstances beyond such Party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, pandemics, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.
- d. **Waiver.** No waiver by any Party of any of the provisions hereof will be effective unless explicitly set forth in writing and signed by the Party so waiving. Except as otherwise set forth in these Terms, (i) no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from these Terms will operate or be construed as a waiver thereof, and (ii) no single or partial exercise of any right, remedy, power, or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege.
- e. **Severability.** If any provision of these Terms is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of these Terms or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the Parties shall negotiate in good faith to modify these Terms so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the greatest extent possible.
- f. **Governing Law; Choice of Law; Venue.** These Terms and any dispute or claim (including noncontractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with English law and the Provider and the Customer shall submit in all matters or disputes arising out of this contract to the exclusive jurisdiction of the courts of England.
- g. **Assignment.** Customer may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Provider, which consent shall not be unreasonably withheld, conditioned, or delayed. Any purported assignment or delegation in violation of this Section will be null and void. No assignment or delegation will relieve the assigning or delegating Party of any of its obligations hereunder. These Terms is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.

- h. **Equitable/Injunctive Relief.** Each Party acknowledges and agrees that a breach or threatened breach by such Party of any of its obligations under Section 5 and/or, in the case of Customer, Section 1 (a), (b) or (c), would cause the other Party irreparable harm for which monetary damages would not be an adequate remedy and agrees that, in the event of such breach or threatened breach, the other Party will be entitled to equitable relief, including a restraining order, an injunction, specific performance, and any other relief that may be available from any court, without any requirement to post a bond or other security, or to prove actual damages or that monetary damages are not an adequate remedy. Each Party agrees not to oppose injunctive relief on the basis that monetary damages are available. Such remedies are not exclusive and are in addition to all other remedies that may be available at law, in equity, or otherwise, and can be pursued by a Party in any court of competent jurisdiction (for the avoidance of doubt, a Party may seek such relief in any court of competent jurisdiction and is not limited to the courts designated in Section 11(f) above).
- i. **Counterparts.** These Terms may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement.
- j. **No Third Party Beneficiaries.** The Parties acknowledge that the covenants set forth in these Terms are intended solely for the benefit of the Parties, their successors and permitted assigns. Nothing herein, whether express or implied, will confer upon any person or entity (including any Authorized User) other than the Parties, their successors and permitted assigns, any legal or equitable right whatsoever to enforce any provision of these Terms.
- k. **High Risk Activities.** The Services are not designed, manufactured or intended for use or resale as on-line control equipment in hazardous environments requiring fail-safe performance, such as, but not limited to, in the operation of nuclear facilities, aircraft navigation or communication systems, air traffic control, or weapons systems, in which the failure of the Services could lead directly to death, personal injury, or severe physical or environmental damage (“**High Risk Activities**”). The Provider specifically disclaims any express or implied warranty of fitness for High Risk Activities.
- l. **Relationship of the Parties.** The Parties are independent contractors, and these Terms does not create a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties.
- m. **Construction.** The headings of these Terms are for convenience and are not to be used in interpreting these Terms. As used in these Terms, the word “including” means “including but not limited to.”