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NOTE: THIS AGREEMENT WILL ONLY APPLY TO THE EXTENT THAT NO BINDING AGREEMENT, WRITTEN OR ELECTRONIC, (THE "OTHER AGREEMENT") IS ALREADY IN PLACE BETWEEN CUSTOMER (DEFINED BELOW) AND JIVE SOFTWARE, INC. PERTAINING TO THE HOSTED SERVICE TO WHICH THIS AGREEMENT APPLIES OR RELATED PROFESSIONAL SERVICES (AS DEFINED BELOW). TO THE EXTENT THAT ANY OTHER AGREEMENT IS IN EFFECT, THEN SUCH OTHER AGREEMENT WILL GOVERN CUSTOMER'S ACCESS AND USE OF THE HOSTED SERVICE AND RECEIPT OF PROFESSIONAL SERVICES AND THIS AGREEMENT WILL NOT APPLY EVEN IF YOU ARE REQUIRED TO CLICK THE BOX AFFIRMING YOUR CONSENT TO THE TERMS OF THIS AGREEMENT.

BY ACCESSING OR USING THE HOSTED SERVICE (AS DEFINED BELOW) WITHOUT AN APPLICABLE OTHER AGREEMENT OR BY OTHERWISE AGREEING IN WRITING TO THE TERMS AND CONDITIONS SET FORTH HEREIN, YOU SUBMIT TO JIVE SOFTWARE, INC., A DELAWARE CORPORATION ("WE" OR SERVICE PROVIDER), AN OFFER TO OBTAIN THE RIGHT TO USE THE HOSTED SERVICE AND RECEIVE PROFESSIONAL SERVICES (EACH AS DEFINED BELOW) UNDER THE PROVISIONS OF THIS AGREEMENT (THE "AGREEMENT").

YOU HEREBY AGREE THAT YOU HAVE THE REQUISITE AUTHORITY, POWER AND RIGHT TO FULLY BIND THE PERSON AND/OR ENTITIE(S) (COLLECTIVELY, THE "CUSTOMER") WISHING TO USE THE HOSTED SERVICE LISTED ON THE ORDER CONFIRMATION PAGE, QUOTE, QUOTE, INVOICE AND/OR OTHER ORDERING FORM (EACH A "QUOTE") WHICH SERVICE PROVIDER OR ONE OF ITS AUTHORIZED RESELLERS (A "RESELLER") PROVIDES OR MAKES AVAILABLE TO CUSTOMER IN CONNECTION WITH THE PURCHASE OF SUBSCRIPTIONS TO USE THE HOSTED SERVICE AND RECEIPT OF PROFESSIONAL SERVICES DESCRIBED BELOW. THE TERMS OF EACH QUOTE WILL SET FORTH THE SPECIFIC TERMS OF THE ORDER BUT ALL APPLICABLE TERMS AND CONDITIONS BELOW SHALL APPLY.

IF YOU DO NOT HAVE THE AUTHORITY TO BIND THE CUSTOMER OR YOU SERVICE PROVIDER IS UNWILLING TO PROVIDE THE HOSTED SERVICE OR PROESSIONAL SERVICES TO THE CUSTOMER, AND YOU SHOULD NOT CLICK TO ACCEPT THE TERMS OF THIS AGREEMENT AND YOU SHOULD DISCONTINUE THE ACCESS AND USE OF THE HOSTED SERVICE AND NOT REQUEST ANY PROFESSIONAL SERVICES.

1.0 ORDERING AND APPLICABILITY.

1.1 Orders. Under this Agreement Customer may order from Service Provider or one of its authorized resellers (each a "Reseller") (a) subscriptions to access and use Service Provider's standard platform software offerings and those Module Services (defined in Section 2.1(b)) made available by Service Provider and/or its suppliers on a hosted, software-as-a-service (SaaS) basis (collectively "Hosted Service"), (b) related Support Services (defined in Section 3.0 below) and/or (c) consulting or other professional services (collectively "Professional Services"). The specifics of each Customer order will be set forth on a confirmation page, Quote, quote, invoice and/or other ordering form mutually agreed upon by the parties in writing ("Quote") Quote that references this Agreement and is executed by both parties. Customer's execution of a Quote constitutes a binding commitment to purchase the items described on the Quote under the terms and conditions of this Agreement. All mutually executed Quotes are incorporated herein by reference.

1.2 Promotional Trials. Except as set forth herein, this Agreement applies to all orders made hereunder. If Service Provider provides to Customer any evaluation, trial or other promotional offering of the Hosted Service for a limited period ("Promotional Trial") Customer may use the Hosted Service until the earlier of (a) the end of the Promotional Trial period or (b) the start date of any paid Subscription Term (defined in Section 11.1). During any Promotional Trial periods, Sections 7.1, 8.0, and the Security Addendum shall not apply and Customer's use of the Hosted Service shall be "AS IS".

2.0 USE TYPES, ACCESS RIGHTS AND RESTRICTIONS.

2.1 Versions; Feature Upgrades and Modules; Jive Apps Market.

(a) *Types.* Each Quote will specify whether the Hosted Service acquired thereunder is to be used as an Internal or External version. With a subscription to an "Internal" version, Customer is authorized to create and maintain a Community (defined below) for use wi thin Customer's organization solely by authorized individual, non-concurrent users ("Users") that are (1) employees or specific individual independent contractors of Customer ("Internal Users") and (2) other users who are (i) not Internal Users (e.g. third party consulta nts, advisors, etc.) and (ii) are invited by Internal Users to participate in certain aspects of the Internal Community ("External Contributors"). Customer has sole discretion as to whether to permit External Contributors to access the Community and to designate those Internal Users who may invite External Contributors. With a subscription to an "External" version, Customer is authorized to create and maintain a Community for use primarily by Users who are not employees or independent contractors of Customer (e.g. members of the general public) ("External Users"). Customer will use the Hosted Service for the intended version type set forth in the Quote. A "Community" is an online virtual community of Users that (i) contains a collective, shared repository for user, group data, and search functionality and (ii) permits access to the underlying database by only one unique instance of the Hosted Service. Each license to either the External or Internal version of the Hosted Service permits Customer to access and use the Hosted Service in connection with a single Community. As used in this Agreement, the term "User" shall mean all Internal Users, External Users and Externa l Contributors.

(b) *Module Services.* Service Provider may make available to Customer certain optional functionality which may be provided as a separate stand-alone module or as a plug-in (collectively "Module Services").. Certain Module Services, products & add-ons included in the Hosted Service or purchased separately by Customer may be subject to additional terms and conditions found here: https://www.jivesoftware.com/legal/. Any additional or separate pricing associated with Module Services will be set forth in a Quote or otherwise agreed to by the parties in writing.

2.2 Provision of Hosted Service; Restrictions.

(a) *Provision of Hosted Service.* Subject to the terms of this Agreement, Service Provider will make the Hosted Service and the related User documentation found at: https://www.jivesoftware.com/services-support/customer-support/documentation ("Documentation") available to Customer and its Users after mutual execution of the applicable Quote.

(b) *Restrictions.* Except as otherwise expressly permitted under this Agreement, Customer agrees not to: (a) reverse engineer or otherwise attempt to discover the source code of or trade secrets embodied in the Hosted Service or any portion thereof; (b) distribute, transfer, grant sublicenses to, or otherwise make available the Hosted Service (or any portion thereof) to third parties, including, but not limited to, making such Hosted Service available (i) through resellers or other distributors, or (ii) as an application service provider, service bureau, or rental source; (c) create modifications to or derivative works of the Hosted Service; (d) attempt to modify, alter, or circumvent the license control and protection mechanisms within the Hosted Service; (e) use or transmit the Hosted Service in violation of any applicable law, rule or regulation, including, without limitation, any data privacy or protection laws; (f) intentionally access, use, or copy any portion of the Hosted Service or the Documentation (including the logic and/or architecture thereof and any trade secrets included therein) to directly or indirectly develop, promote, distribute, sell or support any product or service that is competitive with the Hosted Service; or (g) remove, obscure or alter any copyright notices or any name, trademark, service mark, tagline, hyperlink or other designation included on any display screen within the Hosted Service ("Jive Marks"). The Hosted Service is a "commercial item," as that term is defined at 48 C.F.R. 2.101 (OCT 1995), and more specifically is "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (SEPT 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (JUNE 1995), the Hosted Service is made available to U.S. Government End Users (i) only as a commercial end item and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein.

2.3 Implementation Types. The Hosted Service is made available under the following implementation types. The relevant Quote will designate the form of the Hosted Service implementation Customer will receive.

(a) *User Subscription.* Customer may permit access to the Hosted Service by no more than the number of Internal Users specified in the relevant Quote and by fifty (50) External Contributors for every one (1) Internal User specified in the relevant Quote; provided that with respect to each group within a Community, the number of External Contributors may not exceed one hundred (100). Customer may order additional Internal User subscriptions from Service Provider in accordance with the ordering process set forth in Section 1.0. To the extent that any Internal User subscriptions have been purchased and are in effect ("Existing Subscriptions") at the time that Customer subsequently purchases additional Internal User subscriptions (collectively, "Additional Subscriptions"), then the Subscription Term pertaining to the Additional Subscriptions shall equal the period of time remaining on the then-current Subscription Term pertaining to the Existing Subscriptions so that the Subscription Term for all subscriptions shall be coterminous, regardless of when purchased and subject to payment of additional Fees for such Additional Subscriptions, as set forth in the applicable Quote.

(b) *User View Subscription.* Customer may permit use of the Hosted Service by an unlimited number of Users, but such usage shall be subject to the restrictions on the number of monthly User Views specified in the relevant Quote.

(i) As used herein, a "User View" means each request from Customer or its Users for a visually displayed impression of content presented by the Hosted Service, including HTML content and asynchronous requests within the Hosted Service.

(ii) Each applicable Quote shall set forth a table of monthly User View ranges (i.e., 0-500,000 or 500,001 to 1,000,000 monthly User Views) (each, a "User View Range") and the initial estimated fee payable by Customer for use of the Hosted Service in connection with a single Community for the applicable Subscription Term (the "Initial User View Subscription Fee"). The Initial User View Subscription Fee will be based upon Customer's anticipated and designated User View Range as set forth on the Quote ("Designated User View Range"). The Initial User View Subscription Fee shall be payable in advance of the applicable Subscription Term in accordance with Section 12.2.

(iii) On a monthly basis during the Subscription Term, Service Provider shall track and deliver or make available to Customer a report summarizing the total number of actual User Views calculated by Service Provider during the preceding month ("Monthly User Views").

(c) *Excess Usage.* At the end of each calendar quarter during the Subscription Term, Service Provider will review Customer's current licensed User count and/or Monthly User Views, as applicable, and to the extent that Customer has exceeded the usage agreed upon in the Quote ("Excess Usage"), Service Provider will invoice Customer for:

(i) The number of Users exceeding the number of licensed Users on a pro rata basis for the balance of the Subscription Term Length. Such additional User licenses must be purchased in blocks of 25 and will be coterminous to the end of the then current Subscription Term.

(ii) Excess Fees based upon the difference between the applicable Monthly Charge for the Designated User View Range and the actual User View Range. Customer shall pay to Service Provider, in accordance with Section 12.2 below, all Excess Usage Fees, plus an overage charge equal to 20% of the Excess Usage Fee.

2.4 Bankruptcy. All rights granted pursuant to this Agreement are, for purposes of Section 365(n) of the U.S. Bankruptcy Code, deemed to be rights to "intellectual property" as defined under Section 101 of the U.S. Bankruptcy Code. In any bankruptcy or insolvency proceeding involving Service Provider, Customer, as recipient of such rights, will retain and fully exercise all of its rights and elections under the U.S. Bankruptcy Code, which will apply notwithstanding conflict of law principles.

3.0 SUPPORT AND MAINTENANCE. Service Provider offers the following levels of support and maintenance services ("Support Services"): Standard Support or Platinum Program. Standard Support services are included without any additional charge to Customer. Customer may elect to upgrade to the Platinum Program for additional Fees as set forth in a Quote. Service Provider will provide Support Services at the applicable level during the Subscription Term in accordance with the terms found at: www.jivesoftware.com/legal (the "Support Terms"), which such terms are incorporated herein by reference. Service Provider will implement all Updates and Upgrades (as defined in the Support Terms) to the Hosted Services.

4.0 SERVICE LEVELS AND RELATED MATTERS.

4.1 Community Data.

4.1.1 Customer's designated administrative accounts ("Admin Users") will have the ability to review and monitor all content that is uploaded and displayed through the Hosted Service ("Community Data") including the ability to specify access rights to and/or remove Community Data. Service Provider will not actively review or monitor any Community Data. Service Provider shall have the right to disclose Community Data to a third party; provided

that, to the extent permitted by law, Service Provider will: (a) promptly notify Customer of the order's terms and the circumstances surrounding its issuance; (b) consult in good faith with Customer regarding possible responses to the order and, if requested by Customer, make best efforts to narrow the order's scope, obtain a protective order from the court, or produce documents to the court or government body under seal with appropriate instructions regarding preservation of the Community Data confidentiality, if applicable; and (c) if disclosure is required to prevent Service Provider from being subjected to contempt sanctions or other penalties, disclose only the Community Data that, in the opinion of counsel reasonably satisfactory to Service Provider, is legally required to be disclosed, consistent with a reasonable interpretation of the order.

4.1.2 Service Provider may collect and use data pertaining to Customer's use of the Hosted Service, including (a) observing and reporting to Customer on Customer's use of the Hosted Service and make recommendations for improvement, (b) for its internal research and development purposes, and (c) identifying trends and publishing reports or results on its findings provided that the reports or results include aggregated data that does not identify Customer or any particular User (e.g. Service Provider may disclose aggregate User Views statistics for all of its hosted customers).

4.2 Capacity. For each Community, Customer is allotted 100 gigabytes (GB) of Community Data storage space ("Default Capacity"). Customer

may purchase additional capacity beyond the Default Capacity (within a storage network area) for the particular Community in blocks of 500GB for a recurring monthly fee of $400. The maximum size of any attachments transmitted through use of the Hosted Service is 100 megabytes.

4.3 <u>Acceptable Use and Terms of Use</u>. Customer will comply with and will be responsible for its Users' compliance with all applicable laws and regulations as well as the terms and conditions of the Acceptable Use Policy ("Jive AUP") with respect to use of the Hosted Service. The Jive AUP is found at www.jivesoftware.com/legal and is incorporated herein by reference. Such policy is incorporated herein by reference and may be amended from time to time as required by applicable law or Service Provider's third party hosting provider, effective upon notice to Customer. Customer is responsible for establishing and enforcing terms of use and privacy policies applicable to use of the Hosted Service by Users as permitted under this Agreement. In relation to all personal data comprised within any Community Data, Customer warrants that such personal data shall have been obtained and supplied to Service Provider in compliance with applicable data protection legislation, including but not limited to, Customer having obtained all necessary consents and approvals from Users that are necessary to permit Service Provider to provide the Hosted Service.

4.4 <u>Jive User Account</u>. Service Provider may set up a private user account ("<u>Private Jive Account</u>") to provide Service Provider with automated access to the Hosted Service solely for testing purposes. The Private Jive Account will be used to routinely test the material functionality of the Hosted Service to ensure that such material functionality operates properly. Service Provider will not use the Private Jive Account to post, remove or monitor any Community Data.

4.5 <u>Security</u>. In compliance with the Security Addendum attached hereto, Service Provider shall (i) establish and maintain appropriate technical and organizational measures to protect against accidental damage to, or destruction, loss, or alteration of Community Data; (ii) establish and maintain appropriate technical and organizational measures to protect against unauthorized access to the hosting infrastructure and Community Data; and (iii) establish and maintain network and internet security procedures, protocols, security gateways and firewalls with respect to the Hosted Service. Service Provider is not responsible for the security of Community Data while in transit over the Internet or other third party network. Service Provider does not scan for the existence of Viruses (defined in Section 7.1) within the Hosted Service generally nor does it scan downloaded files prior to opening by the User.

4.6 <u>Third Party Audit Reports</u>. On an annual basis, Service Provider shall obtain a SSAE 16 report, ISO 27001 report, or any successor standard that is generally recognized in Service Provider's industry (the "<u>Reports</u>"), for all facilities from which the Hosted Service (exclusive of Modules) is made available ("<u>Hosting Facility</u>").

4.7 <u>Hosting Infrastructure</u>: Notwithstanding anything to the contrary herein or the applicable Quote, Customer acknowledges that certain functionality may only be available within the AWS hosting infrastructure ("AWS"). Such functionality may only be accessed upon deployment within AWS which shall be in Service Provider's sole discretion. Service Provider shall take commercially reasonable efforts to enable such functionality within 6 months of the Effective Date of the applicable Quote, provided that any delay in access (or enablement as the case may be) shall not be deemed to be a breach by Service Provider or its subcontractors and Service Provider shall have no liability under this Agreement for such features until Customer's access is enabled.

5.0 PROFESSIONAL SERVICES. Pursuant to a mutually executed statement of work ("SOW"), Service Provider will perform Professional Services and provide object code, flow charts, documentation, information, reports, test results, findings, or any works and other materials developed by Service Provider for Customer identified as "deliverables" under the scope of an SOW ("<u>Deliverables</u>") Each SOW will include the particulars of each Professional Services engagement. In a timely manner, Customer will provide all assistance reasonably requested by Service Provider in connection with the Professional Services. If Customer notifies Service Provider in writing within 30 days after a particular Deliverable is made available to Customer that the Deliverable does not conform to the requirements of the SOW, then Service Provider will, as Customer's sole and exclusive remedy and Service Provider's sole liability, modify or replace the Deliverables at no cost to Customer.

6.0 PROPRIETARY RIGHTS. As between the parties, Service Provider and its suppliers will retain all ownership rights in and to the Jive Marks, the Hosted Service, the Documentation, Service Provider Confidential Information, all Updates and Upgrades (as defined in the Support Terms), all ModuleServices, all Deliverables (except to the extent they include pre-existing Customer Confidential Information or intellectual property) and other derivativeworks of the Hosted Service and/or Documentation that are provided by Service Provider, and all intellectual property rights incorporated into or relatedto the foregoing. Customer acknowledges that the goodwill associated with the Jive Marks belongs exclusively to Service Provider. All rights not expressly licensed by Service Provider to Customer under this Agreement are reserved. As between the parties hereto, Customer will retain all ownershiprights in and to all Customer Confidential Information, all pre-existing Customer intellectual property and all Community Data. Customer's rights to the Deliverables shall be the same as its rights to the Hosted Service. Service Provider may use without limitation any suggestions, recommendations orother feedback provided by Customer regarding the Hosted Service.

6.1 Patent Notice. Customer is hereby placed on notice that the Hosted Service, Hosted Service updates, their related technology and services may be covered by one or more United States ("US") and non-US patents. A listing that associates patented products included in the Hosted Service, Hosted Service updates, their related technology and services with one or more patent numbers is available for Customer's and the general public's access at: https://markings.ipdynamics.ai/esw (hereinafter, the "Patent Notice") and any successor or related locations designated by Service Provider. The association of products-to-patent numbers in the Patent Notice may not be an exclusive listing of associations, and other unlisted patents or pending patents may also be associated with the Hosted Service. Likewise, the patents or pending patents may also be associated with unlisted products. Customer agrees to regularly review the products-to-patent number(s) association at the Patent Notice to check for updates. The Hosted Service may include third-party products identified below and sublicensed by Service Provider to Customer. Some or all associations of the third-party products-to-patents are also identified in the Patent Notice by each associated third-party and product name.

7.0 WARRANTIES AND DISCLAIMER.

7.1 <u>Warranties</u>. Service Provider warrants that (a) it will perform all Professional Services in a professional manner consistent with industry standards and practices, and (b) the Hosted Service, as delivered and when used in accordance with the Documentation, (i) will perform in all material respects as specified in such Documentation for the duration of the Subscription Term, and (ii) will not contain any back door, time bomb, Trojan horse, worm, drop dead device, virus, preventative routines or other computer software routines intentionally designed to permit unauthorized access to or use of either the Hosted Service's or Customer's computer systems ("<u>Viruses</u>"). In the event of any breach of the warranties in subsection (a) or (b)(i) above, Service Provider shall, as its sole liability and Customer's sole remedy, diligently remedy any deficiencies promptly after its receipt of written notice from Customer. Service Provider will not be liable to the extent that any breach of the foregoing warranties are caused by (1) any other third-party components or services (including in combination with the Hosted Service) not provided by Service Provider; (2) unauthorized use or use of the Hosted Service other than in accordance with the Documentation, or (3) Viruses introduced by Customer or its agents or Users (collectively, "<u>Exclusions</u>").

7.2 <u>Disclaimers</u>. THE EXPRESS WARRANTIES IN SECTION 7.1 ARE THE EXCLUSIVE WARRANTIES OFFERED BY SERVICE PROVIDER AND ALL OTHER CONDITIONS AND WARRANTIES, INCLUDING, WITHOUT LIMITATION, ANY CONDITIONS OR WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, QUIET ENJOYMENT, TITLE, MERCHANTABILITY AND THOSE THAT ARISE FROM ANY COURSE OF DEALING OR COURSE OF PERFORMANCE ARE HEREBY DISCLAIMED. SERVICE PROVIDER DOES NOT WARRANT THAT CUSTOMER'S USE OF THE HOSTED SERVICE WILL BE UNINTERRUPTED OR ERROR-FREE, OR THAT ERRORS WILL BE CORRECTED.

8.0 INDEMNIFICATION.

8.1 Service Provider Indemnity. Service Provider will defend at its own expense any action against Customer brought by a third party to the extent that the action is based upon a claim that the Hosted Service infringes any copyright, trademark, or misappropriates any trade secret rights to the

extent any of the foregoing are recognized in the United States, Canada or any member country within the European Union. Service Provider will pay those costs and damages finally awarded against Customer in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action. If the Hosted Service (or any component thereof) becomes, or in Service Provider's opinion is likely to become, the subject of an infringement or misappropriation claim, Service Provider may, at its option and expense, either (x) procure for Customer the right to continue exercising the rights licensed to Customer in this Agreement, or (y) replace or modify the Hosted Service so that it becomes non-infringing and remains functionally equivalent. If neither of the foregoing options are, in Service Provider's reasonable opinion, commercially reasonable, Service Provider may terminate this Agreement and will refund to Customer a pro-rata portion of any applicable prepaid Fees. Notwithstanding the foregoing, Service Provider will have no obligation under this Section 8.1 or otherwise with respect to any infringement claim based upon any Exclusions. Customer will have the right, at its own expense, to participate in the defense of any claim of infringement. This Section 8.1 states Service Provider's entire liability and Customer's sole and exclusive remedy for infringement or misappropriation claims and actions.

8.2 <u>Customer Indemnity.</u> Customer will defend at its own expense any action against Service Provider brought by a third party to the extent that the action (including but not limited to any governmental investigations, complaints, and actions) relates to Community Data, including but not limited to infringement or misappropriation any third party's intellectual property rights or violation of applicable law. Customer will pay those costs and damages finally awarded against Service Provider in any such action that are specifically attributable to such claim or those costs and damages agreed to in a monetary settlement of such action.

8.3 <u>Process</u>. The foregoing obligations are conditioned on (i) the indemnified party notifying the other party in writing of an action, proceeding, or other claim by a third party no later than 30 days after first receiving notice of such action and must provide copies of all communications, notices and/or other actions relating to the action; (ii) giving the indemnifying party sole control of the defense thereof and any related settlement negotiations, provided that such defense shall be conducted in a manner that is not adverse to the indemnified party's interests (the indemnified party may employ its own counsel at its own expense to assist it with respect to any such claim); (iii) the indemnified party's compliance with this Agreement; and (iv) the indemnified party acting in accordance with the reasonable instructions of the other party, cooperating and, upon reasonable request and at the expense of the indemnifying party, assisting in such defense.

9.0 LIMITATIONS ON LIABILITY. NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY, WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, CONSEQUENTIAL, OR SPECIAL DAMAGES (INCLUDING ANY DAMAGE TO BUSINESS REPUTATION, LOST PROFITS OR LOST DATA), WHETHER FORESEEABLE OR NOT AND WHETHER A PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S AGGREGATE CUMULATIVE LIABILITY TO THE OTHER, IN CONNECTION WITH THIS AGREEMENT, INCLUDING THE HOSTED SERVICE, SERVICES AND INTELLECTUAL PROPERTY PROVIDED HEREUNDER SHALL NOT EXCEED, IN THE AGGREGATE AND REGARDLESS OF WHETHER UNDER THEORY OF CONTRACT, TORT OR OTHERWISE, THE TOTAL OF THE FEES ACTUALLY PAID AND THE FEES PAYABLE TO SERVICE PROVIDER BY CUSTOMER UNDER THIS AGREEMENT DURING THE ONE YEAR PERIOD PRIOR TO THE DATE THAT SUCH LIABILITY FIRST ARISES. HOWEVER, THERE IS NO LIMITATION ON DIRECT LOSS, CLAIM OR DAMAGES ARISING AS A RESULT OF AN INFRINGEMENT OF EITHER PARTY'S INTELLECTUAL PROPERTY RIGHTS OR IN CONNECTION WITH A PARTY'S INDEMNIFICATION OBLIGATIONS.

10.0 CONFIDENTIALITY. "<u>Confidential Information</u>" means, with respect to a party (the "<u>Disclosing Party</u>"), all non-public confidential information pertaining to such party's business and includes Community Data. Service Provider and Customer will comply with this Section 10.0 when exchanging Confidential Information under this Agreement. Confidential Information will be designated and/or marked as confidential when disclosed, provided that any information that the party receiving such information (the "<u>Receiving Party</u>") knew or reasonably should have known, under the circumstances, was considered confidential or proprietary by the Disclosing Party, will be considered Confidential Information of the Disclosing Partyeven if not designated or marked as such. The Receiving Party shall preserve the confidentiality of the Disclosing Party's Confidential Information and treat such Confidential Information with at least the same degree of care that Receiving Party uses to protect its own Confidential Information,but not less than a reasonable standard of care. The Receiving Party will use the Confidential Information of the Disclosing Party only to exercise rights and perform obligations under this Agreement. Confidential Information of the Disclosing Party will be disclosed only to those employees and contractors of the Receiving Party with a need to know such information. The Receiving Party shall not be liable to the Disclosing Party for the releaseof Confidential Information if such information: (a) was known to the Receiving Party on or before Effective Date without restriction as to use or disclosure; (b) is released into the public domain through no fault of the Receiving Party; (c) was independently developed solely by the employeesof the Receiving Party who have not had access to Confidential Information; or (d) is divulged pursuant to any legal proceeding or otherwise required by law, provided that, to the extent legally permissible, the Receiving Party will notify the Disclosing Party promptly of such required disclosure and reasonably assists the Disclosing Party in efforts to limit such required disclosure.

11.0 TERM, TERMINATION AND EFFECT.

11.1 <u>Subscription Duration; Renewals</u>. The term of each subscription to the Hosted Service purchased by Customer will commence on the date that both parties have executed the applicable Quote (unless a later commencement date is expressly set forth on such Quote) and will continue for the period set forth on such Quote and include any renewal, as described in this Section 11.1 (collectively, the "<u>Subscription Term</u>"). Each subscription will automatically renew for the renewal period specified on the applicable Quote, if any, or, if not specified, for a period of one year unless either party notifies the other at least 30 days prior to the commencement of the renewal term that it does not intend to renew the Subscription Term.

11.2 <u>Term and Termination</u>. This Agreement shall continue in effect until terminated as set forth herein. This Agreement or any Statement of Work, if applicable, may be terminated (a) by either party if the other party materially breaches this Agreement and does not cure the breach within 30 days after receiving written notice thereof from the non-breaching party (except that such cure period shall be five days for breaches of Sections 2.2 or 10.0), or (b) as set forth in Section 8.1.

11.3 <u>Effect</u>. Upon any termination of this Agreement, without prejudice to any other rights or remedies which the parties may have under this Agreement, (a) all subscriptions, rights and obligations hereunder shall immediately cease; provided that Sections 6.0, 8.0 through 12.0 and 14.0 and any other provisions with express survival language shall survive termination, and (b) Customer shall pay to Service Provider any outstanding Fees that have accrued prior to the date of termination. Customer will have access to Community Data stored in the Hosted Service during the Subscription Term and for 30 days thereafter ("<u>Post- Termination Period</u>"). Customer's access during the Post-Termination Period will be solely as necessary to permit Customer to transition the Community Data to an alternative solution or other location.

12.0 FEES AND PAYMENT.

12.1 <u>Fees</u>. Subject to the terms and conditions below, all fees for subscriptions to the Hosted Service and Professional Services (collectively, the "<u>Fees</u>") will be set forth on the applicable Quote.

12.2 <u>Payment Terms</u>. Unless otherwise agreed to in writing by the parties, Customer will pay to Service Provider or the Reseller, as applicable, all undisputed Fees owed within 30 days of the date of the invoice pertaining thereto. Payments will be sent to the address included on the invoice and shall be in the currency of the United States. If Customer fails to pay all Fees in accordance with this section, Service Provider may, in its sole discretion, suspend use of the Hosted Service until Service Provider has received all outstanding Fees. Customer shall be responsible for all applicable

sales, use and other taxes other than taxes based on Service Provider's income. Each party is responsible for its own expenses under this Agreement unless set forth in an SOW or Quote.

13.0 INSURANCE. Service Provider, at its own expense, will maintain at a minimum the following insurance coverages: (a) Commercial General Liability

Insurance with coverage in an amount equal to or greater than US$1,000,000 per occurrence/$2,000,000/aggregate, (b) Commercial Automobile Liability Insurance with coverage in an amount equal to or greater than US$1,000,000 per occurrence combined single limit, (c) Worker's CompensationInsurance with coverage complying with at least the statutory limits of coverage within the relevant state of employment, (d) Errors and Omissions Insurance with coverage in an amount equal to or greater than US$2,000,000 per claim/aggregate and (e) Umbrella/Excess Liability Insurance with coverage in an amount equal to or greater than US$5,000,000 per occurrence/aggregate.

14.0 MISCELLANEOUS. The parties are independent contractors with respect to each other, and nothing in this Agreement shall be construed as creating an employer-employee relationship, a partnership, agency relationship or a joint venture between the parties. Each party will be excused from any delay or failure in performance hereunder, other than the payment of money, caused by reason of any occurrence or contingency beyond its reasonablecontrol, including but not limited to acts of God, earthquake, labor disputes and strikes, riots, war and governmental requirements (each a "Force Majeure Event"). The obligations and rights of the party so excused will be extended on a day to day basis for the duration of the Force MajeureEvent. This Agreement applies to each party's users, representatives, officers, agents, employees and associated individuals. The terms of this Agreement shall be binding on the parties, and all successors to the foregoing. Neither party will assign, transfer or delegate its rights or obligations under this Agreement (in whole or in part) without the other party's prior written consent except pursuant to a transfer of all or substantially all ofsuch party's business and assets, whether by merger, sale of assets, sale of stock, or otherwise. Service Provider may subcontract to a third party any of its performance obligations under the Agreement, including obligations related to the hosting, storage, or processing of Community Data. Any attempted assignment, transfer or delegation in violation of the foregoing shall be null and void. This Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws rules. The exclusive venue and jurisdiction for any and all disputes, claims and controversies arising from or relating to this Agreement shall be the state or federal courts located in Santa Clara County, California. Each party waives any objection (on the grounds of lack of jurisdiction, forum non conveniens or otherwise) to the exercise of such jurisdiction over it by any such courts. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the interpretation or enforcement of this Agreement. In the event that any provision of this Agreement conflicts with governing law or if any provision is held to be null, void or otherwise ineffective or invalid by a court of competent jurisdiction, (a) such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the parties in accordance with applicable law, and (b) the remaining terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect. No waiver of any breach of any provision of this Agreement shall constitute a waiver of any prior, concurrent or subsequent breachof the same or any other provisions hereof, and no waiver shall be effective unless made in writing and signed by an authorized representative of the waiving party. This Agreement includes any Quotes and/or SOWs agreed to by the parties in writing and all expressly referenced documents. Collectively the foregoing constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements or communications, including, without limitation, any quotations or proposals submitted by Service Provider. The termson any purchase order or similar document submitted by Customer to Service Provider will have no effect and are hereby rejected. Unless otherwise expressly stated, all legal notices, consents and approvals under this Agreement must be delivered in writing by courier, by facsimile, or by certified or registered mail, (postage prepaid and return receipt requested) to the other party at its official headquarters to the attention of the beginning of this Agreement chief legal officer and are deemed delivered when received.

SECURITY ADDENDUM

As of the Effective Date, Jive Software, Inc. ("**Service Provider**") shall have implemented, and shall thereafter during the Retention Period (as defined below) maintain, policies, procedures, and/or practices (collectively, the "**Security Program**") that satisfy the requirements set forth in this Security Addendum (this "**Addendum**"). This Addendum forms a part of any legal agreement into which this Addendum is explicitly incorporated by reference (the "**Agreement**") and is subject to all terms and conditions of the Agreement. In the event of a conflict between the Agreement and this Addendum, this Addendum will govern to the extent of the conflict. Capitalized terms not defined in this Addendum will have the meanings set forth in the Agreement. Except as otherwise specified in this Addendum, the parties' obligations under this Addendum will apply during that period commencing on the Effective Date and continuing thereafter for so long as Service Provider stores or maintains any Community Data (the "**Retention Period**"). For purposes of this Security Addendum, references to the defined term "Hosted Solution" shall also refer to the Hosted Service as defined in the applicable Agreement.

1. **Objectives and Exceptions**. Service Provider's Security Program shall take reasonable measures designed in an effort to (a) protect Community Data from unauthorized access, use, disclosure, alteration, distribution, and destruction, and (b) protect the integrity and availability of such Community Data. Pursuant to this Addendum, all such Community Data shall be preserved in confidence by Service Provider with the same standard of care provided to Confidential Information. For the purposes of the Agreement and this Addendum, Community Data shall be considered Confidential Information (as defined within the Agreement).

   Notwithstanding anything to the contrary in the Agreement or this Addendum, Service Provider's Security Program and its obligations under this Addendum pertain only to those systems, networks (and network devices), components, facilities, and areas over which Service Provider has control of and hosts or maintains Community Data. For the avoidance of doubt, (a) this does not include the Hosted Solution (or any portion thereof) that is not hosted by Service Provider or by its hosting center provider performing hosting services for Service Provider, and (b) the Security Program does not apply to any (i) Customer content that is not Community Data, (ii) Community Data while in transit over the Internet, VPN, or other third-party network, or (iii) changes, modifications, configurations, or other actions taken by Customer or its Users or agents with respect to the Hosted Solution, any Service Provider systems, or Community Data (or to any effects on the Hosted Solution, Service Provider systems, or Community Data arising from such actions), including any alterations to security that Customer or its Users or agents may make, or to any Community Data uploaded or transmitted by Customer or its Users or agents in breach of the Agreement.

2. **Security Measures**. Service Provider shall develop (or modify, as appropriate), implement, and maintain reasonable measures in an effort to manage and control risks it identifies to the security of Community Data. Such security measures will include reasonable physical, technical, and organizational safeguards designed in an effort to protect Community Data against loss, misuse, unauthorized access, disclosure, alteration, and destruction. Such measures will include implementing and maintaining the following:

   2.1. Physical Security Measures

   (a) **Physical Security including Physical Access Control** – Maintaining all systems storing or maintaining Community Data in an environment using reasonable physical security measures including those designed to prevent unauthorized access. Service Provider Software shall use reputable, Tier 3 or Tier 4 data center providers.

   (b) **Data Deletion** –Customer data will be deleted from all systems, including backups, within 180 days from termination of the applicable contract.

   2.2. Technical Security Measures

(a) **Access Control** – Implementing and maintaining reasonable access control systems for networks, systems, and access to Community Data including authorizing access and promptly disabling access upon termination of employment. Customer is responsible for managing and reviewing access for their users.

(b) **Access Monitoring** – Reasonable measures for monitoring networks and systems on which Community Data is stored, maintained, or transmitted and for maintaining access records. Such measures will include, without limitation, logging all privileged access (e.g., root or superuser level access) to such networks and systems.

(c) **Authentication -** Reasonable measures for authentication of authorized employees with access to Community Data, including reasonably secure methods for the usage and storage of strong passwords, or the use of unique identifier technologies.

(d) **Security Log Retention** – Reasonable measures designed to store logs from systems and network devices for a period of 90 days.

(e) **Intrusion Detection** – Reasonable measures designed in an effort to monitor and detect attacks to Service Provider's systems on which Community Data is stored, maintained, or transmitted.

(f) **Network Security** – Reasonable measures designed in an effort to protect Service Provider's network on which Community Data is stored, maintained, or transmitted. Such measures include two-factor authentication when remote access to the network is required and well as the use of access control lists and defined network boundaries.

(g) **Device Encryption** – Reasonable measures to encrypt the laptops of Service Provider employees that are intended to process or store Community Data.

(h) **Software Patching** - Implementing and maintaining reasonable measures providing for the implementation of relevant updates and patches supplied by vendors of all computer software and network device software used by Service Provider to store, maintain, or transmit Community Data.

(i) **Change Management** – Implementing and maintaining reasonable infrastructure management practices, including change control processes.

(j) **Backup, Retention, and Restoration** – Implementing and maintaining backup and recovery measures during the License Term that are designed to permit data recovery and subsequently, system availability in the event of a loss of, or damage to systems or data in accordance with the requirements of the Agreement.

(k) **System Hardening** – Implementing and maintaining reasonable measures designed to disable default accounts on, and stop unused services on Service Provider servers, network devices, and systems on which Community Data is stored, maintained, or transmitted.

(l) **Application Security** – Implementing and maintaining reasonable measures addressing periodic review of the Service Provider application. Such measures will include static and dynamic application scans using industry recognized tools. Service Provider does not permit penetration testing by its Customers.

2.3. <u>Organizational Security Measures</u>

(l) **Responsibility** – Service Provider shall implement and maintain reasonable measures to assign responsibility for management of information security with respect to implementing the Security Program. This includes hiring staff with reasonable skill and experience. Service Provider will, to the extent permitted by applicable law, conduct or procure background checks for all Service Provider employees who have access to Community Data in the course of performing their job functions.

(m) **Obligations of Employees and Program Enforcement** – Service Provider shall implement and maintain reasonable measures designed to (i) inform employees with access to the Community Data of their obligations under the Security Program and (ii) enforce Service Provider's policies against any employee who violates his or her obligations under the Security Program, with consequences up to and including termination.

(n) **Training and Education** – Service Provider shall institute and maintain a reasonable training and education program designed to train Service Provider employees with access to Community Data, and to make such employees aware of their responsibilities under the Security Program.

3. <u>**Sub-contractors.**</u> To the extent that Service Provider subcontracts to a third party any of its performance obligations under the Agreement with respect to the storage or processing of Community Data, Service Provider will cause the subcontractor to agree in writing to comply with obligations reasonably appropriate to such subcontractor's storage, maintenance, or processing activities not materially less protective than those contained in this Addendum. Service Provider will enforce all such obligations against such subcontractor.

4. <u>**Customer Assistance**</u>**.** Customer shall provide Service Provider with reasonable assistance and access to and use of Customer's systems, network connections, and Community Data as Service Provider may reasonably request in connection with Service Provider's investigation, mitigation, and/or remedy of any security incident or event which is the subject of the Security Program.

5. <u>**Incident Management/Escalation**</u>**.** Service Provider shall develop, implement, and maintain a reasonable incident response plan for addressing security incidents in which unencrypted Community Data processed or stored by Service Provider systems is, or is reasonably believed by Service Provider to have been, accessed or obtained by an unauthorized person or entity. Service Provider shall notify Customer via its support services contacts within forty-eight (48) hours, subject to the needs of law enforcement, in the event that Service Provider has confirmed any instance of unauthorized access to unencrypted Community Data.

6. <u>**Right to Reports.**</u> Upon Customer's request, Service Provider shall provide Customer with a copy of Service Provider's SOC2 ISO 27001, or equivalent audit reports. The audit reports shall be considered Service Provider's Confidential Information under the Agreement.

7. **Customer Obligations.** Customer must employ its own security measures regarding the Community Data which such measures must include, at a minimum, those set forth in the Agreement and the following:
   - Ensuring that only authorized Users have access to the Hosted Solution;
   - Protecting all logon credentials;
   - Not intentionally attempting to bypass Service Provider application security controls;
   - Not performing any type of security testing and load testing against the Hosted Solution without the prior written consent of Service Provider;
   - Not using the Hosted Solution in a manner that does not comport with the Documentation; and
   - Treating all security related documents and information (e.g. SOC2 report, technical documentation, diagrams) as Service Provider Confidential Information.

Addendum

The following terms and conditions supplement or modify the terms and conditions of the Agreement to the extent Customer has indicated on an applicable Quote that Customer is subject to the laws of any of the countries (or any state of any of the countries) set out below. In the event of any inconsistencies between this Addendum and the provisions of the Agreement, this Addendum shall prevail. Unless expressly amended in this Addendum, the provisions of the Agreement shall remain in full force and effect.

All countries in the Europe, Middle East and Africa (EMEA) region, except for France and Germany

1. Notwithstanding Section 2.2(b)(a), Customer may not reverse engineer or otherwise attempt to discover the source code of the Hosted Solution or any portion thereof except to the limited extent required to be permitted by mandatory applicable law notwithstanding contractual prohibition.

2. Notwithstanding any provision of the Agreement to the contrary, neither party excludes or limits its liability for (i) personal injury or death caused by its negligence, (ii) fraud or fraudulent misrepresentation, or (iii) any other liability which may not lawfully be excluded or limited.

3. In Section 9.0, the words "that such liability first arises" are replaced with:

   "ON WHICH THE FIRST EVENT GIVING RISE TO SUCH LIABILITY ON THE PART OF SUCH PARTY OCCURS ("AGGREGATE LIABILITY CAP"). THIS MEANS THAT ONCE THE AGGREGATE LIABILITY CAP FOR A PARTY TO THIS AGREEMENT HAS BEEN REACHED, THAT PARTY SHALL (SUBJECT ONLY TO THE OTHER PROVISIONS OF THIS SECTION 9.0) HAVE NO FURTHER LIABILITY, REGARDLESS OF THE NUMBER OR SEVERITY OF LATER CLAIMS AND EVENTS THAT WOULD, BUT FOR THIS SECTION 9.0, GIVE RISE TO LIABILITY."

4. In Section 14.0, the following is added: For the purposes hereof, "Bribery Act" means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation; and "Prohibited Act" means (a) to directly or indirectly offer, promise or give any person working for or engaged by the other party a financial or other advantage to (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or reward for improper performance of a relevant function or activity in connection with the Agreement; (c) committing any offense (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract between the parties; or (iv) defrauding, attempting to defraud or conspiring to defraud a party. Each party shall not, and shall procure that any of its related parties and its personnel shall not, in connection with the Agreement, commit a Prohibited Act and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the other party, or that an agreement has been reached to that effect, in connection with the entering into of the Agreement, excluding any arrangement of which full details have been disclosed in writing to the other party before entering into of the Agreement.

5. Notwithstanding Section 14.0, the Agreement shall be governed by the laws of England. The exclusive venue and jurisdiction for any and all disputes, claims and controversies arising from or relating to the Agreement shall be the courts of England.

France:

1. In Section 8.0, the terms "terminate this Agreement" are replaced with:

   "terminate as of right ("*de plein droit*") without any judicial formalities".

2. Section 9.0 is replaced with:

   "NEITHER PARTY SHALL BE LIABLE TO THE OTHER PARTY UNDER THIS AGREEMENT, FOR ANY INDIRECT DAMAGES (INCLUDING ANY DAMAGE TO BUSINESS REPUTATION, LOST PROFITS OR LOST DATA), WHETHER FORESEEABLE OR NOT AND WHETHER A PARTY IS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EACH PARTY'S AGGREGATE CUMULATIVE LIABILITY TO THE OTHER, IN CONNECTION WITH THIS AGREEMENT, INCLUDING THE SOLUTION, SERVICES AND INTELLECTUAL PROPERTY PROVIDED HEREUNDER SHALL NOT EXCEED, IN THE AGGREGATE THE TOTAL OF THE FEES ACTUALLY PAID AND THE FEES PAYABLE TO SERVICE PROVIDER BY CUSTOMER UNDER THIS AGREEMENT DURING THE ONE YEAR PERIOD PRIOR TO THE DATE THAT SUCH LIABILITY FIRST ARISES. HOWEVER, THERE IS NO LIMITATION ON DIRECT LOSS, CLAIM OR DAMAGES ARISING AS A RESULT OF AN INFRINGEMENT OF EITHER PARTY'S INTELLECTUAL PROPERTY RIGHTS, OR IN CONNECTION WITH A PARTY'S INDEMNIFICATION OBLIGATIONS."

3. In Section 11.2, the words "may be terminated" are replaced with:

   "may be terminated as of right ("*de plein droit*") without any judicial formalities."

4.	In Section 12.2, after the words "Unless otherwise agreed to in writing by the parties including in a QuoteQuote, Customer will pay to Service Provider or the Reseller, as applicable, all undisputed Fees owed within 30 days of the date of the invoice pertaining thereto", the following is added:

"In the event of failure to pay an invoice within this deadline, the unpaid amounts will give rise to the payment of late payment interest, equal to three (3) times the legal interest. Interest will begin to run on the day following the due date of the relevant invoice."

5.	In Section 12.2, after the words "All amounts payable shall be in the currency of the United States and any and all applicable sales, use and other taxes (other than taxes based on Service Provider's income) will be separately and specifically stated (and are the responsibility of Customer)", the following is added:

"Accordingly, if any amount to be paid under this Agreement to Service Provider or the Reseller, is subject to any deductions or withholdings for any present or future taxes, levies, imposts, duties, fees, charges, or liabilities imposed by any competent governmental authority then the Customer must pay an additional amount to Service Provider or the Reseller, as the case may be, as is necessary so that the net amount actually received by Service Provider or the Reseller after such deduction, payment or withholding will equal the full amount stated to be payable under this Agreement".

6.	Notwithstanding Section 14.0, this Agreement shall be governed by the laws of France. The exclusive venue and jurisdiction for any and all disputes, claims and controversies arising from or relating to this Agreement shall be the Commercial Court of Paris, France.

Germany:

1.	In Section 2.2 (a), after the words "Service Provider will make the Hosted Service and the related User documentation ("Documentation") available to Customer and its Users" the following words are added:

"on a non-perpetual basis"

2.	In Section 2.2 (b), after the words "Except as otherwise expressly permitted under this Agreement" the following words are added:

"or allowed according to §§ 69d et seq. of the German Copyright Act"

3.	In Section 2.2 (b), the following words are deleted:

"The Hosted Service is a "commercial item," as that term is defined at 48 C.F.R. 2.101 (OCT 1995), and more specifically is "commercial computer software" and "commercial computer software documentation," as such terms are used in 48 C.F.R. 12.212 (SEPT 1995). Consistent with 48 C.F.R. 12.212 and 48 C.F.R. 227.7202-1 through 227.7202-4 (JUNE 1995), the Hosted Service is made available to U.S. Government End Users (i) only as a commercial end item and (ii) with only those rights as are granted to all other end users pursuant to the terms and conditions herein."

4.	In Section 2.3 (c) the words: "20% of the Excess Usage Fee." are replaced with:

"8% of the Excess Usage Fee, unless the Customer proves that Service Provider has not incurred any damage or a lower damage."

5.	Section 2.4 is deleted.

6.	In Section 4.1.1, the following words are deleted:

"Service Provider shall have the right to disclose Community Data to a third party only if required by law; provided that, to the extent permitted by law, Service Provider will: (a) promptly notify Customer of the order's terms and the circumstances surrounding its issuance; (b) consult in good faith with Customer regarding possible responses to the order and, if requested by Customer, make best efforts to narrow the order's scope, obtain a protective order from the court, or produce documents to the court or government body under seal with appropriate instructions regarding preservation of the Community Data confidentiality, if applicable; and (c) if disclosure is required to prevent Service Provider from being subjected to contempt sanctions or other penalties, disclose only the Community Data that, in the opinion of counsel reasonably satisfactory to Service Provider, is legally required to be disclosed, consistent with a reasonable interpretation of the order."

7.	In Section 5.0, the following words are deleted:

"If Customer notifies Service Provider in writing within 30 days after a particular Deliverable is made available to Customer that the Deliverable does not conform to the requirements of the SOW, then Service Provider will, as Customer's sole and exclusive remedy and Service Provider's sole liability, modify or replace the Deliverables at no cost to Customer."

8.   Section 7.0 is replaced with the following words:

   "**7.0 <u>WARRANTIES</u>**.

   7.1 Warranties. Service Provider warrants that (a) it will perform all Professional Services in a professional manner consistent with industry standards and practices, and (b) the Solution, as delivered and when used in accordance with the Documentation, (i) will perform in all material respects as specified in such Documentation, and (ii) will not contain, any back door, time bomb, Trojan horse, worm, drop dead device, virus, preventative routines or other computer software routines intentionally designed to permit unauthorized access to or use of either the Solution's or Customer's computer systems ("Viruses"). In the event of any breach of the warranties in subsection (b) above, Service Provider shall diligently remedy any deficiencies promptly after its receipt of written notice from Customer. If the Professional Services are regarded as works in terms of §§ 631 et seq. of the German Civil Code (Bürgerliches Gesetzbuch, "BGB"), any defects in the Professional Services in terms of § 633 (2) BGB shall be remedied by Service Provider through either free-of-charge removal of defects (repair) or replacement, at Service Provider's own discretion. If the defect cannot be remedied within a reasonable period, or if the repair or replacement has failed for other reasons, Customer may, at its discretion, either withdraw from the relevant SOW or reduce the fees for the Professional Services.

   7.2 Exclusions. Service Provider will not be liable to the extent that any breach of the foregoing warranties are caused by (1) third-party components or services (including in combination with the Solution) not provided by Service Provider; (2) modifications to the Solution, other than Updates or Upgrades; (3) initial defects (§ 536a (1) Alt. 1 BGB) to the Solution, unless Service Provider acted intentionally, (4) unauthorized use or use of the Solution other than in accordance with the Documentation, (5) Viruses introduced by Customer or its agents or Users, or (6) continued use of the Solution by Customer after Service Provider notifies Customer, to discontinue use of the Solution due to a claim, allegation or proceeding of third party infringement and provides a non-infringing version that remains functionally equivalent (collectively, "Exclusions"). Any warranty claims against Service Provider shall expire after one year provided that Service Provider did not cause a defect intentionally or in case of breach of a guarantee."

9.   Section 8.0 is deleted.

10.   Section 9.0 is replaced with the following words:

   "For damages with respect to injury to health, body or life caused by Service Provider, Service Provider's representatives or Service Provider's agents in the performance of the contractual obligations, Service Provider is fully liable. Service Provider is fully liable for damages caused willfully or by gross negligence by Service Provider, Service Provider's representatives or Service Provider's agents in the performance of the contractual obligations. The same applies to damages which result from the absence of a quality which was guaranteed by Service Provider or to damages which result from malicious action of Service Provider. If damages, except for such cases covered by sentences 1 or 6, with respect to a breach of a contractual core duty are caused by slight negligence, Service Provider is liable only for the amount of the damage which was typically foreseeable. Contractual core duties, abstractly, are such duties whose accomplishment enables proper fulfillment of the Agreement in the first place and whose fulfillment a contractual party regularly may rely on. Service Provider's liability based on the German Product Liability Act remains unaffected. Any further liability of Service Provider is excluded. The limitation period for claims for damages against Service Provider expires after one (1) year, except for such cases covered by sentences 1, 2 or 6."

11.   In Section 10.0, the following words are added:

   "The Receiving Party's obligation under this Section 10.0 shall expire five years after the term of this Agreement."

12.   In Section 12.2, after the words "30 days of the date of" the following words are added:

   "Customer's receipt of"

13.   Notwithstanding Section 14.0, this Agreement shall be governed by the laws of Germany <u>without regard to the conflict of laws rules.</u> The exclusive venue and jurisdiction for any and all disputes, claims and controversies arising from or relating to this Agreement shall be the courts of Hamburg, Germany. The United Nations Convention on Contracts for the International Sale of Goods will not apply to the interpretation or enforcement of this Agreement.

All countries in the Japan and Asia Pacific (JAPAC) region

1.   Section 2 of the recitals in the Agreement shall be amended to:

"BY ACCESSING OR USING THE BASE PLATFORM (AS DEFINED BELOW) WITHOUT AN APPLICABLE OTHER AGREEMENT OR BY OTHERWISE AGREEING IN WRITING TO THE TERMS AND CONDITIONS SET FORTH HEREIN, YOU HEREBY ACCEPT ALL THE TERMS AND CONDITIONS SET OUT HEREUNDER IN THIS LICENSE AND PROFESSIONAL SERVICES AGREEMENT FOR THE RIGHT TO USE THE SOLUTION AND RECEIVE PROFESSIONAL SERVICES (EACH AS DEFINED BELOW) PROVIDED BY SERVICE PROVIDER SOFTWARE, INC., A DELAWARE CORPORATION ("WE" OR Service Provider) (THE "AGREEMENT")."

In Section 14.0 the following sentence is be added:

"A person who is not a party to this Agreement shall not be able to enforce any term in this Agreement under any laws purporting to grant such rights, which shall be excluded to the fullest extent permissible."

3.   The following sentences shall be deleted from Section 14.0:

"This Agreement shall be governed by the laws of the State of California, without regard to its conflict of laws rules. The exclusive venue and jurisdiction for any and all disputes, claims and controversies arising from or relating to this Agreement shall be the state or federal courts located in Santa Clara County, California."

and be replaced with:

"The Customer acknowledges and agrees that in the event of any breach or threatened breach of this Agreement, Service Provider shall be authorized and entitled to seek, from any court of competent jurisdiction, preliminary and permanent injunctive relief in addition to any other rights or remedies to which Service Provider may be entitled. This Agreement shall be governed by and determined in accordance with the laws of the Republic of Singapore and the parties hereby submit to the non-exclusive jurisdiction of the courts of the Republic of Singapore."

Brazil:

1.   Section 2 of the recitals in the Agreement shall be amended to:
"BY ACCESSING OR USING THE HOSTED SERVICE (AS DEFINED BELOW) WITHOUT AN APPLICABLE OTHER AGREEMENT OR BY OTHERWISE AGREEING IN WRITING TO THE TERMS AND CONDITIONS SET FORTH HEREIN, YOU HEREBY ACCEPT ALL THE TERMS AND CONDITIONS SET FORTH IN THIS SUBSCRIPTION AGREEMENT BETWEEN JIVE SOFTWARE, INC., A DELAWARE CORPORATION ("WE" OR Service Provider) AND CUSTOMER (THE "AGREEMENT")."

2.   The following words shall be added to the beginning of Section 9.0:

"NOTWITHSTANDING ANY PROVISION OF THE AGREEMENT TO THE CONTRARY, NEITHER PARTY EXCLUDES OR LIMITS ITS LIABILITY FOR (I) WILLFUL MISCONDUCT, OR (II) ANY OTHER LIABILITY WHICH MAY NOT LAWFULLY BE EXCLUDED OR LIMITED."

3.   The following words shall be added to Section 9.0:

"CUSTOMER ACKNOWLEDGES AND AGREES THAT THE LIMITATIONS SET FORTH IN THIS SECTION 9.0 ARE ESSENTIAL ELEMENTS OF THIS AGREEMENT AND THAT IN THE ABSENCE OF SUCH LIMITATION THE PRICES AND OTHER TERMS PROVIDED FOR HEREIN WOULD BE SUBSTANTIALLY DIFFERENT."

4.   The following words shall be added to Section 14.0:

"For purposes of determining the governing law, the parties acknowledge that Service Provider is the proponent of this Agreement and of the business transactions embodied herein."