

MASTER SUBSCRIPTION AGREEMENT

THIS MASTER SUBSCRIPTION AGREEMENT (THIS “AGREEMENT”) GOVERNS CUSTOMER’S ACQUISITION AND USE OF SITETRACKER SERVICES. CAPITALIZED TERMS HAVE THE DEFINITIONS SET FORTH HEREIN. BY EXECUTING AN ORDER FORM THAT REFERENCES THIS AGREEMENT, CUSTOMER HEREBY AGREES TO THE TERMS AND CONDITIONS OF THIS AGREEMENT. IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT IS ACCEPTING ON BEHALF OF A COMPANY OR OTHER LEGAL ENTITY, SUCH INDIVIDUAL REPRESENTS THAT SUCH INDIVIDUAL HAS THE AUTHORITY TO BIND SUCH ENTITY AND ITS AFFILIATES (AS APPLICABLE) TO THIS AGREEMENT, IN WHICH CASE THE TERM “CUSTOMER” SHALL REFER TO SUCH ENTITY AND ITS AFFILIATES (AS APPLICABLE). IF THE INDIVIDUAL ACCEPTING THIS AGREEMENT DOES NOT HAVE SUCH AUTHORITY, OR DOES NOT AGREE WITH THE TERMS AND CONDITIONS OF THIS AGREEMENT, SUCH INDIVIDUAL MUST NOT ACCEPT THIS AGREEMENT AND SUCH ENTITY AND ITS AFFILIATES SHALL NOT USE THE SERVICES.

The Services may not be accessed for purposes of monitoring their availability, performance or functionality, or for any other benchmarking or competitive purposes. Sitetracker’s direct competitors are prohibited from accessing the Services, except with Sitetracker’s prior written consent. This Agreement was last updated on July 1, 2022. It is effective between Customer and Sitetracker as of the date of Customer’s accepting this Agreement.

1. DEFINITIONS

“**Affiliate**” means any entity that directly or indirectly controls, is controlled by, or is under common control with the subject entity. “Control,” for purposes of this definition, means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.

“**Agreement**” means this Master Subscription Agreement and any exhibits, schedules and addenda hereto.

“**Beta Services**” means Sitetracker services that are not generally available to customers.

“**Customer**” or “**you**” means the customer named above and its Affiliates.

“**Customer Data**” means (a) all information, data and materials owned or controlled by Customer that are furnished to Sitetracker in connection with the Services, uploaded to the Services, or otherwise made available to Sitetracker pursuant to this Agreement, and (b) any results, data, and reports generated via the Services incorporating or based on the above.

“**Documentation**” means Sitetracker’s then-current technical and functional documentation for the Services as made available by Sitetracker to Customer.

“**Intellectual Property Rights**” means all intellectual and industrial property rights in any jurisdiction worldwide, including copyrights, patents, trademarks, trade names, trade secrets, mask work rights, moral and contract rights, and all registrations, applications, renewals, extensions, continuations, divisions or reissues thereof.

“Malicious Code” means code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses.

“Non-Sitetracker Applications” means any software not provided by Sitetracker that interoperates with the Services.

“Order Form” means an ordering document specifying the Services to be provided hereunder that is entered into between Customer and Sitetracker or any of its Affiliates, including any addenda and supplements thereto. By entering into an Order Form hereunder, an Affiliate agrees to be bound by the terms of this Agreement as if it were an original party hereto.

“Salesforce Platform” means the hosted platform-as-a-service made available by Salesforce.com, inc. (“Salesforce”).

“Services” means the Sitetracker Software and Professional Services provided pursuant to this Agreement.

“Sitetracker Property” means the Services, Services Integrations, and all other software applications, software code, software tools, platforms, architecture, technology, work products, know-how, trade secrets, processes, methodologies, designs, templates, content, files and other intellectual property developed by Sitetracker, and any improvements, updates, changes, modifications, or enhancements thereto.

“Sitetracker Software” means: (i) the Sitetracker software application or applications ordered by Customer (ii) all new versions, updates, revisions, enhancements, improvements, derivatives and modifications of the foregoing.

“Services Integrations” means any applications, integrations, APIs, or other software or systems used or developed by Sitetracker to integrate the Services with Customer systems or Non-Sitetracker Applications.

“Statement of Work” or **“SOW”** means the Statement of Work entered into between Sitetracker and Customer that outlines business parameters and other matters regarding the Services that Customer has engaged Sitetracker to provide.

“Updates” are any modifications, improvements, bug fixes, or other new versions of the Services made available as part of the Subscription. Sitetracker will make all Updates available to Customer as and when they are available to other Service subscribers.

“User” means an individual who is authorized by Customer to use a Service, for whom Customer has ordered the Service, and to whom Customer (or Sitetracker at Customer’s request) has supplied a user identification and password. Users may include, for example, employees, consultants, contractors and agents of Customer, and third parties with which Customer transacts business.

2. SUBSCRIPTION ACCESS AND USE OF SERVICES

2.1. Subscription Access Grant. Sitetracker grants Customer a limited, non-transferable, non-exclusive right during the Term (as defined in the “Term and Termination” section below) for Users to use and access the Sitetracker Software (such access, the **“Subscription”**).

2.2. Users. Customer will immediately notify Sitetracker if (a) a credential issued to a User (i.e. user ID and password) is compromised or improperly disclosed, or (b) the User assigned to a credential no longer requires access to the Services. Sitetracker may refuse access to such

Services to any individual, or terminate or suspend a User's access without advanced notice, if Sitetracker believes that such User has violated the terms of this Agreement, and will notify Customer in writing following any such action. Unless otherwise specified, (a) the Services may not be accessed by more than that number of Users as specified on the Order Form, (b) a User's credential may not be shared with any other individual, and (c) a User's credential may be reassigned to a new individual replacing one who no longer requires ongoing use of the Subscription.

2.3. Usage Restrictions. Customer will not (a) make the Services or content available to anyone other than the Users, (b) sell, resell, license, sublicense, distribute, make available, rent or lease the Services, or include Services in a service bureau or outsourcing offering, (c) use the Services or Non-Sitracker Applications to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of third-party privacy rights, (d) use the Services or Non-Sitracker Applications to store or transmit Malicious Code, (e) interfere with or disrupt the integrity or performance of the Services or third-party data contained therein, (f) attempt to gain unauthorized access to the Services or their related systems or networks, (g) permit direct or indirect access to or use of Services in a way that circumvents a contractual usage limit, or use the Services to access or use any of Sitetracker's intellectual property except as permitted under this Agreement, an Order Form, or the Documentation, (h) modify, copy, or create derivative works based on the Services or any part, feature, function or user interface thereof, (i) copy the Services except as permitted herein or in an Order Form or the Documentation, (j) frame or mirror any part of any of the Services, other than framing on Customer's own intranets or otherwise for its own internal business purposes or as permitted in the Documentation, and (k) except to the extent permitted by applicable law, disassemble, reverse engineer, or decompile the Services, or access it to (1) build a competitive product or service, (2) build a product or service using similar ideas, features, functions or graphics of the Services, (3) copy any ideas, features, functions or graphics of the Services, or (4) determine whether the Services are within the scope of any patent.

2.4. Order Forms. The Services ordered by Customer shall be listed in the Order Form. Each Order Form will specify the specific Service(s) ordered, and the fees and payment terms for use of the Services. Each Order Form during the Term is governed by the terms of this Agreement and in the event of a conflict or discrepancy between the terms of an Order Form and the terms of this Agreement, this Agreement shall govern except as to which specific Services were ordered, the Subscription term for the order, and the fees, currency and payment terms for the order, for which the Order Form shall govern. Except as otherwise specified in an Order Form, fees are based on services purchased and not actual usage, payment obligations set forth in an Order Form are non-cancelable, fees paid are non-refundable, and the number of Users cannot be decreased during the relevant Subscription term stated on the Order Form.

3. MAINTENANCE AND SUPPORT FOR SUBSCRIPTION

3.1. General. The following are included in the Subscription:

3.1.1. Customer Support, Upgrades, and Updates. Sitetracker will, at no additional charge, provide Customer Support, Upgrades, and Updates for the Services as detailed in the Customer Support Addendum (the "CSA") at <https://www.sitracker.com/legal/>.

3.1.2. Sitetracker will use commercially reasonable efforts to make the Services continuously available to Customer (subject to Salesforce Platform availability and as otherwise set forth herein).

4. PROFESSIONAL SERVICES AND SITETRACKER'S OTHER RESPONSIBILITIES

4.1. Professional Services. Sitetracker offers certain professional services, including services related to configuration and optimization of the Services, change management and business practice optimization, and education and training ("**Professional Services**"). Such Professional Services are typically purchased via a mutually executed SOW. Each SOW during the Term is governed by the terms of this Agreement and in the event of any conflict or discrepancy between

an SOW and the terms of this Agreement, this Agreement shall govern except as to the scope of work, fees, currency, expenses and other payment terms for the Professional Services, for which the SOW will govern.

4.2. Subcontractors. Sitetracker may subcontract its obligations under this Agreement, provided that (a) subcontractors are bound to confidentiality terms materially similar to the “Confidentiality” section of this Agreement, and (b) Sitetracker is responsible for subcontractors to the same extent as if it had performed the subcontracted functions ourselves.

4.3. Security. Sitetracker will maintain appropriate administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of Customer Data. Those safeguards will include, but will not be limited to, measures designed to prevent unauthorized access to or disclosure of Customer Data (other than by Customer or Users). Where Customer’s use of Services includes the processing of Personal Data (as defined in the DPA) from the European Economic Area (EEA), the United Kingdom, and(or) Switzerland by Sitetracker, the terms of the data processing addendum at <https://www.sitracker.com/legal/> (“DPA”) shall apply to such processing and shall be incorporated into this Agreement, provided and from the date that a copy of the DPA is signed by the Customer and sent to Sitetracker at privacy@sitracker.com in accordance with the instructions therein.

4.4. Beta Services. From time to time, Customer may be invited to try services or functionality that may be made available to Customer to try at its option at no additional charge. Customer may accept or decline any such trial in its sole discretion. Beta Services are for evaluation purposes and not for production use, are not considered Services under this Agreement, are not supported, and may be subject to additional terms. Unless otherwise stated, any Beta Services trial period will expire upon the earlier of one year from the trial start date or the date that a version of the Beta Services becomes generally available. Sitetracker may discontinue Beta Services at any time in its sole discretion and may never make them generally available. We will have no liability for any harm or damage arising out of or in connection with a Beta Service.

5. NON-SITETRACKER PROVIDERS

5.1. Salesforce Platform. The following applies to Customer’s access and use of the Salesforce Platform via the Services:

5.1.1. General. The Services are built on the Salesforce Platform, and the Subscription includes a limited, non-transferable, non-exclusive right for Users to use and access the Salesforce Platform solely through, and to the extent required to use, the Services. Unless otherwise set forth herein, all of Customer’s restrictions and obligations respecting the Services apply equally to the Salesforce Platform. Customer may use the Salesforce Platform solely as part of the Services. Customer may use the Salesforce Platform solely to use the functionality of the Services in the form it has been provided to Customer by Sitetracker. Unless otherwise indicated in an Order Form, Customer may not use the Salesforce Platform to create or use custom objects beyond those that appear in the Services in the form that it has been provided to Customer by Sitetracker. If Customer’s access to the Services provides Customer with access to any Salesforce Platform functionality within it that is in excess of the functionality described in the Documentation, Customer agrees to not access or use such functionality. Customer agrees that Customer’s noncompliance with the terms set forth in this paragraph would be a material breach of this Agreement.

5.2. Acquisition of Third Party Products and(or) Services. Sitetracker or third parties may make available third-party products or services to Customer, including, for example, Non-Sitracker Applications and other consulting services. Except as expressly provided herein regarding the Salesforce Platform, any acquisition by Customer of such non-Sitracker products or services, and any exchange of data between Customer and such non-Sitracker provider, is solely between Customer and the non-Sitracker provider, and Sitetracker does not warrant or support such non-Sitracker products or services, whether or not they are recommended by Sitetracker or designated by Sitetracker as preferred, certified or otherwise.

5.3. Integration with Non-Sitetracker Applications. The Services may contain features designed to interoperate with Non-Sitetracker Applications, which may be used by Customer at its own discretion. To use such features, Customer may be required to obtain access to Non-Sitetracker Applications from the providers of such Non-Sitetracker Applications, and may be required to grant Sitetracker access to Customer's account(s) on the Non-Sitetracker Applications. Sitetracker will not be deemed to be in breach of this Agreement to the extent any such Service features cease to function because the provider of the corresponding Non-Sitetracker Application, other than the Salesforce Platform, ceased to make their Non-Sitetracker Application available for interoperation with such Service features on reasonable terms.

5.4. Non-Sitetracker Applications and Customer Data. If Customer installs or enables a Non-Sitetracker Application for use with the Services, Customer hereby grants Sitetracker permission to allow the provider of that Non-Sitetracker Application to access Customer Data as necessarily required for the interoperation of that Non-Sitetracker Application with the Services. Sitetracker is not responsible for any processing, disclosure, modification or deletion of Customer Data resulting from access by a Non-Sitetracker Application. The Services will allow Customer to restrict Users from installing or enabling Non-Sitetracker Applications (other than the Salesforce platform) for use with the Services.

6. CUSTOMER RESPONSIBILITIES

6.1. Customer Data. Customer is solely responsible for the accuracy, quality and legality of Customer Data and the means by which Customer acquired Customer Data. Sitetracker expressly disclaims any liability arising from such Customer Data.

6.2. Use and Access. Only Users may access the Services. Customer will ensure that each User uses the Services in accordance with applicable laws and this Agreement and maintains the security of their credentials. Customer shall, and ensure that each User, use the Services in accordance with the Sitetracker Acceptable Use Policy at <https://www.sitetracker.com/legal/>.

6.3. Internet Access. Customer is responsible for any network or internet connectivity required to access or use the Services.

6.4. General. In addition to obligations identified elsewhere in this Agreement, Customer will provide access to such information, personnel and systems Sitetracker reasonably requires to support the Subscription and Services, and respond to inquiries and provide approvals promptly.

7. INTELLECTUAL PROPERTY OWNERSHIP

7.1. Customer Data. Customer retains all right, title, and interest in the Customer Data, except as explicitly set forth herein. Customer grants Sitetracker a worldwide, royalty-free, sublicensable (solely to subcontractors in order to fulfill the purposes of this Agreement) nonexclusive, license during the Term to use Customer Data solely for the purpose of providing the Subscription and Services.

7.2. Services and Services Integrations. Except for the limited access rights granted herein, all right, title and interest in and to the Services, Services Integrations, and all Sitetracker Property is retained by Sitetracker. Notwithstanding any other term of this Agreement, Sitetracker may access and use, and shall retain all right, title and interest in transactional and performance data related to use of the Services, which may include aggregated and anonymized data based upon Customer Data, so long as such data does not reveal any personally identifiable information or specific traits of any particular individual person or of Customer or a Customer Affiliate. Sitetracker reserves to itself all rights that are not expressly granted pursuant to this Agreement.

7.3. License by Customer to Use Feedback. Customer grants to Sitetracker and its Affiliates a worldwide, perpetual, irrevocable, royalty free license to use and incorporate into its services any suggestion, enhancement request, recommendation, correction or other feedback provided by Customer or Users relating to the operation of Sitetracker or its Affiliates' services.

8. FEES AND PAYMENT

8.1. Invoices. Customer will pay Sitetracker the fees for the Subscription and Services set forth in each Order Form (the “**Fees**”). Unless otherwise set forth in an Order Form, (a) Subscription and Customer Support Fees will be invoiced annually in advance, (b) Professional Services Fees will be invoiced as of the Effective Date of the applicable Order Form, and (c) other Services Fees will be invoiced monthly in arrears. Undisputed Fees are due thirty (30) days after Customer’s receipt of the applicable invoice.

8.2. Subscription Changes. Additional Users (in groups of five (5)) may be added to a Subscription at any time and will be invoiced upon receipt of the request, pro-rated based on the number of months before the next annual Subscription Fee is due.

8.3. Late Payment. If Customer does not pay Fees when due, Sitetracker may take any or all of the following actions: (a) charge interest on the outstanding balance at the rate of one and one half percent (1½%) per month, or the maximum amount permitted by applicable law, if less; (b) recover all costs of collection, including reasonable attorneys’ fees; or (c) terminate this Agreement or suspend Customer’s access to the Services following at least ten (10) days’ prior written notice to Customer with opportunity to cure (notwithstanding any longer cure period for material breaches generally set forth in “Term and Termination” section below). Customer may withhold payment for portions of an invoice that it disputes in good faith, provided that it (i) informs Sitetracker of the grounds for the dispute in writing, prior to the due date, (ii) works in good faith to promptly resolve the dispute, and (iii) timely pays all undisputed Fees.

8.4. Taxes. The Fees do not include any taxes, levies, duties or similar governmental assessments of any nature, including, for example, value-added, sales, use or withholding taxes, assessable by any jurisdiction whatsoever (collectively, “**Taxes**”). Customer is responsible for paying all Taxes associated with its purchases hereunder. If Sitetracker has the legal obligation to pay or collect Taxes for which Customer is responsible under this section, Sitetracker will invoice Customer and Customer will pay that amount unless Customer provides Sitetracker with a valid tax exemption certificate authorized by the appropriate taxing authority. Sitetracker will calculate applicable Taxes based on the address where Customer primarily uses the Services as specified in the relevant Order Form. Customer will be responsible for self-assessing and paying any additional Taxes arising from its use of Services and Subscription at a different address. Customer will promptly notify Sitetracker of any changes to a Customer address specified in an Order Form. Should any payment for Services be subject to withholding tax by any government, Customer will reimburse Sitetracker for such withholding tax. For clarity, Sitetracker is solely responsible for taxes assessable against it based on its income (other than such withholding taxes), property and employees.

8.5. Future Functionality. Customer agrees that its purchases are not contingent on the delivery of any future functionality or features, or dependent on any oral or written public comments made by Sitetracker regarding future functionality or features.

9. AUDITS

9.1. Audit Right. Sitetracker may audit Customer’s use of the Services (including at Customer’s location, if applicable) not more than once per calendar year (unless a prior audit revealed a material violation of this Agreement). Sitetracker will provide reasonable advance notice of any audit, which will be (a) conducted during regular business hours in a manner that does not unreasonably interfere with Customer’s business, and (b) limited to reviewing Customer information that is reasonably necessary to verify compliance with this Agreement. Customer will provide Sitetracker and its agents performing the audit reasonable access to Users and to data and records relating to this Agreement.

9.2. Audit Remedies. If an audit reveals that Customer has not fully paid for its actual use of the Services, Customer will promptly pay Sitetracker for the amount of any undercharges, as well as any documented penalties Sitetracker is obligated to pay to third parties (such as Salesforce) based on Customer’s underpayment. In addition, if an audit reveals an underpayment of five percent (5%) or more of the Fees actually owed for the audit period, Customer will reimburse Sitetracker for the costs of such audit.

10. CONFIDENTIALITY

10.1. **“Confidential Information”** means non-public or proprietary information in any form disclosed by or on behalf of either party that (a) is marked or identified as “confidential” or with a similar designation, or (b) by its nature or the circumstances of its disclosure ought reasonably to be treated as confidential. Without limiting the foregoing, Confidential Information includes any information regarding a party’s strategic plans, product roadmap, business development strategies, and technical information such as the Services source code and security configurations.

10.2. Ownership and Use. Each party (the **“Receiving Party”**) may have access to the other party’s (the **“Disclosing Party”**) Confidential Information as a result of this Agreement. Confidential Information is and will remain the sole property of the disclosing Party. This Agreement’s terms are Confidential Information of the parties, but its existence is not. Each Receiving Party will (a) only use Confidential Information to fulfill its obligations hereunder, (b) only provide access to the Disclosing Party’s Confidential Information on an “as-needed” basis to its personnel, agents, and/or consultants who are bound by obligations materially similar to this section, and (c) maintain such Confidential Information using methods at least as protective as it uses to protect its own information of a similar nature, but in no event using less than a reasonable degree of care. Subject to the “Customer Data Portability and Deletion” section below, each party will promptly return or destroy the other party’s Confidential Information upon termination or expiration of this Agreement.

10.3. Exceptions. Confidential Information does not include, and the “Ownership and Use” section does not apply to, information that is (a) publicly available when disclosed or becomes publicly available without fault of the Receiving Party after disclosure, (b) rightfully communicated to the Receiving Party by entities not bound to keep such information confidential, whether prior to or following disclosure, (c) independently developed by the Receiving Party, or (d) approved for unrestricted disclosure by the Disclosing Party.

10.4. Mandated Disclosure. The Receiving Party may disclose the Disclosing Party’s Confidential Information as required (a) by court order or applicable law (provided that, to the extent legally permissible, the Receiving Party promptly notifies the Disclosing Party of such requirement and cooperates with the Disclosing Party’s reasonable and lawful efforts to prevent or limit the scope of such disclosure, at the Disclosing Party’s expense), or (b) to establish its rights under this Agreement.

11. REPRESENTATIONS AND WARRANTIES

11.1. Representations. Each party represents that (a) it has validly entered into this Agreement, and (b) the execution, delivery and performance of this Agreement will not conflict with any material contract with any third party.

11.2. Sitetracker Warranties. Sitetracker warrants that (a) the Services will perform materially in accordance with the Documentation, (b) the Professional Services will be performed in a professional manner, consistent with the generally accepted standards of Sitetracker’s industry, (c) subject to the “Integration with Non-Sitetracker Applications” section above, Sitetracker will not materially decrease the functionality of the Services during the Term, and (d) the Services will not introduce Malicious Code.

11.3. Customer Remedies. Customer’s sole and exclusive remedy in the event of any breach of the warranties set forth in the “Sitetracker Warranties” section will be for Sitetracker to re-perform the affected Service or modify the affected Services at no charge to Customer so that such Services complies with the warranties set forth in “Sitetracker Warranties” section.

11.4. Disclaimers. EXCEPT AS EXPRESSLY PROVIDED HEREIN, NEITHER PARTY MAKES ANY WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, AND EACH PARTY SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT, TO THE MAXIMUM EXTENT PERMITTED

BY APPLICABLE LAW. THE SERVICES AND BETA SERVICES ARE PROVIDED "AS IS," AND AS AVAILABLE EXCLUSIVE OF ANY WARRANTY WHATSOEVER.

12. LIMITATION OF LIABILITY

12.1. Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW AND EXCEPT WITH RESPECT TO (i) EACH PARTY'S INDEMNIFICATION OBLIGATIONS IN THE "INDEMNIFICATION SECTION" BELOW OR (ii) RECKLESS MISCONDUCT, GROSS NEGLIGENCE, WILLFUL MISCONDUCT AND/OR FRAUD, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EACH PARTY TOGETHER WITH ALL OF ITS AFFILIATES ARISING OUT OF OR RELATED TO THIS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY CUSTOMER AND ITS AFFILIATES HEREUNDER FOR THE SERVICES GIVING RISE TO THE LIABILITY IN THE TWELVE MONTHS (12) PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE. THE FOREGOING LIMITATION WILL APPLY WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY, BUT WILL NOT LIMIT CUSTOMER'S AND ITS AFFILIATES' PAYMENT OBLIGATIONS UNDER THE "FEES AND PAYMENT" SECTION ABOVE. SITETRACKER DISCLAIMS ALL LIABILITY FOR ANY HARM OR DAMAGES CAUSED BY THE SALESFORCE PLATFORM.

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

13. INDEMNIFICATION

13.1. By Customer. Customer will indemnify, defend, and hold harmless Sitetracker and its directors, officers, shareholders, employees, and agents against any claims, liabilities, demands, damages, judgments, awards, settlements, expenses, or losses, including costs of litigation and reasonable attorneys' fees, arising from any third party claims ("**Liabilities**") that (a) any Customer Data or Customer's use of Customer Data with the Services, (b) Non-Sitetracker Applications not supported by Sitetracker, or (c) the use of the Services in combination with any Non-Sitetracker Applications not supported by Sitetracker, infringes or misappropriates such third party's Intellectual Property Rights, or arising from Customer's use of the Services in an unlawful manner or in violation of this Agreement, the Documentation, or Order Form.

13.2. By Sitetracker. Sitetracker will indemnify, defend, and hold harmless Customer and its directors, officers, shareholders, employees, and agents from all Liabilities arising out of the Services infringement of (a) any United States patent existing as of the Effective Date, (b) copyright, or (c) any trade secret, except to the extent that such infringement is due to (i) modification of the Services other than by Sitetracker or its contractors, (ii) use of the Services in a manner not contemplated by this Agreement or in combination with any Non-Sitetracker Applications not supported by Sitetracker, (iii) Customer's failure to use Upgrades and Updates in conformance with the CSA, or (iv) Customer Data or other information, materials, instructions, specifications, or requirements provided by or on behalf of Customer.

13.3. Infringement Remedy. If Customer's use of the Services is or (in Sitetracker's sole discretion) is likely to be enjoined, Sitetracker may (a) procure for Customer the continued use of the Services, (b) replace the Services with a non-infringing equivalent, or (c) modify the Services so it becomes non-infringing, provided that, in the case of (b) or (c), the replacement or modified Services has materially similar functionality to the original. If Sitetracker cannot so reasonably procure, replace, or modify the Services, Sitetracker may terminate this Agreement and refund Customer any pre-paid Subscription Fees attributable to the terminated portion of the Term.

13.4. Indemnification Procedures. The indemnified party will provide prompt written notice of any indemnifiable claim and will reasonably cooperate with the indemnifying party in connection with any such claim, at the indemnifying party's cost. The indemnifying party will control, and may defend or settle, any such claim, provided that it may not enter into any settlement that imposes any liability or obligation on the indemnified party without the indemnified party's written consent.

13.5. Exclusive Remedy. This "Indemnification" section states the indemnifying party's sole responsibility, and the indemnified party's exclusive remedy, for any indemnifiable claim.

14. TERM AND TERMINATION

14.1. Term of this Agreement. This Agreement commences on the Effective Date and continues until all Subscriptions hereunder have expired or have been terminated. (the "**Term**")

14.2. Terms of Order Forms and SOWs. The term of each Order Form or SOW will be as set forth in the Order Form or SOW. Except as otherwise specified in an Order Form, all Subscriptions will automatically renew for additional periods equal to the expiring Subscription term specified on the applicable Order Form or one year (whichever is shorter), unless either party gives the other written notice (email acceptable) at least 30 days before the end of the relevant Subscription term. Except as expressly provided in the applicable Order Form, renewal of promotional or one-time priced subscriptions will be at Sitetracker's applicable list price in effect at the time of the applicable renewal. Notwithstanding anything to the contrary, any renewal in which subscription volume or subscription length for any Services has decreased from the prior term will result in repricing at renewal without regard to the prior term's per-unit pricing.

14.3. Termination. Either party may terminate this Agreement for cause (a) 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 (b) 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 that is not dismissed within thirty (30) days.

14.4. Rights on Termination. To provide the Services, Sitetracker enters into certain non-cancellable commitments with third parties, including for the Salesforce Platform. As such, except where explicitly set forth in this Agreement, all Fees are non-refundable, and upon termination, Customer will be required to pay (a) any outstanding balance for Subscription Fees for the remainder of the then-current Term and (b) all reimbursable expenses incurred by Sitetracker in connection with the Professional Services. Upon termination of this Agreement, Sitetracker will terminate Customer's access to the Services.

14.5. Customer Data Portability and Deletion. Upon request by Customer made within thirty (30) days of the effective date of termination or expiration of this Agreement (the "**Transition Period**"), Sitetracker will make the Customer Data available to Customer for export or download in a standard format to be agreed upon by the parties. After the Transition Period, Sitetracker will have no obligation to maintain or provide any Customer Data, and will thereafter delete or destroy all copies of Customer Data in its systems or otherwise in its possession or control, unless legally prohibited.

14.6. Surviving Provisions. The sections titled "Fees and Payment," "Intellectual Property Ownership," "Confidentiality," "Disclaimers," "Indemnification," "Limitation of Liability," "Rights on Termination," "Customer Data Portability and Deletion," "Surviving Provisions" and "General Provisions" will survive any termination or expiration of this Agreement.

15. GENERAL PROVISIONS

15.1. Compliance with Laws. Each party will comply with all applicable laws in connection with this Agreement. The Services and other technology Sitetracker makes available 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 United States government denied-party list. Customer will not permit Users to access or use the Services in a United States-embargoed country or in violation of any United States export law or regulation.

15.2. Anti-Corruption. Neither party has received or been offered any illegal or improper bribe, kickback, payment, gift, or thing of value from an employee or agent of the other party in connection with this Agreement. Reasonable gifts and entertainment provided in the ordinary course of business do not violate the above restriction.

15.3. Attribution. Sitetracker may identify Customer in standard marketing materials.

15.4. Entire Agreement; Amendment; Precedence. This Agreement together with any exhibits, Order Forms, and SOWs constitutes the entire agreement between the parties regarding the Services and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. This Agreement may not be modified except in writing signed by both parties. If there is a conflict between this Agreement and an Order Form or SOW, this Agreement will control unless the Order Form or SOW specifically references the provision of this Agreement to be superseded.

15.5. Injunctive Relief. The parties agree that a breach of the “Confidentiality” section above or misappropriation by a party of the other party’s intellectual property would cause immediate and irreparable harm not remediable by monetary damages. In such a circumstance, the harmed party may seek immediate injunctive relief, without the requirement to post bond or other security, without prejudicing any other remedies available to it at law or equity.

15.6. Notices. A communication intended to have legal effect under this Agreement must be written and delivered to (a) Sitetracker at the address set forth in the preamble, or (b) Customer at the address provided on the applicable Order Form, by personal delivery, certified mail (postage pre-paid, return receipt requested), or a commercial courier requiring signature for delivery, and will be effective on receipt or when delivery is refused. Operational communications, including changing a party’s notice address, may be delivered via email.

15.7. Assignment. Neither party may assign its rights or obligations hereunder without the other party’s prior express written consent (not to be unreasonably withheld) except if there is a merger, acquisition, corporate reorganization, or sale of all or substantially all of such party’s assets (where the acquiring or surviving entity is not a direct competitor of the other party). Subject to the foregoing, this Agreement will bind and inure the parties, their respective successors and permitted assigns.

15.8. Non-Solicitation. During and for one (1) year after the Term, Customer will not (a) induce or attempt to induce any current Sitetracker employee or independent contractor to cease their relationships with Sitetracker, or (b) recruit any former Sitetracker employee or independent contractor to perform services for Customer.

15.9. Relationship of the Parties. The parties are independent contractors. This Agreement does not create a partnership, franchise, joint venture, agency, fiduciary or employment relationship between the parties.

15.10. Third-Party Beneficiaries. Sitetracker’s licensors will have the benefit of Sitetracker’s rights and protections hereunder with respect to the applicable licensed content. Salesforce shall have the benefit of Sitetracker’s rights and protections hereunder with respect to the Salesforce Platform. There are no other third-party beneficiaries under this Agreement.

15.11. Waiver; Severability. A party’s waiver of a breach of this Agreement will not waive any other or subsequent breach. If any provision of this Agreement is invalidated by a court of competent jurisdiction, the provision will be deemed modified to the extent required while preserving the parties’ intent as closely as possible, and the remaining provisions of this Agreement will remain in effect.

15.12. Interpretation. Section headings are for reference only and will not affect the meaning or interpretation of this Agreement. As used herein, “may” means “has the right, but not the obligation, to”; “includes” and its variations means “includes, but is not limited to”; and “days” means calendar days, provided that obligations that would be due on a weekend or holiday will be due on the next business day following such weekend or holiday.

15.13. Governing Law; Jurisdiction and Venue. This Agreement is governed by the laws of the state of Delaware, without regard to its conflict of law principles that would require a different result. Each party irrevocably consents to the exclusive jurisdiction of the state or federal courts located in Delaware for any action arising out of this Agreement and waives, to the fullest extent permitted by law, any objection to such venue.

15.14. Force Majeure. Neither Party will be liable for a failure to fulfill its obligations due to causes beyond its reasonable control that cannot be mitigated through the exercise of due care.