

## MASTER SERVICE AGREEMENT

### GENERAL TERMS AND CONDITIONS

**1. DEFINITIONS.** Capitalized terms shall have the meanings ascribed to them below or in the body of the Agreement.

**"Affiliate"** means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. "Control," for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

**"API"** means application programming interface(s) enabling the interoperability of the SaaS Applications and the Client System and the retrieval of Client Data. The Order Form will specify whether an API is provided by Company, Client or by a third party on behalf of Client. Where an API is not available or feasible, references to API shall be interpreted to mean a virtual private network (VPN) or any other means of communications or interfacing set out in the Order Form.

**"Applicable Law"** means federal, state, local, and foreign laws, rules, regulations, orders, directives, and other similar instruments including interpretations with the force of law that apply to the performance of the Parties hereunder.

**"Agreement"** means these general terms and conditions together with each executed Order Form or SOW.

**"Authorized User(s)"** means an individual who is authorized by Client or by a Client's customer to use the SaaS Applications or Services, and to whom Client or Client's customer have supplied a user ID and password. Authorized Users include, employees and consultants and Client's customer employees and consultants, in either case, subject to any further restrictions that may be set out in the Order Form.

**"Charge Metric"** means the applicable standard of measurement (including levels, tiers or limits) for determining the permitted use and calculating the Fees due as set out in the Order Form.

**"Client Data"** means any and all data, content and information, including Personal Data: (a) entered, uploaded, submitted, shared, posted, displayed, collected, derived on or via the SaaS Applications by Client, or on its behalf; or (b) described in the applicable Order Form or SOW.

**"Client System"** means Client's system(s) set out in the Order Form.

**"Company Platform"** means the Company SaaS platform containing the SaaS Applications currently residing on [www.certificatehero.com](http://www.certificatehero.com) (or any successor web page) and its related Services.

**"Confidential Information"** means any non-public, proprietary information obtained by a Party ("**Receiving Party**") whether in oral, written, demonstrative, graphic, electronic, machine readable, or in other tangible or intangible form, that relates to past, present or future products, services, marketing, research, development, information technology or business activities of the disclosing Party ("**Disclosing Party**") or its affiliates or their respective employees, customers or suppliers and any analyses, compilations, studies or other documents prepared by the Disclosing Party that contain or otherwise reflect such information. Without limiting the generality of the foregoing, Client's Confidential Information includes Client's Data and Personal Data; Company's Confidential Information includes the SaaS Applications and Services and any components thereof.

**"Documentation"** means, for the SaaS Applications, the technical documentation including administrator and user guides, available on <https://support.certificatehero.com/account-setup> or any successor web page.

**"IPR"** means intellectual property rights in and to patents, trademarks, service marks, trade and service names, copyrights, database rights and design rights (regardless of registration, and including applications for registration), know-how, moral rights, trade secrets, confidential and proprietary information, all rights or forms of protection of a similar nature or having similar or equivalent effect to any of them which may subsist anywhere in the world now existing or hereafter arising.

**"Issued Certificates"** means each certificate issued or processed via the SaaS

Applications on ACORD Forms as set out in the Order Form, or such other forms as Company may elect to utilize. References to "output" of the SaaS Applications include Issued Certificates.

**"Order Form(s)"** means one or more ordering documents for SaaS Applications and Services (including any addenda and supplements) that upon execution by the Parties, incorporate by reference and are subject to the terms of this Agreement.

**"Personal Data"** means information pertaining to individuals that is referred to as "personal data", "personally identifiable information", "personal information" or other reasonably equivalent terms within the scope of Applicable Laws relating to or impacting privacy, data security and processing of personal data.

**"SaaS Applications"** means the Company software-as-a-service applications available on the Company Platform that are specified in an Order Form as described in the Documentation including any API provided by Company.

**"Services"** means the solutions and services offered by Company including mapping, configuration, implementation, and training set out in an Order Form, and other professional services outlined in a SOW.

**"SOW"** means one or more statement of work for the performance of Services (including any addenda and supplements) that upon execution by the Parties or, are subject to the terms of this Agreement.

**"Support"** means support for the SaaS Applications set out in the applicable Order Form and provided in accordance with Exhibit A and the Documentation.

**"TOU"** means the terms of use posted on [www.certificatehero.com/terms](http://www.certificatehero.com/terms).

## 2. USAGE OF SAAS APPLICATIONS

2.1. **Limited Use Rights.** Conditioned upon Client's compliance with the terms and conditions of this Agreement, including the payment of Fees, Company grants a subscription-based, limited, non-exclusive, non-transferable, non-sublicensable right during the Term to Client and Authorized Users to access and use the SaaS Applications to the extent set out in the Order Form within the applicable Charge Metric. Client agrees that it shall not allow any third parties or unauthorized users to access, use or benefit from the SaaS Applications in any way whatsoever.

2.2. **Use Restrictions.** Client shall not and shall not permit Authorized Users or any third party to: (i) modify or create derivative works from or based on the SaaS Applications or any components thereof, (ii) reverse engineer, disassemble, decompile, decode, adapt, or otherwise attempt to derive or gain access to any source code of the SaaS Applications, (iii) use manual process, automatic device or application or extraction tool to access, monitor, use, download, retrieve, index, extract, scrape, or data mine the SaaS Applications, (iv) defeat, bypass, or circumvent any other protections implemented by Company with respect to its IPR or any data in the SaaS Applications, (v) bypass or breach any security device or protection used in the SaaS Applications, (vi) input, upload, transmit, activate or otherwise provide to or through the SaaS Applications any malware or harmful code or virus, (vii) damage, destroy, deface, disrupt, disable, impair, interfere with, or otherwise disrupt, impede, overburden or harm in any manner the SaaS Applications or Company's provision of products and services, (viii) remove, delete, alter, or obscure any IPR or attribution notices or disclaimers, or (ix) access the SaaS Applications for monitoring availability, performance or functionality, or for any other benchmarking or competitive purpose, or (x) otherwise access or use the SaaS Applications or Services in a manner and for purposes not permitted under the Agreement or in violation of Applicable Law.

## 3. AUTHORIZED USERS' ACCESS TO SAAS APPLICATIONS

3.1. **Compliance.** Client acknowledges and agrees that Authorized Users' acceptance of and compliance with the TOU is a condition to their enrollment, access to and continued use of the SaaS Applications and failure to comply may result in suspension or termination. Client is responsible for Authorized Users' compliance with the TOU and Applicable Laws and for actions and omissions by Authorized Users that would constitute a breach of this Agreement if taken by Client. Client must promptly notify Company if it becomes aware of any suspected

or unauthorized access to or use of the SaaS Applications or Services. To verify Client's compliance with this Agreement, Client shall cooperate with and provide information as is reasonably requested by Company from time to time.

3.2. Access Credentials. Client is solely responsible for providing access credentials to the SaaS Applications and designating permissions to Authorized Users. Client shall provide Authorized Users with appropriate instructions and precautions to maintain the security and confidentiality of access credentials. COMPANY SHALL NOT BE RESPONSIBLE FOR ANY MISUSE OF CLIENT OR AUTHORIZED USERS' DATA OR INFORMATION RESULTING FROM THEIR FAILURE TO SECURE THEIR ACCESS CREDENTIALS TO THE SAAS APPLICATIONS.

#### 4. SUPPORT, SERVICE CHANGES, API, SERVICE PROVIDERS

4.1. Support. Unless otherwise indicated in the Order Form, Company will provide to Client standard Support for the SaaS Applications at no additional charge, as set forth and in accordance with the service levels set out in the Customer Support Policy set out on [www.certificatehero.com/support](http://www.certificatehero.com/support).

4.2. Service Changes. Any of the components of the SaaS Applications may be modified by Company in its sole discretion, including the removal, replacement, and substitution of features or components therein. If Client establishes that a modification materially and adversely diminishes the value of a SaaS Applications, Client may terminate its subscription to the affected SaaS Application or portion thereof, by providing written notice to Company within thirty (30)-days following the implementation of the modification by Company.

4.3. Client API. Client acknowledges that the use of the SaaS Applications and provision of Support is dependent on an API being functional and performant. If an API is developed or sourced by Client, such API shall not interfere with, delay, modify or impact the integrity of the SaaS Applications or the ability to use them. COMPANY DISCLAIMS ALL RESPONSIBILITY AND LIABILITY FOR THE CLIENT API INCLUDING FOR ANY ACCESS, DISCLOSURE, MODIFICATION OR DELETION OF CLIENT'S DATA RESULTING FROM USE OF THE CLIENT API. No Standard Support is provided in connection with Client API. Client may engage Company, if Company so agrees, under an SOW for API development support.

4.4. Company Subcontractors. Company, in its sole discretion, may utilize third party subcontractors, including its affiliates ("Subcontractors") in the performance of its obligations under the Agreement and will be responsible for any violations of this Agreement by them.

#### 5. PAYMENTS

5.1. Payments. Fees for the Service ("Fees") shall be set out in the Order Form or SOW, as applicable, and will be calculated in accordance with the Charge Metrics and paid in accordance with the terms and the timing set forth in the Order Form or SOW. Except as otherwise expressly noted in an Order Form or SOW, payment obligations are non-cancelable, Fees paid are non-refundable, and quantities committed to cannot be decreased during the relevant Term. Company will invoice Client in advance and in accordance with the relevant Order Form or SOW. Unless otherwise stated in the Order Form, invoiced charges are due thirty (30) days following the date of the applicable invoice. Client is responsible for providing complete and accurate billing and contact information to Company and notifying Company of any changes to such information. Client must notify Company of any invoice disputes within ten (10) days of receipt. Once resolved, payment of disputed invoices will be due immediately. If any undisputed invoiced amount is not received by Company by the due date, then without limiting Company's rights or remedies, (a) those charges may accrue late interest at the rate of 1.5% of the outstanding balance per month, or the maximum rate permitted by law, whichever is lower, (b) Company may suspend the SaaS Applications or Services as set forth in Section 5.2, and (c) Company may condition future renewals on payment terms shorter than those specified in this Section 5.1.

5.2. Suspension for Failure to Pay. If any undisputed invoice owing by Client under an Order Form or SOW is more than thirty (30) days overdue, Company may suspend Client's access to the SaaS Applications or Services until such Fees are paid in full. Company will give Client at least ten (10) days' prior notice that Client's account is overdue, in accordance with Section 17.9 (Notices), before suspending Client's access to the SaaS Applications or Services.

5.3.

5.4. Scope Changes. In the event Client wishes to broaden the scope of SaaS Applications or Services, the Parties shall amend or execute a new Order Form or SOW covering such additional items. The Parties may agree to adjust the Term of

the Order Form or SOW and accordingly pro-rate the applicable Fees with respect to such additional items to bring into conformity the billing cycle with respect to all SaaS Applications and Services provided hereunder. All such adjustments shall be set forth in the applicable Order Form or SOW.

5.5. Taxes. Each Party will pay all applicable taxes in any jurisdiction arising by reason of its performance of its obligations as set forth in this Agreement, including, without limitation, any sales or use taxes and all taxes based upon its net income, gross receipts or assets and all payroll taxes with respect to its employees. State sales taxes, if any, will be determined based on the address provided by Client for invoicing purposes.

#### 6. CONFIDENTIALITY

6.1. Standard of Care. The Receiving Party shall preserve the Confidential Information of the Disclosing Party in confidence. The Receiving Party shall maintain, at a minimum, the same precautions and standard of care to which a reasonable person in such business would use to safeguard Confidential Information of its own and its clients or suppliers. Other than as permitted hereunder, the Receiving Party shall not, without first obtaining the other Party's written consent, disclose to any third party, or use for its own benefit (except as expressly contemplated herein), Confidential Information, during the Term of this Agreement and thereafter.

6.2. Limited Disclosure. The Receiving Party may disclose Confidential Information on a need-to-know basis to its authorized employees, contractors, agents, auditors, counsel and other representatives performing services for its benefit, solely as required for it to enjoy the benefits conferred by this Agreement and for the Parties to perform their respective obligations hereunder. All such Receiving Party's representatives receiving Confidential Information, shall be bound by non-disclosure obligations consistent with this Agreement and the Receiving Party shall be responsible for any violation by such representatives of the confidentiality obligations set forth herein.

6.3. Legal Requirement. If Confidential Information is required to be disclosed by law, regulation or court order by either Party, such disclosure shall be permitted to the extent legally required, provided that to the extent legally permissible, the Disclosing Party is given reasonable prior notice by the Receiving Party to enable it to seek a protective order or confidential treatment prior to such disclosure by the Receiving Party.

6.4. Scope Limitation. Confidential Information (other than Personal Data), does not include information which: (i) is or becomes generally available to the public other than as a result of disclosure by the Receiving Party, (ii) becomes available to the Receiving Party on a non-confidential basis from a source other than the Disclosing Party who is not bound by a confidentiality agreement with the Disclosing Party, (iii) was known to the Receiving Party or in its possession prior to the date of disclosure by the Disclosing Party, (iv) is furnished by the Disclosing Party to the Receiving Party with written permission to disclose, or (v) is independently developed by the Receiving Party without reference to or use of Confidential Information.

#### 7. PROPRIETARY RIGHTS

7.1. Company Ownership. As between the Parties, all right, title and interest, including all IPR in the Company Platform and any components thereof, and in any Statistical Information are and shall remain the sole and exclusive property of Company.

7.2. Client Data. As between the Parties, all right, title and interest, including all IPR in Client Data are and shall remain the sole and exclusive property of Client. Client grants to Company a limited, non-exclusive, non-transferable, non-sublicensable right and license, during the Term to use, modify, copy, process, display and prepare derivative works of such Client Data in order to deliver the SaaS Applications, Support and Services. Client has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Client Data. Client has obtained and will continue to obtain all rights, licenses and permissions necessary for Company to use the Client Data in the provision of Services as contemplated hereunder, including to transmit Client Data to and share it with third parties per Client's instructions.

7.3. Statistical Information. Company may derive and compile, either manually or automatically, Statistical Information and use it for its business purposes, including for operations management, testing and improvement, research and development and sharing with its Subcontractors, and other relevant

third parties for similar purposes. “**Statistical Information**” means analytics, statistical and other information contained in or derived from data related to, used or stored in connection with the SaaS Applications by Client or Authorized users that is anonymized or aggregated with other data captured in the SaaS Applications and Services pertaining the performance, operation and use of the Service.

7.4. **Feedback.** Company welcomes ideas, suggestions and feedback related to the Platform. Provision of such feedback by Client is entirely voluntary. Client hereby assigns to Company all title and interest, including IPR in such feedback and Company may use it for its business purposes in its discretion without any payment or accounting to Client. Such feedback is deemed part of Company Confidential Information. For the avoidance of doubt, nothing in this Section 7.4 grants any ownership rights to Company in any of Client’s products and services.

7.5. **Reservation of Rights.** All rights not expressly granted to Client herein are reserved by Company. There are no implied licenses to Company products or services, including the SaaS Applications, Services or other IPR of Company.

## **8. PROTECTION OF CLIENT DATA**

8.1. **Security Safeguards.** Company follows current industry standard security standards and has implemented technical, physical and administrative policies, procedures, practices and measures necessary and appropriate to protect against unauthorized or accidental access, loss, alteration, disclosure or destruction of any Authorized User Personal Data and Client Confidential Information residing on Company’s Platform. On request, Company will provide to Client its SOC 2 type 1 independent audit report, which shall be considered responsive to Client requests for Company security information.

8.2. **Personal Data.** Company’s privacy notice, is posted on [www.certificatehero.com/privacy](http://www.certificatehero.com/privacy), as updated from time to time, and describes the types of Personal Data that is collected under the Agreement, the processing activities involved, data protection features, and retention, return and disclosure of Personal Data.

## **9. THIRD PARTY PROVIDERS**

9.1. **Sourcing by Company.** Certain features or functionality of the SaaS Applications or components thereof may be sourced by Company from third parties (“**Company Providers**”) or may require the utilization of or integration with products, services or data of Company Providers (“**Company Providers Offering**”). Such Company Providers Offering may be provided by Company to Client under the terms herein or directly by such Company Providers to Client. If noted in the Order Form, Client may be required to enter into a direct agreement with a Company Provider with respect to the Company Provider Offering. The terms of such direct agreement do not amend the terms herein. Unless otherwise indicated in the Order Form, Client is responsible for its use of the Company Provider Offering and all associated fees and charges. Company Providers expressly disclaim all implied warranties of merchantability or fitness for a particular purpose of the Company Providers Offering. Company Providers do not warrant that the provision of the Company Provider Offering will be uninterrupted, error free, timely, complete or accurate, nor do they make any implied or express warranties as to results obtained from their use, any decisions made, or actions taken in reliance thereupon or as to the performance thereof. If a Company Provider ceases to make a Company Provider Offering available to Company or requires Company to suspend or terminate the provision of all or any part of the Company Provider Offering, or if Company ceases to source or integrate with a Company Provider Offering, then Company may suspend or terminate provision of such Company Provider Offering without any liability of Company to Client.

9.2. **Third Party Links and Resources.** The SaaS Applications may include links to third-party websites. Company is not responsible and shall not be liable for the content, products, or services available from those resources or websites.

## **10. REPRESENTATIONS, WARRANTIES & DISCLAIMERS**

10.1. **Mutual.** Each Party represents and warrants as to itself that: (i) it has and will continue to have the authority and all necessary rights, licenses, consents, permissions, and approvals to enter into, to grant the rights and perform the duties and obligations described in this Agreement, (ii) the performance of its obligations hereunder does not conflict with any other agreement either signed or contemplated, and (iii) the performance of its obligations hereunder shall be in compliance with all Applicable Laws.

10.2. **Limited Warranties.** Company represents and warrants to Client that the SaaS Applications and Support will materially perform the functions described in the Documentation, and the functionality and security controls will not materially decrease during any paid Term. In the event of any failure of these warranties, Company will, at Company’s sole option, and as Client’s sole and exclusive remedy, either repair the applicable SaaS Applications or terminate the applicable Order Form or portion thereof and refund to Client a pro-rata amount of Fees paid for the period during which the SaaS Applications were rendered unusable. Company further represents and warrants that Company will perform the Services in a good, workmanlike and professional manner. Client’s remedy for breach of this warranty of Services shall be the re-performance of the relevant Services free of charge. The foregoing warranties shall not apply if Client in in material breach of the Agreement or otherwise uses the SaaS Applications or Services in a manner not authorized hereunder.

10.3. **General Disclaimers.** EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 10 (i) COMPANY AND ITS AFFILIATES AND PROVIDERS DO NOT MAKE ANY REPRESENTATIONS OR WARRANTIES AND TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, SPECIFICALLY DISCLAIM ANY AND ALL WARRANTIES AND REPRESENTATIONS, EXPRESS OR IMPLIED, INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE OR USE (WHETHER OR NOT THE PURPOSE OR USE HAS BEEN DISCLOSED), WARRANTIES OF TITLE AND NON-INFRINGEMENT, ANY IMPLIED INDEMNIFICATION OBLIGATIONS, OR OTHER WARRANTIES THAT ARISE FROM TRADE USAGE OR CUSTOM, WITH RESPECT TO ANY ASPECT OF THE SAAS APPLICATIONS AND SERVICES AND ANY COMPONENTS THEREOF OR THEIR USE OR THE OUTPUT OR RESULTS OBTAINED FROM SUCH USE, ANY DECISIONS MADE OR ACTIONS TAKEN IN RELIANCE THEREUPON OR AS TO THE PERFORMANCE THEREOF (WHETHER PERFORMED IN WHOLE, PART OR NOT AT ALL), (ii) COMPANY AND ITS AFFILIATES AND PROVIDERS DO NOT GUARANTEE THE ADEQUACY, ACCURACY, TIMELINESS OR COMPLETENESS OF THE SAAS APPLICATIONS AND SERVICES OR ANY COMPONENTS OR OUTPUT THEREOF OR THAT THEY WILL BE ERROR FREE OR FREE FROM MALWARE OR OTHER INFIRMITY OR CORRUPTION AND THEREFORE, NONE OF THEM SHALL BE SUBJECT TO ANY DAMAGES OR LIABILITY FOR ANY ERRORS, OMISSIONS OR DELAYS THEREIN, AND (iii) THE SAAS APPLICATIONS AND SERVICES AND ALL COMPONENTS THEREOF ARE PROVIDED ON AN “AS IS” BASIS AND CLIENT’S USE THEREOF IS AT CLIENT’S OWN RISK.

10.4. **Issued Certificates Disclaimers.** EACH ISSUED CERTIFICATE AND ALL VERIFICATION INFORMATION PROVIDED BY THE SAAS APPLICATIONS OR SERVICES IS INTENDED FOR INFORMATIONAL PURPOSES ONLY. CLIENT SHALL BE SOLELY RESPONSIBLE FOR: (i) THE QUALITY, INTEGRITY, ACCURACY, LEGALITY, RELIABILITY AND APPROPRIATENESS OF ALL CLIENT DATA ENTERED INTO, PROCESSED THROUGH AND DISPLAYED VIA THE SAAS APPLICATIONS AND ANY ISSUED CERTIFICATES, (ii) THE SUPERVISION, MANAGEMENT AND CONTROL OF THE USE OF THE SAAS APPLICATIONS, INCLUDING DETERMINATION OF APPROPRIATE USES THEREOF IN ORDER TO ACHIEVE CLIENT’S INTENDED RESULTS, (iii) FOR ESTABLISHING AND ENSURING THE ADEQUACY OF INDEPENDENT PROCEDURES FOR TESTING THE RELIABILITY AND ACCURACY OF THE SAAS APPLICATIONS AND ISSUED CERTIFICATES, INCLUDING BACK-UP, DATA RECONSTRUCTION AND LIMIT EXPOSURES TO ERRORS AND FAILURES IN DATA AND STORAGE MEDIA, (iv) ANY DAMAGE THAT RESULTS FROM OR IS ASSOCIATED WITH CLIENT’S OR AUTHORIZED USERS’ USE OF OR RELIANCE ON THE SAAS APPLICATIONS, SERVICES AND ANY OUTPUT THEREFROM INCLUDING ISSUED CERTIFICATES.

## **11. INDEMNIFICATION**

11.1. **By Company.** Company shall, at its sole cost and expense, indemnify, defend and hold harmless Client, its Affiliates and its and their respective officers, directors, equity holders, employees, counsel, consultants and agents (“**Indemnitees**”) from and against all losses, liabilities, costs, damages and expenses, including but not limited to reasonable legal fees and expenses finally awarded against Client or amounts paid by Client (“**Losses**”), incurred or suffered by any of them as a result of third party claims, actions or demands (“**Claims**”), arising out of or in connection with infringement or misappropriation of IPR resulting from the authorized use of the Service. The foregoing shall not apply to the extent a Claim against Client arises from a Client API.

11.2. **By Client.** Client shall, at its sole cost and expense, indemnify, defend and hold harmless the Company Indemnitees from and against all Losses, incurred or suffered as a result of third party Claims arising out of or in connection with (i) the unauthorized use of the SaaS Applications or the Services, (ii) Client Data, or (iii) Issued Certificates.

11.3. **Process.** The indemnified Party shall provide the indemnifying Party with

prompt written notice and copies of relevant documentation regarding any claim or action for which indemnification may be sought. Failure by the indemnified Party to give such notice to the indemnifying Party shall not relieve the indemnifying Party of its indemnification obligation under this Agreement except to the extent that such failure materially disadvantages the indemnifying Party. If the indemnifying Party fails to appoint an attorney within ten (10) business days after it has been notified in writing of any such claim or action, the indemnified Party will have the right to select and appoint an attorney and the reasonable cost and expense thereof will be paid by the indemnifying Party. The indemnifying Party shall control the defense of any such claim, provided however that it shall not settle, compromise or consent to the entry of any judgment, unless such settlement, compromise or consent includes an unconditional release of the relevant indemnitees from all liability arising out of such claim or action, and is solely monetary in nature and does not include a statement as to, or an admission of culpability or failure to act by or on behalf of, the relevant indemnitees or otherwise adversely affect any of them. The indemnified Party shall reasonably cooperate with the indemnifying Party in the defense thereof at the indemnifying Party's expense.

11.4. Additional Actions by Company. Without limiting either Party's indemnification obligations, if Company's SaaS Applications are enjoined for any reason or if Company believes they may be enjoined then Company shall have the right, at its own expense and in its sole discretion, to: (i) procure for the Client the right to continue using the applicable SaaS Application, (ii) to modify the SaaS Applications as applicable, or any parts thereof or re-direct the manner in which they are used such that they become non-infringing, or (iii) to replace the Service or any parts thereof, as applicable with non-infringing materials, or if none of the foregoing is commercially reasonable, terminate the Agreement and refund on a pro-rata basis the Fees paid by Client for the period such SaaS Application was not available or usable.

11.5. Exclusive Remedy. This Section 11 states the indemnifying Party's sole liability to, and the indemnified Party's exclusive remedy against, the other Party for any type of claim described in this Section 11.

## 12. LIMITS ON LIABILITY

12.1. Damages Waiver. EXCEPT FOR EXCLUDED CLAIMS, IN NO EVENT, SHALL COMPANY, ITS AFFILIATES OR PROVIDERS BE LIABLE HEREUNDER FOR ANY INDIRECT, SPECIAL, INCIDENTAL, EXEMPLARY, PUNITIVE OR CONSEQUENTIAL DAMAGES, INCLUDING LOSS OF PROFITS, LOST TIME, LOST DATA OR LOST GOOD WILL, EVEN IF IT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, WHETHER IN CONTRACT, TORT, STRICT LIABILITY OR OTHERWISE.

12.2. Cap. EXCEPT FOR EXCLUDED CLAIMS ARISING UNDER OR RELATED TO IPR INDEMNIFICATION OBLIGATIONS HEREUNDER, GROSS NEGLIGENCE, WILLFUL MISCONDUCT, OR DEATH OR BODILY INJURY, IN NO EVENT SHALL THE MAXIMUM CUMULATIVE LIABILITY OF COMPANY OR ITS AFFILIATES FOR ANY AND ALL CLAIMS ARISING UNDER OR RELATED TO THIS AGREEMENT, REGARDLESS OF THE FORM OF ACTION, EXCEED, IN THE AGGREGATE, THE FEES PAID OR PAYABLE BY CLIENT TO COMPANY DURING THE SIX -(6) MONTHS PRECEDING THE CLAIM UNDER THE APPLICABLE ORDER FORM THAT GAVE RISE TO THE CLAIM.

12.3. Excluded Claims. The limitations set out in Sections 12.1 and 12.2 shall not apply to claims (i) that are not excludable as a matter of law, (ii) resulting from a Party's IP indemnification obligation or intellectual property infringement, or (iii) resulting from Company's gross negligence or willful misconduct ("**Excluded Claims**").

12.4. Conditions. The exclusions and limits in this Section 12 reflect the Parties' allocation of risk and will apply under any legal theory (including, without limitation, contract or tort), even where a party was aware of the possibility of such damages, the damages were foreseeable, or any remedies hereunder fail of their essential purpose.

## 13. TERM, TERMINATION AND SUSPENSION

13.1. Agreement Term. This Agreement commences as of the date set out in the Order Form and shall continue in effect so long as an Order Form is in effect. The initial term of an Order Form shall be set out therein and unless otherwise indicated shall be automatically renewed for additional twelve (12) months renewal periods (the initial term and each renewal term, "**Term**"), unless Client provides Company with a written non-renewal notice sixty (60) days prior to the scheduled renewal date to [cancellation@certificatehero.com](mailto:cancellation@certificatehero.com).

13.2. Termination for Material Breach. Either Party may terminate this

Agreement immediately upon written notice if the other Party commits a material breach and (if capable of remedy) fails to remedy the material breach within thirty (30)-days of being notified to do so by the non-breaching Party.

13.3. .

13.4. Suspension. While Company is under no obligation to do so, it may, in its sole discretion, and without further notice, monitor, and investigate access to and use of the SaaS Applications and Services. Company may block, suspend or terminate Client or Authorized Users' use of the SaaS Applications and Service without liability: (i) if there is a significant threat to the functionality, security, integrity, or availability of the SaaS Applications or Services, (ii) if Company reasonably believes that the SaaS Applications are being used in violation of the Agreement or Applicable Law, (iii) if requested by a law enforcement or government agency or otherwise to comply with Applicable Law, or (iv) to protect the rights, property and safety of Company, Client, Authorized Users and the public, or as otherwise specified in the Agreement.

13.5. Outstanding Fees. The termination or expiration of the Agreement shall not relieve Client from any payment obligations with respect to Fees accrued during Term, whether or not Client was billed for such Fees during such Term or thereafter, unless Client terminates the Agreement or applicable Order Form in accordance with Section 13.2 for Company's material breach, in which case, Client shall be entitled to a prorated refund of any pre-paid Fees for the remainder of the applicable Term.

13.6. Effect of Termination/Expiration. Upon termination or expiration of this Agreement, Client shall, unless otherwise instructed by Company, immediately terminate all access to the applicable SaaS Applications or Services and cease any use thereof. No later than thirty (30) days following termination, if directed by the Disclosing Party, the Receiving Party shall return (in a usable format by a secure file transfer) or destroy all Confidential Information, and upon request certify, in writing, the accomplishment of the obligations set forth in this Section. Notwithstanding the foregoing, to the extent Company must retain Confidential Information to comply with regulatory record keeping requirements or where applicable, Company needs to retain Confidential Information to ascertain the completion of certain services post-termination or expiration, Company may retain such information for the required duration, provided that it shall apply the same protections set forth herein. For the avoidance of doubt Company is not required to return or destroy Statistical Information which is Company IPR and Confidential Information.

14. **PUBLICITY, MARKETING AND ATTRIBUTION.** Either Party may include the name and logo of the other Party in lists of customers and vendors, regardless of format or media (including in product literature, press releases, social media and other marketing materials). Neither Party may issue any press release regarding the Agreement without the other Party's prior written consent, not to be unreasonably withheld or delayed. Client agrees to be a reference to Company's potential customers, following advance coordination. Company may reference to Client in case studies, ROI analysis, white papers and related marketing materials. Client hereby consents to the receipt of marketing communications from Company.

15. **FORCE MAJEURE.** Any delays in or failure of performance by Company shall not be considered a breach of this Agreement if such delay or failure is caused by acts of God, unforeseeable circumstances, acts (including a delay or failure to act) of any governmental authority (de jure or de facto), embargoes, strikes, labor disputes, riots, fire, floods, earthquakes, wars (declared or undeclared) or other military action, terrorism, sabotage, epidemics, pandemics, state of emergency, lockdowns, travel bans, or other causes beyond Company's reasonable control.

## 16. INSURANCE

16.1. Coverage. During the Term, the Company will maintain insurance coverage consistent with the following requirements:

- i. Statutory Workers Compensation Insurance and Employers Liability Insurance with limits of Bodily injury by Accident \$1,000,000 each accident, Bodily injury by Disease \$1,000,000 policy limit and Bodily injury by Disease \$1,000,000 each employee.
- ii. Automobile Liability with limits of \$1,000,000 per accident for owned (if any), non-owned and hired vehicles.
- iii. Commercial General Liability with limits of \$1,000,000 each occurrence and \$2,000,000 in the aggregate including Products Liability. Client will be included as an additional insured for ongoing operations.

- iv. Technology Errors and Omissions/Cyber Liability with limits of \$1,000,000 per claim and in the aggregate.

## 17. MISCELLANEOUS

17.1. Assignment. Client may not assign, novate or otherwise transfer this Agreement nor any rights granted hereunder whether voluntarily or by operation of law or through change of control, including by way of sale of stock, assets, merger or consolidation or otherwise (collectively "**Assignment**") without the prior written consent of Company, which consent shall not be unreasonably withheld. Any assignment contrary to these provisions shall be null and void and of no legal effect. Subject to the foregoing, this Agreement shall be binding upon the Parties and their respective legal successors and permitted assigns.

17.2. Independent Contractor. Company and Client are independent contractors with respect to each other and nothing herein creates an association, a joint venture, partnership or other agency relationship between them.

17.3. Equitable Relief. In the event of a breach or threatened breach pertaining to proprietary rights or confidentiality obligations, the injured Party may have no adequate monetary remedy and, accordingly, may seek an injunction or other equitable remedy. Nothing herein shall be construed as a waiver or prohibition against any other legal or equitable remedies in the event of a breach of a provision of this Agreement.

17.4. Entire Agreement. This Agreement constitutes the entire agreement and understanding between the Parties regarding the subject matter hereof, and supersedes all prior and contemporaneous discussions, proposals and agreements between them relating thereto. In the event of any inconsistency among the following documents, the order of precedence shall be: (1) Order Forms or SOW, (2) this Agreement and (3) the Documentation. Company rejects any term or condition in any Client-form purchasing document (excluding Order Forms).

17.5. Amendment. This Agreement may only be modified or amended in a writing, which makes an express reference to this Agreement and is signed by a duly authorized representative of each Party. No other act, communication, representation, document, usage custom or practice shall be deemed to modify or amend this Agreement.

17.6. Construction. The word 'including' shall be deemed to mean 'including but not limited to' unless expressly set forth to the contrary. The words "herein", "hereof" and "hereunder" and other words of similar import refer to the Agreement as a whole, including the Services Schedule, and any web pages incorporated by reference, and any and all attachments and appendices hereto, as the same may be amended or supplemented, and not to any subdivision contained in the Agreement unless expressly stated to the contrary. Neutral pronouns and any variations thereof shall be deemed to include the feminine and masculine and all terms used in the singular shall be deemed to include the plural, and vice versa, as the context may require. Terms denoting persons shall include legal entities and vice versa. Terms having well-known technical or trade meaning (e.g., "terms of art") shall be used in accordance with such recognized meanings. When used in the context of a series of items the word "or" will be construed such that the series may include any of the items, all of the items, or any combination of the items. Where any provision in this Agreement refers to an action to be taken by a Party, or which such Party is prohibited from taking, such provision shall be

applicable whether the action in question is taken directly or indirectly by such Party.

17.7. No Waiver. No failure or delay on the part of neither Party in the exercise of any right, power or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy preclude other or further exercise thereof, or the exercise of any other right, power or remedy.

17.8. Severability. In the event that any court having competent jurisdiction over the interpretation of this Agreement shall finally determine that one or more of the provisions contained in this Agreement is unenforceable in any respect, then such provision shall be deemed limited and restricted to the extent that such court deems it to be enforceable, and, as so limited or restricted, shall remain in full force and effect. In the event that any such provision or provisions shall be deemed wholly unenforceable, such provision shall be deleted from this Agreement, and the remaining provisions shall remain in full force and effect.

17.9. Notices. Notices shall be considered given on the date of receipt, if delivered by hand or, overnight courier or, if sent by electronic means, upon receipt of confirmation or a reply which includes the original message, and six (6) days after the date of mailing, if mailed postage paid. Notices shall be given to each Party at its address and marked to the attention of the person set forth below. A Party may change any such address by delivery of written notice to the other Party.

17.10. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Delaware, as to all matters, including but not limited to matters of validity, construction, effect, performance, and remedies. In no event, shall this Agreement be governed by the United Nations Convention on Contracts for the International Sale of Goods. Further, UCITA whether enacted in whole or in part by any state or applicable jurisdiction, regardless of how codified shall not apply to this Agreement and is hereby disclaimed. In connection with any claims or disputes between the Parties arising out of or relating to this Agreement, each Party consents to the exclusive jurisdiction and venue in the Wilmington state courts located in the County of New Castle and in the federal courts located in the U.S. District Court for the District of Delaware.

17.11. Survival. The provisions of the Agreement that by their nature extend beyond the termination of the Agreement, will survive the termination of the Agreement, including but not limited to the following Sections: 1, 3.13.2, 6, 7, 10.210.310.4, 11, 12, 13.6 and 1617.

17.12. No Presumptions. In construing the terms of this Agreement, no presumption shall operate in either Party's favor as a result of its counsel's role in drafting the terms or provisions hereof.

17.13. Headings. Section headings in this Agreement are for convenience only and shall not affect the interpretation of any provision of this Agreement.

17.14. Counterparts. This Agreement (including any Order Form or SOW) may be executed and delivered by electronic signature, facsimile or email in any number of counterparts, each of which shall be an original, but all of which together (including reproductions by photocopy or scan) shall constitute one instrument and be deemed delivery of an original.

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