

**DRKUMO INC.**  
**GENERAL SERVICE AGREEMENT**  
**FOR REMOTE PATIENT MONITORING SERVICE**

This General Service Agreement for Remote Patient Monitoring Service (this "Agreement") is entered into between DrKumo Inc. ("Company"), a Delaware corporation, and the Customer listed on the order form (the "Order Form") entered into by and between Company and Customer, as of the Effective Date. Unless otherwise defined in this Order Form, capitalized terms herein have the same meaning as in the Order Form.

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Company and Customer agree as follows:

**1. DEFINITIONS.**

**"Authorized Users"** means employees, healthcare professionals, patients and agents of Customer authorized by Customer to use the Service and who have been supplied user identification and passwords by Customer (or by Company at Customer's request). Customer shall not permit more than one individual to use the same user identification. All acts and omissions of the Authorized Users shall be deemed acts or omissions of Customer.

**"Comprehensive Issue Description"** means written description by Customer of an incident and the associated relevant information that is sufficient for Company to reproduce the incident.

**"Patients"** means health care end users of Customer approved to participate in the Program by Customer.

**"Program"** means the remote care management program operated by Customer using the Service.

**"Service"** means Company's proprietary remote patient monitoring service provided as "software as a service" (SaaS) hosted by servers owned and operated by Company and Company's cloud service providers (e.g. Amazon Cloud Services, Microsoft Azure, etc.).

**"Service Third Parties"** are third parties that assist Customer by providing hardware, software, or support components of the Service.

**"Updates"** means a maintenance release of the Service and/or released revisions to the Service which are intended to improve efficiency or to incorporate additional or alternative functionality, such release being denoted as a Service Update by Company in its generally published programs and policies.

**"Upgrades"** means a new release of the Service which incorporates substantial additional or alternative functionality, such release being denoted as a Service Upgrade by Company in its generally published programs and policies.

**"Written Documentation"** means the written documentation provided to Customer by Company in paper or electronic format describing features, functionalities, guidelines, plans and requirements for the Service.

**2. TERM AND TERMINATION**

- 2.1. Subject to early termination as provided in subsections (2.2) and (2.3) below, this Agreement begins on the Effective Date and shall remain in force so long as the Order Form is in effect between Company and Customer.
- 2.2. Customer shall have the right to terminate this Agreement or the Order Form at any time without further obligation or liability to Company by written notice to Company in the event that Company is in default of any material term hereof, and such default is not cured within thirty (30) days of Company's receipt of written notice specifying the default in reasonable detail.
- 2.3. Company shall have the right to terminate this Agreement or the Order Form at any time without incurring any further obligation or liability to Customer and/or Patients by written notice to Customer in the event that Customer is in default regarding any material term in this Agreement or the Order Form, including payment terms, and such default is not cured within thirty (30) days of Customer's receipt of written notice specifying the default in reasonable detail.
- 2.4. Upon termination of this Agreement or the Order Form for any reason, (i) any amounts owed to Company under this Agreement or the Order Form before such termination will be immediately due and payable, (ii) Customer and its Patients shall discontinue use of the Service, and (iii) Company shall discontinue or cause to be discontinued access to the Service.
- 2.5. Sections 1, 2, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16 (5-9), 18, 19, and 20 shall survive the termination of this Agreement.

- 2.6. Termination of this Agreement or the Order Form by either party for any reason shall not release or otherwise relieve Customer of its obligations under terms of any other agreements with Company, if any, entered into by Customer. This is without prejudice to Company's preliminary or final recourse to arbitration or to the courts of law to secure and protect its interests, the subject of which is the ground(s) relied upon in the termination of this Agreement.

### **3. SERVICES; GRANT OF ACCESS TO SYSTEM.**

- 3.1. Subject to Customer's compliance with its obligations, representations, and terms and conditions in this Agreement, during the Term, Company grants to Customer and its Authorized Users and Patients a non-exclusive, non-sublicensable, non-assignable, non-transferable right to access the Service. Any and all other access or use of the Service is expressly prohibited.
- 3.2. Except as otherwise provided in this Agreement, Customer, at its own expense, is responsible for procuring all services, hardware, desktop software and other technology necessary to access and use the Service (including, without limitation, patient hardware and devices, Internet access services, data network services for Patients and compliant web browsers). Customer acknowledges and agrees that Customer will arrange for, pay for and maintain the communication lines between the Service and Customer and its Authorized Users and Patients as part of this Agreement. Customer acknowledges that Company (i) does not control communications via third party telecommunications providers and (ii) shall not be responsible for any error or inaccessibility associated with such telecommunications or any violation of law, rule or regulation applicable to transmission of data via such telecommunications.

### **4. HARDWARE**

Customer acknowledges that certain hardware and equipment certified by Company ("Patient Hardware") is necessary to enable use of the Services patient portal and other patient-facing features and that the cost of such Patient Hardware is not part of or included in the Subscription Fee set forth in Section 5 below. Customer can obtain the Patient Hardware by purchase or rent from Company or Service Third Parties.

### **5. FEES AND PAYMENT.**

- 5.1. Customer shall pay a late payment charge computed at the rate of one and one-half percent (1.5%) per month on the unpaid balance for each calendar month (or fraction thereof) that any payment of Subscription Fees or other amounts are past due ("Late Fees"), or, if such rate exceeds that permitted by applicable law, then at the highest rate permitted by such law.
- 5.2. All travel, meals and lodging expenses associated with implementation, training and technical support of the Service or hardware purchased hereunder are in addition to the Subscription Fees and service fees detailed on the Order Form, if applicable. Customer shall be billed for actual expenses as incurred. Payment for such expenses shall be due upon receipt of such invoices.
- 5.3. If any amounts are more than thirty (30) days overdue (except with respect to charges then under reasonable and good faith dispute), in addition to any other rights and remedies of Company, without prejudice to Company's right of immediate legal recourse to protect its rights from Customer's any scheme of dereliction or evasion from delinquency, Company will have the right to suspend Customer's and its Patients access to the Service without any liability to Company, until Customer's payments are brought current.

### **6. IMPLEMENTATION AND TRAINING.**

- 6.1. Customer and Company shall work together to implement the use of the Service by Customer and its patients in accordance with an implementation plan mutually acceptable to Company and Customer (the "Implementation Plan"). Company and Customer shall not be liable for delays in the Implementation Plan due to accidents, strikes, fires, war, inability to obtain materials from regular sources, governmental regulations, acts of God or any other conditions beyond their reasonable control.
- 6.2. Customer agrees to designate a project manager ("Project Manager") to work with Company on the Implementation Plan. The Project Manager will be knowledgeable in Customer's practices and will be empowered, authorized and available to execute, coordinate and amend from time to time the Implementation Plan. Furthermore, Customer agrees that Project Manager will be provided sufficient time, authority, and resources to fulfill his or her obligations under the Implementation Plan.
- 6.3. If applicable, Company will provide training services to promote proper implementation, configuration and use of the Service, in conformance with industry best practices and in accordance with Company's Written

Documentation, and in accordance with the pricing specified in the Order Form. Such training shall be delivered in the manner described in the Implementation Plan. Any supplemental training requested by Customer will be provided in a manner mutually agreeable to Company and Customer. Any other service not included in the Order Form between Company and Customer are deemed excluded.

- 6.4. Customer and Company acknowledge that unforeseen issues or changes regularly arise in the course of a system implementation, which require resolution by one or both parties. To the extent that such issues require adjustments to the Implementation Plan, Customer and Company shall negotiate such adjustments in good faith and due diligence.

## **7. NOT FOR EMERGENCY USE; NO REAL-TIME MONITORING.**

The Service is not designed to, and must not be used to, replace emergency, first responder or paramedic care and does not provide a means to request emergency services (i.e., 911). Customer shall instruct Patients not to rely on the Service in the event of an emergency. The Service does not provide any real-time monitoring of Patient health, nor does it provide real-time alarms or alerts. The Service is not intended for use for intensive or critical care monitoring and does not provide real-time transition of medical sensor data. Any use of the service as contemplated in this section will not make Company liable to Customer or its patients. Any breach hereof will make Customer liable to Company, to its patients, or to the government for any laws and rules or regulations permissively violated. Thus, it is pertinent that Customer, in availing of Company's service, must observe due diligence and inform its patients of the terms of use the Service as contemplated in this section.

## **8. NO MEDICAL ADVICE; BILLING AND ADMINISTRATION OF OPTIONAL CLINICAL SERVICES.**

- 8.1. The Service does not provide or constitute the provision of any medical advice, healthcare advice or guidance, or diagnostic or medical services to the Patient, the Customer or to any other party. The Service is not a substitute for professional medical advice, diagnosis or treatment. Without limiting the foregoing, the Service, and the output generated thereby, are merely supplemental tools provided for use by appropriately qualified and skilled health care professionals affiliated with Customer or the Patient, and the making of any health care decision is subject to the independent professional judgment, investigation and responsibility of Customer and such health care professionals. Without limiting the foregoing, (i) any reminders or alerts provided in connection with the Service, including, without limitation, any reminders with respect to medication and/or testing times, and (ii) any reminders or alerts related to any action to be taken as a result of any collected data, will be determined and programmed based solely on the professional judgment and advice of Customer and healthcare professionals affiliated with Customer. Customer shall indemnify, defend and hold Company, Service Third Parties, and their respective affiliates and their respective officers, directors, employees, agents and representatives ("Related Parties") harmless from and against and all lawsuits, claims damages, losses, costs and expenses that any of them suffers or experiences in connection with any matter relating to any action taken or not taken in rendering or not rendering medical or healthcare related services relating to or based upon the Service, or the output generated thereby. Customer agrees that the Service is not used as a substitute for the exercise of appropriate professional skill, investigation and judgment.
- 8.2. If clinical services are provided to Customer by a third-party provider under this Agreement (a "Clinical Services Provider"), Customer acknowledges and agrees that Company shall not be responsible or liable in any way for the acts or omissions of the Clinical Services Provider. Customer acknowledges that Company does not exert any control over the Clinical Services Provider or the manner in which the Clinical Services Provider provides its services or employs, screens, trains or instructs its employees and agents. While Company may bill Customer for the services provided by the Clinical Services Provider, such billing services are provided strictly as an accommodation to Customer and the Clinical Services Provider. Any fee charged or retained by Company in connection with the Clinical Services Provider shall be for providing billing and administration services; no fee charged or retained by Company shall be for the provision of health care advice or services.

## **9. NO HIGH-RISK ACTIVITIES.**

The Service is not fault-tolerant and is not designed or intended for use in hazardous environments requiring fail-safe performance in which the failure of the service could lead to death, personal injury, or severe physical or environmental damage or in the case of patient emergencies ("high risk activities"). Company specifically disclaims any express or implied warranty of fitness for high risk activities. Customer will not use the service for high risk activities and will ensure that all Authorized Users and Patients are notified of the same.

## **10. RESTRICTIONS ON USE.**

- 10.1. Customer shall not have the right to license, sub-license or sell the Service or to transfer or assign the right to use or access the Service, except Customer may permit patients to use the Service as expressly provided herein.
- 10.2. Customer shall not (i) tamper with the security of the Service or tamper with other clients' accounts; (ii) access data not intended for Customer; (iii) log into a server or account on the Service that Customer is not authorized to access; (iv) attempt to probe, scan or test the vulnerability of the Service or to breach the security or authentication measures without proper authorization; (v) render any part of the Service unusable; (vi) lease, distribute, license, sell or otherwise commercially exploit the Service or make the Service available to a third party other than as contemplated in this Agreement; (vii) use the Service for timesharing or otherwise for the benefit of a third party; (viii) provide to third parties any evaluation version of the Service without Company's prior written consent; or (ix) use the Service in violation of any Acceptable Usage Policy (AUP) which Company may make available from time to time by notice to Customer or by posting on the Service website. The pertinent items herein are not exclusive and includes other acts adjunct or derivatives of the same.
- 10.3. Customer shall access the Service using only methods and systems identified by Company to Customer as enabled or otherwise approved for access, which may include Company-designated Internet websites, software for interactive services, or tablet and mobile phone applications. Customer may access the Service only for business purposes. Customer shall not engage in any of the following activities: (i) modify, disassemble, or decompile the Service for any purpose, or attempt to derive a source code language or object code version of the Service or create derivative works; (ii) copy, frame, mirror, or otherwise make available to any unauthorized third party any part or content of the Service; (iii) reverse engineer any aspect of the Service; (iii) copy any features, functions, or graphics of the Service; (iv) upload to the Service any information or data that does or may violate or infringe upon the rights of others (including without limitation the rights of privacy or publicity, copyright, or trade secret); (v) violate any law or regulation; or (vi) take any action not apparently authorized by the Service.
- 10.4. Customer shall control its and its Authorized Users' and Patients' usernames and passwords as private and confidential information and shall not permit use of such usernames or passwords in connection with any attempt to evade access control limits. Customer is solely responsible for any misuse or unauthorized use of its account.
- 10.5. Company may take any actions to remedy the violation of this Section 10, including but not limited to removing violating content without notice, denying or suspending access, reporting to government authorities, or any such other remedies or actions as may be otherwise legally available to Company or any aggrieved party, including the provisions of the Digital Millennium Copyright Act, the Computer Fraud and Abuse Act, and the No Electronic Theft Act.

## **11. PATIENT ACCESS.**

- 11.1. Customer shall cause all patients that participate in the Program or otherwise use the Service to accept Company's Participant Authorization and Terms of Use ("Participant Terms") in effect from time to time in such manner as Company directs (including, without limitation, by requiring participants to accept an End User License Agreement ("EULA") they will see when they initially log into the Service). This is without prejudice to company's amendments to the Participant Terms and EULA to conform to changing laws, rules and regulations, and trends.

## **12. CONFIDENTIAL INFORMATION.**

- 12.1. "Discloser" and "Recipient" apply to both parties depending on their role, whether as the discloser or the recipient of Confidential Information.
- 12.2. "Confidential Information" means a party's proprietary or confidential information, intellectual property, trade secrets, know-how, software, technology, specifications, and non-public business or financial information; a party's member, customer and employee data, any written materials marked as confidential and/or perceived / contemplated / prima facie confidential; and any other information of a party, including visual or oral information, which reasonably should be understood to be confidential. Confidential Information also means any third party's information provided to a party under obligation of confidentiality.
- 12.3. Recipient will use Discloser's Confidential Information only as required or permitted under this Agreement and will not disclose Discloser's Confidential Information, or permit anyone else to disclose it, except to the

recipient's employees, affiliates, accountants, attorneys, and consultants who have a need to know and who are contractually or legally bound to the same confidentiality restrictions as Recipient.

- 12.4. Recipient will keep confidential all of Discloser's Confidential Information, maintain Discloser's Confidential Information in a safe and secure place, and exercise the same degree of care to safeguard Discloser's Confidential Information as it would in protecting its own, but in no event less than reasonable care.
- 12.5. Recipient will return or destroy all documents, copies, notes, or other materials containing any of Discloser's Confidential Information upon Discloser's request.
- 12.6. Recipient is not subject to the confidentiality obligations of this Agreement regarding Confidential Information that Recipient can prove meets any of the following criteria: (a) is or becomes publicly available without breach of this Agreement, but only from the date that it becomes publicly available; (b) was rightfully in Recipient's possession without an obligation of confidentiality owed to Discloser before Recipient received it from Discloser; (d) is independently developed by Recipient without using any of the Confidential Information; or (e) is required to be disclosed by Customer to obtain payment from a commercial and/or governmental payor, but only for the purpose of obtaining such payment.
- 12.7. If a judicial or governmental request or order seeks Confidential Information, Recipient may disclose that Confidential Information as requested or ordered. But, if permitted by applicable law, Recipient must notify Discloser before disclosing the Confidential Information and cooperate with Discloser's reasonable requests in seeking a protective order or limiting the effect of that disclosure.
- 12.8. All of Discloser's Confidential Information remains the property of Discloser. Nothing in this Agreement grants ownership, a license, or other right to use Confidential Information – except as expressly stated in this Agreement – or waives any right a party has in its Confidential Information.
- 12.9. The confidentiality obligations of this Agreement are perpetual and survive expiration or termination of this Agreement.

### **13. CONSENT TO DATA USAGE.**

Subject to applicable law, Customer agrees that Company and Service Third Parties may collect and use de-identified data and related information input into the Service. Subject to applicable law, Company and Service Third Parties may use this information as they choose, as long as it is in a form that does not personally identify Customer or its employees, agents, or Patients.

### **14. MARKETING.**

Company may include and use Customer's name on a list of customers and may refer to Customer as a user of the Service and services in its advertising, marketing, promotional and investor materials.

### **15. OWNERSHIP.**

The Service and all associated software, services, products, and technologies are the proprietary information of Company or the third party that provides them. Except for the grant of access to the Service as provided in Section 3, Customer does not acquire under this Agreement or otherwise any intellectual property or other proprietary rights, including without limitation, any patents, inventions, improvements, designs, trademarks, including any applications for same, copyright, rights in any confidential information or trade-secrets, in or relating in any way to the Service. All modifications, improvements, adaptations, expansions and inventions related to the Service, services and marks of Company that are made, required or produced by Customer in connection with the Program shall belong solely to Company as of creation or discovery thereof, and to the extent any of the same may not or do not vest in Company at creation or discovery, Customer hereby assigns, and agrees to assign and secure assignments of, the same to Company. Any grants not expressly granted herein are reserved. Except where otherwise specified, the contents of the Service are Company copyright. The contents of the Service are subject to protection under U.S. and foreign copyright laws. Customer is not permitted to use the copyrighted content outside of the normal functions of the Service without the prior written consent of Company. Customer shall not alter, change or remove any proprietary notices or confidentiality legends placed on or contained within the Service. In the event that Customer becomes aware of any action or claim that may infringe or misappropriate the proprietary rights of Company, Customer shall promptly notify Company in writing of such action or claim.

Without the needed agreement, permission, authority, or grant from company, any derivative, invention, improvement, designs, or any other intellectual property that Customer may acquire by reason of its own efforts and/or expense shall be owned by Company. This clause covers advice, feedback, suggestions, comments, recommendations, and any act

showing an inventive step leading to an adjunct or derivative of the service. Attribution of Customer or any of its employees to any of the foregoing may be permissible upon Company's permission.

## **16. SERVICE LEVEL AGREEMENT; WARRANTIES AND REMEDIES.**

- 16.1. During the term of this Agreement, Company represents and warrants that it will provide the SaaS Services in a professional manner consistent with general industry standards and that the SaaS Services will perform substantially in accordance with the Written Documentation. For any breach of a warranty, Customer's exclusive remedy shall be as provided in Section 2, Term and Termination.
- 16.2. During the term of this Agreement, Company warrants that the Service (i) will conform as to all material operational features and performance characteristics as provided in the Written Documentation and (ii) will be free of errors and defects that materially affect the performance of such features; provided, however, that the foregoing warranty and the warranty in Section 16.1 shall only apply so long as (A) the Service is implemented and used in accordance with all instructions supplied by Company, (B) Customer notifies Company in writing of any case of nonconformity, error, or defect within three (3) business days of the appearance thereof, (iii) Customer complies with its hardware, equipment, internet access and other obligations under this Agreement, and (iv) there is no interference of any event constituting force majeure or government intervention. If Customer, in a timely manner, provides Company with a Comprehensive Issue Description of any such error, defect or nonconformity that materially affects the core functions of the Service, Company shall at its sole and exclusive discretion (1) remedy the error, defect or nonconformity or (2) issue Customer credits for the time during which the Service was not in compliance with the foregoing warranty. During the term of this Agreement, Company shall provide telephone consultation and/or any other mode(s) of communication convenient for both parties regarding the use and operation of the Service. The remedies set out in this section 16.2 are the sole and exclusive remedies for breach of the limited warranty. Company does not warrant that the service will meet subscriber's requirements, that the service will operate in the combinations which subscriber may select for use or that the operation of the service will be error-free or uninterrupted.
- 16.3. Notwithstanding any other provisions of this Agreement to the contrary, the warranties provided in this Section 16 shall not apply to nonconformities, errors, or defects due to any of the following: (i) misuse of the Service, (ii) modification of the Service that is not contracted with or expressly authorized in writing by Company, or (iii) failure by Customer to utilize compatible computer, networking hardware and software.
- 16.4. Company hereby represents that Company has full authority to grant Customer access to the Service under this Agreement. Company will indemnify, defend and hold Customer harmless from and against any claims or lawsuits, including attorney's fees, that arise or result from any claim to the contrary.
- 16.5. Except for the limited warranty provided in this section, Company hereby disclaims all warranties, both express and implied, including implied warranties respecting merchantability, title, and fitness for a particular purpose. Customer acknowledges that no representations other than those contained in this Agreement have been made respecting the service or services to be provided hereunder, and that Customer has not relied on any representation not expressly set out in this Agreement.
- 16.6. COMPANY'S ENTIRE LIABILITY ARISING OUT OF THIS AGREEMENT, THE ORDER FORM AND/OR GRANTING ACCESS TO THE SERVICE OR SALE OF SERVICES SHALL BE SOLELY LIMITED TO THE SUBSCRIPTION FEES AND SERVICE FEES PAID BY CUSTOMER UNDER THE ORDER FORM DURING THE 12 MONTHS PRECEDING THE ACT OR OMISSION GIVING RISE TO THE LIABILITY, AND IF ANY SUCH LIABILITIES ARISE OUT OF CUSTOMER'S USE OF THE SERVICE OR SERVICES PROVIDED HEREUNDER, SUCH LIABILITY SHALL BE LIMITED TO THE FEES PAID FOR THE RELEVANT PORTION OF THE SERVICE OR SERVICES GIVING RISE TO THE LIABILITY.
- 16.7. IN NO EVENT SHALL COMPANY BE LIABLE TO CUSTOMER UNDER ANY THEORY, INCLUDING, BUT NOT LIMITED TO, NEGLIGENCE AND STRICT PRODUCTS LIABILITY, FOR ANY INDIRECT OR DIRECT, SPECIAL OR INCIDENTAL OR CONSEQUENTIAL DAMAGES, INCLUDING, BUT NOT LIMITED TO, COSTS OF PROCUREMENT OF SUBSTITUTE GOODS AND SERVICES, DAMAGES FOR LOSS OF DATA, LOSS OF USE OF COMPUTER HARDWARE, DOWNTIME, LOSS OF GOODWILL, AND LOSS OF BUSINESS OR COMPUTER HARDWARE MALFUNCTION, EVEN IF COMPANY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
- 16.8. No claim or action, regardless of form, arising out of or relating to this Agreement or the Order Form may be brought by Customer more than six (6) months after the cause of action has occurred.

16.9. This Agreement allocates fairly between Company and Customer the risks of defects to, or failure of, the Service. This allocation is the result of negotiation between the parties, is accepted by both parties, and is reflected in, including but not limited to, the pricing for the Service, other fees payable, the limited warranties provided, the limited remedies provided, the disclaimer of liability for certain damages including without limitation, incidental and consequential damages, the limitation of liability, and the limitation on actions. Under the principle of Autonomy of Contracts that most if not all jurisdictions recognize, the parties hereby stipulate that in any proceeding regarding any dispute under this Agreement, all of these provisions should be recognized and enforced.

## 17. TECHNICAL SUPPORT.

17.1. Company shall provide Customer support using the technical support line during Company regular office hours, subject to extraneous circumstances, without fault on the part of the company, that may affect the support line, assigned at the time of implementation. Failure by Customer to provide a Comprehensive Issue Description will prevent Company from fulfilling its obligations and shall not constitute a violation of this Agreement.

17.2. Company shall provide Customer Updates and Upgrades at the time and in the manner in which Company makes such Updates and Upgrades generally available to other subscribers.

## 18. INDEMNIFICATION.

Customer shall indemnify, defend and hold Company, Service Third Parties, their partners, licensors, affiliates, contractors, officers, directors, employees and agents harmless from all damages, losses and expenses arising directly or indirectly from (a) any negligent acts, omissions or willful misconduct of Customer, (b) Customer's or its Authorized Users' or Patients' use of the Service in a manner not permitted by this Agreement or in a manner other than is explicitly allowed by the Service, (c) any breach of or failure to comply with this Agreement by Customer, (d) any claim by or on behalf of a Patient alleging medical malpractice or an error, misjudgment, deficiency or defect in any medical advice, diagnosis or treatment and (e) Customer's violation of any law or of any rights of any third party.

## 19. FORCE MAJEURE.

Company shall not incur any liability to Customer on the account of any loss or damage resulting from any delay or failure to perform all or any part of its obligations under this Agreement to the extent such delay or failure is caused by events, occurrences, or causes beyond the reasonable control of Company, including, without limitation, acts of God; flood, fire, earthquake or explosion; war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; government order or law; actions, embargoes or blockades in effect on or after the date of this Agreement; action by any governmental authority; national or regional emergency; strikes, labor stoppages or slowdowns or other industrial disturbances; and shortage of adequate power or transportation facilities.

## 20. MISCELLANEOUS.

20.1. **Assignment.** Customer may not assign, license, or otherwise transfer any rights or obligations under this Agreement, and any attempt to transfer or any transfer purporting to have been validly executed shall be null and void. Company may transfer its rights and obligations under this Agreement in connection with an acquisition of Company, a merger of Company with or into another entity, a sale of Company's assets (including, without limitation, a sale of the business unit that provides the Service), or similar transactions.

20.2. **Notice.** All notices and other communications required or permitted under this Agreement shall be validly given if in writing and delivered personally, sent by certified or registered mail, sent by nationally recognized overnight courier, or sent by email, to the addresses set forth in the Order Form. Notice shall be effective (i) when delivered (or when delivery is refused), if personally delivered or delivered by a nationally recognized overnight courier, (ii) on the third business day following the date on which the piece of mail containing such communication is posted, if sent by certified or registered mail, or (iii) when sent, if sent by email during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day.

20.3. **Governing Law.** The laws of the state of California, excluding its conflicts of law rules that would cause the application of the laws of another state, govern this Agreement and Customer's use of the Service. Customer's use of the Service may also be subject to other local, state, national, or international laws. With respect to any disputes arising out of or related to this Agreement, the parties consent to the jurisdiction of, and venue in, the courts in Los Angeles County in the State of California.

20.4. **Waiver of Jury Trial.** Both Company and Customer hereby waive their right to trial by jury in connection with any dispute related to this Agreement.

- 20.5. **Non-Waiver of Rights.** Any waiver of the provisions of this Agreement by a party or its rights or remedies under this Agreement must be in writing. Any waiver is solely for the circumstances giving rise to it and does not constitute a waiver for future situations. The failure of any party to insist in any one or more cases upon the performance of any of the provisions, covenants, or conditions of this Agreement or to exercise any option herein contained shall not be construed as a waiver or relinquishment of such right including future situations relative of any such provisions, covenants, or conditions. The acceptance of performance of anything required by this Agreement to be performed with knowledge of the breach or failure of a covenant, condition, or provision hereof shall not be deemed a waiver of such breach or failure.
- 20.6. **Severability.** If any provision of this Agreement is declared or found to be illegal, unenforceable, or void, then each provision not so affected will be enforced to the extent permitted by law.
- 20.7. **Relationship of the Parties.** Company is an independent contractor. Nothing in this Agreement shall be construed in any way as to create a partnership, franchise, joint venture, agency, fiduciary, or other relationship between the parties.
- 20.8. **Entire Agreement; Amendment.** This Agreement and the Order Form constitute the entire agreement between the parties with respect to the subject matter thereof and supersedes all prior proposals, agreements, negotiations, correspondence and all other communications, whether written or oral, between Company and Customer. No amendment or modification of any provision hereof nor terms and conditions contrary to whatever is stipulated herein and purportedly shown on any other document shall be effective unless made in writing and signed by both Company and Customer.
- 20.9. **Titles and Headings.** The topical headings of the sections and subsections contained in this Agreement are for convenience only and do not define, limit or construe the contents of the paragraphs or this Agreement.