

MASTER SERVICES AGREEMENT

This Master Services Agreement (“**Agreement**”) is entered into as of the date of first acceptance (the “**Effective Date**”), by and between Cyferd Inc., a corporation (“**Cyferd**”), and the customer accepting this Agreement (which, in the case of an Order Form, will be the person identified as ‘*Customer*’ in that Order Form) (the “**Customer**”), hereinafter individually referred to as a “**Party**” and/or together referred to as the “**Parties**”. Unless otherwise noted, all capitalized terms used herein shall have the meanings set forth in the Cyferd Definitions (<https://cyferd.com/cyferdcomm/us>).

CYFERD IS WILLING TO PROVIDE ACCESS AND USE OF THE CYFERD PRODUCT AND/OR PURCHASED ITEMS TO CUSTOMER STRICTLY ON THE CONDITION THAT CUSTOMER ACCEPTS ALL OF THE TERMS AND CONDITIONS IN THIS AGREEMENT. BY ACCESSING AND/OR USING THE CYFERD PRODUCT AND/OR PURCHASED ITEMS, CUSTOMER (A) ACKNOWLEDGES THAT IT HAS READ AND UNDERSTAND THIS AGREEMENT; (B) REPRESENT THAT IT IS OF LEGAL AGE TO ENTER INTO A BINDING AGREEMENT; AND (C) ACCEPT THIS AGREEMENT AND AGREE THAT IT IS LEGALLY BOUND BY ITS TERMS AND CONDITIONS. IF AN INDIVIDUAL ACCEPTS THIS AGREEMENT AS AN AUTHORIZED REPRESENTATIVE OF A LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT IT HAS THE AUTHORITY TO BIND SUCH LEGAL ENTITY TO THIS AGREEMENT. IF CUSTOMER DOES NOT MEET ANY OF THE FOREGOING REQUIREMENTS AND/OR DOES NOT AGREE TO SUCH TERMS AND CONDITIONS, CUSTOMER MAY NOT ACCESS OR USE THE CYFERD PRODUCT AND/OR PURCHASED ITEMS.

In consideration of the mutual covenants and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Cyferd and Customer agree as follows:

1. **Overview.**

1.1 **Structure.** This Agreement shall apply to: (i) Customer’s Access of the Cyferd Product (delivered through each Tenancy), including any App built on and using the Cyferd Product; (ii) (in connection with such Access) any other Purchased Items, each as further described in each Order Form entered into by an authorized representative of each Party hereunder and/or any Cyferd Partner authorized to sell the Cyferd Product. In this Agreement, unless the context otherwise requires, reference to the ‘Cyferd Product’ means ‘the Cyferd Product (or any part of it including any Tenancy, Feature and/or App) and/or any other Purchased Item’. An Order Form could include details of all or any of the following: number and type of Tenancies for such Access (the first Order Form must include, at the very least, one Production Tenancy) period of Access, Applicable Territory of Access; any other Purchased Items (which could include App Usage, a Developer License, Premium Features and/or Premium Subscriptions), Access/Usage Parameters; in respect of fees and payment, Applicable Currency and (as applicable) Platform Fees, App Usage Fees, Premium Fees, Developer License Fees and any other specified fees, costs and/or expenses (collectively, “**Fees**”); and, any other commercial terms agreed upon by the Parties. If there are any terms and conditions in an Order Form that conflict with the terms and conditions in this Agreement, then the terms and conditions in such Order Form shall take precedence to those in this Agreement solely with respect to such Order Form; provided, however, that any terms in any Cyferd Partner Order Form which conflict with this Agreement shall be null and void. Further, Customer acknowledges that Cyferd shall be entitled to require a change in the contractual relationship with a Cyferd Partner from time to time if (a) such Cyferd Partner ceases to continue to be a Cyferd Partner or is otherwise deemed unsuitable to continue in such role; or (b) Customer notifies Cyferd that it desires to transact directly with Cyferd and without involvement of such Cyferd Partner. Upon such notice, Customer and Cyferd will promptly work together to effectuate such change.

1.2 **Excluded from scope of this Agreement.** For clarity, this Agreement does not apply to any Professional Services. Cyferd’s supply of any such Professional Services to Customer are governed by the applicable PSA, which does not form part of this Agreement. To the extent that an order form provides, in whole or in part, for certain Professional Services to be provided by or on behalf of Cyferd or by a Cyferd Partner, such order form or the applicable part of that order form does not constitute an Order Form for the purposes of this Agreement and does not form part of this Agreement. This Agreement does not apply to the Cyferd Marketplace including the terms of use (including payment terms) of or in relation to the Cyferd Marketplace and the purchase of any products or services from it outside of an Order Form.

2. **Cyferd Product Terms.**

2.1 **PaaS Grant of Rights.** Subject to the terms of this Agreement and the applicable Order Form and Customer’s payment of all applicable Fees, effective on the applicable Commencement Date and for the term set forth in such Order Form, Cyferd shall grant Customer a limited, personal, revocable, non-exclusive, non-transferable, non-sublicensable right in accordance with the Documentation and for the Permitted Purpose to: (i) Access the Cyferd

Product (delivered through each applicable Tenancy (including available Features)), and to use outputs displayed in connection with Customer's Access of the Cyferd Product; (ii) use any App where App Usage in respect of that App has been purchased by Customer; (iii) use any Premium Feature purchased by Customer; (iv) use any Premium Subscription purchased by Customer; and (v) benefit from the use of a Developer License if purchased by Customer; and in that regard allow its applicable Authorized Users to Access and/or use the same. For clarity, a valid and subsisting Order Form for Access to the Cyferd Product and Customer's payment of all applicable Platform Fees includes the provision by Cyferd of the Hosting Services, the Database Services and the Standard Support Services (none of which are Professional Services). Customer acknowledges that only a Production Tenancy can be used for Customer's live data or everyday business operations use and that a Development Tenancy, User Acceptance Tenancy, and/or Other Non-Product Tenancy(ies) cannot be used for Customer's live data or everyday business operations use and this sentence of this Section 2.1 is an Access/Usage Parameter.

2.2 POC Trial. Cyferd may provide Customer with or make available to Customer use of the Cyferd Product (or any part of it including any App(s) and Feature(s)) for the purposes of a POC Trial. Such use of the Cyferd Product for the purposes of a POC Trial is subject to any additional terms (including any applicable Fees payable during such POC Trial and/or additional Access/Usage Parameters) that Cyferd specifies and is only permitted during the period Cyferd expressly designates for such purpose (or, if not so expressly designated, until terminated in accordance with this Agreement). Without limiting anything else herein, Cyferd expressly disclaims any representations or warranties, express or implied, or indemnities and/or liabilities in connection with such POC Trial, and all Access to the Cyferd Product during such POC Trial is provided "As Is, Where is, Without Fault" without indemnification, maintenance, support, or warranty of any kind, express or implied. Except as expressly set out to the contrary in this Agreement and any applicable Order Form, the terms of this Agreement fully apply in respect of a POC Trial. Cyferd may modify or terminate Customer's use of the Cyferd Product (or any part of it) for the purposes of a POC Trial at any time and for any reason in Cyferd's sole discretion, without liability to Customer, and Customer may cancel at any time without charge prior to the expiration of such POC Trial. Use of the Cyferd Product (or any part of it) for the purposes of a POC Trial will be time limited (set by Cyferd at its sole discretion) and in a non-production environment and this is an Access/Usage Parameter. Use of the Cyferd Product (or any part of it) for the purposes of a POC Trial does not need to be but can be the subject of an Order/Order Form. By Customer using the Cyferd Product (or any part of it) for the purposes of a POC Trial it shall be deemed to be Customer accepting this Agreement in respect of the same. NOTWITHSTANDING ANYTHING ELSE IN THESE TERMS, CYFERD'S MAXIMUM AGGREGATE LIABILITY TO CUSTOMER IN RESPECT OF CUSTOMER'S ACCESS TO AND/OR USE OF A POC TRIAL WILL BE \$500.

2.3 Access and Usage Restrictions. In addition to any Access/Usage Parameters: set out in the applicable Order Form and/or elsewhere in this Agreement, (designated as such by Cyferd) in any Cyferd Policy or any other document that applies in this Agreement from time to time; and/or (designated as such) as may be agreed in writing by Cyferd and Customer from time to time for the purposes of this Agreement, Customer shall not, directly or indirectly: (i) incorporate, allow Access to, and/or make the Cyferd Product available to any third party (including permitting use in connection with any timesharing or service bureau, outsourced or similar service to third-parties) or use the Cyferd Product for the benefit of anyone other than Customer and its Authorized Users, including, without limitation, granting any person Authorized User status who is not an employee or agent of Customer, or where such person or the entity who employs that person: (a) is a different member of Customer's group or an associated entity to Customer or an Affiliate of Customer; (b) is a competitor of Cyferd or provides services which are competitive with or to the Cyferd Product; (c) is a software or application developer (unless that person or the entity who employs that person is a Cyferd Partner); (d) is being granted such status for any purpose other than the bona fide business purposes of Customer; and/or (e) has not acknowledged the existence and the terms of the User Notice in writing to Customer unless and then to the extent that Cyferd expressly consents to the same in writing to Customer; (ii) sell, resell, license, sublicense, distribute, make available, rent or lease the Cyferd Product to any third party, in whole or in part, in any form, whether modified or unmodified; (iii) use the Cyferd Product to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party rights, (iv) use the Cyferd Product to store or transmit malicious code, (v) invalidate and/or seek to invalidate Cyferd's Intellectual Property Rights, including without limitation, permitting or allowing direct or indirect access to or use of the Cyferd Product in a way that circumvents any Intellectual Property Rights or a contractual usage limit without payment of additional Fees, interfere with or otherwise circumvent mechanisms in the Cyferd Product (or any part of it including any Tenancy(ies) and Feature(s)), or use the Cyferd Product to access or use any Cyferd Intellectual Property Rights except as permitted under this Agreement or corresponding Order Form, (vi) modify, copy, or create derivative works based on the Cyferd Product or any part, feature, or function thereof, (vii) reverse engineer, disassemble, decompile, translate or otherwise seek to obtain or derive the source code, underlying ideas, algorithms, file formats, non-public APIs or Integrations to the Cyferd Product, any Tenancy, any Feature, the Cyferd Android App, the Cyferd iOS App, the Cyferd Remote Agent, the Cyferd Web Client except to the extent expressly permitted by applicable law (and then only upon advance notice to Cyferd), or any part thereof, including to (a) build a competitive product or service, (b) build a product or service using similar ideas, features, or functions of the Cyferd Product, (c) copy any ideas, features, or functions of the Cyferd Product, or (d) make competitive use, whether as a competitor to Cyferd or providing services which are competitive

with or to the Cyferd Product; (viii) remove or obscure any proprietary notices from the Cyferd Product; (ix) use the Cyferd Product in any manner or for any purpose that infringes, misappropriates, or otherwise violates any Intellectual Property Rights or other right of any person, or for any unlawful purpose, activity, business, or enterprise and/or to violate any applicable law; (x) (unless Customer has a valid and subsisting Developer License): (a) build any App, (b) give any Authorized User any build or similar permissions that would enable or imply that Authorized User could build any App; (c) (notwithstanding (b)) permit or allow the Administrator or any Authorized User to use any build or similar permissions that would enable or imply the Administrator/that Authorized User could build any App; (xi) (unless valid and subsisting App Usage in respect of the App in question has been purchased by Customer) use any App. In this Section 2.3 each of the matters in Sections 2.3(i) to (xi) is an Access/Usage Parameter. Strictly subject to Section 2.3(x), the other Access/Usage Parameters in this Section 2.3 shall not prevent a Customer App Customization being validly created by or on behalf of Customer in accordance with and subject to the terms of the Agreement. Further, Section 2.3(x) shall not prevent Cyferd and/or any appropriately authorized Cyferd Partner from building any App for Customer. Customer acknowledges and agrees that it must independently evaluate outputs arising out of the Cyferd Product and Apps for accuracy and appropriateness, including using human review (where Customer deems appropriate), before using or sharing such outputs. Customer shall not use Open Source Software for development of or in any authorized derivative work of a Cyferd Product in any manner that would subject the Cyferd Product (or any part of it) to open source distribution.

Cyferd may suspend and/or terminate Customer's Access to the Cyferd Product (for the avoidance of doubt in whole or in part and/or in respect of all or any Orders at Cyferd's sole discretion) if Cyferd reasonably determines that (1) there is a disruption, security risk, threat or attack on any of the Cyferd Product, or to any other customer or vendor of Cyferd; (2) Customer is using the Cyferd Product for fraudulent or illegal activities; (3) Customer fails to make payments of Fees when due and/or has ceased to continue its business in the ordinary course, made an assignment for the benefit of creditors or similar disposition of its assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution, or similar proceeding; (4) Cyferd's provision of the Cyferd Product to Customer is prohibited by applicable law; or (5) any vendor or supplier of Cyferd has suspended or terminated Cyferd's access to or use of any third-party services or products required to enable Customer to Access the Cyferd Product. Cyferd will have no liability for any damage, liabilities, losses (including any loss of data or profits), or any other consequences that Customer may incur as a result of any such suspension. Further, Customer agrees that its purchase of Access to and use of the Cyferd Product, App(s) or Feature(s) or any other Purchased Item is not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by or on behalf of Cyferd regarding future functionality or features.

2.4 Customer Responsibilities. Customer will keep its credentials and the Administrator's credentials and its Authorized Users' credentials for the Cyferd Product strictly confidential and will be responsible for all actions taken by the Administrator and Authorized Users, including under the Administrator's and/or an Authorized User's account. Customer will promptly notify Cyferd of any known violation of this Agreement (including any applicable Order Form, any Cyferd Policy and/or any other applicable document that forms part of/ is supplemental to this Agreement from time to time) by the Administrator or an Authorized User and of any known breach of security or unauthorized use of its account, the Administrator's account or an Authorized User's account. Customer shall (i) only Access and use the Cyferd Product in accordance with the terms of this Agreement, the applicable Order Form, and each and every Cyferd Policy relating to the Cyferd Product; (ii) be responsible and liable for compliance with this Agreement by the Administrator and its Authorized Users, including, without limitation, in the event its use of any output for any purpose has a legal or material impact on any person or entity; (iii) be responsible for the accuracy, quality and legality of all Customer Data, the means by which Customer acquired such Customer Data, Customer's use of Customer Data with the Cyferd Product, and the interoperation of any third party applications with which Customer uses the Cyferd Product; (iv) prevent unauthorized Access to or use of the Cyferd Product, and notify Cyferd promptly of any such unauthorized Access or use; (v) use the Cyferd Product only in accordance with applicable laws, rules, and government regulations; (vi) comply with terms of service of any Third Party Technology with which Customer uses the Cyferd Product; and (vii) obtain access and authorization for all data processing performed by or on behalf of Cyferd for Customer, including the right to perform any third party integrations. Customer is responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, Access or otherwise use the Cyferd Product, including, without limitation, modems, hardware, servers, software, operating systems, networking, and web servers. Customer understands and agrees that its Authorized Users are subject to the [User Notice](#), [Acceptable Use Policy](#) (AUP) and [Privacy Policy](#), and that such User Notice, AUP and Privacy Policy are hereby incorporated by reference and made part of this Agreement. Further, use of a Mobile App, Cyferd Web Client, certain items purchased from the Cyferd Marketplace, and/or other applicable applications or software (which are not Apps) shall each be subject to a EULA or other third party end user license or similar agreement. Cyferd may update the User Notice, AUP and Privacy Policy at any time, and Customer agrees that its Authorized Users will be subject to such updates upon written notice. In the event of any conflict between the User Notice, AUP and/or Privacy Policy and the terms of this Agreement, the terms of this Agreement shall prevail.

2.5 Third-Party Software. Customer understands and agrees that Customer's use of any Non-Cyferd App, Non-Cyferd Materials, Non-Cyferd Products/Services, and/or other third-party integrations associated with the Cyferd Product (collectively, "**Third Party Technology**") will be governed by such Third Party Technology licensor's license terms and conditions. Customer understands and agrees that Cyferd is not responsible for Customer's, Authorized User's, and/or any third party's obligations relating to any such Third-Party Technology, and Cyferd specifically disclaims any liability relating thereto. Cyferd will, to the extent permitted, pass through any term(s) provided by such third party licensor.

3. Intellectual Property and Data Rights.

3.1 Intellectual Property and Confidentiality. Customer acknowledges and agrees that all Intellectual Property Rights in and to and/or (where applicable) which power the Cyferd Product (including in all Tenancy(ies) and Features), all Cyferd Apps, all Cyferd App Customizations, all Documentation, all Cyferd Materials, the Cyferd Android App, the Cyferd iOS App, the Cyferd Remote Agent and the Cyferd Web Client and, in each case and where applicable, the '*look and feel*' of the same and any and all underlying technology, software and any improvements, modifications, copies, updates, and/or derivative works of any of the foregoing created by or for Cyferd from time to time along with the right to make, have made, practice, employ, exploit, use, develop, reproduce, improve, modify, copy, distribute copies, publish, license, and/or create works derivative of any of the foregoing (including any Intellectual Property Rights) assigned to Cyferd (or to such third-party as Cyferd may have elected) under this Agreement (together the "**Relevant Items**") exclusively belong to and shall at all times remain the sole property of Cyferd or its relevant Licensor and comprise Cyferd's Confidential Information.

Except for express Access to the Cyferd Product granted to Customer, the Administrator, and Authorized Users under this Agreement and each applicable Order Form, Cyferd is not granting any interest, express or implied, in or to Cyferd's Intellectual Property Rights, and Cyferd reserves all rights in such Intellectual Property Rights. Customer acknowledges and agrees that the Relevant Items may be protected by patent, trademark, trade secret, and/or copyright, international treaty provisions, and protective covenants, and that Cyferd regards the Relevant Items as its proprietary information. Without limiting anything else herein, Customer agrees not to provide or to otherwise make available in any form the Cyferd Product, any other Relevant Item and/or any App, or any portion thereof, or any Cyferd Confidential Information, to any person other than as expressly permitted by this Agreement or any Order Form. Notwithstanding the foregoing, to the extent Customer, any of its Affiliates or any person acting on its behalf or who obtains Access to Cyferd Product, any other Relevant Item and/or any App through Customer: (i) intentionally or unintentionally modifies and/or improves the Cyferd Product and/or any other Relevant Item, whether or not in violation of the Agreement; and/or (ii) acquires any Intellectual Property Rights in the Relevant Items (or any of them or any part of them), Customer agrees to assign and hereby assigns (and where applicable shall procure the assignment of) all rights to such modifications and/or improvements in and to such Intellectual Property Rights (including by way of present assignment of future Intellectual Property Rights) to Cyferd or such third-party as Cyferd may elect without payment of any consideration. Customer shall execute (and shall procure the execution of) all such documents and do such things as Cyferd may consider necessary to give effect to this Section 3.1.

3.2 Similarity of Content and Customer App Customizations. Due to the nature of the Cyferd Product any App and artificial intelligence generally, Apps and outputs displayed in connection with Customer's use of the Cyferd Product and/or App may not be unique and other users may build and/or receive similar Apps and output from the Cyferd Product and any App. Without limiting anything else herein, Customer acknowledges the non-exclusive grant of rights under Section 2.1 or otherwise does not extend to other users' Apps, output, and/or any Third Party Technology. Cyferd grants no Intellectual Property Rights or other rights in connection with any Customer App Customization(s). Customer agrees and acknowledges the following with respect to a Customer App Customization: (i) as stated above it may not be unique; (ii) neither Customer nor any other person has any Intellectual Property Rights or other rights in the Relevant Items; and (iii) Customer will only be able to use Customer App Customization (and any App) if it has a valid and subsisting subscription for Access to the Cyferd Product (including at the very least a Production Tenancy). Customer App Customization cannot (and no App can) operate without the Cyferd Product and the applicable other Relevant Items.

3.3 Customer Data. Between Cyferd and Customer, Customer owns all right, title and interest in and to all Customer Data provided by or on behalf of Customer in connection with its Access and use of the Cyferd Product. Customer acknowledges that Cyferd will only 'see' or 'have access to' Customer Data if Customer discloses the same to Cyferd or where Cyferd is expressly entitled to/ required to 'see' or 'have access' to the same under or in connection with the Agreement. By providing any Customer Data to Cyferd (including by Transmitting the same), Customer represents and warrants that it has the unrestricted right to do so, and Customer, on behalf of itself and its Administrator and each Authorized User pursuant to the User Notice, hereby grants to Cyferd (and each of its direct and indirect sub-contractors) a non-exclusive, royalty-free, perpetual, irrevocable, transferrable, worldwide license to access, use,

display, publicly perform, reproduce, distribute, and otherwise analyze such Customer Data and perform all acts with respect to Customer Data as necessary for Cyferd to provide the Cyferd Product to Customer, the Administrator and Authorized Users hereunder and exercise or perform Cyferd's rights, remedies and obligations under this Agreement and any applicable Order Form. Subject to its direct obligations under data protection laws, to the maximum extent permitted by applicable law, Cyferd shall not be responsible (under any legal theory, including in negligence) for any loss of availability of, or corruption or damage to, any Customer Data (including where Cyferd routinely undertakes regular backups of the Cyferd Product (including all Tenancy(ies) (which may include Customer Data)) for its own business continuity purposes and/or to comply with applicable laws/regulatory requirements). Customer is and shall remain solely responsible and liable for all such Customer Data submitted, uploaded, posted, transferred, provided, processed, and/or otherwise transmitted ("**Transmit**", "**Transmitted**", "**Transmitting**") in connection with its Access and use of the Cyferd Product. Customer agrees that it will not, and will not permit anyone else to, directly or indirectly: (i) Transmit any Customer Data that is unlawful, harmful, threatening, abusive, hateful, obscene, harassing, tortious, defamatory, libelous, slanderous, pornographic, profane, vulgar, offensive, lewd, invasive of another's privacy or racially, ethnically or otherwise objectionable; (ii) Transmit any Customer Data: (a) that Customer does not have the right to Transmit, under any law or contractual or fiduciary relationships; (b) that infringes, misappropriates, and/or violates any patent, copyright, trademark, trade secret, right of privacy, or other intellectual property right of any third-party; (c) that constitutes unsolicited or unauthorized advertising or promotional materials; or (d) that contains any software routine, code, instruction or virus that is designed to disable, delete, modify, damage or erase software, hardware or data; or (iii) forge headers or otherwise manipulate identifiers in order to disguise any Customer Data Transmitted through the Cyferd Product.

Cyferd will process and maintain Customer Data consistent with the [Storage and Access to Customer Data Policy](#). Although Cyferd has no obligation to screen, edit or monitor Customer Data, Cyferd reserves the right, and has absolute discretion, to remove, screen or edit Customer Data posted and/or stored in connection with the Cyferd Product for any breach of this Agreement, and Customer is solely responsible for all such activity. Customer acknowledges and agrees that Cyferd has no control over, and shall have no liability for, any damages resulting from the use (including without limitation, republication) or misuse by any third party of information (including Customer Data) made public through or in connection with the Cyferd Product. If Customer chooses to make any Customer Data publicly available, Customer does so at its own risk and Cyferd shall have no liability therefor. To the extent Customer requires Cyferd to process any personal data and/or personal information that is subject to the EU General Data Protection Regulation 2016/679, UK Data Protection Act 2018, California Consumer Privacy Act of 2018, California Privacy Rights Act of 2020, or any other applicable data protection or privacy law, including any national laws or regulations implementing the foregoing, Cyferd will process and maintain such personal information and personal data consistent with the Cyferd [Data Protection Policy](#). Customer shall execute (and shall procure the execution of) all such documents and do such things as Cyferd may consider necessary to give effect to this [Section 3.3](#).

3.4 Aggregated Statistics and Application Monitoring. Notwithstanding anything to the contrary in this Agreement, Cyferd may monitor Customer's, the Administrator's and each Authorized User's Access of the Cyferd Product, and collect and compile meta-data, data and information related to Access of the Cyferd Product that is and can be used by Cyferd for: (i) (in respect of an App) in setting, calculating, pricing, estimating, monitoring, administering Customer's App Usage and to determine the accuracy of Customer's Expected App Usage; (ii) to monitor, track, peg, record, analyze, compare App Usage of Customer to any other Cyferd customers; (iii) to better understand how Customer, and/or any other Cyferd customers use the Cyferd Product (or any part); (iv) pricing and/or App Usage generally for all and/or any other Cyferd customers; (v) to help Customer and/or any other Cyferd customers use of the Cyferd Product (or any part) more efficiently; (vi) to better understand sector or business needs and requirements; (vii) Cyferd's technology management purposes generally; (viii) to detect threats or errors to the Cyferd Product and/or Cyferd's operations; and/or (ix) (where such information is generic or general or anonymized in its nature) to provide (whether with or without similar information from any other Cyferd customers) data analysis or trending analysis to Customer, to any other Cyferd customers within the same or a similar or a complementary industry, to industry groups or marketers within the same or a similar or a complementary industry and/or to applicable governmental or regulatory authorities ("**Application Monitoring Data**"), and Customer hereby agrees to Cyferd doing the same. Cyferd does not have to share or disclose any Application Monitoring Data (even on an anonymized basis) with any person. Application Monitoring Data (and other Administrative Data) may be used in any format to compile statistical and performance information related to the provision, operation, and use of the Cyferd Product (collectively, "**Aggregated Statistics**"). Customer agrees that Cyferd may (i) make Aggregated Statistics publicly available in compliance with applicable law; and (ii) use Aggregated Statistics to the extent and in the manner permitted under applicable law, provided that such Aggregated Statistics do not identify by name Customer or any Authorized User. Customer hereby grants to Cyferd a non-exclusive, perpetual, irrevocable, transferrable, royalty-free, worldwide license to access, revise, reproduce, distribute, and use and display Application Monitoring Data and other Administrative Data to the extent incorporated within the Aggregated Statistics. Customer acknowledges that, as between Customer, the Administrator and each Authorized User on the one hand, and Cyferd on the other hand, Cyferd owns all right, title, and interest, including all Intellectual Property Rights therein, in and to the Cyferd Product, Aggregated Statistics, and Application Monitoring

Data and any other Administrative Data. Customer shall execute (and shall procure the execution of) all such documents and do such things as Cyferd may consider necessary to give effect to this [Section 3.4](#).

3.5 [Monitoring compliance](#). Notwithstanding the provisions of [Section 3.4](#), during the Term and for a period of twelve (12) months thereafter, Customer shall maintain full and accurate records relating to the Administrator's, Authorized Users' and Customer's Access to and use of the Cyferd Product (including all applicable Tenancy(ies) and App(s)), whether it has built any App(s) and/or Cyferd or any Cyferd Partner has built any App(s) for it, and/or its use of any Developer License. Customer shall allow and procure for Cyferd (and any representatives of Cyferd) access to records, systems, and/or premises to: (i) inspect use of the Cyferd Product (including all applicable Tenancy(ies) and App(s)), whether it has built any App(s) and/or Cyferd or any Cyferd Partner has built any App(s) for it, and/or its use of any Developer License; and (ii) audit (and take copies of) the relevant records, in each case to the extent necessary to verify that Customer is in compliance with its obligations under this Agreement and any Order Form. In this regard Customer also expressly and irrevocably authorizes Cyferd to monitor, review, evaluate and record the data logs (these show activity and behavior but not Customer Data) that Cyferd has access to from time to time in connection with Customer's Access rights under this Agreement. Unless: (i) otherwise agreed by the Parties in writing; (ii) Cyferd suspects Customer has committed fraud or is in breach of this Agreement, any Order Form, any Cyferd Policy or any other applicable document that forms part of or is supplemental to this Agreement; and/or (iii) such inspection and/or audit is required by law, by court or by a governmental or regulatory authority, the inspection and audit referred to above shall be undertaken: (a) during Customer's normal business hours on Business Days; (b) subject to the provision by Cyferd of a minimum of 7 (seven) days' notice; (c) not more than twice in any calendar year; and (d) be conducted at Cyferd's sole cost and expense unless such audit or inspection reveals Customer's breach of any term(s) of this Agreement, in which case all costs and expense shall be borne by Customer.

3.6 [Cyferd Product Updates](#). Cyferd may, in its sole discretion, improve, issue updates, bug fixes and/or other modifications to the Cyferd Product, Features, and Premium Features (each a "**Cyferd Product Update**"). Further, Cyferd reserves the right to change Features and Premium Features at its discretion in service of Cyferd's customers or to further Cyferd's business objectives. Cyferd will use commercially reasonable efforts to notify Customer of a Cyferd Product Update that may materially impair Customer's use of the Cyferd Product as well as changes to Features and Premium Features that require payment of additional Fees.

3.7 [Feedback and Publicity](#). If Customer, the Administrator and/or any Authorized User chooses to provide any Feedback, then Customer, on behalf of the Administrator and/or such Authorized User pursuant to the [User Notice](#), hereby assigns to Cyferd all Intellectual Property Rights in and to such Feedback in any manner and for any purpose, including to improve the Cyferd Product, or create other products and services. Further, Cyferd may use Customer's name and logo for marketing and case study purposes and identifying Customer as a customer of the Cyferd Product in accordance with Customer's then-current brand guidelines. Customer shall execute (and shall procure the execution of) all such documents and do such things as Cyferd may consider necessary to give effect to this [Section 3.7](#).

4. [Support](#).

4.1 [Standard Support Services](#). Cyferd shall provide to Customer standard support services (the "**Standard Support Services**") subject to the terms and conditions of the [Standard Support Services Policy](#). Customer acknowledges and agrees that Cyferd retains all right, title, and interest in and to any and all rights arising out of or related to the output of such Standard Support Services. For the avoidance of doubt, Customer's rights to Standard Support Services do not extend to any third party.

4.2 [Hosting Services](#). Cyferd shall provide to Customer hosting services being the hosting by or on Cyferd's behalf of the Tenancy(ies) (the "**Hosting Services**") subject to the terms and conditions of the Hosting Policy and, to the extent applicable, the [Uptime Policy](#) and the [Data Protection Policy](#). Customer acknowledges and agrees that Cyferd retains all right, title, and interest in and to any and all rights arising out of or related to the output of such Hosting Services. For the avoidance of doubt, Customer's rights to Hosting Services do not extend to any third party.

4.3 [Database Services](#). Cyferd shall provide to Customer database services being, in respect of a Tenancy, the provision by or on Cyferd's behalf of a database for that Tenancy alone with unique access credentials for that Tenancy (the "**Database Services**") subject to the terms and conditions of the Storage of and Access to Customer Data Policy and, to the extent applicable, the [Data Protection Policy](#). Customer acknowledges and agrees that Cyferd retains all right, title, and interest in and to any and all rights arising out of or related to the output of such Database Services. For the avoidance of doubt, Customer's rights to Database Services do not extend to any third party.

4.4 Non-Solicit. Customer recognizes that Cyferd's or any of its Affiliates' and/or any applicable vendor of Cyferd's employees and contractors are a valuable resource. Accordingly, Customer agrees that it will not, from the Effective Date hereof until the one (1) year anniversary of the termination date of this Agreement, either alone or in conjunction with any other party, directly or indirectly, (i) induce or encourage (or attempt to induce or encourage) any employee or contractor of Cyferd or any of its Affiliates and/or any applicable vendor of Cyferd to leave the employ of, or terminate or alter his/her/their engagement with, Cyferd or any of its Affiliates and/or any applicable vendor of Cyferd, whether for purposes of employing or contracting any such employee or contractor in a competing business or for any other reason; or (ii) interfere in any way with the relationship between Cyferd or any of its Affiliates or any applicable vendor of Cyferd and any such employee or contractor.

5. Fees and Payment Terms and Invoicing.

5.1 Fees. Customer will pay the Fees as set forth in the applicable Order Form without offset or deduction. Except as otherwise specified herein, (i) Fees are based on the rights granted hereunder, and not actual usage by Customer; (ii) payment obligations are non-cancelable; and (iii) Fees paid are non-refundable. In the event Customer requests any additional features, functionality, and/or similar requests related to the Cyferd Product, Customer hereby agrees to pay all additional Fees and/or amounts associated with any of the foregoing. All such Fees and amounts will be invoiced and payable in the Applicable Currency.

5.2 Payment Terms. During or in respect of an Order Term, Cyferd will invoice Customer (which may be sent by email) for the Fees and Customer shall pay such Fees in accordance with the relevant Order Form. Where Customer purchases the Cyferd Product through a Cyferd Partner, Customer's payment terms are with the Cyferd Partner and not with Cyferd; however, a breach of any payment obligations with such Cyferd Partner will be deemed to be a breach of this Agreement. Any Fees that are subject to a good faith dispute shall be paid within ten (10) days after such dispute is resolved. If any Fees are not received by Cyferd (or the Cyferd Partner if applicable) by their due date, then without limiting Cyferd's rights or remedies hereunder or at law, such Fees may accrue late interest at a rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is greater, plus all expenses of collection. Without limiting its other remedies, Cyferd may (i) accelerate and deemed all such Fees and other amounts owed immediately due and payable and/or (ii) suspend and/or revoke Customer's Access to the Cyferd Product (for the avoidance of doubt in respect of all or any Orders at Cyferd's sole discretion) for nonpayment of any Fees. In the event that Customer's payment method is the use of a credit card, by starting to Access the Cyferd Product and providing such payment method, Customer authorizes Cyferd (without notice to Customer, unless required by applicable law) to charge Customer's credit card on a recurring basis the applicable Fees (including any variable Fees and including Fees payable on renewal in respect of any Extension Order Term) and any other charges Customer may incur in connection with Customer's Access to the Cyferd Product. Cyferd's payment details are as notified to Customer from time to time.

5.3 Taxes. The Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, VAT, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "**Taxes**"). Customer is responsible for all Taxes associated with its purchases hereunder, including, without limitation, any subscription-based and/or so-called PaaS taxes associated with the Cyferd Product. If Cyferd has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Cyferd will invoice Customer and Customer will pay that amount unless Customer provides Cyferd with a valid tax exemption certificate.

6. Confidentiality.

6.1 Confidentiality. In connection with this Agreement and the Order Form(s), a Party (the "**Disclosing Party**") may disclose or make available Confidential Information to the other Party (the "**Receiving Party**"). For the Term and for a period of five (5) years after termination of this Agreement (or in the case of a trade secret for as long as such trade secret remains protectable under applicable laws), the Receiving Party shall not disclose any such Confidential Information (as applicable) to any third party other than its employees, contractors, and agents, and only on an as-needed basis. In no event shall Customer use Cyferd's Confidential Information to reverse engineer or otherwise develop products and services functionally equivalent to the Cyferd Product (including any Tenancies, Apps and Features) and/or any other Purchased Item (in whole or in part). Further, Customer recognizes that Cyferd regards Cyferd Product (including any Tenancies, Apps and Features) and/or any other Purchased Item and/or any of Cyferd's other products or services, and all Cyferd Confidential Information as its proprietary information and as confidential trade secrets of great value, and Customer agrees not to provide or to otherwise make available in any form the Cyferd Product (including any Tenancies, Apps and Features) and/or any other Purchased Item (in whole or in part), or any Confidential Information of Cyferd to any person other than as expressly permitted by this Agreement or any Order Form, without the prior written consent of Cyferd. For the avoidance of doubt, Customer acknowledges and agrees that

Cyferd does not require any Customer Data to perform its obligations hereunder, and that Cyferd shall only have access to Customer Data where Customer specifically provides such Customer Data to Cyferd (“**Disclosed Customer Data**”).

6.2 **Exceptions.** Notwithstanding the foregoing, the Confidential Information shall not include information which: (i) is in the public domain at the time of its disclosure hereunder or thereafter becomes part of the public domain through no breach of this Agreement by the Receiving Party; (ii) was already known to the Receiving Party as of the time of its disclosure hereunder without an obligation of confidentiality; (iii) is independently developed by the Receiving Party without access, use or reference to the Confidential Information; or (iv) is authorized for disclosure in writing by the Disclosing Party prior to such disclosure and having strict regard to any conditions of such disclosure.

6.3 **Legally Required Disclosures.** Notwithstanding anything else herein, the Receiving Party may disclose any such Confidential Information (as applicable) to the extent that it is required pursuant to a duly authorized subpoena, court order, government authority, or stock listing agency rules whereupon, as permitted by applicable law. The Receiving Party shall provide prompt written notice to the Disclosing Party, prior to such disclosure, so that the Disclosing Party may seek a protective order or other appropriate remedy, and, if such remedy is not obtained, the Receiving Party shall disclose only that portion of any such Confidential Information (as applicable) which is legally required to be disclosed and shall seek confidential treatment thereof.

7. **Representations, Warranties and Warranty Exclusions.**

7.1 **Cyferd Warranty.** Cyferd will provide each Purchased Item (including Access to the Cyferd Product) in a professional and workmanlike manner pursuant to the applicable Order Form. The warranty in the preceding sentence of this [Section 7.1](#) does not apply to: (i) use of the Cyferd Product (or any part of it including any App(s) and Feature(s)) for the purposes of a POC Trial; (ii) Non-Cyferd Products/Services; (iii) any Apps, (iv) any Professional Services provided in connection with such Purchased Item. Customer acknowledges and agrees that: (i) the Cyferd Product may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Cyferd or by third-party providers, or because of other causes beyond Cyferd’s reasonable control; and (ii) Cyferd does not provide any support for and is not obliged to maintain Apps. Without limiting the foregoing, Cyferd makes no representation or warranty or covenant as to the validity or enforceability of the Cyferd Intellectual Property Rights and/or all other Intellectual Property Rights embodied within Relevant Items (or any of them or any part of them), nor as to whether the same infringe upon, misappraise, and/or violate any Intellectual Property Rights of third-parties. In the event of any material non-compliance by the applicable Purchased Item with the foregoing which is caused by Cyferd’s failure to perform an express obligations Cyferd’s sole liability and Customer’s sole recourse, shall be for Cyferd to correct such non-conformance within a commercially reasonable period of time pursuant to the [Standard Support Services Policy](#) and the [Uptime Policy](#).

7.2 **Mutual Representations and Warranties.** Each party represents and warrants to the other that; (i) it has the requisite power and authority to enter into and deliver this Agreement (and each applicable Order Form and any other applicable document that forms part of and/or is supplemental to this Agreement from time to time which needs to be executed) and perform its obligations herein (and therein); (ii) this Agreement (and each such other document) has been duly authorized, entered into, and delivered by each party, and is a legal, valid, and binding obligation of each party, enforceable against such party in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium, liquidation, fraudulent conveyance and other similar laws and principles of equity affecting creditors’ rights and remedies generally; and (iii) this Agreement (and each such other document) does not violate, conflict with, result in a breach of the terms, conditions, or provisions of, or constitutes a default or an event of default under any other agreement to which such party is a party.

7.3 **Disclaimers.** OTHER THAN THE WARRANTIES SPECIFICALLY MADE IN THIS AGREEMENT, THE CYFERD PRODUCT, STANDARD SUPPORT SERVICES, HOSTING SERVICES, AND DATABASE SERVICES AND EACH OTHER PURCHASED ITEM IS AVAILABLE “AS-IS” AND “AS-AVAILABLE.” CYFERD AND ITS LICENSORS MAKES NO OTHER WARRANTIES, EXPRESS OR IMPLIED OR ARISING OUT OF CUSTOM OR TRADE USAGE, AND SPECIFICALLY DISCLAIMS ANY IMPLIED WARRANTY, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CUSTOMER ACKNOWLEDGES THAT CYFERD DOES NOT AND CANNOT CONTROL THE FLOW OF DATA VIA THE INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT THE INTERNET. CYFERD WILL USE COMMERCIALY REASONABLE EFFORTS TO REMEDY AND AVOID SUCH EVENTS, BUT CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. EXCEPT FOR WARRANTIES EXPRESSLY PROVIDED FOR IN THIS AGREEMENT, CYFERD DOES NOT WARRANT THE ACCURACY OF THE CYFERD PRODUCT, OR THAT THE OPERATION OF THE CYFERD PRODUCT WILL BE UNINTERRUPTED OR ERROR FREE, OR THAT CYFERD WILL CORRECT ALL DEFECTS.

FURTHER, CYFERD AND CUSTOMER ACKNOWLEDGE AND AGREE THAT CYFERD DOES NOT AND CANNOT GUARANTEE ANY SPECIFIC RETURNS ON INVESTMENT, BUSINESS OUTCOME OR RESULT FROM CUSTOMER'S USE OF THE CYFERD PRODUCT UNDER THIS AGREEMENT. FURTHER, THE CYFERD PRODUCT RELIES UPON A VARIETY OF DATA INPUTS OF VARYING RELIABILITY, INCLUDING ASSUMPTIONS ASSOCIATED WITH CUSTOMER DATA, AND THAT CUSTOMER IS SOLELY RESPONSIBLE AND LIABLE FOR ITS USE OF THE CYFERD PRODUCT. CUSTOMER ACKNOWLEDGES AND AGREES THAT CYFERD SHALL NOT BE DEEMED TO BE IN BREACH OF ANY REPRESENTATION OR WARRANTY TO THE EXTENT THAT SUCH BREACH RESULTS FROM FORCE MAJEURE AND/OR THE ACT OR OMISSION OF ANY THIRD PARTY.

8. Limitation of Liability.

8.1 Damages. IN NO EVENT WILL CYFERD BE LIABLE TO CUSTOMER, THE ADMINISTRATOR, ANY AUTHORIZED USER OR ANY OTHER PERSON UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY INDIRECT, PUNITIVE, INCIDENTAL, EXEMPLARY, SPECIAL OR CONSEQUENTIAL DAMAGES OF ANY KIND OR TYPE, INCLUDING LOST REVENUES OR PROFITS; LOSS OR HARM TO BUSINESS, GOODWILL, CONTRACT, COMMERCIAL OPPORTUNITY, EXPENDITURE, SAVINGS, DISCOUNT, REBATE, ECONOMIC ADVANTAGE, OR BUSINESS INTERRUPTION; OR ANY ALTERATION, COMPROMISE, CORRUPTION, LOSS OF USE, INABILITY TO USE, LOSS OF PRODUCTION, INTERRUPTION, DELAY OR RECOVERY OF ANY CUSTOMER DATA, SOFTWARE, SYSTEMS, OR EQUIPMENT OR BREACH OF DATA OR SYSTEM SECURITY; OR ANY OTHER COMMERCIAL OR ECONOMIC LOSSES, ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT AND THE TRANSACTIONS CONDUCTED HEREUNDER, EVEN IF A PARTY HAS BEEN ADVISED BY THE OTHER PARTY OF THE POSSIBILITY OF THE DAMAGE AND EVEN IF SUCH PARTY ASSERTS OR ESTABLISHES A FAILURE OF ESSENTIAL PURPOSE OF ANY LIMITED REMEDY PROVIDED IN THIS AGREEMENT. IN NO EVENT SHALL CYFERD'S AGGREGATE LIABILITY FOR ANY AND ALL DIRECT DAMAGES EXCEED THE AMOUNT OF FEES (EXCLUDING APP USAGE FEES FOR THIS PURPOSE) CUSTOMER ACTUALLY PAID TO CYFERD AND/OR THE CYFERD PARTNER IN THE PRIOR TWELVE (12) MONTH PERIOD UNDER THE APPLICABLE ORDER FORM FOR THE CAUSE OF ACTION GIVING RISE TO SUCH DAMAGES. NOTWITHSTANDING THE FOREGOING OR ANYTHING ELSE HEREIN, NOTHING IN THIS AGREEMENT WILL LIMIT CUSTOMER'S LIABILITY FOR PAYMENT OF FEES OR INDEMNIFICATION OBLIGATIONS OR EITHER PARTY'S DEATH OR PERSONAL INJURY CAUSED BY ITS NEGLIGENCE; FRAUD OR FRAUDULENT MISREPRESENTATION; MISUSE OF THE CYFERD PRODUCT AND/OR PURCHASED ITEMS (INCLUDING ANY PART THEREOF); OR ANY OTHER LOSSES WHICH CANNOT BE EXCLUDED OR LIMITED BY APPLICABLE LAW.

8.2 Insurance. Customer shall maintain, at its own expense, during the term of this Agreement insurance appropriate to its obligations, including as may be applicable general commercial liability and worker's compensation as required by applicable law from financially sound insurance companies having coverages and limits of liability that are commercially reasonable and consistent with industry standards.

9. Indemnification.

9.1 Customer Indemnity. Customer shall indemnify, defend and hold harmless Cyferd, its Affiliates, and its and their respective employees, principals, directors, agents, successors and assigns (each, a "**Cyferd Indemnitee**"), for, from and against any and all Losses arising out of or resulting from a third party claim, demand, suit or administrative proceeding (each, a "**Claim**") (i) that Customer Data, or any use of Customer Data with the Cyferd Product in accordance with this Agreement, infringes, violates, and/or misappropriates such third party's Intellectual Property Rights or privacy rights; or (ii) based on Customer's, the Administrator's or any Authorized User's (a) negligence, misconduct, or breach of this Agreement (including any applicable Order Form, any Cyferd Policy and/or any other applicable document that forms part of/is supplemental to this Agreement from time to time) or the Documentation; (b) use of a Cyferd Product in a manner not authorized by this Agreement; (c) use of the Cyferd Product in combination with data, software, hardware, equipment or technology not provided by Cyferd or authorized by Cyferd in writing; or (d) modifications to the Cyferd Product not made by Cyferd; or (e) of the type referred to in Section 9.2 to the extent that it arises from, is in connection with or relates to that referred to any No Liability Matter.

9.2 Cyferd Indemnity. Cyferd will indemnify, defend and hold harmless Customer for, from and against any Losses arising out of or resulting from any Claim that the Cyferd Product, when used in accordance with the terms of this Agreement and the applicable Order Form, infringes or misappropriates such third party's US Intellectual Property Rights. Notwithstanding the foregoing, Cyferd will have no obligation with respect to any actual or alleged Claim to the extent it is based upon or arises out of (each of (i) to (xi) that follow being a "**No Liability Matter**"): (i) Customer's use or combination of the Cyferd Product with any third-party Intellectual Property Rights not authorized by the applicable Documentation; (ii) Customer's modification or alteration of the Cyferd Product by Customer or its

Authorized Users or the Administrator not expressly authorized by Cyferd in writing or the Documentation; (iii) Customer's use of the Cyferd Product in breach of this Agreement (including any applicable Order Form, any Cyferd Policy and/or any other applicable document that forms part of/is supplemental to this Agreement from time to time) or the Documentation; (iv) specifications or other Intellectual Property Rights provided by Customer; (v) Customer's failure to implement Cyferd Product Updates, modifications, or replacements issued by Cyferd; (vi) any Customer App Customization; (vii) any Non-Cyferd Materials; (viii) any Non-Cyferd Apps; (ix) any Non-Cyferd Products/Services; (x) a POC Trial; or (xi) any Open Source Software. If a Claim under this Section occurs, or if Cyferd determines a claim is likely to occur, Cyferd will have the right, in its sole discretion, to either: (a) procure for Customer the right or license to continue to use the Cyferd Product free of the infringement claim; or (b) make a Cyferd Product Update to make them non-infringing, without loss of material functionality. If neither of these remedies is reasonably available to Cyferd, Cyferd may, in its sole discretion, immediately terminate this Agreement and impacted Order Form(s) and provide a prorated refund for any prepaid Fees for the unusable portion of the Cyferd Product for the remainder of the applicable Order Term. This Section sets forth Customer's sole remedy and Cyferd's sole liability and obligation for any actual, threatened, or alleged Claim(s) that the Cyferd Product infringes, misappropriates, or otherwise violates any intellectual property rights of any third party, and are in lieu of any implied warranties of non-infringement, all of which are expressly disclaimed, and all of such are subject to the liability provisions of Section 8.1.

9.3 Indemnification Procedures for Claims. The party seeking indemnification hereunder (the "**Indemnified Party**") agrees to promptly notify the party against whom indemnification is sought (the "**Indemnifying Party**") in writing following receipt of notice of any Claim in respect of which indemnity may be sought under such section, which notice shall assert such Claim and set forth in reasonable detail the basis for indemnification (such notice, the "**Indemnification Notice**"). If the Indemnifying Party does not assume control of such defense, the Indemnified Party shall have the right to control such defense at the Indemnifying Party's reasonable expense. The Indemnifying Party shall obtain the prior written consent of the Indemnified Party before entering into any settlement which does not release the Indemnified Party from all liabilities with respect to such Claim or involves an admission of fault or wrongdoing by an Indemnified Party.

10. Term and Termination.

10.1 Term. This Agreement shall become effective on the Effective Date and shall remain effective until terminated in accordance with this Section (the "**Term**"). Each Order Form shall become effective on the Commencement Date for that Order and shall remain effective for the term set forth therein (the "**Initial Order Term**"). Each Order Form shall extend automatically for successive one year terms in accordance with the Order Form (each successive term, an "**Extension Order Term**", and collectively with the Initial Order Term, the "**Order Term**"), unless either Party provides the other Party with written notice of nonrenewal of the Order in question at least ninety (90) days' prior to the expiration of the Initial Order Term or the then-current Extension Order Term; provided, however, that Customer acknowledges and agrees that Fees are subject to change for each Extension Order Form. For the avoidance of doubt, Customer shall not be entitled to use any Purchased Item during any period where it does not have a subsisting and in effect Order for a Production Tenancy and this sentence of this Section is an Access/Usage Parameter. This Agreement may be terminated for any reason upon written notice by any Party at such time as no Order Form is subsisting and in effect hereunder. Termination of an Order Form shall not affect this Agreement.

10.2 Termination by Cyferd. In the event that Customer (i) has materially breached any provision of this Agreement (including Customer's and/or the applicable Cyferd Partner's obligation to pay Fees and/or any other amount due under or in connection with this Agreement to Cyferd when due) and failed to cure such breach (if capable of cure) within ten (10) days following receipt of written notice thereof by Cyferd; or (ii) becomes insolvent, ceases conducting business in the ordinary course, makes a general assignment for the benefit of creditors, or becomes subject to voluntary or involuntary bankruptcy or liquidation proceedings (or is subject to any events or circumstances analogous to those in this (ii) in any jurisdiction); or (iii) attempts to assign this Agreement without Cyferd consent in accordance with Section 11.8, then Cyferd, in addition and supplementary to any other rights and remedies that may be available to Cyferd, will be entitled to terminate this Agreement, such Order Form or all Order Forms (as its sole discretion) by providing written notice of such termination to Customer. Without limiting the foregoing, in the event of Cyferd's termination of this Agreement and/or any Order Form under this Section, the due dates of all outstanding invoices will automatically accelerate so they become due and payable on the effective date of such termination.

10.3 Termination by Customer. In the event that Cyferd becomes insolvent, ceases conducting business in the ordinary course, makes a general assignment for the benefit of creditors, or becomes subject to voluntary or involuntary bankruptcy or liquidation proceedings (or is subject to any events or circumstances analogous to those in this Section in any jurisdiction), then Cyferd, in addition and supplementary to any other rights and remedies that may be available to Cyferd, will be entitled to terminate this Agreement, such Order Form or all Order Forms (as its sole discretion) by providing written notice of such termination to Customer. The right to terminate under this Section shall

not apply where the same is on a solvent basis and the underlying reason for the same is for or in connection with a bona fide reorganization of Cyferd and/or its Affiliates.

10.4 **Effect of Termination.** Upon expiration or earlier termination of this Agreement and/or any Order Form (including for a POC Trial), Customer shall immediately discontinue all use of the Documentation and Cyferd Product or (if such termination relates to an Order Form in circumstances where other Order Form(s) will continue and remain in effect) the Purchased Item in question. Customer shall confirm in writing that any and all copies of the Documentation (or any of it) and any other Cyferd Materials, and all other Confidential Information in Customer's possession (or that of its Authorized Users) has been irrevocably destroyed. Customer shall pay Cyferd, as liquidated damages and not a penalty, (i) all Fees and amounts owed for the remaining Order Term of each Order Form; (ii) any out of pocket expenses directly incurred by Cyferd as a consequence of the termination; and (iii) any unpaid one-time Fees relating to such termination. All such Fees and amounts owed shall be paid within thirty (30) days of Cyferd's invoice therefor. Payment of such final invoice shall not bar any remedy, legal equitable, or otherwise available to Cyferd, and no expiration or termination will give rise to any liability of Cyferd, affect Customer's obligation to pay all Fees and amounts owed that may have become due before such expiration or termination, or entitle Customer to any refund. Unless otherwise set out in the applicable Order Form or subsequently agreed by the parties in writing and having regard to any provisions in this regard in the Storage of and Access to Customer Data Policy, Customer shall be solely responsible for retrieving all applicable Customer Data from the Cyferd Product at its sole cost and expense. Customer acknowledges and agrees that Cyferd shall and irrevocably instructs Cyferd to, within forty-five (45) days of the date of expiration or earlier termination of this Agreement or an Order Form (as the case may be), dispose of and/or destroy all Customer Data in Cyferd's possession or control in relation to: (a) (where the Agreement is terminated) Customer's Access to the Cyferd Product and all of its then Tenancies and all then other Purchased Item(s); or (b) (where an Order Form is terminated) the Purchased Item(s) being the subject matter of that Order Form. Cyferd will have no obligation to maintain or provide access to the applicable Customer Data after such forty-five (45) day period has expired. Notwithstanding anything herein to the contrary, all terms logically construed to survive the term of this Agreement shall survive, including, without limitation, all provisions regarding Fees, Cyferd Policies, confidentiality, indemnification, and liability.

11. **Miscellaneous.**

11.1 **Entire Agreement.** Without limiting anything else herein or in any Order Form (including, without limitation, any Order Form entered into with a Cyferd Partner), this Agreement includes (i) the Cyferd Policies (located at <https://cyferd.com/cyferdcomm/us>) including the Acceptable Use Policy, the Annual Pricing Policy, the App Usage Fees Policy, the Data Protection Policy, the Developer License Policy, the Hosting Policy, the Privacy Policy (Platform), the Standard Support Services Policy, the Storage of and Access to Customer Data Policy, the Uptime Policy, and the User Notice, each as amended from time to time; and (ii) any other applicable document that forms part of/is supplemental to this Agreement from time to time. Each and every Cyferd Policy and each Order Form(s) entered into hereunder (including, without limitation, each such Cyferd Partner Order Form) and any such other applicable document forms part of this Agreement. For clarity, Section 1.2 sets out what this Agreement does not apply to.

By entering into this Agreement, Customer also expressly accepts the terms of the Cyferd Policies and such other applicable documents. This Agreement (including the Cyferd Policies and each Order Form entered into hereunder and each such other applicable document) shall supersede all prior agreements, communications, representations and understandings, either oral or written, between Cyferd and Customer with respect to the subject matter contained herein. All terms and conditions on any Customer-issued purchase order, order acknowledgment or other documents shall be deemed deleted and of no force or effect. Customer acknowledges that Cyferd may revise this Agreement, the Cyferd Policies (or any of them) and/or any other applicable document that forms part of/is supplemental to this Agreement from time to time by notifying Customer of such revision (each an "**Update**"), by email (together with a copy of the update or a link to a copy of the update) or by any other means which Cyferd elects ("**Update Notification**"), and by continuing to use the Cyferd Product after such Update Notification, Customer agrees to be bound by such revised Agreement, Cyferd Policy(ies) and/or other applicable document(s).

11.2 **Notices.** All notices, requests, demands, claims, and other communications hereunder will be in writing (including email) and in English and shall be delivered by personal delivery, by any method of mail (postage prepaid) return receipt required, by overnight courier, or by email, each to the recipient at the address or email address set out below and as subsequently modified by written notice given in accordance with this Section 11.2. Notice shall be deemed sufficiently given for all purposes upon the earliest of: (a) the date of actual receipt; (b) if mailed, three (3) days after the date of postmark; (c) if delivered by overnight courier, the next business day the overnight courier regularly makes deliveries, (d) if delivered by facsimile, receipt of automatically-generated confirmation of facsimile transmission, or (e) if sent by email, email confirmation of receipt. In addition, any general notices posted on Cyferd's website (<https://cyferd.com/>) shall be deemed given to Customer upon the date of posting. Any party may change the

address to which notices, requests, demands, claims, and other communications hereunder are to be delivered by giving the other party notice in the manner herein set forth. Notices for Customer should be sent to Customer at any email or physical address or contact details notified on the applicable Order Form (as updated from time to time pursuant to this [Section 11.2](#)). Notices for Cyferd should be sent to: Cyferd Inc., **marked for the attention of Legal Department**, **address** 16192 Coastal Highway, Lewes, Delaware 19958 and/or **email address** legal.department@cyferd.com (as updated from time to time pursuant to this [Section 11.2](#)).

11.3 **Force Majeure.** Except with regard to Customer's obligation to timely pay all Fees, and to the maximum extent permitted by applicable law, Cyferd shall not be responsible or liable for any default, breach, and/or for inadequate performance to the extent arising out of Force Majeure. If a Force Majeure event occurs, Cyferd shall use commercially reasonable efforts to mitigate the impact of such Force Majeure event.

11.4 **Waiver; Severability.** No waiver by Cyferd of any breach or default hereunder by the other shall operate as a waiver of any other breach or default or of a similar breach or default on a future occasion. No waiver of any term or condition hereof by Cyferd shall be effective unless the same shall be in writing and signed by Cyferd. In the event that any provision of this Agreement (other than a provision which goes to the essence of the consideration for this Agreement) is declared invalid, unenforceable or void, to any extent, by a court of competent jurisdiction, the remainder of this Agreement and the application thereof shall not be affected thereby, but rather shall be enforced to the greatest extent permitted by law.

11.5 **Injunctive Relief.** In the event of the breach or a threatened breach by Customer of any of the provisions of this Agreement, Cyferd may, in addition and supplementary to any other rights and remedies that may be available to Cyferd, obtain specific performance and/or injunctive or other equitable relief against the breach or threatened breach from a court of competent jurisdiction in order to enforce or prevent any violations of the provisions hereof (without posting a bond or other security).

11.6 **Governing Law.** This Agreement and the Order Form(s) will be governed by and construed in accordance with the laws of the State of Delaware without application of its choice of law provisions. Any dispute shall be subject to the exclusive venue of Wilmington, Delaware. If any legal action or any arbitration or other proceeding is brought in connection with this Agreement, the prevailing Party shall be entitled to recover reasonable attorneys' fees, accounting fees, and other costs incurred in that action or proceeding, in addition to any other relief to which it may be entitled.

11.7 **Export Regulations.** Customer understands that Cyferd is subject to regulation by agencies of the U.S. Government, including the U.S. Departments of Commerce and State, which prohibit export or diversion of certain technical products to certain countries. Customer warrants that it will comply in all respect with the export and re-export restrictions applicable to the Cyferd Product. Customer agrees to indemnify and hold Cyferd harmless from any loss, damages, liability or expenses incurred by Cyferd as a result of Customer's failure to comply with any export regulations or restrictions.

11.8 **Assignment.** Customer may not assign, transfer, delegate, and/or novate any of its rights or delegate any of its obligations hereunder or under any Order Form, in each case whether voluntarily, involuntarily, by operation of law or otherwise, without the prior written consent of Cyferd, which may be withheld and/or conditioned in its sole and exclusive determination. This Agreement and each Order Form may be assigned at any time by Cyferd. No assignment or delegation will relieve a Party and/or its permitted successor or assigns of any of its obligations hereunder. This Agreement shall be binding upon and enure for the benefit of Cyferd and Customer and any permitted successors or assigns.

11.9 **Relationship of Parties.** Cyferd is an independent contractor of Customer. Nothing herein shall be construed as creating a joint venture, partnership, employer-employee, or similar relationship. Further, Customer hereby acknowledges that Cyferd may engage subcontractors to assist with its performance hereunder.

11.10 **Third Party Beneficiaries.** Except for the rights specifically granted to Cyferd Indemnitees and Cyferd Partners, no other third party shall have any rights hereunder.

11.11 **Interpretation.** The headings preceding the text of the sections of this Agreement are inserted solely for convenience and ease of reference only and shall not constitute any part of this Agreement or have any effect on its interpretation or construction. In this Agreement, unless the context otherwise requires, any obligation of Customer to do any act deed or thing to refrain from doing any act deed or thing shall be deemed to be an obligation on Customer acting by itself, by its Administrator and/or any Authorized User to do any such act deed or thing to refrain from doing any such act deed or thing. This Agreement has been prepared in the English language and the English language shall

control its interpretation. In addition, all notices required or permitted to be given hereunder, and all written, electronic, oral or other communications between the parties regarding this Agreement shall be in the English language.

11.12 Counterparts. Each Order Form may be signed in counterparts, including via PDF, electronic signature, or other electronic reproduction, and any such counterpart will be valid and effective for all purposes.