

# Copley User License Agreement

## 1. Customer Rights and Responsibilities

**1.1. Agreement.** This Agreement is between Customer and The Copley Consulting Group, Inc. ("Copley") and governs the use of all Copley Products, currently accessed or used by Customer.

**1.2. Use of Copley Products.** Subject to the terms of this Agreement, Copley grants to Customer a world-wide, non-exclusive, non-transferable and non-sublicensable right for its Authorized Users to use Copley Products for Customer's internal business operations and to allow Authorized Third Parties to use Copley Products for External Use, provided any use of Copley Products shall be (i) in accordance with the Documentation and (ii) permitted solely for the term and in the quantities specified in an Order Form. Customer shall be directly responsible for any violations of this Agreement by any party that it allows to access Copley Products.

**1.3. Support Services.** Support services provided by Copley will be made available to Customer for the Customer's Support Term. Copley may provide Consulting or Education Services to Customer pursuant to this Agreement and an Order Form.

**1.4. Use Restrictions.** Except as expressly permitted by this Agreement, Customer will not, nor permit or authorize anyone to:

1.4.1. distribute, convey, lend, lease, share, sell, transfer, sublicense, rent, or time share any of the Copley Products, or any of its components or product keys, or permit third parties to download or install any Software;

1.4.2. copy, decompile, disassemble or reverse engineer or otherwise attempt to extract or derive the source code or any methods, algorithms or procedures from the Software, except as otherwise expressly permitted by applicable law, or modify, adapt, translate or create derivative works based upon the Copley Products;

1.4.3. alter or circumvent any product, key or license restrictions, or transfer or reassign a named user license or entitlement, in such a manner that enables Customer to exceed purchased quantities, defeat any use restrictions, or allows multiple users to share such entitlement to exceed purchased quantities;

1.4.4. use, offer, embed, or otherwise exploit the Copley Products, whether or not for a fee, in any managed service provider (MSP) offering; platform as a service (PaaS) offering; service bureau; or other similar product or offering, including offering standalone Copley Products as a hosted service;

1.4.5. use the Copley Products if Customer is a competitor, or use the Copley Products in any manner that competes with Copley, including but not limited to, benchmarking, collecting and publishing data or analysis relating to the performance of the Copley Products, or developing or marketing a product that is competitive with any Copley Product or service;

1.4.6. use the Copley Products in any manner or for any purpose that infringes, misappropriates or otherwise violates any intellectual property right or other right of any third party or that violates any applicable law.

## 2. Warranties and Disclaimers

**2.1.** Copley warrants that the Software will, for a period of ninety (90) days from its Delivery Date ("Warranty Period"), operate substantially in conformity with the applicable Documentation.

Customer must assert any claim for breach of this warranty within the Warranty Period. Customer's exclusive remedy and Copley's sole liability with regard to any breach of this warranty will be, at Copley's option and expense, to either: (i) repair or replace the non-conforming Software; or (ii) if the Software was obtained by purchase, refund to Customer the fees paid by Customer for the non-conforming Software.

**2.2.** If Copley elects to refund the applicable fee paid for the non-conforming Software pursuant to Section 2.1(ii), then: (i) Customer shall promptly return or demonstrate to Copley's reasonable satisfaction that it has destroyed the non-conforming Software and any other related materials provided by Copley; and (ii) the right to access or use such non-conforming Software will automatically terminate.

**2.3.** Copley will have no liability for any warranty claim, or any obligation to correct any defect or problem with the Software, to the extent that it arises out of: (i) any use of the Software not in accordance with the Documentation; (ii) any unauthorized modification or alteration of the Software; or (iii) any use of the Software in combination with any third-party software or hardware not specified in the Documentation.

**2.4.** Copley warrants that Consulting Services will be performed using reasonable care and skill consistent with generally accepted industry standards. For any claimed breach of this warranty, Customer must notify Copley of the warranty claim within thirty (30) days of Customer's receipt of the applicable Consulting Services. Customer's exclusive remedy and Copley's sole liability with regard to any breach of this warranty will be, at Copley's option and expense, to either: (i) re-perform the non-conforming Consulting Services; or (ii) refund to Customer the fees paid for the non-conforming Consulting Services. Customer shall provide reasonable assistance to Copley in support of its efforts to furnish a remedy for any breach of this warranty.

**2.5.** EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, COPLEY MAKES NO OTHER WARRANTIES AND HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE (EVEN IF COPLEY HAS BEEN INFORMED OF SUCH PURPOSE). COPLEY DOES NOT WARRANT THAT THE COPLEY PRODUCTS, CONSULTING SERVICES OR EDUCATION SERVICES WILL BE ENTIRELY FREE FROM DEFECTS OR OPERATE UNINTERRUPTED OR ERROR FREE. DATA INCLUDED IN ANY COPLEY PRODUCT IS PROVIDED "AS IS."

## 3. Payment

**3.1. Fees.** Customer shall pay any fees due in accordance with the payment terms set forth in the Order Form. Payments are non-cancelable, non-refundable, and non-creditable with no right of offset or suspension, except as otherwise expressly provided in this Agreement. Unpaid fees may be subject to a late fee as set forth in an Order Form on any outstanding balance, or the maximum rate permitted by law, whichever is lower. Fees for Consulting or Education Services are exclusive of travel costs and expenses. If Customer fails to make any payment when due, Copley may, without limiting its other rights and remedies, temporarily suspend access to Copley Products or accelerate Customer's unpaid fee obligations so that all such obligations become immediately due and payable.

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**3.2. Taxes.** Fees do not include sales, use, withholding, value-added or other taxes or duties. Customer agrees to pay all applicable taxes, public fees, duties, deductions, or withholdings for which Copley is required to pay or account, exclusive of any tax on Copley's income. Customer shall directly pay any such taxes or duties assessed against it unless Customer provides Copley in a timely manner with a valid certificate of exemption or other evidence that items are not taxable.

### 4. Limitation of Liability

**4.1. Limitation of Liability.** Except for (i) each Party's indemnification obligations under this Agreement, (ii) death or bodily injury caused by a Party's negligence; (iii) breach of Section 8.8; and (iv) Customer's violation of Copley's intellectual property rights, each Party's maximum, cumulative liability for any claims, losses, costs (including attorney's fees) and other damages arising under or related to this Agreement, regardless of the form of action, whether in contract, tort (including negligence or strict liability) or otherwise, will be limited to actual damages incurred, which will in no event exceed the greater of the amount of fees paid or payable by Customer for the twelve (12) month period preceding the loss or damages giving rise to the claim and attributable to the specific products or services giving rise to such damages, or one thousand dollars (USD \$1,000).

**4.2. Exclusion of Damages.** IN NO EVENT WILL COPLEY, ITS AFFILIATES, OR THEIR RESPECTIVE DIRECTORS, EMPLOYEES, AGENTS, SUCCESSORS, ASSIGNS SUPPLIERS OR LICENSORS, BE LIABLE FOR ANY LOSS OF SAVINGS, PROFITS OR REVENUES, LOSS OR CORRUPTION OF DATA, GOODWILL, OR REPUTATION, INACCURACY OF ANY DATA, THE COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR SOFTWARE, OR FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES, HOWSOEVER ARISING AND REGARDLESS OF THE THEORY OF LIABILITY (INCLUDING NEGLIGENCE OR STRICT LIABILITY), EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGE OR LOSS. COPLEY PRODUCTS ARE NOT INTENDED FOR HIGH RISK ACTIVITIES AND COPLEY WILL NOT BE LIABLE FOR ANY CLAIMS OR DAMAGES ARISING FROM INHERENTLY DANGEROUS USE OF THE COPLEY PRODUCTS.

**4.3. THE LIMITATIONS, EXCLUSIONS AND DISCLAIMERS CONTAINED IN THIS AGREEMENT ARE INDEPENDENT OF ANY AGREED REMEDY SPECIFIED IN THIS AGREEMENT AND WILL APPLY TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EVEN IF ANY AGREED REMEDY IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE. TO THE EXTENT THAT COPLEY MAY NOT, AS A MATTER OF LAW, DISCLAIM ANY WARRANTY OR LIMIT ITS LIABILITIES, THE SCOPE OR DURATION OF SUCH WARRANTY AND THE EXTENT OF COPLEY'S LIABILITY WILL BE THE MINIMUM PERMITTED UNDER SUCH LAW. IF A WAIVER, RIGHT, OR REMEDY IS EXERCISED PURSUANT TO MANDATORY LAW, IT SHALL BE EXERCISED SOLELY FOR THE PURPOSE PROVIDED AND IN CONFORMANCE WITH THE PROCEDURES AND LIMITATIONS EXPRESSLY PROVIDED FOR BY SUCH LAW.**

**4.4. No Third-Party Beneficiaries.** The warranties and other obligations of Copley under this Agreement run only to, and for the sole benefit of Customer, notwithstanding any rights of Authorized Third Parties to access or use the Copley Products. Except as otherwise mandated by applicable law, no person or entity will be

considered a third-party beneficiary of this Agreement or otherwise entitled to receive or enforce any rights or remedies in relation to this Agreement.

### 5. Intellectual Property Rights and Infringement Indemnification

**5.1. Ownership.** Customer retains all right, title and interest in and to its proprietary data used by Customer in connection with the Copley Products ("Customer Data"). Copley retains all right, title and interest in and to the Copley Products and if applicable, all deliverables resulting from performance of Consulting Services, including all know how, methodologies, designs, and improvements to the Copley Products, but excluding any Customer Data incorporated into any such deliverable. Copley hereby grants Customer a non-exclusive license to use any deliverables or work product that are the result of any Consulting Services in connection with Customer's authorized use of the Copley Products.

**5.2. Retention of Rights.** No title or ownership of any proprietary or other rights related to Copley Products is transferred or sold to Customer or any Authorized User pursuant to this Agreement. All intellectual property rights not explicitly granted to Customer are reserved and Copley, its affiliates, and their respective suppliers or licensors, where applicable retain all right, title and interest in and to the Copley Products, including all intellectual property rights embodied therein. Customer is not obligated to provide Copley with any suggestions or feedback about the Copley Products, but if Customer elects to do so, Copley may use and modify this feedback for any purpose, including developing and improving the Copley Products, without any liability, time limitation, restriction, or payment to Customer.

**5.3. Indemnification.** Copley shall defend, indemnify and hold Customer harmless from any damages and costs awarded against Customer as a result of a third party claim that the Copley Products, as delivered by Copley and used as authorized under this Agreement, infringes upon any third party copyright, trademark or a patent ("IP Claim"). Customer shall defend, indemnify and hold Copley harmless from any damages and costs awarded against Copley as a result of a third party claim alleging Customer's External Use of the Copley Products or use of Customer Data with Copley Products, infringes upon any third party copyright, trademark or patent to the extent any such infringement arose from Customer's use or combination of the Copley Products with any data, content, services or software or other materials not provided by Copley. Each party's indemnification obligation is subject to: (i) prompt notification of a claim in writing to the indemnifying party; (ii) consent to allow the indemnifying party to have sole control of the defense and any related settlement negotiations; and (iii) provision of information, authority and assistance as necessary for the defense and settlement of an indemnified claim. The indemnifying Party shall not consent to entry into judgment or enter into any settlement that admits liability of the indemnified Party, provides for injunctive or other non-monetary relief affecting the indemnified Party, without the prior consent of the indemnified Party, which consent shall not be unreasonably withheld.

**5.4. Exceptions.** Copley will not be liable for any IP Claim arising from or based upon: (i) any unauthorized use, reproduction or distribution of the Copley Products; (ii) any modification or alteration of the Copley Products without the prior written approval of Copley; (iii) use of the Copley Products in combination with any other software, hardware, third party data or other materials not provided by Copley; (iv) use of a prior version of the Copley Product, if use of a newer version of the Copley Product would have

avoided such claim; or (v) any Third Party Materials provided with the Copley Products.

**5.5. Remedies.** If the Copley Product becomes, or, in Copley's opinion, is likely to become, the subject of an IP Claim, Copley may, at its option and expense, either: (i) obtain the right for Customer to continue using the Copley Product in accordance with this Agreement; (ii) replace or modify the Copley Product so that it becomes non-infringing while retaining substantially similar functionality; or (iii) if neither of the foregoing remedies can be reasonably provided by Copley, terminate all rights to use the Copley Products (without need for a ruling by a court or arbitrator) and refund as applicable a pro rata portion of prepaid subscription fees, or in the case of any perpetual license, the license fees amortized over three (3) years on a straight-line basis from the date of purchase. Customer agrees to delete or destroy any copies of the Software after the effective date of any such termination.

**5.6. SOLE AND EXCLUSIVE REMEDY.** THIS SECTION 5 STATES COPLEY'S SOLE AND ENTIRE OBLIGATION AND LIABILITY, AND CUSTOMER'S AND ITS AFFILIATES' SOLE AND EXCLUSIVE RIGHT AND REMEDY, FOR INFRINGEMENT OR VIOLATION OF INTELLECTUAL PROPERTY RIGHTS.

## 6. Confidentiality

Each Party will hold in confidence the other Party's Confidential Information and will not disclose or use such Confidential Information except as necessary to exercise its express rights or perform its express obligations hereunder. Any Party's disclosure of the other Party's Confidential Information may be made only to those of its employees or consultants who need to know such information in connection herewith and who have agreed to maintain the Confidential Information as confidential as set forth herein. Notwithstanding the foregoing, a Party may disclose the other Party's Confidential Information to the extent that it is required to be disclosed in accordance with an order or requirement of a court, administrative agency or other governmental body, provided that such Party, to the extent permitted by law, provides the other Party with prompt notice of such order or requirement in order that it may seek a protective order. Each Party's confidentiality obligations hereunder will continue for a period of three (3) years following any termination of this Agreement, provided, however, that each Party's obligations will survive and continue in effect thereafter with respect to, and for so long as, any Confidential Information continues to be a trade secret under applicable law. The Parties acknowledge and agree that the Copley Products and all pricing information shall be treated as the Confidential Information of Copley. Customer will maintain reasonable access controls and system security to safeguard the Copley Products.

## 7. Term and Termination

**7.1. Term.** This Agreement is effective upon the earlier of the effective date of the first Order Form referencing this Agreement or the date Customer first accesses or uses Copley Products and shall remain in effect until terminated (i) as set forth in this Section, or (ii) automatically upon expiration of all rights to use any Copley Products pursuant to one or more Order Forms. Unless otherwise indicated on an Order Form, Copley Product subscriptions shall begin upon the Delivery Date and automatically renew for successive annual terms unless either Party provides prior written notice of non-renewal to the other Party at least forty-five (45) days prior to the end of the then-current subscription period. Subscriptions may not be cancelled in whole or in part during any

subscription period. Subscription fees are subject to increase based upon prevailing rates at the time of renewal.

**7.2. Termination for Breach or Insolvency.** Either Party may terminate this Agreement or any applicable Order Form, license or, subscription (without resort to court or other legal action) if the other Party fails to cure a material breach within thirty (30) days (ten (10) days in the case of non-payment by Customer) after written notice of such breach, provided that Copley may terminate this Agreement immediately upon any breach of Section 1.4 Copley may terminate this Agreement if Customer terminates or suspends its business without a successor or becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

**7.3. Effect of Termination.** Unless earlier terminated, Customer's rights with respect to Copley Products and Services, including any related Software license or subscription, will end upon termination of this Agreement or expiration of any applicable subscription or term. Unless earlier terminated, Customer's right to receive Support will end upon termination of this Agreement or expiration of the Support Term. Upon termination of this Agreement or the right to use any Copley Products or Services, Customer shall: (i) immediately cease using the applicable Copley Products and Services, including any access by Authorized Third Parties; and (ii) certify to Copley within thirty (30) days after expiration or termination that Customer has uninstalled, deleted and destroyed all copies of the applicable Software, any associated license keys, the Documentation and all other Copley Confidential Information in its possession. Termination of this Agreement or any licenses or subscriptions shall not prevent either Party from pursuing all available legal remedies, nor shall such termination relieve Customer's obligation to pay all fees that are owed for the entirety of the applicable term. All provisions of this Agreement relating to Copley's ownership of the Copley Products, limitations of liability, disclaimers of warranties, confidentiality, waiver, audit and governing law and jurisdiction, will survive the termination of this Agreement.

**7.4. Support Term.** Support for Customers with a Software Support contract shall automatically renew for additional annual Support Terms unless Customer provides Copley with written notice of non-renewal at least forty-five (45) days prior to the end of the then-current Support period. Support fees are payable annually in advance and subject to increase for any renewal period, provided (i) Copley notifies Customer of such fee increase at least sixty (60) days prior to the end of the then-current Support Term; and (ii) the increase does not exceed five percent (5%) of the Support fees for the then-current period.

## 8. General Provisions

**8.1. Definitions.** Unless defined elsewhere in this Agreement, the capitalized terms utilized in this Agreement are defined below.

8.1.1. **"Agreement"** means this Copley User License Agreement, each Addendum (which is incorporated by reference), and any Order Form(s) between Copley and Customer for the provision of Copley Products or Services.

8.1.2. **"Authorized Third Party"** means any third party authorized by Customer, excluding Copley competitors, to access and use Copley Products.

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8.1.3. **“Authorized User”** means (a) in the case of an individual accepting this Agreement on such individual’s own behalf, such individual; (b) an employee or Authorized Third Party of the Customer, who has been authorized by Customer to use the Copley Products in accordance with the terms and conditions of this Agreement, and has been allocated a license or user credentials for which the applicable fees have been paid.

8.1.4. **“Confidential Information”** means non-public information that is disclosed by or on behalf of a Party under or in relation to this Agreement that is identified as confidential at the time of disclosure or should be reasonably understood to be confidential or proprietary due to the nature of the information and/or the circumstances surrounding its disclosure. Confidential Information does not include information which, and solely to the extent it: (i) is generally available to the public other than as a result of a disclosure by the receiving Party or any of its representatives; (ii) was known to the receiving Party prior to the date hereof on a non-confidential basis from a source other than disclosing Party or its representatives; (iii) is independently developed by the receiving Party without the benefit of any of the disclosing Party’s Confidential Information; (iv) becomes lawfully known to the receiving Party on a non-confidential basis from a source (other than disclosing Party or its representatives) who is not prohibited from disclosing the information to the receiving Party by any contractual, legal, fiduciary or other obligation; or (v) was disclosed by the disclosing Party to a third party without an obligation of confidence. In any dispute concerning the applicability of these exclusions, the burden of proof will be on the receiving Party and such proof will be by clear and convincing evidence.

8.1.5. **“Consulting Services”** means any mutually agreed upon consulting services performed by Copley under the terms of this Agreement and any applicable Order Form.

8.1.6. **“Customer”** means an individual or company that has entered into this Agreement by electronically accepting the terms or by accessing and using the Copley Products; or where an Order Form has been executed, then Customer means the entity identified on the Order Form.

8.1.7. **“Delivery Date”** means the date on which the Copley Products specified in the relevant Order Form are initially made available (via download or otherwise) to the Customer.

8.1.8. **“Documentation”** means the then-current user documentation for the Copley Products.

8.1.9. **“Education Services”** means any training or education services performed by Copley under the terms of this Agreement and any applicable Order Form.

8.1.10. **“External Use”** means an Authorized Third Party’s use of any Copley Products, which are designated for external use in the Documentation, provided such use is solely in connection with Customer’s business relationship with the Authorized Third Party.

8.1.11. **“Order Form”** means an order form, statement of work or written document pursuant to which Customer orders Copley Products or Services to be performed by Copley and executed by the Parties.

8.1.12. **“Party”** or **“Parties”** means Copley and Customer, individually and collectively.

8.1.13. **“Copley Products”** means Software, SaaS Services and any related product offerings provided by Copley. Copley Products

do not include Services or early release, beta versions or technical previews of product offerings.

8.1.14. **“SaaS Services”** means a service offering on a cloud infrastructure hosted and/or managed by Copley.

8.1.15. **“Services”** means Support, Consulting Services or Education Services provided by Copley pursuant to an Order Form. Services does not include SaaS Services.

8.1.16. **“Software”** means the generally available release of the Copley software, in object code form, initially provided or made available to Customer as well as updates thereto that Copley elects to make available at no additional charge to all of its customers that subscribe to Support for the Software.

8.1.17. **“Support”** means end user support and access to updates for the Copley Products, which are provided by Copley pursuant to a support contract or as included in a subscription.

8.1.18. **“Support Term”** means the period during which Customer is entitled to receive Support during a subscription term or pursuant to a support contract.

**8.2. Recordkeeping, Verification and Audit.** While this Agreement is in effect and for one (1) year after the effective date of its termination, upon request by Copley but not more than once per calendar year, Customer shall conduct a self-audit of its use of the Copley Products and, within ten (10) business days after receipt of such request, submit a written statement to Copley verifying that it is in compliance with the terms and conditions of this Agreement. Copley shall have the right, on its own or through its designated agent or third party accounting firm, to conduct an audit of Customer’s use and deployment of the Copley Products and monitor use of any SaaS Services, in order to verify compliance with this Agreement. Copley’s written request for audit will be submitted to Customer at least fifteen (15) days prior to the specified audit date, and such audit shall be conducted during regular business hours and with the goal of minimizing the disruption to Customer’s business. If such audit discloses that Customer is not in material compliance with the terms of this Agreement, then Customer shall be responsible for the reasonable costs of the audit, in addition to any other fees or damages to which Copley may be entitled under this Agreement and applicable law.

**8.3. Third Party Materials.** Copley Products may include certain open source or other third party software, data, or other materials (the “Third Party Materials”) that are separately licensed by their respective owners. Third Party Materials are identified in the Documentation. Copley represents that if the Copley Products are used in accordance with this Agreement, such use shall not violate any license terms for the Third Party Materials. Copley makes no other representation, warranty, or other commitment regarding the third party materials, and hereby disclaims any and all liability relating to customer’s use thereof.

**8.4 Connectivity to Third Party Applications.** Use of Copley Products to connect with or access third party web-based applications or services may be governed by terms and conditions established by such third party. Third-party application programming interfaces (“API”) are not managed by Copley, and Copley shall have no liability for connectivity if any third-party APIs are changed or discontinued by the respective third parties.

**8.5. Assignment.** Customer will not assign or transfer this Agreement or its rights and obligations hereunder to any third party without the prior written consent of Copley. For purposes of this

Section, any change of control of Customer, whether by merger, sale of equity interests or otherwise, will constitute an assignment requiring the prior written consent of Copley. Any attempt by Customer to assign this Agreement or its rights and obligations hereunder in violation of this Section will be null and void. Copley is free to assign or transfer any or all of its rights or obligations under this Agreement at its discretion. All terms of this Agreement will be binding upon, inure to the benefit of, and be enforceable by and against the respective successors and permitted assigns of Copley and Customer.

**8.6. Compliance with Laws.** Customer agrees at all times to comply with all applicable laws and regulations in its performance of this Agreement, which may include, without limitation export control laws and regulations of the U.S., E.U. and other governments, and regulations declared by the U.S. Department of the Treasury Office of Foreign Assets Control, the U.S. Department of Commerce, the Council of the E.U. and their counterparts under applicable law, ("Export Control Laws"), including all end user, end-use and destination restrictions imposed by such Export Control Laws. Customer will indemnify, defend and hold harmless Copley and its respective officers, agents and employees from and against any and all losses, costs, claims, penalties, fines, suits, judgments and other liabilities (including applicable attorney's fees) arising out of, relating to or resulting from Customer's failure to comply with any Export Control Laws.

**8.7. Governing Law and Jurisdiction.** This Agreement is governed by the law of the Commonwealth of Massachusetts. Any suit, action or proceeding arising out of or relating to this Agreement will be brought before the courts or arbitration boards. The Parties hereby expressly and irrevocably submit to the exclusive jurisdiction of such courts or arbitral bodies for the purpose of any such suit, action or proceeding. Notwithstanding anything to the contrary in this Agreement, either Party may at any time seek injunctive or interlocutory relief in a court of competent jurisdiction in order to protect any urgent interest of such Party, including, but not limited to, the confidentiality and use restrictions of this Agreement. TO THE EXTENT AVAILABLE UNDER APPLICABLE LAW, CUSTOMER EXPRESSLY WAIVES ANY RIGHT TO A JURY TRIAL REGARDING DISPUTES RELATED TO THIS AGREEMENT.

**8.8. Force Majeure.** Neither Party shall be liable to the other for any delay or failure to perform any obligation under this Agreement (except for a failure to pay fees) if the delay or failure is due to unforeseen events, which occur after the effective date of this Agreement and which are beyond the reasonable control of the Parties, such as strikes, blockade, war, terrorism, riots, natural disasters, refusal of license by the government or other governmental agencies, failure or diminishment of power, telecommunications or data networks or services, malicious attacks or materials shortage in so far as such an event prevents or delays the affected Party from fulfilling its obligations and such Party is not able to prevent or remove the force majeure at reasonable cost.

**8.9. Notices.** All notices concerning a default, breach or violation of this Agreement by Copley must be in writing and delivered to Copley: (a) by certified or registered mail; or (b) by a recognized express courier, and shall be addressed to: Copley at 42 Ladd St, Ste 316, East Greenwich, RI 02818, USA. All other notices to Copley, including account related communications, will be electronically sent to Copley at sales@copleycg.com. Unless otherwise specified in writing by the Customer, all notices to

Customer shall be sent to the address provided by Customer in the Order Form including by electronic means.

**8.10. Relationship between the Parties.** The Parties are independent contractors. Nothing in this Agreement will be construed to create an agency, joint venture, partnership, fiduciary relationship, joint venture or similar relationship between the Parties.

**8.11. Waiver.** No term of this Agreement will be deemed waived and no breach excused unless such waiver or excuse shall be in writing and signed by the Party issuing the same. Neither this Agreement nor any Order Form shall be dependent on Customer issuing a purchase order. Customer acknowledges that any purchase order is for its administrative convenience only and that Copley has the right to issue an invoice and collect payment without a corresponding purchase order. Any additional or conflicting terms or conditions in any purchase order shall have no legal force or effect.

**8.12. Equitable Relief.** Customer acknowledges that Copley may be irreparably harmed by a breach of the terms of this Agreement and that damages, alone, may not be an adequate remedy. Customer agrees that, in addition to any other rights or remedies permitted under applicable law, Copley will have the right to enforce this Agreement by injunctive or other equitable relief without the need to prove actual damages or post a bond.

**8.13. Limitation.** Subject to applicable law, no action, regardless of form, arising out of this Agreement may be brought by Customer more than one (1) year after the cause of action arose.

**8.14. Entire Agreement; Severability; Language.** This Agreement, any Addenda or documents referenced in the Agreement are the complete statement of the mutual understanding of the Parties and supersedes and cancels all previous written and oral agreements and communications pertaining to the subject matter of this Agreement. This Agreement may not be modified except in writing and signed by both Parties. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid or unenforceable, that provision will be limited to the minimum extent necessary so that this Agreement will otherwise remain in force and effect. In the event of any conflicts or inconsistencies, the following order of precedence shall apply, but only with respect to the specific subject matter of each: (i) the Order Form; then (ii) the Addendum; then (iii) this Agreement. (For the avoidance of doubt, where an Order Form includes additional and more specific terms and conditions with respect to a concept addressed generally in this Agreement or does not address a concept addressed herein, no conflict shall be deemed to exist).

**8.15. Publicity.** Customer hereby grants Copley the right to list Customer as a customer of Copley along with other customers in marketing materials such as the Copley web site, customer-facing presentations, and press releases.

**8.16. Construction.** For purposes of this Agreement: (i) the words "include," "includes" and "including" are deemed to be followed by the words "without limitation"; (ii) the word "or" is not exclusive; and (iii) words denoting the singular have a comparable meaning when used in the plural, and vice-versa. A Party's role in drafting this Agreement shall not be a basis for construing this Agreement in any manner against such Party. The Order Form and the schedules and exhibits attached hereto are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.