Limited License Agreement

This Limited License Agreement (this "Agreement") is effective on the last date of signature below ("Effective Date"), by and between **PUNCHH INC**., a Delaware corporation, ("Punchh" or "Licensor"), and the entity or individual that has downloaded, utilized, or otherwise procured the Punchh API ("Licensee"). Together herein, Licensor and Licensee may be referred to separately as a "Party" and together as "the Parties".

RECITALS

WHEREAS, Licensor's primary business is a developer and provider of restaurant technology solutions, consisting of, among other things, digital loyalty and marketing technology solutions, along with related support services; and

WHEREAS, Licensor has developed through significant effort and at considerable expense extensive and valuable confidential and/or proprietary information with respect to the functionality of Licensor's loyalty restaurant technology solutions; and

WHEREAS, Licensee desires to obtain certain proprietary and/or confidential information of Licensor relative to Licensor's loyalty software as a service, specifically Punchh®, to enable Licensee to interface with Punchh, including to export/import data from the databases of or otherwise integrate with Punchh for use with Licensee's Applications (as defined herein) by restaurants using both Punchh and Licensee's Applications.

NOW THEREFORE, for the mutual covenants of the parties made herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties agree as follows:

1.   Definitions.

        (a)   "API" means the Punchh application programming interface, including any executable source code provided therein, Webhook, and any API Documentation, as such may be updated or modified from time to time and made available by Licensor.

        (b)   "API Documentation" means the API documentation provided as part of the API by Licensor, as such may be updated or modified from time to time, which provides Licensee with instructions on how to interface to Licensor's Product.

        (c)   "API Key(s)" means, as applicable, the security key or keys Licensor makes available to Licensee to access the API. Upon execution of this Agreement Licensor will provide Licensee with API Keys as applicable.

        (d)   "API Support Website" means, as applicable, the website that includes the API and the API Documentation licensed to Licensee under this Agreement. Upon execution of this

Agreement Licensor shall provide Licensee with, as applicable, an account ID and password for the API Support Website.

(e)   "Developer Tools" means the Punchh website containing guidance and assistance for Licensees and Users to resolving issues with the API, Licensor's Product, or Licensee's Application, which includes such information from third parties.

(f)   "Licensor's Product" means Licensor's Punchh software as a service, as may be updated, or modified from time to time, and made available by Licensor to end users as a software as a service.

(g)   "Licensee's Application" means Licensee's application which is intended to integrate with Licensor's Product.

(h)   "Licensee's Interface" means the interface developed by Licensee to communicate and interoperate with Licensor's Product through the API as specified in Schedule A.

(i)   "Users" means the restaurant providers using Licensor's Product and Licensee's Product/Application and Licensee's Interface, as applicable.

(j)   "Webhooks" means an API feature which enables custom callback functionality, including receiving data updates from Licensor's Product based on specified event occurrences of agreed upon events, as such may be updated or modified from time to time and elected for use by Licensee.

2.   License Grant. Subject to and conditioned on Licensee's compliance with all terms and conditions set forth in this Agreement, Licensor hereby grants Licensee a limited, revocable, non-exclusive, non-transferable, non-sublicensable license during the Term of the Agreement to use the API solely and exclusively for Licensee's business purposes in developing Licensee's Interface for Licensee's Application that will communicate and interoperate with Licensor's Product. Licensee acknowledges that there are no implied licenses granted under this Agreement. Licensor reserves all rights that are not expressly granted. Licensee may not use the API for any other purpose without Licensor's prior written consent.

3.   API Key. Unless the integration is a direct integration to Licensor's Products, Licensee must obtain an API Key(s) from Licensor through its registration process to use and access the API. Licensee may not share the API Key(s) with any third party, must keep the API Key(s) and all log-in information secure, and must use the API Key(s), if applicable, as Licensee's sole means of accessing the API. Licensee's API Key(s) may be revoked at any time by Licensor. Licensee shall ensure the security of Licensee's API Key(s) and Licensee's connectivity with Licensor's Product and shall use commercially reasonable efforts to prevent unauthorized access to Licensee's API Key(s) and Licensee's Application. If any API Key is stolen or otherwise compromised, Licensee shall immediately request a new API Key and inform Licensor of the compromise. Licensee acknowledges that responsibility for all data, text, information, messages, and other material submitted through Licensee's Application and Licensee's Interface by its Users to Licensor's Products lies solely with Licensee.

4.   Use Restrictions. Except as expressly authorized under this Agreement, Licensee may not:

(a)   copy, modify, or create derivative works of the API, in whole or in part;

(b)	rent, lease, lend, sell, license, sublicense, assign, distribute, publish, transfer, or otherwise make available the API;

(c)	reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any software component of the API, in whole or in part;

(d)	remove any proprietary notices from the API;

(e)	use the API in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law;

(f)	combine or integrate the API with any software, technology, services, or materials not authorized by Licensor;

(g)	design or permit Licensee's Interface to disable, override, or otherwise interfere with any Licensor-implemented communications to Users, consent screens, user settings, alerts, warnings, or the like;

(h)	use the API in any of Licensee's Interface to replicate or attempt to replace the user experience of Licensor's Products; or

(i)	attempt to cloak or conceal Licensee's identity or the identity of Licensee's Application when requesting authorization to use the API.

Licensee will comply with all terms and conditions of this Agreement and all guidelines, standards, and requirements that may be provided by Licensor from time to time. In addition, Licensee will not use the API in connection with or to promote any products, services, or materials that constitute, promote, or are used primarily for the purpose of dealing in spyware, adware, or other malicious programs or code, counterfeit goods, items subject to U.S. embargo, unsolicited mass distribution of email ("spam"), multi-level marketing proposals, hate materials, hacking, surveillance, interception, or descrambling equipment, libelous, defamatory, obscene, pornographic, abusive, or otherwise offensive content, stolen products, and items used for theft, hazardous materials, or any illegal activities.

5.	Licensee's Application and Licensee's Interface.

(a)	Licensee agrees that Licensee's Interface shall comply with all the requirements for such integration based upon on the type of Licensee's Application (e.g., point of sale software application) ("Integration Requirements"), as such requirements may be updated or modified by Licensor from time to time, which Integration Requirements can be found in the corresponding Statement(s) of Work executed between the Parties ("Integration SOW").

(b)	Licensee agrees to monitor the use of Licensee's Application and Licensee's Interface for any activity that violates applicable laws, rules, and regulations or any terms and conditions of this Agreement, including any fraudulent, inappropriate, or potentially harmful behavior, and promptly restrict any offending users of Licensee's Application and Licensee's Interface from further use thereof. Licensee agrees to provide a resource for Users of Licensee's Application and Licensee's Interface to report abuse and to communicate to Users any risk related to the use of Licensee's Application and Licensee's Interface. As between Licensee and Licensor, Licensee is responsible for all acts and omissions of its Users in connection with Licensee's Application and Licensee's Interface and its Users' use of the API, if any. Licensee agrees that it is solely responsible for posting any privacy notices and obtaining any consents

regarding Licensee's receipt, collection, compilation, use, storage, processing, sharing, safeguarding, security (both technical and physical), disposal, destruction, disclosure or transfer of personal information from its Users required under applicable laws, rules, and regulations, including any and all applicable privacy laws, for its Users' use of Licensee's Application and Licensee's Interface.

(c)   Licensor reserves the right, upon reasonable notice to Licensee, to temporarily turn off Licensee's API Key or access to Licensor's Products for a User if (i) the usage pattern of Licensee's Interface puts the operations of the User's restaurant at critical risk; or (ii) Licensee's Interface fails to comply, at any time during the Term of this Agreement, with the Integration Requirements and Licensee has failed to resolve such issue within five (5) business days of notification from Licensor, unless Licensor, Licensee and the User agree in writing to continue access for a longer period of time for Licensee to resolve the issue. Licensor shall promptly reinstate Licensee's API Key or access to Licensor's Products once the issue has been resolved.

6.   No Support; Updates. This Agreement does not entitle Licensee to any support for the API. Licensee acknowledges that Licensor may update or modify the API from time to time and at Licensor's sole discretion (in each instance, an "Update"), and may require Licensee to obtain and use the most recent version of the API. Any Updates made by Licensor will be posted to the API Support Website. Updates may adversely affect how Licensee's Application communicates with and how Licensee's Interface interoperates with Licensor's Product. Licensee is required to make any changes to Licensee's Applications and Licensee's Interface that are required for integration as a result of such Update at Licensee's sole cost and expense. Licensor shall provide Licensee with reasonable notice if the Updates to the API will materially adversely affect Licensee's Interface or may not be compatible with Licensee's Interface created with a prior version of the API; provided however, it is Licensee's responsibility to maintain Licensee's Interface by checking Licensor's development portal as specified in the Integration SOW for Updates. Licensee's continued use of the API following an Update constitutes binding acceptance of the Update.

7.   License/Integration Fees. Licensee acknowledges and agrees that for the rights granted to Licensee under this Agreement and any corresponding Statement(s) of Work, any fees due to Licensor will be detailed in the corresponding Statement(s) of Work.

8.   Late Payment. Amounts outstanding beyond thirty (30) days from the invoice date will be subject to a late payment charge at the lesser of one-and-one-half percent (1.5%) per month or the highest rate permissible under applicable law for the actual number of days elapsed. All billing and payment will be made in United States dollars. All fees and payments are nonrefundable and exclusive of all taxes, including, but not limited to, sales, use, excise, value-added, goods and services, consumption, and other similar taxes or duties, and Licensee agrees to pay such taxes, whether federal, state, local, or municipal. If Licensee fails to make payments when due, Licensor may, upon notice to Licensee and without limiting Licensor's other available rights and remedies, suspend Licensee's access and use of the API Key and suspend any corresponding services.

9.   Intellectual Property Ownership; Feedback. Licensee acknowledges that, as between Licensor and Licensee, (a) Licensor owns all right, title, and interest, including all intellectual property rights, in and to the API and the Licensor Products, and (b) Licensee owns all right, title, and interest, including all intellectual property rights, in and to Licensee's Application and Licensee's Interface, Licensee will use commercially reasonable efforts to safeguard the API (including all copies thereof) from infringement, misappropriation, theft, misuse, or unauthorized access. Licensee will promptly notify Licensor if Licensee becomes aware of any infringement of any intellectual property rights in the API and will fully cooperate with Licensor in any legal action taken by Licensor to enforce its intellectual property rights. If Licensee or any of its employees, contractors, and agents sends or transmits any communications or materials to Licensor by mail, email, telephone, or otherwise, suggesting or recommending changes to

the API and/or Licensor's Products, including without limitation, new features or functionality relating thereto, or any comments, questions, suggestions, or the like ("Feedback"), all such Feedback is and will be treated as non-confidential. Licensee hereby assigns to Licensor on Licensee's behalf, and on behalf of its employees, contractors, and agents, all right, title, and interest in, and Licensor is free to use, without any attribution or compensation to Licensee or any third party, any ideas, know-how, concepts, techniques, or other intellectual property rights contained in the Feedback, for any purpose whatsoever, although Licensor is not required to use any Feedback.

10.   Confidentiality.

(a)   All information of a Party disclosed or made available to the other Party in connection with this Agreement, including the API and the API Documentation disclosed by Licensor, constitutes the disclosing Party's "Confidential Information". Confidential Information does not include information that the receiving Party can show: (1) was publicly available at the time it was received; (2) became publicly available subsequent to the time it was communicated to the receiving Party, through no fault of its own; (3) was in the receiving Party's possession free of any obligation of confidence at the time it was received; or (4) was independently developed by the receiving Party without use of the disclosing Party's Confidential Information, as evidenced by the receiving Party's records kept in the ordinary course of its business.

(b)   The receiving Party shall hold the Confidential information of the disclosing Party in strict confidence and shall treat such Confidential Information with the same degree of care that it uses to protect its own confidential or proprietary information (in no event less than that which is reasonably required to protect the Confidential Information). The receiving Party will not use the disclosing Party's Confidential Information except as required to perform this Agreement.

(c)   The receiving Party may disclose the disclosing Party's Confidential Information only (i) to those of its employees, agents or representatives who require access to such Confidential Information to accomplish the purpose contemplated herein, but only if such employees, agents or representatives agree to treat the Confidential Information substantially in accordance with this Section 10; (ii) as permitted by the disclosing Party in writing; and (iii) if disclosure is required by the receiving Party pursuant to a law, judicial order or governmental directive, in which case the receiving Party shall provide the disclosing Party with prior notice of any such required disclosure prior to disclosing the Confidential Information, and the receiving Party shall take commercially reasonable steps to maintain the confidentiality of the Confidential Information in response to the disclosing Party's written request.

(d)   To the extent Licensee signed and delivered a confidentiality or non-disclosure agreement ("NDA") in connection with Licensee's preliminary review of the API and the API Documentation, the terms of that agreement are incorporated into and are made a part of this Agreement. However, in the event of any conflict between Licensee's obligations under this Agreement and the NDA, the terms that are enforceable and most protective of Licensor and the API and the API Documentation will govern.

(e)   Upon termination or expiration of this Agreement, or upon the disclosing Party's written request, the receiving Party shall promptly return to the disclosing Party (or destroy and certify to such destruction) all documents and other tangible materials representing its Confidential Information and all copies thereof, in the receiving Party's possession.

11.   Disclaimer of Warranties. THE API, THE API DOCUMENTATION, ANY DATA SUBMITTED OR RECEIVED VIA THE API, AND THE DEVELOPER TOOLS ARE PROVIDED "AS IS" AND "AS AVAILABLE" AND LICENSOR SPECIFICALLY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE. LICENSOR SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A

PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE, OR TRADE PRACTICE. LICENSOR MAKES NO WARRANTY OF ANY KIND THAT THE API, THE API DOCUMENTATION, DATA SUBMITTED OR RECEIVED VIA THE API, DEVELOPER TOOLS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET LICENSEE'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY OF LICENSEE'S OR ANY THIRD PARTY'S SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR-FREE, OR THAT ANY ERRORS OR DEFECTS CAN OR WILL BE CORRECTED. LICENSEE UNDERSTANDS THAT USING THE API AND API DOCUMENTATION WILL ALLOW LICENSEE TO FREELY ADD, DELETE, AND MODIFY DATA IN THE SOFTWARE DATABASES OF LICENSOR'S PRODUCT AND THAT LICENSEE ASSUMES FULL RESPONSIBILITY FOR ANY CHANGES MADE TO THE DATA. LICENSOR SHALL NOT BE RESPONSIBLE FOR ANY CORRUPTION OF DATA THAT MAY OCCUR AS A RESULT OF LICENSEE'S USE OF THE API AND API DOCUMENTATION.

12. <u>Indemnification</u>.

(a) <u>By Licensee</u>. Licensee agrees to indemnify, defend, and hold harmless Licensor and its officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all third-party claims, actions, demands and lawsuits ("<u>Claim</u>") brought against Licensor, and shall pay all losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees payable to such third party pursuant to such Claim, to the extent arising out of (i) Licensee's violation of applicable law, (ii) Licensee's Application and/or Licensee's Interface, including any User's use thereof; and (iii) any allegations that Licensee's Application and/or Licensee's Interface infringes upon, misappropriates, or violates a copyright, patent, trade secret, or other intellectual property right of a third party. THIS SECTION 12 (a) STATES THE ENTIRE LIABILITY OF LICENSEE, AND LICENSOR'S SOLE AND EXCLUSIVE REMEDY FOR ANY INFRINGEMENT INVOLVING LICENSEE'S APPLICATION OR LICENSEE'S INTERFACE.

(b) <u>By Licensor</u>. Licensor agrees to indemnify, defend, and hold harmless Licensee and its officers, directors, employees, agents, affiliates, successors, and assigns from and against any and all Claims brought against Licensee, and shall pay all losses, damages, liabilities, costs and expenses, including reasonable attorneys' fees payable to such third party pursuant to such Claim, to the extent arising out of (i) Licensor's violation of applicable law, (ii) Licensor's Application, including any User's use thereof; and (iii) any allegations that the API and/or the API Documentation infringes upon, misappropriates, or violates a copyright, patent, trade secret, or other intellectual property right of a third party. If the API and/or the API Documentation is or may become the subject of a Claim, Licensor may, at its option, modify or replace the affected parts so the API and/or the API Documentation becomes non-infringing or terminate this Agreement. Licensor shall have no obligation with respect to any Claim to the extent such Claim is based upon (x) Licensee's Application or Licensee's Interface; or (y) Licensee's use of a prior version of the API and/or the API Documentation if the Claim would have been avoided had such prior version not been used by Licensee. THIS SECTION 12 (b) STATES THE ENTIRE LIABILITY OF LICENSOR, AND LICENSEE'S SOLE AND EXCLUSIVE REMEDY, FOR ANY INFRINGEMENT INVOLVING LICENSOR'S PRODUCT, THE API OR THE API DOCUMENTATION.

(c) <u>Process</u>. The indemnified party shall (i) promptly notify the indemnifying party promptly upon becoming aware of the Claim (but failure to promptly notify shall not relieve the indemnifying party of its obligations unless its ability to defend the Claim is materially prejudiced thereby), and (ii) give the indemnifying party the right to solely control and direct the investigation, preparation, defense and settlement of the Claim, and (iii) fully cooperate with the indemnifying party, at the indemnifying party's

expense, in the defense and settlement of the Claim. The indemnified party shall have the right, at its cost, to employ counsel of its choice to participate in the defense of such Claim.

13.　　**Limitations of Liability.** EXCEPT WITH RESPECT TO A PARTY'S INDEMNIFICATION OBLIGATIONS, TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE TO THE OTHER PARTY OR TO ANY THIRD PARTY UNDER ANY TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR (a) ANY LOST PROFITS, LOST OR CORRUPTED DATA, COMPUTER FAILURE OR MALFUNCTION, INTERRUPTION OF BUSINESS, OR OTHER SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THE USE OR INABILITY TO USE THE API; OR (b) ANY DAMAGES, IN THE AGGREGATE, IN EXCESS OF $100,000 EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES AND WHETHER OR NOT SUCH LOSS OR DAMAGES ARE FORESEEABLE OR A PARTY WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY CLAIM A PARTY MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE (1) YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH CLAIM.

14.　　**Term and Termination.**

(a)　　**Term.** The Initial Term of this Agreement shall commence as of the Effective Date and shall continue for a period of twenty-four (24) months ("Initial Term"), unless otherwise terminated pursuant to the terms hereof. Upon expiration of the Initial Term, this Agreement shall automatically renew for successive one (1) year terms ("Renewal Term"), unless either Party provides the other with written notice of non-renewal at least thirty (30) days prior to the end of the Initial Term or any Renewal Term. The Initial Term and Renewal Term shall be known herein collectively as the "Term".

(b)　　**Termination.** This Agreement will terminate immediately and automatically without any notice if Licensee: (i) violates any of the terms and conditions of this Agreement; (ii) commits fraud or violates any law; (iii) engages in any act that is detrimental to the reputation of Licensor (including any degradation in the quality of Licensee's Application and/or Licensee's Interface, which causes the Licensor to lose confidence in Licensee's Application and/or Licensee's Interface); or (iv) Licensee becomes insolvent, files a petition for bankruptcy, or commences or has commenced against it proceedings relating to bankruptcy, receivership, reorganization, or assignment for the benefit of creditors. Additionally, Licensor may terminate this Agreement, at any time, upon thirty (30) days written notice to Licensee. Licensee may terminate this Agreement at any time by ceasing its access to and use of the API and the API Documentation.

(c)　　**Effect of Termination.** Upon expiration or termination of this Agreement for any reason (except termination for an uncured breach), Licensee and Licensee's Users, as of the effective date of expiration or termination, can continue to use Licensee's Interface for a period not to exceed 180 days after termination or expiration of this Agreement ("Transition Period"). At the end of the Transition Period, all licenses and rights granted to Licensee under this Agreement will terminate and Licensee must cease using, destroy, and permanently erase from all devices and systems Licensee directly or indirectly controls all copies of the API and return or destroy all API Documentation. Any terms that by their nature are intended to continue beyond the termination or expiration of this Agreement will survive termination. Termination will not limit any of Licensor's rights or remedies at law or in equity.

15.　　**Export Regulation.** The API may be subject to U.S. export control laws, including the Export Control Reform Act and its associated regulations. Licensee will not, directly or indirectly, export, re-export, or release the API to, or make the API accessible from, any jurisdiction or country to which

export, re-export, or release is prohibited by law, rule, or regulation. Licensee will comply with all applicable federal laws, regulations, and rules, and complete all required undertakings (including obtaining any necessary export license or other governmental approval), prior to exporting, re-exporting, releasing, or otherwise making the API available outside the U.S.

16. <u>U.S. Government Rights</u>. The API is a "commercial item" as that term is defined at 48 C.F.R. § 2.101, consisting of "commercial computer software" and "commercial computer software documentation" as such terms are used in 48 C.F.R. § 12.212. Accordingly, if Licensee is an agency of the US Government or any contractor therefor, Licensee receives only those rights with respect to the API as are granted to all other licensees under license, in accordance with (a) 48 C.F.R. § 227.7201 through 48 C.F.R. § 227.7204, with respect to the Department of Defense and their contractors, or (b) 48 C.F.R. § 12.212, with respect to all other U.S. Government licensees and their contractors.

17. <u>Governing Law and Jurisdiction</u>. This Agreement is governed by and construed in accordance with the internal laws of the State of New York without giving effect to any choice of conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of New York. Except as otherwise set forth herein, any legal suit, action, or proceeding arising out of or related to this Agreement or the licenses granted hereunder will be instituted exclusively in the federal courts of the United States or the courts of the State of New York in each case located in the County of Oneida, and each Party irrevocably submits to the exclusive jurisdiction of such courts in any such suit, action, or proceeding.

18. <u>Use of Trademarks</u>. Each Party agrees to permit the other Party (and hereby grants to the other Party a license) to use, on a limited, non-exclusive, non-transferable, non-sublicensable basis, certain marks owned or licensed to a Party or one of its affiliates (the "<u>Marks</u>") for the Term of this Agreement for the purpose of identifying the other as an integration partner and displaying the other Party's name or logo on its website. Each Party shall abide by the other Party's guidelines for the use of the Marks as provided by such Party from time to time. Except as provided in this Section, neither Party may use the names(s), trademark(s), or trade name(s) (whether registered or not) of the other Party, including, but not limited to, in blogs, press releases, white papers, case studies or other communications and materials via any type of media, without the other Party's prior consent. Either Party may provide Licensee the other Party, for such Party's review and approval (which approval will not be unreasonably withheld, conditioned, or delayed), a press release for immediate release in connection with the execution of this Agreement regarding the integration.

19. <u>Miscellaneous</u>.

(a) <u>Notices</u>. All notices, requests, consents, claims, demands, waivers, summons and other legal process, and other similar types of communications hereunder (each, a "<u>Notice</u>") must be in writing and addressed to a Party at the address set forth below and if to Licensor, sent to the attention of Legal Department (or to such other address that may be designated by the receiving Party from time to time in accordance with this Section 19(a)). All Notices must be delivered by personal delivery, nationally recognized overnight courier (with all fees pre-paid), or certified or registered mail (in each case, return receipt requested, postage prepaid). A Notice is effective only (i) upon receipt by the receiving Party and (ii) if the Party giving the Notice has complied with the requirements of this Section 19(a).

(b) <u>Headings</u>. The headings herein are for convenience only, do not constitute a part of this Agreement, and shall not be deemed to limit or affect any of the terms or provisions hereof.

(c) <u>Construction</u>. Any references in this Agreement to either party hereto shall include such party's agents and employees. For purposes of this Agreement, (i) the words "include," "includes," and

"including" are deemed to be followed by the words "without limitation;" (b) the word "or" is not exclusive; and (ii) the words "herein," "hereof," "hereby," "hereto," and "hereunder" refer to this Agreement as a whole.

(d) Waiver and Amendment. This Agreement, and each of the terms and provisions hereof, may only be amended, modified, waived, or supplemented by an agreement in writing signed by each Party. No waiver, forbearance, or failure by either Party hereto of its right to enforce any provision of this Agreement shall constitute a waiver or estoppel of such Party's right to enforce any other provision of this Agreement or a continuing waiver by such Party of compliance with any provision.

(e) Assignment. Neither Party shall assign, transfer, delegate, or subcontract any of its rights or obligations under this Agreement without the prior written consent of the other Party; provided however, this Agreement may be assigned by Licensor without Licensee's prior written consent to a parent or affiliate of Licensor upon written notice to Licensee. Any purported assignment or delegation in violation of this Section shall be null and void. This Agreement will inure to the benefit of and be binding upon each of the Parties and each of their respective permitted successors and permitted assigns.

(f) Severability. The provisions of this Agreement are intended to be interpreted and construed in a manner to make such provisions valid, binding, and enforceable. In the event that any provision of this Agreement is determined to be partially or wholly invalid, illegal or unenforceable, then such provision shall be deemed to be modified or restricted to the extent necessary to make such provision valid, binding and enforceable, or, if such provision cannot be modified or restricted in a manner so as to make such provision valid, binding and enforceable, then such provision shall be deemed to be excised from this Agreement and the validity, binding effect and enforceability of the remaining provisions of this Agreement shall not be affected or impaired in any manner.

(g) Compliance with Applicable Laws. Both Parties shall comply with all applicable federal, state and local laws, rules, regulations and ordinances (including without limitation export laws and laws applicable to sending of unsolicited email), governmental regulations, ordinances, and judicial administrative orders, including, but not limited to, export laws, laws applicable to the sending of unsolicited email, and any and all privacy laws relating to the receipt, collection, compilation, use, storage, processing, sharing, safeguarding, security (both technical and physical), disposal, destruction, disclosure or transfer of personal information as defined under such laws. Each Party shall be individually responsible for and solely liable for any violation of applicable laws by such Party related to the data and information collected by such Party through their respective applications and with respect to Licensee, using the API Key.

(h) No Third-Party Beneficiaries. The Parties do not confer any rights or remedies upon any person other than the Parties and their respective successors and permitted assigns.

(i) Independent Contractor. Nothing in this Agreement shall be deemed to constitute a partnership or an employment or agency relationship between the Parties, Licensor and Licensee being independent contractors only. Both Parties shall be responsible for their own expenses and costs under this Agreement and neither Party shall have any obligation to reimburse the other Party for any expense or costs incurred by the other Party in the performance of its duties hereunder.

(j) Counterparts. This Agreement may be executed in one or more counterparts, each of which is an original, and all of which together constitute only one agreement between the Parties. The signatures of all the Parties do not need to be on the same counterpart for it to be effective. Delivery of an executed counterpart's signature page of this Agreement, by facsimile, electronic mail in portable document format

(.pdf) or by any other electronic means has the same effect as delivery of an executed original of this Agreement.

(k)   Entire Agreement. This Agreement and any corresponding Statement(s) of Work constitute the sole and entire agreement of the Parties with respect to the subject matter contained herein, and supersedes all prior and contemporaneous understandings, agreements, representations, and warranties, both written and oral, with respect to such subject matter.