



# Master Terms of Service

These Master Terms of Service set out the terms and conditions for the provision of Services (as defined below) set out on a Sales Contract (as defined below) between IGLOO Inc. (“**Igloo**”) and the party identified as customer (“**Customer**”) on such Sales Contract.

Igloo and Customer agree as follows:

## 1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions.** Capitalized terms used in this Agreement, and not otherwise defined in this Agreement, shall have the following meanings:

- (a) “**Account**” means a member account held by a Named User in an Igloo Environment.
- (b) “**Agreement**”, “this Agreement”, “the Agreement”, “hereof”, “herein”, “hereto”, “hereby”, “hereunder” and similar expressions mean this Master Terms of Service Agreement, and all Sales Contracts and SOWs that incorporate by reference this Master Terms of Service Agreement, as each may be confirmed, amended, modified, supplemented or restated. This Agreement incorporates by reference the AUP, the DSS, and the SLA.
- (c) “**AUP**” means Igloo’s Acceptable Use Policy for use of the Igloo Environment(s). The current version of the AUP, which may be amended by Igloo from time to time in accordance with its terms, is available at [https://customercare.igloosoftware.com/legal/acceptable\\_use\\_policy](https://customercare.igloosoftware.com/legal/acceptable_use_policy).
- (d) “**Auto-Renewal Term**” has the meaning set forth in Section 14.1.
- (e) “**Available**” means Customer’s Named Users are able to access, edit, upload or download Customer Data in, to or from the production instance of an Igloo Environment via a supported web browser in compliance with this Agreement; provided, however that an Igloo Environment shall be deemed Available if it is undergoing scheduled maintenance in accordance with the SLA. “**Availability**” means the percentage of the total number of minutes in a calendar month that the production instance of an Igloo Environment is Available.
- (f) “**Confidential Information**” includes any information, document, material, idea or data which is disclosed by one party hereto to the other party hereto, whether orally, electronically or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information, document, material, idea or data and the circumstances of the disclosure, including information regarding a party’s products and services, technology, business plans, prices, financial information and other trade secrets or confidential information, and anything tangible from which such information may be obtained. Confidential Information includes Customer Data and the terms and conditions of this Agreement. Confidential Information, however, shall not include any document, material, idea, data or other information which: (i) is known to the receiving party under no obligation of confidence, at the time of disclosure by the other party; (ii) is lawfully obtained by the receiving party from a third party who, in making such disclosure, breaches no obligation of confidence to the other party; (iii) is or becomes publicly known through no wrongful act of the receiving party; (iv) is independently developed by the receiving party without the use of the disclosing party’s Confidential Information; or (v) is disclosed by the other party to a third party under no obligation of confidence. The onus of proving that any of the above-mentioned exceptions applies is on the receiving party.

- (g) **“Content”** includes text, messages, files, photos, video, sounds, musical works, works of authorship, links, emails, postings, code, data, images, graphics, video, chat, files, works of authorship or other materials.
- (h) **“Customer Data”** means any Content (including Personal Information) uploaded or posted to, entered or stored in, or displayed or transmitted using the production instance of an Igloo Environment by Customer and/or Named Users, but excludes any uniform resource locators or domain names that are used by Customer in connection with an Igloo Environment.
- (i) **“Customer Technology”** means any information, technology or design or other materials owned or controlled by Customer the use of which is reasonably required by Igloo in order to provide any of the Services.
- (j) **“Deliverables”** means any document, report, lay-out, specification, software functionality or other material that is customized by Igloo to be delivered by Igloo to Customer in the course of providing Services.
- (k) **“Documentation”** means the then-current version of the documentation provided by Igloo to Customer under this Agreement that is in connection with the Services and made available at <https://customercare.igloosoftware.com>.
- (l) **“DSS”** means Igloo’s Data Security Standards. The current version of the DSS, which may be amended by Igloo from time to time in accordance with its terms, is available at [https://customercare.igloosoftware.com/legal/data\\_security\\_standards](https://customercare.igloosoftware.com/legal/data_security_standards).
- (m) **“Extracted Data”** means anonymized data created by Igloo from Usage Data.
- (n) **“Igloo Applications”** means the non-hosted offerings made available by Igloo to Customer for utilization in connection with an Igloo Environment.
- (o) **“Igloo Environment”** means an online environment that is hosted and maintained by Igloo for Customer utilizing the System and that Customer acquires rights to access and use under this Agreement as set forth in the applicable Sales Contract(s). For certainty, the Igloo Environment does not include the Customer Care environment available at <https://customercare.igloosoftware.com/>.
- (p) **“Igloo Platform”** means the Igloo Environment(s) and Igloo Applications.
- (q) **“Igloo Property”** has the meaning set forth in Section 7.1.
- (r) **“Igloo Trademarks”** means the registered and unregistered trademarks, trade names, logos or service marks of Igloo as used by Igloo in connection with the Services from time to time.
- (s) **“Initial Term”** means the contract period for the provision of the Services as set out in the first Sales Contract entered into between Customer and Igloo.
- (t) **“IP Rights”** means any right that is granted or recognized under any applicable legislation regarding patents, copyrights, neighbouring rights, moral rights, trademarks (including trade names and service marks), trade secrets, confidential information, industrial designs, design rights, mask work, integrated circuit topography, privacy and publicity rights and any other statutory provision or common or civil law principle regarding intellectual and industrial property, whether registered or unregistered, and including rights in any application for any of the foregoing.

- (u) **“Launch”** means the completed provision of Professional Services for the initial implementation of an Igloo Environment.
- (v) **“Log Data”** means records of System and/or Named User activity in an Igloo Environment logged by the System.
- (w) **“Marketplace”** means Igloo’s online marketplace of services and software applications developed and licensed by Igloo or third party software developers which interoperate with the Igloo Environment.
- (x) **“Named User”** means an individual with an Account who is authorized by Customer to access and use an Igloo Environment.
- (y) **“Negotiated Renewal Term”** has the meaning set forth in Section 14.1
- (z) **“Person”** means a natural person or any legal, commercial or governmental entity, such as, but not limited to, a corporation, general partnership, joint venture, limited partnership, limited liability company, trust, business association, group acting in concert, or any Person acting in a representative capacity.
- (aa) **“Personal Information”** means information: (i) that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular natural person or household; and/or (ii) relating to an identified or identifiable natural person.
- (bb) **“Professional Services”** means all professional services that Igloo provides to Customer pursuant to this Agreement, which may include analytics, training, visual design, consulting and project management, or third party integrations. All Professional Services shall be provided by Igloo pursuant to a Sales Contract or a SOW.
- (cc) **“Renewal Term”** means a Negotiated Renewal Term or an Auto-Renewal Term, as applicable.
- (dd) **“Sales Contract”** means an ordering document outlining the Services that have been selected by Customer that references this Agreement and that is entered into between Customer and Igloo, including any addenda and supplements thereto.
- (ee) **“Services”** means any of the Igloo Platform, Professional Services, and/or Support Services provided by Igloo under this Agreement.
- (ff) **“SLA”** means Igloo’s Service Level Agreement for use of Igloo Environment(s). The current version of the SLA, which may be amended by Igloo from time to time in accordance with its terms, is available at [https://customercare.igloosoftware.com/legal/service\\_level\\_agreement](https://customercare.igloosoftware.com/legal/service_level_agreement).
- (gg) **“SOW”** means a written statement of work for the provision of Professional Services by Igloo that is entered into between Customer and Igloo, including any addenda and supplements thereto, that references this Agreement and may reference a Sales Contract.
- (hh) **“System”** means the proprietary and third-party information technology systems used by Igloo to provide the Igloo Environment.

- (ii) **“Support Services”** means the support services to be provided by Igloo in respect of the production instance of an Igloo Environment and the Igloo Applications at the support package level selected by Customer in the applicable Sales Contract(s).
- (jj) **“Term”** means the Initial Term and each Renewal Term, if any.
- (kk) **“Third Party Services”** means third party applications, services, software, products, networks, systems, directories, websites, databases and information to which an Igloo Environment links, with which an Igloo Environment integrates, or which Customer may connect to or enable in conjunction with an Igloo Environment, including Third Party Services which may be integrated directly into an Igloo Environment or Third Party Services available through the Marketplace.
- (ll) **“Usage Data”** means data or information generated by Igloo with respect to Customer’s and its Named Users’ use and/or operation of the Services and the System. Usage Data includes all Log Data, support ticket data and results of search queries.

1.2 **Certain Rules of Interpretation.** The parties agree to the following interpretive terms and conditions:

- (a) words importing the singular number include the plural and vice versa and words importing gender include all genders in this Agreement;
- (b) reference to any agreement, indenture or other instrument in writing means such agreement, indenture or other instrument in writing as amended, modified, replaced or supplemented from time to time, unless otherwise agreed to herein;
- (c) every use of the words “including” or “includes” in this Agreement is to be construed as meaning “including, without limitation” or “includes, without limitation”, respectively;
- (d) any capitalized term used in this Agreement that is not defined in Section 1.1 or elsewhere in this Agreement will have the generally accepted industry or technical meaning given to such term;
- (e) the division of this Agreement into Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement and except as expressly set out herein, references to a Section refer to the applicable Section of the main body of this Agreement; and
- (f) to the extent of any conflict or inconsistency between the provisions of this Agreement, any Sales Contract or SOW, the AUP, DSS, or SLA, the inconsistency or conflict shall be resolved in the following descending order of priority: (i) the main body of this Agreement; (ii) the SLA; (iii) the AUP; (iv) the DSS; (v) the applicable Sales Contract(s) (except to the extent that such Sales Contract expressly states that it is intended to override any higher-prioritized document in this Section 1.2(f) and, in such contrary event, any applicable amendment, modification, cancellation, waiver or release shall be deemed to apply solely to the specific Services contemplated by such specific Sales Contract); and (vi) any SOW (except to the extent that such SOW expressly states that it is intended to override any higher-prioritized document in this Section 1.2(f) and, in such contrary event, any applicable amendment, modification, cancellation, waiver or release shall be deemed to apply solely to the specific Services contemplated by such specific SOW).

**2. IGLOO PLATFORM**

2.1 **Hosting.** The cloud hosting environments utilized by Igloo to provide the Igloo Environment are located in the jurisdiction identified on the initial Sales Contract as the “Hosting Environment”.

2.2 **Customer Access.** Customer’s access to and use of the Igloo Platform is on a subscription basis during the Term. Customer understands and agrees that the information technology systems required for the operation and availability of the Igloo Environment, including the System, external authentication software, mobile networks, and the Internet, whether or not supplied by Igloo, can be unpredictable and may from time to time interfere with or prevent access to the Igloo Platform.

2.3 **Rights to Use the Igloo Platform.** Subject to the terms and conditions of this Agreement, Igloo grants to: (i) Customer a non-exclusive, royalty-free, worldwide, non-sublicensable, revocable (only in accordance with the terms and conditions of this Agreement), non-assignable and non-transferable (except as permitted by Section 15.4), and limited right and license to access and use the Igloo Platform and the Documentation during the Term solely for Customer’s own business purposes; and (ii) each Named User the limited right to use the Igloo Platform during the Term for purposes related to Customer’s own business purposes, all in accordance with this Agreement, the Documentation and any other applicable terms or restrictions that may be set out in a Sales Contract.

2.4 **Named Users and Accounts.**

- (a) Each Named User will be entitled to access an Igloo Environment by means of an Account using a unique username and password.
- (b) Unless otherwise set out in a Sales Contract, Customer will be issued one initial master Account for accessing an Igloo Environment. Through such master Account, Customer will be able to establish additional Accounts for Named Users. Customer is responsible for authorizing and controlling access to Igloo Environment(s) for Named Users.
- (c) Unless otherwise expressly specified in a Sales Contract: (i) each Account may only be assigned to and used by one individual at a time and may not be shared with any other individual; and (ii) an Account may be reassigned by Customer to a new individual replacing one who no longer requires ongoing use of the Account.
- (d) Customer is responsible for ensuring that: (i) each individual accessing an Igloo Environment has their own Account; (ii) only Named Users may access and use any password protected areas of an Igloo Environment; (iii) each Named User maintains the confidentiality of and is the sole user of the username and password for their Account; (iv) Named Users do not transfer any Account to any other individual without Igloo’s prior written approval; and (v) Named Users shall comply with the AUP. Customer shall be responsible and liable for all activity that occurs under all Named Users’ Accounts, whether authorized by Customer or Named Users (as the case may be) or not. Customer acknowledges and agrees that in no event shall Igloo be liable, directly or indirectly, to Customer or Named Users for any loss or damage as a result of any activity carried out using valid Account credentials and corresponding permissions; provided that the foregoing shall not apply to the extent that any unauthorized access was initiated by any Igloo personnel or proximately caused by: (x) the failure of the Igloo Environment to restrict access in accordance with valid Account credentials and corresponding permissions; or (y) the failure of Igloo to comply with Section 3.6 of (or other applicable obligation of Igloo under) this Agreement.

2.5 **Customer and Named User Information.**

- (a) As a condition of using the Igloo Platform, Customer, to the extent possible, shall cause each Named User to maintain and promptly update his or her Igloo member profile information to keep it true, accurate, current and complete.
- (b) If any Named User provides any Account or member profile related information that is untrue or inaccurate or if Igloo has reasonable grounds to believe that such information is untrue or inaccurate, Igloo may suspend access to Igloo Environment(s) for such Named User and refuse any and all current or future use of Igloo Environment(s) by such Named User following notice to Customer of the incorrect information and a failure by Customer to correct, or have corrected, said information within thirty (30) days from such notice.

2.6 **Usage Limits.** Customer's subscription for the Igloo Platform may be subject to limitations set forth in the applicable Sales Contract(s), including the number of Named Users, data storage space allocation and level of Support Services requests. Where Customer exceeds such limitations, Igloo will work with Customer to address any such non-compliance. If, notwithstanding Igloo's efforts, Customer is unable or unwilling to abide by such contractual limitations, Customer will execute a Sales Contract for such excess usage promptly upon Igloo's request and/or pay any applicable invoice for such excess usage.

### 2.7 **Additional Customer Responsibilities.**

- (a) Customer is solely responsible for obtaining and maintaining all equipment, computers, mobile devices, and communications required to access and utilize the Igloo Platform and for all expenses related thereto.
- (b) Customer is solely responsible to ensure that its Named Users use a supported release version of any applicable Igloo Applications. At any time during the Term, unless Igloo provides Customer with written notice otherwise, the two most recent release versions of an Igloo Application will be supported by Customer's Igloo Environment.
- (c) Customer will notify Igloo immediately of any actual or suspected unauthorized use of an Igloo Environment or any Accounts or other breach of security in relation to the Igloo Platform, Customer Data or the System of which Customer becomes aware.

2.8 **Suspension and Termination.** If Customer or any Named User, in Igloo's reasonable opinion, is in material violation of any terms of this Agreement or breaches this Agreement in a way that presents a material risk to Igloo, the Services, or the System, Igloo reserves the right, in Igloo's sole discretion and without notice, to immediately suspend Customer's or such Named User's access to the Services until such breach is corrected or to terminate the Account of such Named User. Customer agrees that Igloo shall not be liable to Customer for any action Igloo takes to remove or restrict access to any Customer Data that violates any of the terms of this Agreement.

2.9 **Modules.** Igloo may, pursuant to a supplemental Sales Contract to be signed by the parties, make available to Customer optional additional functionality or features to Igloo Environments (including Igloo Applications), which may be provided as standalone applications, modules, plugins or components (each, a "**Module**"). Certain Modules may require Customer to agree to additional or separate pricing and/or terms of use applicable to such Modules, which shall be set out in the applicable Sales Contract.

## 3. **CUSTOMER DATA**

3.1 **Monitoring.** Customer shall be solely responsible at all times for monitoring Customer Data and for ensuring that all Customer Data complies with this Agreement. Customer is solely responsible for the accuracy, quality,

integrity and legality of Customer Data and the means by which Customer acquires Customer Data. Igloo has no obligation to monitor or pre-screen any Customer Data.

**3.2 Rights to Customer Data.** All rights in and to Customer Data held by Customer, its Named Users and each of their respective licensors and not granted to Igloo under this Agreement are reserved to Customer, its Named Users and each of their respective licensors, as applicable. Customer hereby grants to Igloo a non-exclusive, non-transferable (subject to Section 15.4) royalty-free, fee-free, worldwide right and license, and expressly instructs Igloo, during the Term to use, reproduce, modify, adapt, publish, translate, distribute, perform, and display Customer Data solely on and through the Igloo Platform and the System for the sole purpose of providing the Services to Customer, which includes making Customer Data available to Named Users. Customer represents and warrants that Customer is the owner or licensor of all rights to all Customer Data or otherwise has the rights to grant the license set forth in this Section 3.2. Igloo shall not access Customer Data except: (i) to provide the Services to Customer; (ii) as necessary to respond to performance-related issues with the Services; (iii) in accordance with Section 3.3 or 3.4; or (iv) at Customer's request.

**3.3 Data Extractions.** During the Term, Customer may extract any Customer Data from the Igloo Environment at any time. Customer may request data extractions through Igloo as Professional Services. Fees, timing and type of data extraction will be based on terms mutually agreed to by the parties in a SOW.

**3.4 Analytical Data.**

- (a) Customer agrees that Igloo shall be entitled to generate Usage Data and Extracted Data based on Customer's and its Named Users' respective use and operation of the Services.
- (b) Igloo shall own all rights in and to all Usage Data, save and except for any Customer Data that may be included in Usage Data. Customer agrees that Igloo shall be entitled to use any such Customer Data included in Usage Data in order to provide Customer with the Services and with reports on its (and its Named Users') use of the Services.
- (c) Extracted Data shall not contain any Customer Data. Igloo shall exclusively own all rights, including all IP Rights, in and to all Extracted Data, whether as part of derivative works or otherwise.

**3.5 Personal Information.**

- (a) Customer Data is received by Igloo from Customer and its Named Users for the specific purpose of providing the Services. Customer Data may include Personal Information.
- (b) Where Customer discloses Personal Information to Igloo or transfers Personal Information to Igloo for processing, Customer is deemed to represent, warrant and covenant to Igloo that: (i) Customer is solely and exclusively responsible for the collection, accuracy or completeness of Personal information disclosed, or provided to, Igloo; and (ii) all such Personal Information disclosed to Igloo has been or will be collected and disclosed in accordance with all applicable laws. Customer hereby grants to Igloo the right to collect, store, access and use the Personal Information for the purposes of providing the Services to Customer. Customer will promptly respond to all enquiries concerning any Personal Information provided to Igloo. Customer has obtained and will continue to obtain from those individuals whose Personal Information is disclosed or transferred to Igloo all consents necessary for Customer to grant the Personal Information rights herein to Igloo.

**3.6 Data Security.** Igloo shall, during the Term, maintain commercially reasonable administrative, physical and technical safeguards designed to protect the security of the System and Customer Data, as further described in the DSS. Upon or before execution of this Agreement, and thereafter upon Customer request (such

requests not to exceed once per annum), Igloo will provide to Customer a copy of Igloo's then-current SOC 2, Type 2 audit report (or such audit/report's equivalent or replacement). Igloo shall promptly notify Customer of any material failure of such safety and security procedures or any security incident related to the System or Igloo's network in accordance with the DSS.

#### **4. PROFESSIONAL AND SUPPORT SERVICES**

**4.1 Professional Services.** From time to time, Igloo may provide Professional Services as requested by Customer. Professional Services shall be subject to the terms and conditions of this Agreement and any applicable Sales Contract or SOW entered into by the parties. Customer shall promptly provide all reasonably required information, materials and resources as necessary to enable Igloo to carry out the Professional Services.

#### **4.2 Support Services.**

- (a) Subject to the terms and conditions of this Agreement and in accordance with the SLA, Igloo shall provide Support Services at the support package level set out in the applicable Sales Contract(s) and shall use commercially reasonable efforts to achieve the applicable response times and service levels.
- (b) Igloo's obligations to achieve the applicable level of Support Services shall not apply in respect of problems, incidents or deficiencies that result from: (i) factors outside of Igloo's reasonable control; (ii) any improper actions or inactions of any Named User, Customer, or its contractors, suppliers, or service providers; or (iii) faulty equipment or software of any Named User, Customer, or its contractors, suppliers or service providers.
- (c) If Igloo determines that Customer's Support Services requests exceed the limits of the applicable level of Support Services, Igloo maintains the right to limit Support Services to such contracted levels upon reasonable prior notice to Customer.
- (d) Requests for Support Services may only be made to Igloo by/through Customer's authorized representatives.

**4.3 Customer Technology.** Unless otherwise agreed to in a SOW, Customer hereby grants to Igloo a royalty-free, fully paid license to Customer Technology during the Term on an as-needed basis for the sole purpose of providing Services requested by Customer. Customer retains all right, title and interest in and to Customer Technology including any IP Rights therein, except for the limited license granted under this Section 4.3.

**4.4 Subcontractors.** Customer recognizes that Igloo may have the need to utilize subcontractor(s) or supplementary providers(s) (collectively "**Subcontractors**") in provision of the Services or otherwise in connection with the operation of the System. Customer hereby authorizes Igloo, in its sole discretion, to engage Subcontractors to maintain the System or to provide additional support or specialized services in connection with the System or the provision of the IGLOO Platform generally to all Igloo customers (including cloud hosting, intrusion detection, performance management, System monitoring and network scanning) (such Subcontractors "**System Subcontractors**"). Subcontractors other than System Subcontractors may only otherwise be utilized by Igloo upon prior approval of Customer, which shall not be unreasonably withheld, conditioned or delayed. Customer hereby authorizes Igloo, in its sole discretion, to disclose to a Subcontractor only that Customer Data that is reasonably necessary for such Subcontractor to provide the services for which it has been engaged. Subcontractors may not, under any circumstance, further subcontract the services they have been approved by Customer to perform. The cost of any Subcontractors employed or retained by Igloo shall be the sole responsibility of Igloo and shall not be in addition to the fees payable by Customer hereunder. There will be no compromise in the Services and/or Deliverables due to



the use of a Subcontractor and Igloo shall be responsible for any Subcontractor's performance and compliance with the terms of this Agreement.

4.5 **Monitoring.** During the Term and following Launch, Igloo will monitor each Igloo Environment to determine whether it is Available and performing in accordance with the SLA. In the event that Igloo discovers or is notified by Customer that an Igloo Environment is not Available to Customer, Igloo will use its commercially reasonable efforts to determine the source of the problem and to correct it in accordance with the SLA.

4.6 **Disaster Recovery.** In connection with the provision of the Igloo Environment, Igloo has adopted a disaster recovery plan that sets out specific policies and procedures to recover from an unexpected disaster. Igloo will implement such disaster recovery plan, as described in the DSS, in the event of such an unexpected disaster.

## 5. INSURANCE

5.1 **Insurance Coverage.** During the Term, Igloo shall maintain:

- (a) commercial general liability insurance coverage of at least two million Canadian dollars (CAD\$2,000,000) per occurrence and five million Canadian dollars (CAD\$5,000,000) in the aggregate;
- (b) umbrella insurance coverage of at least ten million Canadian dollars (CAD\$10,000,000) on both a per occurrence and in the aggregate basis; and
- (c) cyber liability insurance coverage (including professional liability insurance for errors and omissions of Igloo) of at least eight million Canadian dollars (CAD\$8,000,000) for each wrongful act and eight million Canadian dollars (CAD\$8,000,000) in the aggregate.

Upon Customer request, but no more than once per calendar year, Igloo will provide Customer with a certificate of insurance to evidence such insurance.

## 6. THIRD PARTY SERVICES

6.1 **Integration with Third Party Services.** The Igloo Platform may contain features or functionalities, including widgets, that are designed to interoperate with Third Party Services (such features and functionalities, "Integrations"). Integrations (but not the applicable Third Party Services) set out in the applicable Sales Contract are deemed to be part of the Igloo Platform. If the provider of a Third Party Service for which Igloo offers an Integration (i) ceases to make such Third Party Service available for interoperation or (ii) introduces a fee with respect to such Integration with the Third Party Service and Customer is unwilling to pay the amount of such fee to Igloo as an additional fee, Igloo, in its sole discretion, may cease providing such Integration and the corresponding features of the Igloo Platform at any time and without entitling Customer to any refund, credit, or other compensation. To the extent Igloo is reasonably able, Igloo shall provide Customer with advance notice should the interoperation of any Integration be discontinued.

6.2 **Third Party Services.** Customer's access to and use of Third Party Services are governed solely by the terms and conditions of Customer's agreement(s) with the providers of such Third Party Services, and Igloo does not endorse, is not responsible or liable for, and makes no representations and warranties as to any aspect of the content or operation of any Third Party Services or any interaction between Customer and the providers of such Third Party Services. Customer acknowledges and agrees that, except for Igloo's gross negligence or wilful misconduct, Igloo is not responsible or liable for any damage or loss (including damage or loss of Customer Data) proximately caused or alleged to be proximately caused by or in connection with Customer's (or its Named Users') enablement of, access to or use of any such Third Party Services, or any reliance on the privacy practices, data security processes or

other policies of such Third Party Services. By installing or enabling any Integration, Customer is expressly permitting Igloo to: (i) access Customer Data and Customer Technology; and (ii) permit the provider of the applicable Third Party Service to access Customer Data, each as required for the operation of such Integration.

## 7. INTELLECTUAL PROPERTY RIGHTS

7.1 **Ownership.** The Igloo Platform, Documentation and Deliverables not owned by Customer (including any Content therein that is not Customer Data), all copies and portions thereof, Igloo Trademarks and all improvements, enhancements, modifications and derivative works thereof (excluding all Customer Data and Customer Technology), and all IP Rights therein (collectively, "**Igloo Property**"), are and shall remain the sole and exclusive property of Igloo and its licensors and are protected by domestic and international laws and treaties. Customer agrees not to, and not to cause or permit others to: (i) remove any proprietary notices, markings and legends appearing on or contained in Igloo Property; or (ii) change any security or right management technology used in connection with any Igloo Property.

7.2 **Rights Reserved By Igloo.** Customer's rights to use an Igloo Environment and other Igloo Property shall be limited to those expressly granted in this Agreement and any applicable Sales Contract or SOW. No other rights with respect to any Igloo Property (including all related IP Rights) are implied. Customer agrees that Customer shall take commercially reasonable measures to protect Igloo's proprietary and IP Rights in Igloo Property and will comply with the terms of this Agreement to protect Igloo's proprietary and IP Rights in Igloo Property. Except as Igloo may otherwise expressly agree in writing, any discoveries, enhancements, improvements, customizations, translations or other modifications made to, or derived from, Igloo Property, and all related IP Rights therein, shall be owned exclusively by Igloo.

7.3 **Ownership of Deliverables.** Except as otherwise set forth in a SOW, all Deliverables shall be owned exclusively by Igloo. During the Term, Igloo grants to Customer a non-exclusive, worldwide, non-assignable, non-transferable (except as permitted under Section 15.4), limited license to access and use the Deliverables solely for Customer's own business purposes. By execution of this Agreement, Customer hereby irrevocably assigns any and all of Customer's right, title and interest in and to all such Deliverables to Igloo and waives in favour of Igloo, its licensees and successors and assigns any of its moral rights therein. Except for the limited license for access and use set out above, no rights in such Deliverables are reserved to Customer. The ownership of any other developments, products, software or other materials made or developed by Igloo shall be as mutually agreed to by the parties in writing in the applicable SOW.

7.4 **Submissions.** Notwithstanding any term of this Agreement, any suggestions, enhancement requests, recommendations or other feedback provided by Customer to Igloo relating to the Services (collectively "**Submissions**") shall become Igloo's sole property. Igloo shall exclusively own all rights, including all IP Rights, in and to all Submissions. Igloo shall be entitled to the unrestricted use and dissemination of Submissions for any purpose, commercial or otherwise, without acknowledgement or compensation to Customer. In the event that any IP Rights in and to any Submissions vest, or have vested, in Customer, Customer hereby assigns to Igloo all of Customer's right, title and interest in all Submissions and Customer hereby waives to and in favour of Igloo any of its moral rights therein.

## 8. MARKETING

8.1 **Igloo Branding and Logo.** Customer agrees that Igloo has the right to place an "Igloo" button or similar branding in the bottom right hand corner of every page in any Igloo Environment.

8.2 **Igloo Marketing.** Any use by Igloo of Customer's name and logo is prohibited without prior written consent of Customer.

## 9. FEES AND PAYMENT

9.1 **Fees.** Customer shall pay to Igloo the fees specified in, and in accordance with the terms set out in, all Sales Contracts and SOWs. Unless otherwise specified in this Agreement, payment obligations are non-cancellable and all fees are non-refundable.

9.2 **Taxes.** All fees are net of any sales, use, excise, value added and similar taxes imposed by any governmental authority as well as any international shipping charges, brokerage fees, consular fees and customs duties, all of which shall be the responsibility of Customer. Customer shall pay all such taxes or charges or provide Igloo with a tax or levy exemption certificate acceptable to the taxing or levying authority. In the event that Igloo is required to pay any taxes or other charges for which Customer is responsible hereunder, Customer shall promptly pay the same to Igloo upon receipt of Igloo's invoice therefor. For certainty, Igloo shall be responsible for any taxes related to its income or gross receipts. If, pursuant to local law, Customer is required to withhold any taxes, duties or other amounts from amounts payable to Igloo, then: (i) Customer will promptly notify Igloo; (ii) the amount payable to Igloo will be automatically increased to the full extent required to offset such tax, duty or other amount so that the amount remitted to Igloo, net of all taxes, duties and other like amounts, equals the amount payable to Igloo pursuant to this Agreement or pursuant to an invoice from Igloo, as applicable. For the purpose of determining and calculating any sales tax applicable to the transactions contemplated by this Agreement, Igloo assumes that the Services will be consumed by Customer at the Customer billing address noted on the applicable Sales Contract.

9.3 **Late Payment Terms.** Amounts owed by Customer hereunder that are not disputed by Customer and are not paid within fifteen (15) days of the applicable due date (which shall be set out on an invoice and determined in accordance with the payment terms in the applicable Sales Contract) shall accrue interest at the lesser of one percent (1%) per month (being twelve percent (12%) per annum) and the maximum rate permitted by law, such interest to begin accruing on a daily basis from date of the invoice and shall accrue both before and after judgement. If any amount owing by Customer under this Agreement or any SOW or Sales Contract is not disputed by Customer and is thirty (30) or more days overdue, Igloo may notify Customer of such late payment and allow Customer to make payment within ten (10) days of notification. Following such notice from Igloo to Customer, if Customer fails to make payment in full of such undisputed amounts within such ten (10) day period, then, without limiting Igloo's other rights and remedies available at law or granted to Igloo in this Agreement, Igloo reserves the right to suspend Customer's access to the Services (which would suspend the access to Igloo Environments for Named Users) with contemporaneous notice to Customer. Customer will continue to be charged and remain liable for the applicable fees and other charges for the Services during any suspension period.

## 10. CONFIDENTIALITY

10.1 **Customer Data and Information.** For the purposes of this Agreement, the Confidential Information of Customer shall include any Personal Information of each Named User that is uploaded, generated or stored by Customer or such Named User in an Igloo Environment.

10.2 **Protection.** Each party agrees to take the necessary precautions to maintain the confidentiality of the other party's Confidential Information disclosed in connection with this Agreement by using at least the same degree of care as such party employs with respect to its own Confidential Information of a like kind or nature, but no less than a reasonable degree of care. Each party agrees not to use the Confidential Information of the other party for any purpose not expressly permitted by this Agreement and shall limit the disclosure of the Confidential Information to employees, contractors, subcontractors, agents or representatives of the receiving party whose knowledge of such Confidential Information will assist with the provision by Igloo of the Services and who are bound in writing by confidentiality terms no less restrictive than those contained herein.

10.3 **Compelled Disclosure.** The receiving party may disclose Confidential Information of the disclosing party if it is compelled by law to do so, provided that the receiving party: (i) gives the disclosing party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the disclosing party's cost, if the disclosing party wishes to contest the disclosure; and (ii) discloses only such Confidential Information as is legally

required. If the receiving party is compelled by law to disclose the disclosing party's Confidential Information as part of a civil proceeding to which the disclosing party is a party, and the disclosing party is not contesting the disclosure, the disclosing party will reimburse the receiving party for its reasonable cost of compiling and providing secure access to such Confidential Information.

## **11. LIMITED WARRANTY**

**11.1 Representations and Warranties.** Igloo represents and warrants to Customer that all work performed by Igloo under this Agreement (including the provision of any Services and the supply of any Deliverables) will be performed: (i) with due care and skill and in accordance with industry practice; (ii) using only properly skilled, qualified and experienced personnel; and (iii) in compliance with all applicable Canadian laws, including in relation to privacy.

**11.2 Disclaimer.** SUBJECT TO THE EXPRESS REPRESENTATIONS AND WARRANTIES SET FORTH IN THIS AGREEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, THE SERVICES, DOCUMENTATION, DELIVERABLES AND ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT (INCLUDING THE USE THEREOF) ARE PROVIDED "AS IS" WITHOUT EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS OF ANY KIND. IGLOO DISCLAIMS ALL REPRESENTATIONS, WARRANTIES AND CONDITIONS, EXPRESS OR IMPLIED, INCLUDING, ANY IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR USE, FITNESS FOR A PARTICULAR PURPOSE OR THOSE ARISING BY LAW, STATUTE, USAGE OR TRADE, OR COURSE OF DEALING REGARDING OR RELATED TO THIS AGREEMENT, THE SERVICES, DOCUMENTATION, DELIVERABLES OR ANY MATERIALS OR SERVICES FURNISHED OR PROVIDED TO CUSTOMER UNDER THIS AGREEMENT. IGLOO DOES NOT WARRANT THAT THE SERVICES, DOCUMENTATION OR DELIVERABLES WILL BE ERROR FREE OR WILL OPERATE WITHOUT INTERRUPTION. EXCEPT FOR IGLOO'S OBLIGATIONS THAT ARE EXPRESSLY SET FORTH IN THIS AGREEMENT, THE ENTIRE RISK ARISING OUT OF THE USE OR PERFORMANCE OF THE IGLOO PLATFORM, DOCUMENTATION OR DELIVERABLES REMAINS WITH CUSTOMER. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, IGLOO DOES NOT WARRANT THE ACCURACY OR SECURITY OF ANY CUSTOMER DATA.

## **12. LIMITATION OF LIABILITY**

**12.1 Igloo Environment, Professional Services, and Support Services.** OTHER THAN IN RESPECT OF: (I) A BREACH BY A PARTY OF ITS CONFIDENTIALITY AND PRIVACY OBLIGATIONS UNDER THIS AGREEMENT; (II) THE FRAUD, GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF A PARTY; OR (III) CUSTOMER'S BREACH OF ITS LIMITED RIGHTS TO USE THE IGLOO PLATFORM SET FORTH IN SECTION 2.3, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF DATA, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF OR RELATED TO THE IGLOO ENVIRONMENT, PROFESSIONAL SERVICES, SUPPORT SERVICES, OR ANY RELATED PROVISIONS OF THIS AGREEMENT.

**12.2 Igloo Applications.** OTHER THAN IN RESPECT OF: (I) A PARTY'S INDEMNIFICATION OBLIGATIONS SET FORTH IN SECTION 13; (II) A BREACH BY A PARTY OF ITS CONFIDENTIALITY AND PRIVACY OBLIGATIONS UNDER THIS AGREEMENT; (III) THE FRAUD, GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF A PARTY; OR (IV) CUSTOMER'S BREACH OF ITS LIMITED RIGHTS TO USE THE IGLOO PLATFORM SET FORTH IN SECTION 2.3, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY DIRECT, INDIRECT, CONSEQUENTIAL, SPECIAL, INCIDENTAL, EXEMPLARY OR PUNITIVE DAMAGES WHATSOEVER (INCLUDING DAMAGES FOR LOSS OF DATA, LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION OR LOSS OF BUSINESS INFORMATION) ARISING OUT OF OR RELATED TO THE IGLOO APPLICATIONS OR ANY RELATED PROVISIONS OF THIS AGREEMENT.

12.3 **Cause of Damages.** SECTIONS 12.1 AND 12.2 SHALL APPLY REGARDLESS OF THE CAUSE OF ANY SUCH DAMAGES, INCLUDING UNDER ANY THEORY OF LIABILITY, WHETHER BASED IN CONTRACT, TORT, NEGLIGENCE OR OTHERWISE, EVEN IF THE OTHER PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND REGARDLESS OF THE THEORY OF RELIEF.

12.4 **Liability Limit.** EACH PARTY'S TOTAL CUMULATIVE LIABILITY TO THE OTHER PARTY HEREUNDER SHALL NOT EXCEED ONE MILLION CANADIAN DOLLARS (CAD\$1,000,000) (THE "**DAMAGES CAP**"). NOTWITHSTANDING THE FOREGOING, IN THE EVENT OF A BREACH BY EITHER PARTY OF ITS CONFIDENTIALITY AND PRIVACY OBLIGATIONS UNDER THIS AGREEMENT, OR FOR DIRECT DAMAGES RESULTING FROM EITHER PARTY'S INDEMNIFICATION OBLIGATION UNDER SECTION 13.1(i) OR SECTION 13.4(i), AS APPLICABLE, THE DAMAGES CAP SHALL AUTOMATICALLY INCREASE, WITHOUT FURTHER ACTION REQUIRED BY THE PARTIES, TO TWO MILLION CANADIAN DOLLARS (CAD\$2,000,000). FOR THE SAKE OF CLARITY, THERE SHALL BE NO LIMIT ON THE DAMAGES PAYABLE BY: (A) IGLOO IN RESPECT OF AMOUNTS OWING TO ANY THIRD PARTY THAT INITIATED A CLAIM COVERED BY SECTION 13.1(i); (B) CUSTOMER IN RESPECT OF AMOUNTS OWING TO ANY THIRD PARTY THAT INITIATED A CLAIM COVERED BY THE INDEMNITY SET FORTH IN SECTIONS 13.4(i); OR (C) EITHER PARTY IN RESPECT OF A CLAIM RESULTING FROM FRAUD, GROSS NEGLIGENCE OR WILFUL MISCONDUCT OF SUCH PARTY; WHERE, IN THE CASE OF (A), (B) OR (C), SUCH DAMAGES ARE EITHER AWARDED BY A COURT OF COMPETENT JURISDICTION OR PAID IN RESPECT OF A SETTLEMENT WITH THE APPLICABLE THIRD PARTY.

### 13. INDEMNIFICATION

13.1 **Igloo Indemnity.** Subject to Sections 12 and 13.2 of this Agreement, Igloo shall indemnify, defend and hold Customer harmless from and against any third party claims, including any losses, damages or expenses (including reasonable legal fees) arising from such third party claims, arising from or relating to: (i) infringement of any United States or Canadian patents, copyrights, trademarks or trade secrets of a third party that is specifically in connection with Customer's use of the Igloo Platform in accordance with this Agreement (an "**Infringement Claim**"); or (ii) any violation of applicable law by Igloo or its personnel; provided that Customer: (a) provides Igloo with written notice of such claim within a reasonable period of time after learning of the claim; (b) agrees to allow Igloo to fully control any litigation and settlement related to such claim (provided any such settlement does not require Customer to make any payment or admission of liability); and (c) reasonably cooperates in response to Igloo's request for assistance.

13.2 **Exclusions – Infringement Claim.** Igloo shall have no liability with respect to any Infringement Claim to the extent that such Infringement Claim: (i) would have been avoided but for the combination, operation or use of the Igloo Platform with any product, service, equipment or software not provided by Igloo; (ii) is based on the operation or use of the Igloo Platform in a manner not consistent with the Documentation or in violation of this Agreement; (iii) would not have arisen but for the combination or incorporation of particular Customer Data together with the Igloo Platform; or (iv) is based on or would have been avoided but for any modifications to the Igloo Platform made without Igloo's express written approval. Igloo shall not be liable for any damages with respect to any Infringement Claim to the extent that they are calculated on the basis of the cost or value of any product or service provided to Customer by any third party.

13.3 **Remedy – Infringement Claim.** Should the Igloo Platform become, or if Igloo reasonably believes that the Igloo Platform may likely become, subject to an Infringement Claim, then Igloo may, at its sole option and expense: (i) procure the right for Customer to continue using the Igloo Platform; (ii) replace the same with other software, services or other material of equivalent functions and efficiency that is not subject to an Infringement Claim; (iii) modify the Igloo Platform so that the same is no longer infringing; or (iv) if Igloo determines that option (i), (ii) or (iii) cannot be achieved on a commercially reasonable basis, terminate this Agreement and refund to Customer the unused portion of any fees paid in advance by Customer for use of the Services, based on the number of full months, if any,

remaining in the Term. Igloo's liability to Customer in the event of infringement or claimed infringement shall be strictly limited to the obligations set forth in this Section 13.

13.4 **Customer Indemnity.** Subject to Section 12 of this Agreement, Customer shall indemnify, defend and hold Igloo harmless from and against any third party claims, including any losses, damages or expenses, (including reasonable legal fees) arising from such third party claims, arising from or relating to: (i) Customer Data and/or any infringement, misappropriation or violation of any IP Rights or privacy rights by Customer or Named Users; (ii) any violation of applicable law by Customer or Named Users; or (iii) Customer's use of the Services in violation of this Agreement; provided that Igloo: (a) provides Customer with written notice of such claim within a reasonable period of time after learning of the claim; (b) agrees to allow Customer to fully control any litigation and settlement related to such claim (provided any such settlement does not require Igloo to make any payment or admission of liability); and (c) reasonably cooperates in response to Customer's request for assistance.

## 14. TERM AND RENEWAL

14.1 **Term and Renewal.** This Agreement commences on the Effective Date and continues until the expiration of the Term. Prior to the conclusion of the Term, Customer and Igloo may enter into a new Sales Contract for a mutually agreed upon consecutive term (a "**Negotiated Renewal Term**"). Customer may provide to Igloo written notice of Customer's intent not to renew its Sales Contract at least thirty (30) days prior to the expiration of the Term, in which case this Agreement will terminate on the expiration of the Term. If Customer, prior to the expiration of the Term: (i) does not enter into a new Sales Contract for a Negotiated Renewal Term; and (ii) does not provide to Igloo written notice of Customer's intent not to renew its then-current Sales Contract(s) (such notice to be given to Igloo at least thirty (30) days prior to the expiration of the Term), then the then-current Sales Contract(s) shall be automatically renewed (save and except for pricing terms) at the conclusion of the Term for a further consecutive one (1) year term (such term an "**Auto-Renewal Term**"). The pricing for any Auto-Renewal Term shall be calculated as a ten percent (10%) increase of the annual fees in effect immediately prior to such Auto-Renewal Term. Such pricing shall apply for the duration of any Auto-Renewal Term.

14.2 **Termination for Breach.** In the event that either party believes that the other has materially breached any obligations under this Agreement, such party shall so notify the breaching party in writing. The breaching party shall have thirty (30) days from the receipt of notice to cure the alleged breach and to notify the non-breaching party in writing that cure has been effected. If the breach is not cured by the breaching party or the notice of breach is not withdrawn by the non-breaching party within thirty (30) days, the non-breaching party shall have the right to terminate this Agreement without further notice. In the event of a termination of this Agreement under this Section 14.2: (i) Igloo will refund any amounts prepaid for the Igloo Platform on a prorated basis if Igloo is the breaching party; and (ii) there will be no refund of any fees paid to Igloo if Customer is the breaching party. The foregoing cure period shall not apply to breaches relating to the license grants, confidentiality provisions, any outstanding amounts that are more than thirty (30) days past due, or an instance of Chronic Failure (as defined in the SLA). In the event of early termination permitted by this Agreement, Customer shall immediately cease use of the Igloo Platform and pay any amounts owing hereunder.

14.3 **Immediate Termination.** Either party may terminate this Agreement effective immediately (without providing a right to cure or refund of any portion of fees) if the other party institutes or if any proceeding is commenced against or affecting the other party: (i) seeking to adjudicate it as bankrupt or insolvent; (ii) seeking liquidation, dissolution, winding up, arrangement, protection, relief or composition of it or any of its property, assets or debt; (iii) making a proposal with respect to it under any law relating to bankruptcy, insolvency, reorganization or compromise of debts or other similar laws; or (iv) seeking to appoint a receiver, trustee, agent, custodian or other similar official for it or for all or part of its assets or property.

14.4 **Changes or Discontinuance of a Service.** Igloo may change or terminate features (for example, blogs, calendars, file sharing, tasks and wikis) or functionality of a Service in its sole discretion at any time. In the event

of any material change to the Igloo Platform, Igloo will: (i) use commercially reasonable efforts to notify Customer of such change or termination and, (ii) permit the Customer to terminate this Agreement without cause, provided that Customer provides Igloo with at least thirty (30) days' prior written notice of the termination of this Agreement and such notice is provided within 90 days of the effective date of such change to or termination of a feature or the functionality of a Service. Change to or termination of a particular feature or functionality of a Service by Igloo shall not automatically terminate this Agreement and the terms and conditions of this Agreement and any other agreements between the parties shall remain in full force and effect, unaffected hereby.

14.5 **Effect of Termination.** Upon the termination, expiration or non-renewal of this Agreement: (i) Customer shall pay all undisputed fees and other amounts owing to Igloo at such time; (ii) Customer's rights to use the Igloo Platform shall be terminated and Customer shall immediately cease use of the Igloo Platform; (iii) all Customer Data (save and except for any Customer Data contained in Usage Data) shall be promptly irretrievably deleted from the Igloo Environment(s) and the System by Igloo; and (iv) each of the parties shall return or destroy all Confidential Information of the other party that is in its possession, care or control (and that, in the case of Igloo, is not Customer Data). Notwithstanding the foregoing, each party receiving Confidential Information will not be obligated to delete electronic Confidential Information (that, in the case of Igloo, is not Customer Data) that is stored in any disaster recovery or back-up/archival storage in accordance with its policies, provided that any such retained Confidential Information will continue to be subject to Section 10 of this Agreement. Any terms and conditions of this Agreement, which by their nature extend beyond the termination or expiry of this Agreement, shall survive the termination or expiry of this Agreement, including Sections 1, 2.4(d), 3.1, 3.4, 3.5, 6.2, 7, 8.2, 9, 10, 11.2, 12, 13, 14.2, 14.5 and 15.

## 15. MISCELLANEOUS

15.1 **Entire Agreement and Amendments.** This Agreement, including all Sales Contracts, SOWs and all other documents incorporated herein by reference, constitutes the complete and exclusive agreement between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior or contemporaneous discussions, negotiations, understandings, representations and agreements, written or oral, regarding such subject matter, including any terms contained in Customer's purchase order. The terms and conditions of any agreements (including purchase orders) supplied by Customer shall not be applicable even if Igloo has purportedly accepted the same, unless accepted in writing by an authorized officer of Igloo. Except where expressly stated otherwise in this Agreement, all amendments to this Agreement must be made in a writing executed by an authorized representative of each party to be effective.

15.2 **Severability.** In the event that any provision of this Agreement is determined to be unenforceable or invalid under any applicable law or by applicable court decision, such unenforceability or invalidity shall not render this Agreement unenforceable or invalid as a whole, and, in such event, such provision shall be changed and interpreted so as to best accomplish the objectives of such provision within the limits of applicable law or applicable court decisions.

15.3 **Waiver.** The waiver by either party of a breach of any provisions contained herein shall be in writing and shall in no way be construed as a waiver of any other breach or of any succeeding breach of such provision or the waiver of the provision itself.

15.4 **Assignment.** This Agreement may not be assigned by either party without the prior written approval of the other party, which will not be unreasonably withheld or delayed. Notwithstanding the foregoing, either party may, without consent of the other party, assign this Agreement as part of a merger, corporate reorganization or similar transaction, provided that the assignee to whom this Agreement is assigned will have the same or better fiscal capacity to fulfill the terms of this Agreement as did the assignor at the time of assignment. The parties agree that a change of control of either party shall not be deemed to be an assignment of this Agreement by that party. This Agreement will be binding on and enure to the benefit of the parties and their respective successors and permitted assigns.

15.5 **Independent Contractors.** Igloo and Customer are independent contractors and this Agreement, including the provision of any Services by Igloo to Customer, will not establish any relations of partnership, joint venture, employment, franchise or agency between the parties. Neither party will have the power to bind the other or incur obligations on the other's behalf without the other's prior written consent, except as otherwise expressly provided in this Agreement.

15.6 **Force Majeure.** Except with respect to payment obligations hereunder, time for performance shall automatically be extended by that period by which one party is prevented from meeting its obligations by any cause beyond its reasonable control ("**Force Majeure Event**"). Each party will use commercially reasonable efforts to prevent or avoid any event, condition or circumstance that would result in such Force Majeure Event. Failing prevention of the occurrence of such Force Majeure Event by the use of such efforts, the party unable to perform as a result of such Force Majeure Event will: (i) notify the other party immediately; and (ii) use commercially reasonable efforts to recommence performance of its obligations under this Agreement whenever possible, including through the use of alternate sources, workaround plans, implementation of a disaster recovery plan or other means.

15.7 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of: (i) the State of New York, if the Igloo Environment is hosted in the United States of America as identified in accordance with Section 2.1; or (ii) the Province of Ontario and the laws of Canada applicable therein, if the Igloo Environment is hosted in Canada as identified in accordance with Section 2.1, in each case without reference to conflict of laws provisions. The United Nations Convention on Contracts for the International Sale of Goods (also called the Vienna Convention) will not apply to this Agreement or the transactions contemplated by this Agreement.

15.8 **Jurisdiction of Disputes.** For the conduct of any legal proceedings under, or related to, this Agreement, the parties agree to the exclusive jurisdiction of: (i) the state and federal courts of the State of New York, if the governing law is that of the State of New York as determined in accordance with Section 15.7; or (ii) the courts of the Province of Ontario, if the governing law is that of the Province of Ontario and the laws of Canada applicable therein as determined in accordance with Section 15.7.

15.9 **Disputes.** In the event of a claim of breach of contract or other dispute arising between the parties (a "**Dispute**"), excluding claims for breach of Sections 3.6 (Data Security), 10 (Confidentiality), or 13 (Indemnification), a party shall deliver written notice to the other party stating the nature of the dispute (the "**Dispute Notice**") and representatives of each party that have not been directly involved in previous efforts to resolve the Dispute shall negotiate in good faith in an effort to resolve the Dispute. No formal proceedings for resolution of any Dispute shall be commenced until the earlier of the following: (i) the representatives of Igloo and Customer conclude in good faith that amicable resolution through continued negotiation is not likely to occur; (ii) thirty (30) days have elapsed since delivery of the Dispute Notice and a meeting between the parties has not been convened, or a party has not acted in good faith; or (iii) either party desires injunctive relief. If the parties are unable to settle the Dispute within thirty (30) days following the delivery of the Dispute Notice, then such Dispute shall be resolved, if possible, by a process of mediation agreed upon by the parties, acting reasonably. Such mediation shall be held in English and shall be held within sixty (60) days following the delivery of the Dispute Notice. If the parties are unable to settle the Dispute within ten (10) days of the commencement of the mediation described herein, then either party may commence formal proceedings in accordance with Section 15.8.

15.10 **Injunctive Relief.** Notwithstanding Section 15.8 or Section 15.9, nothing in this Agreement shall prevent either party from applying to a court of competent jurisdiction for injunctive or other equitable relief in the case of an infringement of IP Rights or the breach of an obligation of confidentiality, to preserve or protect real or tangible property from continuing damage or risk of same or to preserve a legal right for which the applicable limitation period is about to expire.

15.11 **Language.** The parties hereto have expressly required that this Agreement be drawn in the English language. C'est la volonté expresse des parties que la présente convention soient rédigés en Anglais.



15.12           **Limitation Period.** No action, regardless of form, arising from this Agreement or any Services provided or to be provided hereunder may be brought by either party more than one year after the cause of action has accrued, except that an action for non-payment may be brought at any time.

15.13           **Titles.** The Section titles in the Agreement are solely used for convenience of the parties and have no legal or contractual significance.

15.14           **Authority.** Each party represents and warrants that: (i) it is an entity validly subsisting under the laws of the jurisdiction in which it is organized; (ii) it possesses full power and authority to enter into this Agreement and to perform its obligations hereunder; (iii) its performance of the terms of this Agreement will not breach any separate agreement by which such party is bound; and (iv) it shall at all times comply with applicable laws.

15.15           **Legal Compliance.** Igloo Property is subject to the export control laws of various countries, including Canada. Customer agrees that it will not submit Igloo Property to any government agency for licensing consideration or other regulatory approval without the prior written consent of an authorized representative of Igloo, and that it will not export Igloo Property to countries or Persons prohibited by such laws. Customer shall also be responsible for complying with all applicable governmental regulations of the country where Customer is registered and any foreign countries with respect to the use of the Igloo Property by Customer and its Named Users.

15.16           **Notices.** Any notice or other significant communication given to either party pursuant to this Agreement shall be in writing sent by email.

15.17           **Counterparts and Electronic Delivery.** This Agreement may be executed and delivered by the parties in one or more counterparts, each of which will be an original, and each of which may be delivered by facsimile, e-mail or other functionally equivalent electronic means of transmission, and those counterparts will together constitute one and the same instrument.