



PROJECT AFFINITY, INC. ("AFFINITY" OR "WE") IS WILLING TO PROVIDE CERTAIN SERVICES TO YOU AS THE INDIVIDUAL, THE COMPANY, OR THE LEGAL ENTITY (REFERENCED BELOW AS "YOU" OR "YOUR" OR "CUSTOMER") THAT EITHER REGISTERS FOR USE OF THE SERVICES (AS DEFINED BELOW) VIA AFFINITY'S ONLINE REGISTRATION PORTAL OR ENTERS INTO A WRITTEN ORDER FORM WITH AFFINITY THAT REFERENCES THIS AGREEMENT ONLY ON THE CONDITION THAT YOU ACCEPT ALL OF THE TERMS OF THIS AGREEMENT ("AGREEMENT"). READ THE TERMS AND CONDITIONS OF THIS AGREEMENT CAREFULLY BEFORE PURCHASING ANY SERVICES FROM AFFINITY. THIS IS A LEGAL AND ENFORCEABLE CONTRACT BETWEEN YOU AND AFFINITY. BY AGREEING TO THESE TERMS VIA AFFINITY'S ONLINE REGISTRATION PORTAL OR BY ENTERING INTO A WRITTEN ORDER FORM WITH AFFINITY THAT REFERENCES THE AGREEMENT BELOW, YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS OF THIS AGREEMENT. FOR THE SAKE OF CLARITY, IF YOU ARE ENTERING INTO THIS AGREEMENT ON BEHALF OF (AND FOR USE ON BEHALF OF) A COMPANY OR OTHER ENTITY (A "CORPORATE ENTITY"), YOU REPRESENT THAT YOU HAVE THE AUTHORITY TO BIND SUCH CORPORATE ENTITY TO THE TERMS OF THIS AGREEMENT AND YOU ACKNOWLEDGE THAT THE TERM "YOU" OR "CUSTOMER" REFERENCED BELOW REFERS TO SUCH CORPORATE ENTITY.

### Affinity Master Terms

These Affinity Master Terms (the "MSA" which, taken together with the Order Form, shall constitute the "Agreement"), effective as of the applicable Order Form term as set forth herein (the "Effective Date"), is made by and between Project Affinity, Inc, a Delaware corporation with a principal place of business at 170 Columbus Avenue Floor 3, San Francisco, CA 94133 ("Affinity"), and the individual or entity listed on the Order Form as "Customer" ("Customer"). Affinity and Customer shall herein be referred to individually as a "Party" and collectively as the "Parties". In consideration of the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

#### 1. DEFINITIONS

- 1.1. A4S means a Platform Service called Affinity for Salesforce which comprises an offering whereby Affinity allows Customer's Salesforce instance to access the Affinity for Salesforce product to enrich certain information contained within Customer's Salesforce instance as generally described in the SFDC Exchange page created and maintained by Affinity ("App Page") located on the App Exchange, as updated by Affinity from time to time.
- 1.2. Affiliates means any corporation, partnership or other entity now existing or hereafter organized that directly or indirectly controls, is controlled by or under common control with a Party. For purposes of this definition "control" means the direct possession of a majority of the outstanding voting securities or interest of an entity.
- 1.3. Affinity CRM means the Platform Service made available by Affinity whereby Affinity provides a Customer Instance for Customer to upload data, records, and information, sync its contact information to the Customer Instance, use the platform tools to complement Customer Instance Data, and such other features, forms, and functions in the manner and by means provided by Affinity from time to time. Affinity CRM has multiple levels of Seats, including Enterprise, Premium, and Professional each of which have different features as made available by Affinity.
- 1.4. Affinity Data means all data, records, documents, graphics, information, enrichment data, contact information, and other materials made available by Affinity to Customer through or relating to the Services excluding Customer Instance Data as provided by Customer into the Customer Instance.
- 1.5. Aggregated Anonymous Data means data submitted to, collected by, or generated by Affinity in connection with Customer's use of the Services, but only in aggregate, anonymized form which can in no way be linked specifically to Customer and which does not contain identifiable Customer Instance Data.
- 1.6. Confidential Information means any information, records, or data of a Party provided to the other Party in the course of each Party's business relationship to each other including, but not limited to, financial information, plans, code, software, intellectual property, formula, business information, contact information, notes, employee information, reports, and other such materials or information which a party familiar with the industries of the Parties hereto would or should know to be confidential. In the case of Customer, Customer Instance Data shall constitute Confidential Information of Customer. In the case of Affinity, Affinity Data shall expressly constitute the Confidential Information of Affinity.
- 1.7. Customer Instance means the singular instance of the Platform Services made available by Affinity for Customer wherein Customer's Users may access the Platform Services to which Customer has purchased Seats as more fully set forth in this Agreement.

- 1.8. Customer Instance Data means all data and information (including, but not limited to, prospective deals of Customer) uploaded by the Customer or its Users to Affinity into the Customer Instance, expressly excluding all Affinity Data, Aggregated Anonymous Data, and Improvements.
- 1.9. Platform Services means the Affinity subscription software-as-a-service offerings hosted online and to which Affinity grants Customer the right to access in the form and with the functions as made available by Affinity from time to time (including, but not limited to, any additions, modifications, improvements, etc. of the same) such as the Affinity CRM and A4S, and indicated on the applicable Order Form as “Platform Services”.
- 1.10. Custom Services means the a-la-carte services ordered by Customer which are made available on a case-by-case basis by Affinity and which support the Platform Services (as applicable), such as ProServ, in the form as made available by Affinity and indicated on the applicable Order Form as a “Custom Services”.
- 1.11. DPA means Affinity’s data processing addendum, a copy of which may be found at <https://www.affinity.co/hubfs/Project%20Affinity%20-%20EU%20Residents%20Addendum.pdf> (or such other URL or address as provided by Affinity from time to time) and which is hereby incorporated by reference herein and made a part of this Agreement.
- 1.12. Documentation means the user documentation (such as user manuals, EULAs, technical guides, and related documentation) provided by Affinity to Customer during onboarding with the Services, which may be updated from time to time, but excluding any sales or marketing materials.
- 1.13. Order Form means each Affinity ordering document substantially titled “Order Form” signed by duly authorized representatives of both Parties which references this Agreement, identifies the specific Services ordered by Customer from Affinity, sets forth the prices for the Services and contains other applicable terms and conditions in addition to incorporating this MSA. Affinity may make an electronic Order Form available via the Platform Services or another electronic means in a manner and by means in Affinity’s sole discretion.
- 1.14. Platform Fees means the recurring fees due for the Platform Services ordered by Customer via the Order Form as set forth in this Agreement.
- 1.15. Custom Fees means the fees due for the Custom Services ordered by Customer via the Order Form as set forth in this Agreement.
- 1.16. Fees means the Platform Fees and Custom Fees together with any other charges set forth in this Agreement.
- 1.17. Services means the Platform Services and the Custom Services and any other services which are not specified as a Platform Service or a Custom Service.
- 1.18. ProServ means the Custom Service whereby Affinity develops certain custom software solutions made available by Affinity to support the Platform Services ordered by and made available to Customer as more fully set forth in this Agreement and the applicable ProServ Order.
- 1.19. Third Party Applications means online, Web-based applications, software, or services and offline software products that are provided by third parties, and interoperate with the Platform Services including, but not limited to, Gmail, Outlook, and others.
- 1.20. Users mean natural person individuals (and not any third party entity) who has been granted a Seat by Customer.
- 1.21. Seat means the individual access grant specific to one natural person as contemplated by this Agreement whereby Customer may allow one natural person who is an independent contractor, director, officer, or employee of Customer (or, subject to this Agreement, of an Affiliate) to access and use the specific Platform Services ordered by Customer in the applicable Order Form solely on the terms and conditions of this Agreement and the Documentation.
- 1.22. Salesforce means Salesforce, Inc. and its affiliates.
- 1.23. SFDC Exchange means the AppExchange offered and made available by Salesforce.

## **2. SERVICES GENERALLY**

- 2.1. Services Affinity shall provide the Customer with the specific Services set forth on an Order Form in accordance with this Agreement for the duration of the applicable Order Form subject to the terms and conditions of this Agreement. Any conflict between the terms and conditions set forth in this MSA and any Order Form shall be resolved in favor of this MSA, except with respect to matters referencing pricing, renewal terms, term length, and others which this MSA expressly states that the Order Form shall prevail. The Customer agrees that Fees due hereunder are neither contingent on the delivery of any future functionality or features nor dependent on any oral or written comments made by Affinity regarding future functionality or

features. The duration of Customer's right to access the Services is limited to the applicable Order Form term and is expressly subject to this Agreement.

- 2.2. **Platform Services Access Grant** Subject to the terms and conditions of this Agreement, and in consideration for the payment of fees set forth on the applicable Order Form, Affinity hereby grants to the Customer, solely during the term of the applicable Order Form, a non-exclusive, non-licensable, non-assignable, non-resalable, non-transferable limited right to access and use the Platform Services solely for the Customer's internal business purposes and solely in connection with the number of Seats paid for by Customer in accordance with this Agreement and the Documentation. No license to the Platform Services is granted by this Agreement nor shall any Seat be treated as an individual license with respect to the Platform Services. Affinity's obligations with respect to the Platform Services are expressly contingent on Customer's timely payment of Fees. This right is expressly restricted to use by Customer and its Users (up to the number of Users for whom Customer has purchased Seats) and does not include the right to use the Platform Services on behalf of any third party. The Customer is responsible for procuring and maintaining all equipment and network connections necessary for the Customer to connect to the Platform Services. The Customer agrees and shall ensure: (a) that only authorized Users are permitted to use the Platform Services; (b) that it is responsible for authorized Users' actions or failures to act in connection with activities contemplated under this Agreement (such acts and omissions being deemed the acts and omissions of Customer) and (c) use of the Platform Services complies with this Agreement. Platform Services are not sold to Customer.
- 2.3. **Custom Services Access Grant** Subject to the terms and conditions of this Agreement, Affinity grants Customer solely during the term of the applicable Order Form and, in the event Custom Services are specific to a particular Platform Service only for so long as Customer has access to such Platform Service, a non-exclusive, non-licensable, non-assignable, non-resalable, non-transferable limited right to access and use the Platform Services solely for the Customer's internal business purposes and solely in connection with the number of Seats paid for by Customer in accordance with this Agreement, and the Documentation. No license to the Custom Services is granted by this Agreement. Custom Services are not sold to Customer. Affinity's obligations with respect to Custom Services are expressly contingent on Customer's timely payment of Fees. Custom Services are specific to one Customer Instance and, should Customer order multiple instances, Customer may only apply the Custom Services to one of those instances unless Customer orders additional Custom Services for the additional instance.
- 2.4. **Authorized Person** Customer may designate an authorized person who may provide instructions to Affinity with respect to accounts (such as exporting data, merging instances, adding emails, changing domains, or other such actions) via notice to Affinity and change such person via notice (in each case, notice via the Platform Services is expressly sufficient) (such person being the "Authorized Person" or, if multiple, "Authorized Persons"). Customer acknowledges and agrees that Affinity may rely on the instructions of such Authorized Person and Customer represents that such Authorized Person is authorized to provide such instructions to Affinity.
- 2.5. **Information Provided by Customer** Customer represents and warrants that any and all information provided by Customer is accurate, current, and complete and that Customer will use reasonable efforts to update its information from time to time, particularly with respect to billing information.
- 2.6. **Third Party Web Sites, Products, and Services** If Customer installs, requests, or enables Third Party Applications for use with the Services, Customer agrees that Affinity may allow such third party providers to access Customer Instance Data as required for the interoperation of such Third Party Applications with the Services, and any exchange of data or other interaction between Customer and a third party provider is solely between Customer and such third party provider.
- 2.7. **Seats Restrictions** Customer acknowledges and agrees that Seats are limited such that one Seat is permitted to be associated with only one natural person and Affinity reserves the right to refuse access to any email address or natural person which it believes is engaged in or connected with: a) breach of this Agreement, b) violation of applicable law, c) any party sanctioned by a government entity, or d) violation of any third party right. Where a Customer removes a Seat, fails to pay for a Seat, or a Seat is otherwise suspended or terminated, Affinity may delete any data associated with such Seat if such Seat is not reactivated within seven calendar days. The concurrent number of Users receiving access may not exceed the number of purchased Seats. If the number of natural persons accessing the Platform Services exceeds the number of purchased Seats, Customer is obligated to pay per additional Seat that surpass the purchased amount.
- 2.8. **Master Email Address** For the purposes of this Agreement, the email address listed on the Order Form under "Service Address and Email" or otherwise designated as an administrator email via the Platform Services shall be the "Master Email". Affinity may expressly rely on the representations, requests, and instructions from the Master Email as being sent on behalf of Customer and its Affiliates.
- 2.9. **Adding Affiliates** Customer may add Users from its Affiliates to the Customer Instance subject to this Agreement. Should Customer wish to add an Affiliate to its instance, Customer must, upon request by Affinity,: a) provide written details of the

Affiliate (including, but not limited to, its legal name, primary place of business, and User information) and b) complete any inquiry or diligence documents (including, but not limited to, requesting proof of common control/ownership, KYC checks, and other such information) requested by Affinity in an accurate and complete manner. Customer shall and does remain liable for the acts and omissions of Affiliate (and Affiliate Users) and the acts and omissions of Affiliates (and Affiliate Users) are deemed the acts and omissions of Customer. Affinity reserves the right to reject Affiliates in Affinity's sole discretion. By requesting to add an Affiliate, and Affinity subsequently accepting such Affiliate, Customer shall therefore and, upon Affinity's acceptance of such Affiliate, does bind Affiliate to the terms and conditions of this Agreement on behalf of Affiliate and itself. Customer is expressly prohibited from adding any third party which is competitive to Affinity as an Affiliate under this Agreement or granting such third party access to the Services.

2.10. Changes to Certain Order Forms Should Customer wish to add Seats, add Custom Services, or extend the Order Form's term, Customer and Affinity may execute an additional Order Form. Such additional Order Form must: a) indicate that such Order Form is a modification as indicated in the box "Modification", b) indicate the original Order Form's effective date, and c) include the original Order Form number (each, a "Modification Form"). The effect of such Modification Form shall be as follows:

2.10.1. Adding Seats Where Customer adds Seats via a Modification Form, such Seats shall be invoiced immediately upon the effective date of the Modification Form prorated according to the original Order Form's billing frequency.

2.10.2. Adding Custom Services. Where Customer adds any Custom Services via a Modification Form, such Custom Services shall be due in full and invoiced upon execution of the applicable Order Form.

2.10.3. Extending the Order Form Term Where a Modification Form includes an "Order Form Term", the original Order Form shall be extended for the same number of months as indicated on the Modification Form.

2.10.4. Modification Form Term Where the Parties enter into a Modification Form, that Modification Form will become effective as of the later of: a) Modification Form's "Order Form Effective Date" or b) the date that Customer signs the Modification Form (in either case, provided that Affinity contemporaneously signs such Modification Form) and the term of such additional Services shall be the same as the original Order Form.

2.11. A4S Generally Customer additionally acknowledges and agrees, with respect to and where Customer orders A4S, that:

2.11.1. Customer acknowledges that certain features of the A4S product or the Services may be billed on a case-by-case, per-quantity, or per-unit basis as described in the App Page and such pricing shall be deemed incorporated into the Order Form as an additional fee and is subject to this Agreement.

2.11.2. Customer expressly acknowledges and agrees that it must comply with all terms and conditions of the Program Terms for AppExchange by and between Customer and Salesforce, Inc. located at <https://www.salesforce.com/company/program-agreement> (or such other address or URL as provided by Salesforce, Inc. from time to time) ("AppExchange Terms"). If Customer violates, or Affinity reasonably believes that Customer is violating or will violate the AppExchange Terms, then Affinity reserves the right to suspend Customer's access to A4S or terminate the applicable Order Form or the A4S services immediately without further obligation or liability to Customer.

2.11.3. Customer is expressly responsible for ensuring that Customer's Salesforce instance is properly configured to allow for the A4S product to be provided including, but not limited to, granting any applicable security permissions, complying with the Documentation, and other such requirements and, should Customer fail to comply with the foregoing, Affinity is excused from performance until such failure is remedied.

2.11.4. Customer gives Affinity express consent to access, sync data from Customer's Salesforce instance, modify data, and otherwise provide the A4S product and Customer expressly acknowledges and consents that Customer Instance Data will be processed and shared with and processed by Affinity outside of Customer's Salesforce instance.

2.11.5. Customer expressly acknowledges and agrees that Affinity's ability to offer the A4S services is conditioned upon its ability to participate in the SFDC Exchange and is subject to its agreement with Salesforce, Inc. ("SFDC MSA"). Should either Affinity's access to the SFDC Exchange or the SFDC MSA itself terminate, expire, or otherwise change in such a way that Affinity cannot, through commercially reasonable efforts, provide the A4S services then Affinity may terminate or suspend the applicable Order Form or the A4S services immediately without further liability or obligation to Customer.

2.11.6. Notwithstanding anything to the contrary, Customer is not permitted to trial the A4S services for more than 30 days and any such trial shall terminate at the end of such 30 day period.

- 2.12. ProServ Generally Customer additionally acknowledges and agrees, with respect to and where Customer orders ProServ, that:
- 2.12.1. Solutions Customer and Affinity may, via a separate written document offered by Affinity and titled “ProServ Order” (each, a “ProServ Order”), set forth certain solutions to be developed and made available by Affinity to Customer, subject to this Agreement (each, a “Solution”). Each Solution is specific to the particular Platform Service which is ordered by Customer and are not interchangeable between Platform Services. Customer may only use Solutions in connection with the Platform Services and its Users and may not be made available by Customer to any third party nor shall Customer attempt to or actually sell, license, assign, or otherwise transfer any Solutions.
  - 2.12.2. Ownership Any and all outputs, software, ideas, integrations, and other such results of ProServ (“ProServ Results”) are the exclusive property of Affinity and that Affinity reserves all rights in and to the ProServ Results except with respect to the right of access granted to Customer as set forth in this Agreement. No ProServ Results are transferred or otherwise sold to Customer hereunder.
  - 2.12.3. Customer Responsibilities Customer expressly acknowledges and agrees that Affinity is depending heavily on Customer for information, credentials, and other resources to complete projects related to the Project Scope and Affinity’s performance is conditioned on Customer completing its responsibilities. Customer’s responsibilities include, but not are not limited to. The following:
    - 2.12.3.1. Cooperating with Affinity and, upon request, providing such information or resources as necessary to enable Affinity to access, modify, and otherwise work on applicable systems
    - 2.12.3.2. Providing a key contact who will be available to answer questions and respond to Affinity communications
    - 2.12.3.3. Responding to Affinity inquiries and communications in a prompt and timely manner;
    - 2.12.3.4. Providing credentials to any and all Customer systems which relate to the desired Solutions (including, but not limited, to those set forth in the ProServ Order)
    - 2.12.3.5. Obtaining, as reasonably required, any additional rights necessary for Affinity’s performance hereunder with respect to Customer systems or the systems to which the Solutions relate (but, excluding systems which Affinity controls)
    - 2.12.3.6. Contracting directly with any third parties required for the completion of the Solutions (such as intermediary vendors, systems to which the Customer wishes to integrate the Platform Services, and others) including, but not limited, to those listed on the ProServ Order
    - 2.12.3.7. Reviewing, testing, and accepting the Solutions as set forth herein
    - 2.12.3.8. Completing all items listed in the ProServ order under “Contingencies”
  - 2.12.4. Acceptance After Affinity completes the applicable Solution(s), Affinity will conduct a meeting whereby Affinity demonstrates the Solution(s), instructs Customer on its use, and provides additional Documentation (if any) applicable to the Solution (each such meeting a “Review Meeting”). Affinity will mark the applicable Review Meeting as a “Review Meeting”. From the date that Affinity conducts a Review Meeting with Customer, Customer will have seven calendar days from the date of that Review Meeting to review, test, and accept or notify Affinity of any defects in the Solution(s) reviewed in the Review Meeting (“Review Period”). If, after the Review Period, Customer does not notify Affinity of defects in the Solution(s), Customer shall be deemed to have accepted the Solutions on a full and final basis. If Customer does notify Affinity of defects in the Solution(s), Affinity will: a) review the purported defects, b) address the particular defect such that the Solution is functional, and then c) make the Solution available to Customer. Once the Solution has been made available to Customer, it shall be deemed as complete and accepted by Customer on a full and final basis. For the purposes of this section Acceptance, all notices to Affinity of defects must be sent to solutions@affinity.co, with a copy to Legal@affinity.co.
  - 2.12.5. Usage Restrictions Customer’s right to access and use the Solutions is expressly contingent upon this Agreement, payment, and Customer having access to the applicable Platform Service to which the Solution is designed and supports. Should Customer’s access to the applicable Platform Service terminate, expire, or be suspended, then so too shall Customer’s right to access the Solutions. Customer may not use any Solution for any purpose other than supporting the applicable Platform Service.
  - 2.12.6. Change Orders Where Customer wishes to change the Solutions, add Solutions, or remove Solutions from its ProServ Order, it must do so via Affinity’s then-current change-order process. Any such changes must be documented by a document titled “Change Order” in the form provided by Affinity which must be signed by both Affinity and Customer

(each, a “Change Order”) for such change to be effective. Affinity and Customer each reserves the right to refuse any Change Order. Change Orders are expressly subject to this Agreement and shall incorporate the same, as well as additional pricing as set forth in such Change Order.

2.12.7. Multiple Instances Each ProServ Order is expressly limited to one Customer Instance. Should Customer order additional instances, any Solutions for those additional instances must be under a separate ProServ Order (including, but not limited, to separate fees) and Solutions which have already been provided may not be carried over to another instance ordered by Customer.

2.12.8. Time Period Customer must cooperate with Affinity and comply with its obligations under the ProServ Order within the Initial Term of the Order Form to which it is applicable or the ProServ Order shall be deemed terminated at the end of such Initial Term.

2.13. Affinity Trials Where Customer orders a Platform Service on a trial basis (as indicated on the Order Form), Customer will be granted access to the applicable Platform Service on the terms and conditions of this Agreement, subject to the following:

2.13.1. Duration Notwithstanding anything to the contrary, the duration of an Order Form for a trial will be fourteen calendar days from the effective date of the Order Form and, immediately after the fourteenth day, that Order Form shall terminate.

2.13.2. Restrictions Notwithstanding anything to the contrary, Customer may only use the Services which it accesses under a trial for the sole purpose of evaluating the desirability of the Services and no other purpose. Affinity’s obligations of defense and/or indemnity shall not apply to trials, unless Customer subsequently orders the applicable Platform Services.

### 3. TERM

3.1. Order Form Term. The term of each Order Form shall begin on the later of: a) the date listed as “Order Form Effective Date” of the Order Form signed by Customer or b) the date of Customer’s signature of the Order Form (provided that in either instance Affinity contemporaneously signs such Order Form) and shall continue for the number of months set forth therein as “Order Form Term” or otherwise indicated on the Order Form (“Initial Term”) and will continue until (a) it is terminated in accordance with this Agreement; or (b) the Order Form expires, whichever occurs earlier. Unless otherwise expressly provided in the applicable Order Form, each Order Form shall automatically renew for additional successive terms of twelve months (each, a “Renewal Term”), unless and until either Party notifies the other Party in writing at least thirty days prior to the end of the then-current Initial Term or Renewal Term (as applicable) that it has elected not to renew such Order Form (such thirty day period being the “Non-Renewal Period”) at which point the Order Form will expire at the end of the then-current term. Affinity reserves the right to either a) increase the Fees up to five percent, effective upon the renewal of the applicable Order Form or b) increase the Fees greater than five percent so long as Affinity provides Customer at least sixty days’ notice of such increase prior to the end of the then-current Order Form term and such increase shall be effective upon the renewal of the applicable Order Form.

3.1.1. Multi-Year Order Form Where an Order Form contains terms wherein the Initial Term is multiple years with different pricing in each year, the Renewal Term will be on the pricing of the final year of the Initial Term.

3.1.2. Reducing Seats Customer may not reduce the number of Seats during the Initial Term or Renewal Term. If Customer wishes to reduced the number of Seats for an upcoming Renewal Term, Customer must provide at least 30 days prior written notice before the end of the current term and, if such notice is provided, the Seats will be reduced in the subsequent term.

3.1.3. Forward-Dated Forms/Renewals Where an Order Form is forward-dated, Customer is bound by such Order form immediately upon signature and may not terminate or otherwise cancel that Order Form without the prior express written and signed consent of an officer of Affinity.

3.2. MSA Term. The term of this MSA shall begin on the effective date of the first (or, in the event this MSA expires, the most recent) Order Form entered into by the Parties and shall endure until all Order Forms expire or are terminated. The term of the MSA, combined with the term of each applicable Order Form, shall be the term of the Agreement.

3.3. Termination. Notwithstanding the foregoing, either Party may terminate any Order Form or this Agreement (i) immediately in the event of a material breach of this Agreement or any such Order Form by the other Party that is not cured within 30 days of written notice from the other Party specifying the nature of such breach, or (ii) immediately upon notice to the other Party if the other Party ceases doing business or is the subject of a voluntary or involuntary bankruptcy, insolvency or similar proceeding, that is not dismissed within ninety (90) days of filing. Termination of one Order Form shall not be deemed a

termination of any other Order Forms. Termination of an Order Form shall also terminate any applicable Modification Forms. This MSA may only be terminated by terminating all applicable Order Forms or upon all such Order Forms expiring.

3.3.1. Effect of Termination. Upon any termination or expiration of any applicable Order Form, Affinity shall no longer provide the applicable Services to the Customer and the Customer shall promptly cease and cause its Users to promptly cease using the Services. The Customer shall pay Affinity for all fees that had accrued prior to the termination date or which would be due but for termination. Except as expressly provided herein, termination of an Order Form by either party will be a nonexclusive remedy for breach and will be without prejudice to any other right or remedy of such party.

3.3.2. Customer Instance on Termination Customer acknowledges that Customer may use the data export tools made available to Customer by Affinity via the Platform Services so long as Customer has access to such Platform Services to export Customer Instance Data uploaded by Customer. It is Customer's responsibility to ensure that they leverage the applicable data export tools prior to the expiration or termination of the applicable Order Form. Within 45 days of termination or expiration of the applicable Order Form, Affinity will delete the Customer Instance – including any Customer Instance Data contained therein – and Customer acknowledges that Customer will, after such deletion, permanently lose access to any such Customer Instance Data and the Customer Instance.

#### **4. FEES; PAYMENT TERMS**

4.1. Fees. The Customer agrees to pay the Fees in accordance with and at the rates and amounts specified in each Order Form. Unless otherwise set forth on the Order Form or this Agreement, payment shall be due within thirty (30) days after receipt by Customer of Affinity's invoice and can be made via ACH, wire, or other method permitted and made available by Affinity, and shall be made in US Dollars. All Fees set forth in the Order Form are denominated in United States Dollar. Unless otherwise expressly stated in this MSA, Fees are non-refundable and non-cancellable. Where Affinity requires payment in advance, such payment must be made in full before Affinity is obligated to grant access to the Services or otherwise perform under this Agreement.

4.1.1. Platform Fees. Platform Fees shall be recurring on and invoiced on a frequency according to the applicable Order Form. Invoices for Platform Fees are due upon receipt.

4.1.2. Custom Fees Custom Fees, unless otherwise specified in this Agreement, will either be "recurring" or "not recurring" as indicated on the Order Form and, if recurring, shall be billed and due on the same schedule as the Platform Fees for the entire duration of the applicable Order Form or, if not recurring, billed and due on the same schedule as the Platform Fees for the first billing period of the applicable Order Form except: a) if this Agreement sets out a different payment schedule for the applicable Custom Service or b) the Custom Service is indicated as "one-time", in which case the Custom Fees for that particular Custom Service shall be due immediately upon execution of the Order Form.

4.1.3. Renewal Invoices Amounts for any Renewal Term are due upon the first business day of the Renewal Term and Affinity expressly reserves the right to issue the invoice for any Renewal Term during the Non-Renewal Period.

4.1.4. Billing via Platform Affinity may make available a method for Customer to order Services and/or Seats via the Platform Services and, should Customer order via such Platform Services, it shall have the same force and effect as an Order Form.

4.2. Disputed Charges. If the Customer disputes any charge or amount on any invoice in good faith and such dispute cannot be resolved promptly through good faith discussions between the Parties, the Customer shall pay the amounts due under this Agreement less the disputed amount, and the Parties shall proceed in good faith to promptly resolve such disputed amount. An amount will be considered disputed in good faith only if (i) the Customer sends an email to support@affinity.co with Affinity's billing department at billing@affinity.co copied on the email on or before the due date of the invoice, describing in reasonable detail the basis of the dispute and the amount being withheld by the Customer, (ii) such email expressly states that Customer has reviewed the invoice and circumstances and arrived to such dispute in good faith, and (iii) all other amounts due from the Customer that are not in dispute have been paid as and when required under this Agreement. Affinity will act reasonably in the determination of the validity of such dispute. Notwithstanding the foregoing, where such dispute cannot be resolved in good faith but Affinity can provide documentary evidence of the Services being performed, such dispute is thereby resolved in favor of Affinity.

4.3. Taxes. Fees are exclusive of taxes. The Customer shall be responsible for the payment of all sales, use, withholding, and similar taxes arising from or relating to the Services rendered hereunder, except for taxes related to the net income of Affinity and any taxes or obligations imposed upon Affinity under federal, state and local wage laws. Customer represents and agrees that the primary address – notwithstanding Customer's use of the Services elsewhere - where Customer will be using the Services is the physical address listed on the Order Form under "Service Address and Email" (or, where no Service

Address and Email is provided, Customer's billing address), and that Affinity may rely on such representation for tax purposes.

- 4.4. Late Payment. In the event that Customer does not pay the Fees when they are due, Affinity reserves the right to, at its election, do any or all of the following: a) after sending Customer an email making them aware that the Fees have not been paid, suspend the services for so long as the Fees remain unpaid, b) (where the Fees are not paid in advance) impose a charge of 1.5% of the amount of Fees overdue when the Fees are late and every 30 days thereafter, c) in the event that Fees remain unpaid for 90 days from the date they are due, terminate this Agreement, and/or d) pursue all other remedies available to Affinity in law or in equity.

## 5. CONFIDENTIALITY

- 5.1. Confidential Information. During the term of this Agreement and for so long as Confidential Information remains confidential each Party receiving Confidential Information shall not disclose (or permit its personnel to disclose) any Confidential Information of the other Party to any person or entity *except* to a director, officer, employee, outside consultant, or advisor (collectively "Representatives") who has a need to know such Confidential Information in the course of the performance of their duties for the receiving Party and who are bound by a duty of confidentiality no less protective of the disclosing Party's Confidential Information than this Agreement. The receiving Party and its Representatives shall use such Confidential Information only for the purpose for which it was disclosed and shall not use or exploit such Confidential Information for its own benefit or the benefit of another without the prior written consent of the disclosing Party. Each Party will be responsible for the actions and omissions of its Representatives and shall protect the other Party's Confidential Information in the same manner as it protects its own valuable confidential information, but in no event shall less than reasonable care be used. The receiving Party shall promptly notify the disclosing Party upon becoming aware of any unauthorized access or disclosure of the disclosing Party's Confidential Information.
- 5.2. Exclusions. Information will not be deemed Confidential Information hereunder if such information: (i) is known prior to receipt from the disclosing Party, without any obligation of confidentiality; (ii) becomes known to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (iii) becomes publicly known or otherwise publicly available, except through the receiving Party's (or its Representatives') breach of this Agreement; or (iv) is independently developed by the receiving Party without use of the disclosing Party's Confidential Information. The receiving Party may disclose Confidential Information (a) pursuant to the requirements of applicable law, legal process or government regulation, provided that it gives the disclosing Party reasonable prior written notice (if legally permitted) to permit the disclosing Party to contest such disclosure, and such disclosure is otherwise limited to the required disclosure; or (b) on a confidential basis as reasonably necessary to potential investors or acquirers (expressly excluding Customer Instance Data). For greater clarity, any information, data, records, or other such materials made available by Affinity as part of the Services remain the exclusive property of Affinity and Affinity Confidential Information.
- 5.3. Injunctive Relief. Notwithstanding any other provision of this Agreement, both Parties acknowledge that any use of the disclosing Party's Confidential Information in a manner inconsistent with the provisions of this Agreement may cause the disclosing Party irreparable and immediate damage for which remedies other than injunctive relief may be inadequate. Therefore, both Parties agree that, in addition to any other remedy to which the disclosing Party may be entitled hereunder, at law or equity, the disclosing Party shall be entitled to seek an injunction or injunctions (without the posting of any bond and without proof of actual damages) to restrain such use in addition to other appropriate remedies available under applicable law.

## 6. WARRANTIES; DISCLAIMER

- 6.1. Availability. Affinity will undertake commercially reasonable efforts to make the Platform Services available twenty-four (24) hours a day, seven (7) days a week provided, however that Affinity reserves the right to suspend or make the Services unavailable for or in connection with: a) reasons expressly contemplated by this Agreement, b) maintenance downtime or downtime related to product improvements or modifications, c) Customer's use of the Services in such a way that would or Affinity reasonably suspects would negatively impact Affinity Services or Affinity's customers, and d) where Customer is subject to a notice of breach under this Agreement so long as such breach remains uncured. Customer's sole remedy for breach of this section is to provide Affinity notice of the breach detailing the alleged breach and Affinity shall have 30 days from receipt of such notice to cure such breach.
- 6.2. Mutual Warranties Each Party expressly agrees, represents, and warrants that: a) it is a duly organized entity in good standing or, as applicable, an individual authorized to operate in its applicable jurisdiction, b) the individual signing on behalf of it is duly authorized to bind such Party, c) it can grant the rights and perform the obligations contemplated herein, d) it shall comply with applicable law, and e) it shall not use the Services to transmit or store malicious code (including, but not limited to, spyware and malware).



- 6.3. No Uptime Warranty AFFINITY DOES NOT REPRESENT OR WARRANT THAT THE SERVICES WILL BE ERROR-FREE OR THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS OR THAT ALL ERRORS IN THE SERVICES WILL BE CORRECTED OR THAT THE OVERALL SYSTEM THAT MAKES THE PLATFORM SERVICES AVAILABLE (INCLUDING BUT NOT LIMITED TO THE INTERNET, OTHER TRANSMISSION NETWORKS, AND CUSTOMER'S LOCAL NETWORK AND EQUIPMENT) WILL BE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. THE SERVICES ARE PROVIDED AS-IS AND THERE ARE NO OTHER REPRESENTATIONS OR WARRANTIES (EXCEPT THOSE EXPRESSLY PROVIDED HEREIN) OR CONDITIONS, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION, THOSE OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT OF THIRD PARTY RIGHTS. AFFINITY HEREBY DISCLAIMS ALL OTHER WARRANTIES (EXPRESS OR IMPLIED). CUSTOMER ASSUMES ALL RESPONSIBILITY FOR DETERMINING WHETHER THE SERVICES ARE ACCURATE OR SUFFICIENT FOR CUSTOMER'S PURPOSES.
- 6.4. Mutual Warranty Disclaimer EXCEPT AS OTHERWISE PROVIDED IN THIS AGREEMENT, NEITHER PARTY OFFERS ANY OTHER WARRANTY, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO WARRANTIES OF FITNESS FOR A PARTICULAR PURPOSE, MERCHANTABILITY, OR OTHER SUCH WARRANTIES.

## **7. LIMITATION OF LIABILITY.**

- 7.1. Mutual Consequential Damage Exclusion. Neither Party will be liable to the other or any third party for loss of profits or for any special, indirect, incidental, consequential or exemplary damages (including without limitation, damages for loss of business profits, loss of goodwill, business interruption, loss of business information and/or data) in connection with the performance of the Services, or the performance of any other obligations under this Agreement, even if it is aware of the possibility of the occurrence of such damages. Customer expressly acknowledges and agrees that there is substantial uncertainty as to whether any of Customer's particular opportunities that it may upload via the Services will or will not close or otherwise provide a benefit to Customer. As such, at no time will Affinity be liable for lost profits or lost opportunities of Customer.
- 7.2. Limitation. Except for fraud, willful misconduct and gross negligence, The total cumulative liability of Affinity to Customer for any and all claims and damages under this Agreement, whether arising by statute, contract, tort or otherwise, will not exceed the Fees paid by Customer to Affinity under the Order Form for the Services which form the subject of the claim during the twelve (12) month period immediately preceding the event giving rise to the claim. The provisions of this Agreement allocate risks between the Parties. The pricing set forth in each Order Form reflects this allocation of risk and the limitation of liability specified herein and this limitation represents a material term upon which Affinity relied in entering into this Agreement.

## **8. OWNERSHIP; USE OF DATA; OBLIGATIONS**

- 8.1. Affinity Items The Customer acknowledges and agrees that as between Affinity and the Customer, all right, title and interest in and to the Platform Services (excluding any Customer Instance Data) and including all modifications and configurations thereto, all Affinity Data and all of Affinity's proprietary technology, including, without limitation, all software, products, processes, algorithms, user interfaces, know-how, aggregate data, data warehouses, source code, plug-ins, integrations, data, techniques, designs and other tangible or intangible technical material or information made available to the Customer by Affinity in providing or in connection with the Services and all derivatives thereof are and shall remain exclusively owned by Affinity or its licensors (as applicable). The Affinity name, all Affinity logos, and the product names associated with the Services are trademarks of Affinity or third parties, and no right or license is granted to use them. Affinity does not guarantee the accuracy, integrity, or quality of Affinity Data. Notwithstanding anything to the contrary, Customer acknowledges and agrees that Affinity may (i) internally use and modify (but not disclose) Customer Instance Data for the purposes of generating Aggregated Anonymous Data and providing the Services to Customer, and (ii) freely use and make available Aggregated Anonymous Data for Affinity's business purposes (including, without limitation, for purposes of improving, testing, operating, promoting and marketing Affinity's products and services) so long as the same does not include Customer Instance Data. Customer is expressly prohibited from using the Affinity Data for any purpose except those expressly permitted in this Agreement.
- 8.2. Customer Instance Data Customer retains ownership of all right, title and interest in and to all Customer Instance Data. During the term of the Agreement, except that Customer hereby grants to Affinity a limited, worldwide, non-exclusive, non-transferable royalty-free right to use, modify, display, transmit, and distribute the Customer Instance Data to solely in connection with Affinity providing the Services to Customer and in accordance with this Agreement. Affinity does not sell or otherwise improperly share Customer Instance Data from the Customer Instance under this Agreement. Affinity acknowledges that Customer's information and prospective deals are expressly Customer's confidential information and Customer acknowledges that Affinity Data, even if it contains, in part, information which is part of Customer Instance Data (i.e. names, addresses, phone numbers, etc) is distinct from Customer Instance Data when provided as part of the Services and remains the property of Affinity.

- 8.3. Customer Obligations The Customer is responsible for all activities conducted under its (and its permitted Affiliates) User logins, only granted access to appropriate Users, and for its Users' compliance with this Agreement. Customer may not grant any non-User access to the Affinity Services nor shall Customer permit such non-Users to take any action with respect to the Services in contravention of this Agreement. The Customer shall not (and shall not allow any third party to): reverse engineer, decompile, disassemble, or otherwise attempt to derive the source code form or structure of the Services or access (or use) the Services in order to build a competitive product or service or copy any ideas, features, functions or graphics (including, but not limited to, user interfaces and customer flows) of the Services. Except as expressly permitted in this Agreement, the Customer shall not copy, license, sell, transfer, make available, lease, time-share, distribute, nor assign the Services to any third-party. Neither the Customer nor its Users shall use the Services to: (a) send, upload or otherwise transmit any data that is unlawful, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another's privacy, hateful, or racially, ethnically, which violates any third party right, or otherwise objectionable; (b) upload or otherwise transmit, display or distribute any Customer Instance Data that infringes any trademark, trade secret, copyright or other proprietary or intellectual property rights of any person; (c) upload or otherwise transmit any material that contains software viruses or any other computer code, files or programs designed to interrupt, destroy or limit the functionality of any computer software or hardware or telecommunications equipment; (d) interfere with or disrupt the Platform Services or networks connected to the Platform Services; or (e) violate any applicable law or regulation. The acts and omissions of Customer's (and its Affiliates') Users shall be deemed the acts and omissions of Customer with respect to this Agreement. Customer is responsible for obtaining and maintaining any equipment, systems, subscriptions, or other prerequisites for accessing the Services (such as an internet connection and computer hardware/software) ("Equipment") and Affinity shall have no liability to Customer with regard to such Equipment nor shall Affinity have any obligation to provide such Equipment. Customer shall not share any credentials provided by Affinity, nor shall Customer permit the sharing of any Seats.
- 8.4. Data Protection. In the event and to the extent that Affinity is a Processor of Personal Data (as defined in the DPA) and such processing is subject to the certain Data Protection Laws (as defined in the DPA), the DPA is hereby incorporated into this Agreement. Affinity will process Customer Instance Data in accordance with the DPA, this Agreement, and as required by applicable law.
- 8.5. Security Affinity maintains and deploys security and privacy processes and practices which take into account the nature and type of data that Customer is reasonably contemplated by this Agreement to upload (such as contact information, prospects, and others) and will protect Customer Instance Data using such process and practices as applicable to the Customer Instance provided, however, that Customer acknowledges that such processes and procedures are not specific to Customer and may be updated by Affinity from time to time.
- 8.6. Improper Data Customer acknowledges and Agrees that Affinity may, if Affinity believes or knows that any Customer Instance Data is unlawful or violative of this Agreement, delete, restrict, or otherwise modify Customer Instance Data (such as deleting stolen data or de-syncing information which was obtained unlawfully). Affinity further reserves the right to shut off access to any particular User, delete any account generated by a User or Seat, and otherwise prevent the syncing of data for a particular User or Seat which Affinity knows or reasonably believes to be in violation of this Agreement. Affinity reserves the sole discretion to permit or deny syncing from any particular email, domain, or User.
- 8.7. International Export Customer may not remove or export from the United States (or its applicable jurisdiction) or allow the export or re-export of the Services or anything related thereto, or any direct product thereof, in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. For greater clarity, Affinity reserves the right to prevent access to or suspend access to the Services from any jurisdiction which is subject to sanctions, to which or in which Affinity is prohibited by law from providing the Services, which, in Affinity's reasonable discretion, represents a threat to Affinity, Affinity's customers, or the Services, or which Affinity reasonably believes is not a valid or permitted access attempt to the Services.
- 8.8. Particular Types of Information Affinity does not need, nor does Affinity request, any protected health information ("PHI") governed by the Health Insurance Portability and Accountability Act and its implementing regulations ("HIPAA"). Affinity does not need, nor does Affinity request, any non-public consumer personally identifiable information or financial information governed by the Gramm-Leach-Bliley Act ("GLBA") or payment card information covered by the Payment Card Industry Data Security Standards ("PCI DSS") in order to provide Affinity's Services. Customer should never disclose, nor allow to be disclosed, PHI or information protected by GLBA, PCI DSS, or other sensitive information to Affinity and, in the event of such disclosure, should promptly delete from Customer's instance such sensitive information. Customer acknowledges that Affinity does not take separate steps to ensure Affinity's Services are specifically compliant with HIPAA, GLBA, PCI DSS, or equivalent laws and regulations. All obligations of the aforementioned regulations remain solely with Customer. Affinity's Services are not intended for use with minors (as defined by applicable law) nor are minors permitted to use the Services. Customer is prohibited from authorizing minors, as defined by applicable law, to use or access the

Services, except as otherwise provided in a signed writing by an authorized representative of Affinity. Where Customer becomes aware that it has uploaded such information as contemplated by this section, it shall promptly delete the same and Affinity expressly reserves the right to remove such information should Affinity become aware of its inclusion in the Customer Instance.

- 8.9. Anti-Bribery Each Party will not: (a) make any unlawful payments to any government official or employee; (b) make any unlawful payment to any person or unlawfully provide anything of value (whether as property, services, or in any other form) to any person for the purpose of obtaining an improper business advantage; or (c) agree, commit, or otherwise offer to undertake any of the foregoing actions in connection with this Agreement or any related activities.
- 8.10. Anti-Money Laundering Customer represents and warrants that all payments will be made by its legal entity as identified in the Order Form or this Agreement (or by its Affiliates) entering into this Agreement and that Customer will not misrepresent or attempt to conceal the identity of the party paying or any recipient(s) of the Services.
- 8.11. Affiliate Data For the purposes of this Agreement, data of an Affiliate uploaded to the Customer Instance that would otherwise constitute Customer Instance Data if uploaded by Customer shall be treated as Customer Instance Data and Customer, on behalf of such Affiliate, binds such Affiliate to the restrictions and obligations of this Agreement and grants to Affinity all the rights and remedies of this Agreement such that Affinity may enforce the same against Affiliate. Customer is jointly and severally liable for the acts and omissions of its Affiliate as if the same are the acts and omissions of Customer with respect to the use of the Customer Instance or, as permitted, the Services.
- 8.12. Data Subject Requests Customer and Affinity each agree to reasonably cooperate with each other to comply with valid and binding Data Subjects' rights requests to which such Data Subjects' are entitled to by applicable law (such as erasure, portability, and disclosure).
- 8.13. Improvements Affinity shall be and is the exclusive owner of all suggestions, modifications, alterations, upgrades, updates, and other such improvements arising from or relating to the Services and any derivative works therefrom ("Improvements") whether provided by or otherwise made available by Customer or Affinity and Customer does not have any recourse to Affinity with regard to the Improvements nor shall Affinity owe Customer any amounts nor any performance for the use or exploitation of such Improvements. Customer expressly acknowledges and agrees that Affinity is permitted to and may use automated methods (including, but not limited to, artificial intelligence and computer modeling) to assess, quantify, or otherwise analyze Customer Instance Data and generate certain statistical, behavioral, analytical, or other modeling data arising or relating to such activity and that the same shall be considered Improvements hereunder. Customer expressly consents to such activity, subject to this Agreement.
- 8.14. Beta Services Affinity, from time to time, may make available or permit Customer to test or receive access to certain offerings, products, applications, or other services which are identified as "Beta", "Alpha", or otherwise experimental or limited in nature, whether incorporated into a Platform Service or Custom Service or not ("Beta Services"). Customer, by accessing or accepting an invitation to such Beta Services, accepts, acknowledges notice of, and consents to all Subprocessors identified in such Beta Services and particular to the same. Customer further acknowledges and agrees that the Beta Services are, by their very nature, experimental and, as such, Affinity does not offer any representation nor warranty and Affinity expressly disclaims any and all representations and warranties including, but not limited to, performance, fitness for a particular purpose, and merchantability. Customer acknowledges and agrees that Affinity has sole discretion with respect to the Beta Services and may modify, change, cancel, terminate, make unavailable, change the means of access, or otherwise alter the Beta Services or anything relating thereto in Affinity's sole discretion.

## 9. INDEMNIFICATION

- 9.1. Affinity Indemnification. Subject to the section Indemnification Procedure below, Affinity will defend Customer, its Affiliates (which are subject to this Agreement) and their respective officers, directors, and employees (collectively, the "Customer Indemnitees"), against any claim, demand, suit or proceeding made or brought against Customer by a third party alleging that the Platform Services infringe upon such third party's intellectual property rights (a "Claim Against Customer"), and will indemnify the Customer Indemnitees from any damages (including reasonable attorney fees and costs) finally awarded against any of the Customer Indemnitees as a result of, or for amounts paid by under a court-approved settlement of, a Claim Against Customer. If a Claim Against Customer is brought or is likely, in Affinity's sole opinion, to be brought, Affinity will, at its option and expense (A) obtain the right for Customer to continue using the Services; (B) replace or modify the affected Services so that they become non-infringing; or (C) upon notice to Customer, terminate this Agreement or Customer's use of the affected Services, provided that in the case of (C) Affinity promptly refunds to Customer the prorated portion of any unearned pre-paid annual Platform Fees paid hereunder for the affected Services. Affinity's obligations in this section Affinity Indemnification do not cover third party claims to the extent such claims arise from: (1) any products, services, technology, materials or data not created or provided by Affinity (including without limitation any Customer

Instance Data), (ii) any part of the Services made in whole or in part in accordance to Customer specifications, (iii) any modifications made after delivery by Affinity, (iv) any combination with other products, processes or materials not provided by Affinity (where the alleged damages, costs or expenses arise from or relate to such combination), (v) where Customer continues allegedly infringing activity after being notified thereof or after being informed of modifications that would have avoided the alleged infringement, or (vi) Customer's use of the Services is not strictly in accordance with this Agreement or any Documentation.

- 9.2. Customer Indemnification. Subject to Section 8.3 below, Customer will defend Affinity, its Affiliates and their respective officers, directors, employees and agents (collectively, the "Affinity Indemnitees") against any claim, demand, suit or proceeding made or brought against any or all of the Affinity Indemnitees by a third party (i) alleging that the Customer Instance Data, or any use thereof, infringes the intellectual property rights or other rights of any third party, or has caused harm to a third party, (ii) arising out of the Customer's breach of Section 8 above, or (iii) Customer's misuse of the Services (each, a "Claim Against Affinity"), and will indemnify the Affinity Indemnitees from any damages, reasonable attorney fees and costs finally awarded against the Affinity Indemnitees as a result of, or for any amounts paid under a court-approved settlement of a Claim Against Affinity.
- 9.3. Indemnification Procedure. Each Party's obligation to indemnify the other party is conditioned on the Party seeking indemnification: (i) promptly notifying the indemnifying Party in writing of any claim, suit or proceeding for which indemnity is claimed, (ii) allowing the indemnifying Party to solely control the defense of any claim, suit or proceeding and all negotiations for settlement; provided that the indemnifying Party shall not settle any claim that requires the indemnified Party to admit fault or which otherwise binds the indemnified Party without the indemnified Party's prior written consent (such consent not to be unreasonably withheld or delayed), (iii) giving the indemnifying Party reasonable assistance in the defense and settlement of any claim, suit or proceeding for which indemnity is claimed, and (iv) providing copies of documents reasonably requested by the indemnifying Party and reasonably related to the defense of a claim contemplated by this section.
- 9.4. Sole Remedy. This section states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of indemnity or defense claim described in this section. For further clarity, if a claim is indemnified or defended hereunder it cannot then be claimed as damages separately (including, but not limited, to damages to a Customer Affiliate).

## 10. MISCELLANEOUS

- 10.1. Entire Agreement This Agreement contains the entire agreement between the Parties with respect to the subject matter hereof, and supersedes all prior or contemporaneous proposals, understandings, representations, warranties, covenants, and any other communications (whether written or oral) between the Parties relating thereto and is binding upon the Parties and their permitted successors and assigns. Only a written instrument that refers to this Agreement by name and that is duly signed by the authorized representatives of both Parties may amend this Agreement or such Order Form. Any inconsistent or conflicting terms and conditions contained in any purchase order or similar ordering document issued by the Customer shall be of no force or effect, even if accepted by Affinity. Contract terms and conditions included in any online terms, "click wrap," or other agreement that accompanies the Services or Order Form are superseded by this Agreement.
- 10.2. Assignment This Agreement shall be binding upon and for the benefit of Affinity, the Customer and their permitted successors and assigns. Either Party may assign this Agreement and all Order Forms as part of a corporate reorganization, consolidation, merger, or sale of all or substantially all of its assets to the surviving or (as applicable) purchasing entity in such reorganization, consolidation, merger, or sale upon notice to the other Party. Except as expressly stated in this Agreement, neither Party may otherwise assign its rights or delegate its duties under this Agreement either in whole or in part without the prior written consent of the other Party, and any attempted assignment or delegation without such consent will be void. Notwithstanding the foregoing, where Customer assigns this Agreement to a surviving entity or purchaser, Customer must provide notice to legal@affinity.co and if, in Affinity's reasonable discretion, such assignee is: a) of such a nature that it would be in immediate violation of this Agreement, b) a party sanctioned by a government entity, or c) engaged in unlawful or competitive behavior, then Affinity may terminate this Agreement within 30 days of receipt of such notice.
- 10.3. Governing Law This Agreement shall be governed by and construed in accordance with the laws of the State of California, USA without regard to its conflict of law provisions.
- 10.4. Disputes Any disputes between the Parties arising out of this Agreement shall be resolved as follows: Members of the senior management of both Parties shall meet to attempt to resolve such disputes. If a dispute cannot be resolved within fifteen (15) days of such meeting, either Party may make a written demand for mediation. Within fifteen (15) days after such written demand, the Parties shall meet for one day with an impartial mediator mutually selected by the Parties. If the Parties cannot come to a consensus, the Parties shall each select a mediator and those mediators shall select a third mediator who

will mediate the dispute. The costs and expenses of the mediator shall be shared equally by the Parties. If the dispute is not resolved by mediation, the dispute shall be settled in the federal and state courts sitting in San Mateo County, California, U.S.A. will have proper and exclusive jurisdiction and venue with respect to any disputes arising from or related to the subject matter of this Agreement and the Parties expressly consent to personal jurisdiction in such venue, provided that either Party may seek injunctive relief in any court of competent jurisdiction.

- 10.5. Relationship of the Parties. Affinity and the Customer are independent contractors, and nothing in this Agreement shall be construed as making them partners or creating the relationships of employer and employee, master and servant, or principal and agent between them, for any purpose whatsoever. Neither Party shall make any contracts, warranties or representations, or assume or create any obligations, express or implied, in the other Party's name or on its behalf. Customer shall not have the authority to bind Affinity, nor shall Customer hold itself out as having the authority to bind Affinity. Affinity reserves sole discretion as to the manner and means by which the Services are performed.
- 10.6. Force Majeure. Except for the obligation to make payments when the Services are or were not unavailable due to a force majeure event, nonperformance of either Party shall be excused to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is beyond the reasonable control of the non-performing Party (a "Force Majeure Event").
- 10.7. Collections Where Affinity is required to take legal action to collect Fees which have not been paid or to otherwise enforce this Agreement, Customer shall reimburse Affinity for any reasonable costs (including, but not limited, to reasonable attorneys' fees) incurred or due by Affinity as a result of such collections or enforcement.
- 10.8. Notices. Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing to the following contacts for each Party:
- 10.8.1. If to Affinity: the contact information listed on the Order Form as "Notice Address and Email" and, in any event, with an electronic copy to [legal@affinity.co](mailto:legal@affinity.co).
- 10.8.2. If to Customer: the contact information listed on the Order Form as "Service Address and Email" or the contact information provided via the Platform Services.
- All notices shall be deemed effective when: a) successfully delivered to the applicable physical address, if sent via certified physical mail, b) upon successful delivery to a Party's designated email address, or b) upon successful transmission if sent via facsimile and any notice must be sent via one of the foregoing methods. Each Party may change their address for notices via proper notice to the other Party. Affinity reserves the right, but not the obligation, to provide notice via the Platform Services.
- 10.9. Modifications to Services. Affinity may make upgrades, improvements, alterations, and other such modifications to the Services and, in particular, components of the Platform Services from time to time provided that such modifications do not materially degrade the cumulative functionality of the Services. For greater clarity, impediment, removal, or alteration of a particular individual feature or integration shall not, in and of itself, constitute a material degradation of the cumulative functionality.
- 10.10. Publicity. Unless otherwise set forth in an Order Form, Customer hereby grants Affinity the right, during the term of the Order Form, to list Customer's name and display the Customer's logo in the customer section of Affinity's website and other marketing materials where Affinity lists its customers. Any other use in marketing or publicity by Affinity of the Customer's logo or trademark requires the Customer's prior written consent (such consent not to be unreasonably withheld).
- 10.10.1. Internal and Legal Use Reserved Notwithstanding the foregoing, Affinity reserves the right to use Customer's name for internal business purposes and for legal or compliance purposes (i.e. tax reporting, due diligence, licensing requirements, etc.) without Customer's consent or notice to Customer.
- 10.11. No Third Party Beneficiaries; Survival. Nothing contained in this Agreement is intended or shall be construed to confer upon any third person any rights, benefits or remedies of any kind or character whatsoever, or to create any obligation of a Party to any such person. Only the Parties hereto may enforce this Agreement against the other Party including, without limitation, indemnitees. All rights and obligations of the Parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of each Order Form, including, without limitation, restrictions, accrued rights to and obligations of payment, confidentiality obligations, intellectual property rights, warranty disclaimers, and limitations of liability.
- 10.12. Waiver; Severability; Changes. Performance of any obligation required by a Party hereunder may be waived only by a written waiver signed by an authorized representative of the other Party, which waiver shall be effective only with respect to the specific obligation described therein. The failure of either Party to exercise any of its rights under this Agreement will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of this

Agreement will not affect the validity or enforceability of any of the other provisions hereof, and any invalid or unenforceable provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable. Notwithstanding anything to the contrary, Affinity reserves the right to modify this MSA from time to time for legal and compliance purposes and, should Customer reject such modification, Affinity reserves the right to terminate the Services. Customer's continued use of the Services expressly constitutes acceptance of any such modification.

- 10.13. Counterparts; Headings; Ambiguity. This Agreement may be executed in two or more counterparts, each of which shall be deemed to be an original as against any Party whose signature appears thereon, but all of which together shall constitute but one and the same instrument. Signatures to this Agreement transmitted by facsimile, by electronic mail in "portable document format" (".pdf"), or by any other electronic means which preserves the original graphic and pictorial appearance of the Agreement, shall have the same effect as physical delivery of the paper document bearing the original signature. Electronic signatures shall have the same effect as physical signatures. Headings are provided solely for convenience and do not convey any legal right, remedy, or meaning. This Agreement has been negotiated at arm's-length and ambiguity shall not be construed against the drafting party. Customer acknowledges and agrees that it has been provided ample opportunity to review this Agreement, negotiate its terms, and seek the advice of counsel.