

## DEPUTY SUBSCRIPTION AGREEMENT

Last updated on January 1, 2021

THIS AGREEMENT GOVERNS CUSTOMER'S PURCHASE AND USE OF SERVICES.

BY ACCESSING OR USING SERVICES, CUSTOMER AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL WARRANTS AND REPRESENTS THAT THEY ARE OVER 18 YEARS OF AGE AND HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CUSTOMER" OR "YOU" MEANS SUCH ENTITY AND ITS AFFILIATES.

IF YOU ARE BEING INVITED TO ACCESS AND USE THE SERVICES BY A CUSTOMER AS AN AUTHORIZED USER THE USER TERMS OF SERVICE (**USER TERMS**) GOVERN YOUR ACCESS AND USE OF THE SERVICES.

ALTHOUGH DEPUTY IS GLOBAL, WE HAVE ADOPTED SPELLING CONVENTIONS PREVAILING IN THE UNITED STATES OF AMERICA. CAPITALIZED TERMS HAVE THE DEFINITIONS CONTAINED IN THIS AGREEMENT.

This Agreement is effective between Customer and Deputy as of the date of Customer's accepting this Agreement.

### 1. DEFINITIONS

**Acceptable Use Policy** means the Deputy policy published at [deputy.com/terms](https://deputy.com/terms).

**Affiliate** means any entity that directly or indirectly Controls, is Controlled by, or is under common Control with the subject entity. **Control** means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**Agreement** means this Subscription Agreement.

**Applicable Law** means any laws, statutes or ordinances and any regulations, rules, practice notes, circulars and any other notification issued by any government entity, or regulatory authority pursuant to such laws, statutes and ordinances that apply to the Services in any jurisdiction.

**Authorized User** means individuals, (a) who are authorized by Customer to access the Services where Customer has purchased a subscription (or in the case of any Services provided by Deputy without charge, for whom a Service has been provisioned), (b) who have accepted the User Terms, and (c) to whom the Customer (or, when applicable, Deputy at Customer's request) has supplied a user identification and password (for Services requiring authentication). Authorized Users may include employees, consultants, agents or contractors of Customer

**Beta Services** means Services that may be made available to Customer to try at its option at no additional charge which is clearly designated as beta, pilot, limited release, developer preview, non-production, evaluation, or by a similar description.

**Customer** means in the case of an individual accepting this Agreement on his or her own behalf, such individual, or in the case of an individual or individuals accepting this Agreement on behalf of a company or other legal entity, the company or other legal entity for which such individual or individuals accepted this Agreement, and the Affiliates of that company or entity (for so long as they remain Affiliates), which in all cases have also placed an Order.

**Customer Data** means electronic data and information submitted by or on behalf of Customer or an Authorized User linked to the Customer to the Services. In this context, 'submit' includes submitting, uploading, transmitting or otherwise making available Customer Data to or through the Services.

**Customer Installation** means the installation program of the Deputy Application made available by Deputy to the Customer which may vary from time to time through a nominated URL published or provided by Deputy to the Customer.

**Deputy, we or us** means the applicable entity described in section 13.9 (Deputy Contracting Entity, Governing Law and Venue) below.

**Deputy Application** means any version (as applicable) of the employee scheduling, time and attendance, task management, business procedure management, payroll integration, workplace social media services and other online software applications made available by Deputy for use by the Customer and its Authorized Users from time to time and includes (where applicable) the Customer

Installation.

**DPA** means the Data Processing Addendum at [deputy.com/terms](https://deputy.com/terms).

**Initial Term** is the period of time ascribed to the Initial Term set out in an Order. If no Initial Term is stated, then the subscription is not subject to any Initial Term.

**Force Majeure Event** means a strike, lockout, riot, industrial action, fire, storm, tempest, act of God, material shortage, any outbreak or escalation of hostilities (whether or not war has been declared) or any other unlawful act against public order or authority, any government law, regulation, restraint or requirement, internet service provider failure or delay, denial of service attack or any other cause beyond the reasonable control of a party.

**Free Services** means Services that Deputy makes available to Customer free of charge. Free Services exclude Services offered as a free trial and Purchased Services.

**Malicious Code** means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

**Marketplace** means an online directory or marketplace of applications that interoperate with the Services.

**Non-Deputy Application** means a web-based, mobile, offline or other software application with functionality that interoperates with a Service, that is provided by Customer or a third party and/or listed on a Marketplace.

**Order** means an order for Services placed by a Customer or any of its Affiliates with Deputy by completing and submitting Deputy's standard form ordering document or using Deputy's online purchasing portal subject to any and all of Deputy's terms and conditions accepted by the Customer as part of the ordering process. By placing an Order, an Affiliate agrees to be bound by the terms of this Agreement.

**Pricing Policy** means the Deputy pricing policy as it applies to Services and published here.

**Purchased Services** means Services that Customer or Customer's Affiliate purchases under an Order, as distinguished from Free Services or those provided under a free trial.

**Services** means the products and services that are Ordered by Customer or provided to Customer free of charge (as applicable) or under a free trial, and made available online by Deputy, including associated Deputy offline or mobile components (including SMS services). **Services** exclude Non-Deputy Applications.

**Subscription Term** means the term of a subscription for Purchased Services and includes any renewal or extension of the term of a subscription.

**Third Party Products or Services** means products that are not proprietary to Deputy and services that are not supplied by Deputy, including, for example, Non-Deputy Applications and implementation, customization, consulting or other services.

**User Terms** means the User Terms of Service provided by Deputy to persons invited by the Customer to become Authorized Users during the online account creation and registration process following the Customer's acceptance of this Agreement.

## 2. DEPUTY OBLIGATIONS

**2.1 Provision of Purchased Services.** Deputy will (a) make the Services available to Customer pursuant to this Agreement and the applicable Order (b) provide applicable Deputy standard support for the Purchased Services to Customer at no additional charge and/or upgraded support if purchased, and (c) use commercially reasonable efforts to make the online Purchased Services available 24 hours a day, 7 days a week, except for: (i) planned downtime (of which Deputy shall give advance electronic notice), and (ii) any unavailability caused by circumstances beyond Deputy's reasonable control, including a Force Majeure Event. To enable Deputy to provide the standard support and monitor lawful use of the Services by the Customer, the Customer grants Deputy the right and permission during the Subscription Term to access (including by remote access) Customer Data and the Customer Installation and the Customer must do all things reasonably requested by Deputy to ensure Deputy has such the required access during the Subscription Term.

**2.2 Access by Authorized Users.** A Customer subscription allows an Authorized User to access and use the Services. A subscription is required for each Authorized User. Each Authorized User must agree to the User Terms to activate their access and use of the Services. The Customer must take reasonable steps to ensure that all Authorized Users keep their user identification and password or any other means of authentication for the Services strictly confidential in accordance with the User Terms.

**2.3 Customer Data.** Customer will (and will procure that, where relevant, any member of Customer group will) collect any necessary consent, provide any necessary notice and do all such other things as are required under applicable laws (including data protection laws in the UK, EU, USA and Australia) in order for Customer to disclose Customer Data to the Customer, and for Deputy to process that Customer Data, for the purposes of this Agreement. Customer will not use the Services in a manner that includes the processing of Personal Data (as defined in the DPA) which is considered “sensitive” under Applicable Law, or relates to medical conditions of an individual (“**Excluded Data**”). For avoidance of doubt, Excluded Data shall include: data covered by Article 9 of European Union Regulation (EU) 2016/679, Protected Health Information as defined by the United States Health Insurance Portability and Accountability Act (“HIPAA”), and Health Information as defined by the Australian Privacy Act 1988 (Cth). Deputy will maintain appropriate administrative, physical and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Customer Data (other than by Customer or Authorized Users). Except with respect to a free trial, the terms of the DPA are incorporated by reference and shall apply to the extent Customer Data includes Personal Data, as defined in the DPA. On request by Customer made within 30 days before the effective date of termination or expiration of this Agreement, Deputy will make Customer Data available to Customer for export or download as provided in the Documentation. If no such request is made, Deputy will have no obligation to maintain or provide any Customer Data, and may delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control upon termination or expiration of this Agreement, unless legally prohibited.

**2.5 Free Trial.** If Customer registers on Deputy’s or an Affiliate’s website for a free trial, Deputy will make the applicable Service(s) available to Customer on a trial basis free of charge until the earlier of (a) the end of the free trial period for which Customer registered to use the applicable Service(s), or (b) the start date of any Purchased Service subscriptions ordered by Customer for such Service(s), or (c) termination of the free trial by Deputy in its sole discretion. Additional trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. Any Customer Data that a Customer enters into the Services, and any customizations made to the Services by or for Customer, during Customer’s free trial will be permanently lost to the Customer unless Customer purchases a subscription to the same Services as those covered by the free trial or exports such data, before the end of the trial period.

NOTWITHSTANDING SECTIONS 8 (WARRANTIES AND DISCLAIMERS) AND 9.1 (INDEMNIFICATION BY DEPUTY) BELOW, BUT SUBJECT TO APPLICABLE LAWS, DURING THE FREE TRIAL THE SERVICES ARE PROVIDED ON AN “AS-IS” AND “AS AVAILABLE” BASIS WITHOUT ANY WARRANTY AND DEPUTY SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE SERVICES FOR THE FREE TRIAL PERIOD UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE DEPUTY’S LIABILITY WITH RESPECT TO THE SERVICES PROVIDED DURING THE FREE TRIAL SHALL NOT EXCEED US\$100 IN THE AGGREGATE. WITHOUT LIMITING THE FOREGOING, DEPUTY AND ITS AFFILIATES AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO CUSTOMER THAT: (A) CUSTOMER’S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD WILL MEET CUSTOMER’S REQUIREMENTS, (B) CUSTOMER’S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, AND (C) USAGE DATA PROVIDED DURING THE FREE TRIAL PERIOD WILL BE ACCURATE.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 10 (LIMITATION OF LIABILITY) BELOW, CUSTOMER IS FULLY LIABLE UNDER THIS AGREEMENT TO DEPUTY AND ITS AFFILIATES FOR ANY DAMAGES ARISING OUT OF CUSTOMER’S USE OF THE SERVICES DURING THE FREE TRIAL PERIOD, ANY BREACH BY CUSTOMER OF THIS AGREEMENT AND THE CUSTOMER’S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

**2.6 Free Services and Beta Services.** Deputy may make Free Services and Beta Services available to Customer. Use of Free Services and Beta Services is subject to the terms and conditions of this Agreement. In the event of a conflict between this section and any other portion of this Agreement, this section shall take precedence. Free Services and Beta Services are provided to Customer without charge subject to certain usage limits determined reasonably by Deputy. Usage over these limits requires Customer’s purchase of additional resources or services. Customer agrees that

Deputy, in its sole discretion and for any or no reason, may modify or terminate Customer's right to access the Free Services and Beta Services or any part thereof. Customer agrees that any termination of Customer's access to the Free Services and Beta Services may be without prior notice, and Customer agrees that Deputy or any of their Affiliates will not be liable to Customer or any third party for such termination. Customer is solely responsible for exporting Customer Data from the Free Services and Beta Services prior to termination of Customer's access to the Free Services and Beta Services for any reason, provided that if Deputy or any of their Affiliates terminates Customer's account, except as required by law, Deputy or any of their Affiliates will provide Customer a reasonable opportunity to retrieve its Customer Data.

NOTWITHSTANDING SECTIONS 8 (WARRANTIES AND DISCLAIMERS) AND 9.1 (INDEMNIFICATION BY DEPUTY) BELOW, BUT SUBJECT TO APPLICABLE LAWS, THE FREE SERVICES AND BETA SERVICES ARE PROVIDED ON AN "AS-IS" AND "AS AVAILABLE" BASIS WITHOUT ANY WARRANTY AND DEPUTY SHALL HAVE NO INDEMNIFICATION OBLIGATIONS NOR LIABILITY OF ANY TYPE WITH RESPECT TO THE FREE SERVICES OR BETA SERVICES UNLESS SUCH EXCLUSION OF LIABILITY IS NOT ENFORCEABLE UNDER APPLICABLE LAW IN WHICH CASE DEPUTY'S LIABILITY WITH RESPECT TO THE FREE SERVICES AND BETA SERVICES SHALL NOT EXCEED US\$100 IN THE AGGREGATE. WITHOUT LIMITING THE FOREGOING, DEPUTY AND ITS AFFILIATES AND ITS LICENSORS DO NOT REPRESENT OR WARRANT TO CUSTOMER THAT: (A) CUSTOMER'S USE OF THE FREE SERVICES OR BETA SERVICES WILL MEET CUSTOMER'S REQUIREMENTS, (B) CUSTOMER'S USE OF THE FREE SERVICES OR BETA SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, AND (C) USAGE DATA PROVIDED THROUGH THE FREE SERVICES OR BETA SERVICES WILL BE ACCURATE. NOTWITHSTANDING ANYTHING TO THE CONTRARY IN SECTION 10 (LIMITATION OF LIABILITY) BELOW, CUSTOMER SHALL BE FULLY LIABLE UNDER THIS AGREEMENT TO DEPUTY AND ITS AFFILIATES FOR ANY DAMAGES ARISING OUT OF CUSTOMER'S USE OF THE FREE SERVICES OR BETA SERVICES, ANY BREACH BY CUSTOMER OF THIS AGREEMENT AND ANY OF CUSTOMER'S INDEMNIFICATION OBLIGATIONS UNDER THIS AGREEMENT.

### 3. USE OF SERVICES

**3.1 Communications.** By providing your telephone number, you are providing express written consent to receive communications from Deputy, (including its affiliates, agents, service providers, and affiliates for the purposes of defined above) for any purpose, including but not limited to marketing various services from both Deputy and partners that they Deputy has joint marketing agreements with. Additionally, you agree to receive communications from Deputy regarding any service, and any information you may have obtained via your use of a Deputy website. You agree that these communications include, but are not limited to, the use of an Automated Telephone Dialing System, prerecorded and/or artificial voice, SMS, MMS, text, fax, email or other similar means, regardless of whether your phone number is registered on a state or federal Do Not Call list. You agree that Deputy is not responsible for any charges to you regarding these communications. Standard voice and data rates may apply. Further, you understand that you do not need to provide this consent to call as a condition to receive any good or service, in which case you will not provide your phone number.

**3.2 Electronic Transactions.** By using the Services, you agree to transact electronically with Deputy. You agree that your electronic signature is the legal equivalent of your manual signature. You further agree that your use of a key pad, mouse or other device to select an item, button, icon or similar act/action, constitutes your signature as if actually signed by you in writing. You also agree that no certification authority or other third party verification is necessary to validate your electronic signature, and the lack of such certification or third party verification will not in any way affect the enforceability of your electronic signature.

**3.3 Subscriptions.** Subject to the terms of this Agreement and unless otherwise provided in the applicable Order: (a) the Customer subscribes for the Purchased Services for the Subscription Term, (b) subscriptions for additional Purchased Services may be added during a Subscription Term at the prevailing pricing, prorated for the portion of that Subscription Term remaining at the time the subscriptions are added, and (c) any added subscriptions will terminate on the same date as the underlying subscriptions. Customer agrees that its purchases are not contingent on the delivery of any

future functionality or features, or dependent on any oral or written public comments made by Deputy regarding future functionality or features.

**3.4 Adding Authorized Users.** A Customer may request to increase or reduce the number of Authorized Users by submitting an Order. Unless otherwise stated by Deputy in relation to the applicable Order, Deputy will charge the Customer for any increased or decreased number of Authorized Users at the prevailing subscription pricing, prorated for the remaining portion of relevant billing period.

**3.5 Customer Responsibilities.** Customer will (a) be responsible for Authorized Users' compliance with this Agreement, each Order, the User Terms and for all acts or omissions of the Authorized Users, (b) be responsible for the accuracy, quality and legality of Customer Data, the means by which Customer acquired Customer Data, Customer's use of Customer Data with the Services, and the interoperation of any Non-Deputy Applications with which Customer uses Services, (c) be responsible for ensuring that the use of the Services by the Customer and each of its Authorized Users complies with Applicable Laws and the Acceptable Use Policy, (d) use commercially reasonable efforts to prevent unauthorized access to or use of Services (including the processing of Excluded Data by Services), and notify Deputy promptly of any such unauthorized access or use, (e) use Services only in accordance with this Agreement, each Order and Applicable Laws, and (f) comply with terms of service of any Non-Deputy Applications with which Customer uses Services. Any use of the Services in breach of the above obligations by Customer or Authorized Users that in Deputy's judgment threatens the security, integrity or availability of Deputy's services, may result in Deputy suffering loss and damage and the immediate suspension of the Services, however Deputy will use commercially reasonable efforts under the circumstances to provide Customer with notice and an opportunity to remedy such violation or threat prior to any such suspension. Any suspension of the Services by Deputy under this section will not limit Deputy's rights to recover any loss or damage it has suffered or incurred arising from any failure by the Customer to comply with its responsibilities under this section 3.3.

**3.6 Restrictions.** Customer will not (a) make any Service available to anyone other than Customer or Authorized Users, or use any Service for the benefit of anyone other than Customer or its Affiliates, unless expressly stated otherwise in the terms of each Order, (b) sell, resell, license, sublicense, distribute, rent, lease, transfer or provide access to any Service to a third party, (c) use a Service or Non-Deputy Application 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 a Service or Non-Deputy Application to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (f) attempt to gain unauthorized access to any Service or its related systems or networks, (g) permit direct or indirect access to or use of any Services in a way that circumvents a contractual usage limit, or use any Services to access or use any of Deputy intellectual property except as permitted under this Agreement, the terms of each Order, (h) modify, copy, or create derivative works based on a Service or any part, feature, function or user interface thereof, (i) frame or mirror any part of any Service, other than framing on Customer's own intranets or otherwise for its own internal business purposes, (j) except to the extent permitted by Applicable Law (and then only upon advance notice to Deputy), disassemble, reverse engineer, decompile, translate or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats or non-public APIs to any Service, or (k) access or use a Service to: (i) build a competitive product or service, (ii) build a product or service using similar ideas, features, functions or graphics of the Service, (iii) copy any ideas, features, functions or graphics of the Service, or (iv) determine whether the Services are within the scope of any patent. Deputy's competitors are prohibited from accessing the Services and Services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

**3.7 Removal of Non-Deputy Applications.** If Customer receives notice that a Non-Deputy Application must be removed, modified and/or disabled to avoid violating applicable law, third-party rights, Customer must promptly do so. If requested by Deputy, Customer shall confirm such deletion and discontinuance of use in writing and Deputy shall be authorized to provide a copy of such confirmation to any such third party claimant or governmental authority, as applicable. If Customer does not take required action in accordance with the above, or if in Deputy's judgment continued violation is likely to reoccur, Deputy may disable or suspend the Customer's access to the applicable Service and/or Non-Deputy Application. Deputy will have no liability to the Customer for disabling or suspending the Customer's access to any Service or Non-Deputy Application as described in this section 3.5.

## 4. NON-DEPUTY PRODUCTS AND SERVICES

**4.1 Non-Deputy Products and Services.** Any acquisition or use by Customer of Third Party Products or Services that are supplied by a Non-Deputy provider, including any exchange of Customer Data or other data between Customer and any Non-Deputy provider, is solely between Customer and the applicable Non-Deputy provider. The Customer is solely responsible for any loss, damage or liability whatsoever that may arise out of or in connection with its decision to permit a Non-Deputy provider to access or use Customer Data. Deputy does not warrant or support Non-Deputy Applications or other Third Party Products or Services, unless expressly provided otherwise in an Order. Deputy is not responsible for any disclosure, modification or deletion of Customer Data resulting from access or use of such Customer Data by a Non-Deputy Application, or a Non-Deputy provider or vendor.

**4.2 Integration with Non-Deputy Applications.** The Services may contain features designed to interoperate with Non-Deputy Applications. Deputy cannot guarantee the continued availability of such Service features, and may cease providing them without entitling Customer to any refund, credit, or other compensation if, for example and without limitation, the provider of a Non-Deputy Application ceases to make the Non-Deputy Application available for interoperation with the corresponding Service features in a manner reasonably acceptable to Deputy. Notwithstanding any other provision of this Agreement, Customer agrees that Deputy shall have no obligations or liability related to any integration with Non-Deputy Applications.

## 5. FEES AND PAYMENT

**5.1 Fees.** Customer will pay all fees specified in an Order. Except as otherwise specified herein or in an Order, (a) payment obligations are non-cancellable and fees paid are non-refundable, and (b) quantities purchased may only be decreased in accordance with the Pricing Policy. Deputy may change the fees payable by Customer in accordance with the Pricing Policy

**5.2 Invoicing and Payment.** Subject to the terms of the relevant Order, Customer will provide Deputy with valid and up-to-date payment facility information to facilitate payment for the Purchased Services, or such other documentation acceptable to Deputy to facilitate invoicing and payment in accordance with the Order. If Customer provides credit card information to Deputy, Customer authorizes Deputy to charge such credit card for all Purchased Services listed in the Order for the Subscription Term and any renewal or extension of the Subscription Term as set forth in section 11.2 "Term of Purchased Subscriptions". For monthly subscriptions, charges shall be made monthly in arrears. For annual subscriptions, charges shall be made annually in advance. If the Order specifies that payment will be by a method other than a credit card, Deputy will invoice in accordance with the relevant Order. Unless otherwise stated in the Order, invoiced fees are due net 30 days from the invoice date. Customer is responsible for providing complete and accurate billing and contact information to Deputy and notifying Deputy of any changes to such information.

**5.3 Overdue Charges.** If any invoiced amount is not received by Deputy by the due date then, without limiting Deputy's rights or remedies, (a) the Customer must pay to Deputy interest on the unpaid amount under the relevant invoice at the rate of 1.5% per month, accrued daily and compounded on a monthly basis, and/or (b) the Customer must comply with any revised payment terms to those specified in section 5.2 "Invoicing and Payment" section, notified by Deputy to the Customer for any renewal or extension of the Subscription Term and/or any future Orders.

**5.4 Suspension of Service and Acceleration.** If any charge owing by Customer under this Agreement is 30 days or more overdue, (or 10 or more days overdue in the case of amounts Customer has authorized Deputy to charge to Customer's credit card), Deputy may, without limiting its other rights and remedies, accelerate Customer's unpaid fee obligations under any other agreements, arrangements or understandings that Deputy has made or has with the Customer so that all such payment obligations become immediately due and payable, and suspend Services until such amounts are paid in full, provided that, other than for Customers paying by credit card or direct debit whose payment has been declined, Deputy will give Customer at least 10 days' prior notice that its account is overdue, in accordance with section 13.10 (Manner of Giving Notice) below for billing notices, before suspending services to Customer.

**5.5 Payment Disputes.** Deputy may waive its rights under section 5.3 (Overdue Charges) or section 5.4 (Suspension of Service and Acceleration) above if, in the reasonable opinion of Deputy, the Customer is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

**5.6 Taxes.** Deputy's fees do not include any taxes, levies, duties or similar governmental charges or assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (**Taxes**). Customer is responsible for paying all Taxes associated with its purchases pursuant to each Order. If Deputy has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Deputy will invoice Customer and Customer will pay such invoices in full unless Customer can establish to Deputy's reasonable satisfaction a lawful exemption to the payment of such Taxes, including without limitation the production of a valid Tax exemption certificate authorized by the appropriate taxing authority. Deputy is solely responsible for taxes assessable against it based on its income, property and employees.

## **6. PROPRIETARY RIGHTS AND LICENSES**

**6.1 Reservation of Rights.** Subject to the limited rights expressly granted under this Agreement, Deputy, its Affiliates and its licensors reserve all of their right, title and interest in and to the Services, including all of their related intellectual property rights. No rights are granted to Customer other than as expressly provided in this Agreement.

**6.2 License by Customer to Deputy.** (a) Customer grants Deputy and its Affiliates a worldwide, limited-term license to host, copy, use, transmit, and display any Customer Data and any Non-Deputy Applications and program code created by or for Customer using a Service or for use by Customer with the Services, to the extent required for Deputy to provide and ensure proper operation of the Services in accordance with this Agreement. If Customer chooses to use a Non-Deputy Application with a Service, Deputy may allow the Non-Deputy Application and its provider to use and access Customer Data and information about Customer's usage of the Non-Deputy Application, as appropriate, in connection with the supply of the Service. Subject to the limited licenses granted herein, Deputy acquires no right, title or interest from Customer or its licensors under this Agreement in or to any Customer Data, Non-Deputy Application or such program code. (b) Customer grants to Deputy and its Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into its services any: (i) suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Authorized Users relating to the operation of Deputy's or its Affiliates' services; and (ii) information available to Deputy relating to Customer's or its Affiliate's use of the Services, including Customer Data, but only in an aggregate or statistical composite form and combined with other similar information, such that the information used by Deputy or its Affiliates will not specifically identify any Customer or Affiliate of the Customer or any of their employees, agents, contractors, clients or Authorized Users. For clarity, the rights granted to Deputy under this section 6.2(b) continue after the termination or expiration of this Agreement.

## **7. CONFIDENTIALITY**

**7.1 Definition of Confidential Information.** **Confidential Information** means all information disclosed by a party (**Disclosing Party**) to the other party (**Receiving Party**), whether orally or in writing, that is designated as confidential at the time of disclosure or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential Information of Customer includes Customer Data. Confidential Information of Deputy includes the Services, and the terms and conditions of this Agreement and all Order Forms (including pricing). Confidential Information of each party includes business and marketing plans, code, inventions, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party. For the avoidance of doubt, the non-disclosure obligations set forth in this section 7 (Confidentiality) apply to Confidential Information exchanged between the parties in connection with the evaluation of Additional Services.

**7.2 Protection of Confidential Information.** As between the parties, each party retains all ownership rights in and to its Confidential Information. The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) to (a) not use, disclose, copy or reproduce any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (b) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of the Receiving Party's and its Affiliates' employees, agents, contractors and other representatives having a legitimate need to know for purposes consistent with this Agreement, provided they are bound to confidentiality obligations not materially less protective of the Confidential Information than those set out in this section 7 (Confidentiality). Neither party will disclose the terms of this Agreement or any Order to any third party other than its Affiliates, legal counsel and accountants without the other party's prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate's, legal counsel's or accountant's compliance with the terms of this section 7 (Confidentiality). Notwithstanding the foregoing, Deputy may disclose the terms of this Agreement and any applicable Order to a subcontractor or a provider of a Non-Deputy Application to the extent necessary to perform Deputy's obligations under this Agreement, under terms of confidentiality that are not materially less protective of the Confidential Information than those set out in this section 7 (Confidentiality).

**7.3 Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, but only to the minimum extent required to comply with such law provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

**7.4 Promotion and marketing.** Deputy may identify the Customer as a customer of Deputy in its promotional advertising, marketing or other commercial activities which Deputy may undertake in promoting the Services.

## **8. WARRANTIES AND DISCLAIMERS**

**8.1 Mutual Warranties.** Each party represents and warrants that it has validly entered into this Agreement and has the legal power and authority to do so.

**8.2 Customer Warranties.** The Customer warrants that it has not relied on any representation made by Deputy which has not been expressly set out in this Agreement or the Order. Customer further represents and warrants that it has any and all necessary permissions, consents, or authorizations required to legally use the Services for processing Personal Data (as defined by the DPA).

### **8.3 Deputy Warranties.**

Deputy represents, warrants and covenants to the Customer that: (a) Deputy has and will have all rights, titles, licenses, permissions and approvals necessary to perform its obligations under this Agreement and to grant the Customer the rights under this Agreement; (b) Deputy has taken reasonable steps to test the Services for viruses, worms, time bombs, time locks, drop dead devices, traps or trap door devices; and (c) the Services do not and will not infringe or misappropriate any patent, copyright, trademark, trade secret or other intellectual property right of a third party.

For any breach of a warranty, Customer's exclusive remedies are those described in sections 11 (Term and Termination) and 11.5 (Refund or Payment on Termination) below.

**8.4 Disclaimers.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT AS EXPRESSLY PROVIDED IN THIS AGREEMENT, ALL SERVICES AND ADDITIONAL SERVICES ARE PROVIDED ON AN "AS IS" AND "AS AVAILABLE" BASIS AND DEPUTY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED



WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE OR NON-INFRINGEMENT. DEPUTY DOES NOT WARRANT THAT THE CUSTOMER'S USE OF THE SERVICES WILL BE UNINTERRUPTED, TIMELY, SECURE OR FREE FROM ERROR, THAT THE TRANSMISSION OF CUSTOMER DATA OVER THE INTERNET WILL ALWAYS BE SECURE, OR THAT DEPUTY WILL PRESERVE OR MAINTAIN CUSTOMER DATA WITHOUT LOSS OR DAMAGE. IN THE EVENT THAT ANY WARRANTY IS IMPLIED BY CONSUMER LAWS AND CANNOT OTHERWISE BE LAWFULLY EXCLUDED, NOTHING IN THIS AGREEMENT WILL RESTRICT, EXCLUDE OR MODIFY ANY STATUTORY WARRANTIES, GUARANTEES, RIGHTS OR REMEDIES AND OTHERWISE DEPUTY'S LIABILITY IS LIMITED (AT DEPUTY'S OPTION) TO SUPPLYING THE SERVICES AGAIN OR THE PAYMENT OF THE REASONABLE COSTS OF HAVING THE SERVICES SUPPLIED AGAIN.

## **9. MUTUAL INDEMNIFICATION**

**9.1 Indemnification by Deputy.** Deputy will defend Customer against any claim, demand, suit or proceeding made or brought against Customer by a third party alleging that any Purchased Service when used as authorised under this Agreement infringes or misappropriates such third party's intellectual property rights (a "Claim Against Customer"), and will indemnify Customer from any damages, attorney fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement approved by Deputy in writing of, a Claim Against Customer, provided Customer (a) promptly gives Deputy written notice of the Claim Against Customer, (b) gives Deputy sole control of the investigation, defense and settlement (if any) of the Claim Against Customer (except that Deputy may not settle any Claim Against Customer unless it unconditionally releases Customer from all liability), and (c) gives Deputy all reasonable assistance in the defense and investigation of the Claim, at Deputy's expense. If Deputy receives information about an infringement or misappropriation claim related to a Service, Deputy may in its discretion and at no cost to Customer (i) modify the Services so that they are no longer claimed to infringe or misappropriate, without breaching Deputy's warranties under section 8.3 (Deputy Warranties) above, (ii) obtain a license for Customer's continued use of that Service in accordance with this Agreement, or (iii) terminate Customer's subscriptions for that Service upon 30 days' written notice and refund Customer any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply if: (1) a Claim Against Customer arises from the use or combination of the Services or any part thereof with software, hardware, data, or processes not provided by Deputy, if the Services or use thereof would not infringe without such combination; (2) a Claim Against Customer arises from Services under an Order Form for which there is no charge; (3) a Claim Against Customer arises from a Non-Deputy Application or Customer's breach of this Agreement, the Documentation or applicable Order Forms; or (4) the Customer settles or makes an admission with respect to a Claim Against Customer with Deputy's prior written consent.

**9.2 Indemnification by Customer.** Customer will defend Deputy and its Affiliates against any claim, demand, suit or proceeding made or brought against Deputy by a third party alleging (a) that any Customer Data or Customer's use of Customer Data with the Services, (b) a Non-Deputy Application provided by Customer, or (c) the combination of a Non-Deputy Application provided by the Customer and used with the Services, infringes or misappropriates such third party's intellectual property rights; or arising from Customer's use of the Services or Content in an unlawful manner or in violation of the Agreement (including, without limitation, Customer's use of the Services to process Excluded Data), the Documentation, or Order (each a "Claim Against Deputy"); and will indemnify Deputy from any damages, attorney fees and costs finally awarded against Deputy as a result of, or for any amounts paid by Deputy under a settlement approved by Customer in writing of, a Claim Against Deputy, provided Deputy (i) promptly gives Customer written notice of the Claim Against Deputy, (ii) gives Customer sole control of the investigation, defense and settlement (if any) of the Claim Against Deputy (except that Customer may not settle any Claim Against Deputy unless it unconditionally releases Deputy of all liability), and (iii) gives Customer all reasonable assistance in the defense and investigation of the Claim, at Customer's expense. The above defense and indemnification obligations do not apply if a Claim Against Deputy arises from Deputy's breach of this Agreement, the Documentation or applicable Order.

**9.3 Exclusive Remedy.** This section 9 (Mutual Indemnification) comprises the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any third party claim described in this section.

## 10. LIMITATION OF LIABILITY

**10.1 Limitation of Liability.** IN NO EVENT SHALL THE AGGREGATE LIABILITY OF DEPUTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY THE CUSTOMER AND ITS AFFILIATES UNDER THIS AGREEMENT FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS BEFORE THE CAUSE OF ACTION AROSE. FOR SERVICES PROVIDED FREE OF CHARGE, DEPUTY'S LIABILITY IS LIMITED TO US\$100 IN THE AGGREGATE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.

**10.2 Exclusion of Consequential and Related Damages.** NEITHER DEPUTY NOR ITS AFFILIATES WILL HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE USER TERMS FOR ANY LOST PROFITS, REVENUES OR GOODWILL OR FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS SUPPLIERS OR AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES IN ADVANCE OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

**10.3 Multiple Claims & Time Limits.** MULTIPLE CLAIMS WILL NOT EXPAND THE LIMITATIONS IN THIS SECTION 10 (LIMITATION OF LIABILITY). ANY CAUSE OF ACTION ARISING OUT OF OR RELATED TO THE SERVICES MUST BE COMMENCED WITHIN ONE (1) YEAR AFTER THE CLAIM OR CAUSE OF ACTION ARISES, OTHERWISE SUCH CLAIM AND CAUSE OF ACTION WILL BE PERMANENTLY BARRED.

**10.4 Jurisdiction Limitations.** SOME JURISDICTIONS MAY NOT ALLOW THE EXCLUSION AND/OR LIMITATION OF CONSEQUENTIAL, INCIDENTAL, SPECIAL OR OTHER DAMAGES, SO THE ABOVE LIMITATIONS OR EXCLUSIONS MAY NOT APPLY TO YOU. IN SUCH EVENT, THE LIABILITY OF DEPUTY AND ITS AFFILIATES FOR SUCH DAMAGES WILL BE LIMITED TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW. THIS SECTION 10 (LIMITATION OF LIABILITY) WILL SURVIVE ANY TERMINATION OR EXPIRATION OF THIS AGREEMENT.

## 11. TERM AND TERMINATION

**11.1 Term of Agreement.** This Agreement commences on the date Customer first accepts it and continues until all subscriptions under this Agreement have expired or have been lawfully terminated.

**11.2 Term of Purchased Subscriptions.** The term of each subscription shall be as specified in the applicable Order. Except as otherwise specified in an Order, subscriptions will automatically renew for additional periods equal to the expiring Subscription Term or one year (whichever is shorter), unless either party gives the other written notice (email acceptable) at least 30 days before the end of the relevant Subscription Term.

**11.3 Termination for Convenience.** Following the expiry of the Initial Term (if applicable) the Customer may terminate this Agreement at any time for any reason upon written notice to Deputy. Customer will provide any notice of termination through any means designated by Deputy which may include account settings in the Services.

**11.4 Termination for Cause.** Either party may terminate this Agreement for cause (a) on 30 days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (b) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

**11.5 Refund or Payment upon Termination.** If this Agreement is terminated by Customer in accordance with section 11.4 (**Termination for Cause**) or section 12.3 (**Purchased Services**) Deputy will refund Customer any prepaid fees covering the remainder of the term of all Orders after the effective date of termination. If this Agreement is terminated for any other reason, Customer will not be entitled to a refund of any prepaid fees and must pay any unpaid fees covering the remainder of the term of all

Orders to the extent permitted by applicable law. In no event will termination relieve Customer of its obligation to pay any fees payable to Deputy for the period prior to the effective date of termination.

**11.6 Effect of Termination.** Upon the expiration or termination of this Agreement, the Customer must cease using all Services and delete (or at Deputy's request return) all Confidential Information in the Customer's possession or control. The Customer will certify such deletion at Deputy's request. Deputy will, upon request by Customer but only where such request is made in accordance with section 2.3 (Protection of Customer Data), return to the Customer all Customer Data stored on the Services in such format as Deputy may, at its sole discretion, see fit.

**11.7 Surviving Provisions.** Sections 2.6 (Free Services), 3.6 (Removal of Non-Deputy Applications), 5 (Fees and Payment), 6 (Proprietary Rights and Licenses), 7 (Confidentiality), 8.4 (Disclaimers), 9 (Mutual Indemnification), 10 (Limitation of Liability), 11.5 (Refund or Payment upon Termination), 11.7 (Surviving Provisions) and 12 (General Provisions) will survive any termination or expiration of this Agreement, and section 2.3 (Protection of Customer Data) will survive any termination or expiration of this Agreement for so long as Deputy retains possession of Customer Data.

## 12. CHANGES TO TERMS

**12.1 Changes to Terms.** Deputy may modify the terms and conditions in this Agreement (including its policies), at any time. If Deputy makes a material change to this Agreement, Deputy will provide Customer with reasonable notice prior to the change taking effect, either by notifying Customer in accordance with section 13.10 (**Manner of Giving Notice**) or by messaging Customer through the Services. Customer can review the current version of this Agreement at any time on Deputy's website. The materially revised Agreement will become effective on the date set forth in Deputy's notice, and all other changes will become effective upon posting of the modified Agreement on Deputy's website.

**12.2 Free Services.** Customer must accept the modifications to continue using the Free Services. If Customer objects to the modifications, its exclusive remedy is to cease using the Free Services.

**12.3 Purchased Services.** If Customer does not accept the modifications, Customer must stop using Services and terminate this Agreement by notice to Deputy in accordance with section 13.10 (**Manner of Giving Notice**). If Customer continues to access and use the Services after the effective date of the changes, that use will constitute Customer's acceptance of the modified terms and conditions in this Agreement.

## 13. GENERAL PROVISIONS

**13.1 Entire Agreement and Order of Precedence.** This Agreement, including any terms incorporated by reference into this Agreement, is the entire agreement between Deputy and Customer regarding Customer's use of Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. The parties agree that any term or condition stated in a Customer purchase order or in any other Customer order documentation (excluding Orders) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the DPA; (2) the applicable Order and (3) this Agreement.

**13.2 Interpretation.** As used herein, "including" (and its variants) means "including without limitation" (and its variants). Titles and headings of sections of this Agreement are for convenience only and do not affect the construction of any provision of this Agreement.

**13.3 Relationship of the Parties.** The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties. Each party will be solely responsible for payment of all compensation owed to its employees, as well as all employment-related taxes.

**13.4 Waiver.** No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

**13.5 Severability.** If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

**13.6 Assignment.** The Customer may not assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without Deputy's prior written consent (not to be unreasonably withheld) provided, however, Customer may assign this Agreement in its entirety (including all Order Forms), without Deputy's consent in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. However, if Customer is acquired by, sells substantially all of its assets to, or undergoes a change of control in favor of, a direct competitor of Deputy, then Deputy may terminate this Agreement on written notice. In the event of such a termination, Deputy will refund Customer any prepaid fees covering the remainder of the term of all subscriptions for the period after the effective date of such termination. Deputy may assign any of its rights or obligations under this Agreement without the Customer's consent. Subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**13.7 No adverse construction.** Nothing in this Agreement is to be interpreted against a party solely on the grounds that the party put forward the Agreement or a relevant part of it.

**13.8 Competitors.** Deputy's direct competitors are prohibited from accessing the Services, except with Deputy's prior written consent. In addition, the Services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes.

**13.9 Deputy Contracting Entity, Governing Law and Venue.** All references to 'Deputy', 'we', or 'us' under the Agreement and the User Terms and what law will apply in any dispute or lawsuit arising out of or in connection with this Agreement and the User Terms depends on where the Customer is domiciled.

| Domicile                                                                                                                                                           | Deputy Contracting Entity | Governing Law                               | Venue           |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------|---------------------------------------------|-----------------|
| Asia Pacific including Australia, New Zealand, Singapore, Fiji, Philippines, Malaysia, Indonesia, Thailand, Japan, China, South Korea, India, Sri Lanka & Pakistan | Deputec Pty Limited       | Laws of State of New South Wales, Australia | New South Wales |
| The Americas including United States of America (USA), Canada, Mexico, Columbia, Brazil, Argentina & Chile                                                         | Deputy Corporation        | Laws of State of Georgia, USA               | Georgia, USA    |
| Europe, the Middle East and Africa including the United Kingdom, the Netherlands, Ireland, South Africa & Israel                                                   | Deputy EMEA Limited       | Laws of England and Wales                   | England         |

This Agreement, and any disputes arising out of or related hereto, are governed exclusively by the applicable Governing Law above. The courts located in the applicable Venue above will have exclusive jurisdiction to adjudicate any dispute arising out of or relating to this Agreement or its formation, interpretation or enforcement. Each party agrees to the applicable governing law above without regard to choice or conflicts of law rules, and to the exclusive jurisdiction of the applicable courts above.

**13.10 Manner of Giving Notice.** Except as otherwise specified in this Agreement, all notices related to this Agreement will be in writing and will be effective upon (a) personal delivery, (b) the second business day after mailing, or (c), except for notices of termination or an indemnifiable claim ("Legal Notices"), which shall clearly be identifiable as Legal Notices, the day of sending by email to [legal@deputy.com](mailto:legal@deputy.com). Billing-related notices to Customer will be addressed to the relevant billing contact

designated by Customer. All other notices to Customer will be addressed to the relevant Services system administrator designated by Customer.

**13.11 Force Majeure.** If a party is prevented, hindered or delayed from performing its obligations under this Agreement (money payments excepted) by a Force Majeure Event, then as long as that situation continues, that party will be excused from performance of the obligation to the extent it is so prevented, hindered or delayed, and the time for performance of the obligation will be extended accordingly. If a party is affected by a Force Majeure Event it will immediately give the other party a notice of its occurrence and its effect or likely effect, and use all reasonable endeavours to minimise the effect of the Force Majeure Event and to bring it to an end.

**13.12 Anti-Corruption.** Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.