

GROUPBY MASTER SUBSCRIPTION AGREEMENT

This GroupBy Master Subscription Agreement (the “Agreement”) is a legally binding agreement made and entered into by and between the GroupBy entity listed on your order form (“GroupBy”) and the business, government or other entity agreeing to these terms (“Customer”). The term “Customer” referenced herein refers to the aforementioned legal entity, and its officers, directors, agents and employees; or you, as individual, only in the case of a non-legal entity. This Agreement is effective as of the Order Effective Date on the order form (the “Order Form”) that references this Agreement. This Agreement governs Customer’s access to and use of the Services. Capitalized terms not defined herein will have the meaning ascribed to them in Appendix A attached hereto or the Order Form.

PLEASE READ THIS AGREEMENT CAREFULLY BEFORE USING THE SERVICES. BY ACCESSING OR USING THE SERVICES, IN ANY FORM OR MEDIA, CUSTOMER CONFIRMS THAT CUSTOMER HAS READ AND UNDERSTANDS THE TERMS AND CONDITIONS OF THIS AGREEMENT AND THAT CUSTOMER AGREES TO BE BOUND BY IT. IF CUSTOMER DOES NOT AGREE OR DOES NOT WISH TO BECOME A PARTY TO THIS AGREEMENT, CUSTOMER SHOULD NOT ACCESS OR USE THE SERVICES. CUSTOMER CONFIRMS THAT CUSTOMER UNDERSTANDS THIS AGREEMENT AND AGREES TO BE BOUND BY IT BY SIGNING A CORRESPONDING ORDER FORM.

If you are entering into this Agreement on behalf of (and for use on behalf of) Customer, you represent and warrant that: (i) you have full legal authority to bind Customer to the terms of this Agreement; (ii) you have read and understand this Agreement; and (iii) you agree, on behalf of Customer, to this Agreement.

GroupBy may revise this Agreement (and any Appendices hereto or linked documents referenced herein) from time to time and at our sole discretion; provided that such changes will not materially impact this Agreement or its scope, or reduce GroupBy’s obligations to Customer. When such changes are effected, GroupBy will publish an updated version at the URL defined in your Order Form. Customers continued use of the Services will be deemed acceptance by Customer of any such revisions.

GroupBy and Customer shall herein be referred to each as a “Party” and collectively as the “Parties”. Terms used and not otherwise defined herein shall have the meaning set forth in Appendix A. In consideration of the mutual promises and covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Subscription Service

1.1. Services. GroupBy will provide Customer with the Services pursuant to this Agreement and the applicable Order Form, subject to Customer’s payment of the applicable fees. Customer may order Services for its own benefit. Unless expressly stated on the applicable Order Form, Customer may not order Services on behalf of any third party (including its Affiliates). In the event of any conflict between the terms and conditions set forth in this Agreement and any Order Form, the terms of this Agreement shall control unless the Order Form expressly references the conflicting provision in this Agreement that it is intended to control and states that it is to control.

- (a) If Customer has purchased a subscription to use the GroupBy Search Services, the terms and conditions of Appendix B shall apply.
- (b) If Customer has purchased a subscription to use the GroupBy Enrich Services, the terms and conditions of Appendix C shall apply.
- (c) If Customer is receiving Consulting Services, the terms and conditions of Appendix E shall apply.

1.2. Admin Console. Customer will have access to the Admin Console, through which Customer shall use to administer the Subscription Service. In order to use the Admin Console and the Subscription Service, Customer is required to establish a login identifier and a password (“**Credentials**”). Customer is responsible for all activity associated with its Credentials. Customer is responsible for keeping its Credentials secure. Unless otherwise expressly set forth in the Order Form, Customer may order the Subscription Services and access the Admin Console for its own benefit only and may not order Subscription Services on behalf of any third party.

1.3. Restrictions. Unauthorized use, resale, or commercial exploitation of the Services in any way is expressly prohibited. Customer shall not (or permit any third party to) access or use the Services for any purpose or use other than the permitted use set forth in this Agreement and the applicable Order Form. Without limiting the foregoing,

Customer shall not (or permit any third party to): (a) copy, modify, create a derivative work of, reverse engineer, decompile, translate, disassemble, or otherwise attempt to extract any or all of the source code of the Software or the Services (except to the extent such restriction is expressly prohibited by applicable law); (b) copy, license, sell, monetize, distribute, transfer, lease, time-share, service bureau, assign license(s), or otherwise provide access to the Services provided under this Agreement to any third-party or for the benefit of any third party; (c) provide access to or use the Services or Enrich Data separate from any integrated Application; (d) create multiple Activities to simulate or act as a single Activity or otherwise access the Services in a manner intended to avoid incurring Fees; or (d) use the Services to create a service or product that is competitive to the Services or to copy any ideas, features, or functions of the Services, or to support a third party in creating competitive products or services. Customer shall not derive or attempt to derive the source, source files, underlying data, or any component, supplier or structure of all or any portion of any Services by reverse engineering, disassembly, decompilation or any other means. Customer shall only receive the specific Services ordered pursuant to the applicable Order Form during the relevant Subscription Period, and Customer has no right to access or use any Services referenced in this Agreement that are not ordered by Customer pursuant to a mutually agreed upon and duly executed Order Form. All the foregoing restrictions shall survive termination of this Agreement for any reason.

1.4 Modifications to the Subscription Service. GroupBy may make modifications to the Services or components of any of the foregoing from time to time provided that such modifications do not materially degrade any functionality or features of the Services during the term of any applicable Order Form. If GroupBy makes a material change to the Subscription Service, GroupBy will make commercially reasonable efforts to inform Customer via the Admin Console.

GroupBy will also announce via the Admin Console if it intends to discontinue or make backwards incompatible changes to the Subscription Service. GroupBy will use commercially reasonable efforts to continue to operate those Subscription Service versions and features identified in this Agreement without these changes for at least one year after that announcement, unless: (a) required by law or third party relationship, or (b) doing so could create a security risk or substantial economic or material technical burden.

In the event a material change described in this Section 1.4 is a Breaking Change, Customer may terminate this Agreement and the applicable Order Form upon thirty (30) days written notice to GroupBy; provided that (i) Customer notifies GroupBy of the Breaking Change within thirty (30) days from the date of implementation of the change by GroupBy, and (ii) GroupBy is unable to remedy the issue with the change (such that it would no longer be a Breaking Change) within the thirty (30) days from the date of notice from Customer described in (i). In the event of any termination pursuant to this paragraph, GroupBy shall promptly refund to Customer any prepaid unused fees, calculated as of the date of termination. For the purposes of this paragraph, a “Breaking Change” means any change to the Subscription Services that (a) requires more than thirty (30) days for Customer to resolve, address or implement, and (b) has a material adverse impact on Customer’s business and revenue.

1.5 Technical Support Services. Customer is responsible for technical support of its Applications. Subject to payment of applicable support Fees, GroupBy will provide technical support services (“**Technical Support Services**”) for the Subscription Service to Customer during the Subscription Period in accordance with the Technical Support Services Guidelines then in effect, where the current Technical Support Services Guidelines are incorporated into this agreement as Appendix D.

2. Fees, Invoices and Taxes

2.1 Fees and Expenses. Customer agrees to pay GroupBy for Services provided on the basis and for the fees specified in the applicable Order Form. All fees are in United States Dollars. Except as expressly set forth in this Agreement, there are no refunds. Customer shall pay pre-approved travel and out-of-pocket expenses incurred by GroupBy in connection with any Services rendered.

2.2 Invoices. An electronic invoice shall be issued to Customer for all charges accrued, except that Overages (defined in Section 2.3 below) shall be billed separately pursuant to Section 2.3 below. If Customer has ordered via Google Marketplace, the invoice shall be provided via Google Marketplace (except for Overages, as described in Section 2.3 below). Unless otherwise set forth in the Order Form, payment is due thirty (30) days after receipt of invoice and shall be made in US Dollars. GroupBy may charge Customer a late charge of one percent (1.5%) per

month (or part of a month), or the maximum lawful rate permitted by applicable law, for any undisputed amounts not paid on time. If Customer fails to pay GroupBy's charges (other than charges disputed in good faith) within thirty (30) days after the applicable due date of the invoice, GroupBy may suspend the provision of Services; provided that GroupBy shall notify Customer via email of its intent to suspend at least five (5) days prior to such suspension, and no such suspension shall occur if payment is made during the five (5) day period. GroupBy will not initiate suspension while Customer is disputing charges reasonably and in good-faith and is cooperating diligently in resolving the dispute.

2.3 Overages. Customer acknowledges and agrees that it is responsible for the payment of fees associated with all overages that exceed Customer's order under any metric, including, without limitation: API calls, QPS, Record Counts and Managed Products ("Overages"). Overages shall be invoiced separately by GroupBy and shall not be billed through the Google Marketplace. QPS overage will be calculated based on the 95th percentile score of Customer's monthly QPS log ranked highest to lowest. Monthly record count will be calculated based on the maximum combined daily recorded record count for all Customer end points containing records in the aggregate. Product overages will be calculated by applying the Product Overage Fee set forth in the table above for each Product over the annual Managed Product limit set forth in the table above. API call overages will be calculated based on the total number of requests made to the API. At any point during the monthly billing cycle, Customer may request the monthly API call, QPS, Record Counts, and Managed Products by emailing customer.support@groupbyinc.com.

2.4 Taxes. Fees are exclusive of taxes. Customer is responsible for the payment of all sales, use and similar taxes arising from or relating to the Services rendered hereunder, except for taxes related to GroupBy's net income and any taxes or obligations imposed upon GroupBy under federal, state, and local wage laws.

3. Intellectual Property Rights

3.1 Intellectual Property Rights. Other than the limited right to use as described in this Agreement, Customer does not obtain any rights in any Services or GroupBy Materials. As between Customer and GroupBy, all right, title and interest in and to all (a) the Services and GroupBy Materials, (a) all improvements, derivatives, enhancements, and modifications to the Services or GroupBy Materials, and (3) all patents, copyrights, trade secret rights, trademarks, trade names and other proprietary rights embodied in any of the foregoing or associated therewith are and shall remain are and shall always remain in GroupBy. GroupBy may use any concepts, ideas or know-how gained, developed, or acquired while performing the Services hereunder provided that the same do not contain any of Customer's Confidential Information or Customer Data.

3.2 Usage Data. Customer acknowledges and agrees that GroupBy shall have the right to copy, use, distribute, and display any information, analysis, statistics, usage analytics and other data generated by the Services (or derived from Customer's use of the Services), including the compilation of aggregated statistics (collectively "Usage Data") as part of the Services, to improve the Services, and/or f or our lawful business purposes, including benchmarking and online marketing.

3.3 Feedback. GroupBy welcomes ideas, suggestions, and feedback related to the Services, GroupBy Materials, or Customer's use thereof (collectively, "Feedback"). All Feedback is provided completely voluntarily, and GroupBy may use and incorporate such Feedback into the Services and/or GroupBy Materials without restriction and otherwise fully exploit such Feedback for any lawful purpose. Feedback is not confidential. GroupBy is under no obligation (1) to pay compensation or provide attribution for any Feedback; or (2) to respond to any Feedback.

4. Customer Data and Applications

Customer is responsible for the accuracy, quality, integrity, legality, reliability, appropriateness, intellectual property ownership and right to use of all Customer Data and Applications and the means by which Customer acquires, uses and submits the Customer Data and Applications, including compliance with any regulations and laws applicable to the Customer Materials. Customer warrants that it is the owner of (or otherwise has full legal authority to submit) the Customer Data and Applications to GroupBy for the purposes of GroupBy's performance of the Services. Customer is responsible for providing all notices and obtaining all licenses, rights and consents that may be required

to allow GroupBy to process and use Customer Data and as described in this Agreement. Customer and its End Users shall comply with the acceptable use policy attached hereto as Appendix F.

5. Confidentiality

5.1 Confidential Information. During the term of this Agreement, each Party will regard as confidential any information that is: (a) provided to it by the other Party and designated in writing as proprietary or confidential, or (b) to be reasonably considered confidential given the nature of the information or the circumstances under which it was disclosed (“**Confidential Information**”). The receiving Party shall use the same degree of care that it uses to protect its own confidential information of like kind (but in no event using less than a reasonable standard of care) to protect the Confidential Information of the disclosing Party. The receiving Party shall hold in confidence, and shall not disclose any Confidential Information to any person or entity *except* to an Affiliates and its and its Affiliates directors, officers, employees, subcontractors, consultants or advisors (collectively “**Representatives**”) who have a need to know such Confidential Information in the course of the performance of their duties for the receiving Party under this Agreement and who are bound by a duty of confidentiality no less protective of the disclosing Party’s Confidential Information than this Agreement. Each Party accepts responsibility for the actions of its Representatives and shall protect the other Party’s Confidential Information in the same manner as it protects its own valuable confidential information, but in no event shall less than reasonable care be used.

5.2 Exceptions. Information will not be deemed Confidential Information hereunder if such information: (i) is known prior to receipt from the disclosing Party, without any obligation of confidentiality; (ii) becomes known to the receiving Party directly or indirectly from a source other than one having an obligation of confidentiality to the disclosing Party; (iii) becomes publicly known or otherwise publicly available, except through a breach of this Agreement; or (iv) is independently developed by the receiving Party without use of the disclosing Party’s Confidential Information. The receiving Party may disclose Confidential Information pursuant to the requirements of applicable law, legal process, or government regulation, provided that it gives the disclosing Party reasonable prior written notice to permit the disclosing Party to contest such disclosure, and such disclosure is otherwise limited to the required disclosure.

5.3 Injunctive Relief. Notwithstanding any other provision of this Agreement, both Parties acknowledge that any use of the disclosing Party’s Confidential Information in a manner inconsistent with the provisions of this Agreement may cause the disclosing Party irreparable and immediate damage for which remedies other than injunctive relief may be inadequate. Therefore, both Parties agree that, in addition to any other remedy to which the disclosing Party may be entitled hereunder, at law or equity, the disclosing Party shall be entitled to an injunction or injunctions (without the posting of any bond and without proof of actual damages) to restrain such use.

6. Data Security and Privacy

6.2 Data Processing Addendum. The terms of the Data Processing Addendum, located on GroupBy’s website at <https://groupbyinc.com/data-processing-addendum/>(the “**DPA**”), shall apply to: (i) the processing (as defined in the GDPR) of personal data (as defined in the GDPR) that is regulated by the General Data Protection Regulation (EU) 2016/679 (the “**GDPR**”) by 3Play Media solely on behalf of Customer, if any; and (ii) the processing (as defined in the CCPA) of personal information (as defined in the CCPA) that is regulated by the California Consumer Privacy Act of 2018 (the “**CCPA**”) by GroupBy solely on behalf of Customer, if any.

6.3 Data Security. Taking into account the risk of harm, GroupBy shall implement commercially reasonable technical and organizational measures designed to protect personal data that GroupBy processes on Customer’s behalf under this Agreement (“**PII**”) from accidental or unlawful destruction, loss, or alteration, or unauthorized disclosure or access. During the Term of this Agreement, GroupBy shall maintain and comply with a formal information security program that is reasonably designed to: (a) ensure the security and integrity of PII; (b) protect against threats or hazards to the security or integrity of PII; and (c) prevent unauthorized access to or disclosure of PII. GroupBy may process an Application and Customer Data in Canada, the United States or any other country, and Customer consents to such processing. “**PII**” for the purposes of this Agreement, means any information that can be attributed to an identified or identifiable natural person such as name, email address or IP address.

7. Warranty

7.1 Warranties. GroupBy warrants that the Services shall be provided in a professional manner in material conformance with any specifications set forth in the applicable Order Form. For any breach of the above warranty, if Customer provides GroupBy with written notice within 60 days from the date of delivery of the applicable non-conforming Services, GroupBy will, at no additional cost to Customer, provide remedial services necessary to enable the Services to conform to the warranty. Customer will provide GroupBy with a reasonable opportunity to remedy any breach and reasonable assistance in remedying any defects. The remedies set out in this section are Customer's sole remedies for breach of this warranty. This warranty will only apply if the Services have been utilized by Customer in accordance with the Order Form and this Agreement.

7.2 Disclaimer. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, OTHER THAN THE EXPRESS WARRANTIES SET FORTH IN THIS AGREEMENT, GROUPBY AND ITS SUPPLIERS DO NOT MAKE ANY OTHER WARRANTY OF ANY KIND, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING WITHOUT LIMITATION WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR USE AND NONINFRINGEMENT. GROUPBY AND ITS SUPPLIERS ARE NOT RESPONSIBLE OR LIABLE FOR THE DELETION OF OR FAILURE TO STORE ANY CUSTOMER DATA, AND CUSTOMER IS SOLELY RESPONSIBLE FOR SECURING AND BACKING UP ITS APPLICATION AND CUSTOMER DATA. NEITHER GROUPBY NOR ITS SUPPLIERS, WARRANTS THAT THE OPERATION OF THE SOFTWARE OR THE SERVICES WILL BE ERROR-FREE OR UNINTERRUPTED. GROUPBY DOES NOT WARRANT THAT IT WILL BE ABLE TO CORRECT ALL REPORTED DEFECTS. GROUPBY DOES NOT WARRANT THAT THE SERVICES WILL MEET CUSTOMER'S REQUIREMENTS.

8. Indemnification

8.1 By GroupBy. GroupBy will indemnify, defend and hold Customer harmless from and against any and all costs, liabilities, losses, and expenses (including, but not limited to, reasonable attorneys' fees) (collectively, "Losses") incurred arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against Customer alleging that the use of the Subscription Service as permitted hereunder infringes any patent, copyright or trademark, or constitutes a misappropriation of a trade secret of a third party. Excluded from the above indemnification obligations are claims to the extent arising from (a) use of the Subscription Service in violation of this Agreement or applicable law, (b) Customer Materials, (c) modifications to the Subscription Service made other than by GroupBy (where the claim would not have arisen but for such modification), or (d) the combination, operation, or use of the Subscription Service, Services, with software or equipment which was not provided by GroupBy, to the extent that Customer's liability for such claim would have been avoided in the absence of such combination, operation, or use. If the Subscription Service is held to infringe, GroupBy will, at its own expense, in its sole discretion use commercially reasonable efforts either (i) to procure a license that will protect Customer against such claim without cost to Customer; (ii) to replace the infringing Subscription Service (or portion thereof) with a non-infringing Subscription Service without material loss of functionality; or (iii) if (i) and (ii) are not commercially reasonable (as determined by GroupBy), terminate the Agreement or the applicable Order Form and the license granted thereunder and refund to the Customer any prepaid unused fees paid to GroupBy for the infringing Subscription Service. The rights and remedies granted Customer under this Section 7.1 state GroupBy's entire liability, and Customer's exclusive remedy, with respect to any claim of infringement of the intellectual property rights of a third party.

8.2 By Customer. Customer will indemnify, defend, and hold GroupBy harmless from and against any and all Losses incurred arising out of or in connection with a claim, suit, action, or proceeding brought by any third party against GroupBy arising from Customer Materials.

8.3 Procedure. Sections The indemnified Party shall (i) promptly notify the indemnifying Party in writing of any claim, suit or proceeding for which indemnity is claimed, provided that failure to so notify will not remove the indemnifying Party's obligation except to the extent it is prejudiced thereby; (ii) allow the indemnifying Party to solely control the defense of any claim, suit or proceeding and all negotiations for settlement; provided that the indemnifying Party shall not settle any claim without the indemnified Party's prior written consent (such consent not to be unreasonably withheld or delayed); and (iii) provide the indemnifying Party with reasonable cooperation and assistance in defending such claim (at the indemnifying Party's cost). The indemnified party may appoint its own non-controlling counsel, at its own expense.

9. Limitation of Liability

EXCEPT FOR VIOLATIONS OF THE OTHER PARTY'S INTELLECTUAL PROPERTY RIGHTS BY THE A PARTY, OR A PARTY'S INDEMNIFICATION OBLIGATIONS, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, (I) NEITHER PARTY, NOR GROUPBY'S SUPPLIERS, WILL BE LIABLE UNDER THIS AGREEMENT FOR LOST REVENUES, OR INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, OR PUNITIVE DAMAGES, OR COSTS OF PROCUREMENT OF SUBSTITUTE SERVICES OR TECHNOLOGY, IN CONNECTION WITH THE PERFORMANCE OF SERVICES OR THE PERFORMANCE OF ANY OTHER OBLIGATION UNDER THIS AGREEMENT, EVEN IF THE PARTY KNEW OR SHOULD HAVE KNOWN THAT SUCH DAMAGES WERE POSSIBLE AND EVEN IF DIRECT DAMAGES DO NOT SATISFY A REMEDY; AND (II) NEITHER GROUPBY, NOR GROUPBY'S SUPPLIERS, MAY BE HELD LIABLE UNDER THIS AGREEMENT FOR MORE THAN THE AMOUNT PAID BY CUSTOMER TO GROUPBY DURING THE 12 MONTHS PRIOR TO THE EVENT GIVING RISE TO LIABILITY.

10. Term and Termination

10.1 Agreement Term. This Agreement will begin on the Effective Date and continue until the Agreement is terminated as set forth herein. Either party may terminate this Agreement by providing thirty (30) days' prior written notice to the other party, only if there are no outstanding Order Forms then currently in effect. The term of each Order Form and the Subscription Period for each Service shall be set forth on the applicable Order Form.

10.2 Termination for Breach. Either party may terminate this Agreement or any Order Form if: (i) the other party is in material breach of the Agreement and fails to cure that breach within 30 days after receipt of written notice; or (ii) the other party ceases its business operations or becomes subject to insolvency proceedings and the proceedings are not dismissed within 90 days. Termination of an Order Form shall not be deemed a termination of this Agreement. Termination of this Agreement shall, however, terminate all outstanding Order Forms.

10.3 Effect of Termination. If the Agreement expires or is terminated, then: (i) the rights granted by one party to the other will immediately cease; (ii) all Fees and any taxes that have accrued prior to termination are immediately due upon receipt of the final invoice; (iii) Customer will cease using the Services and delete or return any GroupBy Materials in its possession; and (iv) upon request, each party will return or destroy all Confidential Information of the other party. GroupBy shall delete all Customer Data within ninety (90) days of GroupBy's receipt of written notice from the Customer after the end of the provision of the Services to Customer unless applicable law requires retention of the same. Except as expressly provided herein, termination of this Agreement by either party will be a nonexclusive remedy for breach and will be without prejudice to any other right or remedy of such party. After such termination, GroupBy will have no further obligation to store and/or make available Customer Materials and will delete the same. All rights and obligations of the Parties which by their nature are reasonably intended to survive such termination or expiration will survive termination or expiration of this Agreement and each Order Form.

11. Miscellaneous

11.1 Publicity. GroupBy may include Customer's name or logo in a list of GroupBy customers, online or in promotional, sales or advertising materials. GroupBy may also verbally reference Customer as a customer of the GroupBy products or services that are the subject of this Agreement. Furthermore, Customer shall use commercially reasonable efforts to cooperate with GroupBy regarding the publication of at least one press release regarding Customer's use of the Services and at least one case study discussing the benefits of the Services, provided that Customer shall be granted reasonable time to review any such press release or case study prior to publication.

11.2 Notices. All notices must be in writing and addressed to the other party as follows: (a) to roland.gossage@groupbyinc.com with a copy to: accounts@groupbyinc.com, and (b) to Customer at the address as specified on the Customer's most recent Order Form. Notice will be treated as given on receipt as verified by written or automated receipt or by electronic log (as applicable).

11.3 Assignment. This Agreement shall be binding upon and for the benefit of GroupBy, Customer and their permitted successors and assigns. Either Party may assign this Agreement and all Order Form(s) as part of a corporate reorganization, consolidation, merger, or sale of substantially all of its assets. Except as expressly stated in this Agreement, neither Party may otherwise assign its rights or delegate its duties under this Agreement either in

whole or in part without the prior written consent of the other Party, and any attempted assignment or delegation without such consent will be void. GroupBy may use independent contractors or subcontractors to assist in the delivery of Services; provided, however, that GroupBy shall remain liable for the actions or omissions of such independent contractors or subcontractors and for the payment of their compensation.

11.4 Force Majeure. Neither party will be liable for failure or delay in performance to the extent that performance is rendered impossible by strike, fire, flood, governmental acts or orders or restrictions, failure of suppliers, or any other reason where failure to perform is caused by circumstances beyond its reasonable control.

11.5 Independent Contractors. GroupBy and Customer are independent contractors. This Agreement does not create any agency, partnership, or joint venture between the parties. Neither Party shall make any contracts, warranties or representations or assume or create any obligations, express or implied, in the other Party's name or on its behalf.

11.6 Waiver, Severability. Performance of any obligation required by a party hereunder may be waived only by a written waiver signed by an authorized representative of the other party, which waiver shall be effective only with respect to the specific obligation described therein. The failure of either party to exercise any of its rights under this Agreement will not be deemed a waiver or forfeiture of such rights. The invalidity or unenforceability of one or more provisions of this Agreement will not affect the validity or enforceability of any of the other provisions hereof, and this Agreement will be construed in all respects as if such invalid or unenforceable provision(s) were omitted.

11.7 No Third-Party Beneficiaries. This Agreement does not confer any benefits on any third party unless it expressly states that it does.

11.8 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the country set forth below, as determined by which GroupBy entity has executed this Agreement, without regard to its conflict of law provisions. Any legal action or proceeding with respect to this Agreement shall be brought in the courts identified below. By execution and delivery of this Agreement, each of the parties hereto accepts for itself and in respect of its property, generally and unconditionally, the exclusive jurisdiction of such courts. The United Nations Convention on the International Sale of Goods shall not apply.

- (a) If this Agreement is executed by GroupBy, Inc. or GroupBy International Ltd., then this Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, and the parties consent to exclusive jurisdiction of the courts of Ontario, Canada.
- (b) If this Agreement is executed by GroupBy USA, Inc., then this Agreement is governed by and construed in accordance with the laws of the State of Delaware, United States of America, and the parties consent to exclusive jurisdiction of the courts of the State of Delaware. Each party hereby irrevocably waives its right to a trial by jury.
- (c) If this Agreement is executed by GroupBy UK Ltd., then this Agreement is governed by and construed in accordance with the laws of England and Wales, and the parties consent to the exclusive jurisdiction of the courts of England and Wales.

11.9 Entire Agreement. This Agreement sets out all terms agreed between the parties and supersedes all other agreements between the parties relating to its subject matter. In entering into this Agreement, neither party has relied on, and neither party will have any right or remedy based on, any statement, representation, or warranty (whether made negligently or innocently), except those expressly set out in this Agreement. All appendices and schedules attached hereto, and the applicable Order Form (s) are incorporated by reference into the Agreement. Except as set forth in this Agreement, any amendment must be in writing, signed by both parties, and expressly state that it is amending this Agreement. Any inconsistent or conflicting terms and conditions contained in any purchase order issued by Customer shall be of no force or effect, even if the purchase order is accepted by GroupBy.

11.10 List of Appendices. The following Appendices are attached hereto and incorporated herein:

- Appendix A: Definitions
- Appendix B: GroupBy Search Service
- Appendix C: GroupBy Enrich Service

Appendix D: Technical Support Guidelines
Appendix E: Customer Solutions Services
Appendix F: Acceptable Use Policy

IN WITNESS WHEREOF, THE AUTHORIZED REPRESENTATIVES OF THE PARTIES HAVE EXECUTED THIS AGREEMENT AS OF THE EFFECTIVE DATE.

[Insert GroupBy Entity]
[Insert GroupBy Address]

Signature: _____

Name: _____

Title: _____

Date: _____

CUSTOMER:

Signature: _____

Name: _____

Title: _____

Date: _____

APPENDIX A
DEFINITIONS

“Application” means a Customer website or other application identified in the Order Form and used in connection with the Services.

“Admin Console” means the online console(s) and/or tool(s) provided by GroupBy to Customer for administering the Subscription Service.

“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.

“Customer Data” means text, images, documents, materials, and all other forms of data to the extent GroupBy Processes such data on Customer’s behalf under this Agreement. If Customer is receiving GroupBy Search Services, Customer Data includes data relating to End Users and visitors to the Applications. Customer Data includes Customer Product Data. Customer Data does not include GroupBy Data. Customer shall not directly or indirectly make available or accessible to GroupBy, and Customer Data shall not include Prohibited Data.

“Customer Product Data” means product information, data and records owned or licensed by Customer that are provided to GroupBy by Customer in order for GroupBy to perform the Services and may include, product images, product names, product descriptions and SKU information. Customer Product Data does not include any personal information or consumer information.

“Customer Solutions Services” means integration, configuration, and training services other than Technical Support Services as further described in Appendix E, that are performed by GroupBy for Customer pursuant to an Order Form.

“Documentation” means the GroupBy documentation (as may be updated from time to time) in the form generally made available by GroupBy to its customers for use with the Services as set forth at: <http://docs.cloud.groupbyinc.com>.

“End Users” means the individuals Customer permits to use the GroupBy Search Services.

“GroupBy Data” means (a) any text, images, documents, materials, and all other forms of data provided with the account or otherwise made available by GroupBy to Customer in connection with Customer’s use of the Subscription Service; (b) Usage Data, and (c) Enrich Data (defined in Appendix C). GroupBy Data also includes all metrics, insights, reports, databases, or other similar information, regardless of format or medium, whether on an individual or aggregated basis, that is collected, entered, stored, manipulated, reported, supplied, or used by GroupBy in providing the Services.

“GroupBy Materials” means the Services, the Software, the GroupBy Data and any information, methodologies, processes, algorithms, plugins, APIs, data, ideas, concepts, designs, materials, templates, know-how, techniques, documentation, frameworks, enhancements, software and tools used by GroupBy in the performance of the Services and the creation of the Enrich Data, including those (a) owned or licensed by GroupBy prior to the commencement or independent of the Services and (b) enhanced, modified or developed during the performance of Services and creating the Enrich Data hereunder, and all intellectual property rights in all of the foregoing.

“GroupBy Enrich Services” means GroupBy’s proprietary subscription-based product enrichment platform, as further described in the applicable Order Form, if ordered by Customer.

“GroupBy Search Services” means GroupBy’s proprietary subscription-based search platform, as further described in the applicable Order Form, if ordered by Customer.

“Order Form” means GroupBy’s standard ordering document, as mutually agreed upon and executed by both parties.

“PII” means any information that can be attributed to an identified or identifiable natural person such as first name, last name, street address, phone number, email address, IP address, gender, or date of birth.

“Process” (including any grammatically inflected forms thereof) means any operation or set of operations which is performed on Data or on sets of data, whether or not by automated means, including without limitation collection,

recording, organization, structuring, storage, adaptation or alteration, access, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.

“Product” means a unique instance of an item in Customer’s product catalog. Any variants of an item included in the product catalog based on color or size shall not be counted as a unique “Product”. Each Product and each variant of the Products shall be identified by a unique identifier provided by Customer.

“Prohibited Data” means any information that that is regulated by: (i) the Health Insurance Portability and Accountability Act of 1996 (as amended, and together with any regulations promulgated thereunder, including without limitation the Health Insurance Reform: Security Standards (Security Rule)); (ii) the Health Information Technology for Economic and Clinical Health Act, enacted as part of the American Recovery and Reinvestment Act of 2009 (as amended); (iii) Gramm–Leach–Bliley Act, also known as the Financial Services Modernization Act of 1999 (together with any regulations promulgated thereunder); or (iv) the International Traffic in Arms Regulations maintained by the Department of State or any other similar regulatory restrictions in any other jurisdiction.

“Services” means the Subscription Service, Customer Solutions Services, and Technical Support Services in each case to the extent ordered by Customer under the applicable Order Form and provided by GroupBy pursuant to this Agreement.

“Software” means any downloadable tools, software development kits or other such proprietary computer software provided by GroupBy in connection with the Subscription Service, which may be downloaded by Customer, and any updates GroupBy may make to such Software from time to time.

“Subscription Service” means the GroupBy Search Services and GroupBy Enrich Services, each to the extent ordered by Customer under the applicable Order Form.

“Subscription Period” means the period during which Customer may access and use a particular Service, as described in the Order Form.

**APPENDIX B
GROUPBY SEARCH SERVICES**

1. License Grant.

Subject to the terms of this Agreement and in consideration for the payment of fees set forth on the applicable Order Form, solely during the applicable Subscription Period, GroupBy hereby grants to Customer a non-exclusive, non-transferable license, subject to the limitations set forth in the applicable Order Form to: (a) access and use the GroupBy Search Service solely for Customer's internal business purposes, (b) integrate the GroupBy Search Service into the Application(s) identified on the Order Form, and provide the GroupBy Search Service, solely as integrated into such Application(s), to End Users, and (c) use any Software provided by GroupBy as part of the GroupBy Search Service. Customer may not sublicense or transfer these rights to any third party or permit any third party to use the GroupBy Search Service except as expressly permitted under this Agreement. Customer shall be liable for any breach of this Agreement by any of its End Users.

2. Customer Data.

During the term of this Agreement, Customer hereby grants to GroupBy a royalty-free, non-exclusive, right to collect, use, display, and transmit the Customer Data and access and use the Applications to provide the GroupBy Search Services to Customer and to help secure and improve the Services.

Customer acknowledges that as part of the GroupBy Search Services, GroupBy shall process the following PII: End User IP address and related information which may include, without limitation, search queries, navigation paths, shopping basket content, conversion and detailed order information, and analytic information. Customer will not provide any other PII to GroupBy, including, without limitation: End User names, addresses, email addresses, credit card or other payment information, or loyalty program information.

3. Open-Source Components

The GroupBy Search Service may contain or be accompanied by certain third party embedded open-source software components ("Open-Source Components"). Such Open-Source Components do not require Customer to pay any additional fees to any third party. These Open-Source Components, if any, are identified in, and subject to, special license notices, terms and/or conditions as set forth in the Documentation ("Open-Source Notices"). The Open-Source Components do not include Excluded Open-Source Code. "Excluded Open-Source Code" means any software program, or portion thereof, that is licensed under a license that requires as a condition of use, modification, and/or distribution of the software subject to the license, that such software or other software combined and/or distributed with such software be (i) disclosed or distributed in source code form; (ii) licensed for the purpose of making derivative works; or (iii) redistributable at no charge.

4. Service Level Agreement

GroupBy shall use commercially reasonable efforts to provide the GroupBy Search Service in compliance with the Service Level Agreement ("SLA") attached to this Appendix B as Schedule 1.

SCHEDULE 1 TO APPENDIX B – SERVICE LEVEL AGREEMENT

1. Definitions.

“**Downtime**” means a loss of external connectivity and/or persistent disk access for all running Instances that are hosted across two or more zones combined with the inability to launch replacement Instances in any zone. Downtime does not include Scheduled Downtime or Exclusions.

“**Downtime Period**” means a period of five consecutive minutes of Downtime. Intermittent Downtime for a period of less than five minutes will not be counted towards any Downtime Periods.

“**Instance**” means a virtual machine instance, configured, and managed by Customer, which runs on the GroupBy Search Service. Instances are more fully described in the Documentation.

“**Monthly Uptime Percentage**” means total number of minutes in a month, minus the number of minutes of Downtime suffered from all Downtime Periods in a month, divided by the total number of minutes in a month.

“**Scheduled Downtime**” means Downtime resulting from GroupBy performing maintenance on the GroupBy Search Service during a Maintenance Window. “Maintenance Window” means a period of time when certain zones are taken offline for maintenance tasks. Customer may view the timing and duration of Maintenance Windows via the Admin Console.

2. **Service Commitment.** GroupBy shall provide the GroupBy Search Service with a Monthly Uptime Percentage of at least 99.95% during any monthly period during the Subscription Period (the “Service Commitment”).

3. **Financial Credit.** The Financial Credit shall be equal to the Monthly Uptime Percentage of monthly bill if the GroupBy Search Service does not meet SLA:

99.00% -< 99.95% 10%

95.00% -< 99.00% 25%

< 95.00% 50%

To receive any Financial Credit(s) described above, Customer must notify GroupBy technical support within thirty (30) days from the time Customer becomes eligible to receive a Financial Credit. Customer must also provide GroupBy with server log files showing loss of external connectivity errors and the date and time those errors occurred. If Customer does not comply with these requirements, Customer will forfeit its right to receive a Financial Credit. If a dispute arises with respect to this SLA, GroupBy will make a determination in good faith based on its system logs, monitoring reports, configuration records, and other available information, which GroupBy will make available for auditing by Customer at Customer’s request. The aggregate maximum number of Financial Credits to be issued by GroupBy to Customer for any and all Downtime Periods that occur in a single billing month will not exceed 50% of the amount due by Customer for the GroupBy Search Service for the applicable month. Financial Credits will be made in the form of a monetary credit applied to future use of the GroupBy Search Service and will be applied within 60 days after the Financial Credit was requested. In the event the Monthly Uptime Percentage falls below 90% for two consecutive months, Customer may terminate this Agreement by providing written notice to GroupBy. Such notice must be provided within thirty (30) days from the time Customer becomes eligible to terminate pursuant to this provision. The remedies set forth above in this Section 3 of this SLA are Customer’s sole and exclusive remedy and GroupBy’s only liability for any failure by GroupBy to meet the Service Commitment.

4. **Exclusions.** The Service Commitment does not apply to any unavailability, suspension or termination of the GroupBy Search Service, to any Services other than the GroupBy Search Service, or any other GroupBy performance issues: (a) that result from features designated Alpha or Beta (unless otherwise set forth in the associated Documentation), (b) that result from features excluded from the SLA pursuant to the associated Documentation, (c) that result from errors: (i) caused by factors outside of GroupBy’s reasonable control, including any force majeure event or internet access or related problems beyond the demarcation point of the Subscription Service; (ii) that resulted from Customer’s software or hardware or third party software or hardware, or both; (iii) that resulted from abuses or other behaviors that violate the Agreement; (iv) that resulted from quotas applied by the system and/or listed in the Admin Console; (v) that result from malicious or aggressive bots or denial of service attacks; or (vi) that result from termination or suspension of the GroupBy Service as authorized by the Agreement.

APPENDIX C GROUPBY ENRICH SERVICE

1. Enrich Services

Subject to the terms of this Agreement and in consideration for the payment of fees set forth on the applicable Order Form, solely during the applicable Subscription Period, GroupBy hereby grants to Customer a non-exclusive, non-transferable license, subject to the limitations set forth in the applicable Order Form, to access and use the GroupBy Enrich Services solely for Customer's internal business purposes. Customer may not sublicense or transfer these rights to any third party or permit any third party to use the GroupBy Enrich Service except as expressly permitted under this Agreement.

2. Customer Data

Customer shall make the Customer Product Data (through the delivery mechanism mutually agreed upon by the parties in the applicable Order Form) available to GroupBy in order for GroupBy to perform the GroupBy Enrich Services and to provide the Enrich Data to Customer. Customer hereby grants to GroupBy a royalty-free, non-exclusive, right to access, use, and store the Customer Product Data in order to perform the GroupBy Enrich Services and to provide the Enrich Data. Customer retains ownership of all right, title and interest in and to all Customer Product Data. No PII shall be provided by Customer to GroupBy for the purposes of the Enrich Services.

If selected on the applicable Order Form, Customer may use GroupBy's application programming interface ("API") to provide the Customer Product Data to GroupBy. Customer acknowledges that use of the API depends on third party network and Internet providers and third party products, services and applications that are outside of GroupBy's control, and as a result GroupBy will not be responsible or liable for performance or non-performance resulting from any such third parties.

3. Enrich Data

"Enrich Data" means electronic tags, product attributes, information, data, and records created by GroupBy or otherwise provided by GroupBy to Customer during the course of performance of the GroupBy Enrich Services. For the avoidance of doubt, Customer shall only have access to and a right to use Enrich Data if a subscription to GroupBy Enrich Services is purchased under this Agreement.

Subject to Customer's compliance with the terms and conditions of this Agreement, GroupBy grants to Customer a worldwide, perpetual, non-exclusive, non-transferable, non-sublicensable license to use the Enrich Data for the specific Customer Product Data to which the Enrich Data are applied by GroupBy, for Customer's internal business purposes only. As part of such internal business purposes, Customer is permitted to use and display the Enrich Data only on the Applications that are set forth on the applicable Order Form.

Customer shall not (or permit any third party to) access or use the Enrich Data for any purpose or use other than the permitted use set forth in this Agreement and the applicable Order Form. Without limiting the foregoing, Customer shall not (or permit any third party to) (a) access or use the Enrich Data for the benefit of any third party, and may not distribute (or otherwise provide access to) the Enrich Data to any third party for their own use; (b) access or use the Enrich Data for any product that is not the specific product to which the Enrich Data was assigned by GroupBy; (c) monetize, sell or license the Enrich Data; or (d) use the Enrich Data to create a service or product that is competitive to the Services or to copy any ideas, features, functions, tags, text or graphics of the Enrich Data, or to support a third party in creating competitive products services. GroupBy reserves all rights to the Enrich Data not expressly granted to Customer in this Section. All the foregoing restrictions shall survive termination of this Agreement for any reason.

APPENDIX D TECHNICAL SUPPORT GUIDELINES (“TSG”)

The following technical support guidelines (“Guidelines”) apply to Technical Support Services for the Subscription Services provided by GroupBy to Customer. Certain Technical Support Services levels include a minimum recurring fee.

1. Definitions.

“**Business Day**” means any day other than Saturday, Sunday or a regional holiday in the US.

“**Business Hour**” means a period of one hour within the Hours of Operation.

“**Hours of Operation**” means 9:00 a.m. to 5:00 p.m. Eastern Time on Business Days.

“**Customer Contacts**” means administrators designated in the Admin Console.

“**GroupBy Technical Support Personnel**” mean the GroupBy representatives responsible for handling technical support requests.

“**Priority 1 Request**” is a Request to resolve a situation where Customer is unable to access or use the Subscription Service for the majority of its End Users for a period of time greater than fifteen minutes.

“**Priority 2 Request**” is a Request to resolve an error, bug, or malfunction that causes significant degradation of a user-facing feature, or has high business impact, without causing a Priority 1 issue.

“**Priority 3 Request**” is a support request that is not: (a) a Priority 2 Request; (b) a Priority 1 Request; or (c) a Feature Request.

“**Standard Request**” is a Request to resolve a Priority 2 or Priority 3 problem

“**Feature Request**” means a Request that is unique to Customer and is not a Priority 3 Request, Priority 2 Request, or a Priority 1 Request (as determined in the sole discretion of GroupBy), which includes but is not limited to requests by a Customer Contact to incorporate a new feature or enhance an existing feature of the Subscription Service.

“**Request**” means a request from Customer Contact to GroupBy Technical Support Personnel for technical support to resolve a question or problem report regarding the Subscription Service.

“**Support Incident**” means a single request for assistance to resolve one Request.

“**Business Critical Support**” means an enhanced level of support providing enhanced Priority 1 Request response time and availability of technical support.

“**GroupBy Support Site**” (or “**GBS Site**”) means the online support portal provided by GroupBy for use by its Customers, and which includes the web form for submitting support Requests (currently at www.support.groupbyinc.com, or such other URL as may be updated by GroupBy from time to time), and related public content hosted elsewhere and directly linked from the URL provided.

“**Updates**” software updates to the Subscription Service from time to time, such as bug fixes, enhanced functions, or new software modules which GroupBy may elect to make from time to time and make generally available to its customers at no additional cost.

2. Accessing Support.

2.1 Customer Efforts to Fix Errors. Prior to making a request to GroupBy, Customer will use reasonable efforts to fix any error, bug, malfunction, or network connectivity defect without escalation to GroupBy. Thereafter, a Customer Contact entitled to access support may submit a written request for technical support through the online help center accessible at www.support.groupbyinc.com or such URL as GroupBy may provide.

2.2 Characterization of Requests. Upon receiving a request from Customer Contact, GroupBy will determine in its sole discretion whether the request is a Priority 1 Request, Priority 2 Request, Priority 3 Request, or a Feature Request.

2.3 Support Hours and Target Initial Response Times.

For Priority 1 Requests GroupBy will attempt to respond to properly submitted support requests within 1 hour of receipt of the Request on a 24x7 basis. For access during Business Hours, GroupBy will provide access via phone. After Business Hours, support is only available if specifically triggered by Customer Contact via the designated instructions provided at the time service is established and as documented in the GBS Site. They may be updated from time to time thereafter by notification to Customer Contact.

For Priority 2 Requests GroupBy will attempt to respond to properly submitted support requests within one Business Day during Business Hours. E-mail will be used as the medium of communication once a Request is initiated by Customer Contact from the web form at the GBS Site.

For Priority 3 Requests GroupBy will attempt to respond to properly submitted support requests within one Business Day during Business Hours. E-mail will be used as the medium of communication once a Request is initiated by Customer Contact from the web form at the GBS Site.

GroupBy will use commercially reasonable efforts to provide a fix.

2.4 Procedures for Acknowledgement and Resolution of Requests. When making a Request, Customer will provide requested diagnostic information including but not limited to: (i) describing the problem, the configuration, and Customer's network; (ii) providing relevant data; and (iii) communicating further via email or telephone to answer questions and assist GroupBy Technical Support Personnel as appropriate.

2.5 Characterization of Requests. Upon receiving a Request from a Customer Contact, GroupBy Technical Support Personnel will in their sole discretion characterize each Request as a Priority 1 Request, Priority 2 Request, Priority 3 Request, or a Feature Request. Any such determination made by GroupBy will be final and binding on Customer.

2.6 Request Acknowledgement. A response to a Request may consist only of receipt of an acknowledgement by GroupBy of the Request and may not include a resolution of that Request. Customer acknowledges and understands that the Subscription Service provided by GroupBy may not be perfect or error-free and that, despite GroupBy's commercially reasonable efforts, GroupBy may be unable to provide answers to or resolve some or all Requests. GroupBy makes no promises, guarantees or assurances of any kind that it will be able to resolve all of Customer's Requests.

2.7 Feature Requests. If a Request is deemed by GroupBy to be a Feature Request, GroupBy will log the Feature Request for consideration to add to a future update or release of the Subscription Service and will consider the matter closed. GroupBy will be under no obligation to respond to or resolve any Feature Request or to include any such Feature Request in any future update or release.

3. General Provisions.

3.1 Updates to Guidelines. These Guidelines may be updated by GroupBy from time to time, by posting the updated Guidelines to the applicable Order Form, or to GroupBy's website as provided by GroupBy from time to time. Customer's continue use of the Subscription Services shall be deemed acceptance of any such updates.

3.2 Language. The parties agree that all support provided by GroupBy to Customer pursuant to these Guidelines will be provided in the English language.

3.3 Term of Support. The Technical Support Services provided by GroupBy pursuant to these Guidelines will be limited to the License Term. GroupBy will have no obligation to provide any Technical Support Services to Customer after the expiration or termination of the Agreement.

APPENDIX E
CUSTOMER SOLUTIONS SERVICES

1. Customer Solutions Services.

Customer may order and GroupBy will perform Services for the rates, expenses and other fees (if any) and for the period specified in the Customer Solutions Services section of the applicable Order Form, or any Statement of Work executed by the parties and referencing this Agreement. Unless otherwise noted in the applicable Order Form or Statement of Work, Customer Solutions Services are provided on a time and materials basis. The Professional Services do not include maintenance and/or support services for any Work Product or programs developed and delivered by GroupBy as part of the Customer Solutions Services. Customer may separately purchase from GroupBy maintenance and/or support services for Work Product or programs at GroupBy's then prevailing rates.

2. Change Orders.

Either party may request a change to a Statement of Work, and for such purpose shall submit to the other party a written notice ("Change Request") setting forth the requested change and the reason for such request. Within five (5) business days (or such other period of time as agreed by the parties) after the receipt of such Change Request, the parties shall discuss the necessity, desirability and/or acceptability of the Change Request. When and if both parties have agreed in writing upon the changes, and any resulting change in the estimated fees for the project, the parties shall complete and execute a Change Order.

3. Access, Cooperation.

Customer shall provide GroupBy with access to facilities, network, computers, equipment or other resources, via remote data communications and/or by visits to Customer's facilities as are reasonably required by GroupBy to perform the Customer Solutions Services. Customer will reasonably cooperate with GroupBy and will provide GroupBy such assistance as GroupBy may reasonably request and will fulfill its responsibilities as set forth in this Agreement and the Order Form. If GroupBy personnel are required to be present at a Customer site, Customer will provide adequate workspace and may provide reasonable worksite safety and security rules to which such personnel are to conform. Customer shall be responsible for obtaining and paying for any releases, rights, licenses, clearances or permissions necessary to use any third party materials which are the responsibility of Customer to provide in connection with any Customer Solutions Services performed by GroupBy under any Order Form. Customer will appoint a primary point of contact.

4. GroupBy Personnel.

Customer reserves the right to reasonably disapprove the initial or continuing assignment of any GroupBy personnel performing the Customer Solutions Services. If Customer exercises this right, GroupBy will replace the disapproved personnel as soon as is reasonably possible.

5. Work Product.

GroupBy hereby grants to Customer a non-exclusive, non-transferable license to use any work product ("**Work Product**") developed by GroupBy in the performance of Customer Solutions Services and delivered to Customer, upon Customer's payment in full of all amounts due hereunder, solely in conjunction with, and consistent in scope with, Customer's permitted use of the Subscription Services under this Agreement. GroupBy retains ownership of all information, software and other property owned by it prior to this Agreement or which it develops independently of this Agreement and all Work Product received, compiled, or developed by GroupBy in the performance of this Agreement, including, but not limited to all configurations to the Software, Subscription Services, or any applications. All such information shall be treated as Confidential Information of GroupBy in accordance with the Agreement. GroupBy may utilize any and all methods, computer software, know-how or techniques related to programming and processing of data, developed by it while providing the Customer Solutions Services and may incorporate the work product in future releases of any of its Software and Subscription Services.

6. Soliciting Employees.

During the period of performance of any Customer Solutions Services and for a period of 6 (six) months after neither party will directly or indirectly, solicit, induce away from the other, employ or sub-contract any employee or sub-contractor of the other who has been involved in work to which the Customer Solutions Services relates.

APPENDIX F ACCEPTABLE USE POLICY

Use of the Subscription Service in accordance with the Agreement is subject to this Acceptable Use Policy (“AUP”). Customer is responsible for its and its End Users compliance with this AUP.

Customer, Customer Data, any Application, and Customer’s use of the Services shall not:

- a) Violate any applicable law or regulation;
- b) Violate or misappropriate the legal rights of others, including but not limited to privacy rights and intellectual property rights, or exposing trade secrets or other confidential information of others; including uploading or otherwise transmitting, displaying or distributing any Customer Data that infringes any rights under patent, trademark, trade secret, copyright, and moral rights laws, or other proprietary or intellectual property rights of any person or entity;
- c) interfere with or disrupt the Services or networks connected to the Services;
- d) upload or otherwise transmit any software viruses or any other computer code, files or programs designed to interrupt, destroy, or limit the functionality of any computer software or hardware or telecommunications equipment; or
- e) alter, disable, interfere with, or circumvent any aspect of the Services, or the equipment used to provide the Services; including but not limited to permitting or facilitating unauthorized access to the Services.

Customer and its End Users shall not:

- a) send, upload, or otherwise transmit any Customer Data or Application that is unlawful, fraudulent, promoting an illegal activity, threatening, abusive, harassing, tortious, defamatory, vulgar, obscene, libelous, invasive of another’s privacy, hateful, or racially, ethnically, or otherwise objectionable; or
- b) Use the Services for any unlawful, invasive, infringing, defamatory or fraudulent purpose (for example, this may include phishing, creating a pyramid scheme or mirroring a website).

Customer Privacy Policy. Customer shall comply with all applicable laws and regulations in the provision of its Applications. Customer shall provide a privacy policy to users of its Applications compliant with applicable laws, rules, regulations, or industry standards or self-regulatory guidelines on the protection of individuals on the processing of personal data and End User information that clearly discloses how Customer collects, uses, processes, stores and discloses such data and information, including that the Application incorporates the Subscription Service and that the Application will transmit certain data to GroupBy, for use by GroupBy for its own purposes in accordance with this Agreement.

Violations. If Customer becomes aware that any activities, Application or Customer Data violates the AUP, Customer will suspend the applicable activity or Application or remove the applicable Customer Data and report any such violations to data.privacy@groupbyinc.com. GroupBy may suspend Customer’s access to the Services if it determines that Customer is in violation of this AUP.