

This is an agreement between You and Built.io LLC (“**Built.io**”) and governs your Use of Built.io Flow Software as a Service subscription, including associated offline components and support (“Services” or “SaaS Services”).

**This agreement, Built.io Flow’s Use Policies <https://www.built.io/usepolicy>, and in cases where Personal Data, as defined in Article 4, Section 1 of the General Data Protection Regulation, is processed by Built.io Flow from subjects of the European Economic Area or Switzerland, the Data Processing Addendum (collectively, the “Agreement”) govern Your Use of the SaaS Services.**

**By Using the SaaS Services, You agree to be bound by the terms of the Agreement. If you are entering into this Agreement on behalf of an entity, you represent that you have authority to bind that entity. If you do not have such authority or you do not agree to the terms of the Agreement, neither you nor the entity may Use the SaaS Services.**

**1. Key Definitions.** “You,” “your” and “Customer” refers to the individual or entity that has executed this Agreement and ordered SaaS Services from Built.io Flow LLC (“Built.io Flow”) or an authorized reseller. “Customer Data” means electronic data and information submitted by or for Customer to the Purchased Services or collected and processed by or for Customer using the Purchased Services, excluding Non-Built.io Flow Applications, including but not limited to APIs, graphics, text and video. “Law” refers to any applicable statute, regulation, rule, ordinance or ruling by a federal, state or local government. “Non-Built.io Flow Applications” means a Web-based, mobile or offline software application or service, or service that is provided by Customer or a third party and interoperates with a Service, including, for example, an application that is developed by or for Customer, a third party service that a customer may have access to, subscribe to, or obtain a license to, a third party service that a customer may have access to, subscribe to, or obtain a license to. “Order Form” refers to a form issued by Built.io Flow containing the terms of payment and specifications of the SaaS Services provided under this Agreement detailing fees, deliverables and other related terms and agreed to by both Customer and Built.io Flow. An Order Form shall be issued pursuant to the terms and conditions of this Agreement, and shall be executed by Built.io Flow and Customer. “User” means an individual who is authorized by Customer to use a SaaS Service on Customer’s behalf, and to whom Customer (or Built.io Flow at Customer’s request) has supplied a user identification and password. Users may include, for example, Customer employees, consultants, contractors and agents, and third parties with which Customer transacts business.

**2. Evaluation License** If You license the SaaS Service for evaluation purposes or other limited, temporary use as authorized by Built.io Flow (“Evaluation Service”), Your Use of the Evaluation Service is only permitted for the period limited by stated by Built.io Flow in writing and shall be treated as a “Trial Subscription” under the terms of the Use Policy. If no evaluation period is identified by Built.io Flow in writing, then the evaluation license is valid for thirty (30) days from the date the SaaS Services are made available to You. You will be invoiced for the list price of the SaaS Services if You fail to return or stop using it by the end of the evaluation period. The Evaluation Service is licensed “AS-IS” without support or warranty of any kind, expressed or implied. Built.io Flow does not assume any liability arising from any use of the Evaluation Service. You may not publish any results of benchmark tests run on the Evaluation Service without first obtaining written approval from Built.io Flow. You authorize and license Built.io Flow to use any feedback or ideas You provide Built.io Flow in connection with Your use of the Evaluation Product.

**4. Applicability.** This Agreement solely applies to the provision of the SaaS Services. Built.io Flow shall not be liable for any services provided by Built.io Flow Affiliates or third parties.

## **5. Intellectual Property and Licensing**

**5.1. Reservation of Rights.** Subject to the limited rights expressly granted hereunder, Built.io Flow and Built.io Flow licensors reserve and retain all of their right, title and interest in and to SaaS Services, including all of Built.io Flow/their related intellectual property rights. No rights are granted to Customer hereunder other than as expressly set forth herein.

**5.2. License for Services.** Subject to i) acquisition of the SaaS Services from an authorized reseller; ii) Built.io Flow’s acceptance of the Order Form and ii) receipt of applicable fees from Customer to the authorized reseller or Built.io Flow, for the duration of the period set forth in the Order Form, Built.io Flow grants to Customer a worldwide, limited-term license, under Built.io Flow’s applicable intellectual property rights and licenses, to use the SaaS Services licensed to Customer pursuant to Order Forms and the Agreement.

**5.3. License by Customer to Host Customer Data and Applications.** Customer grants Built.io Flow and Built.io Flow Affiliates a worldwide, limited-term license to access its data (including, without limitation, Customer Data), networks and systems for the purposes of providing SaaS Services, whether owned or operated by Customer or by third parties contracting with Customer, host, copy, transmit and display Customer Data, and any Non-Built.io Flow Applications and program code created by or for Customer using a Service, as necessary for Built.io Flow to provide SaaS Services in accordance with this Agreement. Subject to the limited licenses granted herein, Built.io Flow acquires no right, title or interest from Customer or Customer licensors in or to Customer Data or any Non-Built.io Flow Application or program code.

**5.4. License by Customer to Use Feedback.** Customer grants to Built.io Flow and Built.io Flow Affiliates a worldwide, perpetual, irrevocable, royalty-free license to use and incorporate into SaaS Services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Users relating to the operation of SaaS Services.

**5.6. Ownership of SaaS Services, changes to Built.io Flow Privacy Policies, and External Facing Website Policies and Subscription Terms.** With the exception of Customer Data, Customer acknowledges that as between Built.io Flow and Customer, Built.io Flow owns all right, title and interest in the SaaS Services, including any improvements or modifications thereto. Built.io Flow reserves the right to change, Built.io Flow Privacy Policies, Terms of Service, Built.io Flow Use Policy or External Facing Website policies at any time. Built.io Flow will provide reasonable written notice to Customer of any material changes to the aforementioned documents, except that Built.io Flow may not amend any service level obligations to Customer without the mutual agreement of the parties. Notwithstanding the foregoing, it is the responsibility of Customer to periodically check the aforementioned documents to keep up to date on any changes to their terms.

**5.7. Limitations on access and Changes to Functionality.** Built.io Flow reserves the right to reduce, limit or throttle the number of Users, amount of data, access or throughput in connection with SaaS Services in order to protect the stability and security of the SaaS Services as long as i) Built.io Flow notifies Customer so they may work together to address the issue and ii) it does not affect the core functionality of SaaS Service. Built.io Flow reserves the right, in its sole discretion to alter or delete any functionality contained in SaaS Services at any time. In the event such changes materially reduces a core function of SaaS Service (“Critical Changes”), then Customer shall notify Customer of such concern so that they parties can work together in good faith to address those concerns, if such Critical Change cannot be addressed to the reasonable satisfaction of both parties within thirty (30) days, then Customer may terminate the Agreement and any Order Forms.

## 6. CONFIDENTIALITY

**6.1. Definition of Confidential Information.** “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Confidential information shall include, without limitations, any (a) information, ideas or materials of a technical or creative nature, such as research and development results, designs and specifications, roadmaps, computer source and object code, patent applications, and other materials and concepts relating to Built.io Flow’s and Customer’s products, services, processes, technology or other intellectual property rights; (b) information, ideas or materials of a business nature, such as non-public financial information; information regarding profits, costs, marketing, purchasing, sales, customers, suppliers, contract terms, employees and salaries; product development plans; business and financial plans and forecasts; and marketing and sales plans and forecasts; (c) all personal property, including, without limitation, all books, manuals, records, reports, notes, contracts, lists, blueprints and other documents or materials, or copies thereof, received by Built.io Flow from Customer in the course of Built.io Flow’s rendering of SaaS Services to Customer, including, without limitation, records and any other materials pertaining to Work Product; and (d) the terms and conditions of this Agreement, including all Statements of Work. Built.io Flow and Customer Trade Secrets shall be considered Confidential Information. However, Confidential Information does not include any information that (i) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (ii) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (iii) is received from a third party without breach of any obligation owed to the Disclosing Party, or (iv) was independently developed by the Receiving Party.

**6.2. Protection of Confidential Information.** The Receiving Party will use the same degree of care that it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care) (i) not to use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement, and (ii) except as otherwise authorized by the Disclosing Party in writing, to limit access to Confidential Information of the Disclosing Party to those of its and its Affiliates’ employees and contractors who need that access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections no less stringent than those herein. Neither party will disclose the terms of this Agreement or any Order Form to any third party other than its Affiliates, legal counsel and accountants without the other party’s prior written consent, provided that a party that makes any such disclosure to its Affiliate, legal counsel or accountants will remain responsible for such Affiliate’s, legal counsel’s or accountant’s compliance with this Section 6.2. “Affiliates” shall mean Customer and its subsidiaries and parents, as well as their employees, contractors, officers, directors, agents, attorneys and accountants.

**6.3. Compelled Disclosure.** The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party’s cost, if the Disclosing Party wishes to contest the disclosure. If the Receiving Party is compelled by law to disclose the Disclosing Party’s Confidential Information as part of a civil proceeding to which the Disclosing Party is a party, and the Disclosing Party is not contesting the disclosure, the

Disclosing Party will reimburse the Receiving Party for its reasonable cost of compiling and providing secure access to that Confidential Information.

**6.4. Injunctive Relief.** The Parties agree that the disclosing Party will suffer irreparable injury if its Confidential Information is made public, released to a third party, or otherwise disclosed in breach of this Agreement and that the Disclosing Party shall be entitled to obtain injunctive relief against a threatened breach or continuation of any such breach and, in the event of such breach, an award of actual and exemplary damages from any court of competent jurisdiction.

#### **7. Provision of SaaS Services and Service Levels.**

**7.1 SaaS Service Availability.** Upon Built.io Flow's acceptance of the Order Form and for the duration of the period set forth in the Order Form and solely with respect to SaaS Services provided in exchange for Fees, Built.io Flow will (a) make SaaS Services available to Customer pursuant to the Agreement, and the applicable Order Forms, (b) provide Our standard support for the Purchased Services to Customer at no additional charge, and (c) use commercially reasonable efforts to make the online Purchased Services available 99% of the time, 24 hours a day, 7 days a week calculated monthly, except for: (i) planned downtime (of which We shall give at least 4 hours electronic notice and which We shall schedule to the extent practicable during the weekend hours between 6:00 p.m. Friday and 3:00 a.m. Monday Pacific time), and (ii) any unavailability caused by circumstances beyond Our reasonable control, including, but not limited to Force Majeure events, strikes or other labor problems (other than one involving Our employees), Internet service provider failure or delay, Non-Built.io Flow Application, or denial of service attacks. Built.io Flow will provide response and workaround/fix target times as set forth in the Built.io Flow Use Policy Service Levels as set forth in <https://www.built.io/usepolicy>.

**7.2 Security.** Built.io Flow will maintain reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data as set forth in the Built.io Flow Security Addendum, which may be found at <https://www.built.io/securityaddendum>. Those safeguards will include, but will not be limited to, reasonable measures for preventing access, use, modification or disclosure of Customer Data by Built.io Flow personnel except (a) to provide the Purchased Services and prevent or address service or technical problems, (b) as compelled by law in accordance with Section 6.3 (Compelled Disclosure) below, or (c) as Customer expressly permits in writing

**7.3. Data Transfer Obligations** For purposes of clarity, Customer agrees that it shall have sole responsibility and liability for the accuracy, quality, and legality of Customer Data transferred to Built.io Flow, obtaining required consents (if necessary), and the means by which Customer acquired Customer Data before and after processing, and shall indemnify and hold harmless Built.io Flow from any third party claims, damages or fines arising from such use.

**7.4. CURE OF SERVICE AVAILABILITY BREACH. WITH RESPECT TO THE PROVISION OF PURCHASED SERVICES, IN THE EVENT OF THE BREACH OF SECTION 7.1. OF THIS AGREEMENT INCLUDING BUT NOT LIMITED TO, BREACH OF SERVICE LEVELS, SET FORTH IN SECTION 7 OF THE Built.io Flow USE POLICY, Built.io Flow WILL REMIT A SERVICES FEE CREDIT TO CUSTOMER CALCULATED AT 10% PER INCIDENT PER MONTH, AND NOT TO EXCEED IN THE AGGREGATE, TEN PERCENT (10%) OF NET MONTHLY FEES FOR THE APPLICABLE SERVICES FOR THE MONTH IN WHICH ANY APPLICABLE BREACH OCCURRED. THE CREDIT WILL BE PROVIDED ONLY TOWARDS ANY OUTSTANDING BALANCE FOR SERVICES OWED TO Built.io Flow, AND THE REMITTANCE OF SUCH CREDIT WILL REPRESENT CUSTOMER'S EXCLUSIVE REMEDY, AND Built.io Flow'S SOLE LIABILITY, FOR ALL BREACHES OF THIS SECTION 7.1. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THAT Built.io Flow ISSUES SERVICE CREDITS FOR THREE CONSECUTIVE MONTHS OR FOUR TIMES OVER ANY SIX MONTH PERIOD, THEN CUSTOMER SHALL HAVE THE RIGHT TO TERMINATE THE AGREEMENT UPON NOTICE TO Built.io Flow AND RECEIVE A PRO-RATA REFUND FOR UNUSED SERVICES.**

**8. General Restrictions.** Customer will not (a) make any SaaS Service available to, or use any Service for the benefit of, anyone other than Customer, its affiliates and Users, (b) sell, resell, license, sublicense, distribute, rent or lease any, or include any Service in a service bureau or outsourcing offering, (c) use a Service to store or transmit infringing, defamatory, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy, intellectual property or proprietary rights, (d) use a Service to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of any Service or third-party data contained therein, (f) attempt to gain unauthorized access to any Service or its related systems or networks, (g) engage in phishing or posting illegal content including, without limitation, child pornography or make fraudulent representations, (h) copy a Service or any part, feature, function or user interface thereof, (i) frame or mirror any part of any Service, other than framing on Customer's own intranets or otherwise for Customer's own internal business purposes or as permitted in the Documentation, (j) access any Service in order to build a competitive product or service, (k) reverse engineer any Service (to the extent such restriction is permitted by law), (l) utilize the Service to violate any statute, rule, regulation, code or ordinance.

#### **9. MUTUAL INDEMNIFICATION**

**9.1. Indemnification by Built.io Flow.** Built.io Flow will defend Customer against any claim, demand, suit or proceeding made or brought against Customer by a third party alleging that the use of a SaaS Service in accordance with this Agreement and applicable Order Forms infringes or misappropriates such third party's United States copyright, trademark or patent (a "**Claim Against Customer**"), and will indemnify Customer from any damages, attorney fees and costs finally awarded against Customer as a result of, or for amounts paid by Customer under a settlement of, a Claim Against Customer, provided Customer (a) promptly gives Built.io Flow written notice of the Claim Against Customer, (b) gives Built.io Flow sole control of the defense and settlement of the Claim Against Customer (except that Built.io Flow may not settle any Claim Against Customer unless it unconditionally releases Customer of all liability), and (c) give Built.io Flow all reasonable assistance, at Built.io Flow's expense. If Built.io Flow receives information about an infringement or misappropriation claim related to a SaaS Service, Built.io Flow may in Built.io Flow's discretion and at no cost to Customer (i) modify the SaaS Service so that it no longer infringes or misappropriates such third party rights, (ii) obtain a license for Customer's continued use of that SaaS Service in accordance with this Agreement, or (iii) terminate Customer's obligations for that SaaS Service upon 30 days' written notice and refund Customer any prepaid fees covering the remainder of the term of the terminated subscriptions. The above defense and indemnification obligations do not apply to the extent a Claim Against Customer arises from v) use of SaaS Services in combination with third party services or systems; w) Customer content x) use of Built.io Flow SaaS Services with any third party product or service; y) Customer's breach of this Agreement or any Order Forms; or z) claims arising from the subsequent modification of Built.io Flow SaaS Services.

**9.2. Indemnification by Customer.** Customer will defend Built.io Flow against any claim, demand, suit or proceeding made or brought against Built.io Flow by a third party alleging that Customer Data, or Customer's use of any SaaS Service in breach of this Agreement or any applicable Order Forms, infringes or misappropriates such third party's intellectual property rights or violates applicable law (a "**Claim Against Built.io Flow**"), and will indemnify Built.io Flow from any damages, attorney fees and costs finally awarded against Built.io Flow as a result of, or for any amounts paid by Built.io Flow under a court-approved settlement of, a Claim Against Built.io Flow, provided Built.io Flow (a) promptly give Customer written notice of the Claim Against Built.io Flow, (b) give Customer sole control of the defense and settlement of the Claim Against Built.io Flow (except that Customer may not settle any Claim Against Built.io Flow unless it unconditionally releases Built.io Flow of all liability), and (c) give Customer all reasonable assistance, at Customer's expense.

**9.3. Exclusive Remedy.** This Section 9 states the indemnifying party's sole liability to, and the indemnified party's exclusive remedy against, the other party for any type of claim described in this Section 9.

## 10. LIMITATION OF LIABILITY

**10.1. Limitation of Liability.** IN NO EVENT, WHETHER IN ARBITRATION, MEDIATION OR ANY OTHER FORUM FOR DISPUTE RESOLUTION WILL EITHER PARTY HAVE ANY LIABILITY TO THE OTHER PARTY ARISING OUT OF OR RELATED TO THIS AGREEMENT FOR (i) ANY LOST PROFITS, REVENUES OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, COVER OR PUNITIVE DAMAGES, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY OR (ii) FOR ERROR OR INTERRUPTION OF USE, INACCURACY OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICE OR TECHNOLOGY, OR LOSS OF BUSINESS OR DATA, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. THE FOREGOING DISCLAIMER WILL NOT APPLY TO THE EXTENT PROHIBITED BY LAW. Built.io Flow MAKES NO WARRANTY AND SHALL NOT BE LIABLE FOR ANY DAMAGES ARISING OUT OF OR IN CONNECTION WITH ANY MALFUNCTIONS, DELAYS, LOSS OF DATA, LOST PROFITS, INTERRUPTION OF SERVICE OR LOSS OF BUSINESS OR ANTICIPATORY PROFITS, EVEN IF A PARTY, INCLUDING WITHOUT LIMITATION CUSTOMER OR ITS AFFILIATES HAVE BEEN APPRISED OF THE LIKELIHOOD OF SUCH DAMAGES OCCURRING. EXCEPT FOR ANY CLAIM ARISING FROM CUSTOMER'S INDEMNITY OBLIGATIONS UNDER SECTION 9, OR A BREACH BY EITHER PARTY OF ITS CONFIDENTIALITY OBLIGATIONS UNDER SECTION 6, NEITHER PARTY'S LIABILITY WITH RESPECT TO ANY SINGLE INCIDENT ARISING OUT OF OR RELATED TO THIS AGREEMENT WHETHER IN MEDIATION, ARBITRATION OR IN ANY OTHER FORUM WILL EXCEED THE AMOUNT PAID BY CUSTOMER UNDER THIS AGREEMENT IN THE 12 MONTHS PRECEDING THE INCIDENT. THE ABOVE LIMITATIONS WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY. HOWEVER, THE ABOVE LIMITATIONS WILL NOT LIMIT CUSTOMER'S PAYMENT OBLIGATIONS UNDER SECTION 4. ANY CAUSE OF ACTION ARISING FROM THE USE OF THE SERVICES, EXCEPT FOR THOSE RELATING TO INDEMNIFICATION OR ARISING FROM NON-PAYMENT OF FEES, MUST BE BROUGHT WITHIN TWO YEARS OF ITS OCCURRENCE. CUSTOMER AGREES THAT ANY CAUSE OF ACTION ARISING FROM BREACH OF THIS AGREEMENT MAY ONLY BE BROUGHT AGAINST Built.io Flow.

## 11. TERM AND TERMINATION

**11.1. Term of Agreement.** This Agreement commences on the Effective Date and continues until all Order Forms hereunder have expired or have been terminated. The Term of each Order Form is set forth in the Order Form, and may auto-renew for successive one (1) year periods unless either party gives the other notice sixty (60) days prior to commencement of the extended Term.

**11.2. Termination.** A party may terminate this Agreement for cause (i) upon thirty (30) days written notice to the other party of a material breach if such breach remains uncured at the expiration of such period, or (ii) if the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors. More than six uncured violations of the Built.io Flow Use Policy may result in the immediate termination of the Agreement. Built.io Flow may suspend SaaS Services or any other of its Services to Customer until amounts due are more than 30 days past due are paid in full. Built.io Flow will give Customer at least 10 days' prior notice that Customer account is overdue before suspending services to Customer.

## 12. WARRANTY AND DISCLAIMER

**12.1.** Built.io Flow warrants and represents that the SaaS Services shall not infringe upon any U.S. Patent, copyright or trade secret.

**12.2.** Customer warrants and represents that i) its use of the SaaS Services will comply with all Laws; ii) it will not use the SaaS Services to infringe or violate any third party rights; iii) the billing contact information provided by Customer in this Agreement is correct and up to date and Customer will promptly notify Built.io Flow of any changes.

**12.3. Disclaimers.** Built.io Flow DOES NOT GUARANTEE THAT THE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, OR THAT Built.io Flow WILL CORRECT ALL SERVICES ERRORS. CUSTOMER ACKNOWLEDGES THAT Built.io Flow DOES NOT CONTROL THE TRANSFER OF DATA OVER COMMUNICATIONS FACILITIES, INCLUDING THE INTERNET, AND THAT THE SERVICE MAY BE SUBJECT TO LIMITATIONS, DELAYS, AND OTHER PROBLEMS INHERENT IN THE USE OF SUCH COMMUNICATIONS FACILITIES. Built.io Flow IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS. TO THE EXTENT NOT PROHIBITED BY LAW, THE WARRANTIES AND ANY WARRANTIES IDENTIFIED AS AN EXPRESS WARRANTY IN THIS AGREEMENT ARE EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE. ANY BREACH OF WARRANTY MUST BE REPORTED TO Built.io Flow WITHIN ONE YEAR AFTER THE INITIAL PROVISION OF THE SERVICES.

## 13. NBA Provisions

**13.1 Special Representations and Obligations.** (a) Built.io Flow represents, warrants and covenants to Customer that it has the full right and legal authority to enter into and fully perform this agreement in accordance with its terms, and that the execution and delivery of this Agreement and the performance of the obligations hereunder have been duly authorized by all necessary persons, parties or entities; (b) Except as set forth in Section 7.3 of this Agreement, Built.io Flow shall not use the name, trade name, trademarks, service marks, logos, or other identification of Customer without the Customer's prior written consent; (c) Notwithstanding any provision herein to the contrary, this Agreement is subject to the constitution and by-laws, and other rules and regulations of the National Basketball Association ("NBA") as they presently exist or as they may from time to time be amended (d). Customer represents that, to the best of its knowledge, nothing contained herein violates any rule or regulation of the NBA as they presently exist. (e) Customer further agrees to provide Customer with copies of all applicable NBA rules and regulations, and notify Built.io Flow in writing of any changes in NBA rules and/or regulations which affect either Party's rights hereunder; (f) The Parties hereby acknowledge that NBA Properties, Inc. ("NBAP") has the exclusive right to license NBA trademarks, statistics, logos, game-action photographs, video and audio (the "NBA Content") nationally and internationally; (g) Except as expressly set forth in Section 14.5 of this Agreement, all information, content, logos, messages or other writing contained on any form of advertising or promotional medium shall at all times remain subject to Customer prior written approval. (h) Notwithstanding the foregoing, Customer has been authorized by NBAP to license the use of certain NBA content "on-line" so long as: (i) this Agreement and all of the rights hereunder are subject to all of the rules, regulations, and agreements of the National Basketball Association as they presently exist and as they may, from time to time, be entered into, created or amended; (ii) this Agreement (and any amendment hereto) is submitted to NBAP within ten (10) days of execution and is expressly approved by NBAP; and (iii) the inclusion of NBA Content on the site of any third party, and the team's affiliation or association with the site of such third party, are not promoted or advertised outside the team's territory.

**13.2 . NBA Rules and Regulations.** Built.io Flow acknowledges and agrees that this Agreement and all of Built.io Flow's rights and obligations hereunder are subject to all of the rules, regulations and agreements of the National Basketball Association ("NBA") and its affiliated entities, as they presently exist or as they may, from time to time, be entered into, created or amended

(“NBA Regulations”). Customer represents that, to the best of its knowledge, as of the date of execution hereof, nothing contained herein violates the NBA Regulations as they presently exist. In the event that Customer becomes aware of a change in the NBA Regulations that places this Agreement in violation thereof, Customer will notify Built.io Flow of the particular circumstances, including by providing documentation if reasonably necessary and available, and Customer will work in good faith with Built.io Flow to endeavor to agree upon an amendment to this Agreement (including for the avoidance of doubt, one or more of the Schedules and/or Statements of Work) to cure any such violation. If the Parties are unable to agree to such an amendment within sixty (60) days or such other time agreed upon the Parties, Customer shall have the right to terminate this Agreement or the affected Order Forms without penalty, termination fees or further liability to Built.io Flow.

#### 14. GENERAL PROVISIONS

**14.1. Surviving Provisions.** The Sections titled “Applicability,” “Incorporated Terms,” “Payment,” “Intellectual Property” “Confidentiality,” “Disclaimers,” “Mutual Indemnification,” “Limitation of Liability,” “Disclaimers” and “General Provisions” and any subsections thereof will survive any termination or expiration of this Agreement.

**14.2. Notice.** All notices to Built.io Flow shall be valid only if sent via pre-paid first class certified mail or overnight courier to Built.io Flow attn: Chief Operating Officer, 49 Geary St, Suite 238 San Francisco, CA 91408, via facsimile transmission with proof of transmission or, for notices excluding notice of indemnification obligations, through email address or portal to a designated person approved in writing by Built.io Flow. Built.io Flow may give notice applicable to Built.io Flow SaaS Services customer base by means of a general notice on Built.io Flow portal for the SaaS Services, and notices specific to Customer by electronic mail to Customer e-mail address on record in Built.io Flow account information or by written communication sent by first class mail or pre-paid post to the most recent Customer address provided by Customer to Built.io Flow. Customer’s current address shall be the address provided on the Order Form.

**14.3. Agreement to Governing Law and Jurisdiction.** Each party agrees to the applicable governing law of the State of California, without reference to its conflicts of law principles, and consents to the exclusive jurisdiction of the of the State of California, the County of San Francisco and the Federal courts located within such jurisdiction. In the event that there are any changes in law that materially and adversely affect Company’s ability to perform the SaaS Services under the Agreement and Order Form (a “Regulatory Change”), then the parties shall negotiate in good faith to amend the applicable Order Form in order to enable Built.io Flow to continue to render the required SaaS Services in accordance with the law as changed.

**14.4. Mediation and Arbitration.** ALL CONTESTED MATTERS ARISING FROM AN ALLEGED BREACH OF THE TERMS OF THIS AGREEMENT OTHER THAN BREACH OF CONFIDENTIALITY OBLIGATIONS UNDER SECTION 6 AND EACH PARTY’S INDEMNITY OBLIGATIONS SHALL FIRST BE SUBMITTED TO MEDIATION THROUGH JAMS, INC. (FORMERLY KNOWN AS JUDICIAL ARBITRATION AND MEDIATION SERVICES, INC.). IF THE DISPUTED BETWEEN THE PARTIES ARE NOT RESOLVED IN MEDIATION, SUCH DISPUTES SHALL BE DETERMINED BY ARBITRATION IN SAN FRANCISCO, CALIFORNIA USA BEFORE THREE ARBITRATOR(S). EITHER PARTY MAY INITIATE ARBITRATION WITH RESPECT TO THE MATTERS SUBMITTED TO MEDIATION BY FILING A WRITTEN DEMAND FOR ARBITRATION AT ANY TIME FOLLOWING THE INITIAL MEDIATION SESSION OR AT ANY TIME FOLLOWING 45 DAYS FROM THE DATE OF FILING THE WRITTEN REQUEST FOR MEDIATION, WHICHEVER OCCURS FIRST.. THE MEDIATION MAY CONTINUE AFTER THE COMMENCEMENT OF ARBITRATION IF THE PARTIES SO DESIRE. THE ARBITRATION SHALL BE ADMINISTERED BY JAMS PURSUANT TO ITS COMPREHENSIVE ARBITRATION RULES AND PROCEDURES. IN ACCORDANCE WITH THOSE RULES, JUDGMENT ON THE AWARD MAY BE ENTERED IN ANY COURT HAVING JURISDICTION. THIS CLAUSE SHALL NOT PRECLUDE PARTIES FROM SEEKING PROVISIONAL REMEDIES IN AID OF ARBITRATION FROM A COURT OF APPROPRIATE JURISDICTION. WITHIN 15 DAYS AFTER THE COMMENCEMENT OF ARBITRATION, EACH PARTY SHALL SELECT ONE PERSON TO ACT AS ARBITRATOR, AND THE TWO SO SELECTED SHALL SELECT A THIRD ARBITRATOR WITHIN 30 DAYS OF THE COMMENCEMENT OF THE ARBITRATION. IF THE ARBITRATORS SELECTED BY THE PARTIES ARE UNABLE OR FAIL TO AGREE UPON THE THIRD ARBITRATOR WITHIN THE ALLOTTED TIME, THE THIRD ARBITRATOR SHALL BE APPOINTED BY JAMS IN ACCORDANCE WITH ITS RULES. ALL ARBITRATORS SHALL SERVE AS NEUTRAL, INDEPENDENT AND IMPARTIAL ARBITRATORS. THE PARTIES SHALL BE ENTITLED TO DISCOVERY UNDER THE JAMS COMPREHENSIVE ARBITRATION RULES AND PROCEDURES. IN ANY ARBITRATION ARISING OUT OF OR RELATED TO THIS AGREEMENT, EACH SIDE MAY TAKE THREE (3) DISCOVERY DEPOSITIONS. EACH SIDE’S DEPOSITIONS ARE TO CONSUME NO MORE THAN A TOTAL OF FIFTEEN (15) HOURS. THERE ARE TO BE NO SPEAKING OBJECTIONS AT THE DEPOSITIONS, EXCEPT TO PRESERVE PRIVILEGE. THE TOTAL PERIOD FOR THE TAKING OF DEPOSITIONS SHALL NOT EXCEED SIX (6) WEEKS. THE PARTIES ADOPT AND AGREE TO IMPLEMENT THE JAMS OPTIONAL ARBITRATION APPEAL PROCEDURE (AS IT EXISTS ON THE EFFECTIVE DATE OF THIS AGREEMENT) WITH RESPECT TO ANY FINAL AWARD IN AN ARBITRATION ARISING OUT OF OR RELATED TO THIS AGREEMENT.

**14.5 Export Compliance.** The SaaS Services, other technology Built.io Flow makes available, and derivatives thereof may be subject to export laws and regulations of the United States and other jurisdictions. Each party represents that it is not named on any U.S. government denied-party list. Customer shall not permit Users to access or use any SaaS Service in a U.S.-embargoed country (currently Cuba, Iran, North Korea, Sudan or Syria) or in violation of any U.S. export law or regulation.

**14.6. Anti-Corruption.** Customer has not received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from any of Built.io Flow employees or agents in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction. If Customer learns of any violation of the above restriction, Customer will use reasonable efforts to promptly notify Built.io Flow Legal Department at [legal@Built.io](mailto:legal@Built.io) Flow

**14.7. Entire Agreement and Order of Precedence.** This Agreement is the entire agreement between Customer and Built.io Flow regarding Customer's use of SaaS Services and, except for the Terms of SaaS Service, supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement will be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. The parties agree that any term or condition stated in Customer's purchase order or in any other of Customer's order documentation (excluding Order Forms) is void. In the event of any conflict or inconsistency among the following documents, the order of precedence shall be: (1) the applicable Order Form (2) Data Processing Addendum (if applicable) (3) the Master Agreement, (4) The Use Policy, (5) any agreement between an authorized reseller and Customer applicable to the SaaS Services and (6) the Documentation.

**14.8. Assignment.** Neither party may assign any of its rights or obligations hereunder in whole or in part, whether by operation of law or otherwise, without the other party's prior written consent (not to be unreasonably withheld); provided, however, either party may assign this Agreement in whole or in part, (including Order Forms), without the other party's consent to its Affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Notwithstanding the foregoing, subject to the foregoing, this Agreement will bind and inure to the benefit of the parties, their respective successors and permitted assigns.

**14.9. Relationship of the Parties.** This Agreement shall not be construed as creating an agency, partnership, joint venture or any other form of association, for tax purposes or otherwise, between the parties; and the parties shall at all times be and remain independent contractors. Except as expressly agreed by the parties in writing, neither party shall have any right or authority, express or implied, to assume or create any obligation of any kind, or to make any representation or warranty, on behalf of the other party or to bind the other party in any respect whatsoever. Neither party shall have any obligation or duty to the other party except as expressly and specifically set forth herein, and no such obligation or duty shall be implied by or inferred from this Agreement or the conduct of the parties hereunder. Customer shall not withhold or make payments or contributions therefor or obtain benefits for Built.io or its employees, contractors or agents. Built.io shall be solely responsible for all tax returns and payments required to be filed with or made to any federal, state or local tax authority with respect to Built.io Flow's performance of services and receipt of fees under this Agreement.

**14.10. Waiver.** No failure or delay by either party in exercising any right under this Agreement will constitute a waiver of that right.

**14.11. Severability.** If any provision of this Agreement is held by a court of competent jurisdiction to be contrary to law, the provision will be deemed null and void, and the remaining provisions of this Agreement will remain in effect.

**14.12. Remedies Cumulative.** All remedies provided for in this Agreement shall be cumulative and in addition to and not in lieu of any other remedies available to either party at law, in equity or otherwise.

**14.14. UCITA and Third Party Contractors.** The Uniform Computer Information Transactions Act does not apply to this software as a service agreement or orders placed under it. Customer understands that Built.io Flow business partners, including any third party firms retained by Customer to provide computer consulting services, are independent of Built.io Flow and are not Built.io Flow agents. Built.io Flow are not liable for nor bound by any acts of any such business partner, unless the business partner is providing services as Built.io Flow subcontractor on an engagement ordered under this software as a service agreement.

**14.14. Force Majeure.** Neither party shall be responsible for failure or delay of performance if caused by: an act of war, hostility, or sabotage; act of God; electrical, internet, or telecommunication outage that is not caused by the obligated party; government restrictions (including the denial or cancellation of any export or other license); other event outside the reasonable control of the obligated party. Both parties will use reasonable efforts to mitigate the effect of a force majeure event. If such event continues for more than 90 days, either party may cancel unperformed services upon written notice. This section does not excuse

either party's obligation to take reasonable steps to follow its normal disaster recovery procedures or Customer's obligation to pay for programs delivered or services provided.

**14.15. Publicity.** Unless expressly set forth otherwise in an Order Form, Built.io Flow may, upon Customer's review and approval (which approval shall not be unreasonably withheld or delayed), reference Customer's name and trademark, as well as other information pertaining to the provision and results of the services, in case studies and other Built.io Flow marketing materials.

**14.16. Non Solicitation.** During the term of this Agreement and for a period of twelve (12) months thereafter, except as may be otherwise agreed in writing, Customer and its affiliates shall not, either directly or indirectly, on behalf of Customer or any other person or entity, solicit, entice, hire or offer employment to, enter into any independent contractor relationship with or otherwise directly or indirectly use the SaaS Services of, on a full-time, part-time or temporary basis:

- a. Any Built.io Flow personnel, including employees and subcontractors ("Built.io Flow Staff") or former Built.io Flow Staff who has provided SaaS Services to Customer;
- b. Any Built.io Flow Staff or former Built.io Flow Staff who has been introduced to, recommended to or interviewed by Customer through Built.io Flow; or
- c. Any Built.io Flow Staff or former Built.io Flow Staff for a position whereby such Built.io Flow Staff or former Built.io Flow Staff uses any trade secret of Consultant in the provision of SaaS Services..

During the term of this Agreement and for one year hereafter, except as may be otherwise agreed in writing, Built.io Flow shall not, either directly or indirectly, on behalf of Customer or any other person or entity, solicit, entice, hire or offer employment to, enter into an independent contractor relationship with or otherwise directly or indirectly use the SaaS Services of, on a full-time, part-time or temporary basis any employee or former employee of Customer with whom Built.io Flow has had contact in connection with the performance of SaaS Services under this Agreement.