



MASTER SERVICES SUBSCRIPTION AGREEMENT

THIS AGREEMENT CONSTITUTES A BINDING CONTRACT ON YOU AND GOVERNS THE USE OF AND ACCESS TO THE SERVICES BY YOU, YOUR COMPANY AND USERS WHETHER IN CONNECTION WITH A PAID OR FREE TRIAL SUBSCRIPTION TO THE SERVICES.

By accepting this Agreement, either by accessing or using a Service, or authorizing or permitting any User to access or use a Service, You agree to be bound by this Agreement as of the date of such access or use of the Service (the "Effective Date"). If You are entering into this Agreement on behalf of a company, organization or another legal entity (an "Entity"), You are agreeing to this Agreement for that Entity and representing to Brightidea that You have the authority to bind such Entity and its Affiliates to this Agreement, in which case the terms "Subscriber," "You," "Your" or a related capitalized term herein shall refer to such Entity and its Affiliates. If You do not have such authority, or if You do not agree with this Agreement, You must not use or authorize any use of the Services.

The purpose of this Agreement is to establish the terms and conditions under which Subscriber may purchase Brightidea's Services and Professional Services as described in an Order Form or in a Statement of Work signed by You or a authorized representative of your Company.

In the event of any inconsistency or conflict between the terms of the Agreement and the terms of any Order Form or Statement of Work, the terms of the Order Form or Statement of Work shall control.

AGREEMENT

1. DEFINITIONS.

Terms which are capitalized shall have the meaning indicated below or elsewhere in the Agreement whether they are in the singular or in the plural:

1.1 "**Affiliate**" means any entity which directly or indirectly controls, is controlled by, or is under common control with a party to this Agreement, where "control" means direct or indirect ownership or control of more than 50% of the voting interests of the applicable party.

1.2 "**Authorized Users**" means ("Internal Users"), ("Licensed Administrator Users"), and ("External Users") who are licensed to access the Services.

1.2.1. "**Affiliate/System Sponsor**" means a role within the Service who has permissions to setup and modify all the configuration of the entire Services

1.2.2. "**External Users**" means other third parties outside Subscriber employees, consultants or contractors that are authorized by Subscriber to use the Services and have been supplied with user IDs and passwords.

1.2.3. "**Internal Users**" means Subscriber employees, consultants or contractors that are authorized by Subscriber to use the Services and have been supplied with user IDs and passwords.

1.2.4. "**Initiative/Pipeline Administrator**" means a role within the Service who has permissions to setup and modify all the configuration of a specific area in the system.

1.2.5. "**Licensed Administrator**" means an "Internal User" that is selected by the Subscriber to be one of the following roles within the Service, a) Affiliate/System Sponsor b) System/Community Administrator, c) Initiative/Pipeline Administrator, d) Manager & e) Moderator.

1.2.6. "**Licensed Administrator Users**" mean Subscriber employees, consultants or contractors that are authorized by Subscriber to be an "Licensed Administrator" in the Services.

1.2.7. "**Manager**" means a role within the Service who has permissions to setup and modify all the configuration of a specific area in the system

1.2.8. "**Moderator**" means a role within the Service who has permissions to manage the ideas in a specific pipeline.

1.2.9. **“System/Community Administrator”** means a role within the Service who has permissions to setup and modify all the configuration of the entire Services

1.3 **“Business Days”** means the generally accepted days of operation per week, from Monday to Friday, excluded the United States holidays as observed by Brightidea.

1.4 **“Confidential Information”** means proprietary and confidential Information in connection with this Agreement, disclosed by a party (“Disclosing Party”) to the other (“Receiving Party”) whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Such Confidential Information may include, but is not limited to, trade secrets, know how, inventions, techniques, processes, programs, schematics, software source documents, data, customer lists, financial information, and sales and marketing plans or information which the receiving party knows or has reason to know is confidential, proprietary or trade secret information of the disclosing party, as well as, any information posted on the Services.

1.5 **“Effective Date”** means the date this Agreement is signed by both Subscriber and Brightidea

1.6 **“Intellectual Property”** means any and all tangible and intangible: (i) rights associated with works of authorship throughout the world, including but not limited to copyrights, neighboring rights, moral rights, and mask works, and all derivative works thereof, (ii) trademark and trade name rights and similar rights, (iii) trade secret rights, (iv) patents, designs, algorithms and other industrial property rights, (v) all other intellectual and industrial property rights (of every kind and nature throughout the world and however designated) whether arising by operation of law, contract, license, or otherwise, and (vi) all registrations, initial applications, renewals, extensions, continuations, divisions or reissues thereof now or hereafter in force (including any rights in any of the foregoing).

1.7 **“Order Form”** means a document, executed by Subscriber, pursuant to which Subscriber orders Services, training, support and/or Professional Services under this Agreement, including any addenda thereto. Each Order Form is subject to all of the terms and conditions of this Agreement and is hereby incorporated into this Agreement by this reference

1.8 **“Professional Services”** means professional services to be performed by Brightidea on behalf of Subscriber, as more fully described on an Order Form or SOW.

1.9 **“Professional Services Fees”** means fees to be paid by Subscriber to Brightidea in consideration of the performance of Professional Services, as set forth in an applicable Order Form and/or an applicable SOW.

1.10 **“Service(s)”** means the products and services that are ordered by Subscriber online through a link or via an Order Form referencing this Agreement, whether on a trial or paid basis, and made available online by Brightidea, via the applicable subscriber login link and other web pages designated by Brightidea, including, individually and collectively, the applicable Software, updates, API, Documentation, and all applicable Associated Services that Subscriber have purchased or deployed or to which Subscriber have subscribed (“Deployed Associated Services”) that are provided under this Agreement. From time to time the names and descriptions of the Services or any individual Service may be changed. To the extent Subscriber is given access to such Service as so described by virtue of a prior Order Form or other prior acceptance of this Agreement, this Agreement shall be deemed to apply to such Service as newly named or described.

1.11 **“Service(s)-Specific Terms”** means additional terms that apply to certain Service(s) located in Exhibit B.

1.12 **“Services Fees”** means the fees to be paid by Subscriber for Services purchased during the Subscription Term, as set forth in the applicable Order Form.

1.13 “**Subscriber Data**” means all data and information submitted, transmitted, generated or stored by Subscriber or Authorized Users in connection with use of the Services under this Agreement.

1.14 “**Subscription Term**” means the term for which Subscriber has purchased the right to access and use the Services under an applicable Order Form.

1.15 “**Term**” means a period of time commencing on the Effective Date and continuing until this Agreement is terminated or cancelled under Section 6 of this Agreement

1.16 “**Third Party**” means any individual who does not have a direct connection with a legal transaction but who might be affected by it, unless the Agreement provides the Third Party might be affected by it.

1.17 “**Third Party Products, Services or Software**” designates products, services or software created or provided by parties other than Brightidea or one of its subcontractor.

1.18 “**Knowledge Base Articles (KBA)**” means the online support articles for the Services, available at <https://support.brightidea.com> which may be updated by Brightidea from time to time. Subscriber will have the opportunity, at its convenience, to review any updates of the KBAs at any time.

2. ORDERING AND USE OF THE SERVICES.

2.1 **Order Forms.** Subscriber may purchase Services, training, support and Professional Services by completing, executing and submitting to Brightidea an Order Form, and paying the applicable fees. Each Order Form will set forth the fees and type and description of services being ordered. The Order Form will include the number of Authorized Users permitted to access the Services. Any Order Form shall become binding upon Brightidea only once it has been accepted by Brightidea, as evidenced by the Services or other items being provisioned to Subscriber by Brightidea.

2.2 **User Licensing.** Subscriber understands and agrees that it has purchased the right to permit use of the Services by the number of Authorized Users Subscriber may add additional Authorized Users during the Subscription Term. An Authorized User is a designated individual and such individual may not share access to the Service with another individual, provided that Subscriber may reassign the right to access and use the Service to a new individual, in order to replace an Authorized User who no longer requires ongoing access to and use of the Services.

2.3 **Subscriber Responsibilities.** Subscriber agrees to (i) use the Services solely in accordance with this Agreement, the User Guide and applicable laws and government regulations, and to ensure and be responsible for the compliance of all Authorized Users with all of the foregoing, and (ii) use its best efforts to prevent unauthorized access to or use of the Services, (iii) ensure and be responsible for the quality, accuracy, completeness and legality of Subscriber Data and of the means by which Subscriber acquired its data, and (iv) notify Brightidea promptly of any such unauthorized access.

2.4 **Restrictions.** Subscriber shall not (i) use the Services to store or transmit computer viruses, worms, time bombs, Trojan horses and other harmful or malicious code, routines, files, scripts, agents or programs, (ii) use the Services to store or distribute any information, material or data that is harassing, threatening, infringing, libelous, unlawful, obscene, or which violates the privacy or intellectual property rights of any third party, (iii) access or use the Services if Subscriber is a direct competitor of Brightidea, (iv) access or use the Services for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes, including, without limitation, for the purpose of designing and/or developing any competitive services, (v) make the Services available to anyone other than an Authorized User, (vi) sell, resell, rent, lease, offer any time sharing arrangement, service bureau or any service based upon, the Services, (vii) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, (viii) attempt to gain unauthorized access to the Services or any associated systems or networks or (ix) modify, make derivative works of, disassemble, decompile or reverse

engineer the General or Branded Site, the Services or any component thereof, (x) perform any application scan and/or penetration test without prior written approval from Brightidea or utilize any tool or services that perform Denial-of-Service (DOS) attacks or simulations against any Brightidea Asset (including but not limited to Protocol Flooding or Resource request flooding). Subscriber agrees to indemnify, defend and hold harmless Brightidea from any and all third party claims, liability, damages and/or costs (including, but not limited to, attorneys' fees) arising from Subscriber's violation of this Section 2.

2.5 Free Trials. If Subscriber register for a free trial for any of the Services, Brightidea will make such Services available to Subscriber on a trial basis free of charge until the earlier of (a) the end of the free trial period for which Subscriber registered to use the applicable Service(s); (b) the start date of any subscription to such Service purchased by Subscriber for such Service(s); or (c) termination of the trial by Brightidea in our sole discretion. Trial terms and conditions may appear on the trial registration web page. Any such additional terms and conditions are incorporated into this Agreement by reference and are legally binding. ANY SERVICE DATA YOU ENTER INTO A SERVICE, AND ANY CONFIGURATIONS OR CUSTOMIZATIONS MADE TO A SERVICE BY OR FOR SUBSCRIBER, DURING THE FREE TRIAL WILL BE PERMANENTLY LOST UNLESS YOU PURCHASE A SUBSCRIPTION TO THE SAME SERVICE AS COVERED BY THE TRIAL, PURCHASE THE APPLICABLE SERVICE, OR EXPORT SUCH SERVICE DATA, BEFORE THE END OF THE TRIAL PERIOD.

2.6 Beta Features: Brightidea may make Beta Features available to Subscriber at no charge. Subscriber may choose to try such Beta Feature in Subscriber's sole discretion. Beta Features are intended for evaluation purposes and not for production use, are not supported. Beta Features are not considered "Services" under this Agreement; however, all restrictions, Brightidea reservation of rights and Subscribers obligations concerning the Service, and use of any Non-Brightidea Services shall apply equally to Subscribers use of Beta Services. Unless otherwise stated or communicated to Subscriber, any Beta Features trial period will expire upon the date that a version of the Beta Feature becomes generally available without the applicable Beta Feature designation. Brightidea may discontinue Beta Feature at any time in Brightidea's sole discretion and may never make them generally available. Brightidea will have no liability for any harm or damage arising out of or in connection with a Beta Feature.

2.7 Usage Limits. Services are subject to Authorized User(s) and Product(s) specified in Order Forms. If Subscriber exceeds a contractual usage limit, Brightidea will work with Subscriber to seek to reduce Subscriber's usage so that it conforms to that limit. If, notwithstanding Brightidea's efforts, Customer is unable or unwilling to abide by a contractual usage limit, Subscriber will execute an Order Form for additional quantities of the applicable Services promptly upon Brightidea's request, or Brightidea will invoice the Subscriber in the month following the unauthorized users' use of the Services for the month in which the unauthorized user accessed to and pay any invoice for excess usage in accordance with section 5.1 below

3. PROFESSIONAL SERVICES AND PROVISION AND SUPPORT OF SERVICES.

3.1 Subscriber Site. Brightidea will provide a general website that does not include the Subscriber's corporate logos, page headers or colors ("General Site"). Unless provided in an Order Form, Subscriber shall be responsible for any configuration and branding of the General Site. Brightidea will, subject to an applicable fee in an Order Form, configure the website using the Subscriber's corporate logo, page headers and colors ("Branded Site") and as more fully described in the applicable Order Form. Subscriber shall be responsible for providing all logos, artwork and other information necessary for Brightidea to create the Branded Site.

3.2 Provision of Services. Brightidea agrees to make available to Subscriber the Services set forth in an applicable Order Form, in accordance with the terms and conditions of this Agreement. Brightidea hereby grants to Subscriber during each Subscription Term a non-exclusive, non-transferable right to have the number of Authorized Users set forth in the applicable Order Form to

access and use the Services. Brightidea expressly reserves the right to place certain limitations on the Services. Any such limitation, if put in place after signature of this agreement, will be subject to thirty (30) days prior notification and formal written acceptance of Subscriber. If Subscriber does not respond to the notification within ten (10) days after receiving the notification, as provided above, it will constitute acceptance.

3.3 Changes to Services. Brightidea may, in its sole discretion without substantially changing or degrading the existing features, periodically modify, enhance and/or expand the features and functionality of the Services at no additional cost to Subscriber (“No-Cost Feature”). Brightidea will periodically communicate to Subscriber the availability of No-Cost Features. Brightidea may also periodically make available additional features and/or functionalities to a Service which may, but is not required to, be added to a Service by Subscriber at an additional cost (“Cost Feature”). If Subscriber elects to add a Cost Feature, it may do so by contacting its local Brightidea sales representative and shall complete, execute and submit to Brightidea an Order Form and pay the applicable fees for such additional features and/or functionalities.

3.4 Services Availability, Training and Support. Brightidea will use its commercially reasonable efforts to make the Services available 24 hours a day, 7 days a week, excluding planned downtime, Force Majeure Events (as defined in Section 12.2 below) and Internet service interruptions, including, without limitations Internet service provider failures or delays or denial service attacks. Brightidea’s will comply with the terms of the service level agreement located at http://www.brightidea.com/wp-content/uploads/BI_ONDEMAND_SLA.pdf. Brightidea will use its commercially reasonable efforts to provide Subscriber with reasonable advance notice of planned downtime, and to schedule planned downtime during off peak hours. Brightidea will provide Subscriber with training and support in connection with Subscriber’s use of the Services in accordance with the tier of support selected on the applicable Order Form. Brightidea provides the Services, Training, Support and Professional Services only in accordance with applicable laws and government regulations.

3.5 Subscriber Data. Brightidea will access Subscriber Data to provide the Services and prevent or address service or technical problem, including without limitation, in response to Subscriber Support request. Nevertheless, Brightidea shall maintain appropriate administrative, physical and technical safeguards for protection of the security and confidentiality of Subscriber Data in accordance with the service level agreement (“SLA”) located at http://www.brightidea.com/wp-content/uploads/BI_ONDEMAND_SLA.pdf. Brightidea shall not be responsible or liable for the deletion, correction, destruction, damage, or loss of Subscriber Data as a result of Subscriber or its user error. Brightidea shall transmit, transfer, and deliver all Subscriber Data and Confidential Information in the performance of the Services via an encrypted or similarly secure transport methodology. Brightidea will not transmit any Subscriber Data that is not required for the performance of the Services or requested by Subscriber, or compelled by law and in accordance with Section 8. In the event this Agreement expires or is terminated, and upon Subscriber’s written request, Brightidea will make available to Subscriber a file of the Subscriber Data within thirty (30) days of such expiration or termination.

3.6 Protection of Customer Data. Brightidea will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality, and integrity of Subscriber Data. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Subscriber Data (other than by Subscriber or Users). Except with respect to a free trial, the terms of the data processing addendum at https://www.brightidea.com/wp-content/uploads/BI_DPA_2020.pdf (“DPA”) are hereby incorporated by reference and shall apply to the extent Subscriber Data includes Personal Data, as defined in the DPA. To the extent Personal Data from the European Economic Area (EEA), the United Kingdom and Switzerland are processed by Brightidea, the EU-US and/or Swiss-US Privacy Shield, and/or the Standard Contractual Clauses shall apply, as further set forth in the DPA. For the purposes of the Standard Contractual Clauses, Subscriber and its applicable Affiliates are each the data exporter, and Subscriber's acceptance of this Agreement, and an applicable Affiliate's execution

of an Order Form, shall be treated as its execution of the Standard Contractual Clauses and Appendices.

3.7 **External Sites.** The Services may contain links to, or otherwise may allow Subscriber to connect to and use certain Third Party Products, Services or Software under separate terms and conditions (collectively, "Other Services") in conjunction with the Services which will be clearly as governed by a separate agreement signed with such Third Party providing such Other Products before Subscriber can connect or use such Other Services. If Subscriber decides to access and use such Other Services, Subscriber's use is governed solely by the terms and conditions of such Other Services, and Brightidea does not endorse, is not responsible for, and makes no representations as to such Other Services, their content or the manner in which they handle Subscriber's Data, including browser tracking via cookies. Brightidea is not liable for any damage or loss caused or alleged to be caused by or in connection with Subscriber's access or use of any such Other Services, or Subscriber's reliance on the privacy practices or other policies of such Other Services.

3.8 **Integration.** The Services may contain features that enable various Other Services (such as Facebook, Twitter and Google) to be directly integrated into Subscriber Brightidea experience. To take advantage of these features, Subscriber will be required to register for or log into such Other Services on their respective websites. By enabling Third Party Products, Services or Software within the Service, Subscriber is allowing Brightidea to pass Subscriber information to these Other Services for this purpose.

4. PROFESSIONAL SERVICES.

4.1 **Performance of Services.** Brightidea shall use its commercially reasonable efforts to provide the Professional Services to Subscriber in accordance with the terms of any Order Form or SOW. Brightidea reserves the right to provide Professional Services through an Affiliate, or/and subcontractor provided that Brightidea shall remain fully responsible for the provision of any Professional Services through such affiliates.

4.2 **Change Requests.** Subscriber's request for any change in Professional Services or in the associated project schedule must be in writing to its local Brightidea sales representative. The written notice shall describe in detail the Subscriber's requirements. Brightidea shall not be obligated to perform tasks or alter schedules described in Subscriber's change request until i) the Parties agree in writing to the proposed changes, ii) Subscriber completes, executes and submits to Brightidea an Order Form. If Parties do not agree to the proposed changes, Brightidea shall provide the Professional Services to Subscriber in accordance with this Agreement and previously executed Order Form.

4.3 **Subscriber's Obligations.** Subscriber acknowledges the need for timely provision to Brightidea of (i) assistance and cooperation from its officers, agents, and employees, as may be further described in an Order Form or SOW, and (ii) if applicable, Branded Site copy and graphics. Brightidea shall not be liable for any deficiency or delay in performing Professional Services if such deficiency or delay results from Subscriber's failure to provide such access to the foregoing. Any general pool or block of Professional Services hours purchased by Subscriber in an Order Form must be completed within the lesser of twelve (12) months from date of Order Form or over the then remaining Subscription Term. Any remaining unused hours at the end of this period as a result of Subscriber delays will be invoiced by Brightidea with payment due by Subscriber. Subscriber also undertakes to remit all payments in due time and in accordance with this Agreement and the Order Form.

4.4 **Additional Professional Services.** In the event that in the future Subscriber desires to obtain from Brightidea additional Professional Services, the parties may execute a new Order Form, setting forth the details of such additional Professional Services and the applicable fee and schedule. Upon execution of such Order Form; (a) the Order Form shall be deemed an amendment to this Agreement, governed by all of the terms and conditions herein, (b) the Professional Services described in such form shall be deemed Professional Services within the meaning of this Agreement and (c) the fees for such Professional Services shall be due and payable in accordance with the Order Form.

4.5 **Ownership of pre-existing Technology and Work Product.**

Each party will retain the exclusive ownership of all its pre-existing Intellectual Property, Confidential Information and materials, including, without limitation, proprietary ideas, sketches, diagrams, text, know-how, concepts, proofs of concepts, artwork, software, algorithms, methods, processes, identifier codes or other technology that are owned by a party prior to commencement of any Services hereunder, or that are otherwise developed by or for such party outside the scope of this Agreement (“Pre-Existing Technology”).

Subscriber acknowledges that in the course of performing the Professional Services Brightidea may (a) employ pre-existing technology and/or (b) create software, designs or other work, including without limitation, modifications, enhancements, improvements or derivative works of any of the foregoing, regardless of who first conceives or reduces to practice, and all Intellectual Property in any of the foregoing ((a) and (b), collectively “Work Product”). Subject to Subscriber’s rights in the Subscriber Confidential Information (as defined in Section 8 below) and the Subscriber Data, Brightidea owns all right title and interest in such Work Product, including all intellectual property rights therein and thereto. If any Work Product is delivered to Subscriber pursuant to or in connection with the performance of Professional Services (a “Deliverable”), Brightidea hereby grants to Subscriber a world-wide and royalty free license to use such Deliverable during the term of this Agreement, solely for the purposes of this Agreement. For the avoidance of doubt, Brightidea retains no rights or interests in Subscriber Data which remain the sole and exclusive property of Subscriber.

5. **PRICES, PAYMENT AND TAXES.**

5.1 **Prices, Invoicing and Payment.**

a) Subscriber shall pay all fees specified in all Order Forms hereunder. Except as otherwise specified herein or in an Order Form, (i) fees are based on Services and Professional Services purchased, (ii) payment obligations are non-cancelable and fees paid are non-refundable, and (iii) the number of User subscriptions purchased cannot be decreased during the relevant subscription term stated on the Order Form.

b) Brightidea will issue to Subscriber an invoice for the Service Fees and other fees as detailed in the Order Form. Invoices will be submitted via pdf to the e-mail address indicated by the Subscriber in the Order Form. At Subscriber’s request, the invoice can also be addressed to Subscriber’s principal offices address or anywhere else if it’s indicated in the Order Form. Subscriber is responsible for providing complete and accurate billing and contact information to Brightidea and notifying Brightidea of any changes to such information.

c) All amounts payable shall be in the currency of the United States.

d) Subscriber agrees to pay invoices within 2% ten (10) net thirty (30) days from the invoice date.

Brightidea reserves the right to charge interest at the lower of 1.5% per month or the highest rate permitted by law on any payment not received when due. Brightidea may, without limiting its other rights and remedies, i) condition future agreement renewals and Order Forms on payment terms shorter than those specified above, ii) may suspend the Services, if Subscriber fails to pay any portion of the Services fees when due under the agreement within ten (10) days after written notice from Brightidea that payment is due, in accordance with Section 6.3 below . Additionally, Brightidea is entitled to recover any reasonable sums expended in connection with the collection of sums not paid when due, including reasonable attorneys’ fees. Brightidea shall not exercise its rights under this Section 5.1.d) if Subscriber is disputing the applicable charges reasonably and in good faith and is cooperating diligently to resolve the dispute.

e) Brightidea may adjust the Services Fees upon at least thirty (30) days prior written notice and effective upon the commencement of the next Subscription Term.

5.2 **Taxes.** Brightidea's fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, "Taxes"). Subscriber is responsible for paying all Taxes associated with its purchases hereunder. If Brightidea has the legal obligation to pay or collect Taxes for which Subscriber is responsible under this section, Brightidea will invoice Subscriber and Subscriber will pay that amount unless Subscriber provides Brightidea with a valid tax exemption certificate authorized by the appropriate taxing authority. For clarity, Brightidea is solely responsible for taxes assessable against it based on its income, property and employees.

6. **TERM AND TERMINATION.**

6.1 **Term of Agreement.** This agreement will be valid for the term. This Agreement will commence upon the Effective Date and shall continue in force and effect until the earlier of (i) its termination in accordance with Section 6.2 below or (ii) the date of expiration of the last to expire Subscription Term.

6.2 **Termination for Breach.** Either party may terminate this Agreement by written notice to the other party if (i) the other party is in material breach of its obligations under this Agreement and such breach is not cured within thirty (30) days after written notice thereof from the non-breaching party or (ii) the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors, which is not dismissed within sixty (60) days. Brightidea reserves the exclusive right to terminate in the event that i) Subscriber fails to pay any portion of the Services fees when due under the agreement within ten (10) days after written notice from Brightidea that payment is due, or ii) Subscriber breaches any other provisions of this Agreement and does not cure the breach within thirty (30) days after written notice thereof from Brightidea.

6.3 **Termination for Convenience.** Subscriber may terminate this Agreement, any Order Form and/or SOW at any time for any reason upon written notice to Brightidea, however, unless Subscriber is exercising their right to terminate pursuant to Section 6.2, upon termination (i) Subscriber will not be entitled to a refund of any pre-paid fees and (ii) if Subscriber have not already paid all applicable fees for the then-current Order Form or SOW such fees that are outstanding will become immediately due and payable.

6.4 **Effects of Termination.** Upon termination of this Agreement or any Order Form for any reason, any amounts owed to Brightidea under this Agreement before such termination will be immediately due and payable and all Services granted in this Agreement will immediately, without prior notice from Brightidea, cease to be performed. Upon request by Subscriber made within 30 (thirty) days after the date of termination of this Agreement or any Order Form, Brightidea will make available to Subscriber for download a file of its data in CSV or MS Excel format . After such 30 (thirty) day period, Brightidea shall have no obligation to maintain or provide any of Subscriber Data.

6.5 **Subscription Terms.** The Subscription Term applicable to the Services identified on an Order Form shall be set forth thereon, and shall commence upon the date that the applicable Service(s) is first made available to Subscriber. Thereafter, the Subscription Term shall automatically renew for periods of time equal to the initial Subscription Term, unless either party provides the other party with written notice of its intent not to renew at least sixty (60) days advance of the expiration of the then-current Subscription Term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Brightidea's applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any Services has decreased from the prior term will result in re-pricing at renewal without regard to the prior term's per-unit pricing.

7. INTELLECTUAL PROPERTY RIGHTS

7.1 **Services.** As between Subscriber and Brightidea, Brightidea retains all right title and interest in and to the Services, including all intellectual property rights therein and thereto, and Subscriber acquires no rights with respect to the Services, by implication or otherwise, except for those expressly granted in Section 3.2 and in Section 4.5 above.

7.2 **Restrictions.** Subscriber shall not (i) permit any Third Party to access the Services except as permitted herein or in an Order Form, (ii) create derivative work based on the Services, (iii) copy, frame or mirror any part or content of the Services, other than copying or framing on Subscriber own intranets or otherwise for Subscriber's own internal business purposes, (iv) reverse engineer the Services, or (v) access the Services in order to build a competitive product or service, or copy any features, functions or graphics of the Services.

7.3 **Subscriber Applications and Code.** If Subscriber, a Third Party acting on Subscriber behalf, or an Authorized User creates applications or program code using the Services, Subscriber authorizes Brightidea to host, copy, transmit, display and adapt such applications and program code, solely as necessary for Brightidea to provide the Services in accordance with this Agreement. Subject to the above, Brightidea acquires no right, title or interest from Subscriber under this Agreement in or to such applications or program code, including any intellectual property rights therein.

7.4 **Subscriber Data.** As between Subscriber and Brightidea, Subscriber retains all rights, title and interest in and to the Subscriber Data, including all intellectual property rights therein and thereto, and Brightidea acquires no rights with respect to the Subscriber Data, by implication or otherwise, except for those expressly granted in this Section 7.4. Subscriber hereby grants to Brightidea, a non-exclusive, worldwide, royalty-free, right and license (including the right to authorize and grant sublicenses) to use, analyze, store, reproduce, distribute and display the Subscriber Data, solely in connection with the Services.

7.5 **Suggestions.** Subscriber hereby grants to Brightidea a royalty-free, worldwide, transferable, sublicenseable, irrevocable, perpetual license to use or incorporate into the Services any suggestions, enhancement requests, recommendations or other feedback related to the Services that is provided by Subscriber and/or its Authorized Users.

7.6 **Use of Subscriber Name.** Subscriber agrees that Brightidea may use Subscriber's name and logo on the Branded Site, in order to satisfy Brightidea's responsibilities under Section 3 of this Agreement. Subscriber further agrees that Brightidea may use Subscriber's name and logo on Brightidea's website to identify Subscriber as a customer of Brightidea, and as a part of a general list of Brightidea customers.

7.7 **Federal Government End Use Provisions.** Brightidea provides the Services, including related software and technology, for ultimate federal government end use solely in accordance with the following: Government technical data and software rights related to the Services include only those rights customarily provided to the public as defined in this Agreement. This customary commercial license is provided in accordance with FAR 12.211 (Technical Data) and FAR 12.212 (Software) and, for Department of Defense transactions, DFAR 252.227-7015 (Technical Data – Commercial Items) and DFAR 227.7202-3 (Rights in Commercial Computer Software or Computer Software Documentation). If a government agency has a need for rights not conveyed under these terms, it must negotiate with Brightidea to determine if there are acceptable terms for transferring such rights, and a mutually acceptable written addendum specifically conveying such rights must be included in any applicable contract or agreement.

8 CONFIDENTIAL INFORMATION.

8.1 **Confidential Information.** As defined above and used herein, both parties acknowledge that, in the course of performing this Agreement, they may obtain information relating to products (such as goods, services, and software) of the other party, or relating to the parties themselves, which is of a confidential and proprietary nature ("Confidential Information"). Confidential Information

includes the Services and Subscriber Data and all communications concerning either party's business and marketing strategies including but not limited to employee and customer lists, customer profiles, project plans, design documents, product strategies and pricing data, research, advertising plans, leads and sources of supply, development activities, technical drawings, algorithms, know-how, formulas, processes, ideas, inventions (whether patentable or not), schematics and other technical plans and other information of the parties which by its nature can be reasonably expected to be proprietary and confidential, whether it is presented in oral, printed, written, graphic or photographic or other tangible form (including information received, stored or transmitted electronically) even though specific designation as Confidential Information has not been made, and anything provided by Brightidea to Subscriber and/or Authorized Users in connection with support or warranty obligations under this Agreement.

8.2 **Protection of Confidential Information.** The Receiving Party shall use the same degree of care that it uses to protect the confidentiality of its own Confidential Information of like kind (but in no event less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates' employees, contractors and agents who need such access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party shall disclose the terms of this Agreement or any Order Form to any Third Party other than its Affiliates and their legal counsel and accountants without the other party's prior written consent.

8.3 **Non-use and Non-disclosure.** The parties shall at all times, both during the term of this Agreement and for a period of two (2) years thereafter (including any event of termination) and thereafter keep in trust and confidence all Confidential Information of the other party and shall not use such Confidential Information other than as necessary to carry out its duties under this Agreement, nor shall either party disclose any such Confidential Information to Third Parties without the other party's prior written consent. Neither party will disclose any terms of this Agreement and any Confidential information to anyone, other than its Affiliates, attorneys, accountants and other professional advisors under a duty of confidentiality.

8.4 **Non-Applicability.** The obligations of confidentiality shall not apply to information which (i) is or becomes generally known to the public and has entered the public domain, except where such entry is the result of a party's breach of this Agreement; (ii) prior to disclosure hereunder, was already in the Receiving Party's possession without restriction; (iii) subsequent to disclosure hereunder, is obtained by the Receiving Party on a non-confidential basis from a Third Party who has the right to disclose such information; or (iv) was developed by the Receiving Party without use of the Confidential Information of the other party. In addition, nothing in this Section 8 shall be deemed to prevent a party from disclosing information as required by law, regulation or a court order.

8.5 **Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party if it is compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of such compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party's Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to such Confidential Information.

9 LIMITED WARRANTY AND DISCLAIMER.

9.1 **Warranty.** Brightidea warrants that during an applicable subscription term (a) this Agreement, the Order Forms and the KBAs will accurately describe the applicable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data, (b) Brightidea will not materially decrease the overall security of the Services, and (c) the Services will perform materially in accordance with the applicable KBAs, (d) Brightidea will

not materially decrease the overall functionality of the Services. For any breach of a warranty above, Subscriber's exclusive remedies are those described in the sections 6 of this agreement.

9.2 **Disclaimer.** EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW. CONTENT AND BETA FEATURES ARE PROVIDED "AS IS," AND AS AVAILABLE EXCLUSIVE OF ANY WARRANTY WHATSOEVER.

10 LIMITATION OF LIABILITY.

10.1 **Limitation of Liability.** IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT SUBSCRIBER'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER SECTION 5 ABOVE.

10.1 **Exclusion of Consequential and Related Damages.** IN NO EVENT WILL EITHER PARTY OR ITS AFFILIATES HAVE ANY LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR ANY LOST PROFITS, REVENUES, GOODWILL, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER, BUSINESS INTERRUPTION OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, EVEN IF A PARTY OR ITS AFFILIATES HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES OR IF A PARTY'S OR ITS AFFILIATES' REMEDY OTHERWISE FAILS OF ITS ESSENTIAL PURPOSE. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW.

11 MUTUAL INDEMNIFICATION.

11.1 **By Brightidea.** Brightidea shall defend Subscriber against any claim, action, demand, suit or proceeding ("Claims") made or brought against Subscriber by a third party alleging that the Services, when used in accordance with this Agreement, infringes or misappropriates any United States patent or copyright, and Brightidea shall indemnify Subscriber for any damages finally awarded against, and for reasonable attorney's fees incurred by, Subscriber as a result of any such Claim; provided, that Subscriber (a) promptly gives Brightidea written notice of the Claim; (b) gives Brightidea sole control of the defense and settlement of the Claim (provided that Brightidea may not settle any Claim unless the settlement unconditionally releases Subscriber of all liability); and (c) provides to Brightidea all reasonable assistance, at Brightidea's expense. If Subscriber's rights to use the Services hereunder are, or in Brightidea's opinion are likely to be, enjoined as the result of a Claim, then Brightidea may, at its sole option and expense: (i) procure for Subscriber the right to continue using the Services under the terms of this Agreement; (ii) replace or modify the Services so as to be non-infringing and substantially equivalent in function to the claimed infringing or enjoined Services; or (iii) if options (i) and (ii) are not commercially practicable, then Brightidea may, without incurring any liability to Subscriber, terminate Subscriber's rights and Brightidea's obligations hereunder with respect to the affected Services.

11.2 **By Subscriber.** Subscriber will defend Brightidea and its Affiliates against any claim, demand, suit or proceeding made or brought against Brightidea by a third party alleging (a) that any Subscriber Data or Subscriber's use of Subscriber Data with the Services infringes or

misappropriates such third party's intellectual property rights, or arising from Subscriber's use of the Services or Data in an unlawful manner or in violation of the Agreement or Order Form (each a "Claim Against Brightidea"), and will indemnify Brightidea from any damages, attorney fees and costs finally awarded against Brightidea as a result of, or for any amounts paid by Brightidea under a settlement approved by Subscriber in writing of, a Claim Against Brightidea, provided Brightidea (a) promptly gives Subscriber written notice of the Claim Against Brightidea, (b) gives Subscriber sole control of the defense and settlement of the Claim Against Brightidea (except that Subscriber may not settle any Claim Against Brightidea unless it unconditionally releases Brightidea of all liability), and (c) gives Subscriber all reasonable assistance, at Subscriber's expense. The above defense and indemnification obligations do not apply if a Claim Against Brightidea arises from Brightidea's breach of this Agreement or applicable Order Forms.

11.3 THIS SECTION 11 SETS FORTH THE PARTIES' SOLE AND EXCLUSIVE LIABILITY AND EXCLUSIVE REMEDIES FOR ANY INFRINGEMENT OR MISAPPROPRIATION CLAIMS OF ANY KIND.

12 GENERAL.

12.1 **Assignment.** Neither party may assign or delegate their respective obligations under this Agreement either in whole or in part, without the prior written consent of the other party. Notwithstanding the foregoing, either party may assign their rights and obligations under this Agreement to an Affiliate, or to a successor in interest as the result of a merger, consolidation, acquisition or the sale of all or substantially all of the assets of the assigning party and Brightidea may assign its rights and delegate its obligations in whole or in part to an Affiliate, provided that either party may terminate this agreement upon ten (10) days written notice, if the assignee can be reasonably considered a competitor of the non-assigning party. Affiliates agree to be bound by the terms of this Agreement as if they were an original party hereto.

12.2 **Force Majeure.** Except for Subscriber's obligation to pay for the Services, neither party will be responsible for failure of performance due to causes beyond its control (each a "Force Majeure Event"). Force Majeure Events include (without limitation) accidents, acts of God, labor disputes, actions of any government agency, shortage of materials, acts of terrorism, fire, earthquake, flood, or the stability or availability of the Internet or a portion thereof.

12.3 **Amicable Procedure.** In the event of a dispute in connection with the interpretation or performance of this Agreement, the Parties agree to follow the amicable procedure defined below. Any dispute shall be sent by the Party asserting it to the other Party by written notice indicating the reasons of the dispute. The Parties shall consult each other or meet in fifteen (15) days following receipt of such written notice to reach a resolution. If a resolution is reached, an amendment shall be drawn up and signed by the representatives of the both parties. If no resolution is reached within one (1) month following the written notice, either party may submit the dispute to the competent courts pursuant to Section 12.4 below.

12.4 **Governing Law.** This Agreement will be governed by and construed in accordance with the laws of the United States and the State of California. The parties hereby submit to the jurisdiction of, and waive any venue objections against state and federal courts in San Francisco, California in any litigation arising out of the Agreement

12.5 **Relationship of the Parties.** The parties to this Agreement are independent contractors, and nothing in this Agreement shall be construed as creating a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties, or as authorizing either party to act as agent for the other. Each party will maintain its separate identity. Neither party nor any of its employees will hold themselves out as agents or employees of the other party in connection with this Agreement or any other matter. At no time will either party make any commitments or incur any charges or expenses for, or in the name of the other party.

12.6 **No Third Party Beneficiaries.** There are no third party beneficiaries to this Agreement.

12.7 Subcontracting. Brightidea reserves the right to subcontract Services to a Third Party to provide Services or Professional Services to Subscriber. Any such subcontract shall not relieve Brightidea of any of its obligations under this Agreement.

12.8 Anti-Corruption. Subscriber agrees that Subscriber has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Brightidea employees or partners in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Subscriber learns of any violation of the above restriction, Subscriber will use reasonable efforts to promptly notify Brightidea Legal Department at legal@brightidea.com.

12.9 Survival. The provisions of Sections 3.5, 4.5, 5 and 7, 8, 9 and 12 shall survive any termination or expiration of this Agreement.

12.10 Waivers. All waivers must be in writing. Any waiver or failure to enforce any provision of this Agreement on one occasion will not be deemed a waiver of any other provision or of such provision on any other occasion.

12.11 Severability. If any provision of this Agreement is unenforceable, such provision will be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions will continue in full force and effect.

12.12 U.S. Export Law. Subscriber acknowledges that the Services are subject to U.S. export control laws and regulations. Subscriber represents that it is not a citizen of an embargoed country or prohibited end user under applicable U.S. export and anti-terrorism laws, regulations and lists. Subscriber will not use, export or allow a third party to use or export the Services in any manner that would violate applicable law, including but not limited to applicable export control laws and regulations

12.13 Notices. All notices required or permitted under this Agreement will be in writing and transmitted to the recipient by commercial express courier with written verification of receipt, at the address set forth and will be effective upon receipt. Either party may change its address by giving notice of the new address to the other party. Notwithstanding the above, notices regarding general inquiries may also be made by e-mail.

12.14 Entire Agreement. This Agreement, including all Exhibits and any Order Forms entered into hereunder, constitutes the entire agreement between the parties with respect to the subject matter hereof, and supersedes and replaces all prior or contemporaneous understandings or agreements, written or oral, regarding such subject matter. To the extent that any provision of this Agreement, Exhibit and any Order Form conflict, the terms of the Exhibits, then Agreement shall control. Neither party shall be bound by terms additional to or different from those in this Agreement that appear in Subscriber's or Brightidea's acknowledgements, purchase orders, quotations, prior understandings, or in any other communications between the parties, unless such terms are expressly agreed to in an amendment to this Agreement executed by both Subscriber and Brightidea. Neither this Agreement may be modified or amended except by mutual written agreement of authorized representatives of each party.



EXHIBIT A
SUPPLEMENTAL TERMS: REGION-SPECIFIC TERMS

The following country-specific terms may be applicable to Subscriber use of the Service.

Brazil: Subscriber agrees that Subscriber is responsible for notifying Internal and External Users that Personal Data is collected, stored, used and/or processed by Brightidea, as described in this Agreement and is collected, stored, used and/or processed in accordance with Brazilian Law No. 12,965/2014; Brazilian Decree No. 8,771/2016; and Brazilian Law No. 13,709/2018. Subscriber agrees that Subscriber is responsible for notifying End-Users that by using Brightidea's Services they expressly consent to the collection, use, storage and processing of their Personal Data by us as described.

Australia: Notwithstanding anything to the contrary in this Agreement, any applicable rights Subscriber may have under Australian Consumer Law continue to apply in full force. "Australian Consumer Law" in this section means the Australian Consumer Law under Schedule 2 of the Competition and Consumer Act 2010 (Cth).

Subscriber agrees that Subscriber is responsible for notifying Internal and External Users that Personal Data collected, stored, used and/or processed by Brightidea, as described in this Agreement, is collected, stored, used and/or processed in compliance with the Australian Privacy Act 1988 (Commonwealth) and the Australian Privacy Principles. Subscriber is responsible for notifying Internal and External Users that if they are dissatisfied with Brightidea's handling of a complaint or do not agree with the resolution proposed by Brightidea, they may make a complaint to the Office of the Australian Information Commissioner (OAIC) by contacting the OAIC using the methods listed on their website at <http://www.oaic.gov.au>. Alternatively, they may request that Brightidea pass on the details of their complaint to the OAIC directly.

In respect of disclosures or transfers of Service Data to a country outside Australia, Brightidea has ensured that the recipient of the Service Data (and any onward third-party recipients') will comply with obligations that are substantively similar and at least as strict as, if not stricter than, those required by the Australian Privacy Principles and the Privacy Act in respect of any Processing of Personal Data.

The Parties agree to cooperate in relation to the investigation and assessment of any relevant Service Data Breach, and in relation to any notification of such Service Data Breach required to be made under any Applicable Data Protection Law to a regulator in any local or foreign jurisdiction, including without

limitation the Office of the Australian Information Commissioner (each a “Regulatory Authority”), and to affected individuals. Any correspondence or notification to Regulatory Authorities and affected individuals must be in a form that is mutually agreed upon by both Parties. However, nothing in this Agreement will prevent either Party from complying with its respective legal obligations under Applicable Data Protection Laws, including in respect of notifying a Regulatory Authority or individuals about a Service Data Breach.

New Zealand: Subscriber agrees that Subscriber is responsible for notifying Internal and External Users that Personal Data collected, stored, used and/or processed by Brightidea, as described in this Agreement, is collected, stored, used and/or processed in compliance with the New Zealand’s Privacy Act (1993) and its 12 Information Privacy Principles (NZ IPPs).

Singapore: Subscriber agrees that Subscriber is responsible for notifying Internal and External Users that Personal Data collected, stored, used and/or processed by the Brightidea, as described in this Agreement, is collected, stored, used and/or processed in compliance with the Brightidea’s obligations under the Personal Data Protection Act 2012 of Singapore (“PDPA”).

Canada: Subscriber agrees that Subscriber is responsible for notifying Internal and External Users that Personal Information (as the term is defined in the Personal Information Protection and Electronic Documents Act of Canada (PIPEDA) will be collected, stored, used and/or processed by Brightidea in compliance with the Brightidea’s obligations under PIPEDA.