



SOFTWARE SUBSCRIPTION TERMS AND CONDITIONS

Effective as of: February 1, 2018

Last Updated: October 29, 2018

These DirectRFP Software Subscription Terms and Conditions (the "Terms and Conditions") are effective as of the effective date set forth in the DirectRFP Software Subscription entered into by and between DirectRFP, LLC, a California limited liability company, with its principal place of business located at 9253 Sierra College Boulevard, Roseville, CA 95661 ("DirectRFP"), and the customer identified in sign up and registration or such Order Form ("Customer").

THESE TERMS AND CONDITIONS WILL BE LEGALLY BINDING ON CUSTOMER UPON EXECUTION OF THE ORDER FORM. CUSTOMER SHOULD CAREFULLY READ THE FOLLOWING TERMS AND CONDITIONS BEFORE EXECUTING THE ORDER FORM.

The DirectRFP Service Level Agreement (SLA) is available [here for download](#).

In consideration of the mutual promises and covenants set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Definitions: Capitalized terms used and not otherwise defined in this Agreement shall have the following meanings:

1.1 "Affiliate" means any entity that is controlled by a party, where "control" means the ownership of, or the power to vote, more than fifty percent (50%) of the voting stock, shares, or interests in an entity.

1.2 "Agreement" means these Terms and Conditions, the Orders, and any exhibits or amendments to the foregoing.

1.3 "Customer" means the entity entering into this Agreement and any Affiliate designated in an Order authorized to use the Subscription Services. Customer shall be fully responsible for the performance of all of its Affiliates' obligations under this Agreement.

1.4 "Content" means information obtained by DirectRFP from publicly available sources or its third-party content providers and made available to Customer through the Subscription Services.

1.5 "Customer Data" means any and all electronic data and information submitted by or for Customer to the Subscription Services, excluding Content.

1.6 "Documentation" means the then-current, commercially available user manuals, training materials and technical manuals relating to the Subscription Services that are provided to Customer by DirectRFP pursuant to this Agreement.

1.7 "Order(s)" means the Order Form and any additional order(s), and any amendments thereto, executed by the parties and which reference this Agreement. Each Order shall specify the Subscription Services being subscribed for, the licensing parameters, the term of the Order, the applicable fees, billing period, and



other charges, as well as payment terms. In the event of any conflict between the terms of this Agreement and the terms of any such Order, the terms of such Order shall prevail, but only with regard to the Subscription Services or Support Services provided pursuant to such Order.

1.8 “Subscription Services” means (a) the object-code version(s) of DirectRFP’s online proprietary software programs identified in an Order and made available to Customer pursuant to this Agreement; and (b) Updates to such software. All Subscription Services are delivered to Customer only if and when generally commercially available.

1.9 “Support Services” means the support services provided by DirectRFP or its contractors to Customer under this Agreement in connection with the Subscription Services.

1.10 “Third Party Offerings” means software or services delivered or performed by third parties independently of the Subscription Services, that interoperate with the Subscription Services.

1.11 “Update” means any fixes, workarounds, error corrections, enhancements and subsequent releases to the Subscription Services and associated Documentation which are made commercially available by DirectRFP to paid license subscribers of Subscription Services for no additional charge. Updates shall not include any releases, enhancements, functionality, modules, programs or software that DirectRFP licenses separately or charges for separate from the Subscription Services.

2. Subscription Services

2.1 Provision of Subscription Services. DirectRFP will (a) make the Subscription Services and Content available to Customer pursuant to this Agreement and the applicable Order, (b) provide applicable DirectRFP standard Support Services for the Subscription Services to Customer in accordance with the applicable Order, and (c) use commercially reasonable efforts to make the Subscription Services available twenty-four (24) hours a day, seven (7) days a week, except for: (i) planned downtime (of which DirectRFP shall give advance electronic notice), and (ii) any unavailability caused by circumstances beyond DirectRFP’s reasonable control, including, without limitation, an act of God, act of government, flood, fire, earthquake, civil unrest, act of terror, strike or other labor problem (other than one involving DirectRFP employees), Internet or cloud service provider failure or delay, or denial of service attack.

2.2 Authorized Users. To access and use the Subscription Services, those who the Customer authorizes and deems necessary to use the Subscription Services (“Authorized Users”) must be registered and receive passwords. Customer is responsible for maintaining the confidentiality of its passwords. Customer is fully liable for all use of the Subscription Services under its passwords, including any use by a user not authorized by Customer who accesses the Subscription Services using Customer’s passwords. DirectRFP may terminate a password and require a new password if it believes that the password is being used without authorization or contrary to the terms of an Order. Customer agrees to promptly notify DirectRFP of any unauthorized use of its passwords or other breach of security. Authorized Users shall be limited to employees and contractors of Customer who have been informed of the confidential nature of the Subscription Services and who have signed nondisclosure agreements with Customer protecting Customer’s Confidential Information.

2.3 Subscriptions. Subscription Services and Content are subject to the usage limits specified in the applicable Order and Documentation. Unless otherwise specified, (a) a quantity in an Order refers to RFX's deployed. Each RFX that is deployed will be billed according to the terms and conditions of the Software Subscription Order Form.

2.4 Updates. DirectRFP will provide Customer with all generally released Updates for the Subscription Services. The content and timing of the Updates will be determined by DirectRFP in its sole discretion.

2.5 Third-Party Web Sites, Products and Services. The Subscription Services may rely on or require that Customer access and use Third Party Offerings. If Customer elects to use the Subscription Services with Third-Party Offerings, Customer agrees that: (a) its' use of Third-Party Offerings must at all times comply with the terms of service governing such offerings; and (b) DirectRFP has the right to export and import Customer Data and Customer Confidential Information to and from such Third-Party Offerings. Customer understands and agrees that the availability of the Subscription Services, or certain features and functions thereof, may be dependent on the corresponding availability of Third-Party Offerings or specific features and functions of Third-Party Offerings. DirectRFP will not be liable to Customer or any third party in the event that changes in Third-Party Offerings cause the unavailability of the Subscription Services or any feature or function thereof or for any loss or corruption of data, lost communications, or any other loss or damage of any kind arising from any Third-Party Offerings.

2.6 Restrictions. All rights in the Subscription Services and Documentation not expressly granted to Customer in this Agreement are hereby reserved to DirectRFP and its licensors. Without limiting the foregoing, Customer agrees that it will not:

- (a) cause or permit de-compilation or reverse engineering or disassembly of all or any portion of the Subscription Services or create derivative works based on the Subscription Services or Documentation, or any portions thereof;
- (b) transfer the Subscription Services to a different software database platform, operating system or environment or use all or any portion of the Subscription Services or Documentation with any other computer software programs, except as may be specifically provided for in the applicable Order;
- (c) export or use the Subscription Services or Documentation in violation of U.S. or other applicable laws or regulations, including the U.S. Department of Commerce export administration regulations;
- (d) use, or authorize or permit any third party to use or access, the Subscription Services or Documentation, except as expressly permitted herein;
- (e) translate, modify or transmit the Subscription Services or Documentation, except as expressly permitted herein;
- (f) reproduce or copy the Subscription Services or Documentation, or any portion thereof, except as expressly permitted herein, or delete, fail to reproduce or modify any patent, copyright, trademark or other proprietary rights notices which appear on or in the Subscription Services or Documentation; or

(g) directly or indirectly market, sell, sublicense, relicense, distribute, disclose, transfer, use, rent or lease the Subscription Services or Documentation, or any portion thereof, for third party use, third party training, facilities management or time-sharing, use as an application service provider, or for service bureau use.

2.7 Support Services. DirectRFP will allow up to two (2) qualified employees of Customer who have been trained on use of the Subscription Services (the “Designated Employees”) to contact DirectRFP with technical questions or issues with respect to the Subscription Services and to report problems or errors in the Subscription Services. DirectRFP shall respond to the technical support questions from the Designated Employees and commence the process of responding to and resolving problems or errors in the Subscription Services in accordance with DirectRFP’s standard procedures. The Designated Employees shall assist DirectRFP in resolving issues with the Subscription Services.

3. Invoicing; Payment

3.1 Invoicing. Except as otherwise specified in an Order: (a) Customer shall pay to DirectRFP all fees, charges and expenses due and owing pursuant to an Order in U.S. dollars. The fees to be paid via credit card. Payment is due immediately upon agreement, and all payment obligations are non-cancellable, non-refundable and non-contingent. Customer may not set-off any amounts owing to Customer against any payments owing to DirectRFP hereunder. DirectRFP reserves the right to increase the fees and charges specified herein upon renewal or extension of an Order. Payments which are not received when due shall bear interest at the lesser of the maximum amount chargeable by law or 1½% per month commencing with the date payment was due. In addition, in the event Customer fails to timely pay any fees or charges when due, DirectRFP may, in its discretion, suspend the Subscription Services following upon written notice to Customer. Customer will continue to be charged for the Subscription Services during any period of suspension.

3.2 Taxes and Duties. Excluding taxes based on DirectRFP’s net income, Customer is liable and responsible for paying all federal, state and local sales, foreign withholding, value added, use, property, excise, service and other taxes, and all duties and customs fees relating to Customer’s receipt or use of the Subscription Services and Support Services, whether or not DirectRFP invoices Customer for such taxes, duties or customs fees, unless Customer timely provides DirectRFP with a valid tax exemption or direct pay certificate showing Customer is exempt from such payments. If DirectRFP is required to pay any such taxes, duties or customs fees, Customer shall reimburse DirectRFP for such amounts. Customer further agrees to indemnify, defend and hold harmless DirectRFP for any such taxes, duties and customs fees and any related costs, interest and penalties paid or payable by DirectRFP with respect thereto.

3.3 Audits. During the term of this Agreement and for a period of two (2) years thereafter, upon five (5) days prior written notice to Customer, DirectRFP may audit Customer’s use of the Subscription Services and Customer’s compliance with the terms and conditions of this Agreement. Such audits shall occur during regular business hours and shall be conducted in a manner designed to limit disruption to Customer’s business. In the event an audit reveals that Customer underpaid any fees or charges owing to DirectRFP, Customer shall immediately pay such underpaid fees, and if such underpayment was greater than five percent (5%) of the amount owing to DirectRFP for any period under audit, Customer shall reimburse DirectRFP for its costs of conducting the audit.

4. Warranties

4.1 Subscription Services. Provided that Customer notifies DirectRFP of the non-conformance within the warranty period, DirectRFP warrants that the Subscription Services, will perform substantially in accordance with applicable Documentation, except to the extent any breach of the foregoing warranty is caused by: (a) use of the Subscription Services other than in accordance with this Agreement and the Documentation; (b) any error, defect or non-conformance which cannot be reproduced; (c) modification of the Subscription Services by anyone other than DirectRFP; or (d) Third Party Offerings or third party hardware, software, databases or systems.

4.2 Support Services. DirectRFP warrants that the Support Services will be performed in a professional and workman-like manner; provided that Customer notifies DirectRFP within thirty (30) days of performance of the Support Services that Customer believes were not performed as warranted. No specific result from the provision of Support Services is assured or guaranteed.

4.3 Remedies.

(a) For any breach of the warranty contained in Section 4.1, DirectRFP shall, as Customer's sole and exclusive remedy: (i) repair or replace the non-conforming Subscription Services after receiving notice from Customer of such nonconformance; or (ii) in the event such repair or replacement is commercially impractical, refund the amount of any pre-paid fees paid by Customer for the non-conforming Subscription Services.

(b) For any breach of the warranty contained in Section 4.2, DirectRFP shall, as Customer's sole and exclusive remedy: (i) re-perform the Support Services which were not performed as warranted at no additional charge after receiving notice from Customer of such nonconformance within thirty (30) days following the date such Support Services were performed; or (ii) in the event DirectRFP is unable to re-perform such Support Services after exercising commercially reasonable efforts to do so, refund the fees paid to DirectRFP, if any, for the Support Services which were not performed as warranted.

(c) Customer acknowledges and agrees that it has made its own evaluation in deciding to license the Subscription Services. The warranties provided in this Agreement extend solely to Customer and to no other person or entity whatsoever. Without limiting the foregoing, DirectRFP is not responsible for (i) the accuracy, reliability, timeliness or completeness of Customer Data or any third party's data or other information transmitted, monitored, stored or received using the Subscription Services; or (ii) the results that may be obtained from use of the Subscription Services.

4.4 DISCLAIMERS. EXCEPT AS EXPRESSLY PROVIDED IN THIS SECTION 4, DIRECTRFP MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND, WHETHER EXPRESS OR IMPLIED (EITHER IN FACT OR BY OPERATION OF LAW) WITH RESPECT TO THE SUBSCRIPTION SERVICES OR SUPPORT SERVICES PROVIDED PURSUANT TO THIS AGREEMENT. **DIRECTRFP** EXPRESSLY DISCLAIMS ALL OTHER WARRANTIES OR CONDITIONS, INCLUDING WITHOUT LIMITATION, WARRANTIES OR MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, ALL WARRANTIES ARISING FROM CONDUCT, COURSE OF DEALING OR CUSTOM OF TRADE, AND ALL WARRANTIES OF TITLE AND NON INFRINGEMENT. **DIRECTRFP** DOES NOT WARRANT THAT THE SUBSCRIPTION SERVICES OR THE SUPPORT SERVICES ARE OR WILL BE ERROR-FREE OR THAT THE USE



OR OPERATION OF THE SUBSCRIPTION SERVICES OR SUPPORT SERVICES WILL BE UNINTERRUPTED OR THAT ALL SOFTWARE ERRORS CAN OR WILL BE CORRECTED.

5. Confidentiality

5.1 Confidentiality. Each party (the “Receiving Party”) acknowledges that it will have access to Confidential Information of the other party (the “Disclosing Party”). For purposes of this Agreement, “Confidential Information” means information, that is of value to the Disclosing Party and is treated as confidential and which is either marked as confidential or proprietary, or which, given the nature of the information or circumstances of disclosure, should be reasonably deemed by the Receiving Party to constitute Confidential Information. DirectRFP’s Confidential Information includes, without limitation, the Subscription Services, object and source code for the Subscription Services, and any associated Documentation. The Receiving Party agrees to use the Confidential Information of the Disclosing Party solely for purposes of performing its obligations or exercising its rights under this Agreement. The Receiving Party agrees to discuss the Confidential Information of the Disclosing Party only with, and to transmit the Confidential Information only to, those officers, employees and consultants of the Receiving Party who have a need to know the Confidential Information for the purposes set forth herein and who have agreed in writing to be bound by the terms of this Agreement. The parties acknowledge and agree that the terms of any previously executed confidentiality or nondisclosure agreements shall remain in effect with respect to the information exchanged thereunder.

5.2 Security Precautions. The Receiving Party shall take commercially reasonable security precautions to prevent unauthorized use and disclosure of the Confidential Information of the Disclosing Party and shall use at least the same degree of care the Receiving Party employs with respect to its own Confidential Information, but in no event less than a reasonable standard of care.

5.3 Duration and Exceptions. The obligations in this Section 5 shall continue for the term of this Agreement and for a period of five (5) years thereafter. The Receiving Party’s obligations with respect to Confidential Information of the Disclosing Party shall not apply to the extent such Confidential Information: (a) are previously known to the Receiving Party without restriction on disclosure; (b) cease to be secret or confidential except by reason of a breach of this Agreement by the Receiving Party; (c) are independently developed by the Receiving Party without reference to the Confidential Information of the Disclosing Party; or (d) were received from a third party without obligations of confidence and without breach of this Agreement. In addition, the Receiving Party may disclose Confidential Information of the Disclosing Party to the extent such disclosure is required by applicable law or by any governmental authority, provided the Receiving Party notifies the Disclosing Party, if permitted by law, of the applicable legal requirements before such disclosure occurs so as to enable the Disclosing Party to obtain such protection as may be available to preserve the confidentiality of such information.

6. Intellectual Property Rights

6.1 DirectRFP’s Intellectual Property. DirectRFP (or its licensors) retains title to the Subscription Services, and all copyright and other intellectual property and proprietary rights to all portions of the Subscription Services, and all modifications, alterations, derivative works, and enhancements thereto, and all copies thereof. Except as specified herein, Customer does not acquire any rights, express or implied, in the

Subscription Services, and has no right to commercialize or transfer any Subscription Services, in whole or in part, or any modifications, alterations, derivative works or enhancements thereto. No license, right, or interest in any DirectRFP trademark, trade name or service mark is granted pursuant to this Agreement. Upon request, Customer agrees to execute such documents as may be reasonably requested by DirectRFP to secure DirectRFP's rights in and to the foregoing.

6.2 Customer Data. Customer shall own any Customer Data that it provides in connection with the Subscription Services. Customer shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, timeliness, appropriateness, and intellectual property ownership or right to use all Customer Data, and DirectRFP shall not be responsible or liable for the deletion, correction, destruction, damage, loss or failure to store Customer Data for any reason. DirectRFP does not warrant the correctness, completeness, merchantability or fitness for a particular purpose of any Customer Data, and Customer shall hold DirectRFP harmless from any and all third-party claims arising out of Customer's use or dissemination of any such Customer Data. In the event this Agreement is terminated (other than by reason of Customer's breach), DirectRFP will make available to Customer a file of the Customer Data in its possession, if any, within thirty (30) days following Customer's request; provided such request is made within thirty (30) days following termination of the Agreement. DirectRFP reserves the right to (a) withhold, remove and/or discard Customer Data in its possession, if any, in the event Customer breaches this Agreement, including, without limitation, non-payment of fees and charges; and (b) purge and delete Customer Data, if any, in its possession if Customer fails to request such Customer Data within thirty (30) days following termination of this Agreement. DirectRFP shall maintain commercially reasonable administrative, physical and technical safeguards designed for the protection, confidentiality and integrity of Customer Data.

6.3 License to Customer Data. Customer hereby grants to DirectRFP the non-exclusive right and license to (a) receive, retrieve, process, use and transmit any Customer Data necessary or reasonably desirable to perform its obligations and duties under the Agreement and provide the Subscription Services to Customer and other users; (b) use, copy, manipulate and store any Customer Data that will be archived, stored or otherwise transmitted in connection with the Subscription Services; and (c) aggregate Customer Data with content and data from other clients ("Data Aggregations") for purposes including, without limitation, product and service development and commercialization and quality improvement initiatives. All Data Aggregations will be the sole and exclusive property of DirectRFP.

7. Defense and Indemnification

7.1 Limited Covenant to Defend. DirectRFP will defend any third party claim brought against Customer to the extent that the claim, if true, would constitute an infringement or misappropriation by the Subscription Services of any valid and subsisting patent or copyright recognized under the laws of the United States; provided, however, that: (a) Customer immediately advises DirectRFP of the claim upon learning of the assertion of the claim; and (b) DirectRFP is given the sole right to control the defense and/or settlement of the claim, in litigation or otherwise.

7.2 Injunctions Obtained by Third Parties. If a third-party infringement claim, of which DirectRFP is notified in accordance with Section 7.1 (or of which DirectRFP is otherwise aware or believe is likely) results, or in DirectRFP's opinion is likely to result, in an injunction prohibiting Customer from continued use of the Subscription Services that are the subject matter of the claim, then DirectRFP shall, in its sole discretion and

at its expense: (a) procure for Customer the right to continue to use the Subscription Services that are the subject matter of the claim; (b) replace or modify the Subscription Services that are the subject matter of the claim to make it non-infringing, but, where reasonably possible, preserving the functionality of such Subscription Services; or (c) terminate the license for the infringing Subscription Services, and return a prorated portion of the license fees paid by Customer for the infringing Subscription Services.

7.3 Exceptions to Duties to Defend and Indemnify. Notwithstanding any other provisions hereof, DirectRFP shall have no obligation to indemnify or defend Customer for any third party claim pursuant to this Section 7, nor be required to pay losses, damages or expenses under this Section 7, if Customer agrees to settle any such claim without the prior written consent of DirectRFP, or if the claim arises out of, in whole or in part: (a) a modification of the Subscription Services by anyone other than DirectRFP; (b) use of the Subscription Services other than in accordance with the Documentation or the terms of this Agreement; (c) use of the Subscription Services in combination with Third Party Offerings or any other third party hardware, software, database or materials where, absent such combination, the Subscription Services would not be infringing; or (d) Customer's negligence or willful misconduct.

7.4 Sole Obligation. This Section 7 states DirectRFP's sole obligation, and Customer's sole and exclusive remedy, with respect to infringement of proprietary and intellectual property rights.

8. Limitation on Liability

8.1 EXCLUSION OF DAMAGES. IN NO EVENT SHALL EITHER PARTY OR ANY OF ITS AFFILIATES OR THEIR RESPECTIVE OFFICERS, DIRECTORS, EMPLOYEES, SHAREHOLDERS, AGENTS OR REPRESENTATIVES BE LIABLE TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR CONSEQUENTIAL DAMAGES (INCLUDING WITHOUT LIMITATION, LOSS OF GOODWILL OR BUSINESS PROFITS, WORK STOPPAGE, DATA LOSS, OR COMPUTER FAILURE, DELAY OR MALFUNCTION), EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES.

8.2 LIMITATION OF LIABILITY. EXCEPT WITH REGARD TO FEES PAYABLE HEREUNDER, EACH PARTY'S TOTAL AGGREGATE LIABILITY TO THE OTHER PARTY OR ANY OTHER PERSON OR ENTITY FOR ANY AND ALL CLAIMS AND DAMAGES ARISING FROM OR OUT OF THIS AGREEMENT (WHETHER ARISING UNDER CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE) SHALL IN NO EVENT EXCEED THE FEES PAID BY CUSTOMER TO DIRECTRFP DURING THE TWELVE (12) MONTHS IMMEDIATELY PRECEDING THE DAY THE ACT OR OMISSION OCCURRED THAT GAVE RISE TO CUSTOMER'S FIRST CLAIM.

8.3 EXCEPTIONS. THE FOREGOING LIMITATIONS APPLY TO THE EXTENT PERMITTED BY APPLICABLE LAW.

9. Term and Termination

9.1 Term. The term of this Agreement shall commence on the Effective Date and shall continue until terminated in accordance with the terms set forth herein or in an applicable Order, or upon expiration or termination of all outstanding Orders hereunder in accordance with their terms.

9.2 Termination. Either party may terminate this Agreement and all outstanding Orders if the other party breaches this Agreement and fails to correct the breach within thirty (30) days following receipt of written

notice from the non-breaching party. In addition, DirectRFP may terminate this Agreement and all outstanding Orders immediately if Customer files for bankruptcy, becomes insolvent, or makes an assignment for the benefit of creditors, or if a trustee is set up to administer a substantial portion of Customer's assets or business.

9.3 Termination or Suspension of Subscription Services. In the event Customer fails to timely pay any fees and charges specified herein for more than ten (10) days, DirectRFP may in its sole discretion suspend or terminate all or any part of the Subscription Services immediately without notice.

9.4 Effect of Termination. Upon termination or expiration of this Agreement or an Order for any reason, all payment obligations shall become immediately due and owing and Customer shall immediately cease using the applicable Subscription Services and return all copies of the Documentation to DirectRFP. Upon termination or expiration of this Agreement, Customer shall also return to DirectRFP or destroy all copies of DirectRFP's Confidential Information in every form. Sections 1, 3.3, 5, 6, 7, 8, 9.4 and 10, and such other provisions which by their nature are intended to survive, shall survive termination or expiration of this Agreement. In the event of any termination hereunder, Customer shall not be entitled to any refund of any payments made by Customer.

10. Miscellaneous

10.1 Dispute Resolution; Governing Law. The laws of the State of California shall govern this Agreement, without reference to conflicts of law rules or principles. The parties specifically disclaim the application of the UN Convention on Contracts for the International Sale of Goods to the interpretation or enforcement of this Agreement. Customer hereby consents and submits to the exclusive jurisdiction and venue over any action, suit or other legal proceeding that may arise out of or in connection with this Agreement, by any state or federal court located within or about San Francisco County, California, USA. Customer shall bring any action, suit or other legal proceeding to enforce, directly or indirectly, this Agreement or any right based upon it exclusively in such courts.

10.2 Force Majeure. Neither party will be liable for any loss, damage or delay resulting from any event beyond such party's reasonable control (a "Force Majeure Event"), and delivery and performance dates will be extended to the extent of any delays resulting from any such Force Majeure Event. Each party will promptly notify the other upon becoming aware that a Force Majeure Event has occurred or is likely to occur and will use commercially reasonable efforts to minimize any resulting delay in or interference with the performance of its obligations under this Agreement. Notwithstanding any other provision of this Section 10.2, a Force Majeure Event shall not relieve Customer of its obligations to pay monies due and owing to DirectRFP hereunder.

10.3 Assignment. Neither party shall assign, transfer, or otherwise delegate any of its rights, duties, or obligations under this Agreement in whole or in part to any individual, firm or corporation without the prior written consent of the other party, which consent shall not be unreasonably withheld, and any attempted assignment (whether by operation of law or otherwise) shall be void; except that DirectRFP may delegate any of its rights, duties, or obligations under this Agreement to one or more of its Affiliates. Notwithstanding the foregoing, either party may assign its rights, duties, and obligations hereunder, without approval of the other party, to a party that succeeds to all or substantially all of its assets or

business (whether by sale, merger, operation of law or otherwise), so long as the assignee agrees in writing to be bound by the terms and conditions of this Agreement; provided, however, that any such assignment by Customer shall be subject to any fee adjustments specified in this Agreement or an Order, or that may be necessary because of Customer's use of the Subscription Services beyond the licensing parameters specified in the applicable Order; and further provided that no such assignment may be to a competitor of DirectRFP. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their successors and permitted assigns.

10.4 Independent Contractors. Nothing in this Agreement shall be construed to create an agency, joint venture, partnership or other form of business association between the parties. Neither party has the right or authority to make any contract, representation or binding promise of any nature on behalf of the other party, and neither party shall hold itself out as having such right or authority.

10.5 No Waiver. The failure on the part of either party to exercise any right or remedy hereunder will not operate as further waiver of such right or remedy in the future or any other right or remedy.

10.6 Severability. In the event that any provision of this Agreement is held invalid or unenforceable in any circumstances by a court of competent jurisdiction, the remainder of this Agreement, and the application of such provision in any other circumstances, will not be affected thereby.

10.7 Counterparts. This Agreement may be executed in duplicate and either copy or both copies are considered originals.

10.8 Notices. All official notices (including any notices regarding breach, termination, renewal, etc.) required or permitted hereunder shall be in writing and shall be delivered personally or sent by certified, registered mail or next day express mail or courier, postage prepaid. Any such notice shall be deemed given (a) when so delivered personally; (b) the day after, when sent by next day express mail or courier; or (c) three (3) days after, when sent by certified or registered mail, to each party's respective address as specified in an Order. In addition, routine notices, consents and approvals given under this Agreement may be delivered in writing as provided above or through electronic mail or other electronic record addressed to the parties identified herein.

10.9 Non-Exclusivity. DirectRFP shall not be limited or precluded in any way from providing Subscription Services or services of any kind to any entity as it, in its sole discretion, deems appropriate.

10.10 Marketing. Customer agrees that DirectRFP may reference Customer's execution of this Agreement and its status as a user of the Subscription Services on DirectRFP's website, in marketing materials and in sales presentations. In addition, Customer agrees to provide DirectRFP with the marketing assistance specified in the applicable Order.

10.11 Entire Agreement. This Agreement (including any Orders, Exhibits, and attachments which are hereby incorporated herein by reference) constitute the final and entire agreement between the parties, and supersedes all prior written and oral agreements, understandings, or communications with respect to the subject matter of this Agreement.



IN WITNESS WHEREOF, authorized representatives of the parties hereto agree to these terms and conditions.

DirectRFP, LLC

_____ **Customer Company Name**

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Contact: _____

Contact: _____