

# Master Services Agreement

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THIS REDWOOD MASTER SERVICES AGREEMENT GOVERNS THE ATTAINMENT AND USE OF ANY REDWOOD PRODUCTS AND REDWOOD SERVICES INCLUDING CERBERUS PRODUCTS PROVIDED BY ITS AFFILIATE ADVANCED SYSTEMS CONCEPTS, INC. ALSO KNOWN AS ASCI. CAPITALIZED TERMS HAVE THE DEFINITIONS SET FORTH HEREIN. BY ACCEPTING THIS AGREEMENT, BY (1) CLICKING A BOX INDICATING ACCEPTANCE, (2) EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, OR (3) USING REDWOOD PRODUCTS FREE OF CHARGE, CLIENT AGREES TO THE TERMS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT THEY HAVE THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES TO THESE TERMS AND CONDITIONS, IN WHICH CASE THE TERM "CLIENT" SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THESE TERMS AND CONDITIONS, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND MAY NOT USE THE SERVICES.

This Agreement is entered into by Advanced Systems Concepts, Inc., a Delaware corporation and the Client identified in the Order Form. Client and Redwood may be referred to herein as a "Party" or collectively as the "Parties."

The Services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. Redwood's direct competitors are prohibited from accessing the Redwood Products, except with Redwood's prior written consent. This Agreement was last updated on January 4<sup>th</sup>, 2023. It is effective between Client and Redwood as of the date of Client's accepting this Agreement (the "Effective Date").

1. **DEFINITIONS.** Unless defined elsewhere in this Agreement, the capitalized terms are as defined below:
  - 1.1. **"Affiliate"** means, with respect to either Party, any legal entity that directly or indirectly controls is controlled by or is under common control with such Party, where "control" means (a) ownership of more than 50% of the equity of such Party or entity or (b) the power to direct or cause the direction of the management and policies of such Party or entity.
  - 1.2. **"Authorized User"** means an individual (a) who is an active employee, consultant, contractor, or agent of Client, and (b) who is authorized by Client to use Redwood Products solely on behalf of Client for Client's internal business purposes only. Client shall be liable and responsible for any breach of the terms of this Agreement by an Authorized User.
  - 1.3. **"Confidential Information"** means the terms of this Agreement and any and all information disclosed by or on behalf of one Party or its Affiliates to the other Party or its Affiliates, whether orally, in writing, or in any other form, which is either (a) marked or identified as "confidential" at the time of disclosure or (b) of a nature that a reasonable business person would expect to be confidential or proprietary, provided that the disclosing Party generally treats it as confidential, including all technical, product, service, business, marketing, sales, Order Forms, financial and pricing information and data, techniques, methodologies, processes, algorithms, know-how, ideas, concepts, inventions, discoveries and trade secrets including Redwood's product roadmaps, product designs, architecture, technology and technical information, however, disclosed.
  - 1.4. **"Documentation"** means the published Redwood user manuals, guides, policies, and instructions regarding Redwood Products that are generally made available by Redwood to its customers as posted in the customer portal and updated by Redwood from time to time.
  - 1.5. **"Fees"** means the subscription fees specified in the Order Form and/or invoice for Redwood Products, our hourly fees for the Support Services and/or Redwood Services.
  - 1.6. **"Order Form"** means a mutually executed order form that describes the Redwood Products or Redwood Services purchased by Client. For Redwood Services, the term "Order Form" includes the applicable Statement of Work, if any.
  - 1.7. **"Redwood Products"** means the software modules and processes made available by Redwood to which Client purchases a subscription pursuant to one or more Order Forms. Redwood Products may be made available to Client on an on-premise or software-as-a-service basis as identified in the Order Form.

- 1.8. **“Redwood Services”** means training, configuration or any other professional services performed by Redwood pursuant to a mutually agreeable SOW or Order Form signed by the Parties. For the avoidance of doubt, Redwood Services does not include Support Services.
- 1.9. **“Statement of Work” or “SOW”** means a statement of work for Redwood Services, signed by both Parties, setting forth time and materials-based objectives including, without limitation, project-specific activities, and estimated level of effort for Redwood Services to be performed by Redwood and the corresponding Fees to be paid by Client.
- 1.10. **“Subscription Term”** means the period specified in the applicable Order Form during which Redwood authorizes Client to access and use the Redwood Products.
- 1.11. **“Support Services”** means the technical support services for Redwood Products outlined in the Redwood support policy, as updated by Redwood from time to time, currently located at <https://www.redwood.com/wp-content/uploads/Maintenance-Policy.pdf>.
- 1.12. **“Term”** means the period beginning on the first day of the Initial Term (defined in Section 5.1 (Term)) and ending on the date that this Agreement terminates in accordance with the terms herein.
- 1.13. **“Client Data”** means any data, information and materials submitted to Redwood Products by Client and any Client-specific data that is uploaded by the Client into the Redwood Products.

## 2. TERMS OF ACCESS.

- 2.1. **Grant of Right to Access and Use.** Subject to the terms of this Agreement and the applicable Order Form, Redwood hereby grants Client the limited, non-exclusive, revocable, non-transferable, non-sublicensable right to access and use the Redwood Products and the Documentation for the term identified in the applicable Order Form, in the quantities specified in the Order Form(s), for Client’s internal business purposes only, and in accordance with this Agreement and the Documentation. Unless otherwise indicated in an applicable Order Form, Support Services are included in the subscription Fees for the Redwood Products.
- 2.2. **Access and Use Restrictions.** Except for the rights expressly granted herein, Redwood does not grant, license, nor transfer to Client or any other third party any ownership or right to any Redwood Products or Redwood intellectual property. No implied licenses are granted herein, and all rights not expressly granted to Client herein are reserved by Redwood, its Affiliates, and their respective suppliers or licensors where applicable. Client shall not:
  - 2.2.1. except to the extent permitted by applicable law: (i) disassemble, reverse engineer, nor decompile the Redwood Products or any portion thereof; (ii) copy, distribute, resell, modify, rent, lease, sell, or otherwise use the Redwood Products for the benefit of anyone other than the Client; (iii) access or use Redwood Products to create a competing product; or (iv) perform or disclose any benchmark tests relating to Redwood Products;
  - 2.2.2. scrape, spider, or utilize other automated means of any kind to access the Redwood Products, including, but not limited to, accessing API endpoints for which Client or its Authorized Users have not been provided authorization by Redwood;
  - 2.2.3. modify, remove, or obstruct any proprietary rights statement or notice contained in the Redwood Products;
  - 2.2.4. violate the security of Redwood Products, including attempting to test the security or vulnerability thereof, or breach any security or authentication measures; (ii) bypass or disable any protections that may be put in place against unlicensed use of Redwood Products, or actually or effectively circumvent any contractual usage; or (iii) use or access Redwood Products in any way that might disrupt the integrity of or adversely affect the security, stability, performance or functions of Redwood Products; or
  - 2.2.5. use Redwood Products to store or transmit unlawful, fraudulent, infringing, or otherwise unlawful or tortious material, including material that is harmful to children or that violates third-party rights; (ii) upload to or use Redwood Products to store or transmit viruses, worms, time bombs, Trojan horses or other harmful or malicious code, files, scripts; or (iii) use Redwood Products in any way that disrupts the overall performance of the Redwood Products.
- 2.3. **Client Responsibilities.** Client is responsible for properly configuring and using the Redwood Products and taking appropriate action to secure, protect and backup accounts and Client Data in a manner that provides appropriate security and protection including routinely archiving Client Data. Redwood has no control over and is not liable for



performance issues or downtime of Redwood Products to the extent caused by any third-party software and hardware vendors, except as solely provided for in the Support Policy or Service Level Agreement. Client is responsible and liable for any use of the Services through Client's account, whether authorized or unauthorized. Client shall immediately notify Redwood of any known or suspected unauthorized use of the Redwood Products or breach of its security and shall use best efforts to stop said breach.

2.4. **Service Usage Credits (JOBS).** For Clients who are purchasing Service Usage Credits as reflected in an Order Form, Clients shall not exceed the quantity of Service Usage Credits specified in an Order Form. If at any point Client deploys Service Usage Credits in excess of purchased Service Usage Credits, Client shall: (i) notify Redwood; and (ii) pay for any additional Service Usage Credits from the date such use began. Service Usage Credits shall expire at the end of the year in which they were purchased and Client shall not be entitled to carry-over any unused Service Usage Credits.

2.5. **Affiliates.** During the Term, a Client Affiliate may purchase subscriptions to Redwood Products (and related Support Services) and Redwood Services from Redwood for such purpose by entering into an Order Form with Redwood that incorporates the terms and conditions of this Agreement in a manner that binds such purchasing Affiliate to the terms and conditions hereof. Client shall be liable and responsible for any breach of the terms of this Agreement by such Client Affiliate.

### 3. REDWOOD SERVICES.

3.1. **General.** Redwood will provide Client with the requisite days of Redwood Services to the extent identified within a Statement of Work or Order Form. The Parties may define a set of deliverables within a Statement of Work, provided that Redwood will not be obligated to provide Redwood Services beyond the total number of days outlined in the SOW or Order Form.

3.2. **Fees and Expenses; Delays.** Redwood Services will be provided on a time and materials basis unless otherwise mutually agreed by the Parties in writing, such as in a mutually executed Order Form or SOW as applicable. Redwood will invoice the agreed Fees to Client for Redwood Services as rendered on a time and materials basis, provided that any fixed fee shall be paid by Client upfront. Client shall reimburse Redwood for actual and verifiable out-of-pocket expenses (including travel, lodging, and related expenses) reasonably incurred by Redwood in connection with any Redwood Services. Redwood shall not be responsible for any delay caused by Client, a Client Affiliate, or any third party under contract with Client. Client may delay the commencement of Redwood Services by written notice to Redwood specifying the requested length of the delay provided that if Client delays upon less than two (2) weeks prior written notice and Redwood is unable to reallocate the applicable Redwood personnel on a billable basis to another customer project (which Redwood will use reasonable efforts to do), then Redwood will invoice Client for any Redwood Services that are delayed by Client without such two (2) week notice, at the applicable daily rate for such Redwood Services.

### 4. PAYMENTS.

4.1. **Payment.** In consideration of the rights and services granted and provided hereunder, Client shall pay Redwood or the authorized Redwood reseller, the Fees set forth in the Order Form(s). Fees will be invoiced annually in advance except as otherwise provided in the applicable Order Form. Client shall remit payment to Redwood or authorized Redwood reseller within thirty (30) days of the date of the invoice. If Client fails to pay any amounts when due, then, in addition to any other available rights and remedies, Redwood shall have the right to (a) assess a late payment charge on such overdue amounts equal to the lesser of (i) two percent (2%) per month or (ii) the highest rate allowed by applicable law until such overdue amounts are paid in full. Additional payment and usage terms for the Redwood Products may be set forth in the Order Form. Except as otherwise stated in this Agreement, all payments are non-refundable, and all subscriptions and services are non-cancellable except as otherwise expressly provided herein. If Redwood seeks legal recourse to collect any unpaid Fees from Client (other than amounts reasonably disputed), Redwood will be entitled to an award of reasonable attorneys' fees and other costs, including debt collection costs, incurred by Redwood. If Client pre-purchases any days for Redwood Services to be used for mutually agreed upon projects involving the Redwood Products, Client shall have six (6) months to consume such days. Redwood shall not provide a credit for any pre-paid Redwood Services days if not utilized within six (6) months.

4.2. **Taxes.** All Fees are exclusive of all taxes and duties. If Redwood is required to pay or account for any sales, use, value-added, withholding, or other taxes, public fees, duties, deductions, or other withholdings (collectively "**Taxes**"), then such Taxes shall be borne by Client. If Client is required to withhold or deduct any Tax from any payment due hereunder, Client will increase the sum payable to Redwood such that Redwood receives an amount equal to the sum it would have received had Client made no withholding or deduction. Taxes shall not include taxes based on Redwood's income.



## 5. TERM AND TERMINATION.

- 5.1. **Term.** The initial term of this Agreement and the initial term of the Subscription Term initially purchased by Client hereunder will commence on the “Order Start Date” and end on the applicable “Order End Date” specified in the initial Order Form (“**Initial Term**”). Unless otherwise indicated on an Order Form, Redwood Product subscriptions shall automatically renew for successive Subscription Terms equal to the Initial Term unless either Party provides written notice of non-renewal at least fifteen (15) days before the end of the then-current Subscription Term. A Subscription Term may not be canceled in whole or in part during any subscription period. Subscription fees are subject to increase based upon prevailing rates at the time of renewal as reflected in a renewal Order Form issued by Redwood at least thirty (30) days before the commencement of any renewal Subscription Term.
- 5.2. **Termination.** Either Party may terminate this Agreement upon written notice to the other Party in accordance with Section 11.1 if the other Party (including a Client Affiliate pursuant to Section 2.5) materially breaches this Agreement and fails to cure such breach within thirty (30) days of its receipt of written notice thereof. Upon termination: (a) all Order Forms, and all rights, subscriptions, and licenses granted by Redwood, shall automatically terminate; (b) Client shall immediately cease all use of Redwood Products and procure that Authorized Users do the same; and (c) each Party shall promptly return or destroy all Confidential Information of the other Party in its possession, except that each Party may retain one copy of such Confidential Information to the extent required to comply with applicable laws or regulations, or bona fide written internal document retention practices or policies. All payment obligations of Client incurred, accrued or arising prior to the effective date of termination shall survive and be payable in accordance with the applicable payment terms herein.
- 5.3. **Survival.** The following provisions shall survive any termination of this Agreement: Sections 1 (Definitions), 2.2 (Access and Use Restrictions), 4 (Payments), 5.2 (Termination), 5.3 (Survival), 6 (Confidentiality), 7.4 (Disclaimer), 8 (Limitation of Liability), 9 (Indemnification), 10.1 (Ownership of Client Data) and 11 (Miscellaneous).

## 6. CONFIDENTIALITY.

- 6.1. **Obligations.** Each Party shall: (a) treat as confidential, and shall not disclose, any Confidential Information of the other Party other than to its employees, Affiliates, contractors, consultants or advisors (each, a “**Representative**”) who have a bona fide need-to-know such Confidential Information, provided that (i) such Representatives are bound by legally enforceable obligations consistent with and at least as restrictive as the provisions of this Section 6 and (ii) the receiving Party shall be responsible for any breach by its Representatives; (b) use the same degree of care to protect the other Party’s Confidential Information as it uses to protect its own Confidential Information of a similar nature, but in no event less than reasonable care; and (c) use the other Party’s Confidential Information only for the purposes described in this Agreement.
- 6.2. **Exceptions.** (a) Confidential Information shall not include: (i) any information that is or becomes generally available to the public (provided that such information did not become public as a result of the receiving Party’s or its Representative’s disclosure thereof in breach of this Agreement); (ii) any information received by the receiving Party (without restriction on use or disclosure) from sources other than the disclosing Party or its Representatives (provided that such source is not subject to a confidentiality obligation with regard to such information); (iii) any information that is independently developed by the receiving Party without use of or reference to Confidential Information of the other Party; or (iv) any information that was in the receiving Party’s possession (without restriction on use or disclosure) prior to the time of its disclosure by or on behalf of the disclosing Party. (b) Notwithstanding the foregoing, either Party may disclose Confidential Information of the other Party to any regulatory agency or court of competent jurisdiction if and to the extent required to comply with applicable law, regulatory agency or court order, provided that such Party provides prompt prior written notice and reasonably cooperates with the other Party (at such other Party’s cost and expense) to limit the extent of such disclosure.

## 7. REPRESENTATIONS AND WARRANTIES.

- 7.1. **Due Organization, Conflicting Agreements.** Each Party represents that: (a) it is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization; (b) it has full corporate power and authority to execute and deliver this Agreement and comply with its obligations herein; and (c) it has no outstanding agreement that would conflict in any material way with the provisions of this Agreement or preclude it from complying with the provisions hereof.



## 7.2. Redwood Warranties.

- 7.2.1. **Redwood Products.** Redwood warrants during the applicable Subscription Term that the Redwood Products will perform substantially in accordance with the Documentation. Client must inform Redwood of any non-conformance within thirty (30) days from the date it first became aware of the non-conformance. In the event of a non-conformance, Redwood shall correct the non-conforming component of the Redwood Products in a reasonable period of time. If Redwood cannot remedy the non-conformance, Client's sole and exclusive remedy, in addition to termination, shall be a pro-rata refund of the fees paid for the remaining portion of the unused Subscription Term.
- 7.2.2. **Redwood Services.** Redwood warrants that the Redwood Services and Support Services will be performed in a competent, professional, and workmanlike manner by personnel with adequate training and experience. In the event of a breach of the foregoing warranty, and as Client's sole and exclusive remedy and Redwood's sole and exclusive obligation and liability, Redwood shall either, at its option: (a) re-perform the non-conforming Redwood Services or (b) refund the portion of Fees paid attributable to the non-conforming Redwood Services.
- 7.2.3. **Disclaimer.** The aforementioned warranties do not apply if the Redwood Products and/or Redwood Services have been modified by Client or if the Redwood Products and/or Redwood Services have not been used or maintained in accordance with this Agreement or the Documentation.
- 7.3. **Client Warranties.** Client represents and warrants that Client or its licensors own all right, title and interest in and to all Client Data. Client warrants that its use of the Redwood Products is in compliance with all applicable laws as well as any and all privacy policies, agreements, or other obligations Client may maintain or enter into.
- 7.4. **Disclaimer.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, REDWOOD PRODUCTS, REDWOOD SERVICES, AND ALL DOCUMENTATION AND SUPPORT SERVICES ARE PROVIDED "AS IS" AND "AS AVAILABLE", AND REDWOOD MAKES NO OTHER REPRESENTATION OR WARRANTY OF ANY KIND, WHETHER WRITTEN OR ORAL, EXPRESS, IMPLIED IN FACT OR BY OPERATION OF LAW, OR STATUTORY, AS TO ANY MATTER WHATSOEVER. REDWOOD (FOR ITSELF AND ITS AFFILIATES, LICENSORS AND OTHER PROVIDERS) EXPRESSLY DISCLAIMS ALL IMPLIED WARRANTIES, TERMS AND CONDITIONS, INCLUDING ALL IMPLIED WARRANTIES, TERMS AND CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, SATISFACTORY QUALITY, NON-INFRINGEMENT, OWNERSHIP, QUIET ENJOYMENT, SECURITY OR ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE, ALL OF WHICH ARE HEREBY EXCLUDED TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, REDWOOD DOES NOT WARRANT THAT REDWOOD PRODUCTS, REDWOOD SERVICES, OR THE SUPPORT SERVICES WILL PERFORM CONTINUOUSLY OR WITHOUT INTERRUPTION, BE ERROR-FREE, MEET CLIENT'S REQUIREMENTS, OR BE TIMELY OR SECURE, OR THAT DATA PROVIDED THROUGH REDWOOD PRODUCTS WILL BE ACCURATE, UP-TO-DATE, COMPLETE OR FREE OF HARMFUL COMPONENTS OR NOT LOST OR DAMAGED. CLIENT SHALL NOT MAKE OR PASS ON ANY REPRESENTATION OR WARRANTY ON BEHALF OF REDWOOD TO ANY THIRD PARTY.

## 8. EXCLUSION OF LIABILITY / LIMITATION OF LIABILITY.

TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL REDWOOD (OR ITS AFFILIATES, LICENSORS OR OTHER PROVIDERS) OR CLIENT BE LIABLE TO THE OTHER PARTY (OR ITS AFFILIATES) FOR: (I) (a) LOST PROFITS; (b) LOST BUSINESS, REVENUES OR SAVINGS; (c) BUSINESS INTERRUPTION; (d) LOSS OF GOODWILL; (e) LOSS OF ANTICIPATED SAVINGS; OR (f) LOSS, CORRUPTION OR MODIFICATION OF DATA OR OTHER INFORMATION; OR (II) ANY SPECIAL, INCIDENTAL, INDIRECT, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES WHATSOEVER; IN EACH CASE ARISING OUT OF OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ANY ORDER FORM), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND EVEN IN THE EVENT OF FAILURE OF AN EXCLUSIVE REMEDY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, REDWOOD AND ITS AFFILIATES AGGREGATE AND CUMULATIVE LIABILITY UNDER OR IN CONNECTION WITH THIS AGREEMENT (INCLUDING ALL ORDER FORMS), REGARDLESS OF THE FORM OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE), BREACH OF STATUTORY DUTY OR OTHERWISE, SHALL IN NO EVENT EXCEED THE TOTAL AMOUNT OF THE FEES PAID OR PAYABLE BY CLIENT FOR REDWOOD PRODUCTS HEREUNDER DURING THE TWELVE MONTH PERIOD IMMEDIATELY PRECEDING THE DATE OF THE EVENT GIVING RISE TO LIABILITY. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, REDWOOD AND ITS AFFILIATES SHALL NOT BE LIABLE FOR, AND REDWOOD (FOR ITSELF AND ITS AFFILIATES) HEREBY DISCLAIMS, ANY DAMAGES OR LOSSES CAUSED BY OR RESULTING FROM THE CONDUCT, SOFTWARE, CONTENT, PRODUCTS, SERVICES OR INFORMATION OF ANY THIRD PARTY OR ANY FAILURE OF CLIENT OR ANY CLIENT TO COMPLY WITH THE TERMS



OF THIS AGREEMENT. Nothing in this Agreement (including any Order Form) shall limit or exclude either Party's or its Affiliates' liability for (a) death or personal injury caused by its willful misconduct or gross negligence or the willful misconduct or gross negligence of its or their employees, agents or subcontractors; (b) either Party's indemnification obligations pursuant to Section 9; (c) Client's violation, misappropriation or misuse of Redwood's intellectual property rights; or (d) any other liability to the extent that it cannot be limited or excluded by applicable law.

## 9. INDEMNIFICATION.

- 9.1. **Redwood Intellectual Property Infringement.** Notwithstanding anything to the contrary in this Agreement, and subject to Section 9.3, Redwood agrees to defend, or, at its option, settle, any third-party claim, suit, or proceeding against Client to the extent based on a claim that the use of Redwood Products or Redwood Services by Client in accordance with this Agreement infringes or misappropriates any third-party copyright, patent, trademark or trade secret (a "**Third-Party IP Claim**"). Redwood shall pay the damages and reasonable and verifiable costs and expenses which are finally awarded against Client by final judgment of a court of competent jurisdiction (or pursuant to settlements agreed to in writing by Redwood) directly attributable to such Third-Party IP Claim. If Redwood Products or Redwood Services become, or in Redwood's opinion are likely to become, the subject of a claim of infringement or injunction, Redwood shall have the right, at its option and expense, to: (a) procure the right to Client's continued use of Redwood Products or Redwood Services; (b) replace or modify Redwood Products or Redwood Services so that it is no longer infringing; or (c) terminate this Agreement and the Order Form(s) and provide a pro-rata refund for the period during which Client did not use the Redwood Product or Redwood Services. Redwood shall have no liability to the extent that a Third-Party IP Claim arises out of or relates to: (i) use of Redwood Products in a manner that does not comply with this Agreement or the Documentation; (ii) use of Redwood Products or Redwood Services in combination with products, services, applications, content or data not provided by Redwood; or (iii) modifications to Redwood Products or Redwood Services not made by Redwood. THIS SECTION 9.1 STATES REDWOOD'S AND ITS AFFILIATES' SOLE AND EXCLUSIVE OBLIGATION AND LIABILITY, AND CLIENT'S SOLE AND EXCLUSIVE REMEDY, FOR INFRINGEMENT OR MISAPPROPRIATION OF THIRD-PARTY INTELLECTUAL PROPERTY RIGHTS.
- 9.2. **Client Indemnification.** Client shall defend and indemnify Redwood against any claim, suit, or proceeding against Redwood to the extent arising out of or related to the, Client Data. Client shall pay all verifiable costs, expenses and any amounts finally awarded against Redwood by final judgment of a court of competent jurisdiction (or pursuant to settlements agreed to in writing by Client) directly attributable to such claim.
- 9.3. **Conditions.** Each Party's indemnification obligations under this Section 9 are conditioned upon: (a) the indemnified Party provides the indemnifying Party with prompt written notice of the indemnifiable claim; (b) the indemnifying Party retains sole control of the defense and settlement of the indemnifiable claim; (c) the indemnified Party does not prejudice the defense of the indemnifiable claim; and (d) the indemnified Party provides the indemnifying Party with such cooperation, authority, and information as the indemnifying Party may reasonably require in relation to any indemnifiable claim. The indemnified Party shall have the right, at its own expense, to participate in such litigation or defense and to retain its own separate counsel and advise the indemnifying Party on any proposed settlements, but only to the extent that such participation and advice do not unreasonably interfere with the indemnifying Party's ability to perform its obligations under this Section 9. For purposes of any indemnity pursuant to Section 9.1, Redwood's indemnification obligation shall not apply if the Client is using an on-premise version of the Redwood Products and has not installed the most current version of the Redwood Products. The indemnifying Party shall not, without the indemnified Party's prior written consent (not to be unreasonably withheld), settle any indemnifiable claim unless such settlement, compromise or consent is solely monetary in nature and does not include an admission of fault on behalf of, the indemnified Party.

## 10. DATA AND DATA SECURITY.

- 10.1. **Ownership of Client Data.** As between the Parties, Client retains sole ownership of all Client Data. Client has sole responsibility for the content, accuracy, quality, integrity, legality, reliability, appropriateness and ownership or right to use of all Client Data, and Redwood is not responsible or liable for Client's actions related to the deletion, correction, destruction, damage, loss or failure to store any Client Data. Client acknowledges that when using Redwood Products, Redwood may access, use, transmit, modify and copy Client Data from time to time as necessary solely for the purpose of providing Redwood Products, Support Services and Redwood Services to Client and related support and administration or otherwise as requested by Client or permitted hereunder.
- 10.2. **Third Party Software.** The Redwood Products may incorporate or otherwise access certain open source or other third-party software, data, services, or other materials for the hosting and delivery of the Redwood Products, which are



identified in the Documentation. Redwood makes no representation, warranty, or other commitment regarding such third-party materials, and hereby disclaims any and all liability relating to Client's use thereof.

- 10.3. **Security.** Redwood will implement, as part of Redwood Products, appropriate technical and organizational measures designed for the protection of the security and confidentiality of Client Data resident in Redwood Products against accidental or unlawful loss, access or disclosure. Client shall use commercially reasonable efforts to prevent unauthorized access to and use of the Redwood Products and shall immediately notify Redwood of any such unauthorized access or use or any other breach of security known to Client. Redwood reserves the right to suspend access to Redwood Products in case of a security breach or threat. Client acknowledges that Client Data may leave the Redwood Products when using Redwood Products (e.g. when downloaded by Client or in connection with the use of modules OR processes hosted on Google) and that Redwood has no responsibility for Client Data not resident within the Redwood Services.
- 10.4. **Data Processing and Transfer.** To the extent that Redwood processes any personal data within or originating from the European Economic Area, the UK or Switzerland ("**EEA/UK/Swiss Personal Data**") in the course of providing Redwood Products, Support Services or Redwood Services to Client, Redwood's current Data Processing Agreement shall govern any such processing. Transfers of **EEA/UK/Swiss Personal Data** that are made to Redwood in the US or another GDPR non-adequate country ("**Restricted Transfers**") shall be governed by one or more of the following data transfer mechanisms (at Redwood's option): (a) binding contractual or other provisions, such as the controller-to-processor standard contractual clauses approved by the European Commission and in the UK the IDTA (and the IDTA Addendum) approved by the UK Government from time to time; (b) Redwood's certification to any program approved by a competent authority and permitting the transfer of **EEA/UK/Swiss Personal Data**, such as binding corporate rules, or any successor to the US-EU/US-Swiss Privacy Shield Framework; or (c) any other data transfer mechanism that is valid in the jurisdiction from which the **EEA/UK/Swiss Personal Data** originates.

## 11. MISCELLANEOUS.

- 11.1. **Notices.** Notwithstanding anything to the contrary, notices may be given or made pursuant to this Agreement electronically including via Redwood's customer portal. Notwithstanding the foregoing, any notice concerning a material breach or termination of this Agreement (including the Order Forms) must be in writing and delivered by certified or registered mail or internationally recognized express courier or overnight delivery service and shall be deemed given upon personal, confirmed, or documented delivery. All written notices or other written communications to Redwood shall be provided to the relevant address first listed in Section 11.8 below and addressed to: **ATTENTION: LEGAL DEPARTMENT.** All written notices to the Client shall be sent to the address first listed in the applicable Order Form that references this Agreement and addressed to the individual who signed such Order Form. With respect to notices and other communications by Redwood regarding the DPA, the Support Services, or any other information provided through Redwood Products, such notices shall be deemed given when posted on Redwood's customer portal or e-mailed to the Client's account administrator(s).
- 11.2. **Entire Agreement; Order of Precedence.** This Agreement contains the entire understanding of the Parties with respect to the subject matter hereof and supersedes all prior agreements, oral or written, and all other communications between the Parties relating to such subject matter. This Agreement and the Order Forms may not be amended or modified, nor any of its provisions waived, except by mutually signed written agreement. Any failure or delay to enforce or exercise any right or remedy shall not be deemed a waiver of such or any other right or remedy. If any court of competent jurisdiction holds any provision of this Agreement or any Order Form as null, void, or otherwise ineffective or invalid, such provision shall be deemed to be restated to reflect as nearly as possible the original intentions of the Parties in accordance with applicable law, and the remaining provisions shall remain in full force and effect and shall not be affected thereby. Section headings in this Agreement are used solely for convenient reference and shall not be deemed to define or limit the provisions of this Agreement. Redwood shall not be bound to any terms or response related to a request for bid, request for proposal, request for information, or other questionnaire or related to any invoicing process that Client submits or requires Redwood to complete. Any terms appearing on any purchase order, acknowledgment, or confirmation that are different from or in addition to the terms of this Agreement or any applicable Order Form shall not be binding on the Parties, even if signed and returned. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (i) this Agreement; and (ii) the applicable Order Form or SOW except to the extent the Order Form or SOW expressly supersedes a specified provision of this Agreement.
- 11.3. **Independent Contractors.** The Parties are independent contractors. This Agreement does not create any partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the Parties. Redwood shall be solely responsible for the conduct and supervision of its personnel in the performance of its obligations hereunder. Neither



Party shall have any right or authority to assume or create any obligation or responsibility, express or implied, on behalf of the other Party or to bind the other Party in any way whatsoever.

- 11.4. **Assignment.** Neither this Agreement nor any Order Form nor any right or obligation hereunder or thereunder may be assigned, transferred, or delegated, by operation of law or otherwise, in whole or in part, by Client without Redwood's prior written consent. A Change of Control of Client shall be deemed an assignment of this Agreement. "Change of Control" of Client means a transaction or series of transactions (a) under which direct or indirect control of Client is acquired by persons or entities other than those who, directly or indirectly, control Client as of the Effective Date or (b) resulting in the sale of all or substantially all of Client's business or assets utilizing any part of Redwood Products. Subject to the foregoing, this Agreement (including the Order Forms) shall be binding upon and inure to the benefit of the Parties and their successors and assigns.
- 11.5. **Publicity.** Neither Party may issue or make any press release, announcement or publication containing or otherwise use any of the other Party's trademarks, logos, or other forms of branding without the other Party's prior written approval, provided that, during the Term, Redwood may list Client along with Client's logo as a customer of Redwood Products on Redwood's website and in other Redwood marketing materials.
- 11.6. **Force Majeure.** Except for payment obligations, neither Party will be considered to be in breach of this Agreement (including the Order Forms) on account of any delay or failure to perform as a result of any cause or condition beyond such Party's reasonable control, including, for example, an act of God, act of government, flood, fire, earthquake, civil unrest, war, act of terror, epidemic, pandemic, Internet failure or delay, or denial of service attack ("Force Majeure Event"). If the Party affected by Force Majeure Event fails to resume performance of the relevant obligations after the reasons for the temporary exemption from performance of the obligations due to Force Majeure Event disappear, such party shall be liable to the other parties in this regard.
- 11.7. **Compliance with Laws.** (a) Client shall not, and shall not permit Authorized Users to, access, use, export or re-export Redwood Products, or use Redwood Products or Redwood Services to access, use, export or re-export Client Data, in or to a U.S.-embargoed country or in violation of any applicable export law, regulation, order or sanction. Client shall comply and cause its Authorized Users to comply with all applicable laws and regulations in its use of Redwood Products, including the United States Foreign Corrupt Practices Act and the United Kingdom's Bribery Act 2010 (each as may be updated, superseded or replaced from time to time). (b) Client Represents that neither it nor any of its Affiliates nor any Client is (i) named on a governmental denied party or restricted list, including but not limited to: the Office of Foreign Assets Control ("OFAC") list of Specially Designated Nationals and Blocked Persons ("SDN List"), the OFAC Sectoral Sanctions Identifications List ("SSI List"), and the sanctions list under any other Sanctions Laws (which currently, as of the date of this Agreement include Cuba, Iran, North Korea, Syria, and the Crimea region). Client represents its use of the Redwood Products or Redwood Services, including use by its Affiliates, will comply with all applicable sanctions laws administered by OFAC, other U.S. regulatory agencies, the European Union and its Member States, the United Kingdom, and the United Nations ("**Sanctions Laws**"). Client agrees to indemnify Redwood if Redwood becomes subject to liability because of Client or any of its Affiliates or any Client's non-compliance with applicable export laws or Sanction Laws. There are no third-party beneficiaries under this Agreement.
- 11.8. **Redwood Entity, Governing Law and Dispute Resolution.** Application of the United Nations Convention on Contracts for the International Sale of Goods and the Uniform Computer Information Transactions Act is expressly excluded.
- 11.9. **Counterparts.** This Agreement and each Order Form may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute only one agreement. The execution and delivery of counterparts by electronic mail, electronic form (including execution by way of an electronic or other signature stamp ("E-signature")), website submission, facsimile or original manual signature, regardless of the means or any variation in pagination or appearance, shall be binding upon the Parties.

