

MASTER SERVICE AGREEMENT (“AGREEMENT”)

This Agreement is between the “PROVIDER” and “COMPANY” entities executing one or more Orders (as defined below). Each PROVIDER and COMPANY may be referred to separately as a “Party” or collectively as the “Parties”. The Agreement is entered into as of the date listed in the first Order between the Parties (the “Effective Date”).

1. **Definitions.** Capitalized terms used, but not otherwise defined herein, have the following meanings:
 - 1.1. “**Account**” means each password protected area within the Services that is associated with COMPANY.
 - 1.2. “**Advertiser**” means each brand or entity that a Partner/Publisher promotes.
 - 1.3. “**Advertiser Content**” means all Advertiser-owned ad content, including visual, written or audible files, videos, and/or recordings, displayed, posted, uploaded, stored, exchanged or transmitted on or through the Services.
 - 1.4. “**Affiliate**” means any entity which directly or indirectly controls, is controlled by, or is under common control with a party to this Agreement. For purposes of this definition, control means direct or indirect ownership or control of more than 50% of the voting interests of the subject entity.
 - 1.5. “**Billing Period**” means the period for which you agree to pay Fees and “Charges” (e.g. third party compensation and/or fees, etc.) under an Order. This may extend beyond the Subscription Term, including but not limited to Fees that are billed in arrears.
 - 1.6. “**COMPANY**” means the person or entity using the Services or receiving Services and identified in the applicable account record, billing statement, online subscription process, or Order as the customer. “COMPANY” may be either an Advertiser or a Partner/Publisher.
 - 1.7. “**COMPANY Content**” means any COMPANY-owned ad content, including visual, written or audible files, videos, and/or recordings, displayed, posted, uploaded, stored, exchanged or transmitted on or through the Services.
 - 1.8. “**COMPANY Data**” means all information that you submit or that is collected for you or on your behalf via the Services. Company Data does not include COMPANY Content or Provider Data.
 - 1.9. “**Confidential Information**” means all information or material, whether past, present or future, and whether in oral, written, digital, electronic or other form, , including financial data, business plans, pricing, methods, methodologies, processes, lists, Intellectual Property Rights, customer information, products, services, information technology, software user interfaces, programs, research, development and/or marketing strategies, whether or not such information and materials are marked or identified as “confidential”.
 - 1.10. “**Documentation**” means instructions, descriptions or other information in any form about the Services that are distributed or made available to PROVIDER customers.
 - 1.11. “**Fees**” means, generically, amounts due to PROVIDER for subscription to and/or use of the Services, that are included on an Order or notified to COMPANY and that COMPANY has accepted by written consent (which may be by way of click-through acceptance).
 - 1.12. “**Force Majeure**” means a delay, failure in performance, loss or damage due to any cause(s) beyond the Party’s reasonable control that is notified to the other Party in writing; however, although an affected Party shall not be deemed in breach due to a Force Majeure, a Party’s payment obligations prior to the Force Majeure may be delayed but not excused.
 - 1.13. “**Intellectual Property**” means any product of the human intellect that the law protects from unauthorized use by others, and “**Intellectual Property Rights**” means any and all right, title and interest in Intellectual Property existing as of the Effective Date or at any time thereafter, worldwide, including all patent, patent application, copyright, trademark, trade name, service mark, service name, trade secret or other proprietary right arising or enforceable under any applicable law, rule, or regulation.
 - 1.14. “**License**” means a non-exclusive, non-transferable, non-sub-licensable license granted by PROVIDER to use the PROVIDER Software for the Term and to make use of the same for the permitted uses set out below in Section 4.
 - 1.15. “**Order**” means each mutually executed order form or statement of work (SOW) for PROVIDER Services.
 - 1.16. “**PROVIDER**” means Trackonomics Limited (registered co. SC437769) 19A Hill Street, Edinburgh, UK (“Trackonomics”), or an Affiliate of Trackonomics that enters into an Order that incorporates this Agreement.
 - 1.17. “**PROVIDER Technology**” means the Services, platform, documents, software, works of authorship, inventions, technology, hardware, processes, algorithms, user interfaces, know-how, trade secrets, techniques, designs, and other tangible or intangible technical material or information of PROVIDER.
 - 1.18. “**PROVIDER Non-Personal Data**” means statistical information and metrics derived from the performance of the PROVIDER Technology, that is anonymous, anonymized or not Personal Data; and is Confidential Information of PROVIDER.
 - 1.19. “**Partner**” or “**Publisher**” means each entity that is promoting an Advertiser.
 - 1.20. “**Personal Data**” means information Processed by PROVIDER that relates to, describes, is capable of being associated with, or could be reasonably linked, directly or indirectly, with a particular natural person either as individual or as part of a household, whether on its own or in the aggregate with other information Processed by PROVIDER, and excludes anonymous or anonymized information.
 - 1.21. “**Personnel**” means an entity’s employees, consultants, and independent contractors.
 - 1.22. “**Process(ing)**” means any operation or set of operations that is performed by PROVIDER and/or PROVIDER Technology, including by automatic means, such as collection, recording, organization, storage, adaptation or alteration, retrieval, consultation, use, performance, disclosure by transmission, dissemination or making available (including making available to view), transfer, alignment or combination, blocking, erasure or destruction.
 - 1.23. “**Services**” means software owned and/or hosted by PROVIDER, that is provided to COMPANY on a subscription basis for software-as-a-service (“SaaS”), or services performed by or on behalf of PROVIDER and that are ancillary or supplemental to COMPANY’s use of the SaaS, whether or not subject to separate Fees.
 - 1.24. “**Subscription Term**” means the period identified on an Order for Services, including renewals (if applicable).

- 1.25. “**Term**” means the period from the Effective Date through the earlier of (a) ninety (90) days after all Orders have expired, or (b) termination of the Agreement pursuant to Section 8.
- 1.26. “**Users**” means Personnel of COMPANY, or agents of COMPANY (subject to Section 3.2.4.), that are authorized by COMPANY to use the Services on behalf of COMPANY, and that set up user identifications (log-ins) and passwords. Each individual is a “User” and must have his/her own unique log-in and password.

2. SaaS Services:

- 2.1. Access and Use. During the Subscription Term, PROVIDER will make the Services available to COMPANY and perform all Services ordered by COMPANY. An Order applies only to those Services ordered and any change must be as provided for on the Order or through written mutual agreement of the Parties (such as an additional Order). Unless your Order specifies otherwise, this Agreement will apply to such additional Order. COMPANY must ensure that all access, use and receipt of the Services by your Users is subject to and in compliance with this Agreement. COMPANY will at all times remain liable for COMPANY’s Users’ compliance with this Agreement. COMPANY may not access or use the Services if COMPANY are legally prohibited from receiving or using the Services under the laws of the country in which COMPANY are resident or from which COMPANY access or use the Services.
- 2.2. Remote SaaS Services. The Services are provided remotely on a SaaS basis. This Agreement does not entitle the COMPANY to receive a copy of the Services and/or PROVIDER Technology in source or object code form. Further, COMPANY acknowledges that PROVIDER may at any time, and without notice, incorporate use management software or code into the Services for the purposes of ensuring that access and usage rights are not exceeded.

3. Uses:

- 3.1. **Permitted Uses.** COMPANY’s use of the Services is subject at all times to compliance with applicable laws, and that are ethical and do not bring PROVIDER into disrepute or create reputational harm. COMPANY will not use or facilitate use of the Services in any way or manner that is unlawful or prohibited by this Agreement. PROVIDER may suspend or otherwise cease providing the Services (including by terminating this Agreement immediately) if COMPANY or any of its Users are in violation of this provision. Further, the COMPANY may only use the Services for:
- 3.1.1. processing the COMPANY’s data for the normal business purposes of the COMPANY (which shall not include allowing the use of the Services by, or for the benefit of, any person other than an employee of the COMPANY);
- 3.1.2. displaying information contained or made accessible by the Services;
- 3.1.3. extracting or using COMPANY Data and/or COMPANY Content contained in or made available by the Services; and granting its Users access to the sections of the Services where the COMPANY’s Data can be viewed and extracted.
- 3.2. Prohibited Uses. COMPANY and their Users shall not:
- 3.2.1. Share, rent or use the PROVIDER Technology for the benefit of any other person or entity other than as specified in an Order;
- 3.2.2. Modify, copy, reverse compile, disassemble, reverse engineer, decompile, prepare derivative works based on, the PROVIDER Technology, or attempt in any manner to derive its source code;
- 3.2.3. Hack, abuse, adversely interfere with the PROVIDER Technology, or knowingly infect the PROVIDER Technology with viruses, worms or other malicious or destructive code; and
- 3.2.4. Authorize Users that are not Personnel, directors or officers of COMPANY without (i) having in place written obligations with Users that would protect the confidentiality, use and non-disclosure of PROVIDER’s Confidential Information and PROVIDER Technology; and (ii) for individuals that are Personnel of an unrelated third party entity (such as COMPANY’s ad agency or similar), COMPANY must notify PROVIDER in writing, in advance, requesting PROVIDER’s approval to set up such entity as a User. No User may be a competitor of PROVIDER’s or use the PROVIDER Technology to compete with PROVIDER.

Breach of Section 3.2 may result in suspension of use and access to the Services, and may result in suspension and/or termination of this Agreement (pursuant to Section 6.2 and/or 6.3).

- 3.3. User Removal & Unauthorized Access. COMPANY shall remove from its Account, all such Users who are no longer authorized by COMPANY to access COMPANY’s Account. Each Party shall notify the other Party promptly in writing if it becomes aware of any unauthorized access or use of the PROVIDER Technology.
- 3.4. Feedback. Any solicited or unsolicited suggestions, ideas, recommendations, bug fixes, corrections, or other feedback (“Feedback”) provided by COMPANY and its Users regarding the PROVIDER Technology, are the sole property of PROVIDER and PROVIDER is free to reproduce, make, use, create derivative works of, publicly perform, display, import, transmit, distribute, license, sell, offer to sell, or otherwise dispose of such Feedback without payment of compensation or any other obligation of any kind to COMPANY, its Affiliates or any User.

4. Data Permission: If in order to perform the Services Provider requires access to or use of a third party’s site or content, the following provision apply:

- 4.1. Access. COMPANY agrees to provide access to its data sources (e.g. affiliate networks, publisher, etc. as applicable) by sharing the relevant login information to deploy the Services. Further, COMPANY grants PROVIDER all necessary access and permissions that are necessary or desirable for the purposes of enabling PROVIDER to access and analyze the necessary data sources for Services’ functionality, data extraction, data validation, collection troubleshooting and other necessary functions as agreed between the Parties.
- 4.2. Release from Liability. Pursuant to Section 8.3-8.6, PROVIDER shall have no liability whatsoever in relation to any claim from the COMPANY’s counterparties (e.g. Partners/Publishers, Advertisers, clients or affiliate networks) and pursuant to Section 10 the COMPANY shall indemnify PROVIDER in full and on demand against any claims, actions, proceedings, losses, damages, expenses and costs (including without limitation court costs and reasonable legal fees) arising out of or in connection with any such claim (howsoever arising). For the avoidance of doubt, this includes any claims that any action performed pursuant to, or in accordance with the permissions granted by, Section 4.1 and/or 5.2 is unlawful or is in breach of any relevant Intellectual Property Right.

5. Intellectual Property & Data Rights:

- 5.1. PROVIDER Intellectual Property. PROVIDER reserves all rights, title and interest in and to, as well as all Intellectual Property Rights in, the PROVIDER Technology, and PROVIDER Non-Personal Data, subject to the limited, non-exclusive, revocable, access and use rights to the Services and Documentation as expressly provided for herein. All derivatives of, improvements to, or modification to the PROVIDER Technology are owned exclusively by PROVIDER. Except for the access and usage rights granted pursuant to Sections 2 and 3.1, no license or other rights in or to the PROVIDER Technology or PROVIDER Intellectual Property Rights, even if developed, invented, delivered, or authored by PROVIDER under or in connection with this Agreement, are granted, assigned, licensed or conveyed to COMPANY, its Users and/or its Affiliates. Except as expressly provided for below in Section 11.2, all licenses in and to the PROVIDER Technology are non-transferable. COMPANY may not encumber, assert a claim to or ownership of, or adverse interest in, the PROVIDER Technology, Services, and/or Documentation, or any PROVIDER Intellectual Property Rights or any goodwill associated therewith.
- 5.2. COMPANY Data. During COMPANY's use of and access to the Services, PROVIDER and its Affiliates require use of COMPANY Data for the provision of the Services. COMPANY authorizes PROVIDER and its Affiliates to Process COMPANY Data in provision and performance of the Services in order to comply with applicable law and as otherwise permitted by these Terms. The terms of the Data Protection Agreement (located at: <https://www.trackonomics.net/wp-content/uploads/2022/07/Supply-Side-DPA.pdf>) is incorporated herein by this reference and will apply to any COMPANY Data this is or includes Personal Data. If COMPANY is using the Services or receiving Services on behalf of another party, then COMPANY represents and warrants that COMPANY has all sufficient and necessary rights and permissions to do so. While each Order is in force, COMPANY Data will be accessible and downloadable by COMPANY through the Services. PROVIDER may collect information about you and your Users when you interact with the Services, such data may be used by PROVIDER to perform the Services and to secure, develop, improve and support the Services. PROVIDER may use COMPANY Data in an anonymized manner to create PROVIDER Data through, for example, machine learning.
- 5.2.1. Protection of Company Data. The DPA sets out how PROVIDER will process Personal Data on COMPANY's behalf in connection with the Services. PROVIDER will maintain commercially appropriate administrative, physical, and technical safeguards to protect Personal Data as described in the DPA, including our security measures in Annex 2 of our DPA.
- 5.2.2. Company Data Transfers. PROVIDER and Affiliates may transfer COMPANY Data (including Personal Data) to the United States and/or other jurisdictions in performance of the Services. When PROVIDER Processes Personal Data from the European Economic Area, the United Kingdom and/or Switzerland or Personal Data that is subject to the protection of European Data Protection Laws (as defined in the DPA), the Standard Contractual Clauses will apply, as set out in our DPA.

6. Term and Termination

- 6.1. Term. This Agreement shall commence on the Effective Date and shall continue until the earlier of (a) after all Orders have expired (subject to any extensions) or been terminated, or (b) the Agreement is terminated in accordance with the terms and conditions set forth in this Agreement. If this Agreement is terminated, all Orders shall terminate concurrently, except as provided otherwise herein.
- 6.2. Termination for Cause. Either party may terminate this Agreement for cause: (i) upon thirty (30) days' notice to the other party of a material breach if such breach remains uncured at the expiration of such period, (ii) immediately, if COMPANY's material breach is incurable, repeated or the other party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, cessation of business, liquidation or assignment for the benefit of creditors, or (iii) where there is a Force Majeure event previously notified to the non-affected party that continues for longer than thirty (30) days. We may also terminate this Agreement immediately for cause if we determine that you are acting, or have acted, in a way that has or may negatively reflect on or affect us, our prospects, or our customers.
- 6.3. Suspension. PROVIDER may suspend any User's access to any or all Services without notice: (i) COMPANY's use of the Services in a way that violates applicable local, state, federal, or foreign laws or regulations or the terms of these Terms, (ii) COMPANY's use of the Services (such as through COMPANY or Advertiser Content, as applicable) in a manner that infringes or is alleged to infringe on the copyright or trademark rights or other intellectual property right of any person or entity, (iii) where PROVIDER determines in good faith that COMPANY, COMPANY's website, or COMPANY Content violate(s) this Agreement, however PROVIDER has no duty to prescreen, control, monitor or edit COMPANY Content, and/or (iv) non-payment of any amount due by You. We will not suspend the Services while you are disputing the applicable charges reasonably and in good faith and are cooperating diligently to resolve the dispute. Any dispute of applicable charges must be initiated within 30 days of payment due date. If Services are suspended for non-payment, PROVIDER may charge a reasonable re-activation fee to reinstate the Services and/or require pre-payment of Fees.
- 6.4. Effect of termination. Upon the effective date of termination, COMPANY is to stop all use of the Services and Documentation and provision of the Services shall cease. However, COMPANY will continue to be subject to this Agreement for as long as COMPANY has access to its Account. Pending payments (Fees or other Charges) may become due after the effective date of termination, and, except as explicitly provided for herein, COMPANY's payment obligations shall survive any termination. No later than ninety (90) days from the effective date of termination, COMPANY may make written request to PROVIDER for COMPANY Data. At PROVIDER's discretion, COMPANY either will be given access to its Account to download the COMPANY Data or PROVIDER will facilitate COMPANY Data extraction from the Services' system and onto the COMPANY's reasonable storage of choice.

7. Payment:

- 7.1. Fees. Fees and rates for Services and payment terms are contained on each Order. PROVIDER's Fees are based upon standard usage of the Services. PROVIDER reserves the right to adjust the provision of Services or charge additional Fees if COMPANY's use of the Services is in excess of the terms of an applicable Order. Except as explicitly provided for herein or on an Order, THERE ARE NO CANCELLATIONS OR REFUNDS. ONCE AN ORDER IS PLACED, COMPANY ACKNOWLEDGES AND AGREES THAT COMPANY MAY NOT CANCEL ITS PAYMENT OBLIGATIONS FOR PROVIDER'S FEES (WHICH ARE ENFORCEABLE FOR THE ENTIRE CONTRACTED AMOUNT IDENTIFIED IN THE ORDER), OR RECEIVE A REFUND.

Payment by credit card is subject to PROVIDER's discretion, and COMPANY consents and authorizes PROVIDER to charge COMPANY's credit card for all such amounts payable during the Subscription Term when such payments are due. COMPANY is liable for processing fees for payment by credit card (not to exceed the maximum allowable in COMPANY's jurisdiction). COMPANY agrees not to dispute credit card charges, except in the circumstances of manifest error. If PROVIDER is unable to charge COMPANY's credit card, COMPANY must provide an alternate form of payment and interest shall be due for any late payments (at the lesser of 1.5% per month or highest rate permitted by law). COMPANY further authorizes PROVIDER to use a third party to process payments, and consent to the disclosure of COMPANY's payment information to such third party. If COMPANY discovers an error on an invoice, COMPANY must notify PROVIDER as soon as possible, and no adjustment will be made after ninety (90) days from the date of the invoice.

- 7.2. Taxes. All Fees are exclusive of taxes, which we will charge as applicable. COMPANY agrees to pay any taxes applicable to COMPANY's use of the Services. COMPANY shall have no liability for any taxes based upon PROVIDER's gross revenues or net income. If you are located in the European Union, all Fees are exclusive of any VAT and COMPANY represents that COMPANY is registered for VAT purposes in COMPANY's member state. At our request and prior to the invoice payment due date, COMPANY will provide PROVIDER with the VAT registration number under which COMPANY is registered in COMPANY's member state. Failure to comply may result in no refund or credit for any VAT that was charged. If COMPANY is subject to GST, all Fees are exclusive of GST. If COMPANY is located in Canada, all Fees are exclusive of GST, PST and HST.
- 7.3. Third-party Services and Post-term Charges. COMPANY is responsible for all Fees relating to all third-party data sources, subscription to third party products and/or services and shall pay for the same on demand.

8. Warranties, Disclaimers and Limitations:

- 8.1. Warranties. Each Party represents and warrants that the statements contained in this Agreement are true and correct as of the Effective Date and shall continue to be true and correct through the date of termination of this Agreement (unless stated otherwise). Further, each Party represents and warrants that: (i) it has full power and authority to execute, deliver and perform its obligations under this Agreement, and will do so without conflict with any obligation, contract, lease, license, third party's rights, applicable law or agreement to which it is a party or by which it is bound; and (ii) performance of this Agreement and use of the Services, will comply with all applicable laws. If PROVIDER is required to access an account on a third-party's website to perform the Services, COMPANY represents and warrants that has the full authority and ability to permit and effectuate Provider's access to such third-party website,
- 8.2. PROVIDER Warranties. PROVIDER represents and warrants that: (i) the Services will conform in all material respects with the Documentation; (ii) the PROVIDER Technology, Services and/or Documentation when used as provided by PROVIDER and in accordance with the Documentation, will not infringe or misappropriate any third party's Intellectual Property Rights, excluding a combination of the PROVIDER Technology, Services and/or Documentation with hardware, software, or data not provided by PROVIDER, or where there is unauthorized use or modifications to the PROVIDER Technology, Services and/or Documentation; (iii) it uses technology and practices consistent with comparable companies in its industry to secure PROVIDER Data and the Services; and (iv) PROVIDER's Personnel have the proper skill, training, and background to perform PROVIDER's obligations under this Agreement in a competent and professional manner. In the event of non-conformance with these warranties, PROVIDER will use commercially reasonable efforts to correct such non-conformance. If PROVIDER cannot correct such non-conformance within thirty (30) days from the date when you notified us of the non-conformity ("Notice Period"), either Party may terminate this Agreement after the Notice Period by providing the other Party with thirty (30) days prior written notice. PROVIDER will not have any obligation or liability under this section if the non-conformance is caused by or based on: (A) any combination of the Services with any hardware, software, equipment, or data not provided by PROVIDER, (B) modification of the Services by anyone other than PROVIDER, or modification of the Services by us in accordance with specifications or instructions that COMPANY provided, or (C) use of the Services in violation of or outside the scope of this Agreement. The preceding states PROVIDER's entire liability and COMPANY's sole and exclusive remedy with respect to any claim provided for under sub-sections (i) and (iv).
- 8.3. Disclaimer of Warranties. EXCEPT AS PROVIDED FOR IN SECTION 8.1 AND/OR 8.2, AND WITHOUT LIMITING OUR OBLIGATIONS IN SECTION 5.2 ("CUSTOMER DATA"), PROVIDER AND OUR AFFILIATES, AND EACH OF OUR SUBCONTRACTORS AND AGENTS, MAKE NO REPRESENTATIONS OR WARRANTIES ABOUT THE SUITABILITY, RELIABILITY, AVAILABILITY, TIMELINESS, SECURITY, ACCURACY OR COMPLETENESS OF THE SERVICES, CUSTOMER DATA, AND/OR THE DOCUMENTATION. FURTHER, PROVIDER DISCLAIMS LIABILITY FOR THE FUNCTIONALITY OF AFFILIATE LINKS OR ADVERTS; THE OPERATION AND INTEROPERABILITY OF UNDERLYING THIRD-PARTY MARKETPLACES/WEBSTORES; AND/OR DEFECTS, PROBLEMS OR FAILURE OF THE INTERNET. TO THE EXTENT PERMITTED BY LAW AND EXCEPT AS PROVIDED FOR IN SECTION 8.1 AND/OR 8.2, THE SERVICES AND DOCUMENTATION ARE PROVIDED "AS IS" WITHOUT WARRANTY OR CONDITION OF ANY KIND, AND PROVIDER DISCLAIMS ALL WARRANTIES AND CONDITIONS OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY, INCLUDING ALL IMPLIED WARRANTIES OR CONDITIONS OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND/OR NON-INFRINGEMENT.
- 8.4. No Indirect Damages. TO THE EXTENT PERMITTED BY LAW, IN NO EVENT WILL PROVIDER OR ITS AFFILIATES BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES, OR LOSS OF PROFITS, REVENUE, DATA OR BUSINESS OPPORTUNITIES ARISING OUT OF OR RELATED TO THESE TERMS, WHETHER AN ACTION IS IN CONTRACT OR TORT AND REGARDLESS OF THE THEORY OF LIABILITY.
- 8.5. Limitation of Liability. EXCEPT FOR COMPANY'S LIABILITY FOR PAYMENT OF FEES AND COMPANY'S LIABILITY PURSUANT TO SECTION 8 ("INDEMNIFICATION"), NEITHER PARTY OR ITS AFFILIATES WILL HAVE ANY LIABILITY

TO THE OTHER PARTY, ITS AFFILIATES OR ANY THIRD PARTY FOR AMOUNTS IN THE AGGREGATE IN EXCESS OF, A LIABILITY SHALL BE LIMITED TO THE GREATER OF USD\$25,000 OR A SUM EQUAL TO THE TOTAL AMOUNTS PAID OR PAYABLE BY COMPANY FOR TWELVE MONTHS OF SUBSCRIPTION FEES FOR THE SERVICES. EACH OF OUR AGREEMENT TO THESE TERMS AND PROVIDER'S PROVISION OF THE SERVICES IS EXPRESSLY CONDITIONAL UPON THE PARTIES' AGREEMENT TO THIS SECTION 8. THIS SECTION 8.5 DISCLAIMER DOES NOT APPLY TO THE EXTENT PROHIBITED BY APPLICABLE LAW, NOR DOES IT APPLY TO EITHER PARTY'S LIABILITY FOR ITS GROSS NEGLIGENCE, FRAUD AND/OR WILLFUL MISCONDUCT. THE LIMITATIONS AND DISCLAIMERS SPECIFIED IN THIS SECTION 8 WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THESE TERMS ARE FOUND TO HAVE FAILED IN THEIR ESSENTIAL PURPOSE. COMPANY HEREBY EXPRESSLY ASSUMES ALL RISK RELATED TO USE OF ANY COMPANY DATA OR INFORMATION GENERATED THROUGH USE OF THE SERVICES, WHICH MAY NOT MEET THE NEEDS OR REQUIREMENTS OF COMPANY AND USERS.

- 8.6. Third Party Products. PROVIDER AND OUR AFFILIATES DISCLAIM ALL LIABILITY WITH RESPECT TO THIRD-PARTY PRODUCTS NOT INCORPORATED BY PROVIDER INTO THE SERVICES. PROVIDER AND/OR AFFILIATES WILL HAVE NO LIABILITY OF ANY KIND PURSUANT TO SUCH THIRD PARTY'S TERMS OF SERVICE OR OTHERWISE.

9. Confidentiality, Privacy, and Data Security:

- 9.1. Scope. All Confidential Information (including all copies thereof) is and will remain the property of the Party disclosing the Confidential Information "Disclosing Party". The Party receiving the Disclosing Party's Confidential Information ("Receiving Party") shall prevent disclosure of the Disclosing Party's Confidential Information to anyone (including its Affiliates, Personnel and agents) other than those with a need to know such Confidential Information for the purposes of this Agreement. The Receiving Party may use the Disclosing Party's Confidential Information only for the purposes permitted under this Agreement. Disclosure to third parties may be made only to those that the Disclosing Party has authorized such disclosure (such as agents, Partners or PROVIDERS' third party vendors). The Receiving Party must use reasonable efforts to maintain the confidentiality of the Confidential Information, including steps to protect it as the Receiving Party takes to protect its own similarly valuable confidential and proprietary information, and in no event less than a reasonable standard of care. The Receiving Party is liable for its Personnel, Affiliates (unless such Affiliates are contracted directly with the other Party), and agent's use and disclosure, and for the protection of, the Disclosing Party's Confidential Information. With respect to Confidential Information that is COMPANY's Personal Data, the terms of PROVIDER's privacy policy and the DPA shall apply.
- 9.2. Compliance with Law. The Receiving Party may disclose Confidential Information that it is obligated to produce by law or other similar requirement of a governmental agency or a subpoena for the limited purpose required by a court or government agency, so long as the Receiving Party provides the Disclosing Party with written notice in advance of any such disclosure (unless prohibited by law or order or if a protective order is in place that protects the Disclosing Party's Confidential Information), and complies with any applicable protective order or equivalent designed to protect the confidentiality of the Confidential Information
- 9.3. Continuing Obligations. Upon termination or expiration of this Agreement, and except as provided for otherwise herein, the Receiving Party shall destroy the Disclosing Party's Confidential Information, unless return of Confidential Information is requested in writing by the Disclosing Party within sixty (60) days after termination or expiration of the Agreement. Notwithstanding the foregoing, the Receiving Party shall not be obligated to purge any of the Disclosing Party's Confidential Information that is archived in not-readily accessible form pursuant to the Receiving Party's normal document retention practices, subject to the continuing obligations of Section 9.1. Each Party's obligations of confidentiality, non-use and non-disclosure of Confidential Information (and obligations under the DPA, if applicable) shall survive the expiration or termination of this Agreement for a period of three (3) years except that such obligations shall continue with respect to trade secrets unless and until no longer a trade secret and to any Personal Data.

10. Indemnification:

Each Party (an "Indemnitor") will indemnify, defend and hold the other Party and its Affiliates (each an "Indemnitee") harmless, at the Indemnitor's expense, against any third-party claim, suit, threatened action, action or proceeding (each, a "Claim") brought against the Indemnitee (and each of our officers, directors, employees, agents, service providers, licensors, and subcontractors, each also an "Indemnitee") by a third party to the extent that such Claim is based upon or arises out of: (a) unauthorized or illegal use of the Services by Users, (b) PROVIDER's or its Affiliates' noncompliance with or breach of these Terms, (c) PROVIDER's or its Affiliates' use of Third-Party Products, or (d) the authorized or unauthorized use of the Services by any User and any other person using a User's information. The person requesting indemnification is to notify the Indemnitor in writing within thirty (30) days of becoming aware of any Claim, give Indemnitor sole control of the defense or settlement of such a Claim, and provide Indemnitor (at Indemnitor expense) with any and all information and assistance reasonably requested by Indemnitee. The Indemnitee will not accept any settlement that (i) imposes an obligation on the Indemnitee; (ii) requires the Indemnitee to make an admission; or (iii) imposes liability not covered by these indemnifications or places restrictions on the Indemnitee without the Indemnitee's prior written consent.

11. Miscellaneous:

- 11.1. Amendment; No Waiver. PROVIDER may modify any part or all of the Terms by posting a revised version at <https://www.trackonomics.net/wp-content/uploads/2022/07/Supply-Side-MSA.pdf>. The revised version will become effective and binding the next business day after it is posted. PROVIDER will provide COMPANY notice of this revision by email or in-app notification. If COMPANY does not agree with a modification to the Terms, COMPANY must notify PROVIDER in writing within thirty (30) days after PROVIDER send notice of the revision. Upon COMPANY'S notice (and except as provided for below),

COMPANY's subscription will continue to be governed by the version of the Terms prior to modification until the end of the next full calendar month, after which COMPANY's subscription and this Agreement shall terminate. If PROVIDER is not able to provide the subscription to COMPANY under the terms prior to modification (whether due to law or modifications to the Services), then the Terms and/or affected Services will terminate upon PROVIDER's notice to COMPANY. No delay in exercising any right or remedy or failure to object will be a waiver of such right or remedy or any other right or remedy. A waiver on one occasion will not be a waiver of any right or remedy on any future occasion.

- 11.2. Assignment. COMPANY may not assign this Agreement or delegate its duties to any third party without the prior written consent of PROVIDER, including but not limited to transfers to any successor in interest (such as in a merger, consolidation or sale of all or substantially all of the Party's stock or assets). PROVIDER may freely assign and transfer this Agreement and delegate its duties. This Agreement shall be binding upon, and shall inure to the benefit of, the Parties and their respective successors and permitted assigns.
- 11.3. Law and Jurisdiction. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales. The parties irrevocably agree that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims). The parties irrevocably agree that the courts of England and Wales are the most appropriate and convenient courts to settle any dispute or claim, and accordingly, no Party will argue to the contrary.
- 11.4. No Third-Party Beneficiaries. This Agreement is made solely for the benefit of the Parties to this Agreement, their Affiliates (as applicable) and their respective permitted successors and assigns. Other than pursuant to a Party's indemnification obligations (as applicable) and Affiliates, no other person or entity shall have or acquire any right, power or privilege by virtue of this Agreement, or have any benefit or interest, arising out of this Agreement. Any obligation of PROVIDER may be performed by a PROVIDER Affiliate, although PROVIDER shall remain fully liable for the acts, errors, and omissions of such PROVIDER Affiliate. Where an PROVIDER Affiliate has entered into an Order that is subject to the terms of this Agreement, the terms of this Agreement may be enforced by the PROVIDER Affiliate.
- 11.5. Notice. For notice to Provider, notice must be sent to the address for the contracting PROVIDER entity on the Order, with a copy to: impact.com, 223 E. De La Guerra Street, Santa Barbara, CA 93101, USA, and will be deemed delivered as of the date of actual receipt. For notice to COMPANY, notice will be sent to COMPANY's address as provided by COMPANY during account set-up or as may be updated on COMPANY's Account from time to time. PROVIDER may give electronic notices by general notice via the Services and may give electronic notices specific to COMPANY by email to COMPANY's e-mail address(es) on record in COMPANY's Account or through the notifications center of the Services. COMPANY must keep all of COMPANY's account information current.
- 11.6. Entire Agreement. This Agreement and each Order contain the entire agreement and understanding between the parties and supersedes any prior or contemporaneous written or oral agreements, representations and warranties between them respecting the subject matter of this Agreement. Section/sub-Section headings shall not affect the interpretation of this Agreement. The DPA forms part of this Agreement and shall have effect as if set out in full in the body of this Agreement and executed by the Parties. Any reference to this Agreement includes the Orders and DPA.
- 11.7. Interpretation. Unless the context otherwise requires: words in the singular shall include the plural and, in the plural, shall include the singular; a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time; any words following the terms including, include for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 11.8. Severance. If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic, legal and commercial objectives of the invalid or unenforceable provision.
- 11.9. Electronic Signatures/Interpretation. COMPANY has been provided with the opportunity to request amendments to these online terms to be contained in one or more Orders. In the event of an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of its provisions. In the event of conflict between terms in this Agreement and the terms on a mutually executed Order, the terms on the Order shall control and take precedence. EACH PARTY AGREES TO THE USE OF ELECTRONIC SIGNATURES, CONTRACTS, ORDERS AND OTHER RECORDS AND TO ELECTRONIC DELIVERY OF NOTICES, POLICIES AND RECORDS OF TRANSACTIONS INITIATED OR COMPLETED THROUGH THE SERVICES. Further, each Party hereby waives any rights or requirements under any applicable statutes, regulations, rules, ordinances or other laws in any jurisdiction which require an original signature or delivery or retention of non-electronic records, or to payments or the granting of credits by other than electronic means.

[END OF AGREEMENT]