# Trackmedium Master Subscription Agreement

This Trackmedium Master Subscription Agreement ("**MSA**") governs Subscriber's purchase of, access to, and use of the Trackmedium Products. This MSA is by and between Trackmedium, LLC, a California limited liability company with its principal place of business at 4193 Flat Rock Dr Ste 251, Riverside, California 92505 ("**Trackmedium**"), and the company or other legal entity accepting this MSA or identified as the "Subscriber" in the applicable Order Form ("**Subscriber**"). By executing or accepting an Order Form or Statement of Work that references this MSA, Subscriber agrees to be bound by the terms and conditions of this MSA. This MSA governs Subscriber's and its Affiliates' and each of its and their Authorized Users' access to and use of the Products.

This MSA was last updated on February 25, 2026. This MSA becomes effective and binding as of the Effective Date of the applicable Order Form (or Statement of Work) that references this MSA.

Definitions:

- "**Affiliate**" means any entity which is controlled by a Party, where "control" means the legal, beneficial, or equitable ownership of at least a majority of the aggregate of all voting equity interests in such entity.
- **"Agreement"** means this MSA, each Order Form that references this MSA and is accepted by Trackmedium and Subscriber (including by electronic acceptance or other written acceptance, including email confirmation), any Statements of Work ("SOWs"), and the policies and supplemental terms expressly referenced in this Agreement or an Order Form, including the Trackmedium Subscription Support Policy ("Support Policy"), Trackmedium Products Availability Commitment ("Commitment"), Trackmedium Acceptable Use Policy ("AUP"), Trackmedium Information Security Program Standards ("Security Standards"), the Trackmedium Privacy Policy ("Privacy Policy") (which is informational and does not modify the parties' obligations under this Agreement), the Trackmedium Data Processing Addendum ("DPA"), the Trackmedium Master Professional Services Agreement ("MPSA"), and any other terms incorporated into this Agreement by reference.
- **"Authorized User"** means (a) Subscriber's administrators and end-users who are employees of Subscriber, and (b) Authorized Third-Party Users, in each case authorized by Subscriber to access and use the Products solely for Subscriber's internal business purposes. Each Authorized User must have a unique email address and login credentials. Subscriber is responsible for all acts and omissions of its Authorized Users and for their compliance with this Agreement. If an individual is no longer authorized, Subscriber will promptly disable access.
- "**Authorized Third-Party User**" refers to end-users of Subscriber's third-party vendors, suppliers, contractors, agents, or other business partners who need limited access and use of the Products to support Subscriber's business needs. All Authorized Third-Party Users must be authorized by Subscriber. With Subscriber's authorization, such Authorized Third-Party Users are deemed to be Authorized Users as referenced herein and for all purposes under this Agreement.
- "**Concurrent User License**" means a license which establishes the maximum number of Authorized Users permitted to be logged into the Products at any given time. For each Concurrent User License, a maximum of 10 individual Authorized Users may have log-in accounts to the Products. For example, if Company purchases 30 Concurrent User Licenses, the maximum number of Authorized Users who may be logged into the Products at any given time is 30 and the maximum number of Authorized Users with log-in accounts is 300.
- "**Confidential Information**" refers to any and all information disclosed by one Party to the other Party through oral, written, or any other means, which is: (i) marked or identified as confidential at the time of disclosure; (ii) would reasonably be considered confidential or proprietary by a reasonable business person, given the circumstances of the disclosure; (iii) all software, research and development information, know-how, methodologies, materials, formulae, templates, brochures, configurations, books, compositions, manufacturing and production processes and techniques, technical data, training curricula, improvements, designs, drawings, specifications, customer and supplier lists and information, sales data and plans, pricing and cost information, strategic plans, business and marketing plans and proposals, assembly, test, installation, service and inspection instructions and procedures, technical,

operating, and service and maintenance manuals and data, hardware reference manuals, engineering, programming, service, and maintenance notes and logs and related Documentation, or any other information disclosed in connection with this Agreement or any Order Form. The following information is also considered Confidential Information, even if it is not marked or identified as such: (a) the Products, including related software code or Documentation; (b) Subscriber Data; (c) the terms of this Agreement, including all Order Forms and pricing; and (d) Trackmedium's roadmaps, product plans, product designs, architecture, technology, and technical information, security audit reviews, business and marketing plans, and business processes, regardless of the method of disclosure.

- "**Documentation**" refers to the user documentation produced and readily accessible by Trackmedium for the Products. These can be provided to the Subscriber upon request or made available to Authorized Users of the Products in the form of manuals and functional descriptions, which may be altered by Trackmedium to reflect the latest version of the Products. The Documentation is considered part of this Agreement.
- "**Fees**" refer to the amounts due to Trackmedium as outlined in an Order Form or an SOW for the Products.
- "**Named User License**" means a license which establishes the maximum number of a single-User log-in accounts that can be active in the Products and are permitted to be logged into the Products at any given time. Each Named User License must be assigned to a specific Authorized User.
- "**Order Form**" refers to a mutually agreed upon document that outlines the details of the Products to be purchased by the Subscriber. The Order Form is considered part of this Agreement.
- **"Read-Only License"** means a Concurrent or Named License that allows the Authorized User or Authorized Third-Party User to access and view documents created using the Products or within the Products but without having the ability to make any changes.
- **"Subscriber Data"** refers to any information entered, processed, or generated from the use of the Products by the Subscriber's Authorized Users, excluding any part of the Products or Documentation, whether a modification, extension, configuration, enhancement, derivative, improvement, or otherwise.
- **"Support Services"** means the Products' technical support and maintenance services described in the Support Policy. Support Services may be purchased by Subscriber through a mutually agreed Order Form.
- "**Statement of Work**" or "**SOW**" means a statement of work for consulting services signed by both Parties, detailing the consulting services and deliverables, if any, to be performed by Trackmedium and the Fees to be paid by Subscriber.
- "**System**" refers to the software, databases, communication and network infrastructure, and hardware employed by Trackmedium, its suppliers, or representatives to deliver the Products.
- "**Products**" refers to the products and services that are ordered by the Subscriber through an Order Form or an SOW and provided online by Trackmedium, along with any related offline or mobile components as outlined in the accompanying Documentation.
- "**Third-Party Products**" refers to third-party applications and services offered through Trackmedium to be used in conjunction with the Products, each of which is licensed individually by its provider.
- "**Included Resources**" means the resource allocations and limits (including attachment storage, network traffic, API requests, notification emails, and webhook delivery attempts) specified in an Order Form.
- **"Overage Usage**" means usage in excess of the Included Resources.
- "**Usage Limits**" means the Included Resources, plus any measurement rules, billing units, rounding rules, and overage fees specified in the applicable Order Form.
- "**Privacy Policy**" means Trackmedium's privacy policy located at https://www.trackmedium.com/legal (or such successor URL), as may be updated by Trackmedium from time to time.
- "**Renewal Notice Period**" means the number of days' advance written notice required to (a) prevent renewal of the Subscription Term, and (b) provide renewal pricing notice where this Agreement requires it, as specified in the applicable Order Form. If an Order Form does not specify a Renewal Notice Period, the Renewal Notice Period is thirty (30) days.
- "**Annual Fee Increase Percentage**" means the annual percentage increase to Subscription Fees, as specified or determined under the adjustment method set forth in the applicable Order Form (including any floor or cap). If an Order Form does not specify an Annual Fee Increase Percentage or adjustment method, the Annual Fee Increase Percentage is five percent (5%).

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# Trackmedium Master Subscription Agreement

1. Trackmedium Products

1.1 Access Authorization and Terms of Use. Provided that the Subscriber adheres to the provisions of this Agreement and any mutually acceptable Order Form, Trackmedium grants the Subscriber and its Authorized Users (who access the Products through the Subscriber's account with an authorized password) a limited, revocable, non-exclusive, non-transferable right to access the Products for the duration specified in an Order Form, solely for the purpose of creating, updating, transmitting, storing, and retrieving Subscriber Data for the specified number of Concurrent or Named Licenses as outlined in an accepted Order Form by Trackmedium.

1.2 Access Restrictions. Access to the Products and Subscriber Data by the Subscriber and its Authorized Users is governed by this Agreement, the Documentation, and is subject to the following terms and conditions without limitation:

1.2.1 The Subscriber is prohibited from using or accessing the Products or Confidential Information of Trackmedium or Third Parties in any manner that may negatively impact the security, stability, performance, or functions of the Products, as determined by Trackmedium in its sole discretion. This includes, but is not limited to, introducing any malware or viruses into the Products or Systems.

1.2.2 The Subscriber must not access or try to access any unauthorized part of the Products, Systems, software, or databases, using any means. Additionally, the Subscriber must not take any steps to bypass the limitations on the number of Authorized Users, Concurrent Licenses, Named Licenses, or Read-Only Licenses stated in this Agreement.

1.2.3 The Subscriber, and those acting on its behalf, must not directly or indirectly: (i) reverse engineer, decompile, disassemble, or otherwise attempt to uncover the source code, object code, or underlying structure, ideas, concepts or algorithms of the Products; (ii) modify, translate, or create any derivative works based on the Products; (iii) copy, rent, lease, distribute, sell, pledge, assign, or otherwise transfer or encumber the rights to the Products; (iv) use the Products for timesharing or service bureau purposes, or for the benefit of another Party (except as specifically allowed for Authorized Third-Party Users under this Agreement); (v) remove any notices or branding from the Products.

1.2.4 The Subscriber is authorized to access the Products by logging in through the web interface using a browser, through Trackmedium-provided application programming interfaces, and Trackmedium-provided mobile apps available through the Apple App Store and the Google Play Store. Attempts to access the Trackmedium Products by any other means, including direct file system access, remote access/login to Trackmedium’s servers, and so forth, are expressly prohibited and are considered breaches of this Agreement.

1.2.5 The Subscriber must not use, or attempt to use, the Products to obtain electronic data or any other information, except as expressly permitted under this Agreement.

1.2.6 Trackmedium reserves the right to terminate, modify, alter, or add to any part of the Products and the information related to them at its sole discretion.

1.2.7 The Subscriber agrees to follow all security protocols established by Trackmedium. The Subscriber must not bypass or disable any measures put in place to prevent unlicensed use of the Products, or carry out load, technical, security, or vulnerability testing on the Products.

1.2.8 Fair Use and Resource Monitoring. To ensure fair access to System resources for all Subscribers, Trackmedium may monitor technical usage of the Products.

Attachment storage, network traffic, API usage, notification emails, and webhook usage are subject to the Usage Limits and any Included Resources specified in the Subscriber’s Order Form. No extra costs will be charged for usage that remains within the applicable Order Form limits. Any usage in excess of the applicable Order Form limits constitutes an overage and will incur additional charges as described in the Order Form.

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For System resources not covered by the Order Form limits (for example CPU usage, database usage, or other platform resources), if Subscriber's usage materially impacts performance or stability for Subscriber or other Subscribers, Trackmedium will notify Subscriber and propose reasonable mitigation alternatives. If Subscriber does not timely reduce usage or implement the agreed mitigation, Trackmedium reserves the right to limit access to the affected resources to the extent reasonably necessary to protect the Products and other Subscribers.

If excessive usage is detected and is to such an extent as to cause a negative impact, Trackmedium may propose a solution such as moving Subscriber to a separate load balancer or isolated server, which may incur additional costs.

1.2.9 Resource Limits and Overages.

(a) Binding Usage Limits. The Products are subject to Usage Limits and any Included Resources specified in the applicable Order Form. The Order Form limits are binding contractual terms.

(b) Overages and Invoicing. Any usage in excess of the applicable Order Form limits constitutes "Overage Usage" and is billable. Trackmedium may invoice Overage Usage in arrears at the rates, billing units, and rounding rules stated in the applicable Order Form. If the applicable Order Form does not state rates, billing units, or rounding rules for a particular overage, Trackmedium may invoice such overage at Trackmedium's then-current rates using reasonable billing units.

(c) Measurement. Usage and Overage Usage will be measured based on Trackmedium's systems and usage logs for the applicable billing period. Upon request, Trackmedium will make available usage summaries reasonably sufficient to support invoicing.

(d) Remedies. If Overage Usage occurs, Subscriber will promptly purchase additional capacity, upgrade tiers, or reduce usage. If Subscriber does not resolve the overage within a reasonable period, Trackmedium may limit, throttle, or suspend the applicable resource(s) to the extent reasonably necessary to protect the Products and other Subscribers until the overage is resolved.

(e) No Automatic Increase. Included Resources and Usage Limits do not automatically increase upon renewal unless expressly stated in the applicable Order Form.

1.2.10 Personal Data. Subscriber is solely responsible for ensuring the truthfulness, accuracy, quality, legality, appropriateness, and confidentiality of Subscriber Data, including any Personal Data (or personally identifiable information) included in Subscriber Data. Subscriber represents and warrants that it has obtained all rights, consents, and approvals, and has provided all notices, required under applicable law for Trackmedium to process Subscriber Data to provide the Products and Support Services. To the extent Subscriber Data includes Personal Data, the Trackmedium Data Processing Addendum is incorporated by reference and applies.

Subscriber shall comply with all applicable privacy and data protection laws and regulations in connection with Subscriber Data. Subscriber will limit the amount of Personal Data included in the Products to the minimum necessary for Subscriber's permitted use of the Products.

Unless Trackmedium expressly agrees in writing (for example, in an Order Form, an SOW, or an addendum), Subscriber will not submit, store, or process Prohibited Data through the Products. "Prohibited Data" has the meaning set forth in the Trackmedium Acceptable Use Policy.

Trackmedium will process Subscriber Data, including any Personal Data, only as necessary to provide the Products and as described in this Agreement and the Trackmedium Data Processing Addendum (DPA).

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1.2.11 Subscriber will not engage in competitive misuse or benchmarking of the Products, except as expressly permitted in writing by Trackmedium. The Trackmedium Acceptable Use Policy contains additional restrictions regarding competitive misuse and benchmarking, and is incorporated by reference.

1.3 Subscriptions. Subscriptions are the default purchase option of Products, unless specified otherwise in the relevant Order Form. Additional Concurrent or Named License subscriptions may be added during the subscription term at Trackmedium's then-current rates, prorated for the remaining term. The expiration date of these added subscriptions will match that of the original subscriptions.

1.4 Access and Support. The Subscriber is responsible for arranging and covering the costs of internet access. Trackmedium will provide support and maintenance for the Products in accordance with the Support Policy provided to the account administrator(s) and incorporated herein by reference. Trackmedium will make the Products available in accordance with the Products Availability Commitment provided to the account administrator(s) and incorporated herein by reference. Unless stated otherwise in this Agreement, the Subscriber is responsible for acquiring and maintaining all computer hardware, software, and communication equipment necessary for accessing and using the Products.

1.5 Authorized Users. Subject to the terms of this Agreement and any restrictions specified in an accepted Order Form by Trackmedium, Trackmedium will provide the Subscriber and its Authorized Users with access to the Products for internal business use. The Subscriber will identify Authorized Users through their Account. With respect to an Authorized User's use of the Products, the Subscriber agrees to: (i) inform each Authorized User of the terms of this Agreement, the Privacy Policy (as applicable), the Documentation, and the usage limitations in this section 1; (ii) monitor each Authorized User's compliance with the terms in this Agreement and the Documentation; and (iii) remain liable to Trackmedium for any violations of the terms in this Agreement, and the Documentation by any Authorized User.

1.6 Authorized User IDs, Logins and Passwords. Each Authorized User login ID and password is personal to a single individual and must not be shared or used by more than one person. Subscriber is responsible for maintaining the confidentiality of all login credentials and for all activities that occur under its Authorized User accounts.
Subscriber may reassign an Authorized User account due to personnel changes (for example, when an individual no longer requires access), provided that (a) the prior individual's access is promptly disabled, and (b) at all times the account is assigned to and used by only one individual. Non-human technical accounts used solely for system integrations or automated processes (for example, API integrations) are permitted if authorized by Trackmedium and must not be used by any individual as an Authorized User account.

1.7 Suspension of Service. Trackmedium may immediately suspend or disable Subscriber's (and its Affiliates' and Authorized Users') access to and use of the Products, in whole or in part, if Trackmedium reasonably believes that Subscriber's (or its Affiliates' or Authorized Users') use of the Products or breach of this Agreement: (i) is unlawful, illegal, fraudulent, or harmful; (ii) is associated with illegal, fraudulent, or harmful activities; (iii) is connected to malware, harmful code, viruses, or other malicious software; (iv) is likely to cause harm to Trackmedium or other subscribers or interfere with the integrity, operations, security, or availability of the Products or Trackmedium's systems or networks; or (v) is likely to subject or expose Trackmedium to criminal or civil sanctions, prosecution, or suit. Trackmedium may also suspend or disable access to and use of the Products if required to comply with a court order or government requirement.

In the exercise of Trackmedium's right to act immediately under this Section 1.7, Trackmedium will provide as much advance notice as is reasonably practicable under the circumstances. If advance notice is not reasonably practicable, Trackmedium will provide subsequent notice promptly thereafter.
Subscriber will promptly cooperate with Trackmedium in attempting to resolve the issue giving rise to any suspension. Trackmedium's suspension rights under this Section 1.7 are in addition to its termination rights under this Agreement.

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2. Third-Party Products & Services

2.1 Third-party products and services used within the Products. Third-Party Products are provided subject to their providers' terms. Unless expressly stated in an Order Form, Third-Party Products may require Subscriber to obtain separate rights, accounts, or subscriptions, and Trackmedium is not responsible for Third-Party Products.

3. Subscriber Data Security; Data Return

3.1 Security. Trackmedium is committed to securing Subscriber Data through the implementation of administrative, physical, and technical measures, or by requiring its service providers to do so. These measures aim to prevent accidental or illegal loss, access, or disclosure of the content.

3.2 Data Location; Data Privacy. Trackmedium will ensure the secure hosting of its Products by utilizing a reputable third-party internet service provider that implements commercially reasonable physical security measures. The hosting facility may be located in the United States and various other locations worldwide, with backup sites strategically placed for geographical diversity. This way, Trackmedium can ensure the protection of its Systems from unauthorized access.

3.3 Return of Subscriber Data. Trackmedium agrees to provide Subscriber with a file containing their data in an industry standard format for downloading or physical delivery, at no extra cost, within 30 days after the earlier of the effective date of termination or expiration of the Agreement or the Products (either, the "End Date"). This is provided that the Subscriber has paid any outstanding amounts owed to Trackmedium. After this 30-day period, Trackmedium will no longer be responsible for maintaining or providing any Subscriber Data and may delete it, unless prohibited by law.

4. Products Usage Data and Monitoring

4.1 Products Usage Data. The Subscriber recognizes that Trackmedium may collect information from the Subscriber, Authorized Users, and Authorized Third Party Users that Trackmedium uses to facilitate the delivery of the Products, manage, and monitor the Products to ensure usage is compliant with the terms of this Agreement, and develop improvements to the Products (referred to as "Trackmedium Product Usage Data"). Trackmedium Product Usage Data includes any user action or activity on the System that is associated with the login session, and data related to the usage of the Products excluding Subscriber Data, or any data that can be identifying as to any Authorized User or Authorized Third Party User. Trackmedium Product Usage Data may also be aggregated and/or pseudonymized. Trackmedium Product Usage Data will be the exclusive property of Trackmedium, and Trackmedium may use this information for Trackmedium's internal business purposes both during and after the Agreement, without requiring consent from the Subscriber.

4.2 Monitoring. Trackmedium reserves the right (but is not obligated) to record, monitor, edit, or disclose activities on Products and/or investigate any violations of this Agreement. Subscribers are not allowed to block this monitoring and must provide information to verify compliance. Trackmedium has the right to remove any Subscriber Data that breaches this Agreement if it receives proper notification of a violation of a third party's intellectual property rights, or if it is required to comply with a legal, regulatory, or government order or request. Trackmedium will promptly inform the Subscriber, unless prohibited by law. The Subscriber must provide Trackmedium with any information it reasonably requests to verify the Subscriber's compliance with this Agreement. Additionally, if Trackmedium suspects any illegal activity, it may report it to relevant government agencies, law enforcement, or other third parties, which may include disclosing Confidential Information. Trackmedium may also work with these parties to assist with investigations and prosecute illegal conduct by providing information related to any law violations. In the event of a conflict between this Monitoring section and any other provision of this Agreement with respect to monitoring, compliance verification, or compliance examinations, this Monitoring section will control.

4.3 Compliance Examination. Trackmedium shall have the right to access Subscriber's instance(s) of the Products during the term of the Agreement as necessary to provide the Products, administrative activities,

customer support, and other activities which Subscriber acknowledges are essential in order for Trackmedium to meet its obligations under this Agreement.

In addition, during the term of the Agreement and for one (1) year thereafter, Trackmedium (itself or in conjunction with independent auditors retained by it and subject to obligations of confidentiality) shall have the right to examine Subscriber's instance of the Products, Subscriber Data, and other records and information relating to Subscriber's use of the Products, in order to confirm Subscriber's compliance with the terms of this Agreement. Trackmedium shall not, in the conduct of its examination, unreasonably interfere with Subscriber's business operations.

If this examination reveals that Subscriber has used the Products in violation of the Agreement, such conduct shall be considered a material breach of the Agreement, which Subscriber shall immediately cure (if capable of cure). Trackmedium may terminate the Agreement in accordance with the Termination for Cause section and/or invoice Subscriber for such unauthorized use (including applicable subscription and Support Services fees) based upon Trackmedium's standard fees in effect at the time the examination is completed. If the amount of unpaid fees exceeds five percent (5%) of the amount actually owed, Subscriber shall also pay Trackmedium's reasonable costs of conducting the examination.

5. Subscriber Responsibilities

5.1 Subscriber Data; Security. The Subscriber shall: (i) bear full responsibility for the reliability, quality and accuracy of the Subscriber Data provided by the Subscriber; (ii) guarantee that the Subscriber's Data Content, including its transmission and storage, abide by the terms of this Agreement and all relevant laws and regulations; (iii) quickly address and resolve any notifications received from third parties alleging that the Subscriber's data content infringes on their rights, including takedown requests in accordance with the Digital Millennium Copyright Act or other applicable laws; (iv) implement appropriate security measures and protect any devices accessing the Products. Trackmedium shall not be held liable to the Subscriber or any Authorized User for (a) any unauthorized access to an Account or Subscriber Data caused by the Subscriber's or Authorized User's mishandling of the Products or due to the loss or theft of any password or username, or (b) any loss, destruction, damage, or deletion of Subscriber Data.

5.2 Notification of Unauthorized Use. The Subscriber must inform Trackmedium in writing as soon as they become aware of any unauthorized use of their account, Subscriber Data, or Products. If a third-party gains access to the Products through the Subscriber or any Authorized User and uses them without permission, the Subscriber must take action to stop the unauthorized use. They must also provide Trackmedium with the necessary assistance and cooperation to resolve the situation.

6. Support Services

6.1 Trackmedium will offer Support Services for the Products according to the Support Policy upon receipt of the relevant Fees specified in the Order Form.

7. Subscription Fees

7.1 Payment. The Subscriber shall pay Trackmedium the Fees set forth in the Order Form. Fees will be invoiced in accordance with the applicable Order Form. Unless the Order Form states otherwise, Fees are invoiced in advance and shall be paid in US Dollars within the payment period specified in the Order Form. Payment terms, including any applicable late payment charges, are detailed in the Order Form. All Fees and Products outlined in the Agreement and Order Form are non-refundable and non-cancellable, unless explicitly stated otherwise.

7.2 Taxes. The Fees outlined in this Agreement exclude taxes and duties. If Trackmedium is required to pay any taxes, public fees, duties, deductions, or withholdings (referred to as "Taxes"), the Subscriber will be responsible for covering these Taxes. Taxes shall not include taxes based upon Trackmedium's income. The Subscriber confirms that Trackmedium may rely on the billing name and address listed in the Order Form placed directly with Trackmedium as the location for tax purposes.

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8. Term and Termination

8.1 Subscription Term; Renewal. This Agreement will take effect on the Effective Date of the applicable Order Form and will remain in effect until all Subscriptions have expired or been terminated, or until this Agreement is terminated in accordance with its terms.

- Renewal.
  **(a) Automatic Renewal.** Except as otherwise specified in an Order Form, the Subscription Term will automatically renew and be extended upon its expiration for a period of the same duration as the Subscription Term stated in the applicable Order Form, unless (i) this Agreement is terminated pursuant to Section 8.2, or (ii) either Party provides written notice of non-renewal to the other Party at least the Renewal Notice Period prior to the scheduled end of the then-current Subscription Term.

  **(b) Annual Fee Increases.** Subscription Fees shall increase on an annual basis by the Annual Fee Increase Percentage above the applicable pricing of the immediately preceding annual fee period, unless the applicable Order Form states a different renewal adjustment. If Trackmedium provides Subscriber with renewal pricing that would increase Subscription Fees by more than the Annual Fee Increase Percentage above the immediately preceding annual fee period, Trackmedium will provide written notice of such pricing at least the Renewal Notice Period prior to the start of the applicable annual fee period.

  **(c) Lapse for Non-Payment at Expiration.** If Subscriber does not submit payment for the renewal term prior to the expiration date of the then-current Subscription Term (excluding amounts subject to a good-faith dispute), Subscriber's right to access the Products will lapse as of the last day of the then-current Subscription Term.

  **(d) Then-Current Terms at Renewal.** Upon renewal, the Agreement will renew under Trackmedium's then-current terms and conditions, including the Trackmedium Subscription Support Policy ("Support Policy"), Trackmedium Products Availability Commitment ("Commitment"), Trackmedium Acceptable Use Policy ("AUP"), Trackmedium Information Security Program Standards ("Security Standards"), the Trackmedium Data Processing Addendum ("DPA"), and the Trackmedium Master Professional Services Agreement ("MPSA"), each as updated in accordance with the Agreement.

8.2 Termination for Cause. The Agreement and the right to use the Products may be terminated as follows: (a) either Party may terminate the Agreement by written notice if the other Party breaches the Agreement and fails to cure the breach within 30 days of written notice. If the Subscriber fails to pay, Trackmedium may suspend or terminate the Subscriber's access to the Products and any other licenses for which payment is owed, within the Payment Due Period defined in the Order Form after written notice, (b) by either Party immediately and upon written notice to the other Party in the event the other Party makes a bankruptcy assignment, starts or has started a bankruptcy, insolvency, or reorganization proceeding under bankruptcy laws, or has a debtor's moratorium.

8.3 Post-Termination Obligations. Upon termination or expiration of this Agreement for any reason, Subscriber will have no further rights to access or otherwise use the Products or Documentation. Subscriber should return to Trackmedium all copies of the Products and Documentation (if in possession of any) and any other Confidential Information of Trackmedium; and delete all copies of the Products and Documentation contained on any computer and storage media under Subscriber's control (if in possession of any). Termination of the Agreement shall not relieve Subscriber of any outstanding fees or payments owed.

8.4 Surviving Provisions. Upon any expiration of the Subscription Term or termination of this Agreement, the following sections shall survive: 2 (Third Party Products & Services), 4 (Products Usage Data and Monitoring), 5 (Subscriber Responsibilities), 7 (Subscription Fees) 8.3 (Post-Termination Obligations), 8.4 (Surviving Provisions), 9.3.2 (Trackmedium Warranty Exclusions), 9.3.3 (Trackmedium Warranty Limitation), and 10 (Limitation of Liability), 11 (Indemnification), 12 (Intellectual Property), 13 (Confidentiality), and 14 (Miscellaneous).

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9. Representations and Warranties

9.1 Conflicting Agreements. Both Parties assert that they have no existing agreements or obligations that would significantly clash or conflict with the provisions of this Agreement or prevent them from adhering to its provisions.

9.2 Due Organization. Both Parties declare that they have been properly established, legally exist, and have a favorable status in the jurisdiction where they were incorporated. They also affirm that they possess the necessary authority to sign and implement this Agreement and to execute any transactions outlined in this Agreement.

9.3 Warranties

9.3.1 Trackmedium Warranty. Trackmedium asserts and guarantees that the Products provided to the Subscriber are largely consistent with the descriptions provided in the Documentation. If this warranty is breached, Trackmedium may choose to (i) re-perform or correct the non-conforming development, implementation, or Support Services, (ii) fix the non-conforming component of the Products within a reasonable time period commensurate with severity and in accordance with the Support Policy, or (iii) refund the Subscriber a proportional amount of any prepaid Fees for the remaining subscription term. Upon receipt of the refund, all licenses and access to the Products will automatically terminate.

9.3.2 Trackmedium Warranty Exclusions. The warranty outlined in section 9.3.1 does not cover any Products that have been altered, damaged, or misused in any way by the Subscriber or any of its Authorized Users. Trackmedium cannot be held responsible for any issues arising from the operating characteristics of the hardware or operating system of the computer being used to host or access the Products. This also applies to problems that may occur when the Products are used with software from third parties or with hardware that is incompatible with the operating system in use. Trackmedium is not liable for any issues caused by the Subscriber modifying or configuring the operating system or by the Subscriber using the Products in a way that goes against the guidelines outlined in the Documentation, including any recommended software or equipment. Trackmedium is not responsible for any issues within or impacting the Subscriber's computing environment.

9.3.3 Trackmedium Warranty Limitation. TRACKMEDIUM PROVIDES NO WARRANTY, EXPRESS OR IMPLIED, FOR ANY MATTER WHATSOEVER, EXCEPT FOR THOSE EXPRESS WARRANTIES EXPLICITLY SET FORTH IN THE AGREEMENT. TRACKMEDIUM DENIES ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A SPECIFIC PURPOSE, AND NONINFRINGEMENT. TRACKMEDIUM DOES NOT WARRANT THAT THE PRODUCTS (INCLUDING ANY SUPPORT SERVICES) WILL MEET SUBSCRIBER'S REQUIREMENTS, WILL BE ERROR FREE, OR WILL BE TIMELY OR SECURE. TRACKMEDIUM DOES NOT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE PRODUCTS. THE SUBSCRIBER IS NOT AUTHORIZED TO MAKE OR PASS ON ANY REPRESENTATIONS OR WARRANTIES ON BEHALF OF TRACKMEDIUM TO ANY THIRD PARTY. TO THE FULLEST EXTENT PERMITTED BY LAW, THE PRODUCTS AND SUPPORT SERVICES ARE PROVIDED "AS IS."

9.3.4 Subscriber Warranties. The Subscriber asserts and guarantees to Trackmedium that they, or their licensors, hold all the rights, title, and ownership of all Subscriber Data.

10. Limitation of Liability

10.1 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, TRACKMEDIUM'S TOTAL AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS, BASED ON ANY THEORY OF LIABILITY, WHETHER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, WHETHER RELATING TO THE PRODUCTS OR OTHERWISE, SHALL NOT EXCEED THE TOTAL AMOUNT OF APPLICABLE FEES PAID TO TRACKMEDIUM UNDER THE APPLICABLE ORDER FORM FOR THE

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PRODUCTS GIVING RISE TO THE LIABILITY IN THE TWELVE (12) MONTHS PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE.

10.2 NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE AGREEMENT, IN NO EVENT SHALL TRACKMEDIUM, ITS LICENSORS, EMPLOYEES, AGENTS, DISTRIBUTORS, MARKETING PARTNERS, RESELLERS, PARENT OR AFFILIATES BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL, EXEMPLARY, OR CONSEQUENTIAL DAMAGES, INCLUDING RESULTING FROM UNAUTHORIZED ACCESS TO, OR THE ALTERATION, DELETION, DESTRUCTION, DAMAGE, LOSS, DISCLOSURE, UNAVAILABILITY OR NON-STORAGE OF DATA, OR FROM DELAYS, LOSS OF PROFIT, INTERRUPTION OF SERVICE OR LOSS OF BUSINESS OR ANTICIPATORY PROFITS, BASED ON ANY THEORY OF LIABILITY, WHETHER CONTRACT, TORT, STRICT LIABILITY, NEGLIGENCE, OR OTHERWISE, WHETHER RELATING TO PRODUCTS OR OTHERWISE, EVEN IF TRACKMEDIUM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES AND NOTWITHSTANDING THE FAILURE OF ANY LIMITED REMEDY OF ITS ESSENTIAL PURPOSE.

10.3 THE EXCLUSIONS AND LIMITATIONS IN SECTIONS 10.1 AND 10.2 DO NOT APPLY TO LIABILITY ARISING FROM (I) FRAUD OR FRAUDULENT MISREPRESENTATION, OR (II) BODILY INJURY OR DEATH CAUSED BY TRACKMEDIUM'S GROSS NEGLIGENCE. THE EXCLUSIONS AND LIMITATIONS IN SECTIONS 10.1 AND 10.2 ALSO DO NOT APPLY TO THE EXTENT THAT LIABILITY CANNOT BE EXCLUDED OR LIMITED UNDER APPLICABLE LAW.

10.4 THE PROVISIONS OF SECTIONS 10.1 AND 10.2 ARE FUNDAMENTAL AND SPECIFIC REQUIREMENTS OF THE BASIS OF THE BARGAIN BETWEEN TRACKMEDIUM AND SUBSCRIBER AND TRACKMEDIUM WOULD NOT BE ABLE TO ENTER INTO THE AGREEMENT WITHOUT SUCH PROVISIONS.

11. Indemnification

11.1 By Trackmedium

11.1.1 Intellectual Property Infringement. Notwithstanding anything to the contrary in this Agreement, Trackmedium shall provide indemnification, defend, or, at its discretion, settle any legal claims or lawsuits made against the Subscriber by a third party alleging that the Products infringe upon any third-party copyrights, patents, trademarks, or trade secrets in relation to the Subscriber's usage of the Products (a "Third-Party Intellectual Property (IP) Claim"). Trackmedium will cover the damages, reasonable and verifiable costs, and expenses awarded against the Subscriber by a final court judgment of competent jurisdiction (or settlements pre-approved in writing by Trackmedium), directly resulting from such Third-Party Intellectual Property Claim.

11.1.2 Conditions for Indemnification as to Third-Party IP Claims. Under section 11.1.1, Trackmedium's obligations for indemnification are subject to the following conditions: (i) Subscriber must give Trackmedium prompt written notice of any Third-Party IP Claim, (ii) Trackmedium has exclusive control over the defense and/or settlement, (iii) Subscriber must not harm the defense of any Third-Party IP Claim, and (iv) Subscriber must provide Trackmedium with necessary cooperation, information, and assistance. If use of the Products is enjoined due to a Third-Party IP Claim, Trackmedium may choose to: (a) get Subscriber the right to use the Products, or (b) replace the Trackmedium Products with other suitable products, Trackmedium will not be liable in cases where the infringement is due to: (w) using the Products differently than stated in the Documentation, (x) using the Products with a software or hardware that is not provided by or recommended by Trackmedium, (y) modifying or combining the Products without Trackmedium's involvement, or (z) using an outdated version of the Products.

11.1.3 Sole and Exclusive Remedy. Section 11.1 outlines the complete responsibility and accountability of Trackmedium and the sole recourse of Subscriber for any violations of Third-Party Intellectual Property rights.

11.2 By Subscriber

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11.2.1 Indemnification by Subscriber. The Subscriber must defend, hold harmless, indemnify and protect Trackmedium and its licensors from any claims, legal actions, demands, lawsuits, damages, liabilities, settlements, penalties, fines, costs, and expenses (including reasonable attorney fees), if such claims arise from: (a) the Subscriber's use of the Products, (b) the Subscriber's violation of any third party's rights, (c) the Subscriber Data, (d) any violation of the restrictions outlined in section 1.2, or (e) the Subscriber's non-compliance with laws, rules, or regulations. This does not apply if Trackmedium is indemnifying the Subscriber under section 11.1.

11.2.2 Conditions for Indemnification by Subscriber. Under section 11.2.1, Subscriber's obligations for indemnification are subject to the following conditions: (a) Trackmedium must give Subscriber prompt written notice of any Claim, (b) Subscriber has exclusive control over the defense and/or settlement, (c) Trackmedium must not harm the defense of any Third-Party IP Claim, and (d) Trackmedium must provide Subscriber with necessary cooperation, information, and assistance.

12. Intellectual Property

12.1 Trackmedium Intellectual Property. Despite any provisions to the contrary, Trackmedium retains all rights, ownership, title, interest and stake in all Intellectual Property and technology pertaining to the Products. Aside from the rights explicitly granted in this Agreement, Trackmedium does not license or transfer to Subscriber, Authorized User, or other third party any rights to any of Trackmedium's Intellectual Property or technology. All rights, ownership, title, interest, and stake in and to Trackmedium's Intellectual Property and technology shall remain solely with Trackmedium.

12.2 Intellectual Property of Subscriber's customizations to Products. Subscriber may modify or request Trackmedium to modify or customize modules, forms, workflows, or step routings in the Products, but only within the functionality allowed by the Products (known as "Customizations"). The rights in and to Customizations shall belong to and be owned by Trackmedium, including any intellectual property rights. Subscriber assigns any rights, including any intellectual property rights, they have in or to the Customizations to Trackmedium. Subscriber is granted a license to use the Customizations in the same manner as the Products provided in this Agreement.

12.3 Subscriber Data. Subscriber retains all rights, title, and ownership of Subscriber Data. Trackmedium is granted a worldwide license, which is non-exclusive and royalty-free, to use the Subscriber Data for the duration of the Agreement. This includes hosting, copying, storing, processing, transmitting, displaying, and any other necessary use for providing the Products and fulfilling the obligations of the Agreement.

12.4 Subscriber Feedback. To the extent Subscriber provides Trackmedium with any feedback relating to the Products (including, without limitation, feedback related to usability, performance, interactivity, bug reports and test results ("**Feedback**") Subscriber hereby grants Trackmedium a non-exclusive, perpetual, irrevocable sublicensable, royalty-free, fully paid-up, worldwide right and license to use, reproduce, display, distribute, and otherwise fully exploit such Feedback.

13. Confidentiality

13.1 Confidential Information. Both Parties shall maintain the confidentiality of the other Party's Confidential Information and shall not disclose or share it with anyone outside of their employees, Affiliates, contractors, consultants, or advisors who have a legitimate need to know. Such employees, Affiliates, contractors, consultants, or advisors must be bound by written obligations that are equal to or stronger than the provisions of this section. The receiving Party is responsible for ensuring that their representatives adhere to these obligations and must use the same level of care to protect the Confidential Information as they would for their own Confidential Information of a similar nature. Additionally, the receiving Party can only use the Confidential Information for the purposes outlined in this Agreement.

13.2 Exceptions. Confidential Information does not include information that is: (a) already public, as long as it didn't become public due to a breach of this Agreement by the receiving Party. (b) obtained from a third

party lawfully and without breach of any confidentiality obligation owed to the disclosing Party. (c) independently developed by the receiving Party without using or referencing the information from the disclosing Party. Either Party may disclose Confidential Information as required by law or by a court of competent jurisdiction. However, the Party required to disclose the information ("Disclosing Party") must provide written notice to the Party whose Confidential Information is at issue ("Affected Party"), unless prohibited by law. In such cases, the Disclosing Party must also cooperate with the Affected Party to limit the extent of the disclosure. If the Affected Party provides written consent to the disclosure, then the Confidential Information may be disclosed without further notice.

14. Miscellaneous

14.1 Compliance with Laws. Subscriber will comply with all applicable U.S. export control and sanctions laws and will not export, re-export, or transfer the Products in violation of such laws.

14.2 Governing Law, Jurisdiction, Expenses. This Agreement shall be governed by the laws of the State of California relevant to Agreements executed and fulfilled within the state, regardless of conflicts of law principles. The Subscriber agrees that any legal actions, disputes, and litigation related to this Agreement will only be pursued in federal or state courts located in the State of California, and both Parties irrevocably consent to the exclusive jurisdiction of these courts. The Parties additionally consent to venue in the state and Federal courts located in Riverside County, California. The Subscriber irrevocably and unconditionally waives any right to a jury trial. If litigation ensues concerning this Agreement, and a court of competent jurisdiction determines that a Party breached this Agreement in a final, non-appealable order, then the breaching Party shall reimburse the non-breaching Party for all reasonable costs and expenses, including attorneys' fees, incurred as a result of pursuing such order, including any related appeals.

14.3 Notices. This Agreement allows for notices and communications to be sent electronically. However, any notice regarding a material breach, violation, or termination must be in writing and delivered either by certified or registered mail, or by a recognized international express courier service. Notices to Trackmedium should be sent to the address listed above, addressed to the "Legal Department". Notices to the Subscriber should be sent to the address on the Order Form, addressed to the signatory of said form, and are considered delivered when delivered in person, when sent by mail with postage prepaid, or when delivered by an overnight courier service. Regarding notices related to Trackmedium's Privacy Policy, Support Policy, or similar provisions, these notices will be considered given when sent via email to the Subscriber's account administrator(s).

14.4 Conflicts. In the event of any conflict between the terms and conditions of this MSA and those contained in or referenced in an Order Form, the terms and conditions of this MSA shall prevail unless (a) the conflicting term relates to fees, subscription term, products or services ordered, Included Resources, Usage Limits, Overage Usage, or invoicing schedule expressly stated in the applicable Order Form, in which case the Order Form shall control for that conflicting term; or (b) the Order Form (or other incorporated terms) makes specific reference to the section in this Agreement that it supersedes, in which case the Order Form shall control only with respect to that specifically referenced section.

14.5 Conflicts with Incorporated Policies. In the event of any conflict between this MSA and any policy, standard, or supplemental term incorporated into the Agreement by reference, this MSA will control unless the incorporated policy, standard, or supplemental term expressly states that it controls for its specific subject matter, in which case it will control only for that specific subject matter.

14.6 Entire Agreement; Modification; Severability; Waiver. This Agreement encompasses the full understanding of both Parties regarding the subject matter and replaces all previous agreements, verbal or written. This Agreement constitutes the entire Agreement between the Parties with respect to its subject matter. Except as expressly provided in the section titled "Changes to the MSA," this Agreement cannot be altered except through a written agreement between both Parties signed by duly authorized representatives of each Party. If any provision of this Agreement is held to be invalid or unenforceable, the remaining provisions will remain in full force and effect. No failure or delay by either Party to enforce any right or

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provision will operate as a waiver of that right or provision. A waiver of any breach will not constitute a waiver of any other breach, or of any future breach.

14.7 Changes to the MSA.

(a) **Version at Order**. Each Order Form is subject to the version of this MSA in effect as of the date the applicable Order Form is executed (or accepted, if accepted electronically).

(b) **Posting Updates**. Trackmedium may modify this MSA at any time by posting an updated version at https://www.trackmedium.com/legal. Such modifications will become effective immediately upon posting.

(c) **Effective Date of Updates for Existing Products**. Notwithstanding subsection (b), with respect to any then-existing Products, any modifications to this MSA will apply only at the beginning of the Products' renewal term (if any), unless subsection (d) applies.

(d) **Immediate Effect Exceptions**. Modifications may apply immediately to then-existing Products only to the extent required due to: (i) security requirements, (ii) technical changes in the Products, (iii) introduction of new Products, (iv) changes in applicable laws, regulations, or binding legal interpretations, or (v) mutual written agreement of the Parties.

(e) **Supporting Policy Updates**. Notwithstanding subsection (c), Trackmedium may update policies and standards that are incorporated into the Agreement by reference (including the Trackmedium Subscription Support Policy, Trackmedium Products Availability Commitment, Trackmedium Acceptable Use Policy, Trackmedium Information Security Program Standards, and other policies/standards expressly referenced in this Agreement or an Order Form) by posting a revised version at https://www.trackmedium.com/legal. Any such update will become effective for Subscriber as stated in the revised supporting document (including any notice period stated in it). For clarity, updates to supporting documents are permitted during the Subscription Term, subject to any restrictions stated in the supporting document and the Agreement.

14.8 Force Majeure. Notwithstanding anything in the Agreement to the contrary, except for payment obligations, neither Party shall be held accountable for any violation of the Agreement or any damages caused by a delay or failure to fulfill their obligations thereunder, nor for any damages or loss of any kind, resulting from causes beyond its reasonable control, including events such as natural disasters like acts of God, earthquakes, and storms, labor disputes, blockades, embargoes, riots and other industrial disruptions, delays or failures of mechanical, electrical, electronic, telecommunications, epidemic or pandemic, provided that to the extent activities can be reasonably completed remotely during an epidemic or pandemic, the need for remote working will not, by itself, constitute a Force Majeure event, Internet, or third-party supplies and services, orders from government authorities, criminal acts, war, terrorism, and cyberattacks that result in security breaches or malicious intrusions into data or computer systems.

14.9 Independent Contractors. This Agreement does not establish a joint venture or partnership between the Parties involved. Neither Party is granted the status of an agent, employee, or representative of the other Party through this Agreement. Neither Party holds the power to control or manage the activities or operations of the other and both Parties maintain the status of independent contractors towards each other. Neither Party has the power or authority to bind or make commitments on behalf of the other. Neither Party is allowed to present themselves as having any authority that goes against this provision.

14.10 Assignment. Neither the Agreement nor any of its rights or obligations may be transferred, assigned, delegated, or subcontracted by Subscriber, whether legally or otherwise, in whole or in part, without the prior written consent of Trackmedium. A change in control of Subscriber is considered an assignment of this Agreement, given the significance of Subscriber's ownership and management. A "Change of Control" refers to a transaction or series of transactions that result in control of Subscriber being acquired by individuals or entities other than those who control Subscriber as of the effective date of this Agreement or the sale of most or all of Subscriber's assets using Products. The provisions of this Agreement shall be binding on and benefit the Parties and their respective successors and assigns, subject to the above restrictions. Any attempted assignment in violation of this provision is null and void.

14.11 Publicity. During the duration of the Agreement, and unless stated otherwise in the applicable Order Form, Trackmedium may include the Subscriber as a user of the Products or as a Trackmedium Customer on its website and in other promotional materials.

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14.12 Non-solicitation. In consideration of the rights granted herein, the Parties agree that, during the term of this Agreement and for a period of one year thereafter, neither Party shall directly solicit any employee of the other Party who has been directly involved with the Agreement with direct contact towards the other Party, for employment by that Party of any of its Affiliates. This non-solicitation requirement shall not apply to responses to general solicitations such as printed advertisements, head-hunting not exclusively aimed at a specific individual, bulletin board or other electronics postings, job boards, etc. that are not targeted at a specific individual. In the event of a breach of this provision, the breaching Party shall make a one-time payment to the aggrieved Party in the amount of Two Hundred Thousand and no/100 Dollars ($200,000.00), unless the Parties mutually agree, in writing, to a lesser amount or to waive the damages. Such payment shall be the aggrieved Party's exclusive means of recovery from the breaching Party for breach of this provision. The Parties agree that these damages are liquidated damages and not a penalty, and represent a reasonable estimate of the harm that would be difficult to quantify.

14.13 Captions. The captions contained herein are used solely for convenience and shall not be deemed to define or limit the provisions of this Agreement.

14.14 Counterparts. This Agreement may be executed in counterparts, each of which will be deemed an original and all of which together will constitute one Agreement. Signatures delivered by electronic means (including PDF, scanned copy, electronic signature, or other electronic transmission) will be effective and binding.

14.15 Electronic Signatures. The Parties agree that this Agreement, agreements ancillary to this Agreement, and related documents to be entered into in connection with this Agreement will be considered signed when the signature of a party is delivered by electronic (.pdf) or facsimile transmission. Such electronic or facsimile signature will be treated in all respects as having the same effect as an original signature.

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