

## **THE IIA'S INTERNAL AUDIT BENCHMARK HUB™ TERMS AND CONDITIONS**

Effective Date: 17 June 2024

Latest Revision Date: 17 June 2024

These terms and conditions create a contract (“**Agreement**”) between you and The Institute of Internal Auditors, Inc. (“**The IIA,**” “**we,**” “**us,**” or “**our**”), and governs your access to and use of the Services (as defined below), unless you and The IIA have entered into a separate written, fully executed contract.

You may enter into this Agreement on behalf of yourself or on behalf of a legal entity. If you enter into this Agreement on behalf of a legal entity, you represent that you are a duly authorized representative with the authority to bind that legal entity to this Agreement. All references to “**you**” and “**your**” in this Agreement mean the person accepting this Agreement as an individual or the legal entity for which the representative is acting.

Please read the Agreement carefully, as you may only use the Services in accordance with the terms and conditions of this Agreement.

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### 1. DEFINITIONS

The following definitions apply to this Agreement:

“**Login Data**” means information provided to The IIA so that The IIA can fulfill the terms of this Agreement and provide access to the Services (*e.g.*, first name, last name, company name).).

“**End User**” means a participant who accesses or uses the Services, either with or without your permission.

“**Initial Subscription Term**” means the initial subscription term for the Services as specified upon purchase.

“**Law**” means all U.S. or non-U.S. national, regional, state, provincial or local law, statute, rule, regulation, ordinance, administrative ruling, judgment, decree, order, directive, or policy applicable to The IIA’s provision of and your use of the Services.

“**Proprietary Rights**” means any copyright, patent, trade secret, know-how, trademark, service mark, trade name, rights of publicity, or other intellectual property or proprietary rights.

“**Renewal Term**” means the renewal subscription term for a Service commencing after the Initial Subscription Term or another Renewal Term as specified in an Order Form.

“**Services**” means any services, including any support services, associated with The IIA’s Audit Benchmark Hub product as described and made available to you as specified in an order.

## 2. ACCOUNT INFORMATION; NO SHARING

**2.1 Registration; Username and Passwords.** You may be required to provide information about yourself to register for and to access or use the Services. You represent and warrant that any such information, including Login Data, is and will remain accurate and complete, and that The IIA has no liability whatsoever for errors and omissions in your Login Data. You are entirely responsible for maintaining the security of your username and password, and you agree not to disclose or make your username or password accessible to any third party.

**2.2 Prohibition on Sharing.** You may not share any login credentials or passwords regarding the foregoing with any other individual. You acknowledge that sharing of any such rights is strictly prohibited. Your right to use or access the Services is personal to you and not assignable nor transferable. You may not assign nor transfer any account or any other user rights with any other individual, except upon The IIA’s prior express written approval.

## 3. ACQUIRING SERVICES

You may acquire the Services through an online registration or order form approved and authorized by The IIA or by assignment by The IIA based upon user status (*e.g.*, as a member of the ALN) for free or for a charge, either of which is referred to as a “**Transaction.**” Any Transaction, whether paid or unpaid, is subject to the terms of this Agreement. An Transaction may contain additional or different terms, conditions, and information regarding the Services you are ordering as authorized and agreed to by The IIA. In the event of any conflict or inconsistency between this Agreement and any additional terms and conditions authorized and agreed to by The IIA, the applicable additional terms control and govern over this Agreement, and only to the extent necessary to resolve the particular conflict or inconsistency. The IIA will provide the Services and standard updates to the Services that we make generally available at no additional cost to similarly situated customers in the same geographic region during the applicable Initial Subscription Term. The IIA may, in its sole discretion, (i) discontinue the Services or (ii) modify the features or functionality of the Services.

## 4. ACCESS AND USE; SOFTWARE LICENSE

**4.1 Access and Use.** Subject to the terms and conditions of this Agreement, you may access and use, during the Term, the Services. You acknowledge and agree that your access to and use of the Services is revocable in The IIA’s sole discretion in the event of your breach of the terms and conditions of this Agreement

**4.2 Ownership.** You acknowledge that, notwithstanding anything to the contrary herein, the Services are provided to you on a subscription basis, and the Software is provided to you under a limited license, and neither has been sold to you. You also acknowledge that you have neither obtained nor will obtain any ownership or other right, title, or interest in or to the Services, or any Proprietary Rights relating thereto. Any copies thereof will remain the exclusive property of The IIA. Without limiting the generality of the foregoing, The IIA owns all right, title, and interest in and to the Services, and all upgrades, enhancements, new releases, changes, and modifications thereto, together with all ideas, architecture, algorithms, models, processes, techniques, user interfaces, database design and architecture, and “know-how” embodying the Services. Under no circumstances will you be deemed to receive, have, or be granted title to all or any portion of the Services or Software, title to which at all times vests exclusively in The IIA. None of the Services,

or any component thereof, is or shall be deemed to be a “work made for hire,” as that term is defined in 17 U.S.C. § 101.

## 5. CONTENT AND DATA USAGE, LICENSES, AND RESPONSIBILITIES

**5.1 Content.** Data, content, communications, messages, files, documents, or other materials that you or your End Users generate through the use of the Services or Software, together with any resulting outputs, visual displays, or other content, is referred to as “**Content.**” Content consists of aggregated data based upon survey results collected by The IIA from at least four (4) respondents satisfying the inquiry criteria.

**5.2 Content Ownership.** Without limiting the generality of the foregoing, The IIA owns all right, title, and interest in and to the Content. Under no circumstances will you be deemed to receive, have, or be granted title to all or any portion of the Content, title to which at all times vests exclusively in The IIA. None of the Content, or any portion thereof, is or shall be deemed to be a “work made for hire,” as that term is defined in 17 U.S.C. § 101.

**5.3 Content Usage Rules; Customer Responsibilities.** This Agreement does not grant you an ownership interest in or to the Content but only a limited right to use the Content, subject to the terms and conditions of this Agreement and revocable at The IIA’s sole discretion. You may use the Content for your internal purposes only. Content may not be shared with others who are not affiliated with your organization (where affiliated includes third party board members, consultants and other contracted parties). You are solely responsible for compliance with all Laws and regulations pertaining to the Content. The IIA may delete any Content at any time without notice to you if The IIA becomes aware that it violates any provision of this Agreement or any applicable Laws.

**5.4 Service Generated Data.** Telemetry data, product usage data, diagnostic data, and similar data that The IIA collects or generates in connection with your or your End Users’ use of the Services or Software are referred to as “**Service Generated Data.**” The IIA owns all rights, title, and interest in and to Service Generated Data.

## 6. RESPONSIBILITY FOR USE OF SERVICES AND END USERS

**6.1 Use of the Services; End User Responsibility.** You will, and you will cause your End Users to, abide by and ensure compliance with all the terms and conditions of this Agreement. You are responsible for your and your End Users’ access to and use of the Services. You are responsible for the activities of all your End Users, including ensuring that all End Users will comply with the terms and conditions of this Agreement and any applicable policies of The IIA. You acknowledge that you remain liable for the acts and omissions of any third party that you allow, enable, or otherwise provide access to the Services, whether or not such access was expressly permitted by The IIA.

**6.2 Violations by End Users or Third Parties.** The IIA assumes no responsibility or liability for violations of this Agreement by End Users or any other third party that you allow, direct, or enable to access the Services or Software. If you become aware of any violation of this Agreement in connection with use of the Services or Software by any person, you must contact The IIA at [permissions@theiia.org](mailto:permissions@theiia.org).

## 7. SYSTEM REQUIREMENTS; CHANGES

Your use of the Services requires one or more compatible devices and Internet access. Because use of the Services involves hardware, software, and Internet access, your ability to access and use the Services may be affected by the performance of the foregoing. High-speed Internet access is recommended. You are solely responsible for any fees that may apply to your access to or use of the Services, including fees for hardware, software, Internet access, or text messages. You agree that the foregoing requirements are your responsibility, and The IIA may, in its sole discretion, discontinue availability or compatibility of the Services, on a particular operating system, device, or platform.

## 8. PROHIBITED USES

You agree that you will not, and will not permit any End Users to, directly or indirectly: (i) modify, customize, disassemble, decompile, prepare derivative works of, create improvements, derive innovations from, reverse engineer, or attempt to gain access to any underlying technology of the Services, including any source code, process, data set or database, management tool, development tool, server or hosting site; (ii) engage in activity that is illegal under

applicable Law, fraudulent, false, or misleading; (iii) build or benchmark a competitive product or service, or copy any features, functions, or graphics of the Services; (vii) use the Services for the development, production, or marketing of a service or product substantially similar to the Services or Software; (vi) use the Services or Software in violation of any policy of The IIA or in a manner that violates applicable Law, including anti-spam, import and export control, intellectual property, privacy, anti-terrorism, anti-bribery, and foreign corrupt practices; (v) remove, delete, alter, or obscure any Proprietary Rights notices provided on or with the Services or Software, including any copy thereof; (vii) make, use, or offer the Services or Software for lease, rent, or sale, or reproduce, resell, distribute, publish, display, assign, transfer, sublicense, lend, or use the Services or Software for any commercial or other purpose that is not expressly permitted by this Agreement; or (viii) make available the Services or Software, or any features or functionality thereof, to any third party for any reason or by any manner, unless expressly permitted by this Agreement or otherwise expressly agreed to in writing by you and The IIA.

## 9. COMPLIANCE WITH LAWS

You are solely responsible for your and your End Users' compliance with all Laws that apply to your and your End Users' access to and use of the Services, including Laws requiring you to provide proper End User notifications and to obtain proper End User consents. You shall comply and ensure that all End Users comply with all applicable Laws in connection with your obligations under this Agreement, including access to and use of the Services.

## 10. PAYMENTS AND CHARGES

**10.1 Non-Cancelable and Non-Refundable Charges.** You agree that all payments are non-cancelable for the Term, as applicable, and are final and non-refundable, unless otherwise agreed to by The IIA, required by Law, or set forth in your Order Form.

**10.2 Collection of Charges.** You agree that if The IIA is unable to collect the charges for the Services through your Payment Method, The IIA may, to the extent not prohibited by applicable Law, take any other steps it deems necessary to collect such charges from you and that you will be responsible for all costs and expenses incurred by The IIA in connection with such collection activity, including collection fees, court costs, and attorneys' fees. You further agree that, to the extent not prohibited by applicable Law, The IIA may collect interest at the lesser of 1.5% per month or the highest amount permitted by Law on any charges not paid when due.

**10.3 Support Services and Updates.** The IIA will provide, at no additional costs, (i) standard support services and (ii) standard updates to the Services, that are made generally available by The IIA to similarly situated customers in the same geographic region during the Term. In accordance with applicable Law and the terms of this Agreement, The IIA reserves the right to (a) modify its standard support services and charge you for standard support services and (b) charge you for any updates to the Services or Software or for any premium features or functionality.

**10.6 Billing Communications.** You agree that The IIA may contact you via email or otherwise at any time with information relevant to your use of the Services, including billing communications, regardless of whether you have opted out of receiving marketing communications or notices.

## 11. TERM; TERMINATION AND SUSPENSION

**11.1 Term.** Each Transaction will specify the length of subscription for the Services ("**Term**").

**11.2 Customer Termination.** If you have subscribed to one or more Services for a specific term, such termination will be effective as to each such Service on the last day of the then-current term for each applicable Service, provided that you provide proper and timely notice pursuant to Section 11.1. You may terminate this Agreement by providing written notice of termination if The IIA has materially breached this Agreement and has not cured such material breach within thirty (30) business days of The IIA's receipt of your written notice of such breach. Your notice shall state the specific provision in this Agreement that you contend The IIA has breached and set forth in reasonable detail the facts and circumstances you allege provide the basis for such breach.

**11.3 The IIA Termination Rights and Suspension.** Notwithstanding anything to the contrary herein, if you fail to comply with any provision of this Agreement or any referenced policies, guides, notices, or statements, The IIA may

(i) immediately suspend your access to the Services, or (ii) terminate this Agreement, effective immediately. If The IIA chooses to suspend your Services and the failure to comply continues, The IIA may exercise any or all of its termination rights in this Section 11.3. Additionally, The IIA may terminate this Agreement, for any reason or no reason, upon thirty (30) business days' advance notice.

**11.4 Effect of Termination or Suspension.** Upon any termination of this Agreement, your access to the Services will be de-activated. No expiration or termination of this Agreement will affect your obligation to pay all charges that may have become due before such expiration or termination, including that The IIA may retain any charges previously paid by you if this Agreement is terminated, unless prohibited by applicable Law. If your Services are suspended for your failure to comply with this Agreement, you will be liable for all Charges due and owing during the period of suspension.

## 12. MODIFICATIONS TO THIS AGREEMENT

**12.1 General Changes.** The IIA may make modifications, deletions, and additions to this Agreement (“Changes”) from time to time. Changes to these Terms and Conditions will be posted on the product launch page, which you should regularly check for the most recent version and also save the most current version in your files. When Changes are made, The IIA will indicate the effective date of the Changes at the top of the Terms and Conditions. Changes to this Agreement do not create a renewed opportunity to opt out of arbitration (if applicable). If you continue to use the Services after the effective date of the Changes, then you agree to the revised terms and conditions.

**12.2 Other Changes.** You agree that The IIA may modify, delete, and make additions to its guides, statements, policies, and notices, with or without notice to you, and for similar guides, statements, policies, and notices applicable to your use of the Services by posting an updated version on the applicable webpage.

**12.3 Change Notifications.** It is your responsibility to keep your email address current for any notices that The IIA may send to you from time to time and to regularly review this Agreement by reviewing these Terms and Conditions.

## 13. THE IIA'S PROPRIETARY RIGHTS; FEEDBACK

**13.1 Feedback.** If you or any of your employees, contractors, agents, or End Users send, transmit, or otherwise provide any feedback, comments, suggestions, questions, or the like, regarding the Services or Software, including any ideas, know-how, concepts, enhancements, recommendations, or other information relating to the Services or Software, including suggesting or recommending changes to the Services or Software such as new features or functionality relating thereto (collectively, “Feedback”), you acknowledge that (i) The IIA owns, and The IIA shall retain ownership of, all right, title, and interest in and to such Feedback, including any Proprietary Rights therein, and (ii) The IIA may, but is not required to use, the Feedback, including any Proprietary Rights therein, for any purpose whatsoever without any attribution, financial compensation, or reimbursement of any kind to you or any third party. You hereby unconditionally and irrevocably assign and agree to assign to The IIA on your behalf, and you shall cause your employees, contractors, agents, and End Users to unconditionally and irrevocably assign and agree to assign, all right, title, and interest in and to the Feedback, including all Proprietary Rights relating thereto. All Feedback is and will be treated as The IIA Confidential Information until The IIA, in its sole discretion, chooses to make any specific Feedback non-confidential.

**13.2 Ownership of The IIA Property.** The IIA, its affiliates, its licensors, and suppliers (as applicable) own and shall retain ownership of (i) all Service Generated Data, (ii) all Feedback, (iii) the Services and Content, and any underlying or other technology and intellectual property embodied or contained in, used to provide or support, or otherwise associated or provided in connection with, the Services or Software, including all Proprietary Rights related thereto, and (iv) all trade names, trademarks, service marks, trade dress, logos, icons, insignia, symbols, interface and other designs, domain names and corporate names, and the like (whether registered or unregistered) (“IIA Marks”) associated or displayed with the Services, Content, or Software, together with the goodwill associated with any of the foregoing IIA Marks (all of the foregoing, collectively “IIA Property”). You may not frame or utilize framing techniques to enclose any IIA Marks, or other proprietary materials or information (including images, text, page layout, or form) of The IIA without our express prior written consent. You may not use any meta tags or any other “hidden

text” utilizing The IIA Marks without our express prior written consent. Except as otherwise expressly provided in this Agreement, no rights to use IIA Marks are provided to you herein.

**13.3 Reservation of Rights.** The IIA reserves all rights not expressly granted to you in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to you or any third party, any Proprietary Rights or other right, title, or interest in or to any The IIA Property or other intellectual property provided in connection with this Agreement or the Services or Software.

## 14. CONFIDENTIALITY

**14.1 Definition.** “**Confidential Information**” means: (i) with respect to The IIA, any information disclosed by, for, or on behalf of The IIA, directly or indirectly, to you or any End User in connection with this Agreement, the Services or Software, or learned or accessed by you or any End User in connection with the Services or Software, including business information, development plans, product roadmap details, systems, strategic plans, source code, services, products, pricing, methods, processes, financial data, programs, trade secrets, know-how, and marketing plans, however it is conveyed in any form or medium, together with all information derived from the foregoing, and any other information that is designated as being confidential (whether or not it is marked as “confidential”) or which is known by you or the End User or reasonably should be understood by you or the End User to be confidential (“**The IIA Confidential Information**”); and (ii) with respect to you, any information disclosed by you to The IIA that (a) must be kept confidential pursuant to applicable Law or (b) is sensitive security and technical information that is clearly and conspicuously marked as “confidential” by you (“**Customer Confidential Information**”). Content is not Customer Confidential Information; however, Content will be protected in accordance with the terms of this Agreement.

**14.2 Exclusions.** Confidential Information does not include information that: (i) is already rightfully known to the receiving party at the time it is received, free from any obligation to keep such information confidential; (ii) becomes publicly known or available through no act or omission of the receiving party or any third party; (iii) is rightfully received from a third party without restriction and without breach of this Agreement; or (iv) is independently developed by the receiving party without the use of the disclosing party’s Confidential Information.

**14.3 Obligation of Confidentiality.** You and The IIA shall take reasonable steps to maintain the confidentiality of each other’s Confidential Information using measures that are at least as protective as those taken to protect its own information of a similar sensitivity, but in no event using less than a reasonable standard of care. Neither you nor The IIA will disclose the other party’s Confidential Information to any person or entity except to its employees, advisors, and attorneys who have a strict need to know the information in connection with this Agreement and who are bound by confidentiality obligations at least as protective as the provisions herein. In addition to the foregoing permitted disclosures, The IIA also may disclose Customer Confidential Information to its consultants, contractors, service providers, subprocessors, and other third parties who are bound by confidentiality obligations at least as protective as the confidentiality provisions herein.

**14.4 Permitted and Compelled Disclosures.** Notwithstanding the restrictions in this Section 14 and without limiting any other rights of The IIA, we may disclose Customer Confidential Information received in connection with this Agreement, the Services, or Software as required by applicable Law; provided, however, that The IIA will first notify you, unless providing such notice or timely notice is: (i) prohibited by applicable Law; or (ii) determined by The IIA in its sole discretion to be (a) a risk or potential risk of harm to a person or to the health of a person, (b) a risk or potential risk of damage to property, (c) an emergency, or (d) a threat to the Services, Software, or The IIA’s rights or property.

## 15. NO WARRANTIES

YOU AGREE THAT THE SERVICES, CONTENT, AND SOFTWARE ARE PROVIDED “**AS IS**” AND THE IIA, ITS AFFILIATES, SUPPLIERS, AND LICENSORS EXPRESSLY DISCLAIM ALL WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NON-INFRINGEMENT. THE IIA, ITS AFFILIATES, SUPPLIERS, AND

LICENSORS MAKE NO GUARANTEE, PROMISE, WARRANTY, OR REPRESENTATION (i) REGARDING THE RESULTS THAT MAY BE OBTAINED FROM THE USE OF THE SERVICES, CONTENT, OR SOFTWARE, (ii) REGARDING THE ACCURACY OR RELIABILITY OF ANY INFORMATION OBTAINED THROUGH THE SERVICES, CONTENT, OR SOFTWARE, OR (iii) THAT THE SERVICES, CONTENT, OR SOFTWARE WILL MEET ANY USER'S REQUIREMENTS, OR BE UNINTERRUPTED, TIMELY, SECURE, OR ERROR FREE. ANY MATERIAL OR DATA DOWNLOADED OR OTHERWISE OBTAINED THROUGH THE USE OF THE SERVICES, CONTENT, OR SOFTWARE IS AT YOUR OWN DISCRETION AND RISK. YOU WILL BE SOLELY RESPONSIBLE FOR ANY DAMAGE TO YOU RESULTING FROM THE USE OF THE SERVICES, CONTENT, OR SOFTWARE. THE ENTIRE RISK ARISING OUT OF USE OR PERFORMANCE OF THE SERVICES, CONTENT, OR SOFTWARE REMAINS WITH YOU. THE IIA DOES NOT ASSUME ANY RESPONSIBILITY FOR RETENTION OF ANY DATA, INCLUDING CONTENT AND LOGIN DATA, USER INFORMATION, OR COMMUNICATIONS BETWEEN USERS. USE OF THE SERVICES, CONTENT, AND SOFTWARE IS AT YOUR SOLE RISK.

#### **16. INDEMNIFICATION**

To the extent not prohibited by applicable Law, you agree to indemnify, defend, and hold The IIA and its affiliates and each of our licensors and suppliers ("**Indemnified Parties**") harmless, including any officers, directors, employees, shareholders, members, consultants, and agents of the Indemnified Parties, from any third party allegation, claim, proceeding, liability, damage, or cost (including reasonable attorneys' fees) arising out of or related to (i) your or your End User's use of the Services or Software, (ii) your or your End User's breach of this Agreement or violation of applicable Law, (iii) your or your End User's infringement or violation of any Proprietary Rights or other right of any person or entity, (iv) your relationship with your End User or any dispute between you and your End User, or (v) a personal injury or property damage to a third party relating to your or your End User's acts or omissions.

#### **17. LIMITATION ON LIABILITY**

**READ THIS SECTION CAREFULLY AS IT LIMITS THE IIA'S LIABILITY TO YOU.**

**THE IIA AND ITS AFFILIATES AND EACH OF THEIR LICENSORS AND SUPPLIERS WILL NOT BE LIABLE FOR ANY:**

- **SPECIAL, INCIDENTAL, INDIRECT, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES;**
- **LOSS OF BUSINESS PROFITS, BUSINESS INTERRUPTION, LOSS OF BUSINESS INFORMATION, LOSS OF BUSINESS OPPORTUNITY;**
- **UNAUTHORIZED ACCESS TO, LOSS OF, DELETION OF, OR ALTERATION OF SYSTEM DATA, CONTENT, OR LOGIN DATA;**
- **COSTS RELATED TO THE PROCUREMENT OF SUBSTITUTE GOODS OR SERVICES;**
- **TERMINATION, SUSPENSION, DISCONTINUANCE, OR DISCONNECTION OF THE SERVICES;**
- **A FAILURE OF YOUR INTERNET SERVICES, DOWNTIME, OR MAINTENANCE;**
- **OUR FAILURE TO PROVIDE TECHNICAL OR OTHER SUPPORT SERVICES; OR**
- **DAMAGES, IN THE AGGREGATE FOR ALL CLAIMS ARISING OUT OF OR RELATED TO THIS AGREEMENT, EXCEEDING THE AMOUNT ACTUALLY PAID BY YOU FOR THE SERVICES (IF ANY) IN THE TWELVE (12) MONTHS PRECEDING THE EVENT OR CIRCUMSTANCES GIVING RISE TO SUCH CLAIMS.**

**THESE EXCLUSION OF DAMAGES AND LIMITATIONS ON AVAILABLE DAMAGES APPLY TO ALL CLAIMS, OBLIGATIONS, AND LIABILITIES ARISING OUT OF OR RELATED TO THIS AGREEMENT, AND WHETHER ARISING IN TORT (INCLUDING NEGLIGENCE OR STRICT LIABILITY), STATUTE, CONTRACT, OR ANY OTHER LEGAL THEORY, EVEN IF THE IIA, ITS AFFILIATES, OR OUR LICENSORS OR SUPPLIERS HAVE BEEN ADVISED OF THE POSSIBILITY THAT SUCH DAMAGES MAY BE INCURRED BY YOU AND EVEN IF YOUR REMEDIES FAIL OF THEIR ESSENTIAL PURPOSE.**

**THE ABOVE LIMITATION ONLY APPLIES TO YOU TO THE EXTENT THAT THE EXCLUSIONS OF DAMAGES OR LIMITATIONS ON LIABILITY ARE NOT PROHIBITED UNDER APPLICABLE LAW.**

## **18. DISPUTE RESOLUTION, ARBITRATION AGREEMENT, AND CLASS ACTION WAIVER**

You agree to resolve certain disputes with The IIA through binding arbitration (“**Arbitration Agreement**”). Arbitration means that an arbitrator, and not a judge or a jury, will decide the dispute. **The parties expressly waive the right to bring or participate in any kind of class, collective, or mass action, private attorney general action, or any other representative action.** This Arbitration Agreement supersedes all prior versions.

**18.1 Covered Disputes.** You and The IIA agree that any dispute or claim between you and The IIA arising out of or relating to this Agreement or the Services (a “**Dispute**”), including any related software, hardware, integrations, advertising or marketing communications, your account, or any aspects of your relationship or transactions with The IIA, will be resolved by binding arbitration, rather than in court. For purposes of this Arbitration Agreement, a Dispute will also include disputes that arose or involve facts occurring before the existence of this or any prior versions of this Agreement as well as claims that may arise after the termination of this Agreement. **LAWSUITS AND ARBITRATIONS HAVE BEEN FILED, OR MAY BE FILED IN THE FUTURE, WHICH COULD AFFECT YOU. YOUR AGREEMENT TO THIS ARBITRATION AGREEMENT COULD AFFECT YOUR PARTICIPATION IN THOSE ACTIONS.**

**18.2 Exceptions to Arbitration.** This Arbitration Agreement shall not require arbitration of the following types of claims brought by The IIA: (i) small claims court actions, if the requirements of the court are met and the claims are only on an individual basis; and (ii) claims pertaining to intellectual property rights, including trademarks, trade dress, domain names, trade secrets, copyrights and patents.

**18.3 Informal Dispute Resolution First.** We want to address any Disputes without needing arbitration. If you have a Dispute with The IIA, prior to initiating arbitration, you agree to mail an individualized request (“**Pre-Arbitration Demand**”) to The IIA, ATTN: General Counsel, 1035 Greenwood Blvd., Suite 401, Lake Mary, FL 32746, USA so that we can work together to resolve the Dispute. A Pre-Arbitration Demand is only valid when it pertains to, and is on behalf of, a single individual. A Pre-Arbitration Demand brought on behalf of multiple individuals is invalid as to all. The Pre-Arbitration Demand must include: (i) your name, telephone number, mailing address, and email address associated with your account; (ii) the name, telephone number, mailing address and email address of your counsel, if any; (iii) a description of your Dispute; and (iv) your signature. Likewise, if The IIA has a Dispute with you, The IIA will send an email with its individualized Pre-Arbitration Demand, including the requirements listed above, to the email address associated with your IIA account. If the Dispute is not resolved within sixty (60) calendar days of when either you or The IIA submitted a Pre-Arbitration Demand, an arbitration can be brought. If The IIA has a Dispute involving claims under the exception to arbitration, then this section does not apply to such Dispute. You agree that compliance with this section is a condition precedent to commencing arbitration, and that the arbitrator shall dismiss any arbitration filed without fully and completely complying with these informal dispute resolution procedures.

**18.4 Arbitration Procedure.** If, after completing the informal dispute resolution process set out in Section 19.3, either you or The IIA wishes to initiate arbitration, the initiating party must serve the other party with a demand for arbitration. Any demand for arbitration by you shall be sent to the The IIA address in Section 19.3. The IIA will send any arbitration demand to the email address associated with your The IIA account or to your counsel, if any. You and The IIA agree that the Federal Arbitration Act (“**FAA**”) governs this Arbitration Agreement. If the FAA cannot apply for whatever reason, then the state laws governing arbitration procedures where you reside apply.

**18.5 Jury Trial Waiver.** **You and The IIA hereby waive any constitutional and statutory rights to sue in court and have a trial in front of a judge or a jury.** You and The IIA are instead electing that all Disputes shall be resolved by arbitration under this Arbitration Agreement, except as specified in Section 18.2 above.

**18.6 Severability.** If any provision of this Arbitration Agreement is found to be illegal or unenforceable, then that provision will be severed; however, the remaining provisions shall still apply and shall be interpreted to achieve the closest possible intent to the original intent of this section, inclusive of the severed provision.



## 19. ANONYMIZED AND AGGREGATED DATA

You agree that The IIA may obtain and aggregate technical and other data about you and your End Users use of the Services on a de-identified or anonymized basis (“**Aggregated Anonymous Data**”), and The IIA may use the Aggregated Anonymous Data in accordance with applicable Law, including to analyze, develop, improve, support, and operate the Services provided to you or other unrelated customers, during and after the term of this Agreement, including to generate industry benchmarks or best practices guidance, recommendations, or similar reports.

## 20. PRIVACY POLICY

You consent to and agree to The IIA’s [Privacy Policy](#), and you are on notice of and acknowledge that our collection, sharing, and processing (which may include organizing, structuring, storing, using, or disclosing) of your personal data will be subject to our [Privacy Policy](#).

## 21. MISCELLANEOUS

**21.1 Assignment; Successors and Assigns.** You may not assign your rights or transfer any of your obligations under this Agreement without our prior express written consent. Any purported assignment or transfer in violation of this section is null and void. We may assign our rights or transfer any or all of our obligations under this Agreement at any time, without prior notice to you, (i) in the event of a merger, acquisition, or sale of all or substantially all of our assets, or (ii) to our affiliate. This Agreement is binding upon, and inures to the benefit of, the parties and their respective permitted successors and assigns.

**21.2 Governing Law; Jurisdiction; and Venue.** The laws of the State of New York, U.S.A., regardless of conflict of laws principles, govern all matters arising out of or relating to this Agreement, including its interpretation, construction, performance, and enforcement, except that the Federal Arbitration Act governs provisions relating to arbitration. Except as otherwise provided in this Agreement, the parties consent to the exclusive jurisdiction and venue of the state courts located in and serving Seminole County, Florida, and the federal courts in the Middle District of Florida. Notwithstanding the above, you and The IIA agree that this paragraph does not preclude us from initiating any proceedings (including nullity proceedings) before the United States Patent Trial and Appeal Board (PTAB), United States Trademark Trial and Appeal Boards (TTAB), the United States Patent and Trademark Office (PTO), the United States Copyright Office, or any foreign patent, trademark, or copyright office, as long as any such proceeding relates to the validity, enforceability, or unenforceability of any copyright, patent, trademark, or other intellectual property right owned or assigned to The IIA.

**21.3 Merger; Integration.** This Agreement constitutes and embodies the final agreement between you and The IIA and contains the complete and exclusive expression of your and our agreement pertaining to its subject matter. All prior or contemporaneous writings, negotiations, and discussions between you and The IIA regarding the subject matter hereof are expressly merged into and superseded by this Agreement. We expressly object to and do not agree to any terms and conditions presented by you that are in addition to or different from those contained in this Agreement or an Order Form. You acknowledge that no terms and conditions presented by you that purport to add to, modify, or vary the terms and conditions of this Agreement or an Order Form will be binding on us, including (i) text or information set forth on any purchase order, email correspondence, invoice or invoice process, or preprinted form, or (ii) terms and conditions of any request for proposal, request for bid, request for information, or questionnaire. In entering into this Agreement, neither you nor The IIA has relied upon any statement, representation, warranty, or agreement of the other party except to the extent expressly contained in this Agreement.

**21.4 No Agency Relationship.** The IIA and you are independent contractors and do not intend to create an express or implied agency relationship by entering into this Agreement, whether arising under federal or state common law of agency.

**21.5 No Third-Party Rights or Remedies.** This Agreement does not and is not intended to confer any enforceable rights or remedies upon any person other than The IIA and you.

**21.6 Notice.** We may give notice to you by (i) electronic mail to your email address on record in your account information, (ii) written communication sent by letter delivered by a nationally recognized overnight delivery service, or (iii) first-class postage prepaid mail to your address on record in your account information. You are responsible for ensuring that your email address and property address on record are current. You agree that any notice sent to the then-current email or property address in our systems is adequate and binding notice upon you. You will provide notice to us (such notice is deemed given when received by The IIA) by letter delivered by a nationally recognized overnight delivery service or first-class postage prepaid mail to The IIA at “**Attention General Counsel, 1035 Greenwood Blvd., Suite 401, Lake Mary, FL 32746 USA.**”

**21.7 Severability.** If any provision of this Agreement is determined to be invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions of this Agreement are not affected or impaired in any way. You and The IIA intend that any invalid, illegal, or unenforceable portions of this Agreement will be interpreted to provide the greatest effect and intent of the original. If a construction of the invalid, illegal, or unenforceable portion is not possible, the invalid, illegal, or unenforceable portion will be severed from this Agreement and the rest of this Agreement will remain in full force and effect.

**21.8 Survival.** All sections of this Agreement which, by their nature should survive termination or expiration, will survive, including sections pertaining to confidential information, The IIA’s Proprietary Rights, license rights granted by you to The IIA, payment obligations, warranty disclaimers, indemnification, arbitration, and the limitation on liability.

**21.9 Waiver.** The IIA’s failure to exercise any right or enforce any condition or provision under this Agreement does not operate as a current or future waiver. For any waiver to be effective against us, the waiver must be in a writing signed by The IIA’s duly authorized representative.