

DATA PROCESSING AGREEMENT

DATA PROCESSING AGREEMENT/ADDENDUM

This Data Processing Agreement (“**DPA**”) is made and entered into as of this ____ day of ____, 2020 forms part of the Authomize Agreement (the “**Agreement**”). You acknowledge that you, on behalf of [_____] incorporated under _____ law, with its principal offices located at _____ (“**Organization**”) (collectively, “**You**”, “**Your**”, “**Client**”, or “**Data Controller**”) have read and understood and agree to comply with this DPA, and are entering into a binding legal agreement with Authomize as defined below (“**Authomize**”, “**Us**”, “**We**”, “**Our**”, “**Service Provider**” or “**Data Processor**”) to reflect the parties’ agreement with regard to the Processing of Personal Data (as such terms are defined below) of GDPR-protected individuals. Both parties shall be referred to as the “**Parties**” and each, a “**Party**”.

WHEREAS, Authomize shall provide the services set forth in the Agreement (collectively, the “**Services**”) for Client, as described in the Agreement; and

WHEREAS, In the course of providing the Services pursuant to the Agreement, we may process Personal Data on your behalf, in the capacity of a “**Data Processor**”; and the Parties wish to set forth the arrangements concerning the processing of Personal Data (defined below) within the context of the Services and agree to comply with the following provisions with respect to any Personal Data, each acting reasonably and in good faith.

NOW THEREFORE, in consideration of the mutual promises set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the Parties, the parties, intending to be legally bound, agree as follows:

1. 1. INTERPRETATION AND DEFINITIONS

1. 1.1 The headings contained in this DPA are for convenience only and shall not be interpreted to limit or otherwise affect the provisions of this DPA.

2. 1.2 References to clauses or sections are references to the clauses or sections of this DPA unless otherwise stated.

3. 1.3 Words used in the singular include the plural and vice versa, as the context may require.

4. 1.4 Capitalized terms not defined herein shall have the meanings assigned to such terms in the Agreement.

5. 1.5 Definitions:

a. (a) “**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “**Control**”, for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

b. (b) “**Authomize**” means the relevant Authomize entity of the following Authomize legal entities: Authomize Ltd.

c. (c) “**Authomize Group**” means Authomize and its Affiliates engaged in the Processing of Personal Data.

d. (d) “**Authorized Affiliate**” means any of Client’s Affiliate(s) which (a) is subject to the Data Protection Laws And Regulations of the European Union, the European Economic Area and/or their member states, Switzerland and/or the United Kingdom, and (b) is permitted to use the Services pursuant to the Agreement between Client and Authomize, but has not signed its own agreement with Authomize and is not a “**Client**” as defined under the Agreement.

e. (e) “**Controller**” or “**Data Controller**” means the entity which determines the purposes and means of the Processing of Personal Data. For the purposes of this DPA only, and except where indicated otherwise, the term “Data Controller” shall include yourself, the Organization and/or the Organization’s Authorized Affiliates.

f. (f) “**Data Protection Laws and Regulations**” means all laws and regulations of the European Union, the European Economic Area and their Member States, and the United Kingdom, applicable to the Processing of Personal Data under the Agreement.

g. (g) “**Data Subject**” means the identified or identifiable person to whom the Personal Data relates.

h. (h) “**Member State**” means a country that belongs to the European Union and/or the European Economic Area. “**Union**” means the European Union.

i. (i) “**GDPR**” means the Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation).

j. (j) “**Personal Data**” means any information relating to an identified or identifiable natural person; an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.

k. (k) “**Process(ing)**” means any operation or set of operations which is performed upon Personal Data, whether or not by automatic means, such as collection, recording, organization, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

l. (L) “**Processor**” or “**Data Processor**” means the entity which Processes Personal Data on behalf of the Controller.

m. (m) “**Security Documentation**” means the Security Documentation applicable to the specific Services purchased by Client, as updated from time to time. Client shall send a request to privacy@authomize.com to receive a copy of the Security Documentation.

n. (n) “**Sub-processor**” means any Processor engaged by Authomize and/or Authomize Affiliate.

o. (o) “**Supervisory Authority**” means an independent public authority which is established by an EU Member State pursuant to the GDPR.

2. 2. PROCESSING OF PERSONAL DATA

1. 2.1 Roles of the Parties. The Parties acknowledge and agree that with regard to the Processing of Personal Data, (i) Client is the Data Controller, (ii) Authomize is the Data Processor and that (iii) Authomize or members of the Authomize Group may engage Sub-processors pursuant to the requirements set forth in Section 5 “Sub-processors” below.

2. 2.2 Client’s Processing of Personal Data. Client shall, in its use of the Services, Process Personal Data in accordance with the requirements of Data Protection Laws and Regulations and comply at all times with the obligations applicable to data controllers (including, without limitation, Article 24 of the GDPR). For the avoidance of doubt, Client’s instructions for the Processing of Personal Data shall comply with Data Protection Laws and Regulations. Client shall have sole responsibility for the means by which Client acquired Personal Data. Without limitation, Client shall comply with any and all transparency-related obligations (including, without limitation, displaying any and all relevant and required privacy notices or policies) and shall have any and all required legal bases in order to collect, Process and transfer to Authomize the Personal Data and to authorize the Processing by Authomize of the Personal Data which is authorized in this DPA. Client shall defend, hold harmless and indemnify Authomize, its Affiliates and subsidiaries (including without limitation their directors, officers, agents, subcontractors and/or employees) from and against any liability of

any kind related to any breach, violation or infringement by Client and/or its authorized users of any Data Protection Laws and Regulations and/or this DPA and/or this Section.

3. 2.3 Authomize's Processing of Personal Data.

1. **2.3.1** Subject to the Agreement, Authomize shall Process Personal Data only in accordance with Client's documented instructions as necessary for the performance of the Services and for the performance of the Agreement and this DPA, unless required to otherwise by Union or Member State law or any other applicable law to which Authomize and its Affiliates are subject, in which case, Authomize shall inform the Client of the legal requirement before processing, unless that law prohibits such information on important grounds of public interest. The duration of the Processing, the nature and purposes of the Processing, as well as the types of Personal Data Processed and categories of Data Subjects under this DPA are further specified in **Schedule 1** (Details of the Processing) to this DPA.

2. **2.3.2** To the extent that Authomize or its Affiliates cannot comply with a request (including, without limitation, any instruction, direction, code of conduct, certification, or change of any kind) from Client and/or its authorized users relating to Processing of Personal Data or where Authomize considers such a request to be unlawful, Authomize (i) shall inform Client, providing relevant details of the problem, (ii) Authomize may, without any kind of liability towards Client, temporarily cease all Processing of the affected Personal Data (other than securely storing those data), and (iii) if the Parties do not agree on a resolution to the issue in question and the costs thereof, each Party may, as its sole remedy, terminate the Agreement and this DPA with respect to the affected Processing, and Client shall pay to Authomize all the amounts owed to Authomize or due before the date of termination. Client will have no further claims against Authomize (including, without limitation, requesting refunds for Services) due to the termination of the Agreement and/or the DPA in the situation described in this paragraph (excluding the obligations relating to the termination of this DPA set forth below).

3. **2.3.3** Authomize will not be liable in the event of any claim brought by a third party, including, without limitation, a Data Subject, arising from any act or omission of Authomize, to the extent that such is a result of Client's instructions.

4. **2.3.4** If Client provides Authomize or any of the entities of the Authomize Group with instructions, requests, suggestions, comments or feedback (whether orally or in writing) with respect to the Services, Client acknowledges that any and all rights, including intellectual property rights, therein shall belong exclusively to Authomize and that such shall be considered Authomize's intellectual property without restrictions or limitations of any kind, and Client hereby irrevocably and fully transfers and assigns to Authomize any and all rights including, without limitation, intellectual property rights therein and waives any and all moral rights that Client may have in respect thereto.

3. 3. RIGHTS OF DATA SUBJECTS

If Authomize receives a request from a Data Subject to exercise its right to be informed, right of access, right to rectification, erasure, restriction of Processing, data portability, right to object, or its right not to be subject to a decision solely based on automated processing, including profiling ("**Data Subject Request**"), Authomize shall, to the extent legally permitted, promptly notify and forward such Data Subject Request to Client. Taking into account the nature of the Processing, Authomize shall use commercially reasonable efforts to assist Client by appropriate technical and organizational measures, insofar as this is possible, for the fulfilment of Client's obligation to respond to a Data Subject Request under Data Protection Laws and Regulations. To the extent legally permitted, Client shall be responsible for any costs arising from Authomize's provision of such assistance.

4. 4. AUTHOMIZE PERSONNEL

1. **4.1 Confidentiality.** Authomize shall grant access to the Personal Data to persons under its authority (including, without limitation, its personnel) only on a need to know basis and ensure that such persons engaged in the Processing of Personal Data have committed themselves to confidentiality.

2. **4.2** Authomize may disclose and Process the Personal Data (a) as permitted hereunder (b) to the extent required by a court of competent jurisdiction or other Supervisory Authority

and/or otherwise as required by applicable laws or applicable Data Protection Laws and Regulations (in such a case, Authomize shall inform the Client of the legal requirement before the disclosure, unless that law prohibits such information on important grounds of public interest), or (c) on a “need-to-know” basis under an obligation of confidentiality to legal counsel(s), data protection advisor(s), accountant(s), investors or potential acquirers.

5. 5. AUTHORIZATION REGARDING SUB-PROCESSORS

1. **5.1.1** Authomize’s current list of Sub-processors is included in Schedule 2 (“**Sub-processor List**”) and is hereby approved by Data Controller. The Sub-processor List as of the date of execution of this DPA is hereby authorized by Client. Client may reasonably object for reasons related to the GDPR to Authomize’s use of an existing Sub-processor by providing a written objection to privacy@authomize.com. In the event Client reasonably objects to an existing Sub-processor, as permitted in the preceding sentences, and the parties do not find a solution in good faith to the issue in question, then Client may, as a sole remedy, terminate the applicable Agreement and this DPA with respect only to those Services which cannot be provided by Authomize without the use of the objected-to Sub-processor by providing written notice to Authomize provided that all amounts due under the Agreement before the termination date with respect to the Processing at issue shall be duly paid to Authomize. Client will have no further claims against Authomize due to (i) past use of approved Sub-processors prior to the date of objection or (ii) the termination of the Agreement (including, without limitation, requesting refunds) and the DPA in the situation described in this paragraph.

2. **5.1.2** Client shall send an email to privacy@authomize.com with the subject SUBSCRIPTION TO SUB-PROCESSORS NOTIFICATION, to subscribe to notifications of new Sub-processors, and if Client subscribes, Authomize shall provide notification of any new Sub-processor(s) before authorizing such new Sub-processor(s) to Process Personal Data in connection with the provision of the Services.

2. **5.2 Objection Right for New Sub-processors.** Client may reasonably object to Authomize’s use of a new Sub-processor for reasons related to the GDPR by notifying Authomize promptly in writing within three (3) business days after receipt of Authomize’s notice in accordance with the mechanism set out in Section 5.1.2 and such written objection shall include the reasons related to the GDPR for objecting to Authomize’s use of such new Sub-processor. Failure to object to such new Sub-processor in writing within three (3) business days following Authomize’s notice shall be deemed as acceptance of the new Sub-Processor. In the event Client reasonably objects to a new Sub-processor, as permitted in the preceding sentences, Authomize will use reasonable efforts to make available to Client a change in the Services or recommend a commercially reasonable change to Client’s use of the Services to avoid Processing of Personal Data by the objected-to new Sub-processor without unreasonably burdening the Client. If Authomize is unable to make available such change within a reasonable period of time, which shall not exceed thirty (30) days, Client may, as a sole remedy, terminate the applicable Agreement and this DPA with respect only to those Services which cannot be provided by Authomize without the use of the objected-to new Sub-processor by providing written notice to Authomize provided that all amounts due under the Agreement before the termination date with respect to the Processing at issue shall be duly paid to Authomize. Until a decision is made regarding the new Sub-processor, Authomize may temporarily suspend the Processing of the affected Personal Data. Client will have no further claims against Authomize due to the termination of the Agreement (including, without limitation, requesting refunds) and/or the DPA in the situation described in this paragraph.

3. **5.3 Agreements with Sub-processors.** In accordance with Articles 28.7 and 28.8 of the GDPR, if and when the European Commission lays down the standard contractual clauses referred to in such Article, the Parties may revise this DPA in good faith to adjust it to such standard contractual clauses.

6. 6. SECURITY

1. **6.1 Controls for the Protection of Personal Data.** Taking into account the state of the art, Authomize shall maintain all industry-standard technical and organizational measures required pursuant to Article 32 of the GDPR for protection of the security (including protection against unauthorized or unlawful Processing and against accidental or unlawful destruction, loss or alteration or damage, unauthorized disclosure of, or access to, Personal Data), confidentiality and integrity of Personal Data, as set forth in the Security

Documentation which are hereby approved by Client. Upon the Client's request, Authomize will use commercially reasonable efforts to assist Client, at Client's cost, in ensuring compliance with the obligations pursuant to Articles 32 to 36 of the GDPR taking into account the nature of the processing, the state of the art, the costs of implementation, the scope, the context, the purposes of the Processing and the information available to Authomize.

2. 6.2 Third-Party Certifications and Audits. Upon Client's written request at reasonable intervals, and subject to the confidentiality obligations set forth in the Agreement and this DPA, Authomize shall make available to Client that is not a competitor of Authomize (or Client's independent, third-party auditor that is not a competitor of Authomize) all information that is necessary to demonstrate compliance with the obligations laid down in this DPA (provided, however, that such information shall only be used by Client to assess compliance with this DPA, and shall not be used for any other purpose or disclosed to any third party without Authomize 's prior written approval and, upon Authomize 's first request, Client shall return all records or documentation in Client's possession or control provided by Authomize in the context of this section). At Client's cost and expense, Authomize shall allow for and contribute to audits, including inspections of Authomize 's, conducted by the controller or another auditor mandated by the controller (who is not a direct or indirect competitor of Authomize) provided that the parties shall agree on the scope, methodology, timing and conditions of such audits and inspections. Notwithstanding anything to the contrary, such audits and/or inspections shall not contain any information, including without limitation, personal data that does not belong to Client.

7. 7. PERSONAL DATA INCIDENT MANAGEMENT AND NOTIFICATION

To the extent required under applicable Data Protection Laws and Regulations, Authomize shall notify Client without undue delay after becoming aware of the accidental or unlawful destruction, loss, alteration, unauthorized disclosure of, or access to Personal Data, including Personal Data, transmitted, stored or otherwise Processed by Authomize or its Sub-processors of which Authomize becomes aware (a "Personal Data Incident").

Authomize shall make reasonable efforts to identify the cause of such Personal Data Incident and take those steps as Authomize deems necessary, possible and reasonable in order to remediate the cause of such a Personal Data Incident to the extent the remediation is within Authomize's reasonable control. The obligations herein shall not apply to incidents that are caused by Client or Client's users. In any event, Client will be the party responsible for notifying supervisory authorities and/or concerned data subjects (where required by Data Protection Laws and Regulations).

8. 8. RETURN AND DELETION OF PERSONAL DATA

Subject to the Agreement, Authomize shall, at the choice of Client, delete or return the Personal Data to Client after the end of the provision of the Services relating to processing, and shall delete existing copies unless applicable law requires storage of the Personal Data. In any event, to the extent required or allowed by applicable law, Authomize may retain one copy of the Personal Data for evidence purposes and/or for the establishment, exercise or defence of legal claims and/or to comply with applicable laws and regulations. If the Client requests the Personal Data to be returned, the Personal Data shall be returned in the format generally available for Authomize's Clients.

9. 9. AUTHORIZED AFFILIATES

1. 9.1 Contractual Relationship. The Parties acknowledge and agree that, by executing the DPA, the Client enters into the DPA on behalf of itself and, as applicable, in the name and on behalf of its Authorized Affiliates, thereby establishing a separate DPA between Authomize. Each Authorized Affiliate agrees to be bound by the obligations under this DPA. All access to and use of the Services by Authorized Affiliates must comply with the terms and conditions of the Agreement and this DPA and any violation of the terms and conditions therein by an Authorized Affiliate shall be deemed a violation by Client.

2. 9.2 Communication. The Client shall remain responsible for coordinating all communication with Authomize under the Agreement and this DPA and shall be entitled to make and receive any communication in relation to this DPA on behalf of its Authorized Affiliates.

10. 10. TRANSFERS OF DATA

1. 10.1 Transfers to countries that offer adequate level of data protection. Personal Data may be transferred from the EU Member States, the three EEA member countries (Norway,

Liechtenstein and Iceland) and the United Kingdom (collectively, “EEA”) to countries that offer adequate level of data protection under or pursuant to the adequacy decisions published by the relevant data protection authorities of the EEA, the Union, the Member States or the European Commission (“Adequacy Decisions”), without any further safeguard being necessary.

2. 10.2 Transfers to other countries. If the Processing of Personal Data includes transfers from the EEA to countries outside the EEA which do not offer adequate level of data protection or which have not been subject to an Adequacy Decision (“Other Countries”), the Parties shall comply with Chapter V of the GDPR, including, if necessary, executing the standard data protection clauses adopted by the relevant data protection authorities of the EEA, the Union, the Member States or the European Commission or comply with any of the other mechanisms provided for in the GDPR for transferring Personal Data to such Other Countries.

11. 11. TERMINATION

This DPA shall automatically terminate upon the termination or expiration of the Agreement under which the Services are provided. Sections 2.2, 2.3.3, 2.3.4 and 12 shall survive the termination or expiration of this DPA for any reason. This DPA cannot, in principle, be terminated separately to the Agreement, except where the Processing ends before the termination of the Agreement, in which case, this DPA shall automatically terminate.

12. 12. RELATIONSHIP WITH AGREEMENT

In the event of any conflict between the provisions of this DPA and the provisions of the Agreement, the provisions of this DPA shall prevail over the conflicting provisions of the Agreement.

Notwithstanding anything to the contrary in the Agreement and/or in any agreement between the parties and to the maximum extent permitted by law: (A) Authomize’s (including Authomize’s Affiliates’) entire, total and aggregate liability, related to personal data or information, privacy, or for breach of, this DPA and/or Data Protection Laws and Regulations, including, without limitation, if any, any indemnification obligation under the Agreement or applicable law regarding data protection or privacy, shall be limited to the amounts paid to Authomize under the Agreement within twelve (12) months preceding the event that gave rise to the claim. This limitation of liability is cumulative and not per incident; (B) In no event will Authomize and/or Authomize Affiliates and/or their third-party providers, be liable under, or otherwise in connection with this DPA for: (i) any indirect, exemplary, special, consequential, incidental or punitive damages; (ii) any loss of profits, business, or anticipated savings; (iii) any loss of, or damage to data, reputation, revenue or goodwill; and/or (iv) the cost of procuring any substitute goods or services; and (C) The foregoing exclusions and limitations on liability set forth in this Section shall apply: (i) even if Authomize, Authomize Affiliates or third-party providers, have been advised, or should have been aware, of the possibility of losses or damages; (ii) even if any remedy in this DPA fails of its essential purpose; and (iii) regardless of the form, theory or basis of liability (such as, but not limited to, breach of contract or tort).

13. 13. AMENDMENTS

This DPA may be amended at any time by a written instrument duly signed by each of the Parties.

14. 14. LEGAL EFFECT

This DPA shall only become legally binding between Client and Authomize when the formalities steps set out in the Section “INSTRUCTIONS ON HOW TO EXECUTE THIS DPA” below have been fully completed. Authomize may assign this DPA or its rights or obligations hereunder to any Affiliate thereof, or to a successor or any Affiliate thereof, in connection with a merger, consolidation or acquisition of all or substantially all of its shares, assets or business relating to this DPA or the Agreement. Any Authomize obligation hereunder may be performed (in whole or in part), and any Authomize right (including invoice and payment rights) or remedy may be exercised (in whole or in part), by an Affiliate of Authomize.

15. 15. SIGNATURE

The Parties represent and warrant that they each have the power to enter into, execute, perform and be bound by this DPA.

You, as the signing person on behalf of Client, represent and warrant that you have, or you were granted, full authority to bind the Organization and, as applicable, its Authorized Affiliates to this DPA. If you cannot, or do not have authority to, bind the Organization and/or its Authorized Affiliates, you shall not supply or provide Personal Data to Authomize.

By signing this DPA, Client enters into this DPA on behalf of itself and, to the extent required or permitted under applicable Data Protection Laws and Regulations, in the name and on behalf of its Authorized Affiliates, if and to the extent that Authomize processes Personal Data for which such Authorized Affiliates qualify as the/a “data controller”.

This DPA has been pre-signed on behalf of Authomize.

Instructions on how to execute this DPA.

1. 1. To complete this DPA, you must complete the missing information; and
2. 2. Send the completed and signed DPA to us by email, indicating the Client’s name, to privacy@authomize.com.

List of Schedules

- **SCHEDULE 1 – DETAILS OF THE PROCESSING**
- **SCHEDULE 2 – SUB-PROCESSOR LIST**

The parties’ authorized signatories have duly executed this Agreement:

CLIENT:

Signature:
Client Legal Name:
Print Name:
Title:
Date:

AUTHOMIZE Ltd.

Signature:
Legal Name:
Print Name:
Title:
Date:

SCHEDULE 1 – DETAILS OF THE PROCESSING

Subject matter

Authomize will Process Personal Data as necessary to perform the Services pursuant to the Agreement, as further instructed by Client in its use of the Services.

Nature and Purpose of Processing

1. 1. Providing the Service(s) to Client.
2. 2. Setting up profile(s) for users authorized by Clients.
3. 3. For Client to be able to use the Services.
4. 4. For Authomize to comply with documented reasonable instructions provided by Client where such instructions are consistent with the terms of the Agreement.
5. 5. Performing the Agreement, this DPA and/or other contracts executed by the Parties.
6. 6. Providing support and technical maintenance, if agreed in the Agreement.
7. 7. Resolving disputes.
8. 8. Enforcing the Agreement, this DPA and/or defending Authomize’s rights.
9. 9. Management of the Agreement, the DPA and/or other contracts executed by the Parties, including fees payment, account administration, accounting, tax, management, litigation; and
10. 10. Complying with applicable laws and regulations, including for cooperating with local and foreign tax authorities, preventing fraud, money laundering and terrorist financing.
11. 11. All tasks related with any of the above.

Duration of Processing

Subject to any Section of the DPA and/or the Agreement dealing with the duration of the Processing and the consequences of the expiration or termination thereof, Authomize will Process Personal Data for the duration of the Agreement, unless otherwise agreed upon in writing.

Type of Personal Data

Client may submit Personal Data to the Services, the extent of which is determined and controlled by Client in its sole discretion, and which may include, but is not limited to the following categories of Personal Data:

- – Log-in details
- – Name
- – Phone number
- – Email address
- – Any other Personal Data or information that the Client decides to provide to the Authomize or the Services.

The Client and the Data Subjects shall provide the Personal data to Authomize by supplying the Personal data to Authomize's Service.

In some limited circumstances Personal Data may also come from others sources, for example, in the case of anti-money laundering research, fraud detection or as required by applicable law. For clarity, Client shall always be deemed the "Data Controller" and Authomize shall always be deemed the "Data Processor" (as such terms are defined in the GDPR).

Categories of Data Subjects

Client may submit Personal Data to the Services, the extent of which is determined and controlled by Client in its sole discretion, and which may include, but is not limited to Personal Data relating to the following categories of data subjects:

- – Client's customers and/or clients
- – Client's users authorized by Client to use the Services
- – Employees, agents, advisors, freelancers of Client (who are natural persons)
- – Prospects, Clients, business partners and vendors of Client (who are natural persons)
- – Employees or contact persons of Client's prospects, Clients, business partners and vendors

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SCHEDULE 2 – SUB-PROCESSOR LIST

Entity Name	Sub-Processing Activities	Entity Country
Azure	Cloud	US

SERVICE LEVEL AGREEMENT

1.1. Availability. For the duration of the Agreement, Company will use commercially reasonable efforts to ensure that the Software is available for access and use in accordance with the Agreement (the "Service") at an annual Uptime Percentage (defined below) of at least [99%], as measured over any calendar year.

2.2. Definitions. All capitalized terms used in this SLA without definition shall have the meaning ascribed to them in the Agreement. In addition, the following definitions shall apply to this SLA:

- i.**(i) "Downtime" means the total time within a Measured Period during which the Service is inoperable or inaccessible, excluding SLA Exclusions during such Measured Period.
- ii.**(ii) "Measured Period" means the total number of minutes in the calendar year.
- iii.**(iii) "Scheduled Downtime" means any Downtime (a) of which Customer is notified at least three (3) days in advance, or (b) during a standard maintenance window, as published by Company from time to time. In either of the foregoing two situations, Company will use commercially reasonable efforts to ensure that the Scheduled Downtime falls between the hours of Friday 19:00 PM and Monday 07:00 AM [_____ time].

IV.(iv) “Uptime” means the total period in minutes during which the Service is available for access and use during a Measured Period.

V.(v) “Uptime Percentage” means Uptime expressed as a percentage, calculated in accordance with the following formula:

$$\text{Uptime Percentage} = X / (Y - Z) \times 100$$

Where:

X	=	Uptime
Y	=	Measured Period
Z	=	The duration (in minutes) of any SLA Exclusions during the applicable Measured Period

3.3. SLA Exclusions.

1. 3.1 Company’s obligations hereunder are based on and subject to the Customer: (i) complying with the terms and conditions of the Agreement, including this SLA; (ii) complying with Company’s instructions, if any, for performing any corrective action; and (iii) maintaining the connectivity (with acceptable bandwidth) of the Customer’s workstations to the internet, as well as creating and maintaining firewall definitions and opening required ports that permit access to the Service.

2. 3.2 The following shall not be considered within the definition or calculation of Downtime: (i) Scheduled Downtime; (ii) backups of the Service; (iii) Service unavailability that is attributable to: (a) causes beyond Company’s reasonable control, such as a Force Majeure Event, or the performance of any third party hosting provider or communications or internet service provider; (b) Customer’s failure to perform any obligation under the Agreement that affects the performance of the Service; (c) any actions or omissions of the Customer or any third party acting on its behalf; and/or (d) Customer’s or any third party’s equipment or software; (iv) Service unavailability caused by the suspension and termination of Customer’s right to use the Software in accordance with the Agreement; and (v) separate instances of Service unavailability of less than 5 (five) minutes duration each (each an “SLA Exclusion”).