



Indexed I/O Customer Agreement

Updated October 19, 2018

This Indexed I/O Customer Agreement (this “Agreement”) contains the terms and conditions that govern your access to and use of the Service Offerings (as defined below) and is an agreement between Indexed I/O, Inc. (“IIO,” “we,” “us,” or “our”) and you or the entity you represent (“you”).

This Agreement takes effect when you click an “I Accept” button or check box presented with these terms or, if earlier, when you use any of the Service Offerings (the “Effective Date”).

You represent to us that you are lawfully able to enter into contracts (e.g., you are not a minor). If you are entering into this Agreement for an entity, such as the company you work for, you represent to us that you have legal authority to bind that entity. Please see Section 14 for definitions of certain capitalized terms used in this Agreement.

1. Use of the Service Offerings.

1.1. Use. You may only use the Services to store, retrieve, process, query, organize, serve, and execute “Your Content” that is owned, licensed or lawfully obtained by you. As used in these Service Terms, “Your Content” includes any “Company Content”.

As part of the Services, you may be allowed to use certain software (including related documentation) provided by us, or third party licensors. This software is neither sold nor distributed to you and you may use it solely as part of the Services. You may not transfer it outside the Services without specific authorization to do so.

1.2. Compliance. You must comply with the current technical documentation applicable to the Services (including the applicable developer guides) as posted by us and updated by us from time to time on the IIO Site. In addition, if you create technology that works with a Service, you must comply with the current technical documentation applicable to that Service (including the applicable developer guides) as posted by us and updated by us from time to time on the IIO Site.

1.3. Confidential. You will provide information or other materials related to Your Content as reasonably requested by us to verify your compliance with the Agreement. We may monitor the external interfaces (e.g., ports) of Your Content to verify your compliance with the Agreement. You will not block or interfere with our monitoring, but you may use encryption technology or firewalls to help keep Your Content confidential. You will reasonably cooperate with us to identify the source of

any problem with the Services that we reasonably believe may be attributable to Your Content or any end user materials that you control.

1.4. Prohibited Content. If we reasonably believe any of Your Content violates the law, infringes or misappropriates the rights of any third party or otherwise violates a material term of the Agreement (including the documentation, the Service Terms, or the Acceptable Use Policy) (“Prohibited Content”), we will notify you of the Prohibited Content and may request that such content be removed from the Services or access to it be disabled. If you do not remove or disable access to the Prohibited Content within two (2) business days of our notice, we may remove or disable access to the Prohibited Content or suspend the Services to the extent we are not able to remove or disable access to the Prohibited Content.

Notwithstanding the foregoing, we may remove or disable access to any Prohibited Content without prior notice in connection with illegal content, where the content may disrupt or threaten the Services, pursuant to the Digital Millennium Copyright Act or as required to comply with law or any judicial, regulatory or other governmental order or request. In the event that we remove content without prior notice, we will provide prompt notice to you unless prohibited by law.

1.5. Promotions. From time to time, we may offer discounted pricing programs covering certain usage of the Services (each, a “Special Pricing Program”). We may stop accepting new sign-ups or discontinue a Special Pricing Program at any time. Standard charges will apply after a Special Pricing Program ends or if you exceed the limitations by the Special Pricing Program. You must comply with any additional terms, restrictions, or limitations (e.g., limitations on the total amount of usage) for the Special Pricing Program as described in the offer terms for the Special Pricing Program or on any pricing page for the eligible Service(s).

You may not access or use the Services in a way intended to avoid any additional terms, restrictions, or limitations (e.g., establishing multiple IIO accounts in order to receive additional benefits under a Special Pricing Program), and we may immediately terminate your account if you do so. Any data stored or instances provided as part of a Special Pricing Program must be actively used.

1.6. Free Trial Account. Free trials on our platform are for testing purposes only and are not to be used for “ACTIVE” or “LIVE” client matters. We limit testing of our platform to 5 GBs of post-processed data to provide Users an assessment of our capabilities. If we suspect that a free trial is being used to process and host a live client matter, we will immediately suspend the trial project, issue an invoice due upon receipt, and contact You to discuss re-initiating the matter on our system, or removing Your live client data from our system. Such misuse of our platform will constitute a violation of our Customer Agreement.

All free trial accounts and corresponding test projects will be purged after 30 days from the date of creation, unless the technology assessment leads to an active

engagement. This purge event includes any data located in the associated SFTP (IIO Drive) account directories.

1.7 Discounts. If we make multiple discounts or pricing options for a Service available to you at one time, you will only be eligible to receive one discount or pricing option, and will not be entitled to cumulative discounting and pricing options.

1.8. Information. You will ensure that all information that you provide to us via the IIO Site (for instance, information provided in connection with your registration for the Services, special requests, etc.) is accurate, complete and not misleading.

1.9. Maintenance. From time to time, we may apply upgrades, patches, bug fixes or other maintenance to the Service Offerings (“Maintenance”). We agree to use reasonable efforts to provide you with prior notice of any scheduled Maintenance (except for emergency Maintenance) and you agree to use reasonable efforts to comply with any Maintenance requirements that we notify you about.

1.10 Access. You may access and use the Service Offerings in accordance with this Agreement. Service Level Agreements may apply to certain Service Offerings. You will adhere to all laws, rules, and regulations applicable to your use of the Service Offerings, including the Service Terms, the Acceptable Use Policy and the other Policies as defined in Section 14.

1.11 Your Account. To access the Services, you must create an IIO account associated with a valid e-mail address. Unless explicitly permitted by the Service Terms, you may only create one account per email address. You are responsible for all activities that occur under your account, regardless of whether the activities are undertaken by you, your employees or a third party (including your contractors or agents) and, except to the extent caused by our breach of this Agreement, we and our affiliates are not responsible for unauthorized access to your account. You will contact us immediately if you believe an unauthorized third party may be using your account or if your account information is lost or stolen. You may terminate your account and this Agreement at any time in accordance with Section 7.

PASSWORD; SECURITY. Following completion of the Account registration process, the Account Administrator will be permitted to designate individual employees and contractors of Customer (“Users”) to access the Services through Your Account.

Once designated by the Account Administrator, Users will be permitted to select a user identification and password, or will have one assigned to them by Indexed I/O (each such user identification and password, an “User ID”). Each User ID is personal in nature and may be used only by the applicable User to whom that User ID has been assigned. You are solely responsible for all use of the Services by each User and for compliance by each User with the applicable terms of this Agreement. You will

ensure the security and confidentiality of each User ID and will notify Indexed I/O immediately if any User ID is lost, stolen or otherwise compromised.

You acknowledge that You are fully responsible for all costs, fees, liabilities or damages incurred through use of each User ID (whether lawful or unlawful), and that any Services ordered or transactions completed under any User ID will be deemed to have been lawfully completed by You.

THE SHARING OF USER ID'S BY MORE THAN ONE USER IS A VIOLATION OF THIS AGREEMENT.

1.12 Support to You. If you would like support for the Services other than the support we generally provide to other users of the Services without charge, you may enroll or request customer support in accordance with the terms of the IIO Support Guidelines.

1.13 Third Party Content. Third Party Content, such as software applications provided by third parties, may be made available directly to you by other companies or individuals under separate terms and conditions, including separate fees and charges. Because we may not have tested or screened the Third Party Content, your use of any Third Party Content is at your sole risk.

2. Changes.

2.1 To the Service Offerings. We may change, discontinue, or deprecate any of the Service Offerings (including the Service Offerings as a whole) or change or remove features or functionality of the Service Offerings from time to time. We will notify you of any material change to, or discontinuation of, the Service Offerings.

2.2 To the APIs. We may change, discontinue or deprecate any APIs for the Services from time to time but will use commercially reasonable efforts to continue supporting the previous version of any API changed, discontinued, or deprecated for 12 months after the change, discontinuation, or deprecation (except if doing so (a) would pose a security or intellectual property issue, (b) is economically or technically burdensome, or (c) is needed to comply with the law or requests of governmental entities).

2.3 To the Service Level Agreements. We may change, discontinue or add Service Level Agreements from time to time.

3. Security and Data Privacy.

3.1 IIO Security. Without limiting Section 10 or your obligations under Section 4.2, we will implement reasonable and appropriate measures designed to help you secure Your Content against accidental or unlawful loss, access or disclosure.

3.2 Data Privacy. We will not move Your Content without notifying you, unless required to comply with the law or requests of governmental entities. You consent to our collection, use and disclosure of information associated with the Service Offerings in accordance with our Privacy Policy, and to the processing of Your Content in, and the transfer of Your Content into, the IIO projects you select.

3.3 The SFTP (IIO Drive) 'EXPORT' and 'UPLOADS' data directories will be purged regularly. All data that resides in these directories will only be maintained for 30 days from their creation date (EXPORTS) or upload date (UPLOADS). It is the user's responsibility to manage these directories. Export data will be maintained and available via the UI Export Tab download link while a project is 'ACTIVE'. Once a project is purged from the system, all associated data, including prior exports, will be purged. This is a final event. All purged data will have no future access or availability from the Indexed I/O system.

4. Your Responsibilities.

4.1 Your Content. You are solely responsible for the development, content, operation, maintenance, and use of Your Content. For example, you are solely responsible for: (a) the technical operation of Your Content, including ensuring that calls you make to any Service are compatible with then-current APIs for that Service; (b) compliance of Your Content with the Acceptable Use Policy, the other Policies, and the law; (c) any claims relating to Your Content; and (d) properly handling and processing notices sent to you (or any of your affiliates) by any person claiming that Your Content violate such person's rights, including notices pursuant to the Digital Millennium Copyright Act.

4.2 OWNERSHIP OF YOUR DATA. As between Indexed I/O and You, You exclusively own all right, title and interest in and to Your Data and all IPR therein or related thereto. For purposes of this Agreement, "IPR" means any and all intellectual property rights, proprietary rights, rights of publicity, rights of privacy, and any and all other legal rights protecting data, information or intangible property throughout the world, including, without limitation, any and all copyrights, trademarks, service marks, trade secrets, patent rights, moral rights, sui generis rights in databases, and contract rights.

Indexed I/O will treat Your Data in accordance with the terms of this Agreement and the Privacy Policy. You grant to Indexed I/O all rights and licenses in and to Your Data necessary for Indexed I/O to provide the Services under this Agreement. As between You and Indexed I/O, You retain all of Your rights in and to Your Data and do not convey any rights therein to Indexed I/O other than the limited rights and licenses set forth herein. You represent and warrant that none of Your Data violates this Agreement, including the Acceptable Use Policy. You will maintain an adequate back-up of all Your Data and Indexed I/O will not be responsible or liable for any deletion, correction, destruction, damage, loss, or failure to store or back-up any of Your Data.

Indexed I/O may take remedial action if any of Your Data violates this Agreement, including, without limitation, deletion of any of Your Data from the Services, provided that Indexed I/O is under no obligation to review any of Your Data for accuracy or potential liability. You represent and warrant to Indexed I/O that You have all necessary right, title, interest and consent necessary to allow Indexed I/O to use Your Data for the purposes for which You provide Your Data to Indexed I/O. You will defend, indemnify and hold harmless Indexed I/O from any and all losses, costs, damages, liabilities or expenses (including without limitation reasonable attorney's fees) incurred or arising from any claim by a third party arising out of or relating to Your Data or the use thereof by Indexed I/O in providing the Services.

4.3 Other Security and Backup. You are responsible for properly configuring and using the Service Offerings and taking your own steps to maintain appropriate security, protection and backup of Your Content, to protect Your Content from unauthorized IIO log-in credentials generated by the Services are for your internal use only and you may not sell, transfer or sublicense them to any other entity or person, except that you may disclose your credentials to your agents and subcontractors performing work on your behalf. IIO will make reasonable efforts to secure Your Content including providing transfer of data to and from IIO via SSL (Secure Socket Layer) cryptographic protocols designed to provide communication security over the Internet as well as storing all End User data files at rest in an encrypted state.

4.4 End User Violations. You will be deemed to have taken any action that you permit, assist or facilitate any person or entity to take related to this Agreement, Your Content or use of the Service Offerings. You are responsible for End Users' use of Your Content and the Service Offerings. You will ensure that all End Users comply with your obligations under this Agreement and that the terms of your agreement with each End User are consistent with this Agreement. If you become aware of any violation of your obligations under this Agreement by an End User, you will immediately terminate such End User's access to Your Content and the Service Offerings.

4.5 End User Support. IIO offers a self-service knowledge base and support ticketing system. End Users have access to this support level. Additional End User Support may be available at additional negotiated fees.

5. Fees and Payment.

5.1. Service Fees. We calculate and invoice fees and charges monthly. All data processed is subject to a minimum-hosting fee charged on the post-processed data collection size. Please see www.indexed.io for a full list of standard services descriptions and associated prices or reference executed agreement.

All invoices shall be due upon receipt. Invoices will be charged against credit card information on file at the time the invoice is issued, unless alternative payment methods are agreed upon. All amounts payable under this Agreement will be made without setoff or counterclaim, and without any deduction or withholding.

We will issue an invoice at the end of the first month that You process and/or upload data in Indexed I/O. We will invoice you for data hosted post the initial 30-day period and every thirty days thereafter, against the processed or uploaded data that you maintain online beyond the initial thirty-day (30) period.

We may invoice you, and charge the credit card on file, more frequently if we suspect that your account is fraudulent or at risk of non-payment.

Fee amounts will be provided in advance by Indexed I/O, or, as are then published on the www.indexed.io website at the date and time data is processed in the Indexed I/O system. Fees and charges for any new Services or new feature of a Service will be effective when we post updated fees and charges on the IIO Site unless we expressly state otherwise in a notice. We may increase or add new fees and charges for any existing Services at any time. We may charge you interest at the rate of 1.5% per month (or the highest rate permitted by law, if less) on all late payments.

5.2 Taxes. All fees and charges payable by you are exclusive of applicable taxes and duties, including VAT and applicable sales tax.

6. Temporary Suspension.

6.1 Generally. We may suspend your or any End User's right to access or use any portion or all of the Service Offerings immediately upon notice to you if we determine: (a) your or an End User's use of or registration for the Service Offerings (i) poses a security risk to the Service Offerings or any third party, (ii) may adversely impact the Service Offerings or the systems or Content of any other IIO customer, (iii) may subject us, our affiliates, or any third party to liability, or (iv) may be fraudulent; (b) you are, or any End User is, in breach of this Agreement, including if you are delinquent on your payment obligations for more than 15 days; or (c) you have ceased to operate in the ordinary course, made an assignment for the benefit of creditors or similar disposition of your assets, or become the subject of any bankruptcy, reorganization, liquidation, dissolution or similar proceeding.

6.2 Effect of Suspension. If we suspend your right to access or use any portion or all of the Service Offerings: (a) you remain responsible for all fees and charges you have incurred through the date of suspension; (b) you remain responsible for any applicable fees and charges for any Service Offerings to which you continue to have access, as well as applicable data storage fees and charges, and fees and charges for in process tasks completed after the date of suspension; (c) you will not be entitled to any service credits under the Service Level Agreements for any period of

suspension; and (d) we will not erase any of Your Content as a result of your suspension, except as specified elsewhere in this Agreement. Our right to suspend your or any End User's right to access or use the Service Offerings is in addition to our right to terminate this Agreement pursuant to Section 7.2.

7. Term; Termination.

7.1. Term. The term of this Agreement will commence on the Effective Date and will remain in effect until terminated by you or us in accordance with Section 7.2.

7.2 Termination.

(a) Termination for Convenience. You may terminate this Agreement for any reason by (i) providing us thirty (30) days advance notice and (ii) then closing your account for all Services for which we provide an account closing mechanism. We may terminate this Agreement for any reason by providing you thirty (30) days advance notice. (b) Termination for Cause. (i) By Either Party. Either party may terminate this Agreement for cause upon thirty (30) days advance notice to the other party if there is any material default or breach of this Agreement by the other party, unless the defaulting party has cured the material default or breach within the thirty (30) day notice period. (ii) By Us. We may also terminate this Agreement immediately upon notice to you (A) for cause, if any act or omission by you or any End User results in a suspension described in Section 6.1, (B) if our relationship with a third party partner who provides software or other technology we use to provide the Service Offerings expires, terminates or requires us to change the way we provide the service or other technology as part of the Services, (c) if we believe providing the Services could create a substantial economic or technical burden or material security risk for us, (D) in order to comply with the law or requests of governmental entities, or (E) if we determine use of the Service Offerings by you or any End Users or our provision of any of the Services to you or any End Users has become impractical or unfeasible for any legal or regulatory reason.

7.3. Effect of Termination.

(a) Generally. Upon any termination of this Agreement: (i) all your rights under this Agreement immediately terminate; (ii) you remain responsible for all fees and charges you have incurred through the date of termination, including fees and charges for in process tasks completed after the date of termination; (iii) you will immediately return or, if instructed by us, destroy all IIO Content in your possession; and (iv) Sections 4.1, 5.2, 7.3, 8 (except the license granted to you in Section 8.4), 9, 10, 11, 13 and 14 will continue to apply in accordance with their terms. (b) Post-Termination Assistance. Unless we terminate your use of the Service Offerings pursuant to Section 7.2(b), during the 30 days following termination: (i) we will not erase any of Your Content as a result of the termination; (ii) you may retrieve Your Content from the Services only if you have paid any charges for any post-termination use of the Service Offerings and all other amounts due; and (iii) we

will provide you with the same post-termination data retrieval assistance that we generally make available to all customers. Any additional post-termination assistance from us is subject to mutual agreement by you and us.

8. Proprietary Rights.

8.1 Your Content. As between you and us, you or your licensors own all right, title, and interest in and to Your Content. Except as provided in this Section 8, we obtain no rights under this Agreement from you or your licensors to Your Content, including any related intellectual property rights. You consent to our use of Your Content to provide the Service Offerings to you and any End Users. We may disclose Your Content to provide the Service Offerings to you or any End Users or to comply with any request of a governmental or regulatory body (including subpoenas or court orders).

8.2 Your Submissions. Your Submissions will be governed by the terms of one of our supported licenses at the time you submit Your Submission.

8.3 Adequate Rights. You represent and warrant to us that: (a) you or your licensors own all right, title, and interest in and to Your Content and Your Submissions; (b) you have all rights in Your Content and Your Submissions necessary to grant the rights contemplated by this Agreement; and (c) none of Your Content, Your Submissions or End Users' use of Your Content, Your Submissions or the Services Offerings will violate the Acceptable Use Policy.

8.4 Service Offerings License. As between You and us, we or our affiliates or licensors own and reserve all right, title, and interest in and to the Service Offerings. We grant you a limited, revocable, nonexclusive, non-sub licensable, non-transferrable license to do the following during the Term: (i) access and use the Services solely in accordance with this Agreement; and (ii) copy and use the IIO Content solely in connection with your permitted use of the Services. Except as provided in this Section 8.4, you obtain no rights under this Agreement from our licensors or us to the Service Offerings, including any related intellectual property rights. Some IIO Content may be provided to you under a separate license for marketing and for additional use. In the event of a conflict between this Agreement and any separate license, the separate license will prevail with respect to that IIO Content.

8.5 License Restrictions. Neither you nor any End User may use the Service Offerings in any manner or for any purpose other than as expressly permitted by this Agreement. Neither you nor any End User may, or may attempt to, (a) modify, alter, tamper with, repair, or otherwise create derivative works of any software included in the Service Offerings (except to the extent software included in the Service Offerings are provided to you under a separate license that expressly permits the creation of derivative works), (b) reverse engineer, disassemble, or decompile the Service Offerings or apply any other process or procedure to derive the source code

of any software included in the Service Offerings, (c) access or use the Service Offerings in a way intended to avoid incurring fees or exceeding usage limits or quotas, or (d) resell or sublicense the Service Offerings, unless agreed upon by us.

All licenses granted to you in this Agreement are conditional on your continued compliance with this Agreement, and will immediately and automatically terminate if you do not comply with any term or condition of this Agreement. During and after the Term, you will not assert, nor will you authorize, assist, or encourage any third party to assert, against us or any of our affiliates, customers, vendors, business partners, or licensors, any patent infringement or other intellectual property infringement claim regarding any Service Offerings you have used. You may only use the IIO Marks in accordance with the Trademark Use Guidelines.

8.6 Suggestions. If you provide any Suggestions to us or our affiliates, we will own all right, title, and interest in and to the Suggestions, even if you have designated the Suggestions as confidential. We and our affiliates will be entitled to use the Suggestions without restriction. You hereby irrevocably assign to us all right, title, and interest in and to the Suggestions and agree to provide us any assistance we may require to document, perfect, and maintain our rights in the Suggestions.

9. Indemnification.

9.1. General. You will defend, indemnify, and hold harmless us, our affiliates and licensors, and each of their respective employees, officers, directors, and representatives from and against any claims, damages, losses, liabilities, costs, and expenses (including reasonable attorneys' fees) arising out of or relating to any third party claim concerning: (a) your or any End Users' use of the Service Offerings (including any activities under your IIO account and use by your employees and personnel); (b) breach of this Agreement or violation of applicable law by you or any End User; (c) Your Content or the combination of Your Content with other applications, content or processes, including any claim involving alleged infringement or misappropriation of third-party rights by Your Content or by the use, development, design, production, advertising or marketing of Your Content; or (d) a dispute between you and any End User. If we or our affiliates are obligated to respond to a third party subpoena or other compulsory legal order or process described above, You will also reimburse us for reasonable attorneys' fees, as well as our employees' and contractors' time and materials spent responding to the third party subpoena or other compulsory legal order or process at our then current hourly rates.

9.2. Process. We will promptly notify you of any claim subject to Section 9.1, but our failure to promptly notify you will only affect your obligations under Section 9.1 to the extent that our failure prejudices your ability to defend the claim. You may: (a) use counsel of your own choosing (subject to our written consent) to defend against any claim; and (b) settle the claim as you deem appropriate, provided that you

obtain our prior written consent before entering into any settlement. We may also assume control of the defense and settlement of the claim at any time.

10. Disclaimers.

THE SERVICE OFFERINGS ARE PROVIDED "AS IS." WE AND OUR AFFILIATES AND LICENSORS MAKE NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE REGARDING THE SERVICE OFFERINGS OR THE THIRD PARTY CONTENT, INCLUDING ANY WARRANTY THAT THE SERVICE OFFERINGS OR THIRD PARTY CONTENT WILL BE UNINTERRUPTED, ERROR FREE OR FREE OF HARMFUL COMPONENTS, OR THAT ANY CONTENT, INCLUDING YOUR CONTENT OR THE THIRD PARTY CONTENT, WILL BE SECURE OR NOT OTHERWISE LOST OR DAMAGED. EXCEPT TO THE EXTENT PROHIBITED BY LAW, WE AND OUR AFFILIATES AND LICENSORS DISCLAIM ALL WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, OR QUIET ENJOYMENT, AND ANY WARRANTIES ARISING OUT OF ANY COURSE OF DEALING OR USAGE OF TRADE.

11. Limitations of Liability.

WE AND OUR AFFILIATES OR LICENSORS WILL NOT BE LIABLE TO YOU FOR ANY DIRECT, INDIRECT, INCIDENTAL, SPECIAL, CONSEQUENTIAL OR EXEMPLARY DAMAGES (INCLUDING DAMAGES FOR LOSS OF PROFITS, GOODWILL, USE, OR DATA), EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

FURTHER, NEITHER WE NOR ANY OF OUR AFFILIATES OR LICENSORS WILL BE RESPONSIBLE FOR ANY COMPENSATION, REIMBURSEMENT, OR DAMAGES ARISING IN CONNECTION WITH: (A) YOUR INABILITY TO USE THE SERVICES, INCLUDING AS A RESULT OF ANY (I) TERMINATION OR SUSPENSION OF THIS AGREEMENT OR YOUR USE OF OR ACCESS TO THE SERVICE OFFERINGS, (II) OUR DISCONTINUATION OF ANY OR ALL OF THE SERVICE OFFERINGS, OR, (III) WITHOUT LIMITING ANY OBLIGATIONS UNDER THE SLAs, ANY UNANTICIPATED OR UNSCHEDULED DOWNTIME OF ALL OR A PORTION OF THE SERVICES FOR ANY REASON, INCLUDING AS A RESULT OF POWER OUTAGES, SYSTEM FAILURES OR OTHER INTERRUPTIONS; (B) THE COST OF PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES; (c) ANY INVESTMENTS, EXPENDITURES, OR COMMITMENTS BY YOU IN CONNECTION WITH THIS AGREEMENT OR YOUR USE OF OR ACCESS TO THE SERVICE OFFERINGS; OR (D) ANY UNAUTHORIZED ACCESS TO, ALTERATION OF, OR THE DELETION, DESTRUCTION, DAMAGE, LOSS OR FAILURE TO STORE ANY OF YOUR CONTENT OR OTHER DATA.

IN ANY CASE, OUR AND OUR AFFILIATES' AND LICENSORS' AGGREGATE LIABILITY UNDER THIS AGREEMENT WILL BE LIMITED TO THE AMOUNT YOU ACTUALLY

PAY US UNDER THIS AGREEMENT FOR THE SERVICE THAT GAVE RISE TO THE CLAIM DURING THE 12 MONTHS PRECEDING THE CLAIM.

12. **Modifications to the Agreement.** We may modify this Agreement (including any Policies) at any time by posting a revised version on the IIO Site or by otherwise notifying you in accordance with Section 13.7. The modified terms will become effective upon posting or, if we notify you by email, as stated in the email message.

By continuing to use the Service Offerings after the effective date of any modifications to this Agreement, you agree to be bound by the modified terms. It is your responsibility to check the IIO Site regularly for modifications to this Agreement. We last modified this Agreement on the date listed at the beginning of this Agreement.

13. Miscellaneous.

13.1 **Confidentiality and Publicity.** You may use IIO Confidential information only in connection with your use of the Service Offerings as permitted under this Agreement. You will not disclose IIO Confidential Information during the Term or at any time during the 5 year period following the end of the Term. You will take all reasonable measures to avoid disclosure, dissemination or unauthorized use of IIO Confidential Information, including, at a minimum, those measures you take to protect your own confidential information of a similar nature. You will not issue any press release or make any other public communication with respect to this Agreement or your use of the Service Offerings. You will not misrepresent or embellish the relationship between us and you (including by expressing or implying that we support, sponsor, endorse, or contribute to you or your business endeavors), or express or imply any relationship or affiliation between us and you or any other person or entity except as expressly permitted by this Agreement.

13.2 **Force Majeure.** We and our affiliates will not be liable for any delay or failure to perform any obligation under this Agreement where the delay or failure results from any cause beyond our reasonable control, including acts of God, labor disputes or other industrial disturbances, systemic electrical, telecommunications, or other utility failures, earthquake, storms or other elements of nature, blockages, embargoes, riots, acts or orders of government, acts of terrorism, or war.

13.3 **Independent Contractors; Non-Exclusive Rights.** We and You are independent contractors, and neither party, nor any of their respective affiliates, is an agent of the other for any purpose or has the authority to bind the other. Both parties reserve the right (a) to develop or have developed for it products, services, concepts, systems, or techniques that are similar to or compete with the products, services, concepts, systems, or techniques developed or contemplated by the other

party and (b) to assist third party developers or systems integrators who may offer products or services which compete with the other party's products or services.

13.4 No Third Party Beneficiaries. This Agreement does not create any third party beneficiary rights in any individual or entity that is not a party to this Agreement.

13.5 U.S. Government Rights. The Service Offerings are provided to the U.S. Government as "commercial items," "commercial computer software," "commercial computer software documentation," and "technical data" with the same rights and restrictions generally applicable to the Service Offerings. If you are using the Service Offerings on behalf of the U.S. Government and these terms fail to meet the U.S. Government's needs or are inconsistent in any respect with federal law, you will immediately discontinue your use of the Service Offerings. The terms "commercial item," "commercial computer software," "commercial computer software documentation," and "technical data" are defined in the Federal Acquisition Regulation and the Defense Federal Acquisition Regulation Supplement.

13.6 Import and Export Compliance. In connection with this Agreement, each party will comply with all applicable import, reimport, export, and re-export control laws and regulations, including the Export Administration Regulations, the International Traffic in Arms Regulations, and country-specific economic sanctions programs implemented by the Office of Foreign Assets Control. For clarity, you are solely responsible for compliance related to the manner in which you choose to use the Service Offerings, including your transfer and processing of Your Content, the provision of Your Content to End Users, and the IIO project/region in which any of the foregoing occur.

13.6.1. You may send physical storage media (the "Media") to us that we will use to either (a) transfer data contained on the Media into a specified and valid account as Your Content or (b) transfer certain of Your Content to the Media (such data contained on Media either before or after transfer, "Data") and provide the Media to You.

13.6.2. You will comply with all specifications and documentation for IIO Import/Export as posted or communicated by us and updated by us from time to time on the IIO Site, including Media requirements and shipping requirements. You will be solely responsible for all shipping and handling costs (including costs of freight and transit insurance) for shipping Media to or from us. You are responsible for payment of all customs, duties, taxes and other charges in connection with Media being shipped to or from us.

13.6.3. You will not deliver to us, and we may refuse to accept any, damaged or defective Media or any Media not shipped in accordance with the Agreement (collectively, "Unsuitable Media"). We may return or dispose of any Unsuitable Media in accordance with Section 13.6.12 below (and you will be deemed to have consented to such action) if you fail to direct us to return or dispose of any

Unsuitable Media within thirty (30) days after we notify you that we are in possession of it. In addition, You will reimburse us for any expenses we incur in connection with any Unsuitable Media.

13.6.4. You will bear the entire risk of loss of, or damage to, any Media (including Data) while in transit and you are solely responsible for obtaining insurance at your expense. We have no liability or responsibility with respect to any delay, damage or loss incurred during shipment, including loss of Data.

13.6.5. You will retain title to any Media we receive from you and store as part of IIO Import/Export. You supply us with Media and Data entirely at your own risk. We are not responsible for and will not be held liable for any damage to Media or any loss of Data. Our confirmed receipt of delivery does not: (a) indicate or imply that any Media or Data has been delivered free of loss or damage, or that any loss or damage to any Media or Data later discovered occurred after confirmed receipt of delivery; (b) indicate or imply that we actually received the number of units of Media specified by you for such shipment; or (c) waive, limit, or reduce any of our rights under the Agreement. We reserve the right to impose, and change, from time to time, volume limitations on the delivery of your Media, and You will comply with any of these restrictions or limitations.

13.6.6. You should back-up Data prior to delivery to us. Your Data should not include live or production data or any other data that you are not prepared to lose. For avoidance of doubt, Your Content includes Data.

13.6.7. You represent that you have all necessary rights to (a) provide the Media and Data to us for upload into supported storage Services and (b) authorize our transfer of any Data specified by you to the Media. You represent that import or export of the Media or Data to or from us does not require a license under the laws or regulations of any country.

13.6.8. We may reproduce Data as necessary to transfer it between Media and supported storage Services.

13.6.9. Use of IIO Import/Export requires use of a supported storage Service. You are responsible for the separate fees you accrue for storage Services.

13.6.10. IN ADDITION TO THE DISCLAIMERS IN THE AGREEMENT, WE HEREBY DISCLAIM ANY DUTIES OF A BAILEE OR WAREHOUSEMAN, AND YOU HEREBY WAIVE ALL RIGHTS AND REMEDIES OF A BAILOR (WHETHER ARISING UNDER COMMON LAW OR STATUTE), RELATED TO OR ARISING OUT OF ANY POSSESSION, STORAGE OR SHIPMENT OF MEDIA OR DATA BY US OR OUR AFFILIATES OR ANY OF OUR OR THEIR CONTRACTORS OR AGENTS. YOU ARE SOLELY RESPONSIBLE FOR APPLYING APPROPRIATE SECURITY MEASURES TO YOUR DATA, INCLUDING ENCRYPTING SENSITIVE DATA.

13.6.11. In addition to your indemnification obligations under the Agreement, you agree to indemnify, defend and hold us, our affiliates and licensors, each of our and their business partners (including third party sellers on websites operated by or on behalf of us) and each of our and their respective employees, officers, directors and representatives, harmless from and against any and all claims, losses, damages, liabilities, judgments, penalties, fines, costs and expenses (including reasonable attorneys' fees), arising out of or in connection with any claim arising out of (a) the Media (whether or not title has transferred to us) and Data, including any personal injury, death or property damage (including any damage caused by malicious or harmful code included in Data); (b) any sales, goods and services, use, excise, import, export, property, value added or other taxes or duties assessed or imposed on us or our affiliates in connection with or as a result of the storage, shipping or other actions by us taken with respect to the Media or Data; (c) any legal or regulatory violation, arising under the laws or regulations of any country, related to import or export of the Media or the Data.

13.6.12. Once IIO Import/Export services are complete, you may request IIO return the Media to You. We may return Media to You for any reason, including upon termination of the Agreement or the IIO Import/Export service. Returned Media will be sent to your designated shipping address. Media shipped to us for import into or export from supported storage Services in the EU (Ireland) Region must originate from and be returned to an address within the European Union. If we have an outdated, incorrect or prohibited address for you, we will notify you and you will have thirty (30) calendar days from the date we notify you to supply a substitute address. If you do not supply a substitute address within thirty (30) calendar days of notification, the Media will be deemed Unsuitable Media subject to disposal. We may dispose of Media in any manner and we have no obligation to reimburse or compensate you for any loss of Media or Data due to our disposal.

13.6.13. Notwithstanding anything to the contrary in the Agreement, you may give agents and subcontractors of your choosing access to the private credentials associated with your account solely for the purpose of (a) preparing Data for import or export using IIO Import/Export or (b) confirming the integrity of Data imported or exported using IIO Import/Export.

You remain fully responsible for and indemnify us for all activities undertaken by such third parties under your account. Other than as specifically set forth in this section, all terms and conditions of the Agreement continue to apply to your use of the Services.

13.6.14. We will not act as the importer of record for your shipments of Media or Data. If we are importing or exporting your shipments of Media or Data into the Asia Pacific (Singapore) Region, You will not act as the importer of record and You represent and warrant that: (a) You are not a resident of Singapore; (b) You have a business establishment or fixed establishment outside of Singapore and not in Singapore; (c) You are domiciled outside Singapore if you have no business or fixed

establishment in any country; (d) You are not registered or required to be registered for GST in Singapore.

You will notify us if, at any time, you are using the IIO Import/Export service to ship Media or Data into the Asia Pacific (Singapore) Region and you are not acting as the importer of record, and you become unable to make any of the above representations and warranties. If you are not acting as the importer of record on your shipment of Media or Data to the Asia Pacific (Singapore) Region, then the Media or Data must (i) be returned to a location outside of Singapore, (ii) be exported on an FCA basis; and (iii) you must be importer of record in the country that the Media or Data is returned to.

13.7 Notice. (a) To You. We may provide any notice to you under this Agreement by: (i) posting a notice on the IIO Site; or (ii) sending a message to the email address then associated with your account. Notices we provide by posting on the IIO Site will be effective upon posting and notices we provide by email will be effective when we send the email. It is your responsibility to keep your email address current. You will be deemed to have received any email sent to the email address then associated with your account when we send the email, whether or not you actually receive the email. (b) To Us. To give us notice under this Agreement, You must contact IIO as follows: (i) by personal delivery, overnight courier or registered or certified mail to Indexed I/O, Inc., 3457 Ringsby Court, Suite 215, Denver, CO 80216. We may update the address for notices to us by posting a notice on the IIO Site.

Notices provided by personal delivery will be effective immediately. Notices provided by electronic facsimile transmission or overnight courier will be effective one business day after they are sent. Notices provided registered or certified mail will be effective three business days after they are sent. (c) Language. All communications and notices to be made or given pursuant to this Agreement must be in the English language.

13.8 Assignment. You will not assign this Agreement, or delegate or sublicense any of your rights under this Agreement, without our prior written consent. Any assignment or transfer in violation of this Section 13.8 will be void. Subject to the foregoing, this Agreement will be binding upon, and inure to the benefit of the parties and their respective successors and assigns.

13.9 No Waivers. The failure by us to enforce any provision of this Agreement will not constitute a present or future waiver of such provision nor limit our right to enforce such provision at a later time. All waivers by us must be in writing to be effective.

13.10 Severability. If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect. Any invalid or unenforceable portions will be interpreted to effect and intent of the original portion. If such construction is not possible, the invalid or

unenforceable portion will be severed from this Agreement but the rest of the Agreement will remain in full force and effect.

13.11 Governing Law; Venue. The laws of the State of Colorado, without reference to conflict of law rules, govern this Agreement and any dispute of any sort that might arise between you and us. Any dispute relating in any way to the Service Offerings or this Agreement where a party seeks aggregate relief of \$7,500 or more will be adjudicated in any state or federal court in Denver County, Colorado. You consent to exclusive jurisdiction and venue in those courts. We may seek injunctive or other relief in any state, federal, or national court of competent jurisdiction for any actual or alleged infringement of our, our affiliates, or any third party's intellectual property or other proprietary rights. The United Nations Convention for the International Sale of Goods does not apply to this Agreement.

13.12 Entire Agreement; English Language. This Agreement includes the Policies and is the entire agreement between you and us regarding the subject matter of this Agreement. This Agreement supersedes all prior or contemporaneous representations, understandings, agreements, or communications between you and us, whether written or verbal, regarding the subject matter of this Agreement. Notwithstanding any other agreement between you and us, the security and data privacy provisions in Section 3 of this Agreement contain our and our affiliates' entire obligation regarding the security, privacy and confidentiality of Your Content.

We will not be bound by, and specifically object to, any term, condition or other provision which is different from or in addition to the provisions of this Agreement (whether or not it would materially alter this Agreement) and which is submitted by you in any order, receipt, acceptance, confirmation, correspondence or other document. If the terms of this document are inconsistent with the terms contained in any Policy, the terms contained in this document will control, except that the Service Terms will control over this document. If we provide a translation of the English language version of this Agreement, the English language version of the Agreement will control if there is any conflict.

14. Definitions.

"Acceptable Use Policy" means the policy currently available at <https://www.Indexed.io>, as it may be updated by us from time to time.

"API" means an application program interface.

"IIO Confidential Information" means all nonpublic information disclosed by us, our affiliates, business partners or our or their respective employees, contractors or agents that is designated as confidential or that, given the nature of the information or circumstances surrounding its disclosure, reasonably should be understood to be confidential. IIO Confidential Information includes: (a) nonpublic information relating to our or our affiliates or business partners' technology, customers, pricing,

business plans, promotional and marketing activities, finances and other business affairs; (b) third party information that we are obligated to keep confidential; and (c) the nature, content and existence of any discussions or negotiations between you and us or our affiliates. IIO Confidential Information does not include any information that: (i) is or becomes publicly available without breach of this Agreement; (ii) can be shown by documentation to have been known to you at the time of your receipt from us; (iii) is received from a third party who did not acquire or disclose the same by a wrongful or tortious act; or (iv) can be shown by documentation to have been independently developed by you without reference to the IIO Confidential Information.

“IIO Content” means Content we or any of its affiliates make available in connection with the Services or on the IIO Site to allow access to and use of the Services, including WSDLs; Documentation; sample code; software libraries; command line tools; and other related technology. IIO Content does not include the Services.

“IIO Marks” means any trademarks, service marks, service or trade names, logos, and other designations of IIO and its affiliates that we may make available to you in connection with this Agreement.

“IIO Support Guidelines” means the guidelines currently available at <https://www.Indexed.io> as we may update them from time to time.

“IIO Site” means <https://app.Indexed.io> and any successor or related site designated by us.

“Content” means software (including machine images), data, text, audio, video, images or other content.

“Documentation” means the developer guides, getting started guides, user guides, quick reference guides, and other technical and operations manuals and specifications for the Services located at <https://www.Indexed.io> as such documentation may be updated by us from time to time.

“End User” means any individual or entity that directly or indirectly through another user: (a) accesses or uses Your Content; or (b) otherwise accesses or uses the Service Offerings under your account. The term “End User” does not include individuals or entities when they are accessing or using the Services or any Content under their own IIO account, rather than your account.

“Policies” means the Acceptable Use Policy, the Site Terms, the Service Terms, the Trademark Use Guidelines, all restrictions described in the IIO Content and on the IIO Site, and any other policy or terms referenced in or incorporated into this Agreement. Policies do not include whitepapers or other marketing materials referenced on the IIO Site.

“Privacy Policy” means the privacy policy currently referenced at www.indexed.io as it may be updated by us from time to time.

“Service” means each of the web services made available by us or our affiliates, including those web services described in the Service Terms.

“Service Level Agreement” means all service level agreements that we offer with respect to the Services and post on the IIO Site, as they may be updated by us from time to time. The service level agreements we currently offer with respect to the Services are located at <https://www.indexed.io>.

“Service Offerings” means the Services (including associated APIs), the IIO Content, the IIO Marks, the IIO Site, and any other product or service provided by us under this Agreement. Service Offerings do not include Third Party Content.

“Service Terms” means the rights and restrictions for particular Services located <https://www.indexed.io>, as they may be updated by us from time to time.

“Site Terms” means the terms of use located at <https://www.indexed.io> as it may be updated from time to time.

“Suggestions” means all suggested improvements to the Service Offerings that you provide to us.

“Term” means the term of this Agreement described in Section 7.1.

“Third Party Content” means Content made available to you by any third party on the IIO Site or in conjunction with the Services.

“Trademark Use Guidelines” means the guidelines and license located at <https://www.indexed.io>, as they may be updated from time to time.

“Your Content” means Content you or any End User (a) run on the Services, (b) cause to interface with the Services, or (c) upload to the Services under your account or otherwise transfer, process, use or store in connection with your account.

“Your Submissions” means Content that you post or otherwise submit to developer forums, sample code repositories, public data repositories, or similar community-focused areas of the IIO Site or the Services.

Lastly, You hereby represent and warrant to Indexed I/O that:

(1) You are duly authorized by the Customer and have the authority and legal capacity to register and accept this Agreement on behalf of the Customer and to bind the Customer thereto;

- (2) all Users are at least 18 years of age, or are at least 13 years of age and have parental permission to establish a User ID and/or use and access the Services;
- (3) You and all Users are eligible to establish a User ID and to become Users,
- (4) You and all Users accept and agree to be bound by this Agreement, and will take all steps necessary to ensure that You and Your Users so accept and are bound by the same, without limitation or qualification; and,
- (5) Your and Your Users will regularly review this Agreement, and in the event of any change, any failure to terminate this Agreement as provided in Section 6 hereof will be deemed to indicate the agreement of the Customer, on its own behalf and on behalf of its Users, to accept and be bound by such changes.