

Software License Agreement

THIS SOFTWARE LICENSE AGREEMENT (this “Agreement”) is by and between iEnterprises Holdings, LLC. (“Licensor”), a Delaware corporation, having its principal offices at 7 Susan Drive Chatham, New Jersey 07928 and the corporation or other legal entity identified on the Invoice (as defined below) (the “Licensee”).

1. Product and Effective Date.

This Agreement sets forth the terms and conditions pursuant to which Licensee may access and use the object code version of Licensor’s Connector for Email product and any additions, upgrades, updates or modifications thereto provided to Licensee hereunder (the “Product”). This Agreement is effective as of the first to occur of the downloading, installation or use of the Product by Licensee (the “Effective Date”).

2. Designated Equipment.

The Product may only be (i) hosted on sever-side equipment having the minimum configuration and specifications required by Licensor as in effect at the time Licensee obtains the Product and (ii) accessed from such equipment by certain personal computers and handheld devices and collectively with such server-side equipment, the “Designated Equipment”). Licensee hereby represents and warrants to Licensor that Licensee owns or has the valid license to use (for each user of the Product) any other software product necessary to use the Product provided hereunder.

3. Grant of License.

(a) Subject to Licensee's payment of any applicable Invoices (as defined below), Licensor grants to Licensee a worldwide, non-transferable and non-exclusive license to use the Product, during the Initial License Term (as defined below) and any Renewal License Terms (as defined below), solely for Licensee's own internal business purposes and solely on or in conjunction with the Designated Equipment. The license granted hereunder is further limited to the maximum number of discrete individual end-user employees of Licensee (each of which shall have a separate user name) stated on the paid Invoice (as defined below). For avoidance of doubt, the maximum number of individual end-users set forth on the Invoice is the maximum number of potential separate end-users of the Product at the Licensee, as opposed to the maximum number of concurrent users at any given time.

(b) The license to use the Product contained herein does not include the right to sub-license to any person or entity, nor does it include the right to act as a service bureau with respect to the Product or to use the Product to provide services to any other person, entity or business. Nothing contained in this Agreement grants to Licensee the right to sell, lease, assign or otherwise transfer or dispose of the Product, in whole or in part.

4. Use by Licensee Personnel Only.

Access to and use of the Product shall be limited to Licensee's authorized employees; provided, however, that Licensee may permit access to, and allow use of, the Product by independent contractors or consultants (collectively, "Contractors") to Licensee subject to the following restrictions (a) such access and use must be exclusively for and on behalf of Licensee; (b) any claim, demand or right of action arising on behalf of Contractor from the furnishing to it or use by it of the Product shall be solely against Licensee; (c) Contractor shall acknowledge in writing its agreement to be bound by the terms of this Agreement; (d) no copies of the server-side portions of the Product shall be provided to Contractor; and (e) when Contractor's work for Licensee is completed, all copies of the Product furnished to Contractor or made by Contractor shall be returned to Licensee or destroyed, including any copies stored in any computer memory or on storage media.

5. **Audit Rights.** Upon Licensor's written request, but not more frequently than once during any consecutive six (6) month period, Licensee shall furnish to Licensor a statement, certified by an authorized officer or senior manager of Licensee, listing the location, type and serial number, if applicable, of all Designated Equipment hereunder and stating that the use by Licensee of the Product has been reviewed by such officer or manager, and that each copy of the Product is being used solely on Designated Equipment and in full compliance with the provisions of this Software License Agreement. Licensor shall have the right to conduct inspections of, and Licensee shall provide Licensor with reasonable access to, Licensee's records and computer systems to ascertain the scope of use of the Product (including, without limitation, the number of users having access to the Product).

6. Initial License Term and Renewals.

(a) **Initial License Term.** Upon receipt of a written request from Licensee stating the maximum number of end-users for which Licensee desires to purchase a license to use the Product (and, if applicable, the right to receive Hosting Services (as defined below)) (the "**Request**"), Licensor will prepare and deliver to Licensee a non-binding fee quote (the "**Invoice**") for a license to the Product for a period of time set forth in the Invoice (or, if no specific term is set forth in the Invoice, for a period of one (1) year) (the "**Invoice Term**") (and, if applicable, the Hosting Services), which Invoice shall be based upon the maximum number of end-users listed by Licensee in the Request and which shall be non-transferable. Upon payment of the Invoice by Licensee, Licensor shall provide to Licensee the Product and a software key which will allow the Product to be used for the period that begins on the date of such software key is installed and ends at 5:00PM Eastern Time on the last day of the Invoice Term (the "**Initial License Term**").

(b) **Renewals.** If Licensee does not wish to extend the license granted hereunder beyond the Initial License Term or then-current Renewal License Term (as applicable), Licensee shall, at least thirty (30) days prior to the expiration of the Initial License Term or then-current Renewal License Term, provide Licensor written notice stating (i) that Licensee does not wish to renew this Agreement for an additional one (1) year period (a "**Renewal License Term**") . The parties acknowledge that to the extent Licensee's needs have changed, the maximum number of end-users stated in a Renewal may differ from the end-user count for the preceding Initial License Term or Renewal License Term (as applicable). Upon renewal, Licensor may, in its sole discretion, prepare and deliver to Licensee an Invoice for renewal of the license to the Product (and, if applicable, renewal of the Hosting Services) for such Renewal License Term, which Invoice shall be based upon Licensor's then-current fees and the maximum number of end-users listed by Licensee in the Renewal Request and which shall be non-transferable. Upon payment of such Invoice by Licensee, Licensor shall provide to Licensee a software key which will allow the Product to be used during the upcoming Renewal License Term (the "**Renewal Key**"). Licensee

acknowledges that its access to the Product will be automatically disabled if Licensee fails to install a Renewal Key on or before the expiration of the Initial License Term or then-current Renewal License Term, as applicable.

(c) Licensee shall pay any and all applicable taxes pertaining to the license, upgrade or maintenance and support of the Product hereunder, and any other services provided by Licensor to Licensee, excluding any taxes on the income of Licensor.

7. Support and Upgrades; Customization.

(a) Support and Upgrades. During the Initial License Term and any Renewal License Terms (collectively, the “Support Term”), Licensor shall, at no additional charge to Licensee and in accordance with the Support and Upgrade Terms annexed hereto as Exhibit A, provide (i) Support Services (as defined in Exhibit A) with respect to the Product only (excluding customization and other consulting services, which customization and other consulting services may be provided by Licensor to Licensee pursuant to subsection (b) of this Section 7) and (ii) any New Releases (as defined in Exhibit A) of the Product released during the Term.

(b) Customization. Should Licensee request that Licensor provide customization or other consulting services, such services shall be performed by Licensor in accordance with the terms of the Customization Supplement annexed hereto as Exhibit B, and Licensee agrees to be bound by such terms.

(c) Hosting. If Licensor has agreed in writing to provide, or cause to be provided, the Hosting Services (as defined in the Hosting Terms annexed hereto as Exhibit C) in accordance with the terms of Exhibit C, then such Hosting Services shall be provided, at no additional charge to Licensee, in accordance with the terms of Exhibit C hereto, and Licensee agrees to be bound by such terms.

8. Backup of Licensee Data.

Licensee shall be solely responsible for backing up any and all data recorded, stored, input or accessed in connection with its use of the Product.

9. Term and Termination.

(a) This term of this Agreement (the “Term”) shall commence on the Effective Date and shall continue until the expiration of the Initial License Term (and, if applicable, any Renewal License Terms), unless terminated earlier pursuant to this Section 9.

(b) Licensee may terminate this Agreement immediately upon written notice to Licensor, and Licensor shall have no obligation to refund any amounts paid to it under this Agreement. If the Licensee terminates this Agreement prior to the expiration of the Term, Licensee shall immediately pay to Licensor an early termination fee equal to one year of the fees payable hereunder (and under any Invoice) with respect to the Product and, if applicable, any hosting which had been provided by Licensor to Licensee with respect to the Product (in each case based on Licensor’s then current pricing schedule).

(c) Licensor may terminate this Agreement upon written notice to Licensee if Licensor has determined in its sole discretion that cause for termination exists (including, but not limited to, in the event Licensee breaches any of its obligations hereunder), and Licensor shall have no obligation to refund any amounts paid to it under this Agreement. Upon receiving such notice of termination, Licensee shall have thirty (30) days from the date of such notice to cure any alleged breach. In the event of any termination for breach pursuant to this Section 9(c), such termination shall be effective as of the thirty first (31st) day next succeeding the date of the written notice provided pursuant to this Section 9(c), unless such breach has been cured to Licensor's satisfaction before such date.

(d) Either of Licensor or Licensee may terminate this Agreement and the license granted hereunder if: (i) either party becomes insolvent or initiates a bankruptcy or receivership proceeding that is not dismissed within sixty (60) days after the filing thereof; or (ii) either party executes an assignment for the benefit of creditors or any other transfer or assignment of a similar nature. Each of Licensor and Licensee acknowledges and agrees that for the purposes of Title 11, Section 365(n) of the United States Bankruptcy Code, as amended (the "Code"), the rights licensed hereunder will be deemed to fall within the definition of "intellectual property" under Title 11, Section 101 of the Code. Licensor acknowledges that if Licensor as a debtor in possession or the trustee in bankruptcy in a case under the Code rejects this Agreement or any part hereof, Licensee may elect to retain such rights licensed under this Agreement as provided in Section 365(n) of the Code.

(e) Upon any termination or expiration of this Agreement, Licensee shall immediately discontinue use of and destroy all copies of the Product and any documentation provided therewith, and shall provide Licensor with a certificate of compliance with this Section 9(e) signed by an authorized officer or senior manager of Licensee. Licensor shall have the right to conduct post-termination inspections of Licensee's records and computer systems to ensure compliance with this Section 9(e).

10. Compliance with Export Restrictions; GDPR.

(a) The Product may be subject to U.S. export control laws and regulations, and may be subject to import or export laws and regulations in other countries, in each case as such laws and regulations may be amended from time to time. Licensee agrees to comply with all such laws and regulations and acknowledges that it has the responsibility to obtain any required licenses to export, re-export, or import software.

(b) As used in the Section, "Data Protection Law" means the General Data Protection Regulation ((EU) 2016/679) ("GDPR") and any laws, regulations and secondary legislation, as amended or updated from time to time, in the European Union relating to data protection; and any successor legislation thereto. Both parties will comply with all applicable requirements of the GDPR. This Section is in addition to, and does not relieve, remove or replace, a party's obligations under the GDPR.

(c) The parties acknowledge that for the purposes of the GDPR, the Licensee is the Data Controller and the Licensor is the Data Processor, as such terms are defined in the GDPR. Without prejudice to the generality of the above:

- i. the Licensee has (and shall maintain throughout the Term of this Agreement and thereafter) all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Licensor for or in relation to the purposes of this Agreement.
- ii. the Licensor shall, in relation to any Personal Data processed in connection with the performance by the Licensor of its obligations under this Agreement: (i) process that Personal Data only on the Licensee's written instructions unless the Licensor is required by the laws of any member of the European Union or by the laws of the European Union applicable to the Licensor to process Personal Data ("Applicable Laws"). Where the Licensor is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Licensor shall promptly notify the Licensee of same before performing the processing required by the Applicable Laws unless those Applicable Laws prohibit the Licensor from so notifying the Licensee; (ii) ensure that it has in place appropriate technical and organizational measures to protect against unauthorized or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorized or unlawful processing or accidental loss, destruction or damage and the nature of the Personal Data to be protected, having regard to the state of technological development and the cost of implementing any measures; (iii) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; (iv) not transfer any Personal Data outside of the European Economic Area unless the Licensee's prior written consent (such consent not to be unreasonably withheld or delayed) has been obtained and the following conditions are fulfilled: (A) the Licensee or the Licensor has provided appropriate safeguards in relation to the transfer; (B) the Data Subject has enforceable rights and effective legal remedies; (C) the Licensor complies with its obligations under the GDPR by providing an adequate level of protection to any Personal Data that is transferred; and (D) the Licensor complies with reasonable instructions notified to it in advance by the Licensee with respect to the processing of the Personal Data; (v) assist the Licensee, at the Licensee's cost, in responding to any request from a Data Subject (as defined in the GDPR) and in ensuring compliance with the Licensee's obligations under the GDPR; (vi) notify the Licensee without undue delay on becoming aware of a Personal Data breach; (vii) at the Licensee's written direction, delete or return Personal Data and copies thereof to the Licensee on the expiration or termination of

this Agreement unless required by Applicable Law to store the Personal Data.

- iii. The Licensee consents to the Licensor appointing any third-party processor of Personal Data under this Agreement. The Licensor confirms that it has entered or (as the case may be) will enter a written agreement with each third-party processor.

11. No Additional Services or Materials to be Provided.

Nothing contained in this Agreement shall be construed as an obligation upon Licensor or any other developer to furnish any person, including Licensee, with any assistance of any kind whatsoever (including, without limitation, installation or customization), or any information or documentation, other than the Product (nor any upgrade thereto) furnished to Licensor hereunder.

12. Intellectual Property Rights; Confidentiality.

(a) Licensee acknowledges and agrees that Licensor is the sole owner, except to the extent of any ownership rights of any third party, of all right, title and interest in and to the Product and each component thereof and upgrade thereto, any documentation provided with the Product, and all intellectual property and proprietary rights with respect thereto, including, without limitation, patent, copyright, trade secret, trademark and other proprietary rights, in and to the Product and each component thereof and such documentation, and to all modifications, including, without limitation, custom modifications (including, without limitation Customizations), to the Product or any upgrade thereto and each component thereof, whether made by or with the assistance of Licensee or any other person or entity, and any know-how, techniques, methodologies, equipment or processes used by Licensor, all registered trademarks, trademark applications, trademarks and service marks, tradenames, and URL registrations (collectively, the “IP Rights”). Licensee shall not obtain any intellectual property rights in or to the IP Rights, and Licensee shall not directly or indirectly challenge, or assist any other person or entity in challenging, Licensor’s right, title, and interest in or to the IP Rights. Licensee shall not

(i) alter, maintain, enhance or otherwise modify the Product or any upgrade thereto;

(ii) disassemble, decompile or reverse-engineer the Product or any upgrade thereto; nor

(iii) otherwise take express action to discover the equivalent of the Product or any upgrade thereto.

Licensee acknowledges and agrees that Licensor may electronically obtain, directly from the server-side portion of the Product resident on Licensee’s computer system, and maintain information regarding the identity of each person who downloads and/or uses the Product, and about the equipment on which they do so, and may use that information to verify identification information provided to Licensor by the Licensee and to provide

Licensee with information about the Product and other products. Licensee agrees that it will not use the Product or any upgrade thereto except as authorized herein and that Licensee will not make, have made or permit to be made any copies of such Product or any upgrade thereto except for use in connection with the Designated Equipment (including one backup copy in connection with such use). Each such copy shall contain any copyright notice, proprietary notice or notice giving credit to Licensor or another developer which appears on or in the Product or upgrade being copied.

(b) Licensee shall regard and preserve as confidential, all “Confidential Information” (as defined below) of Licensor. In maintaining the confidentiality of Confidential Information hereunder, Licensee agrees that it shall not, without first obtaining Licensor’s written consent, disclose or make available to any person, firm or enterprise, reproduce or transmit, or use for its own benefit (except in strict accordance with this Agreement) or the benefit of others, any such Confidential Information. Licensee agrees that its own use and/or distribution of Licensor’s Confidential Information shall be limited to Licensee’s own employees on a “need to know” basis only. At any time upon the request of Licensor, and in the event of termination of this Agreement, Licensee shall return, or destroy if so directed by Licensor, all Confidential Information of Licensor, including all copies thereof and notes and other materials incorporating such Confidential Information, whether in physical or electronic form. “Confidential Information” of Licensor shall include the source code of or relating to the Product, any upgrade, update or modification thereto, and any Customization, as well as all information exchanged hereunder, both specifically related to a project or work effort, as well as all other information related to the past, present and future plans, business activities, or technology systems of Licensor and/or its employees, customers, parent, suppliers, subsidiaries and affiliated companies, which may be obtained by Licensee as a result of this Agreement. Both parties acknowledge and agree that information shall not be considered “Confidential Information” only to the extent that such information is (i) already known to Licensee, free of any restrictions at the time it is obtained by Licensee; (ii) publicly disclosed through no wrongful act of Licensee; (iii) rightfully obtained by Licensee from a third party lawfully in possession of such information and not under any confidentiality obligation to Licensor; (iv) independently developed by Licensee without breach of any agreements or use of confidential, proprietary, trade secret and/or sensitive information disclosed to or obtained by Licensee from Licensor; or (v) required to be disclosed by federal, state or local laws or regulations, or upon request or ruling of any judicial or regulatory body, provided Licensee has given Licensor prompt prior written notice of such requirement, request or ruling. In addition to its own compliance with this Section 12, Licensee shall be responsible for the compliance with this Section 12 by each of its officers, directors, employees, independent contractors and agents.

13. Licensee’s Representations and Warranties.

As of the date hereof Licensee represents and warrants, and at all times during the Term Licensee shall be deemed to be continuously representing and warranting, to Licensor that: (i) if Licensee is a natural person, Licensee is of sound mind and legal age and is competent

to enter into this Agreement; (ii) if Licensee is not a natural person, Licensee is duly organized and validly existing under the applicable laws of the jurisdiction of its organization or formation, Licensee's acceptance of this Agreement and the performance of all obligations contemplated hereunder have been duly authorized by all necessary action of Licensee, and each person accepting this Agreement on Licensee's behalf has been duly authorized by Licensee to do so; and (iii) this Agreement constitutes Licensee's legal, valid and binding obligation, enforceable against Licensee in accordance with its terms.

14. Disclaimers and Limitations on Liability.

LICENSEE UNDERSTANDS AND AGREES THAT THE PRODUCT, ITS COMPONENTS, ANY NEW RELEASES, OTHER UPGRADES OR CUSTOMIZATIONS THERETO, ANY DOCUMENTATION OR OTHER MATERIALS PROVIDED HEREUNDER AND ANY SUPPORT SERVICES, PROFESSIONAL SERVICES AND HOSTING SERVICES, ARE PROVIDED "AS IS". LICENSOR SPECIFICALLY DISCLAIMS, WITHOUT LIMITATION, ALL WARRANTIES OF ANY KIND TO LICENSEE, WHETHER EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT OR ANY WARRANTIES ARISING FROM A COURSE OF PERFORMANCE, A COURSE OF DEALING OR TRADE USAGE. WITHOUT LIMITING THE GENERALITY OF THE PRECEDING SENTENCE, LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES WITH RESPECT TO THE IBM WEBSHERE® - EXPRESS RUNTIME COMPONENTS OF THE PRODUCTS OR ANY OTHER THIRD PARTY SOFTWARE INCORPORATED IN OR PROVIDED WITH THE PRODUCTS. LICENSOR SHALL HAVE NO LIABILITY WHATSOEVER FOR ANY CLAIMS THAT THE PRODUCT OR ANY NEW RELEASE, OTHER UPGRADE OR CUSTOMIZATION THERETO MEETS LICENSEE'S REQUIREMENTS OR BE UNINTERRUPTED, TIMELY, SECURE, COMPLETE, ACCURATE OR FREE FROM ERRORS OR DEFECTS. LICENSEE ACKNOWLEDGES THAT EQUIPMENT USED BY LICENSEE MAY NOT BE CAPABLE OF SUPPORTING CERTAIN FEATURES OF THE PRODUCT. LICENSEE HEREBY ACKNOWLEDGES THAT IT HAS NOT RELIED UPON ANY REPRESENTATIONS OR WARRANTIES MADE BY LICENSOR AND THAT LICENSOR MAKES NO REPRESENTATIONS OR WARRANTIES TO LICENSEE. **The parties hereto acknowledge that the limitations set forth in this 14 are integral to the amount of fees levied by Licensor hereunder, and that, were Licensor to assume any further liability other than as expressly set forth herein, such fees would of necessity be set substantially higher.** LICENSEE ACKNOWLEDGES AND AGREES THAT LICENSOR, ITS DIRECTORS, OFFICERS, EMPLOYEES AND AGENTS (COLLECTIVELY, THE "LICENSOR PARTIES") SHALL HAVE NO LIABILITY FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES (INCLUDING, BUT NOT LIMITED TO, LOSS OF PROFIT, LOST DATA, LOSS OF USE, BUSINESS INTERRUPTION, LOSS OF BUSINESS REPUTATION OR GOODWILL, COSTS OF SUBSTITUTE PRODUCTS OR SERVICES, OR DOWNTIME COSTS) SUFFERED BY LICENSEE OR ANY OTHER PERSON, EVEN IF A LICENSOR PARTY HAS BEEN PREVIOUSLY ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, THE AGGREGATE LIABILITY OF THE LICENSOR PARTIES FOR DAMAGES FOR ANY CAUSE WHATSOEVER RELATING TO OR ARISING OUT OF THIS AGREEMENT, THE PRODUCT ANY NEW

RELEASES, OTHER UPGRADES OR CUSTOMIZATIONS THERETO AND ANY SUPPORT SERVICES, PROFESSIONAL SERVICES OR HOSTING SERVICES, AND REGARDLESS OF THE FORM OF ACTION (INCLUDING, WITHOUT LIMITATION, ACTIONS IN CONTRACT OR TORT), SHALL BE LIMITED TO \$2,500.

15. Indemnification.

(a) Licensee shall defend, hold harmless and indemnify each Licensor Party from and against any claim, suit or proceeding brought by a third party against such Licensor Party to the extent that it is based on a claim arising, directly or indirectly, out of Licensee's use of the Product or any New Release, other upgrade or Customization thereto, or arising, directly or indirectly, out of the Support Services, Professional Services or Hosting Services, if any (a "Covered Proceeding"), and Licensee shall pay all costs incurred by and damages (including reasonable attorneys fees and disbursements) awarded against any Licensor Party with respect to Covered Proceedings. Licensor shall promptly notify Licensee in writing of any claim, suit or proceeding that Licensee may have obligations with respect to under this 15(a); provided, however, that any failure of Licensor to provide prompt written notice pursuant to this 15(a) shall excuse Licensee only to the extent that Licensee is materially prejudiced thereby.

(b) In the event that (i) the Product is held to infringe the rights of a third party and/or the use of the Product is enjoined or (ii) Licensor in its sole discretion concludes that the Product may be found to infringe the rights of a third party, Licensor will, if possible on commercially reasonable terms, at its own expense and option either: (x) procure for Licensee the right to continue to use the Product, (y) replace the infringing components of the Product with other components with the same or similar functionality, or (z) suitably modify the Product so that it is non-infringing. If Licensor determines that none of the foregoing options are available to Licensor on commercially reasonable terms, Licensor may terminate this Agreement immediately upon notice to Licensee and without further liability to Licensee, in which event Licensor shall refund to Licensee a pro rata portion of the fees paid hereunder by Licensee, such pro rata portion to be calculated based on the number of days that would have remained in the then-current Initial License Term or Renewal License Term (as applicable) had this Agreement not been terminated early.

16. Notices.

Unless otherwise specified herein, all notices or other communications required or permitted hereunder shall be in writing and shall be delivered personally, sent by certified, registered or express air mail, postage prepaid, or sent by overnight courier and shall be deemed given (i) when so delivered personally, (ii) if mailed, sent by overnight courier, or sent electronically, upon actual receipt, (x) if to Licensor, at 11 South Passaic Ave, Chatham, New Jersey 07928, and (y) if to Licensee, at the address provided by Licensee when registering with Licensor to gain access to the Product.

17. Entire Agreement.

This Agreement and the Exhibits and annexes hereto constitutes the entire agreement between the parties with respect to the matters covered hereby and supersedes all previous written, oral or implied understandings between them with respect to such matters.

18. No Assignment.

Licensee shall not assign this Agreement in any manner without the prior, written consent of Licensor, and any attempted assignment in violation of this 18 shall be null and void. Licensor may assign this Agreement to any affiliate of Licensor or to another person or entity in connection with the transfer of all or part of Licensor's assets or business. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, permitted assigns and legal representatives.

19. Relationship of Licensor and Licensee; Non-Solicitation/Non-Hire.

(a) The parties to this Agreement are independent contractors as to one another. Neither party hereto is an agent, representative or partner of the other party. Neither party shall have any right, power or authority to enter into any agreement for, or on behalf of, or incur any obligation or liability of, or to otherwise bind, the other party. This Agreement shall not be interpreted or construed to create an association, agency, joint venture or partnership between the parties or to impose any liability attributable to such a relationship upon either party. Licensor may disclose that Licensee is a customer of Licensor and may use Licensee's name and trade names in any publication, advertisement or promotional material.

(b) For a period commencing on the date hereof and lasting until the date that is eighteen (18) months following the last date of the Term, the Licensee shall not, without the prior, written permission of Licensor, solicit, hire or otherwise directly or indirectly engage the services of any person who is an employee of, or any person or entity which is otherwise being utilized as a consultant or contractor, by Licensor, including, without limitation any such person or entity that provides Professional Services hereunder.

20. Severability.

The invalidity of any portion hereof shall not affect the validity, force or effect of the remaining portions hereof. If it is ever held that any restriction hereunder is too broad to permit enforcement of such restriction to its fullest extent, such restriction shall be enforced to the maximum extent permitted by law.

21. No Waiver; Remedies Cumulative.

No failure or delay in exercising any right or remedy hereunder operates as a waiver thereof. No single or partial exercise of any right or remedy hereunder precludes any other or further exercise of any right or remedy hereunder. Except as expressly provided herein,

the exercise of any right or remedy hereunder does not preclude the simultaneous or later exercise of any other rights or remedies available at law or in equity.

22. Injunctive Relief.

In the event of a violation or threatened violation by Licensee of Section 3, Section 4, Section 5, Section 10, Section 12 or Section 13 hereof, Licensor shall have the right, in addition to such other remedies as may be available pursuant to law or this Agreement, to injunctive (including preliminary and permanent injunctions and temporary restraining orders) or declaratory relief enjoining such act or threatened act. Licensee hereby acknowledges that legal remedies for such violation or threatened violation are inadequate. Licensor shall not be required to post a bond in connection with any injunctive or declaratory relief.

23. Governing Law; Jurisdiction; Venue.

This Agreement and all matters arising herefrom or with respect hereto or from or with respect to Licensee's access to or use of the Product, including, without limitation, tort claims (the "Covered Matters") shall be governed by, and construed in accordance with, the internal laws of the State of New Jersey, without reference to the choice of law principles thereof. Each of the parties hereto irrevocably submits to the exclusive jurisdiction of the courts of the State of New Jersey and the United States District Court for the District of New Jersey for the purpose of any suit, action, proceeding or judgment relating to or arising out of the Covered Matters. Service of process in connection with any such suit, action or proceeding may be served on each party hereto anywhere in the world by the same methods as are specified for the giving of notices under this Agreement. Each of the parties hereto irrevocably consents to the jurisdiction of any such court in any such suit, action or proceeding and to the laying of venue in such court. Each party hereto irrevocably waives any objection to the laying of venue of any such suit, action or proceeding brought in such courts and irrevocably waives any claim that any such suit, action or proceeding brought in any such court has been brought in an inconvenient forum.

24. Survival of Certain Sections.

Section 5, 12, Section 13, 14, 15, 16, 17, 19, 20, 21, 22, 23, 24 and 25 hereof shall survive the expiration, termination and/or completion of this Agreement.

25. Titles and Headings.

The titles and headings in this Agreement are for reference purposes only, and shall not in any way affect the meaning or interpretation of this Agreement.

EXHIBIT A

Support and Upgrade Terms

Capitalized terms not expressly defined in these Support and Upgrade Terms shall have the meanings ascribed thereto in the Software License Agreement to which these Support and Upgrade Terms are attached.

Section A.1. Support Services; Licensee's Point of Contact.

(a) During the Support Term, Licensor shall provide to Licensee the Support Services (as defined below).

“Support Services” means Licensor shall provide to Licensee's Point of Contact (as defined below), during the Support Term and only with respect to the Product (exclusive of any Customizations thereto, Professional Services provided by Licensor with respect thereto, and any modifications or alterations made to such Product by any third party) licensed by Licensee pursuant to the Agreement, and any “New Release” (as defined below), technical support in accordance with written Support Policies and Procedures to be provided by Licensor to Licensee (the “Support Policies”). Licensor shall not be required to provide support other than pursuant to the support described in the Support Policies.

(b) Licensee shall designate to Licensor, in writing, the name and contact information for an individual employee of Licensee who shall act as the single point of contact with respect to the Support Services (such individual, the “Point of Contact”) and a back-up Point of Contact. Licensee may change the Point of Contact at any time during the Support Term upon ten (10) days' prior, written notice to Licensor of such change and designating a new Point of Contact (and providing contact information therefor). Licensor is entitled to rely upon all instructions, requests and information given by the Point of Contact, without any further inquiry into the Point of Contact's actual authority, and without any liability to Licensee therefor.

Section A.2. Upgrades.

During the Support Term, Licensor shall make available to Licensee, within thirty (30) days of making any New Release generally available to its customers, such New Release. For the purposes of these Support and Upgrade Terms, a “New Release” is a new version of the Product licensed by Licensee pursuant to the Agreement, which new version is made generally available to customers of Licensor. Licensee acknowledges that Licensor in its sole and absolute discretion will determine whether a particular added functionality to the Product will be provided as a New Release or instead provided at an additional charge. Licensee is solely responsible for purchasing the required hardware and/or third-party software if a New Release requires upgrades to Licensee's existing hardware and software. Licensee is solely responsible for the costs of installing and customizing and New Release, which services may be made available by Licensor pursuant to the Customization Supplement to the Agreement.

Section A.3. **Limitations and Disclaimers.**

These Support and Upgrade Terms do not cover, and Licensor shall have no responsibility to correct, failures, errors, and problems that result from any relocation, accident, neglect, misuse, abuse, exposure to environmental conditions outside those specified by Licensor, or fire, flood, act of war or terrorism, sabotage or act of God. These Support and Upgrade Terms do not cover Customizations and Professional Services, any customizations or software developed by parties other than Licensor, or any Product modified or altered by Licensee, Licensor, or any other party. Support for Customizations shall be available pursuant to the Customization Supplement to the Agreement. In the event Licensee, Licensor or any other party, makes any modifications or alterations to the Product, other than functions related to normal system administration, then Support Services for the affected Product will be suspended immediately and further support of such Product shall be available only at Licensor' sole discretion, and then only pursuant to the Customization Supplement to the Agreement. Licensee shall reimburse Licensor, at its standard rates, for the time, materials, travel expenses, and other resources that Licensor expends to diagnose or attempt to correct any malfunctions or problems not covered by these Support and Upgrade Terms, whether on-site or remotely. In addition, Licensee is solely responsible for procuring, installing, and maintaining all equipment, telephone lines, communication interfaces, and other hardware and non-Licensor software needed to operate the Product. Without limiting any of the foregoing, Licensor has no support, error correction, problem resolution or other obligations with respect to any 3rd party social media service or service used by Licensee in connection with its use of the Products. Support Services only apply to the most current release of any Product and Licensor assumes no responsibility for the use of superseded, outdated, or uncorrected releases.

EXHIBIT B

Customization Supplement

Capitalized terms not expressly defined in this Customization Supplement shall have the meanings ascribed thereto in the Social Smart™ Software License Agreement to which this Customization Supplement is attached.

B.1 “**Customizations**” means any software application programs, programming routines or subroutines developed by Licensor for Licensee, at Licensee’s request, to meet specifications provided by Licensee.

B.2 “**Professional Services**” means, collectively, the development of Customizations, importation and/or conversion of Licensee’s data, application development, custom modifications, integration, hardware and software installation and testing, project management, implementation consulting, and training, whether at Licensor’s location, Licensee’s location, or otherwise. Professional Services do not include Support Services (as defined in the Support and Upgrade Terms annexed to the Agreement).

B.3. Upon Licensee’s request, Licensor may, at its sole option and in its sole discretion, provide Professional Services to Licensee. At Licensor’s sole discretion, Professional Services shall be provided either (a) on a time and materials basis using Licensor’s prevailing time and material rates plus travel expenses and other related costs or (b) for a flat fee determined by Licensor. Except when Licensor is charging a flat fee for Professional Services, Licensor will invoice Licensee based upon the actual travel hours to and from Licensee’s location. Freight, in-transit insurance costs, travel and other related costs are additional charges and will be added to the invoice or invoiced separately. For Professional Services for which Licensor has determined to charge a flat fee: (i) Licensee shall pay fifty (50%) percent of the flat fee prior to the commencement by Licensor of the Professional Services, twenty five (25%) percent of the flat fee upon delivery of the Customization and the remaining twenty five (25%) percent within thirty (30) days of delivery of the Customization; (ii) Licensee shall be deemed to have irrevocably accepted the Professional Services at 5:00 p.m. EST on the thirtieth (30th) day following the delivery of the Customization to Licensee unless Licensee gives written notice of rejection to Licensor prior to 5:00 p.m. EST on the thirtieth (30th) day following delivery of the Customization to Licensee; and (iii) after acceptance or deemed acceptance of a Customization, any and all additional Professional Services provided with respect to such Customization shall (A) be at the sole discretion of Licensor and (B) be charged for on a time and materials basis.

B.4 Licensee shall pay any invoice rendered with respect to the Professional Services, in full, within thirty (30) days of receipt thereof. Any invoiced amount which is not paid within thirty (30) days after receipt of such invoice by Licensee shall be increased by a late charge equal to 1.5% for each month (or portion thereof) in which such invoiced amount is due and not paid.

B.5. Any requested Customizations will be developed pursuant to written specifications provided by Licensee or developed by Licensor and approved by Licensee.

B.6. When Professional Services are provided on a time and materials basis, any estimate of fees provided by Licensor to Licensee is an estimate only and actual costs and fees may vary significantly from the costs and fees specified therein, and in all cases are subject to change if project scope, Licensee project resources, Licensee project schedule, hardware and software environment or any other relevant factors change beyond the scope of those originally anticipated.

B.7. Delivery of any Customization or other product included within the Professional Services provided hereunder will be F.O.B. Licensor's point of shipment. Delivery date estimates will be provided upon Licensor's receipt of final specifications from Licensee.

B.8. Any installation by Licensee shall be performed in accordance with Licensor's installation instructions. Licensee shall be deemed to have accepted any Customization or Professional Service upon receipt thereof.

B.9. Licensor shall own all intellectual property rights with respect to any Customization, subject to the grant by Licensor to Licensee of a royalty free, perpetual right and license to use such Customization in its business operations.

B.10. In addition to, and not in lieu of, any similar non-solicitation or non-hire obligation contained in the Software License Agreement, for a period of eighteen (18) months following the last date on which Licensor provided Professional Services to Licensee, Licensee shall not, without the prior, written permission of Licensor, solicit, hire or otherwise engage the services of any person who is an employee of or is otherwise being utilized as a consultant or contractor by Licensor.

B.11. Licensee may terminate any or all Professional Services upon fifteen (15) days prior written notice to Licensor. Upon receipt of such notice, Licensor will inform Licensee of the extent to which Professional Services have been completed through such date. Licensee shall pay Licensor for all Professional Services performed through the date of termination, provided that such payment shall not be greater than the payment that would have become due if the Professional Services had been completed. Upon receipt of payment for all amounts due through the date of such termination, Licensor will then collect and deliver to Licensee whatever related work product exists.

B.12. Licensor shall not be liable for any failure or delay caused by events beyond its control, including, without limitation, sabotage, terrorism, acts of war, failures or delays in transportation or communications, labor disputes, accidents, shortages of labor, fuel, raw materials or equipment, other actions or inactions of third parties, acts of God, or technical failures. If Licensor should fail to make any delivery provided for herein as a result of any such event or circumstance beyond its own direct control, Licensor shall have the right to make delivery within a reasonable time after the cause of such delay has been removed, and Licensee shall be obligated to accept deferred delivery.

EXHIBIT C

Hosting Terms

Capitalized terms not expressly defined in these Hosting Terms shall have the meanings ascribed thereto in the Software License Agreement to which these Hosting Terms are attached. Hosting Service are being provided by Licensor hereunder under the following terms:

C.1. **“Hosting Services”** means the hosting of the server-side components of the Product by Licensor, or by a third party provider selected by Licensor at its option and in its sole discretion (the **“Third Party Provider”**), such that the Product is available, in accordance with these Hosting Terms, to be accessed by end-users licensed pursuant to the Agreement. The parties acknowledge that the provision of the Hosting Services is expressly subject to the limitations of liability, disclaimers, indemnities and other terms and conditions set forth in the Agreement.

C.2 **Term.** The Hosting Services will be provided for the term stated on the applicable Invoice. Notwithstanding anything to the contrary, in no event shall the term of the Hosting Services extend beyond the Term of the Agreement.

C.3 **Service Levels and Support.**

(a) Licensor may at its sole option and discretion either provide the Hosting Services itself, or subcontract the Hosting Services to a Third Party Provider. Licensor will provide Licensee with a written document describing certain service levels, policies and procedures applicable to the Hosting Services (the **“Hosting Service Level Description”**).

(b) In the event that the Hosting Services are subcontracted to a Third Party Provider: (i) Licensor will, subject to the terms and conditions of the Hosting Service Level Description, pass through to Licensee the benefit of any support and service level commitments made by the Third Party Provider and described in the Hosting Service Level Description and (ii) Licensee will contact the Third Party Provider directly with respect to any Hosting Services support issues. Notwithstanding anything to the contrary, if the Hosting Services are subcontracted to a Third Party Provider, Licensor in no event will have any obligation, responsibility or liability to Licensee with respect to the Hosting Services other than as expressly set forth in this Section C.3(b).

(c) In the event that Licensor provides the Hosting Services itself (and does not subcontract the Hosting Services to a Third Party Provider), such Hosting Services will be provided in accordance with, and subject to, the terms and conditions of the Hosting Service Level Description.