LabStats

Terms of Service

These Terms of Service (the "TOS") constitute a legal agreement between the organization executing an Order incorporating these terms ("Customer") and LabStats, a business unit of Cordance Operations LLC, a Delaware limited liability company ("Company). By signing an Order that incorporates the TOS, or using the Services, Customer represents that it has the authority to bind the Customer to the Order, the TOS, and any applicable schedules, exhibits, or appendices incorporated or referenced herein.

The parties agree as follows:

1. DEFINITIONS

1.1. "Administrator" means the Customer's primary contact person who coordinates and works with Company to implement, support, and train the Customer's Users on their use of the Service.

1.2. "Affiliate" of a party means an entity which, directly or indirectly is controlled by, controls or is under common control with that party where "control" of the party or other entity is the possession of the power to direct or cause the direction of the management and policies of the party or other entity, whether by voting, contract or otherwise.

1.3. "Agreement" means the Order(s), the TOS and all referenced schedules, exhibits, or appendices hereto, and any mutually executed agreements incorporated herein by reference. Pre-printed terms in either party's purchase orders, acknowledgements, or click-through terms do not apply to modify this Agreement, and such other or additional terms or conditions are void and of no effect.

1.4. "Client Application" means any client application software required to be installed on any Device which will connect to the Services.

1.5. "Customer Content" means the data, User information, and other content, including text, multimedia images (e.g., graphics and audio and video files), or other material submitted, uploaded, imported, or otherwise provided to or through the Services by Customer or by a third party on behalf of or for the benefit of Customer, including Users of the Services.

1.6. Data Processing Addendum" means the terms and conditions which apply to Company's processing of personal data on behalf of Customer as set out at HERE.

1.7. "Device(s)" means the physical data processing devices owned by Customer intended to be monitored by the Services.

1.8. “Documentation” means Company’s then-current generally available documentation, specifications, and user manuals for the Services which are available upon login to the Services, as well as any documentation included in or attached to this Agreement, or such other Services-related documents provided by Company to Customer.

1.9. “License Scope” means the limited scope of use rights granted by Company to Customer for the Services, such as the number of devices for a Per-Device License or the number of Student FTEs for a Site License, as listed on an Order.

1.10. “Order” means a written description of Services or Professional Service, and the applicable pricing as mutually agreed to by the parties in an order form, quote, proposal, schedule, statement of work, work order or similar document.

1.11 “Per-Device License” means the Company’s form of license which is based on a limited number of Customer owned Devices that may connect to the Software, as stated on the Order(s) and which may be identified on an Order (or Invoice) as “device license.”

1.12. “Professional Services” means the implementation, integration, consulting and similar services provided by Company’s staff or subcontractors on behalf of Company pursuant to a mutually agreed Order.

1.13. “Services” means Company’s proprietary, hosted, integrated software-as-a-service products listed on the Order(s).

1.14. “Site” means one or more locations from which Customer provides its education services, such as one or more campuses or a department, as specified in the Order or as notified by Company in writing from time to time.

1.15. “Student FTE” means a student determined to be Full-Time Equivalent (FTE) applying the standard, date-driven metric of measuring student workload.

1.16. “User(s)” means an individual employee of Customer, or their respective contractor(s) who has been authorized by Customer to use the Services on behalf of Customer and/or its Affiliates. Users may include the employees, consultants, and contractors of Customer and its Affiliates (including Administrators).

2. ACCESS AND USE OF THE SERVICES.

2.1. Provision of the Services. Company will make the Services available to Customer pursuant to the terms of the Agreement and the Documentation. Company will use commercially reasonable efforts to make the Services available 24x7. Customer acknowledges that Customer's use of the Services requires access to third-party hardware, software, internet and/or telecommunications access, and that Customer's ability to access and use the Services may be affected by Customer's choices and the performance of those products and services. Customer is responsible for all fees and charges imposed by such third parties.

2.2. Implementation. Upon execution of Customer's initial Order for the Services, Company will provide implementation and training Professional Services as described in a mutually agreed Order.

2.3. Changes to Services. Company reserves the right to enhance, upgrade, improve, modify or discontinue features of its Services as Company deems appropriate and in its sole discretion. Company will not materially reduce the core functionality or discontinue any Services unless Company provides Customer with prior written notice. If Company discontinues Services or materially reduces the core functionality, Customer may terminate the affected Services or this Agreement with 60 days prior written notice to Company. If Customer elects to terminate the affected Services pursuant to this Section, Company will provide Customer with a pro rata refund of any prepaid, unused fees. Company may offer additional functionality to its standard Services or premium feature improvements for an additional cost.

2.4. Customer's Registration for the Services. Users may be required to provide information about themselves to register for and use certain Services. Customer agrees that it is Customer's sole responsibility to verify the accuracy of this information. Customer's Users may also be asked to choose a username and password. Customer is entirely responsible for ensuring Users maintain the security of their usernames and passwords. Customer agrees not to permit the disclosure of usernames and passwords to any third party.

2.5. Customer's Use of the Services. Company grants Customer a limited term (as stated on the Order), non-exclusive, non-sublicensable and non-transferable (except as otherwise provided herein) license to access and use the Services and Documentation only for Customer's internal business purposes, (and not as a service bureau or to provide a managed service) subject to the License Scope listed on the Order.

2.6. Client Application. Customer and its Users may use the Client Application solely to connect to the Services and may install it (a) on the number of Devices listed in the Order(s) if Customer purchased Per-Device Licenses, or (b) on any number of Devices if Customer has purchased a Site License to the Services. Company will provide Customer with a license key, which Customer may use to download the Client Application onto the authorized number of Devices. Customer agrees on behalf of itself, its Affiliates and Users not to translate, update, decompile, modify, adapt, merge, prepare derivative works of, or reverse engineer or assemble the Software, separate, disassemble, determine the source code of or otherwise reduce to binary code or any other human-perceivable form.

2.7. Limitations on Customer's Use. By using the Services, Customer agrees on behalf of itself, its Affiliates and Users, not to (i) modify, prepare derivative works of, or reverse engineer the Services; (ii) access or use the Services or Documentation for any purpose competitive with Company; (iii) use the Services in a way that abuses or disrupts Company's networks, user accounts, or the Services; (iv) transmit through the Services any harassing, indecent, obscene, or unlawful material or store or transmit any malicious code; (v) market or resell the Services to any third party; (vi) use the Services in violation of applicable laws or regulations; (vii) use the Services to send unauthorized advertising, or spam; (viii) harvest, collect, or gather User data without their consent; (ix) transmit through the Services any material that may infringe the intellectual property, privacy, or other rights of third parties; (x) use the Services to commit fraud or impersonate any person or entity; or (xi)

use any Service in a way that circumvents contractual usage limits specified in the Order. Customer understands and acknowledges that Company does not monitor the Customer Content passing through its servers, and that it is Customer's sole responsibility to ensure that the information it and its Users transmit and receive complies with all applicable laws and regulations and does not infringe upon the rights of any third party. Customer will be solely responsible for the Customer Content. In no event will Company be responsible for Customer Content or its accuracy or completeness, or for any loss of Customer Content. Company reserves the right to terminate Services if Company, at its sole discretion, determines that the Customer has acted or is acting in a manner that has or may negatively reflect on the Company, is opposed to the Company's business interests, staff, customers, or prospective customers.

2.8. Responsibility for Users. Customer is responsible for the activities of its Users who access or use the Services through Customer's account, and Customer agrees to ensure that any such Users will comply with the terms of the Agreement. Customer agrees to provide Company prompt notice if Customer becomes aware of any violation of this Agreement in connection with use of the Services by any person.

2.9. Support Services. Company will provide standard customer support for the Services to Customer's Users. Company's standard support hours are 9:00am to 5:00pm, Eastern Time, Monday to Friday, excluding national holidays.

3. ORDERS, FEES AND PAYMENT.

3.1. Order(s). Customer may purchase subscriptions to access and use the Services and/or for Company to perform Professional Services by executing an Order. All Orders for Services: (i) are effective on the start date stated on the Order ("Order Effective Date"); (ii) will be treated as separate and independent Orders; (iii) form part of the Agreement; and (iv) may be subject to Company's verification and credit approval process.

3.2. Fees by License Scope.

3.2.1. Per-Device Licenses. For Per-Device Licenses, the fees will be calculated by the number of Devices licensed to connect to the Services, as listed on one or more Orders. If the number of Devices onto which Customer has enabled the Client Application to be downloaded exceeds the number previously agreed to on one or more Orders, Company may charge Customer for the additional Devices applying Company's then current Per-Device License fee.

3.2.2. Site Licenses. If the Order lists a Site License, the License Fee for the Services is calculated by numbers of Student FTEs that Customer has for the Site as specified in the Order. Customer represents that at the time it executes an Order, its total number of Student FTEs at (or assigned to) the Site is the same or less than the number of Student FTEs listed on the Order(s). Company may increase the Site License Fee at any time (in accordance with the standard license fee bands adopted by Company and available on request from time to time) if Customer merges with, or is taken over by, another entity/institution, or if it otherwise increases Student FTE numbers, such that the Student FTE number for Customer (or the entity it is taken over by or

merges with) increases by 20% or more. Customer will notify Company as soon as reasonably practicable upon becoming aware of an increase in student numbers.

3.3. Fees and Payment. Customer will pay all charges for the Services and/or Professional Services on the terms set forth in the Order or the TOS. Unless otherwise specified in the Order, all fees set forth in an invoice are due and payable net 30 days of the date thereof except for fees that are subject to a reasonable and good faith dispute pursuant to Section 3.4. Except as expressly stated in the TOS, any payments Customer makes to Company are final and non-refundable. Customer is responsible for providing accurate and current billing, contact and payment information to Company. Customer agrees that Company may charge its payment card or bill Customer for all amounts due for Customer's use of the Services, and Company may take steps to update Customer payment information (where permitted) to ensure payment can be processed. Customer agrees that its payment information and related personal data may be provided to third parties for payment processing and fraud prevention purposes. Company may suspend or terminate the Services if at any time Company determines that Customer's payment information is inaccurate or not current. Customer is responsible for fees and overdraft charges that Company may incur when Company charges Customer's card for payment. Unless otherwise stated in the Order, Company reserves the right to increase the fees for Services annually. All references to currency will be in US dollars ($USD), unless otherwise stated on the Order.

3.4. Taxes and Withholdings. Customer is responsible for all applicable sales, services, value-added, goods and services, withholding, tariffs, or any other similar taxes or fees (collectively, "Taxes and Fees") imposed by any government entity or collecting agency arising out of Customer's purchase of the Services, except those taxes and fees based on Company's net income, or Taxes and Fees for which Customer has provided an exemption certificate. In all cases, Customer will pay the amounts due under this Agreement to Company in full without any right of set-off or deduction.

3.5. Disputes; Delinquent Accounts. Customer must notify Company of any reasonable and good faith dispute of amounts on an invoice within 15 days of the invoice date, and once resolved, Customer agrees to pay those amounts within 15 days of the resolution. Company may, upon 10 days' notice to Customer, suspend the Services if Customer does not pay undisputed amounts by their due date, and Customer agrees to reimburse Company for all reasonable costs and expenses, including overdraft charges, collection costs and attorneys' fees, incurred in collecting delinquent amounts. Customer further agrees that it may collect interest at the lesser of 1.5% per month or the highest amount permitted by law on any amounts not paid when due.

3.6. Purchase Orders. If Customer's payment process requires a purchase order, (i) Company will endeavor to send an Order not less than 60 days prior to the beginning of the period, listing fees due for the upcoming period for which Customer a requires a purchase order; and (ii) Customer will return the countersigned Order and Customer's purchase order within 30 days after receipt of the Order from Company. This process is for the convenience of Customer; neither Company's failure to send the Order in the time period stated in the above clause (i) nor Customer's delay or failure to send a purchase order as stated in clause (ii) override Customer's obligation to pay invoices when due, nor Company's rights if payment is delinquent.

4. TERM AND TERMINATION.

4.1. Term. The initial term commitment for Customer's purchase of Services will be as specified on an Order ("Initial Term") and begins on the Order Effective Date stated in the applicable Order. If the Order is silent, the Initial Term for Services will be 12 months. After the Initial Term, the Order for Services will automatically renew for additional periods of 12 months each ("Renewal Terms" and collectively with the Initial Term, the "Term"), unless either party provides notice of non-renewal at least 30 days before the Initial Term or then current Renewal Term of the Order expires.

4.2. Adding Services to an Order. The parties agree to align the Term for the Services under multiple Orders for Services, but this will not reduce the Term for the Services under any Order. The expiration of specific Services under one Order does not affect the Term of any other Order still in effect.

4.3. Termination for Cause. Either party may terminate the Agreement (i) if the other party breaches a material obligation and fails to cure within 30 days of receipt of written notice of such breach by the other party, or (ii) where permitted by applicable law, if the other party becomes insolvent or bankrupt, liquidated or is dissolved, or ceases substantially all of its business.

4.4. Effect of Termination. If the Agreement or any Services are terminated, Customer will immediately discontinue all use of the terminated Services, except that Company will provide Customer with limited access to the Services for a period of at least 30 days solely to enable Customer to retrieve its Customer Content from the Services. Unless otherwise agreed in writing, Company has no obligation to maintain the Customer Content after this 30-day period. Termination of the Agreement will not affect any claim arising prior to the termination date.

4.5. Survival. The terms of the TOS will survive the termination or expiration of this Agreement to the extent reasonably necessary to carry out the intent of the parties as indicated herein.

5. PROPRIETARY RIGHTS.

5.1. Company's Proprietary Rights and Marks. Customer acknowledges that Company or its licensors retain all proprietary right, title and interest in the Services, all Documentation and the Company's name, logo, or other marks (together, the "Marks"), and any related intellectual property rights, including, without limitation, all modifications, enhancements, derivative works, and upgrades thereto. Except for the express limited rights set forth in this Agreement, no right, title or interest in Company's Services, Documentation, or Marks is granted to Customer. Customer agrees that Customer will not use or register any trademark, service mark, business name, domain name or social media account name or handle which incorporates in whole or in part Company's Marks or is similar to any of these.

5.2. Customer Content. Customer retains all rights to its Customer Content and is solely responsible for the Customer Content sent or transmitted by Customer or displayed or uploaded by Customer in using the Services and for compliance with all laws pertaining to the Customer Content, including, but not limited to, laws

requiring Customer to obtain the consent of a third party to use the Customer Content and to provide appropriate notices of third-party rights. Customer hereby grants Company a worldwide, royalty-free, non-exclusive license to use, modify, reproduce, and distribute Customer Content in order to provide and operate the Services. Company will not view, access, or process any of Customer Content, except: (x) as authorized or instructed by Customer in this Agreement or in any other agreement between the parties, or by Users, (y) as required to comply with Company policies, applicable law, or governmental request, or (z) as may be necessary for the support and performance of the Services.

5.3. Feedback. Customer hereby grants Company a fully paid-up, royalty-free, worldwide, transferable, sub-licensable, assignable, irrevocable, and perpetual license to implement, use, modify, commercially exploit, incorporate into the Services or otherwise use any suggestions, enhancement requests, recommendations or other feedback Company receives from Customer, Customer's Affiliates and Users ("Feedback"). Company also reserves the right to seek intellectual property protection for any features, functionality or components that may be based on or initiated by Customer's Feedback.

5.4. Aggregated Statistics. Notwithstanding anything to the contrary in this Agreement, Customer acknowledges and agrees that Company may collect and compile data and information related to Customer's use of the Services to be used by Company in an aggregated and anonymized manner, including, but not limited 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 Company. Customer agrees that Company may (i) make Aggregated Statistics publicly available in compliance with applicable law, 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 or Customer Content.

5.5. Publicity. Customer agrees that Company may use Customer's name and logo, and refer to Customer, in its promotional and marketing materials including on its website, lists and business presentations.

6. DATA PRIVACY AND SECURITY.

6.1. Security Safeguards. Each party will maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Content and any associated personal data that is collected and/or processed through the Services. On Company's part, those safeguards will include commercially reasonable measures designed to prevent unauthorized access, use, modification, deletion, and disclosure of Customer Content. Customer (not Company) has sole responsibility for adequate security, protection, and backup of Customer Content when in Customer's or its representatives' or agents' possession or control.

6.2. Sub-processors. Customer acknowledges and agrees that Company may use sub-processors to help provide the Services, who may access Customer Content and any associated personal data, to provide, secure and improve the Services. Before sharing Customer Content with any sub-processors, Company will

require that the sub-processor maintains, at a minimum, commercially reasonable data practices for maintaining the confidentiality and security of Customer Content and preventing unauthorized access. Company will be responsible for the acts and omissions of its sub-processors to the same extent that Company would be responsible if Company were performing the Services.

6.3. Data Protection Laws. To the extent that Company's provision of the Software involves the processing of Personal Data under applicable data protection law, the parties agree that the terms of the Data Processing Addendum apply to the processing of personal data by Company on behalf of the Customer. For the purposes of this Agreement, the term "Personal Data" means any information relating to an identified or identifiable natural person where an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as name, an identification number, location data, an online identifier or to one or more factors specific to their physical, physiological, mental, economic, cultural or social identity of that natural person.

6.4. Privacy Laws. Company acknowledges that Customer Content which includes Personal Data may be protected from disclosure by provincial, state and/or federal law. Company agrees to only retain, use and disclose such data for the purposes of fulfilling its duties under this Agreement and to keep all such data to which it has access in the performance of this Agreement in a secure manner and disclose it only on direction by Customer.

7. CONFIDENTIALITY.

7.1. "Confidential Information." Confidential Information means all information that is identified as confidential at the time of disclosure by the Disclosing Party or should be reasonably known by the Receiving Party to be confidential or proprietary due to the nature of the information disclosed and the circumstances surrounding the disclosure. Company's Services, Documentation and any related intellectual property rights, and the terms and conditions of the Agreement will be deemed Confidential Information of Company without any marking or further designation. Confidential Information will not include information that the Receiving Party can demonstrate: (i) was rightfully in its possession or known to it prior to receipt of the Confidential Information; (ii) is or has become public knowledge through no fault of the Receiving Party; (iii) is rightfully obtained by the Receiving Party from a third party without breach of any confidentiality obligation; or (iv) is independently developed by employees of the Receiving Party who had no access to such information.

7.2. Restrictions on Disclosure and Use. Each party (as "Receiving Party") will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (i) not use any Confidential Information of the other party (the "Disclosing Party") for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not materially less protective of the Confidential Information than those herein. If Receiving Party is required by law or court order to

disclose Confidential Information, then Receiving Party will, to the extent legally permitted, provide Disclosing Party with advance written notification, and cooperate in any effort to obtain confidential treatment of the Confidential Information. The Receiving Party acknowledges that disclosure of Confidential Information would cause substantial harm for which damages alone would not be a sufficient remedy, and therefore that upon any such disclosure by the Receiving Party, the Disclosing Party will be entitled to seek appropriate equitable relief in addition to whatever other remedies it might have at law.

8. WARRANTIES.

8.1. Company provides the Professional Services or Services using a commercially reasonable level of care and warrants that the Services will materially conform to their Documentation under normal use. Company's entire liability and Customer's exclusive remedy under this warranty will be, at Company's sole option and subject to applicable law to provide conforming Services or Professional Services, or to terminate the non-conforming Services or Professional Services and provide a pro-rated refund of any prepaid fees from the date Customer notifies Company of the non-conformance through the end of the remaining term of the applicable Order. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, COMPANY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY EXPRESS OR IMPLIED WARRANTIES OF MERCHANTABILITY, TITLE, AND FITNESS FOR A PARTICULAR PURPOSE. COMPANY DOES NOT REPRESENT OR WARRANT THAT (i) THE USE OF ITS SERVICES WILL BE TIMELY, UNINTERRUPTED OR ERROR FREE, OR OPERATE IN COMBINATION WITH ANY SPECIFIC HARDWARE, SOFTWARE, SYSTEM OR DATA, OR (ii) ITS SERVICES WILL MEET CUSTOMER'S SPECIFIC REQUIREMENTS.

8.2. Use of the Services may be available through a compatible mobile device, internet access, and may require third-party software. Customer agrees that Customer is solely responsible for these requirements, including any applicable changes, updates and fees, as well as the terms of Customer's agreement with Customer's mobile device and telecommunications provider. COMPANY MAKES NO WARRANTIES OR REPRESENTATION OF ANY KIND, EXPRESS, STATUORY OR IMPLED AS TO (I) THE AVAILABILITY OF INTERNET OR TELECOMMUNICATION SERVICES FROM CUSTOMER'S THIRD PARTY PROVIDER AND ACCESS TO THE SERVICES AT ANY TIME OR FROM ANY LOCATION, (II) ANY LOSS, DAMAGE OR OTHER SECURITY INTRUSION OF THE INTERNET OR TELECOMMUNICATION SERVICES, AND (III) ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS OR SETTING CONNECTED WITH THE SERVICES. THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF THE INTERNET AND ELECTRONIC COMMUNICATIONS. COMPANY IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES OR OTHER DAMAGES RESULTING FROM SUCH PROBLEMS.

8.3. CUSTOMER ACKNOWLEDGES AND AGREES THAT COMPANY IS NOT LIABLE, AND CUSTOMER AGREES NOT TO SEEK TO HOLD IT LIABLE, FOR THE CONDUCT OF CUSTOMER'S THIRD-PARTY SERVICE PROVIDERS, AND THAT THE RISK OF INJURY FROM SUCH THIRD-PARTY SERVICES RESTS ENTIRELY WITH CUSTOMER.

8.4. No Liability in Connection with Data Accessed Through the Services. Company will not have any liability for damages or issues resulting from the data or other information accessed by Customer or Users through the Services, including any damage to User's computer systems or loss or corruption of data caused by computer viruses contained in such accessed data or information.

9. INDEMNIFICATION.

9.1. Company Indemnity. Company will defend Customer against any third-party claim alleging that any of the Services infringe upon any patent or copyright or violates a trade secret of any such third-party ("IP Claim"), and will indemnify Customer against any reasonable attorney's fees, court costs, and damages finally awarded, or agreed to by Company in settlement with respect to any IP Claim. This Section 9.1 describes Company's sole obligations and Customer's exclusive remedies in the event of an IP Claim. Customer will promptly notify Company of any IP Claim and cooperate with Company in defending the IP Claim. Company will reimburse Customer for reasonable out-of-pocket expenses incurred in providing any cooperation or assistance. Company will have full control and authority over the defense and settlement of any IP Claim, except that any settlement requiring Customer to admit liability requires prior written consent, not to be unreasonably withheld or delayed.

9.1.1. If (i) Company becomes aware of an actual or potential IP Claim, or (ii) Customer provides Company with notice of an actual or potential IP Claim, Company may (or in the case of an injunction against Customer, will), at Company's sole option and determination: (a) procure for Customer the right to continue to use the Services; or (b) replace or modify the Services with equivalent or better functionality so that Customer's use is no longer infringing; or (c) if (a) or (b) are not commercially reasonable, terminate provision of the Services and refund to Customer any pre-paid Service fees for any periods after the termination of Customer's use of the Services, less any outstanding moneys owed by Customer to Company.

9.1.2. The obligations in Section 9.1 do not extend to (i) any IP Claim based upon infringement or alleged infringement of any patent, trademark, copyright or other intellectual property right by the combination of the Services with other products, software or services not provided by Company; (ii) any IP Claim related to any Customer Content, or (iii) any IP Claim related to any use or exercise of any other right in respect to the Services outside the scope of the rights granted in this Agreement.

9.2. Customer's Indemnity. Unless prohibited by applicable law, Customer will defend Company against any third-party claim resulting from a breach of Sections 2.6 or 5.2 or alleging that any of the Customer Content infringes upon any patent or copyright, or violates a trade secret of any party, and Customer will indemnify Company against reasonable attorney's fees, court costs, damages finally awarded, or settlement amounts agreed to by Customer with respect to any such claim. Company will promptly notify Customer of any claim and cooperate with Customer in defending the claim. Customer will reimburse Company for reasonable expenses incurred in providing any cooperation or assistance. Customer will have full control and authority over the defense and settlement of any claim, except that: (i) any settlement requiring Company to admit

liability requires prior written consent, not to be unreasonably withheld or delayed, and (ii) Company may join in the defense with its own counsel at its own expense.

10. LIMITATION ON LIABILITY.

10.1. LIMITATION ON LIABILITY. NEITHER PARTY WILL BE LIABLE TO THE OTHER PARTY OR TO ANY OTHER PERSON FOR ANY PUNITIVE, INDIRECT, SPECIAL, CONSEQUENTIAL, PUNITIVE, INCIDENTAL, EXEMPLARY OR COVER DAMAGES, OR LOSS, OR DAMAGES ARISING OUT OF OR RELATING TO: (i) LOSS OF DATA, (ii) LOSS OF INCOME, (iii) LOSS OF OPPORTUNITY, OR (iv) CUSTOMER'S LOST PROFITS, HOWEVER CAUSED AND BASED ON ANY THEORY OF LIABILITY, INCLUDING, BUT NOT LIMITED TO, BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), OR VIOLATION OF STATUTE, WHETHER OR NOT SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. SOME JURISDICTIONS DO NOT ALLOW LIMITATION OR EXCLUSION OF LIABILITY FOR INCIDENTAL OR CONSEQUENTIAL DAMAGES, SO SOME OF THE ABOVE LIMITATIONS MAY NOT APPLY.

10.2. LIMITATION ON AMOUNT OF LIABILITY. EXCEPT FOR A PARTY'S INDEMNIFICATION OBLIGATION UNDER SECTION 9; OR A PARTY'S GROSS NEGLIGENCE, WILLFUL MISCONDUCT OR FRAUD, AND TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE TOTAL CUMULATIVE LIABILITY OF EITHER PARTY AND THEIR RESPECTIVE LICENSORS AND SUPPLIERS ARISING OUT OF THIS AGREEMENT IS LIMITED TO THE SUM OF THE AMOUNTS PAID FOR THE APPLICABLE SERVICE DURING THE 12 MONTHS IMMEDIATELY PRECEDING THE INCIDENT GIVING RISE TO THE LIABILITY. The foregoing does not apply to Customer's obligation to pay any undisputed fees and other amounts due under this Agreement.

11. COMPLIANCE WITH LAWS. In connection with the performance, access and use of the Services under the Agreement, each party agrees to comply with all applicable laws, rules and regulations including, but not limited to export, privacy, data protection and anti-bribery laws and regulations. Each party represents that it is not named on any U.S. government denied-party list. Further, Customer will not permit its Users to access or use any Service in a U.S. embargoed country or in violation of any U.S. export law or regulation. Notwithstanding any other provision in the TOS, Company may immediately terminate the Agreement for noncompliance with applicable laws. Company represents that it and its Affiliates have taken reasonable precautions to reduce the risks of modern slavery practices (such as forced labor, child labor, wage exploitation and similar practices) in its operations and supply chain.

12. SUSPENSION OF SERVICES. Company reserves the right to suspend the Services or restrict access or functionalities if (a) Company reasonably believes that Customer, Customer's Affiliates or Users have materially violated this Agreement, or (b) Company reasonably determines that the security of its Services or infrastructure may be compromised due to hacking attempts, denial of service attacks, or other malicious activities. Unless legally prohibited, Company will use commercially reasonable efforts to notify Customer when taking any of the foregoing actions. Company will not be liable to Customer, Customer's Affiliates or Users or any other third party for any such suspension of Services or reduced functionality.

13. ADDITIONAL TERMS.

13.1. Dispute Resolution. Each party agrees that before it seeks any form of legal relief (except for a provisional remedy as explicitly set forth below) it will provide written notice to the other party of the specific issue(s) in dispute (and reference the relevant provisions of the contract between the parties which are allegedly being breached). Within 30 days after such notice, knowledgeable executives of the parties will hold at least one meeting (in person or by video or teleconference) for the purpose of attempting, in good faith, to resolve the dispute. The parties agree to maintain the confidential nature of all disputes and disagreements between them, including, but not limited to, informal negotiations, mediation, or arbitration, except as may be necessary to prepare for or conduct these dispute resolution procedures or unless otherwise required by law or judicial decision. The dispute resolution procedures in this Section will not apply to claims subject to indemnification under Section 9 (Indemnification) or prior to a party seeking a provisional remedy related to claims of misappropriation or ownership of intellectual property, trade secrets or Confidential Information.

13.2. Limitation on Bringing Claims; No Jury. By entering into this Agreement, each party is waiving the right to a trial by jury. Any claim arising out of this Agreement must be brought, if at all, within two years of the claim arising. Customer may only resolve disputes with Company on an individual basis and Customer agrees not to bring or participate in any class, consolidated, or representative action against Company or any of its employees or affiliates.

13.3. Governing Law and Jurisdiction. This Agreement will be governed by the laws of the State of Delaware. Each party agrees to the personal and exclusive jurisdiction of and venue in the federal and state courts located in Delaware.

13.4. Assignment. Neither party may assign its rights or delegate its duties under the Agreement either in whole or in part without the other party's prior written consent, which will not be unreasonably withheld, except that either party may assign the Agreement to an affiliated entity, or as part of a corporate reorganization, consolidation, merger, acquisition, or sale of all or substantially all of its business or assets to which this Agreement relates without prior written consent. Any attempted assignment without consent will be void. The Agreement will bind and inure to the benefit of each party's successors or assigns.

13.5. Notices. Notices must be sent by personal delivery, overnight courier, or registered or certified mail. Company may also provide notice to the email last designated on Customer's account, electronically via postings on Company's website, in-product notices, or via its self-service portal or administrative center. Unless specified elsewhere in this Agreement, notices should be sent to Company at 16 W. Martin Street, Raleigh, NC 27601, Attn: Contract Admin, with a copy to the attention of the Revenue Department at the same address; e-mail: revenue@cordance.co, and for notice related to legal matters, to Legal@Cordance.co. Company will send notices to the address last designated on Customer's account. Notice is given (a) upon personal delivery; (b) for overnight courier, on the second business day after notice is sent, (c) for registered or certified mail, on the fifth business day after notice is sent, (d) for email, when the email is sent, or (e) if posted electronically, upon posting.

13.6. Entire Agreement; Order of Precedence. This Agreement, including any applicable Order(s), sets forth the entire agreement between Customer and Company relating to the Services and/or Professional Services and supersedes all prior and contemporaneous oral and written agreements, except as otherwise expressly permitted. If there is a conflict between any of the above referenced documents, the conflict will be resolved in the following order: the Order, and any attachments to an Order, and the TOS. No modification of or amendment to the Agreement will be effective unless mutually agreed in writing.

13.7. General Terms. If any term of the Agreement is not enforceable, this will not affect any other terms. Both parties are independent contractors and nothing in the Agreement creates a partnership, agency, fiduciary or employment relationship between the parties. No person or entity not a party to the Agreement will be a third-party beneficiary or have the right to modify the Agreement or to make commitments binding on Company. Failure to enforce any right under the Agreement will not waive that right. The Agreement may be agreed to online or executed by electronic signature and in one or more counterparts. No party will be responsible for any delay or failure to perform under the Agreement due to force majeure events (e.g., natural disasters; epidemics, pandemics, terrorist activities, activities of third-party service providers, labor disputes; and acts of government) and acts beyond a party's reasonable control, but only for so long as those conditions persist.

13.8. Beta Services. Company may offer Customer access to beta services that are being provided prior to general release ("Beta Services"). Customer understands and agrees that the Beta Services may contain bugs, errors and other defects, and use of the Beta Services is at Customer's sole risk. Customer acknowledges that its use of Beta Services is on a voluntary and optional basis, and Company has no obligation to provide technical support and may discontinue provision of Beta Services at any time in its sole discretion and without prior notice to Customer. These Beta Services are offered "AS-IS", and to the full extent permitted by applicable law, Company disclaims any liability, warranties, indemnities, and conditions, whether express, implied, statutory or otherwise. If Customer is using Beta Services, Customer agrees to receive related correspondence and updates from Company and acknowledges that opting out may result in cancellation of Customer's access to the Beta Services. If Customer provides Feedback about the Beta Service, Customer agrees that Company owns any Feedback that Customer shares with Company. For the Beta Services only, this Section supersedes any conflicting terms and conditions in the Agreement, but only to the extent necessary to resolve conflict. When, if at all, Company releases a Beta Service for general availability, it is no longer a "Beta Service" and is treated as a part of Services for all purposes under this Agreement (including the payment of applicable additional Fees).